

**LOCAL LAW REGULATING LAND SEPARATIONS
WITHIN THE TOWN OF BETHANY**

ARTICLE I PURPOSE

This Local Law is enacted by the Town Board of the Town of Bethany pursuant to the provisions of Section 10 of Municipal Home Rule Law to regulate the division of land into individual lots, when such divisions of land fail to meet the threshold for review as a subdivision as set forth in the Town of Bethany Land Subdivision Regulations. It is declared to be the policy of the Town of Bethany to consider land separations as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that lots created by land separations shall be of such character that they can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace; that proper provision shall be made for drainage, water supply, wastewater treatment, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in compliance with the Town of Bethany Zoning Law and in harmony with the development pattern of the neighboring properties.

ARTICLE II TITLE

This Local Law shall be known as "the Town of Bethany Land Separation Law"

ARTICLE III DEFINITIONS

Clerk of Planning Board: The Town of Bethany Town Clerk.

Formal Offer to Sell: Any offer to sell land which involves a form of public offering including but not limited to real estate listings, auction listings, media advertising (printed, radio, television, etc.) or use of signs.

Land Separation: Any division of land into four or fewer lots within a three year period, where all such developable lots or parcels: (1) front on an existing public street, (2) do not require the extension of municipal facilities, and (3) comply with all the area requirements (i.e., lot width, lot area, etc.) set forth in the Zoning Law. Any division of agricultural land for the purpose of continued agricultural use shall be considered a land separation and subject to the Town of Bethany Land Separation Law.

The three year period shall commence running upon the final approval by the Planning Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets shall not be included within this definition nor subject to these regulations.

Land separation shall also include the division of land to allow the transfer of property between adjacent parcels, provided nonconforming lots or parcels are not created, no existing degree of nonconformity is increased and the proposed division does not involve the alteration of lot lines or dimensions of any lots or sites shown on a subdivision plat previously approved and filed with the County Clerk.

Land separations shall be processed in compliance with the Town of Bethany Land Separation Law unless the Planning Board deems it necessary for the protection of public health, safety, and welfare (i.e. storm water drainage, topography, etc.) that a land separation be processed as a subdivision.

Lot: A piece, parcel, or plot of land intended as a unit for transfer of ownership or for development.

Municipal Facility: Facilities operated by a municipality, governmental agency, or a public utility for the provision of potable water; collection, treatment and/or disposal of waste water; lighting, stormwater and/or erosion control; or provision of/for transportation (streets, highways, etc.).

Property Owner: The owner of the property subject to the proposed land separation, or his/her duly authorized representative (such authorization shall be provided in writing).

Subdivision: Division of land into lots that is not considered a land separation as defined herein. Subdivisions shall include, but are not limited to the division of land into five or more lots in a three year period, or division into any number of lots when such lots: (1) do not front on an existing public street, (2) require the extension of municipal facilities, or (3) involve the creation of a lot, or lots, which would not comply with the Zoning Law. This definition shall apply when land is divided for the purpose, whether immediate or future, of transfer of ownership or development, and shall include resubdivision. Once the division of land is determined to be a subdivision, the Town of Bethany Subdivision Regulations shall apply to all such lots, including any previous lots divided within the prior three year time period, regardless of whether said lots have been sold singly or collectively.

The three year period shall commence running upon the final approval by the Planning Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets shall not be included within this definition nor subject to said subdivision regulations.

Once a subdivision has been created, any subsequent division of lots from the original tract of land, irrespective of when such division(s) occurs, shall be subject to review as a subdivision, unless such proposed lot(s) are greater than one-half mile from any point on the boundary lines of a lot(s) created by a previous subdivision.

Zoning Law: The officially adopted Zoning Law of the Town of Bethany together with all amendments thereto.

ARTICLE IV PROCEDURE

Whenever any land separation is proposed, before any formal offer to sell any lots in such land separation, or any other part thereof, is made, and before any contract for sale is executed by the property owner, the property owner shall submit a sketch plan and obtain written approval of such sketch plan in accordance with the procedures set forth in Section 1,2 and 3 of this Article. Before any land is transferred or any permit for the erection of a structure is issued for such land, final authorization of said land separation shall be obtained as set forth in Section 4 of this Article.

SECTION 1 SUBMISSION OF SKETCH PLAN

A property owner shall, prior to undertaking a land separation, submit to the Clerk of the Planning Board at least seven days prior to any regular meeting of the Board, a completed application for and eight copies of a Sketch Plan of the proposed land separation. The Sketch Plan shall show: (1) The entire parcel being divided, proposed lot lines, and (2) Any existing easements, deed restrictions or covenants affecting the property. At that time, the property owner shall also pay the Land Separation fee established by separate resolution of the Town Board.

SECTION 2 DISCUSSION OF REQUIREMENTS AND CLASSIFICATION

The property owner shall attend the meeting of the Planning Board to discuss his/her proposal as set forth in the Sketch Plan.

Classification of the Sketch Plan will be made at this time by the Planning Board as to whether the proposal qualifies as a land separation, or must be processed as a subdivision. When it deems necessary for protection of the public health, safety and welfare, the Planning Board may require a land separation to be processed as a subdivision in compliance with the Town of Bethany Land Subdivision Regulations.

SECTION 3 PLANNING BOARD PRELIMINARY DECISION

The Planning Board shall review the Sketch Plan to determine whether it meets the purpose of these regulations as set forth in Article I. Prior to rendering its preliminary decision, the Planning Board shall first complete the SEQR (State Environmental Quality Review) process. The Planning Board shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the proposal prior to submitting it for final authorization. When deemed necessary by the Planning Board, the applicant may be required to resubmit his/her revised proposal for review by the entire Planning Board prior to submitting it for final authorization.

SECTION 4 **FINAL AUTHORIZATION**

Within 180 days of Planning Board's preliminary decision, the property owner shall provide the Planning Board Chairperson, or his/her designee, three prints of a property survey prepared by a NYS Licensed Land Surveyor. This survey shall meet all the recommendations made by the Planning Board relative to its decision on the sketch plan. Upon determination that the survey complies with the Planning Board's recommendation, the Chairperson, or other duly designated Officer of the Planning Board, will sign the application and provide the property owner with a copy of such application. Failure of the property owner to submit the required survey documentation to the Planning Board Chairperson, or his/her designee, within the 180 day time period will render the Planning Board's approval null and void.

SECTION 5 **FILING OF SURVEY(S) WITH GENESEE COUNTY CLERK**

Within sixty (60) days of obtaining final authorization from the Planning Board Chairperson, or his/her designee, the property owner shall file the survey(s) at the Genesee County Clerk's Office. Failure of the property owner to file such documentation with the Genesee County Clerk within the specified time period will render both the Planning Board's approval and final authorization null and void.

ARTICLE V **WAIVERS OR MODIFICATIONS**

Where the Planning Board finds that special circumstances exist in a proposed Land Separation, it may waive or modify specific requirements of this Local Law, subject to appropriate conditions, provided that such waiver or modification shall not have the effect of nullifying the intent and purpose of the Town of Bethany Land Separation Law, Subdivision Regulations, Zoning Law or any existing master plan and official map.

In granting said waivers or modifications, the Planning Board may require such conditions as will, in its' judgement, substantially secure the objectives of the standards or requirements so waived or modified.

ARTICLE VI **FEES**

Fees may be charged for review of land separations and associated administrative activities. Such fees shall be set by resolution of the Town Board and may be obtained from the Town Clerk.

ARTICLE VII **VIOLATIONS AND PENALTIES**

A. It shall be unlawful for any person, firm or corporation to divide or otherwise alter existing property lines of lots or parcels of property without first complying with the Town of Bethany Local Law Regulation Land Separations or the Town of Bethany Land Subdivision Regulations.

B. Where the Zoning Enforcement Officer finds a violation of these provisions he/she shall serve a written Order-Notice upon the owner by registered mail to remedy such condition. Such written notice shall include the provisions of law violated, the corrective action to be taken, the penalties and remedies which may be involved by the Town for noncompliance and time for compliance.

C. Any violation of this Local Law Regulating Land Separations shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of NYS Town Law. Each and every week such violation continues shall be deemed a separate and distinct violation.

D. The Zoning Enforcement Officer may, with permission of the Town Board, institute court action to enforce any violation of the provisions of this Local Law.

E. In addition to the remedies described in this Article, the Town of Bethany may seek an injunction to restrain, correct or abate any violation of this Local Law and/or maintain an action at law for damages sustained as a result of any violation of this Local Law. Damages may include but not be limited to legal fees and court costs expended or incurred by the Town as a result of legal proceedings brought hereunder.

F. The Town Zoning Enforcement Officer is authorized herein to issue and serve appearance tickets with respect to violation(s) of this Local Law which he/she is required to enforce.

ARTICLE VIII **SUPERSEDING AND REPEALER CLAUSE**

All applicable statutes, laws and local ordinances, in conflict with the provisions of this Local Law, including Sections 276 and 277 of New York State Town Law, are hereby superseded to the extent necessary to give this Local Law full force and effect.

Town of Bethany Local Law No. 1, of 1995 is hereby repealed.

ARTICLE IX **EFFECTIVE DATE**

This Local Law shall take effect immediately upon its filing with the New York State Secretary of State.