

# Land Separation Law of the Town of Bennington

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## Article 1 Purpose

This local law is enacted by the Town Board of the Town of Bennington to the provisions of Section 10 of the 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 Bennington Land Subdivision Law. It is declared to be the policy of the Town of Bennington to consider land separations as part of a plan for the orderly, efficient and economical development of the Town.

## Article 2 Title

This local law shall be known as “The Town of Bennington Land Separation Law”.

## Article 3 Definitions

**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 lots where all such developable lots or parcels:

1. Front on an existing public street, or
2. Do not require the extension or significant modification of municipal facilities.

Any division of agricultural land for the purpose of continued agricultural use shall be considered a land separation and subject to the Town of Bennington Land Separation Law.

- a. Land separation shall also include the division of land to allow the transfer of property between adjacent parcels, provided that nonconforming lots or parcels are not created and no existing degree of nonconformity is increased.
- b. 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.
- c. Land separations shall be processed in compliance with the Town of Bennington 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.

**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 and notarized).

**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 lots where any such lots:

- a. Do not front on an existing public street, or
- b. Require the extension or significant modification of municipal facilities

This definition shall apply when land is divided for the purpose, whether immediate or future, of transfer of ownership or development, and shall include re-subdivision.

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.

**ZONING ENFORCEMENT OFFICER:** The Town of Bennington Zoning Enforcement Officer.

**ZONING LAW:** The officially adopted Zoning Law of the Town of Bennington together with all amendments thereto.

**Article 4 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 preliminary sketch plan and obtain written approval of such preliminary sketch plan in accordance with the procedures set forth in Sections 1, 2 and 3 of this Article. Before any land is transferred or any permit for the erection, construction, alteration or movement of any building or structure is issued for such land, final authorization of said land separation shall be obtained and filed in the Wyoming County Clerk’s Office as set forth in Sections 4 and 5 of this Article.

**4.1 Submission of Preliminary Sketch Plan**

Property owner shall, prior to undertaking a land separation, submit to the Zoning Enforcement Officer at least seven (7) days prior to any regular meeting of the Planning Board, a completed application for and seven (7) copies of a preliminary sketch plan of the proposed land separation. The preliminary sketch plan shall show:

- 1. The entire original parcel being divided,
- 2. All proposed new lot lines and/or new lots, and
- 3. Any existing easements, deed restrictions or covenants, affecting the property.

**4.2 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 preliminary 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 Subdivision Regulations of the Town of Bennington.

**4-3 Study of Sketch Plan**

The Planning Board shall review the preliminary sketch plan to determine whether it meets the purpose of this Local Law as set forth in Article I. The Planning Board shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the proposal prior to final authorization by the Planning Board.

**4-4 Final Authorization**

Within one-hundred eight (180) days of Planning Board approval, the property owner shall provide the Planning Board Chairperson, or his/her designee, three (3) prints of a property survey prepared by a New York State Licensed Land Surveyor. This survey shall meet all the recommendations made by the Planning Board relative to 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 of the Planning Board Chairperson, or his/her designee, within the one-hundred eighty (180) day time period will render the Planning Board's approval null and void.

**4-5 Filing of Survey(s) with Wyoming 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 Wyoming County Clerk's Office. Failure of the property owner to file such documentation with the Wyoming County Clerk within the specified time period will render both the Planning Board's approval and final authorization null and void.

**Article 5 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 Bennington Land Separation Law, Subdivision Regulations of the Town of Bennington, Zoning Law or any existing comprehensive 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 6 Penalties for Offenses**

Any person, firm, company or corporation who shall omit, neglect or refuse to do any act required by this Land Separation Law shall be guilty of an offense and subject to a fine of not less than one-hundred dollars (\$100.00) and thereafter not more than fifty dollars (\$50.00) per day, or imprisonment for a period of not more than fifteen (15) days or both, and in addition may be ordered to pay for all costs and expenses involved in the case, including reasonable attorney's fees. Every such person, firm, company or corporation shall

be deemed guilty of a separate offense for each day such violation, disobedience, omission, neglect or refusal shall continue.

**Article 7    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.

**Article 8    Effective Date**

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