

**LOCAL LAW TO BE ENACTED BY
THE BOSTON TOWN BOARD
TOWN OF BOSTON, NEW YORK**

2019 LOCAL LAW NO. 1

A LOCAL LAW Amending Chapter 104 of the Boston Town Code, Subdivision of Land.

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BOSTON AS
FOLLOWS:**

Section 1. Legislative Intent.

This Local Law amends the Boston Subdivision Regulations. The Boston Subdivision Regulations adopted by the Town Board of the Town of Boston 12-31-1990 by L.L. No. 7-1990 and as from time to time amended, require the amendments effected by this Local Law in order to improve, clarify, and update the format, standards, procedures, and administrative aspects of those regulations.

Section 2. Amend Chapter 104 of the Boston Town Code, Subdivision of Land.

The following sections of Chapter 104 of the Boston Town Code, *Subdivision of Land*, are hereby amended to read as follows:

2.1 Article II: Definitions, § 104-3 *Terms Defined*, is amended as follows, with all other portions of that Article remaining unchanged:

SUBDIVISION

The division of any parcel of land into two or more lots, plots, sites or other divisions of land for immediate or future sale or for building development with or without streets or highways; provided, however, that the sale or exchange of parcels of land between adjacent or adjoining property owners or where such sales do not create additional lots shall not be considered a subdivision of land. The term "subdivision" also includes re-subdivision and as appropriate in these regulations shall refer to the process of subdividing land or to the land subdivided.

MINOR SUBDIVISION

Any subdivision containing not more than four lots fronting on an existing street and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map or Zoning, if such exists, or these regulations. The Planning Board may waive the filing requirement of final plat for a minor subdivision if acceptable with the Town Engineer.

MAJOR SUBDIVISION

Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

2.2 Article III: General Provisions, § 104-4 *Applications to the Planning Board*, is amended to add a new sub-section E as follows, with all other portions of § 104-4 remaining unchanged:

- E. Preliminary Plat Approval Fees shall be set forth in the Schedule of Fees, as adopted by the Town Board of the Town of Boston.

2.3 Article IV: Preapplication Procedures, § 104-8 *Recommendations to Planning Board*, is hereby amended to read in its entirety as follows:

Rezoning for Subdivisions.

If rezoning is required for all or part of the proposed subdivision land, a rezoning request shall be submitted to the Town Board prior to preliminary plat submission. A copy of this rezoning request shall be submitted to the Planning Board with the preliminary plat. All property shall be zoned in the Zoning District that first permits the use proposed by the developer.

2.4 Article V: Preliminary Plat, § 104-10 *Distribution of prints*, is hereby amended to read in its entirety as follows:

Distribution of prints.

Prints of the preliminary plat shall be distributed as follows:

- A. Ten copies to the Planning Board.
- B. One copy to the Town Engineer.
- C. One copy to the Highway Department.
- D. One copy to the Town Attorney.
- E. Five copies to the Town Board.
- F. Two copies to the Town Clerk.
- G. One copy to the Code Enforcement Officer.
- H. One copy to the Town Planning Consultant.

2.5 Article V: Preliminary Plat, § 104-12 *Hearing*, is hereby amended to read in its entirety as follows:

Hearing.

Within 45 days after receipt by the Chairperson of the Planning Board of a preliminary plat that complies with the provisions of these regulations, the

Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least ten days before such hearing.

2.6 Article VI: Final Plat, § 104-16 *Application for approval*, is hereby amended to read in its entirety as follows:

Application for approval.

- A. Application by the owner to the Planning Board for final plat approval of a major subdivision shall be made in the form provided therefor and shall be accompanied by the following.
 - (1) Three reproducible prints of the final subdivision map, in a form suitable for filing with the County Clerk.
 - (2) Seven additional prints of the final subdivision map.
 - (3) Two copies of a general location description for publication.
 - (4) A certified check in the amount set forth in the Schedule of Fees.

- B. If the final plat is not submitted within nine months of conditional approval of the preliminary plat, the Planning Board may refuse to approve the final plat.

2.7 Article VI: Final Plat, § 104-17 *Requirement for submittal of map*, is hereby amended to read in its entirety as follows:

Requirement for submittal of map.

The applicant shall not submit the final subdivision map to the Planning Board until all the approvals required on the final subdivision development application have been obtained from the appropriate officials.

2.8 Article VI: Final Plat, § 104-18 *Specifications*, is amended as follows, with all other portions of that Section remaining unchanged:

- A. Form and scale of final plat. The final subdivision plat shall be clear and legible prints, as provided herein, in a format suitable for filing as a map cover in the Erie County Clerk's office.

* * *

- C. Additional final plat data.

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- (2) All new development of major subdivisions, or planned unit developments (PUD) shall include a traffic study and report. The traffic study shall include, but not be limited to, streetlighting at new roads that intersect with existing Town roads, provisions for maintenance and protection of traffic and pedestrians in and around the project site during construction, and impacts to the existing traffic flow due to increased traffic caused by development. The Town of Boston will reserve the right to request additional information required in the traffic study.

2.9 Article VI: Final Plat, § 104-19 *Submission to Town Board*, is hereby REPEALED and a new § 104-19 is added to read as follows:

104-19 Reserved.

2.10 Article VI: Final Plat, § 104-20 *Public hearing*, is hereby amended to read in its entirety as follows:

Public hearing.

The Planning Board shall compare the final plat with the approved preliminary plat, and, if in agreement, the Planning Board may call for a public hearing within 30 days of submission of the plat for final approval. Said public hearing shall be advertised in the newspaper of general circulation in the Town of Boston at least ten (10) days before such hearing.

2.11 Article VI: Final Plat, § 104-21 *Approval by Planning Board*, is hereby amended to read in its entirety as follows:

Approval by Planning Board.

The final plat shall be approved or disapproved by the Planning Board within 62 days of receipt of the final plat or the public hearing on the final plat, whichever is later. Prior to approval, the Planning Board shall obtain approval and signoff from the Town Engineer and Highway Superintendent.

2.12 Article VI: Final Plat, § 104-22 *Signing of plat*, is hereby amended to read in its entirety as follows:

Signing of plat.

After the public hearing, if required, and upon approval of the final plat by the Planning Board, three of the reproducible prints shall be forwarded to the Town Supervisor, advising the Town Supervisor of the approval and requesting the signing of the plat. Thereafter, the plat shall be submitted to the Town Engineer and the Superintendent of Highways of the Town of Boston, advising them of the approval and requesting signing of the plat. The Town Engineer and Highway Superintendent must sign the three reproducible prints of the final plat prior to its

signing by the Planning Board Chairperson. Upon its return, the Chairperson of the Planning Board shall likewise sign the plat.

2.13 Article VI: Final Plat, § 104-23 *Applicant to record print at County Clerk's office*, is hereby amended to read in its entirety as follows:

Applicant to record print at County Clerk's office.

When the prints of the final plat have been signed, the Town Clerk shall inform the applicant that he may pick up one signed reproducible print and proceed to have said print recorded in the Erie County Clerk's office. The applicant shall, upon filing of the plat, forward to the Town Board three copies of the plat with the map cover number shown on said copies.

2.14 Article VI: Final Plat, § 104-24 *Time for filing with County*, is hereby amended to read in its entirety as follows:

Time for filing with Erie County.

The final plat, as approved and signed by the Town Engineer, Superintendent of Highways, and the Planning Board Chairperson, must be filed and recorded in the Erie County Clerk's office within 60 days of such written approval. In the event that such plat is not filed within 60 days, the approval of such plat shall be nullified.

2.15 Article VII: Miscellaneous Design Standards, § 104-25 *Dedication and reservation of sites for public use*, is amended as follows, with all other portions of that Section remaining unchanged:

- C. As a condition of final approval of the subdivision plat, the developer shall set aside 10% of the site for the provision of park and/or recreational facilities. If provision of such facilities, within the judgment of the Planning Board, is impractical because of the particular layout of the development or for other reasons, a recreation fee as set forth in the Schedule of Fees per subdivision lot shall be submitted prior to final approval of the subdivision plat, unless such other terms and conditions regarding payment of said fee are entered into between the developer and the Planning Board.

2.16 Article X: Miscellaneous Provisions; Penalties for Offenses; Fees, § 104-41 *Deviations*, is hereby amended to read in its entirety as follows:

Deviations.

When the Planning Board finds, that due to unusual circumstances of shape, topography or other physical features of the subdivision tract, or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with applicable regulations found within this Chapter 104, it may vary the regulations so that substantial justice may be done and the public interest secured; provided, however, that no such variation shall be granted which will have the effect of nullifying the intent or purposes of these regulations or of any other statute, law or regulation of the State of New York, County of Erie or Town of Boston.

2.17 Article X: Miscellaneous Provisions; Penalties for Offenses; Fees, § 104-44 *Fees*, is hereby REPEALED and a new § 104-44 is added to read as follows:

104-44 Reserved.

Section 3. Authority.

This Local Law is enacted pursuant to Article 16 of the Town Law of the State of New York and the Municipal Home Rule Law.

Section 4. Severability.

A. This Local Law shall be deemed to supersede and repeal any other Local Laws to the extent therein inconsistent herewith.

B. If any part of this Local Law shall be judicially declared invalid void unconstitutional or unenforceable all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

C. Nothing herein shall be deemed to be a waiver or restriction upon any rights and powers available to the Town of Boston to further regulate the subject matter of this Local Law.

Section 5. Effective Date.

This Local Law shall become effective upon filing with the Secretary of State of the State of New York as required by the Municipal Home Rule Law.

Sponsor: Councilmember Lucachik