

# Town of Berkshire Land Subdivision

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## Town of Berkshire Land Subdivision Local Law

Be it enacted by the Town Board of The Town of Berkshire to declare its intent to protect the welfare of the citizens and to regulate and control the use of the subdivision of land in the Town of Berkshire as follows:

### Section I: Purpose and Intent:

The Town of Berkshire declares that regulating the division and subdivision of land within the Town, as is permitted in the NYS land use statutes, is part of a plan for the orderly, efficient, and economic development of the Town of Berkshire. Subdivision regulations are intended to consider the following:

- a. Protection of the health, safety, and welfare of the Town's inhabitants;
- b. Local standards and its impact to the community;
- c. Fiscal considerations of any new development and its impact on the community;
- d. Adequate provisions made for drainage, water supply, sewage, highways, fire protection, flood situations, wetland, and other environmental protections;
- e. Impacts on neighboring properties;
- f. Sufficient lot size that accommodates buildings and all facilities;
- g. Integration with services such as highway maintenance, emergency vehicular traffic, pedestrian walkways and bus operations, as well as the likelihood of potential future development on these premises;
- h. Compliance with the town goals as identified in the Town's Comprehensive Plan;
- i. Compliance with all applicable requirements of the local Town of Berkshire Site Plan Review Local Law as referenced in this Subdivision Local Law.

### Section II: Definitions:

“Applicant” - The party applying for a subdivision approval. Written consent shall be required from the legal owner when a representative makes the application.

“Building Permit” - A permit issued by the Code Enforcement Officer which indicates the applicant has submitted an approved application and plan for building construction in compliance with the town of Berkshire requirements.

“Code Enforcement Officer (CEO)” - Public official appointed by the Town Board responsible for administering and enforcing the Uniform Code and the applicable laws, rules and regulation of the Town of Berkshire or New York State.

“Comprehensive Plan” - A plan that determines community goals and aspirations and is used in policy decision in terms of community development and approved by the Town Board pursuant to Section 272-a of the NYS Town.

“Easement” -A conveyance by a property owner granting to another the right to use the grantor’s property as described in the easement for a specific purpose, reserving fee title to the action or project.

“EAF” - Environmental Assessment Form prepared to identify the impacts of a proposed project.

“EIS”- Environmental Impact Statement prepared in accordance with SEQRA.

“Lot” - Any tract or site of land separated from other parcels or tracts by description, as on a subdivision or record of survey and/or any parcel of land shown on a subdivision plat.

“Plat” - A map drawn to scale, showing the divisions of a piece of land. It describes the piece of land, its boundaries, lots, roads, and easements.

“SEQRA” – State Environmental Quality Review Act constituting Environmental Law Article 8 and the implementation of regulations found in 6 NYCRR part 617.

“Sketch Plan” - A sketch of a proposed subdivision, indicating all important existing features of a parcel and its surroundings and the general layout of a proposed subdivision. See Site Plan for process.

“Subdivider” - Any person, firm, corporation, company, partnership or association or an authorized agent, who shall propose to lay out, for the purpose of sale or development, any subdivision or part thereof, either for himself or others.

“Subdivision” - The division of any parcel of land into four or more lots, plots, blocks, or sites which are meant for sale, rent, lease or transfer as residential lots or residential building plots, or as business, commercial or industrial lots for building plots, regardless of how described therefrom, within any consecutive five (5) year period, with or without streets, highways, easements, rights-of-way, or extension of town facilities. A subdivision shall not include the division of land for agribusiness purposes.

“Survey” - An actual field delineation of the boundary lines of the tract, giving complete description data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments and shall be referenced and shown on the plat.

“Tract” Any body of land, including contiguous parcels of land, under one ownership or under common control - of any group of persons acting in concert as part of a common scheme or plan.

### Section III: Provisions and Requirements:

Land cannot be subdivided in the Town of Berkshire until provisions of this law have been completed. Whenever any subdivision of land is proposed, and before any contract for sale of, or any offer to sell any lot in such subdivision is made, and before any excavating, grading, surveying, or building construction is permitted, the Applicant shall apply in writing for approval of such subdivision in accordance with this section. All subdivision processes shall comply with the requirements set forth in the provisions of Sections 276 and 277 of the NYS Town Law.

- A. Basic Requirements – No subdivision plan shall be approved unless adequate investigation and consultation is complete with all parties in regards to use of land for building purposes and without danger to public health and safety and appropriate resources and environmental protections.
  - 1. Subdivision Lots:
    - a. Tract of land divided into four (4) or more lots, including original lot is a subdivision. In addition, any subsequent division of land that will make the total lots four or more within a five (5) year period will require compliance to this local law.
    - b. Lot size shall allow appropriate distances between water wells and septic.
    - c. No lot shall inhabit more than one residential live-in building.
  - 2. Roads:
    - a. No lots shall be landlocked; vehicle access will be available to all lots.
    - b. Subdivisions cannot be planned on seasonal or undeveloped roads without prior approval of the Highway Department and the Town Board.
    - c. Roads that will become town roads must be built in accordance with the current requirements of the Town Highway Department.
    - d. Any proposed roads must be constructed to afford access for normal traffic, fire protection equipment, snow removal, road maintenance and bus transportation.
  - 3. Reference to Site Plan regulations:  
Follow steps in Site Plan Local Law- Section III including:
    - a. Overview,
    - b. Sketch Plan,
    - c. Written Site Plan,
    - d. Review Process, and
    - e. Public Hearing and Decision.
- B. Final Plat – The official review of plans for subdividing a tract of land into multiple lots that conform to the Town’s Comprehensive Plan and all other requirements needed to allow usage that fits local standards and protection of the health, safety, and welfare of the Town’s inhabitants. Requirements and steps are outlined in Site Plan Review Section III, C. Written Site Plan and D. Review Process.

Prior to engaging in the Final Plat, the applicant shall discuss the plat with the appropriate

state, county and local agencies as required by law including the NYS Department of Health, the NYS Department of Environmental Conservation, the NYS Department of Transportation, Tioga County and Berkshire Town Highway Departments, The Fire Chief, the Newark Valley School District, and the local emergency medical services. Responses, notifications, and other information shall be forwarded to the Town of Berkshire for agency endorsements.

Section IV: Exclusions: Not Applicable.

Section V: Administration and Enforcement:

- A. Authorization – This subdivision local law shall be administered by the Town Board and the Code Enforcement Officer.
- B. General Requirements
  - 1. No subdivision activity, construction or land excavation shall begin until this local law has been followed and the subdivision plat approved.
  - 2. No building permit for erection of any building shall be issued for any portions of land being subdivided until the subdivision has been approved and final division complete.
  - 3. The Developer shall make good, without cost to the town, any defects in any of the improvements constructed by them and any damage due to faulty workmanship on their part or due to imperfect material or equipment furnished by them.

Section VI: Enforcement Procedures

- A. Enforcement Authority:
  - 1. The CEO is the lead agent for the Town of Berkshire and will work with the Town Board to assure appropriate division of land standards are followed based on this local law and any cross reference to the Site Plan Local Law.
  - 2. Failure to contact the Town Board for permission to subdivide a parcel of land and to begin any processes of clearing or construction or attempting to sell shall result in a stop work directive from the CEO until the requirements of this law are followed. Noncompliance with this directive will result in a fine as stated in the Town of Berkshire Fee Schedule, as well as other actions the CEO may deem appropriate including legal action that includes the issuance of an appearance ticket.
  - 3. The CEO will monitor progress on the subdivision project to ensure compliance with this law and to ensure building standards are met and will inspect the project at given intervals as described in Section III.

4. If violations are documented and steps are not taken to remedy the situation, the CEO will issue a stop work order to bring the project back into compliance. If the situation is not remedied in 30 days, an appearance ticket will be issued.
5. If the CEO determines that the Developer is not in compliance to all building and safety standards, a stop order will be issued and corrections implemented at no cost to the Town.
6. The CEO will act as prosecutor representing the Town of Berkshire in any court proceeding regarding the violation of this Local Law.

B. Exception Requests:

1. Violations of this local law will result in issuance of a stop work order. The CEO will work with the owner, builder, or subdivider to remedy the violations. If they are unable to resolve those issues within 30 days, a written request may be submitted to the Supervisor of the Town Board asking for special consideration.
2. Any other exceptions to this law require sending a written request to the CEO who will work with the Town Board to decide how to handle the request.

**Section VII: Reference**

This local law repeals any reference to Land Subdivision laws for the Town of Berkshire in prior years.

New York Consolidated Laws, Town Law - TWN § 276 & 277. Subdivision review; approval of plats; additional requisites.

New York State Uniform Fire Prevention and Building Code, Property Maintenance Code of New York and New York State Agriculture and Markets Law.

Town of Berkshire Site Plan Review Local Law

**Section VIII: Severability/Invalid Segments**

Should any section or provision of this local law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this local law as a whole or any part thereof other than the part declared to be invalid.

**Section IX: Penalties**

Any violation of the Subdivision Local Law shall constitute an offense punishable by a fine not to exceed \$1000.

**Section X: Effective Date**

This Local Law shall take effect immediately upon filing by the Secretary of State.