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Town of Brookhaven

Local Law No. 21 of the year 2010

A local Law amending CHAPTER 85 OF THE CODE OF THE TOWN OF BROOKHAVEN ENTITLED "ZONING" BY AMENDING ARTICLE 1 ENTITLED "GENERAL PROVISIONS", ARTICLE XXI ENTITLED "J BUSINESS 2 DISTRICT (NEIGHBORHOOD BUSINESS)", ARTICLE XXIII ENTITLED "J BUSINESS 4 DISTRICT (PROFESSIONAL AND BUSINESS OFFICES)", ARTICLE XXIV ENTITLED "J BUSINESS 5 DISTRICT (HIGH INTENSITY BUSINESS)", ARTICLE XXVIA ENTITLED "J BUSINESS 8 DISTRICT (HOTEL-MOTEL DISTRICT)", ARTICLE XXIX ENTITLED "L INDUSTRIAL 1 DISTRICT (LIGHT INDUSTRY)" AND ADDING ARTICLE XLI ENTITLED "REDEVELOPMENT INITIATIVE"

Be enacted by the Town Board of the Town of Brookhaven as follows:

Section 1. **Legislative Intent.** Blighted properties have prevented and arrested the sound growth and development of the local community. These blighted properties are predominantly commercial or industrial in nature and are characterized by deteriorating and/or abandoned building(s), in whole or substantial part thereof, and are typically inadequately maintained with debris, litter and/or trash and junk accumulation and are lacking in basic public amenities.

Section 2. **Text Amendment.** Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" Article 1 entitled "General Provisions" is hereby amended to read as follows:

85-1. Definitions; word usage.

A. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular include the plural number. The word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is always mandatory; and the word "used" or "occupied" shall be construed as though followed by the words "or intended, arranged or designed to be used or occupied." The word "Town" shall mean the Town of Brookhaven, the term "Town Board" shall mean the Town Board of said Town; the term "Planning Board" shall mean the Planning Board of said Town; the term "Board of

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Appeals" shall mean the Board of Appeals of said Town; the term "Chief Building Inspector" shall mean the Building Inspector of said Town; the term "Town Engineer" shall mean the Town Engineer of said Town; and the term "Town Clerk" shall mean the Town Clerk of said Town.

B. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

ACCESSORY APARTMENT -- A dwelling unit which is subordinate to a permitted principal one-family residence use in terms of size, location and appearance and is located within the principal structure.

ACCESSORY BUILDING, STRUCTURE OR USE -- A building, structure or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An accessory use is permitted only on the same lot upon which a valid permitted principal use exists.

ACRE -- As used herein, an acre shall be measured as 43,560 square feet.

ADULT BOOKSTORE -- An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT ENTERTAINMENT ESTABLISHMENT -- A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age. Said establishments shall also include any movie theater in which a majority of the movie films presented are X rated.

ADULT MOTEL -- A motel which is not open to the public generally but excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.

ADULT THEATER -- A theater that customarily presents motion pictures, films, videotapes or slide shows, that are not open to the public generally but exclude any minor by reason of age.

AGRICULTURE

(1) OPEN FARMING -- Includes the cultivation of the soil for food products and other useful or valuable growths of the field.

(2) OTHER AGRICULTURE -- Agricultural uses not included in the foregoing definition of "open farming," but including greenhouses, dairies

and the raising of livestock, roosters and other poultry, except when such poultry consists solely of a total of six or fewer ducks or geese or female chickens or any combination thereof per residential premises, regardless of size.

ALTERATION -- As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ARTIST STUDIO -- The showroom or workshop of an artist, sculptor, photographer or craftsperson.

AUTOMOBILE PARKING FIELD -- A lot used solely for the parking of registered automobiles and only in conjunction with a permitted principal use, which is adjacent to or within 100 linear feet from the parking field.

BAR, TAVERN or NIGHTCLUB -- An establishment regulated by the New York State Liquor Authority and consisting of one or more of the following characteristics: age restrictions or cover charges for admission, listening or dancing to music provided by live entertainment, disc jockeys, juke boxes or hours of operation which extend beyond the normal dining times for dinner. The accessory or incidental sale of foods or snacks shall not entitle such a use to be considered a restaurant under other provisions of this Code. The permanent or temporary removal of tables and chairs from such an establishment to permit any of the aforesaid characteristics shall constitute the creation of a bar, tavern or nightclub.

BARN -- A structure or building designed and used exclusively for the housing of domestic animals and/or agricultural products and/or farm and/or agricultural equipment including, but not limited to, farm implements, tractors, cultivators, and other such items as are customarily used for active farming.

BED-AND-BREAKFAST ESTABLISHMENT -- An owner-occupied single-family dwelling wherein, as an accessory use, guest rooms and breakfast only are made available to the public for compensation for short-term accommodation of no more than 14 consecutive nights.

BLIGHT -- Commercial or industrial properties which have deteriorating and/or abandoned building(s) in whole or substantial part thereof. These properties are inadequately maintained with debris, litter and/or trash and junk accumulation and missing public amenities and may impair or arrest the sound growth and development of the area, community or municipality. Blighting conditions share some or all following characteristics:

(1) Unsafe or unhealthy conditions that make the building unfit for use.

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(2) Deterioration of the site.
(3) Dilapidated, deteriorated, or defective structures.
(4) Boarded up buildings.
(5) Criminal activity and loitering.
(6) Aesthetically poor conditions – signs, parking area, facades.
(7) Code violations and a public nuisance.
(8) Vacant and underutilization of land, lots and buildings.
(9) Weeds and poor landscaped, debris and litter.
(10) Poorly maintained, cracked sidewalks and curbing.
(11) Damaged or missing fencing.
(12) High vacancy or rates.
(13) Outdated and inefficient building and uses.
(14) Vacant lots on which buildings have been demolished.

BOARDINGHOUSE -- A building other than a motel or hotel where lodging and meals are provided for compensation.

BUILDING -- A structure having a roof supported by columns or walls, and when separated by a party wall without openings, it shall be deemed a separate building.

BUILDING HEIGHT -- The vertical distance from the average grade at the base of the structure to the highest point of the roof, provided that chimneys, spires and similar permitted projections shall not be included in determining height.

CAMP COTTAGE -- Any building of whatever material constructed, designed or equipped to be used for living, sleeping or eating only by transient or seasonal occupants within a tourist camp.

CAMP UNIT -- Any plot of land in a tourist camp upon which is proposed to be located any tent, tent-house, camp cottage, tourist unit, house-car or trailer designed or equipped to be used for living, sleeping or eating.

COMMERCIAL CENTER -- A retail use(s), which exceeds a gross floor area of 100,000 square feet and/or occupies a site of five or more acres.

CONVENIENCE STORE -- A retail establishment which sells food and beverages, prepackaged or packaged within the establishment and in a ready to consume state and also sells newspapers, magazines and other sundries of a convenience nature, and which is open seven days per week, at least 12 hours per day.

CONVENTS AND MONASTERIES -- The building or buildings utilized by members of a religious order as their primary residence and from where activities in furtherance of the religious order are conducted primarily for the residents therein, including, but not limited to, worship, education and labor.

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CURB LEVEL -- The officially established grade of the curb in front of the midpoint of the lot.

DAY-CARE FACILITY -- Any premises which receives six or more children, senior citizens or handicapped persons for day-care periods of less than 24 hours per day. The term "day-care facility" shall be deemed to include nursery school, kindergarten, preschool, day camp and similar terms.

DELICATESSEN -- A store which sells food products, both those ready to eat and those prepared to eat, and contains no facilities for eating on the premises.

DEPOT -- An area where vehicles may be stored legally pursuant to all of the local laws and requirements of the Code of the Town of Brookhaven, including hut not limited to zoning, and which is owned or leased by the licensee. A depot shall be an accessory use to a motor vehicle repair shop, as defined in Chapter 66 of the Code of the Town of Brookhaven. A depot must be located on the same site plan as the motor vehicle repair shop. A depot must be paved, provided with drainage, and be screened from view with landscaping and a six-foot-high perimeter fence, having no opening, mesh, hole or gap larger than two inches measured horizontally and venically. To qualify for use in connection with a towing business licensed pursuant to the provisions of Chapter 66 of the Code of the Town of Brookhaven, a depot shall be so constructed as to contain an additional area of not less than 2,025 square feet. Any depot legally existing prior to the effective date of this revision may be maintained as a nonconforming use in conformance with the provisions of Chapter 85 of the Code of the Town of Brookhaven. Any depot may be located entirely inside a building, provided that the building has the appropriate certificate of occupancy for such storage and is in compliance with the Fire Code.

DRIVE-IN ESTABLISHMENT -- Any use which does not customarily provide off-street parking facilities and which serves the needs of customers who do not customarily leave their vehicles while being served. The term "drive-in establishment" shall be deemed to include but not be limited to such places of business as bank windows, motor vehicle washes and dairy stores.

DUCK RANCH -- Any area or areas used for the breeding, killing or handling of ducks or other water fowl exceeding 100 living units for commercial purposes.

DWELLING, MODEL -- A dwelling or dwellings used for the exhibition or demonstration of dwellings or dwelling units for sale.

DWELLING, MULTIPLE -- A building or portion thereof designed for or occupied by three or more families living independently of each other with separate cooking facilities.

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DWELLING, ONE-FAMILY -- A building designed for or occupied by one family doing its own cooking, which building shall have not more than one kitchen. Boardinghouses and rooming houses shall not be deemed one-family dwellings. It shall be presumed that a building or dwelling unit zoned for one-family dwelling is occupied by more than one family if any of two or more of the following features are found to exist on the premises of that building or dwelling unit by the Chief Building Inspector or his designee:

(1) More than one mailbox, mail slot or post office address.
(2) More than one doorbell or doorway on the same side of the building or dwelling unit.
(3) More than one electric meter.
(4) More than one gas meter.
(5) More than one connecting line for cable television.
(6) Separate entrances for segregated portions of the building or dwelling unit.
(7) Partitions or locked internal doors barring access between segregated portions of the building or dwelling unit, including bedrooms.
(8) Separate written or oral leases or rental agreements or the payment of rent for portions of the building or dwelling unit among its owner and residents.
(9) Two or more kitchens, each of which contain a range or oven and refrigerator and sink.

DWELLING, TWO-FAMILY -- A detached building designed for or occupied exclusively by two families living independently of each other with separate cooking facilities.

ESSENTIAL SERVICE -- The erection, construction, alteration or maintenance by public utilities or municipal corporations of underground or overhead gas, electrical or water transmission or distribution systems or collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal corporations or for the public health, safety or general welfare.

FAMILY -- One or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or eight or less persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

FARMERS MARKET -- Any building or buildings, structure or structures or premises used by four or more transient or part-time independent vendors for the sale at retail of produce, goods, wares or merchandise.

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FLOOR AREA -- The total of the horizontal areas of the several floors of a building, excluding areas used for accessory garage purposes and such basement and cellar areas as are devoted exclusively to uses accessory to the operation of the building. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RATIO (FAR) -- The gross floor area of a structure(s) divided by the total lot area.

FOUNDATION -- The underlying supporting substructures of a building, including footings, foundation walls and supporting piers, piles, and columns exclusive of any slab, first floor walls, or other structural components of the building.

FRONT BUILDING LINE -- The line across the entire frontage of the lot at the required front yard depth.

GARAGE, ATTACHED -- A private garage attached to the principal structure by means of a common wall or by means of a fully enclosed breezeway not exceeding 10 feet in length.

GARAGE, DETACHED -- A private garage detached from the principal structure or attached to the principal structure by means of an enclosed breezeway exceeding 10 feet in length. Detached garages shall be considered accessory structures but may not be greater than 14 feet in height above the surrounding grade, and any area above the first-floor level may only be used as a storage area with a ceiling height not to exceed six feet above the floor. Detached garages may not exceed 600 square feet in floor area and may not be located forward of the front foundation line of the principal structure. No more than one detached garage shall be permitted on any parcel of property. The above limitations shall not apply to detached garages utilized for permitted commercial or industrial purposes in connection with a permitted principal use.

GARAGE, MINOR -- A building, other than a private garage, not more than one story in height, used for the storage only of noncommercial automobiles and in which no repair work or servicing of any kind is carried on. Such garages shall not be utilized for the retail sale of motor fuels, lubricants and other motor vehicle supplies.

GARAGE, PRIVATE -- An accessory building, not more than one story in height, for the storage of one or more power-driven vehicles used by the owner(s) or tenant(s) of the lot on which it is erected and for the storage of not more than two noncommercial automobiles used by others. A private garage is permitted only on the same lot upon which a valid permitted principal use exists.

GRADE, FINISHED -- The completed surfaces of lawns, driveways and walks brought to grades as shown on the plans or designs relating thereto.

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GREENHOUSE -- A structure which is specifically designed, constructed and used for the culture and propagation of horticultural commodities.

GROSS FLOOR AREA (GFA); COMMERCIAL -- The total floor area of a structure as measured from the exterior faces of the walls. GFA shall include accessory buildings/structures, above grade floors, stairwells at each story, interior balconies, mezzanines, floor space utilized for mechanical equipment with structural headroom of seven feet six inches or more and covered or enclosed porches, patios and decks. GFA shall include the area under a gambrel, gable, hip or similar type roof, where there exists a floor-to-ceiling height of five feet or more unless access to said area is limited to a scupper or pull down staircase. All storage space or occupied space shall be included when calculating GFA for nonresidential uses. Open and unroofed decks and patios, awnings, sills, cornices, buttresses and eaves shall not be included in calculating GFA.

GROSS FLOOR AREA (GFA); RESIDENTIAL -- The total floor area of a structure as measured from the exterior faces of the walls. GFA shall include accessory buildings or structures, abovegrade floors, stairwells at each story, interior balconies, mezzanines and covered or enclosed porches, patios and decks. GFA shall include the area under a gambrel, gable, hip or similar type roof, where there exists a floor-to-ceiling height of five feet or more unless access to said area is limited to a scupper or pull-down staircase. Below-grade floors shall not be included in GFA for residential uses, provided such floors are at least 75% below grade and are not used as habitable space. Open and unroofed decks and/or patios, awnings, sills, cornices, buttresses and eaves shall not be included in calculating GFA.

HEALTH CLUB -- An establishment that provides facilities for physical fitness activities, including, but not limited to, aerobic exercises, running and jogging, exercise equipment, games courts, swimming facilities and saunas.

HEAVY CONSTRUCTION VEHICLES AND EQUIPMENT DEALERSHIP -- A building or a part of a building or a lot or a part of a lot used for the sale, rental, lease, display or storage of those vehicles and/or equipment commonly used during construction, maintenance or demolition of utilities, buildings or structures or with the excavation of earth, sand or other construction materials. Such vehicles and equipment shall include, but not be limited to, commercial grade tractors, backhoes, front-end loaders, forklifts, bulldozers and scissor lifts.

HOME OCCUPATION -- An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use, and in connection therewith there is not involved the keeping of a stock-in-trade. The office of a physician, attorney, architect, accountant, dentist or other professional person, including an instructor in

violin, piano or other individual musical instrument limited to a single pupil at a time, who offers skilled services to clients and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be home occupations; and the occupations of dressmaker, milliner or seamstress, each with not more than one paid assistant, shall be deemed to be home occupations. Dance studios, musical instrument instruction in groups, tearooms, tourist homes, beauty parlors, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be home occupations.

HORSE FARM -- An establishment principally used for the showing, breeding, boarding, renting or training of horses.

HOSPITAL -- A facility or institution possessing a Public Health Council certificate and engaged principally in providing services by or under the supervision of a physician for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including but not limited to a general hospital, treatment center, rehabilitation center other than a facility used solely for a vocational rehabilitation, tuberculosis hospital, chronic disease hospital, maternity hospital, lying-in-asylum or outpatient lodge. Nothing herein shall be construed so as to prohibit the operation of union treatment centers, provided that they are located in the appropriate district and do not provide overnight accommodations. The private practice of medicine will be differentiated from a treatment center using the criteria set forth in § 600-8 of Title 10 of the New York Codes, Rules and Regulations, which section is incorporated herein by reference.

INDOOR RECREATION -- A building or structure designed and equipped for the indoor conduct of sports and leisure-time activities within a building or structure, including indoor places of amusement, game rooms with snack bars, pro shops and facilities for social events.

JUNKYARD -- The use of more than 300 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that joins any street for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof. "Junkyard," however, shall not be construed to mean a depot, as set forth in Chapter 66 of this Code, when vehicles are stored in said depot after being towed there by the owner or operator of said depot and are stored for not more than 30 consecutive days or until sold as junk, whichever shall occur sooner.

LAND DIVISION -- A division of any parcel of land into two or more lots, plots or sites in which all building lots front on an existing improved street, not requiring the construction of any new streets or roads and not adversely affecting the development of the remainder of the parcel or adjoining property.

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LARGE COMMERCIAL RETAILER -- A retail use within a commercial center, which tenant space exceeds a gross floor area of 125,000 square feet; commonly known as a "Big Box" store primarily containing a single tenant within one enclosed structure and may be either freestanding or attached to additional stores.

LAUNDROMAT -- A business premises equipped with individual clothes washing or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in a garden apartment or multiple dwelling.

LAUNDROMAT, MEGA -- A laundromat is considered a super or mega laundromat if one or more of the following are met or exceeded: (1) a total of 50 double-load machines (washers and dryers combined), (2) 5,000 square feet of interior space, (3) generation of 30,000 gallons or more of wastewater per day.

LIVE PERFORMANCES - COMMUNITY THEATER -- A building or part of a building devoted to the showing of dramatic, musical, motion-picture or comedic live performances.

LOADING SPACE -- An off-street area not less than 12 feet wide and 22 feet long with an overhead clearance of at least 14 feet, exclusive of passageways, driveways, ramps, columns and other areas, on the same lot with a building or contiguous to a group of buildings, available for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LODGE -- The premises and buildings used by a private organization of voluntary members as a place of assembly catering exclusively to the members and their guests primarily for a patriotic, veterans, fraternal, benevolent, religious or political purpose in which eating, drinking, meeting or indoor recreational activities are conducted. The lodge shall not be used in whole or in part for the conduct of any business or enterprise for profit, but that shall not be construed as preventing the utilization of a lodge for benefits or performances for a recognized charitable, philanthropic or altruistic purpose.

LOT -- A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter. Upland only shall be deemed land; neither land underwater, shore, strand nor beach shall be deemed land for the purposes of this chapter.

LOT, CORNER -- A lot situated at the junction of and fronting on two or more streets.

LOT, INTERIOR -- A lot other than a corner lot.

LOT LINES -- The lines bounding a lot as defined herein.

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LOT, THROUGH -- An interior lot having frontage on two streets.

MASSAGE ESTABLISHMENT -- Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical or massage therapist, or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude spas, and health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

MINI-STORAGE FACILITIES (also known as MINI-STORAGE WAREHOUSES and/or SELF STORAGE FACILITIES) -- A structure(s) partitioned into private storage spaces or areas of varying size, individually leased or rented for varying terms to the public at large.

MIXED-USE BUILDING -- A building in which residential uses are permitted to exist simultaneously with legally permitted commercial uses.

MOTEL or MOTOR LODGE -- A one-story or two-story building or series of one- or two-story buildings containing separate units to be occupied as sleeping quarters for transient travelers, together with adequate sanitary facilities and parking facilities sufficient to accommodate one motor vehicle for each unit. There shall be no cooking facilities contained in any unit, and no cooking shall be permitted in any unit.

MOTOR VEHICLE DEALERSHIP -- A building or a part of a building or a lot or a part of a lot used for the sale, rental, lease, display or storage of new and/or used vehicles, including, but not limited to, automobiles, vans, trucks, trailers, buses, campers, recreational vehicles, boats or any other vehicle required to be registered with the New York State Department of Motor Vehicles. This definition shall not be construed to include heavy construction vehicles and equipment as defined herein.

MOTOR VEHICLE REPAIR -- The repair or servicing of automobiles, trucks, motorcycles, campers, trailers, recreational vehicles, recreational watercraft or any type of vehicle defined as a motor vehicle by New York State. Repair work shall include, but not be limited to, engine, transmission and other mechanical repair, tune-ups, body work, tire mounting and balancing, window tinting, detail work or similarly related work and accessory repair, including, but not limited to, radio, telephone and alarm installation.

MOTOR VEHICLE WASH FACILITY -- Any facility wherein vehicles are cleaned by hand or mechanical means.

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MOVIE THEATER, COMMUNITY -- A building devoted to the showing of motion pictures on one or more screens within the building(s) on a paid admission basis where the total number of seats or maximum permitted occupancy, as determined by the Town of Brookhaven, does not exceed 1,500.

MOVIE THEATER, REGIONAL -- A building devoted to the showing of motion pictures on one or more screens within the building(s) on a paid admission basis where the total number of seats or maximum permitted occupancy, as determined by the Town of Brookhaven, exceeds 1,500.

MULTIPLE-FAMILY RESIDENCES -- Includes detached or semidetached dwelling units and other forms of multiple-family structures, whether rental, cooperative or condominium.

NONCONFORMING STRUCTURE -- Any structure that does not conform to the current zoning by reason of lot area, setbacks, side yards or rear yards.

NONCONFORMING USE -- Any use of a building, structure, land or underwater land area lawfully existing at the time of the passage of this chapter, or any amendments thereto affecting such use, which does not conform to the regulations of the use district in which the building, structure, land or underwater land is situated.

NURSING HOME -- A building or buildings which provide full-time skilled nursing care and related medical services for aged, convalescent or chronic disease patients and which is or will be licensed and operated in conformity with the standards and regulations of the New York State Department of Health and the New York State Department of Social Welfare. No care shall be provided for persons who are mentally ill, acutely ill or who have a communicable disease, and no surgical or obstetric services shall be provided in such a home. The term "nursing home" shall be deemed to include convalescent home, sanatorium, rest home or home for the aged, but shall not be deemed to include an extended-care facility operated incident to and in conjunction with a hospital approved by the Joint Commission on Accreditation.

OUTDOOR STORAGE -- The location of goods, materials or equipment other than in an enclosed building or structure.

OUTSIDE RETAIL DISPLAY -- The display and sale of any goods, products and merchandise for retail sales to the general public for personal or household consumption directly situated outside of a building or structure.

PARKING GARAGE, PRIVATE -- An accessory building, or a part of a principal building, for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the parking of motor vehicles with no facilities

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for mechanical service or repair. Each level of a parking garage shall be included in determining the floor area ratio (FAR) of a parcel.

PARKING GARAGE, PUBLIC -- A building or structure or a part of a building or structure used for the parking of automobiles, with no facilities for motor vehicle repair or service, operated as a business enterprise with a service charge being or fee being paid to the owner or operator for the parking of privately owned vehicles. Each level of a parking garage shall be included in determining the floor area ratio (FAR) of a parcel.

PARKING SPACE -- An off-street area not less than nine feet wide and 20 feet long, exclusive of passageways, driveways, ramps, columns and other areas, available for the parking of one motor vehicle and having direct access to a street. Loading space shall not be included in such area.

PEEP SHOWS -- A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

PERSONAL SERVICE SHOPS -- Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, including, but not limited to, laundry, cleaning and pressing services, beauty shops, barbershops and shoe repair.

PREMISES -- Land with or without buildings or structures thereon.

REDEVELOPMENT -- The reuse of existing developed property. Redevelopment requires demolition or rehabilitation of existing buildings or structures on the site or changes to the site itself to accommodate reuse. Redevelopment does not require a change in use.

REDEVELOPMENT PROJECT -- A project or development that is specifically designed and planned to incorporate the initiatives set forth herein.

RESTAURANT -- Any establishment where the principal business is the commercial sale of prepared food, frozen desserts or beverages, to patrons for immediate consumption, with a total gross floor area of between 2,001 and 4,999 square feet, and between 17 and 199 seats, and without drive-through service.

RESTAURANT, MAJOR -- Any establishment where the principal business is the commercial sale of prepared foods, frozen desserts, or beverages, to patrons for immediate consumption, with a total gross floor area of 5,000 square feet or greater, or with 200 seats or greater, or with drive-through service.

RESTAURANT, TAKE-OUT -- Any establishment where the principal business is the commercial sale of prepared foods, frozen desserts or beverages, to patrons for

immediate consumption, with a total gross floor area of 2,000 square feet or less, and not more than 16 seats, and without drive-through service.

ROOMING HOUSE -- A building, other than a motel or hotel, where lodging is provided for compensation.

SHARED PARKING -- Parking that is utilized by two or more different uses or properties that generate different peak period parking demand.

SIGN -- Every kind of billboard, signboard and other shape or device or display arranged, intended, designed or used to advertise, announce, direct or otherwise inform, including any text, symbol, marks, letters or figures painted on or incorporated in the composition of the exterior surface of a building or structure, but not including any flag, pennant or insignia of any nation, state or municipal corporation.

SINGLY AND SEPARATELY OWNED LOT -- Any lot owned individually and separately and separate from any adjoining tracts of land on or before its inclusion within any zoning district and owned individually and separately and separated from any adjoining tracts of land continuously thereafter.

STORY -- That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between such floor and the ceiling next above it.

STORY, HALF -- A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the finished floor of such story.

STREET -- A public way which affords the principal means of access to abutting properties. Boardwalks on the Great South Beach shall be deemed to be streets for the purpose of this chapter. Neither tidal nor nontidal waters nor the shores, strands or beaches along the same shall be deemed streets for the purpose of this chapter.

STRUCTURE -- An assembly of materials forming a construction of component structural parts for occupancy or use, including buildings, but not including fences which are six feet or less in height. The term "structure" shall be construed as though followed by the words "or part thereof."

TOURIST CAMP -- Any plot on which is located or which is offered to the public for the location of one or more tents, cabins, tent-houses, camp cottages, tourist units, house-cars or trailers designed or equipped to be used for living, sleeping or eating.

TRAILER or HOUSE-CAR -- Any vehicle designed or equipped to be used for living, sleeping or eating and designed to move from place to place on wheels, propelled by its own power or otherwise drawn or propelled.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TRANSPORTATION TERMINAL/FACILITY -- Premises and building(s) for the storage or parking of registered motor vehicles or other modes of transportation, where passengers may or may not load and unload.

TRUCKING TERMINAL -- Premises and building(s) where trucks load and unload cargo, which may or may not be broken down into smaller, or aggregated into larger loads for transfer to other motor vehicles or modes of transportation. Warehouses, incidental to the principal use, may also be part of a trucking terminal.

USE -- The purpose for which land or a building or structure is designed, arranged or intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

YARD -- An open space on the same lot with a building or structure, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT -- An open, unoccupied space on the same lot with a building or structure, extending the full width of the lot and situated between the street line and the front line of the building or structure projected to the side lines of the lot The depth of the front yard shall be measured between the front line of the building or structure and the street line.

YARD, REAR -- An open, unoccupied space on the same lot with a building or structure, extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building or structure projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the main building or structure.

YARD, SIDE -- An open, unoccupied space on the same lot with a building or structure, extending from the rear line of the front yard to the front line of the rear yard and situated between the side line of the main building or structure and the adjacent side line of the lot.

§ 85-2. Interpretation.

A. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience and general welfare. Whenever the provisions of this chapter impose or prescribe any greater requirements or higher standards on premises, buildings or structures or on the use thereof than are imposed or prescribed by any other laws, local laws, rules or regulations, grants or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

B. Whenever the provisions of this chapter impose or prescribe any greater requirement or higher standards on premises, buildings or structures or on the use thereof by reason of such premises, building or structure or use abutting a residence district, the greater requirements or higher standards shall also govern when the premises, building or structure or use thereof either abuts lands owned and maintained by the Long Island State Park Commission as a state park or parkway or abuts lands which are within the boundaries of a residence use district of another municipality.

C. Singly and separately owned lots.

(1) Whenever a single lot which has been excepted from the area, width and yard requirements of a particular district by reason of such lot being in single and separate ownership on a certain date is joined by common ownership to an abutting lot, the greater area, width and yard requirements for the particular district shall apply to the increased size lot.

(2) Notwithstanding the provisions of Subsection C(1) hereinabove, where a legally existing substandard lot comes into the same record ownership as one or more adjacent lots solely by reason of the death of a previous record owner, the owner of said lots in the same record ownership shall have two years from the date of death of the previous owner causing the lots to be in the same ownership to place the lots into single and separate ownership. Failure to place lots in single and separate ownership within said parcel shall result in the merger of such substandard lots for zoning purposes.

§ 85-3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions or provisions of this chapter.

Section 3. Text Amendment. Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" Article XXI entitled "J Business 2 District (Neighborhood Business)" is hereby amended to read as follows:

§ 85-226. Permitted uses.

In a J Business 2 District, no building, structure or premises shall be used or occupied and no building or part thereof or other structures shall be so erected or altered, except for one or more of the following purposes:

A. Bank without accessory drive-through facility.
B. Bowling alley.
C. Church or similar place of worship.
D. Commercial center.
E. Day-care facility.
F. Delicatessen.
G. Dry cleaners.
H. Health club.
I. Laundromats.
J. Non-degree-granting schools, including self-defense, dance, swimming, gymnastics and similar instruction/programs, except those associated with manufacturing or truck driving.
K. Office.
L. Personal service shops, such as barbershops, beauty parlors, shoe repair shops, tailor shops and like services.
M. Pharmacy without accessory drive-through facility.
N. Shops and stores for the sale at retail of consumer merchandise and services.
O. Shops for custom work and for making articles to be sold at retail on the premises.
P. Take-out restaurant.
Q. Undertaking establishments.
R. Veterinarian, provided that all activities take place within the building.

§ 85-227. Town Board special permits.

The following special permit uses, when authorized by the Town Board, shall be subject to the criteria as set forth in Article IVA, § 85-31.2, in addition to the criteria contained herein.

A. College or university, excluding dormitories and other college or university residential facilities.
B. Large commercial retailer use, or major renovation or expansion of existing structure where such renovation and/or expansion is greater than 50% of the reconstruction cost of the total structure and results in a large commercial retailer use.
C. Single-family dwelling.
D. Two-family dwelling.

§ 85-227.1. Planning Board special permits.

The following special permit uses, when authorized by the Planning Board, shall be subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein:

A. Assembly and social recreation hall.
B. Automobile parking field.
C. Bar, tavern or nightclub.
D. Billiard hall.
E. Lodge.
F. Manufacturing use, provided it is limited to only those goods that are sold on the premises and does not occupy more than ten percent (10%) of the total gross floor area of the building or more than 10,000 square feet, whichever is less.
G. Motor vehicle rental.
H. Nursery or garden center.
I. Outside display.
J. Public utility.
K. Restaurant.
L. Uses within a designated Redevelopment Initiative: J Business 6 (Main Street Business), MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community).

§ 85-228. Accessory uses.

Customary accessory uses, structures and buildings shall be permitted when located on the same lot as the principal authorized use, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a business.

§ 85-228.1. Town Board special permits for accessory uses.

The following special permit uses, when authorized by the Town Board shall be subject to the criteria as set forth in Article IVA, § 85-31.2 in addition to the criteria contained herein.

A. Major restaurant as an accessory use to a commercial center.
B. Outside seating as an accessory use to a major restaurant.
C. Regional movie theater as an accessory use to a commercial center.

§ 85-228.1.1. Planning Board special permits for accessory uses.

The following special permit uses, when authorized by the Planning Board, shall be subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

A. Drive-through facility as an accessory use to a bank or pharmacy.
B. Outside seating as an accessory use to a restaurant or take-out restaurant.

§ 85-228.2. Prohibited uses.

All uses not expressly permitted are prohibited.

§ 85-229. Dimensional criteria.

A. Minimum lot area.
   (1) Except as otherwise provided herein, the minimum required lot area shall be 15,000 square feet.
   (2) The minimum required lot area for a bank or pharmacy with a drive-through facility shall be 65,000 square feet.
   (3) The minimum required lot area for a commercial center shall be five acres.
   (4) The minimum required lot area for a regional movie theater shall be 10 acres.

B. Minimum width of lot throughout.
   (1) Except as otherwise provided herein, the minimum required width of lot throughout shall be 100 feet.
   (2) The minimum required width of lot throughout for a bank or pharmacy with a drive-through facility shall be 150 feet.
   (3) The minimum required width of lot throughout for a commercial center shall be 300 feet.
   (4) The minimum required width of lot throughout for a regional movie theater shall be 300 feet.

C. Minimum front yard setback.
   (1) Except as otherwise provided herein, the minimum required front yard setback shall be 25 feet.
   (2) The minimum required front yard setback for a commercial center or regional movie theater shall be 100 feet.

D. Minimum side yard setback.
   (1) Except as otherwise provided herein, the minimum required side yard setback shall be 10 feet.
   (2) The minimum required side yard setback for a bank or pharmacy with a drive-through facility shall be 25 feet.
   (3) The minimum required side yard setback for a commercial center or regional movie theater shall be 50 feet.

E. Minimum rear yard setback.
   (1) Except as otherwise provided herein, the minimum required rear yard setback shall be 25 feet.
   (2) The minimum required rear yard setback for a bank or pharmacy with a drive-through facility shall be 40 feet.
   (3) The minimum required rear yard setback for a commercial center or regional movie theater shall be 75 feet.

F. Maximum permitted floor area ratio (FAR).
   (1) Except as otherwise provided herein, the maximum permitted FAR shall be 35%.
   (2) The maximum permitted FAR for a commercial center or regional movie theater shall be 20%.
   (3) The maximum permitted FAR for a commercial center with a large commercial retailer use shall be 16%.

G. Green building incentive. In the event that a large commercial retailer is proposed pursuant to the Leadership in Energy Environmental Design for New Construction (LEED/NC) Green Building Standards, the floor area ratio (FAR) may be increased by 1% for each level of LEED standard achieved, to wit: basic certification (17% FAR), silver certification (18% FAR), gold certification (19% FAR) or platinum certification (greater than 20% FAR). Compliance with LEED certification/standards shall be determined by the Town of Brookhaven.

H. Maximum permitted height.
   (1) The maximum permitted height for all structures shall be 35 feet or 2 1/2 stories.

§ 85-229.1. Special permit criteria.

In addition to the criteria set forth within Article IVA, § 85-31.2, or Article VIA, § 85-51, the following special permit criteria shall be required for the uses so indicated:

A. Major restaurant.
   (1) A minimum landscaped area of 50 feet shall be maintained adjacent to all road frontages.
   (2) A minimum of 35% of the site shall be maintained as natural and/or landscaped area.
   (3) Architectural elevations shall be subject to the review and approval of the Town Brookhaven Historic District Advisory Committee prior to the review and determination by the Town Board. In a designated historic district, exterior signs and building siding materials shall be of flat finishes only. Bright, vivid and/or reflective colors shall be prohibited.

(4) No exterior menu board signs shall be located within the required front yard setback.
(5) Not more than three amusement devices shall be permitted (accessory game room).
(6) No indoor or outdoor play area shall be located within 40 feet of any street line. No indoor or outdoor play area shall be located within a front yard.
(7) A minimum natural or landscaped buffer area of 75 feet shall be maintained in accordance with Town standards adjacent to any residential use or zone. Said buffer shall be supplemented with additional plantings pursuant to the direction of the Commissioner of the Department of Planning, Environment and Development.
(8) In the case of new developments within existing retail centers, site plan review shall be applicable to the entire center.
(9) There shall be a minimum of 12 queuing spaces for each drive-through window.
(10) Queuing lanes shall be separate and distinct from parking aisles.
(11) Advertisements, including trademark logos, may not be affixed, painted or glued onto the windows of the business or onto any exterior structure, including waste disposal receptacles and flags.

B. Outside display.
(1) All display shall be set back a minimum distance of 25 feet from any roadway. The entire portion of the display setback shall be landscaped in accordance with the approved site plan.

C. Outside seating as an accessory use to a take-out restaurant, restaurant, or major restaurant use.
(1) Outside seating shall be permitted for food service purposes only.
(2) Outdoor loudspeakers, exterior live entertainment or dancing of any kind shall be prohibited for any take-out restaurant, restaurant, or major restaurant between the hours of 11:00 p.m. and 8:00 a.m. or within 1,000 feet of any residence district.
(3) Outside seating shall only be permitted to operate between the hours of 8:00 a.m. and 11:00 p.m. for any take-out restaurant, restaurant, or major restaurant within 1,000 feet of any residence district.
(4) Outside seating shall be permitted on the subject parcel only.

D. Motor vehicle rental.
(1) No more than five rental vehicles.
(2) All rental vehicles shall be screened from view with a hedge, berm and/or decorative wall or fence in accordance with Town standards.
(3) No repair or maintenance of rental vehicles permitted on site.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

E. Uses within a designated Redevelopment Initiative: Main Street Business District, Multi Family, Planned Retirement Community and Planned Retirement Congregate Housing Community.

(1) The application shall obtain a minimum redevelopment achievement score of 101-120 points.
(2) The application shall provide a minimum Redevelopment Benefit Potential score of 80 points.
(3) Dimensional and density criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for permitted uses and accessory uses shall be applicable.
(4) Special permit criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for special permitted uses shall be applicable.
(5) A minimum of 10% of all units permitted shall be maintained as workforce or affordable units in accordance with Town standards.
(6) The minimum outdoor recreational area shall be as regulated in MF Residence (Multi Family) and PRC Residence (Planned Retirement Community) Districts.

§ 85-230. Exemption.

The provisions regulating a large commercial retailer shall not be applicable to site plan applications pending and/or under review by the Planning Board and/or the Division of Planning as of the effective date of the within article.

Section 4. Text Amendment. Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" Article XXIII entitled "J Business 4 District (Professional and Business Offices) is hereby amended to read as follows:

§ 85-247. Permitted uses.

In a J Business 4 District, no building, structure or premises shall be used or occupied and no building or part thereof or other structures shall be so erected or altered, except for one or more of the following purposes:

A. Administrative, financial, business and professional offices.
B. Art galleries.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

C. Bank.
D. Day-care facility.
E. Exhibit halls.
F. Undertaking establishment.

§ 85-247.1 Planning Board special permits.

A. Uses within a designated Redevelopment Initiative: J Business 6 (Main Street Business), MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community).

§ 85-248. Accessory uses.

Customary accessory uses, structures and buildings shall be permitted when located on the same lot as the principal authorized use, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a business.

§ 85-249. Planning Board special permits for accessory uses.

The following special permit uses, when authorized by the Planning Board, shall be subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein:

A. Drive-through facility as an accessory use to a bank facility.
B. Restaurant as an accessory use to a permitted principal use.
C. Take-out restaurant as an accessory use to a permitted principal use.

§ 85-250. Prohibited uses.

All uses not expressly permitted are prohibited.

§ 85-251. Dimensional criteria.

A. Minimum lot area.
   (1) Except as otherwise provided herein, the minimum required lot area shall be 10,000 square feet.
   (2) The minimum required lot area for a bank with a drive-through facility shall be 65,000 square feet.
   (3) The minimum required lot area for an office use with an accessory restaurant or take-out restaurant use shall be three acres.

B. Minimum width of lot throughout.
   (1) Except as otherwise provided herein, the minimum required width of lot throughout shall be 75 feet.
   (2) The minimum required width of lot throughout for a bank with a drive-through facility or an office use with an accessory restaurant or take-out restaurant use shall be 150 feet.

C. Minimum front yard setback.
   (1) Except as otherwise provided herein, the minimum required front yard setback shall be 40 feet.
   (2) The minimum required front yard setback for a bank with a drive-through facility shall be 50 feet.

D. Minimum side yard setback.
   (1) Except as otherwise provided herein, the minimum required side yard setback shall be 10 feet.
   (2) The minimum required side yard setback for a bank with an accessory drive-through facility or an office use with an accessory restaurant or take-out restaurant use shall be 25 feet.

E. Minimum rear yard setback.
   (1) Except as otherwise provided herein, the minimum required rear yard setback shall be 25 feet.

F. Maximum permitted floor area ratio (FAR).
   (1) Except as otherwise provided herein, the maximum permitted FAR shall be 25%.

G. Maximum permitted height.
   (1) The maximum permitted height for all structures shall be 35 feet or 2 1/2 stories.

§ 85-252. Special permit criteria.

In addition to the criteria set forth within Article IVA, § 85-31.2, or Article VIA, § 85-51, the following special permit use criteria shall be required for the uses so indicated:

A. Restaurant/Take-out restaurant.
   (1) The restaurant or take-out restaurant use may occupy a maximum of 5% of the total gross floor area of the building and shall not exceed a maximum of 3,000 square feet gross floor area.
   (2) The restaurant or take-out restaurant use shall be located within the office building.
   (3) A maximum of one accessory restaurant or take-out restaurant use shall be permitted per site.

(4) Freestanding restaurant or take-out restaurant uses shall be prohibited.
(5) Major restaurants shall be prohibited.
(6) Advertisements, including trademark logos, may not be affixed, painted or glued onto the windows of the business or onto any exterior structure, including waste disposal receptacles and flags.

B. Uses within a designated Redevelopment Initiative: Main Street Business District, Multi Family, Planned Retirement Community and Planned Retirement Congregate Housing Community.

(1) The application shall obtain a minimum redevelopment achievement score of 101-120 points.
(2) The application shall provide a minimum Redevelopment Benefit Potential score of 80 points.
(3) Dimensional and density criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for permitted uses and accessory uses shall be applicable.
(4) Special permit criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for special permitted uses shall be applicable.
(5) A minimum of 10% of all units permitted shall be maintained as workforce or affordable units in accordance with Town standards.
(6) The minimum outdoor recreational area shall be as regulated in MF Residence (Multi Family) and PRC Residence (Planned Retirement Community) Districts.

Section 5. Text Amendment. Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" Article XXIV entitled "J Business 5 District (High Intensity Business) is hereby amended to read as follows:

§ 85-256. Town Board special permits.

The following special permit uses, when authorized by the Town Board, shall be subject to the criteria as set forth in Article IVA, § 85-31.2, in addition to the criteria contained herein:

A. College or university, excluding dormitories and other college or university residential facilities.
B. Major restaurant.
C. Motor vehicle fueling station.
D. Outdoor storage.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

E. Regional theater.

§ 85-256.1. Town Board special permits (Restricted).

The following special permit uses, when authorized by the Town Board, are permitted in the J Business 5 District only and in no other district, and shall be subject to the criteria as set forth in Article IVA, § 85-31.2, in addition to the criteria contained herein:

A. Commercial boat storage whether indoor or outdoor.
B. Commercial shipyard or boat repair yard.
C. Convenience store.
D. Ferry terminal/facility.
E. Marina.
F. Motor vehicle dealership.
G. Motor vehicle wash.
H. Taxi station.
I. Laundromat, mega.

§ 85-256.2. Planning Board special permits.

The following special permit uses, when authorized by the Planning Board, shall be subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein:

A. Assembly and social recreation hall.
B. Bar, tavern or nightclub.
C. Billiard hall.
D. Mini-storage warehouse.
E. Motor vehicle repair, with or without a depot as may be required by Chapter 66.
F. Outside display.
G. Uses within a designated Redevelopment Initiative: J Business 6 (Main Street Business), MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community).

§ 85-257. Accessory uses.

Customary accessory uses, structures and buildings shall be permitted when located on the same lot as the principal authorized use, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a business.

§ 85-258. Town Board special permits for accessory uses.

The following special permit uses, when authorized by the Town Board, shall be subject to the criteria as set forth in Article IVA, § 85-31.2, in addition to the criteria contained herein.

A. Convenience store as an accessory use to a gasoline station.
B. Outside seating as an accessory use to a major restaurant.
C. Walk-up counter or window service as an accessory use to a major restaurant.

§ 85-259. Prohibited uses.

All uses not expressly permitted are prohibited.

§ 85-260. Dimensional criteria.

A. Minimum lot area.
   (1) Except as otherwise provided herein, the minimum required lot area shall be 20,000 square feet.
   (2) The minimum required lot area for a convenience store, motor vehicle fueling station, motor vehicle repair use, or taxi station shall be one acre.
   (3) The minimum required lot area for a motor vehicle fueling station with an accessory convenience market or accessory motor vehicle repair use, shall be 65,000 square feet.
   (4) The minimum required lot area for a motor vehicle wash, motor vehicle fueling station with accessory motor vehicle wash, fast-food restaurant, commercial boat storage facility, marina, ship yard or boat repair yard shall be two acres.
   (5) The minimum required lot area for a motor vehicle dealership or ferry terminal/facility shall be five acres.
   (6) The minimum required lot area for a regional theater shall be 10 acres.

B. Minimum width of lot throughout.
   (1) Except as otherwise provided herein, the minimum required width of lot throughout shall be 150 feet.
   (2) The minimum required width of lot throughout for a ferry terminal/facility or motor vehicle dealership shall be 200 feet. [Amended 2-10-2004, effective 3-1-2004]
   (3) The minimum required width of lot throughout for a regional theater shall be 300 feet.

C. Minimum front yard setback.
   (1) Except as otherwise provided herein the minimum required front yard setback shall be 50 feet.
   (2) The minimum required front yard setback for a regional theater shall be 100 feet.

D. Minimum side yard setback.
   (1) Except as otherwise provided herein, the minimum required side yard setback shall be 25 feet.
   (2) The minimum required side yard setback for a regional theater shall be 50 feet.

E. Minimum rear yard setback.
   (1) Except as otherwise provided herein, the minimum required rear yard setback shall be 40 feet.
   (2) The minimum required rear yard setback for a regional theater shall be 75 feet.

F. Maximum permitted floor area ratio (FAR).
   (1) Except as otherwise provided herein, the maximum permitted FAR shall be 25%.
   (2) The maximum permitted FAR for a regional theater shall be 20%.

G. Maximum permitted height.
   (1) The maximum permitted height for all structures shall be 35 feet or 2 1/2 stories.

§ 85-261. Minimum site improvements.

Except as otherwise provided herein, all development shall meet or exceed the minimum standards contained within the Town Code of the Town of Brookhaven, including, but not limited to, the Subdivision Regulations.

§ 85-262. Special permit criteria.

In addition to the criteria set forth within Article IVA, § 85-31.2, or Article VIA, § 85-51, the following special permit criteria shall be required for the uses so indicated:

A. Convenience store as an accessory use to a motor vehicle fueling station.
   (1) Convenience stores shall only be permitted as a clearly accessory and incidental use to a permitted motor vehicle fueling station.
   (2) Parking and stacking areas required for the fueling pumps shall not be counted as parking for the convenience store. The applicant must demonstrate that the convenience store has sufficient parking allocated so that there will be no interference with the fueling station operation. In connection therewith, the applicant must demonstrate a plan whereby vehicles wishing to receive fueling services can do so without inconvenience due to the operation of the convenience store.
   (3) All convenience stores shall have public restrooms attached thereto.

(4) A maximum of 750 square feet of building area shall be devoted to the retail sale and display area, and the total building area shall not exceed 1,500 square feet, except that existing fueling station(s) may exceed the requirement of a maximum building area of 1,200 square feet so long as the building complies with all other dimensional requirements or if the subject building was included in a previously approved site plan and a certificate of occupancy was issued pursuant to Planning Board site plan approval.

(5) The Planning Board, in conjunction with the site plan, shall approve all signs displayed at the site in connection with the convenience store. Portable or mobile signs advertising any items being sold on the site are prohibited.

(6) Any accessory uses to the retail convenience store, including but not limited to ice cream parlors, doughnut shops and similar specialty uses, which are not clearly incidental to the retail convenience store are prohibited.

(7) Outside display shall be prohibited.

B. Motor vehicle fueling station.

(1) The use shall be limited to the retail sale of motor fuels, lubricants and other motor vehicles supplies, including spark plugs, batteries, tires and other minor parts for the repair and upkeep of motor vehicles. Minor repairs and servicing shall be permitted after the review and approval of the Town Board and the issuance of a special permit, except that body and fender work is expressly prohibited.

(2) No repair work shall be performed in the open. All repair work, excluding emergency service, shall be conducted only between the hours of 7:00 a.m. and 9:00 p.m.

(3) The overnight storage of registered vehicles shall only be permitted with the review and approval of the Town Board and the issuance of a special permit. There shall be no outdoor storage of dismantled cars.

(4) A motor vehicle fueling station shall be prohibited within 500 feet from any lot line bounding an area of public assembly, such as a hospital, church, library, playground, school, community center or theater.

(5) The Planning Board, in conjunction with the site plan, shall approve all signs displayed at the site in connection with the motor vehicle fueling station. Portable or mobile signs advertising any items being sold on the site are prohibited.

(6) Outside display shall only be permitted with the review and approval of the Town Board and the issuance of a special permit.

(7) Required standards. The Town Board hereby finds that many of the new public motor vehicle fuelling stations and recently remodeled public motor vehicle fueling stations located within the Town of Brookhaven are being designed and constructed as one-hundred-percent self-service facilities. These facilities do not adequately address the needs of the

elderly or the physically impaired that find it difficult, if not impossible to operate self-service fuelling pumps. In consideration of the foregoing, the following standards shall be required of all self-service public motor vehicle fueling stations:

(a) At least one public fuel pump island shall be full service for use by the general public or by the physically impaired or elderly persons between the hours of 8:00 a.m. through 8:00 p.m. during any days on which the public fueling station is open for business.

(8) Curb cuts. A maximum of one curb cut for every 75 feet of road frontage shall be permitted. No part of a strip 25 feet in width adjoining any lot or land in a residence district or adjoining a street intersection shall be used for providing access to the site. Driveways and curb cuts shall have a minimum width of 20 feet and a maximum width of 35 feet at the curbline. Driveways shall be spaced a minimum of 25 feet apart.

(9) Screening. Buffers and fencing shall be provided in accordance with Town standards.

(10) A building permit shall be secured and construction begun within two years of any Planning Board's site plan grant. An application may be made to the Town Board for not more than one six-month extension of the time period for commencement of construction. Failure to commence construction within said time limits may, upon 10 days' public notice and notice to the applicant/owner, result in the Town Board revoking any special permits granted in connection with the use.

C. Major restaurant.

(1) A minimum landscaped area of 40 feet shall be maintained adjacent to all road frontages.

(2) A minimum of 35% of the site shall be maintained as natural and/or landscaped area.

(3) Architectural elevations shall be subject to the review and approval of the Town of Brookhaven Historic District Advisory Committee prior to a review and determination by the Town Board. In a designated Historic District, exterior signs and building siding materials shall be of flat finishes only. Bright, vivid and/or reflective colors shall be prohibited.

(4) No exterior menu board signs shall be located within the required front yard setback.

(5) Not more than three amusement devices shall be permitted (accessory game room).

(6) No indoor or outdoor play area shall be located within 40 feet of any street line. No indoor or outdoor play area shall be located within a front yard.

(7) A minimum natural or landscaped buffer area of 25 feet shall be maintained adjacent to any residential use or zone. Said buffer shall be supplemented with additional plantings pursuant to the direction of the

Commissioner of the Department of Planning, Environment and Land Management.

(8) Advertisements, including trademark logos, may not be affixed, painted or glued onto the windows of the business or onto any exterior structure, including waste disposal receptacles and flags.

(9) There shall be a minimum of 12 queuing spaces for each drive-through window.

(10) Queuing lanes shall be separate and distinct from parking aisles.

D. Mini-storage facility.

(1) Storage shall be limited to dead storage only. The storage of explosives, flammable, toxic or otherwise hazardous chemicals and/or other materials shall be prohibited.

(2) Architectural elevations shall be subject to the review and approval of the Town Brookhaven Historic District Advisory Committee prior to the review and determination by the Town Board. In a designated historic district, exterior signs and building siding materials shall be of flat finishes only. Bright, vivid and/or reflective colors shall be prohibited. Walls exceeding one story in height, which are visible from off site, shall be architecturally enhanced with pilasters, corbelled cornices, or similar ornamentation pursuant to the satisfaction of the Commissioner of Planning, Environment and Land Management.

(3) Storage unit doors shall be screened from visibility from adjoining residentially zoned or residentially developed properties and from public streets to the satisfaction of the Commissioner of Planning, Environment and Land Management.

(4) A minimum natural or landscaped area of 50 feet shall be maintained adjacent to all road frontages.

(5) All paved areas, including parking and parking aisle areas, shall be screened from view with landscaping or natural areas and/or decorative fencing pursuant to the satisfaction of the Commissioner of Planning, Environment and Land Management.

(6) Decorative walls or fencing shall be provided along all setback lines; decorative opaque walls and/or fencing shall be provided along all site property lines which are contiguous with residentially developed and/or zoned properties; other types of fencing may be permitted elsewhere on site subject to Planning Board review and approval.

(7) Parking stalls and loading areas adjacent to storage buildings may encroach on interior roadway 30 feet or wider, exclusive of required parking stalls, for office(s) or living quarters.

E. Motor vehicle dealership.

(1) Each site shall contain designated areas for customer and employee parking in addition to outside display and vehicle storage areas.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(2) All vehicle display shall be set back a minimum distance of 25 feet from any roadway. This setback area must be maintained as a natural or landscaped area in accordance with a site plan, which shall be subject to the review and approval of the Planning Board.

(3) The loading and unloading of vehicles must take place on site within a designated loading/unloading zone. There shall be no loading or unloading permitted within the front yard.

F. Motor vehicle repair.

(1) All repair work shall take place within the building. All repair work, excluding emergency service, shall be conducted only between the hours of 7:00 a.m. and 9:00 p.m.

(2) An area of sufficient size, as determined by the Board, shall be required for the outdoor, overnight parking of registered vehicles with the issuance of a special permit, subject to criteria specified herein. Said area shall be in addition to any depot required by Chapter 66.

(3) Overhead doors shall not face the street or any residentially zoned or used property.

(4) No motor vehicle repair shall be erected, altered or used within 200 feet of any premises used for either an elementary or high school, public library, church, hospital or firehouse.

G. Motor vehicle wash.

(1) Architectural elevations shall be subject to the review and approval of the Town of Brookhaven Historic District Advisory Committee prior to the review and determination by the Town Board. In a designated historic district, exterior signs and building siding materials shall be of flat finishes only. Bright, vivid and/or reflective colors shall be prohibited.

(2) Decorative walls or fencing shall be provided along all setback lines; decorative opaque walls and/or fencing shall be provided along all site property lines which are contiguous with residentially developed and/or zoned properties; other types of fencing may be permitted elsewhere on site subject to Planning Board approval.

(3) Street frontages shall be fully landscaped and/or shall remain natural with enhancing landscaping and/or revegetation.

(4) A minimum of 20 queuing spaces for each automatic wash bay and a minimum of five queuing spaces for each self-service wash bay shall be maintained.

(5) A finishing area sufficient to accommodate a minimum of 10 vehicles for each automatic wash bay and two vehicles for each self-service wash bay shall be maintained.

(6) Minimum setbacks for all structures and outdoor facilities and/or areas of operations, including but not limited to paved driveways, dumpster

enclosure(s), etc., shall be 50 feet from all contiguous residentially developed and/or residentially zoned properties.

(7) All runoff generated by the operation shall be contained on-site; runoff carryover onto an adjoining public right-of-way or contiguous property shall be presumptive ground(s) for revocation of the special permit.

(8) Vacuums shall be subject to a one-hundred-foot setback from residential uses or residentially zoned parcels; vacuums shall be adequately screened by vegetative planting(s) and/or fencing from all residentially zoned and/or developed properties.

(9) A minimum landscaped front yard of 25 feet shall be maintained.

H. Outside display.

(1) All display shall be set back a minimum distance of 25 feet from any roadway. The entire portion of the display setback shall be landscaped in accordance with the approved site plan.

I. Outside seating as an accessory use to a major restaurant use.

(1) Outside seating shall be permitted for food service purposes only.

(2) Outdoor loudspeakers, exterior live entertainment or dancing of any kind shall be prohibited for any major restaurant between the hours of 11:00 p.m. and 8:00 a.m., or within 1,000 feet of any residence district.

(3) Outside seating shall only be permitted to operate between the hours of 8:00 a.m. and 11:00 p.m. for any major restaurant within 1,000 feet of any residence district.

(4) Outside seating shall be permitted on the subject parcel only.

J. Outdoor storage.

(1) All outdoor storage shall be screened from visibility from adjoining roadways with landscaping and/or decorative fencing in accordance with Town standards.

(2) Outdoor storage within the primary or secondary front yard shall be prohibited.

(3) Outdoor storage shall be set back a minimum distance of 50 feet from any roadway and 25 feet from any side or rear property line.

K. Laundromat, mega.

(1) Minimum of 100 feet from the building to the property lines.

(2) Parcel size of at least 65,000 square feet.

(3) Minimum of one-hundred-seventy-five-foot natural and undisturbed buffer from any freshwater and/or tidal wetlands.

(4) Minimum of 150 feet from the property line of the nearest parcel in residential use or zoned for residential use. Said setback requirement shall apply to dumpster enclosures as well.

(5) No vents or doorways shall face a residential use or residential district.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(6) A minimum of 30% of the site shall be maintained as landscaped or natural area.
(7) A minimum of 25 feet of landscaped or natural area shall be maintained along all street frontages.
(8) All vents and mechanicals above the roofline shall be screened from view from all sides with architectural treatment.
(9) Review by the public entity providing water service.

L. Uses within a designated Redevelopment Initiative: Main Street Business District, Multi Family, Planned Retirement Community and Planned Retirement Congregate Housing Community.

(1) The application shall obtain a minimum redevelopment achievement score of 101-120 points.
(2) The application shall provide a minimum Redevelopment Benefit Potential score of 80 points.
(3) Dimensional and density criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for permitted uses and accessory uses shall be applicable.
(4) Special permit criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for special permitted uses shall be applicable.
(5) A minimum of 10% of all units permitted shall be maintained as workforce or affordable units in accordance with Town standards.
(6) The minimum outdoor recreational area shall be as regulated in MF Residence (Multi Family) and PRC Residence (Planned Retirement Community) Districts.

Section 6. Text Amendment. Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" Article XXVIA entitled "J Business 8 District (Hotel-Motel District) is hereby amended to read as follows:

§ 85-277. Legislative intent.

The Town Board hereby finds and determines that the substantial growth of business, industry and tourism within the Town during recent decades has given rise to an increasing demand for the development of hotels, motels and similar kinds of lodging facilities. Therefore, it is this Board's intent and goal to better provide to meet this need by the creation of new zoning district classification in order to encourage and permit appropriate development of well-sited and well-designed establishments of this type, in

an environmentally sensitive manner, and which is compatible with existing development patterns and uses.

§ 85-278. Permitted uses.

A. Principal uses are as follows: hotels and motels, including residence hotels.
B. Customary accessory structures.

§ 85-278.1 Planning Board special permits.

A. Uses within a designated Redevelopment Initiative: J Business 6 (Main Street Business), MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community).

§ 85-279. Requirements.

All development and construction in the J Business 8 District is subject to compliance with the following requirements, standards and criteria:

A. Site criteria:
   (1) Minimum lot size of five acres;

B. Dimensional requirements:
   (1) All building setbacks shall be equal to building height;
   (2) Fifty-foot minimum setbacks for all outdoor recreational areas;
   (3) A minimum of two stories and a maximum of four stories;
   (4) Fifty-foot maximum building height;
   (5) Fifteen-percent maximum lot occupancy, except where convention center facilities are included within the principal structure, lot occupancy may be increased to a maximum of 17%;
   (6) Minimum of 1,250 square feet of lot area per sleeping room;
   (7) Minimum road frontage 300 feet.

C. The Town Board may, upon its enactment to include any lands within the J-Business 8 (Hotel-Motel) zoning classification district, condition such enactment upon the applicant receiving a variance from the Board of Appeals waiving or varying any of the dimensional requirements set forth hereinabove in this article, upon the Zoning Board's finding and determination that among the other factors to consider as set forth in § 85-29.1B said waiver would not be detrimental to the surrounding area and not result in substantial adverse impacts to the natural environment and/or physical conditions of the surrounding area.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

D. All proposed development in this zoning district shall be subject to site plan review and approval by the Planning Board.

E. Design criteria. All development located within this zoning district shall be subject to the following criteria:
   (1) Fully landscaped front yard;
   (2) A one-hundred-foot wide natural and/or revegetated buffer shall be established along all lot lines excepting access driveways and/or walkways;
   (3) Perimeter fencing for all outdoor recreational areas;
   (4) Outdoor lighting shall be inwardly directed and designed to eliminate and/or minimize light spillage and/or deflection to neighboring properties;
   (5) No independent public exterior access shall be permitted for accessory uses and/or structures;
   (6) No exterior signage shall be permitted for accessory uses and/or structures;
   (7) Outside storage of commercial equipment of any kind is prohibited;
   (8) Exterior doors of all motel units shall be fully visible to, and open directly onto parking areas.

F. Signs. One entrance sign only shall be permitted; all other building and on-site signage shall conform with the requirements therefor set forth in this chapter except where varied by the Zoning Board of Appeals upon its determination that such variance is warranted under the circumstances and so long as such sign(s), as varied, would not result in substantial adverse impact(s) to the neighborhood.

G. Exemption. This provision shall not be applicable to site plan applications pending and/or under review by the Planning Board and/or the Division of Planning as of the effective date of the within article.

§ 85-279.1 Special permit criteria.

A. Uses within a designated Redevelopment Initiative: Main Street Business District, Multi Family, Planned Retirement Community and Planned Retirement Congregate Housing Community.

   (1) The application shall obtain a minimum redevelopment achievement score of 101-120 points.
   (2) The application shall provide a minimum Redevelopment Benefit Potential score of 80 points.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(3) Dimensional and density criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for permitted uses and accessory uses shall be applicable.
(4) Special permit criteria required and specified in the J Business 6 (Main Street Business) District, MF Residence (Multi Family), PRC Residence (Planned Retirement Community) and PRCHC (Planned Retirement Congregate Housing Community) for special permitted uses shall be applicable.
(5) A minimum of 10% of all units permitted shall be maintained as workforce or affordable units in accordance with Town standards.
(6) The minimum outdoor recreational area shall be as regulated in MF Residence (Multi Family) and PRC Residence (Planned Retirement Community) Districts.

Section 7. Text Amendment. Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" Article XXIX entitled "L Industrial 1 District (Light Industry)" is hereby amended to read as follows:

ARTICLE XXIX, L Industrial 1 District (Light Industry)

§ 85-307. Purpose.

The related uses purpose of this district is to provide for a wide range of light industrial and which can meet a high level of performance standards.

§ 85-308. Permitted uses.

In an L Industrial 1 District, no building, structure or premises shall be used or occupied and no building or part thereof shall be so erected or altered, except for one or more of the following purposes:
A. Agricultural or nursery use including the retail sale of products raised on the premises.
B. Bank.
C. Church or similar place of worship.
D. Commercial laundry establishment.
E. Day-care facility.
F. Health club.
G. Historical or memorial monument.
H. Lodge.
I. Manufacturing.
J. Office.
K. Printing plants.

L. Research and development uses including laboratories for scientific or industrial research, testing and development.
M. Veterinarian, provided that all activities take place within the building.
N. Warehouse.

§ 85-309. Town Board special permits.

The following special permit uses, when authorized by the Town Board, shall be subject to the criteria as set forth in Article IVA, § 85-31.2 in addition to the criteria contained herein.

A. Airport.
B. Electric generating facilities.

§ 85-309.1. Town Board special permits (restricted).

The following special permit use, when authorized by the Town Board, is permitted in L Industrial 1 District only and in no other district, and shall be subject to the criteria as set forth in Article IVA, § 85-31.2, in addition to the criteria contained herein:

A. Adult uses, including adult entertainment establishments, adult bookstores, adult motels, adult theaters, massage establishments, and peep shows.

§ 85-310. Accessory uses.

Customary accessory uses, structures and buildings shall be permitted when located on the same lot as the principal authorized use, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a business.

§ 85-311. Town Board special permits for accessory uses.

The following special permit accessory uses, when authorized by the Town Board, shall be subject to the criteria as set forth in Article IVA, § 85-31.2, in addition to the criteria contained herein:

A. Private parking garage as an accessory use to a permitted principal use.

§ 85-311.1. Planning Board special permits.

The following special permit uses, when authorized by the Planning Board, shall be subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein:

A. Assembly and social recreation hall or dance hall.
B. Automobile parking field.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

C. Bar, tavern or nightclub.
D. Heavy, construction vehicles and equipment dealership, subject to design standards contained herein.
E. Kennels, provided that all activities are contained within the building.
F. Lumberyard
G. Mini-storage warehouse.
H. Motor vehicle shop, with or without a depot as may be required by Chapter 66.
I. Non-degree-granting sports instruction/programs, including dance, gymnastics, self-defense, and swimming; non-degree-granting instruction/programs associated with manufacturing or driver training.
J. Public, private school or parochial school with or without dormitory facilities.
K. Retail sales, provided it is limited to only those goods that are generated by the principal use on the premises and does not occupy more than 5% of the total gross floor area of the building or more than 10,000 square feet, whichever is less.
L. Transportation terminal/facility.
M. Trucking terminal.
N. University or college.
O. Uses within a designated Redevelopment Initiative: Main Street Business District.
   (1) The application shall obtain a minimum redevelopment achievement score of 101-120 points.
   (2) The application shall provide a minimum Redevelopment Benefit Potential score of 80 points.
   (3) Dimensional and density criteria required and specified in the J Business 6 (Main Street Business) District for permitted uses and accessory uses shall be applicable.
   (4) Special permit criteria required and specified in the J Business 6 (Main Street Business) District for special permitted uses shall be applicable.

§ 85-311.2. Planning Board special permits for accessory uses.

The following special permit accessory uses, when authorized by the Planning Board, shall be subject to the criteria as set forth in Article VIA, § 85-51, in addition to the criteria contained herein:

A. Drive-through facility as an accessory use to a bank.
B. Fueling station as an accessory use to a transportation terminal/facility, trucking terminal, or warehouse.
C. Motor vehicle repair shop as an accessory use to a transportation terminal/facility, trucking terminal, or warehouse.
D. Outdoor or overnight parking of registered vehicles as an accessory use to a permitted principal use.
E. Outdoor storage as an accessory use to a permitted principal use.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

F. Restaurant and take-out restaurant as an accessory use to a permitted principal use.

§ 85-312. Prohibited uses.

All uses not expressly permitted are prohibited. Nothing herein contained shall be construed to permit the erection, addition, maintenance or use of any premises of either a business or industrial operation which shall provide outdoor storage, outside service, outside display, outside counter or window service or drive-in or drive-up counter or window service, except as authorized by this chapter.

§ 85-313. Dimensional criteria.

A. Minimum lot area.
   (1) Except as otherwise provided herein, the minimum required lot area shall be 40,000 square feet.
   (2) The minimum required lot area for a bank with a drive-through facility shall be 65,000 square feet.
   (3) The minimum required lot area for a parcel located within a designated hydrogeologic sensitive zone shall be 120,000 square feet.
   (4) The minimum required lot area for a permitted principal use with an accessory restaurant use shall be three acres.
   (5) The minimum required lot area for a transportation terminal/facility shall be five acres.
   (6) The minimum requirement for lot area for an electric generating facility shall be 20 acres.

B. Minimum width of lot throughout.
   (1) Except as otherwise provided herein, the minimum required width of lot throughout shall be 100 feet.
   (2) The minimum required width of lot throughout for a bank with a drive-through facility, or a permitted principal use with an accessory restaurant use shall be 150 feet.
   (3) The minimum required width of lot throughout for a parcel within a designated hydrogeologic sensitive zone, or for an electric generating facility or transportation terminal/facility shall be 200 feet.

C. Minimum front yard setback.
   (1) Except as otherwise provided herein, the minimum required front yard setback shall be 50 feet.
   (2) The minimum required front yard setback for parcels five acres or more in size shall be 100 feet.

D. Minimum side yard setback.
   (1) Except as otherwise provided herein, the minimum required side yard setback for a permitted use shall be 10 feet, with a total side yard setback of 30 feet.

(2) The minimum required side yard setback for a bank with a drive-through facility, or a permitted principal use with an accessory restaurant use shall be 25 feet.
(3) The minimum required side yard setback for parcels five acres or more in size shall be 50 feet.
(4) The minimum requirement for a side yard setback for an electric generating facility shall be 100 feet.

E. Minimum rear yard setback.
(1) Except as otherwise provided herein, the minimum required rear yard setback shall be 50 feet.
(2) The minimum requirement for a rear yard setback for an electric generating facility shall be 100 feet.

F. Maximum permitted floor area ratio (FAR).
(1) Except as otherwise provided herein, the maximum permitted FAR shall be 35%.
(2) The maximum permitted FAR for a parcel within a designated hydrogeologic sensitive zone shall be 30%.
(3) The maximum permitted FAR for an electric generating facility shall be 25%.

G. Maximum permitted height.
(1) The maximum permitted height for all structures shall be 50 feet or three stories.
(2) The maximum permitted building height for an electric generating facility shall be 50 feet.

§ 85-314. Minimum site improvements.

Except as otherwise provided herein, all development shall meet or exceed the minimum standards contained within the Town Code of the Town of Brookhaven, including, but not limited to, the Subdivision and Land Development Regulations.

§ 85-315. Special permit criteria.

In addition to the criteria set forth within Article IVA, § 85-31.2, or Article VIA, § 85-51, the following special permit criteria shall be required for the uses so indicated:

A. Adult uses, including adult entertainment establishments, adult bookstores, adult motels, adult theatres, massage establishments, and peep shows.
(1) The above uses are prohibited within a five-hundred-foot radius of any area zoned for residential use.
(2) The above uses are prohibited within a one-mile radius of another such use.
(3) The above uses are prohibited within 1,000 feet of the lot line of any premises used for school, church or other place of religious worship, park, playground, or playing field, library, hospital or similar public or

semi-public place of general congregation, or non-degree-granting instruction/programs, including self-defense, dance, swimming, gymnastics, and other sports.

(4) No more than one adult use shall be located on any lot.

B. Electric generating facilities.

(1) The maximum permitted stack height shall be 125 feet.

(2) The minimum required stack setback shall be 150% of the height of the stack from any lot line.

(3) The minimum required percentage of lot to remain natural and undisturbed shall be 30%.

(4) The minimum required vegetated perimeter buffer shall be 500 feet along all lot boundaries that abut residentially zoned property.

C. Fueling station as an accessory use to a transportation terminal/facility, trucking terminal, or warehouse.

(1) Fueling station shall be for private use only by vehicles owned and operated by the principal use.

(2) Fueling station shall he located on the same lot as the principal use and prohibited within 500 feet from any lot line bounding a residential zone or use, or an area of public assembly.

(3) All activities associated with the fueling, traffic circulation, queuing, and parking of vehicles shall take place on site.

D. Heavy construction vehicles and equipment.

(1) All storage and display shall be located within the rear yard and shall be set back a minimum distance of 100 feet from any roadway.

(2) All outdoor storage shall be screened from view with fencing and/or landscaping in accordance with a site plan, which shall be subject to the review and approval of the Planning Board.

E. Mini-storage facility.

(1) Storage shall be limited to dead storage only. The storage of explosives, flammable, toxic or otherwise hazardous chemicals and/or other materials shall be prohibited.

(2) Architectural elevations shall be submitted for review and approval to the Commissioner of Planning, Environment and Land Management. Exterior signage and building siding material shall be of flat finishes only; bright, vivid and/or reflective colors shall be prohibited. Walls exceeding one story in height, which are visible from off site, shall be architecturally enhanced with pilasters, corbelled cornices, or similar ornamentation pursuant to the satisfaction of the Commissioner of Planning, Environment and Land Management.

(3) Storage unit doors shall be screened from visibility from adjoining residentially zoned or residentially developed properties and from public streets to the satisfaction of the Commissioner of Planning, Environment and Land Management.

(4) A minimum natural or landscaped area of 50 feet shall be maintained adjacent to all road frontages.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(5) All paved areas, including parking and parking aisle areas, shall be screened from view with landscaping or natural areas and/or decorative fencing pursuant to the satisfaction of the Commissioner of Planning, Environment and Land Management.

(6) Decorative walls or fencing shall be provided along all setback lines; decorative opaque walls and/or fencing shall be provided along all site property lines which are contiguous with residentially developed and/or zoned properties; other types of fencing may be permitted elsewhere on site subject to Planning Board review and approval.

(7) Parking stalls and loading areas adjacent to storage buildings may encroach on interior roadway 30 feet or wider, exclusive of required parking stalls, for office(s) or living quarters.

F. Motor vehicle repair.

(1) All repair work shall take place within the building. All repair work, excluding emergency service, shall be conducted only between the hours of 7:00 a.m. and 9:00 p.m.

(2) An area of sufficient size, as determined by the Board, shall be required for the outdoor, overnight parking of registered vehicles with the issuance of a special permit, subject to criteria specified herein. Said area shall be in addition to any depot required by Chapter 66.

(3) Overhead doors shall not face the street or any residentially zoned or used property.

G. Non-degree-granting sports instruction/programs, including dance, gymnastics, self-defense, and swimming.

(1) The above uses are prohibited within 1,000 feet of the lot line of any adult use.

H. Outdoor or overnight parking as an accessory use to a permitted principal use.

(1) Outdoor or overnight parking of registered vehicles shall be set back a minimum distance of 50 feet from any roadway.

(2) All outdoor or overnight parking of registered vehicles shall be screened from view with fencing and landscaping in accordance with a site plan, which shall be subject to the review and approval of the Planning Board.

(3) There shall be no outdoor or overnight parking of registered vehicles within the primary or secondary front yard.

I. Outdoor storage as an accessory use to a permitted principal use.

(1) A minimum lot area of two acres shall be required for outdoor storage.

(2) All outdoor storage shall be located within the rear yard only. Outdoor storage within the primary or secondary front yard shall be prohibited. No outdoor storage shall be visible from any street frontage.

(3) All outdoor storage shall be screened from visibility from adjoining roadways with landscaping and/or decorative fencing in accordance with Town standards and require a site plan, which shall be subject to the review and approval of the Planning Board.

(4) All outdoor storage shall be set back a minimum distance of 50 feet from any roadway and 25 feet from any side or rear property line.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(5) Outdoor storage shall be limited to only those goods that are generated or manufactured by the principal use on the premises, and shall be located on the same lot as the principal use, and prohibited within 500 feet from any lot line bounding a residential use or zone.

(6) Outdoor storage shall have all activities associated with the outdoor storage area, such as loading, delivery, pick up, traffic circulation, queuing, and parking, take place on site.

(7) No outdoor storage shall he permitted above legal fence height.

J. Restaurant and take-out restaurant as an accessory use to a permitted principal use.

(1) The restaurant or take-out restaurant use may occupy a maximum of 5% of the total gross floor area of the building and shall not exceed a maximum of 3,000 square feet gross floor area.

(2) The restaurant or take-out restaurant use shall be located within the building of the permitted principal use.

(3) A maximum of one accessory restaurant or take-out restaurant use shall be permitted per site.

(4) Freestanding restaurant or take-out restaurant uses shall be prohibited.

(5) Advertisements, including trademark logos, may not be affixed, painted or glued onto the windows of the business or onto any exterior structure, including waste disposal receptacles or flags.

K. Transportation terminal/facility and trucking terminal.

(1) Repairs and servicing shall be permitted with the issuance of a special permit for motor vehicle repair.

(2) Loading bay doors shall not be located adjacent to any residential use or zone, or street frontage.

(3) The outdoor, overnight parking of registered vehicles accessory use shall only be permitted with the issuance of a special permit. There shall be no outdoor storage of unregistered vehicles or dismantled vehicles.

(4) The minimum required vegetated perimeter buffer shall be 150 feet adjacent to any residential use or zone and along all street frontages. In addition, storage of vehicles shall be screened from the street by means of a berm, fence, and/or landscaping as deemed appropriate by the Planning Board.

(5) Idling of vehicles shall be limited to five minutes.

(6) A fueling station accessory use shall be permitted with the issuance of a special perimt.

(7) The Board shall take into consideration the nature and character of the area, traffic and proximity to major arterial roadways suitable for large trucks.

§ 85-316. Hydrogeologic sensitive zones.

A. Hydrogeologic sensitive zone. 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 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 meets; 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 meets; 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 Rail Road; running thence in a southwesterly and westerly direction along the center line of Long Island Rail Road property to a point where said line meets the center line of Sills Road (County Road 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 (County Road 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 the Long Island Expressway (New York State Route 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 (County Road 97); running then 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 direction along the center line of Pond Path to a point where said line meets the projected center line of Upper Sheep Pasture Road;

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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 (New York State Route 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 (New York State Route 25A); running thence in an easterly direction along the center line of North Country Road (New York State Route 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; 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 are 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."

Section 8. Text Amendment. Chapter 85 of the Code of the Town of Brookhaven entitled "Zoning" is hereby amended to add Article XLI entitled "Redevelopment Initiative" to read as follows:

ARTICLE XLI, Redevelopment Initiative

§ 85-476. Legislative intent.

The Town Board hereby finds and determines that blighted properties have prevented and arrested the sound growth and development of the local community. These blighted properties are predominantly commercial or industrial in nature and are characterized by deteriorating and/or abandoned building(s), in whole or substantial part thereof, and are typically inadequately maintained with debris, litter and/or trash accumulation and are lacking in basic public amenities. It is the purpose of this initiative is to implement and achieve the objectives of the Town Board by providing clear guidelines to accomplish the following goals:

1. Eliminate blighted properties throughout the Town;
2. Stimulate the revitalization of abandoned, vacant or underutilized blighted properties;
3. Where appropriate, encourage the demolition of existing abandoned, vacant or underutilized structures;

4. Where appropriate, encourage adaptive reuse of abandoned, vacant or underutilized business or manufacturing buildings or structures;
5. Promote development or redevelopment of multiple structures in a coordinated fashion;
6. Encourage flexibility in site and architectural design;
7. Maintain a consistently high level of design quality;
8. Establish redevelopment procedures that define and maintain a clear and predictable site plan review process. Administrative policies should support this objective sending a positive message to land owners and developers.
9. Encourage applications to the Town of Brookhaven Industrial Development Agency for possible tax abatement of qualifying projects.
10. Encourage applications to the County of Suffolk and other municipalities to further enhance the redevelopment of these properties.

§ 85-477. Application Requirements.

A. To apply for inclusion into the Redevelopment Initiative Program, the applicant shall file and submit a site plan or preliminary site plan application and applicable special permit application(s) in accordance with the application requirements of this Chapter.

B. A site plan or preliminary site plan application for inclusion into the Redevelopment Initiative Program shall include detailed information regarding how the project qualifies for any Redevelopment Initiative Program packages. Detailed information shall include, but not be limited to, the applicant's estimated Redevelopment Achievement Score and the potential points the project is anticipated to achieve in regard to severity of existing blight, the location characteristics and the community benefits proposed.

C. At the option of the applicant, a preliminary site plan application and applicable special permit application pursuant to this chapter may be submitted to the Planning Board for its determination. A final site plan shall be submitted after the Planning Board makes a determination of applicable special permitted uses and a determination of inclusion into the Redevelopment Initiative Program.

§ 85-478. Redevelopment Designation:

A. The Redevelopment Initiative Program shall only apply to properties that meet at least one of the following conditions:
   1. The property has been specifically targeted for redevelopment and elimination of blight in a community-based adopted hamlet plan, corridor plan, land use plan or the Town's Comprehensive Plan.
   2. A blight plan adopted by the Town Board which determines the property is blighted and appropriate for redevelopment.

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3. The Planning Board after a public hearing may approve, approve with modifications or disapprove an application for redevelopment and inclusion into the Redevelopment Initiative Program. In making such a determination, the Planning Board shall require and/or consider the following:
   A. A determination that severity of existing blight has a minimum of 30 severity points.
   B. A determination and calculation of the application's Redevelopment Achievement Score.
   C. A determination that the blight was not substantially self-created by the current property owner and/or applicant.
   D. A determination that there are no substantial unresolved violations or litigation on the property that impact the nature and character of the property and/or the surrounding area.
   E. A determination that the application is in reasonable conformance with the Town's comprehensive land use plan or adopted local hamlet, community or corridor plan.
   F. A determination that any existing buildings have been substantially vacant for at least one year. Substantially vacant for multiple buildings or multi-tenant buildings shall mean that at least 75% of the existing square footage of the building(s) has been vacant for at least one year.
   G. The Planning Board shall take into consideration the applicant's efforts to engage the community and stakeholders in determining the value and adequacy of any public benefits proposed.
   B. Inclusion in the Redevelopment Initiative shall be at the option of a property owner. If a property owner opts not to be included in the Redevelopment Initiative, the prevailing zoning on the property shall apply.
   C. Prior demolition of building(s)

§ 85-479. Severity of existing blight.

A. The Severity of Existing Blighted Score shall be determined by the sum of the points for each of the following criteria, on a scale of 0-50 points with 50 points representing the maximum severity of blight:
   1. Number of years vacant: 1 point for first year, 1.5 points per year thereafter to maximum of 14 points.
   2. Plus 5 points maximum for building(s) that has/have been vandalized to a point that they have missing or boarded windows and doors or have a façade that is seriously damaged, missing or dilapidated.
   3. Plus 5 points maximum for building(s) that have collapsed, or have missing or structurally faulty foundations, walls, floor or roofs as determined by the Chief Building Inspector.
   4. Plus 4 points maximum for building(s) that have interior inflexibility prohibiting adaptive reuse and/or have unusual retrofit costs (asbestos, etc.) as determined by the Chief Building Inspector.

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5. Plus 5 points maximum if the building has become a Fire Hazard or has existing fire damage as determined by the Chief Fire Marshal.
6. Plus 4 points maximum if the property has been cited for code violations as documented by Town enforcement officials; including graffiti, dumping, liter or abandoned motor vehicle history.
7. Plus 5 points maximum if the property has become a place where vagrancy or criminal activity has been taking place as documented by the Town enforcement officials or by the Suffolk County Police Department.
8. Plus 4 points maximum if the property is interfering with the reasonable, lawful and expected use of other properties within the community as documented by community complaints.
9. Plus 4 points maximum if the property has missing, broken or in need of repair curbs, walks or pavement.

§ 85-480. Location characteristics of existing blight.

A. The Location Characteristics Score of existing blighted properties shall be determined by the sum of the points for each of the following criteria, on a scale of 0-50 points with 50 points representing the maximum positive location characteristics and 40 points representing the maximum negative location characteristics.
B. Negative location characteristics points shall be subtracted from positive location characteristics points to determine the total Location Characteristic Score.
C. Positive location characteristics points are:
   1. Plus 10 points for a property that is within 1,250 feet of a geographic center of an existing downtown/hamlet center or a downtown/hamlet center designated by an adopted land use plan.
   2. Plus 10 point for a property that is within a transit oriented development center designated by an adopted plan or is within 1,250 feet of a MTA/Long Island Rail Road station.
   3. Plus 10 points for a property that complies with the recommendations of a local land use plan, corridor study or comprehensive plan.
   4. Plus 5 points for a property that is located on a major arterial roadway.
   5. Plus 5 points for a property that is located within a Town designated Historic District or a Historic District Transitional Area.
   6. Plus 5 Points for a property that is within 1,250 feet of an existing park, library, or civic center.
   7. Plus 5 points for a property that is within 1,250 feet of another Town of Brookhaven designated redevelopment parcel.
D. Negative location characteristics points are:
   1. Minus 5 points for a property that is not within 1,250 feet of a geographic center of an existing downtown/hamlet center or a downtown/hamlet center designated by an adopted land use plan,

2. Minus 5 points for a property that is not within a transit oriented development center designated by an adopted plan or is not within 1,250 feet of a MTA/Long Island Rail Road station.
3. Minus 5 points for a use that is not in compliance with the recommendations of the local land use plan, corridor study or comprehensive plan.
4. Minus 5 points for a property that is not located on a major arterial roadway.
5. Minus 5 points for a property located within a flood zone.
6. Minus 5 points for a property that or is located within 150 feet of a wetland or surface water.
7. Minus 5 points for a property located within a Special Groundwater Protection Area designated by New York State ECL § 55-0113 or the Compatible Growth Areas of Central Pine Barrens.
8. Minus 5 points for a property that has on-site or is located within 535 feet of Federal or State currently listed and identified endangered, rare or threatened species.

§ 85-481. Redevelopment Benefit Potential.

A. The Redevelopment Benefit Potential Score of a proposed redevelopment project shall be determined by the sum of the points for each of the following criteria, on a scale of 0-120 points with 120 points representing the maximum benefit to the community.
   1. Plus 10 points maximum for an applicant that has engaged the community and stakeholders during the planning of the project.
   2. Plus 10 points for a project that will have a positive property tax generation in comparison to existing tax generation: 1 point for every 2% increased tax generation to a maximum of 10 points.
   3. Plus 10 points for a project that has permanent full time job creation as determined by the Division of Economic Development: 1 point per 10 permanent jobs created to a maximum of 10 points.
   4. Plus 10 points for a project that includes a proposal for mixed use: 4 points for 2 uses, 6 points for 3 uses and 10 points for 4 or more uses. Mixed use shall be a project that contains a mix of the following uses.
      (a) Retail, personal services shops or take out restaurant use.
      (b) Office, manufacturing or warehouse use.
      (c) Restaurant or major restaurant use.
      (d) Recreational or health club use.
      (e) Multi family or residential apartment use.
      (f) Planned retirement or assisted living use.
   5. Plus 10 points for a project that proposes LEED green building compliant development. 3 points for Certified certification, 5 points for Silver certification, 7 points for Gold certification and 10 points for Platinum certification.

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6. Plus 10 points for a project that proposes demolition of existing non-historic building.
7. Plus 10 points for a project that proposes adaptive reuse of existing historic building.
8. Plus 10 points for a project that proposes off-site public or community benefits: 1 point per $10,000.00 of the cost of the public amenity to a maximum of 10 points. An amenity must be determined by the Commissioner or Planning Board to be beyond that which would customarily be provided or required by the Code of the Town of Brookhaven.
9. Plus 10 points for a project that proposes on-site amenities at a rate of 1 point per $10,000.00 of the cost of on-site amenity to a maximum of 10 points. Amenity must be determined by the Commissioner, with consultation with the local Town Council member, to be beyond that which would customarily be provided or required by regulations of the Town of Brookhaven.
10. Plus 5 points for a project that proposes adaptive reuse of more than 50% of an existing building.
11. Plus 5 points maximum for a project that proposes a superior façade determined by the Planning Board to be beyond that which would customarily be provided or required by the Code of the Town of Brookhaven.
12. Plus 5 points for a project that proposes construction job creation as determined by the Division of Economic Development: 1 point per 20 construction jobs created to a maximum of 5 points.
13. Plus 5 points for a project that proposes to increased on-site green space: 1 point per 5% increase to a maximum of 5 points.
14. Plus 5 points maximum for a project that proposes a pedestrian oriented layout and design.
15. Plus 5 points maximum for a project that proposes flexibility in design form.

§ 85-482. Redevelopment Initiatives.

A. In order to encourage redevelopment and elimination of blight in accordance with this article, all Boards, Departments, Divisions and Town personnel are authorized to grant redevelopment Initiatives as set forth herein.
B. A project shall qualify for a redevelopment Initiative package based upon its Redevelopment Achievement Score as determined and calculated by the Planning Board.
C. Redevelopment Achievement Score shall be the sum of the Severity of Existing Blight Score, the Location Characteristics Score and the Redevelopment Benefit Potential Score.
D. A project shall qualify for a redevelopment Initiative package based on the following Redevelopment Achievement Scores:
   1. Illuminated Initiative Package: A redevelopment achievement score of 80-100 points.

2. Bright Initiative Package: A redevelopment achievement score of 101-120 points.
3. Radiant Initiative Package: A redevelopment achievement score of 121-140 points.
4. Brilliant Initiative Package: A redevelopment achievement score of greater than 140 points.

§ 85-483. Redevelopment Initiative Packages:

A. Illuminated Initiative Package:
   1. Expedited Review Initiative. All Boards, Departments, Divisions and Town personnel are hereby authorized to expedite review of the application without the need for additional fees.
   2. Green Building Initiative. Projects that obtain LEED certification shall upon request be given a partial Building Permit fee refund (Certified 45% refund, Silver 50% refund, Gold 55% refund, Platinum 60% refund.

B. Bright Initiative Package:
   1. All Initiatives authorized by the Illuminated Initiative Package with exception to the Green Building Initiative that shall be determined by the Bright Initiative Package provisions.
   2. 50% reduction in Town application and permit fees.
   3. Green Building Initiative. This Initiative supersedes Green Building Initiative in the Illuminated Initiative Package. Projects that obtain LEED certification shall upon request be given a Building Permit fee refund based on the following requirements: Certified 50% refund, Silver 60% refund, Gold 65% refund, Platinum 70% refund.
   4. Floor Area Ratio (FAR) Initiative. Except as otherwise provided herein, all FARs regulated by the zoning district for the parcel shall be increased by 10%.
   5. Shared On-Site Parking Credit Initiative. In mixed-use developments, a shared parking credit Initiative (non-competing uses – up to 70% of parking requirements, up to 30% for competing uses.
   6. The following are dimensional criteria for projects under 5 acres in size.
      a. Minimum lot area.
         (i) Except as otherwise provided herein, the minimum required lot area for permitted uses shall be 4,000 square feet.
         (ii) The minimum required lot area for a hotel, place of assembly or private or public automobile parking field or garage shall be two acres.
      b. Minimum width of lot throughout:
         (i) Except as otherwise provided herein, the minimum required width of lot throughout for a permitted use shall be 50 feet.
         (ii) The minimum required width of lot throughout for a hotel or place of assembly shall be 100 feet.

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c. Front yard setback:
   (i) Except as otherwise provided herein the minimum required front yard setback shall be five feet and the maximum permitted front yard setback shall be 25 feet.
   (ii) The minimum required front yard for a hotel, place of assembly, regional theater or private or public automobile parking field or garage shall be a minimum of 10 feet and a maximum of 25 feet.
d. Minimum side yard setback: except as otherwise provided herein the minimum required side yard shall be zero feet.
e. Minimum rear yard setback: except as otherwise provided herein the minimum required rear yard shall be 30 feet.
f. Maximum permitted floor area ratio (FAR):
   (i) Except as otherwise provided herein the maximum permitted FAR shall be 60%.
   (ii) Maximum building area shall be less than 60,000 GFA.

C. Radiant Initiative Package:
   1. All Initiatives authorized by the Bright Initiative Package with exception to Town application and permit fees and the Green Building Initiative shall be determined by the Radiant Initiative Package provisions.
   2. 75% reduction of Town application and permit fees.
   3. Green Building Initiative. This Initiative supersedes Green Building Initiative in the Bright Initiative Package. Projects that obtain LEED certification shall be given a partial Building Permit fee refund (Certified 55% refund, Silver 65 % refund, Gold 80% refund, Platinum 100% refund).

D. Brilliant Initiative Package:
   1. All Initiatives authorized by the Radiant Initiative Package.
   2. 100% reduction Town application and permit fees.

§ 85-484 Permitted and accessory uses.

A. Except as otherwise provided for herein, all principal, accessory and special permit uses that are permitted in the underlying zoning district(s).

§ 85-485. Dimensional criteria.

A. Except as otherwise provided for herein, all dimension criteria that are required and regulated in the underlying zoning district(s).

§ 85-486. General severability.

A. If any clause, sentence, paragraph, section or item of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph, section or item directly involved in the controversy in which such judgment shall have been rendered.

B. This article shall not be construed to supersede any federal, or state, or county laws or regulations, nor shall this article be interpreted in a manner as to bring it into conflict with federal, or state, or county laws.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 21 of 2010 of the Town of Brookhaven was duly passed by the Town Board on October 19, 2010, in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the Town of Brookhaven was duly passed by the Town Board on , 20 , and was (approved)(not approved)(repassed after disapproval) by the and was deemed duly adopted on , 20 , in accordance with the applicable provisions of law.~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the Town of Brookhaven was duly passed by the Town Board on , 20 . was (approved)(not approved)(repassed after disapproval) by the on , 20 . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on , 20 , in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the Town of Brookhaven was duly passed by the Town Board on , 20 , and was (approved)(not approved)(repassed after disapproval) by the on , 20 . Such local law was subject to permissive referendum with the applicable provisions of law.~~

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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~~5. (City local law concerning Charter revision proposed by petition)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20__.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Patricia A. Eddington, Town Clerk

Dated: October 19, 2010

STATE OF NEW YORK
COUNTY OF SUFFOLK

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Robert F. Quinlan, Town Attorney
Town of Brookhaven

Dated: October 19, 2010

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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