

FORM A

**USUAL FORM OF APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL**

The applicant shall file two completed copies of an application in the form as shown below with the Planning Board and one copy with the Town Clerk. The mylar and six prints of the plan must be filed with the Planning Board.

_____, 20____

To: Tewksbury Planning Board
Town Hall
1009 Main Street
Tewksbury, MA 01876

Board Members:

Enclosed is a plan of land owned by _____ in the Town of Tewksbury. This plan is submitted to you for your determination and endorsement that approval under the Massachusetts Subdivision Control Law is not required.

The applicant believes that Planning Board approval is not required for the following reasons:

Address _____ of
owner(s): _____

Name and address of Engineer or Land Surveyor preparing plan: _____

Date of Plan: _____.

Location of Property: _____

Assessor's Map(s) _____ Lot(s) _____

Signature of applicant: _____

Address: _____ Address of 2nd property: _____

Signature of Owner: _____ Signature of 2nd property

owner: _____

Application and Fee of \$60.00 per lot Received by: _____

Date: _____

SECTION 3

PLANS BELIEVED NOT TO REQUIRE APPROVAL

3.1 FILING

Any person or persons who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believe that the plan does not require approval under the Subdivision Control Law may submit the plan, six copies, application (Form A), and \$60.00 per lot to the Board. The applicant must provide the necessary evidence to show that the plan does not require approval. If the plan affects two or more parcels of land not under common ownership, the Planning Board requires that the application (Form A) bear the signature of all affected property owners. The plan will only be accepted at a regularly scheduled meeting of the Planning Board.

Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by the copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt thereof.

If the Board determines that the plan does not require approval, it shall forthwith without a public hearing endorse on the plan the words "Approval Under Subdivision Control Law Not required".

The Board may add to such endorsement a statement of the reason approval is not required. The plan will be returned to the applicant and the Board shall notify the Town Clerk of its action.

If the Board fails to act upon a plan submitted under this section within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.

3.2 FORM OF PLAN

Each plan which is submitted under Article 3.0 of these Rules and Regulations shall be clearly and legibly drawn in black india ink on polyester drafting film. The plan shall show all details clearly and be drawn to a scale of one-inch (1") equals forty feet (40'). The plan shall be accompanied by a Form A (see Appendix A) ' and a statement advising the Board as to the particular provision of law under which he believes that his plan does not require approval, evidence of such immunity satisfactory to the Board, together with evidence that no violation of the zoning law will occur.

3.3 CONTENT OF PLAN

Each plan shall show the:

- a. Owner of the land;
- b. Name of the person who has prepared the plan;
- c. Person for -whom the plan was prepared;
- d. Date of the plan; and
- e. Locus plan.

Each plan shall also contain such information as necessary to identify the land involved and show that the land involved meets one or more of the following requirements:

- a. Each lot therein has the required minimum frontage on a way which meets one or more of the criteria enumerated in Section 81L of the M.G.L., Chapter 41, quoted herein the Section 1.5.1 (see also Section 1.5.11). This required minimum frontage shall be determined by the Zoning By-Law then in effect.
- b. Each lot has standing on it a building or buildings having been standing at the time of inception of Subdivision Control Laws in the Town.
- c. The plan is of an already existing lot, parcel or tract and shows no division thereof, or the plan does show a division, but each lot or parcel not conforming to the Zoning By-Law or the Rules of the Board Governing the Subdivision of Land shall be marked "Not a Buildable Lot".

3.4 NUMBER OF COPIES

In addition to the polyester drafting film submitted to the Board for signature, six prints of the plan shall be filed with the Board.

3.5 FEES

A per lot fee from the most recent Planning Board Subdivision Fee Schedule shall be required with all Subdivision Approval Not Required Plans (Form A) submitted to the Planning Board for a determination.

3.6 REQUIREMENTS

1. Plan of Land for which endorsement is requested must show entire parcel from which a lot is being subdivided. The parcel of property shown must include the entire area of land affected by the creation of the lots as shown on said plan of land.
2. In addition to Planning Board application form, applicant must also submit a copy of the prior plan(s) of record from which the surveyor has obtained information for the new plan together with certification by the surveyor that he/she has utilized the most recent plan(s) of record.
3. A determination shall be made regarding which of the following categories the request for ANR Endorsement falls under and the appropriate criteria shall be applied accordingly.
 - A. Endorsement request under M.G.L. 41 § 81P. In order to qualify for endorsement under this provision of the general laws, the following criteria must be met:
 - (1) Every lot within the tract divided has sufficient frontage on a way. A lot shall be deemed to have sufficient frontage if it has the frontage specified by the Zoning By-Law dimensional requirements for the district in which said lot is situated.
 - (2) It must be determined that the way is either:
 - a) A public way or a way which the Town Clerk certifies is maintained and used as a public way, or
 - b) A way shown on the plan theretofore approved and endorsed in accordance with the subdivision control law; or
 - c) A way in existence when the Subdivision Control Law became effective in the town having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to

provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected there on.

- B. Endorsement pursuant to Planning Board determination that the plan conforms to an exclusion set forth in the definition of "Subdivision" in M.G.L.c. 41 § 81L which does not, however, fall under the provisions of Section 81P. Two such exclusions are as follows:
- (1) A division of tract of land on which two or more buildings were standing when the subdivision control law went into effect in the town into separate lots on each of which one of such buildings remains standing.
 - a) Planning Board must act as finder of fact and, therefore, all testimony utilized in making a determination of fact shall be in form of sworn Affidavit and/or sworn testimony before the Board.
 - b) Board must make a determination that each structure is of a substantial nature and has been used for the purpose existing at the time of the passing of the Zoning By-Law's continuously through the date of application.
 - c) Planning Board must agree upon a proper line of division to comply with the requirements set forth in paragraph B(l).
 - (2) Plans, conveyances or other instruments adding to, taking away from or changing' the size and shape of lots in such a manner as not to leave any lot so affected without the required frontage.
 - a) The Board should require that a plan -be submitted showing all parcels of land affected and, where appropriate, specify "Not a Buildable Lot".
4. All ANR plans shall contain a legend that "Endorsement of this plan does not imply the plan complies with the Zoning By-Laws of the Town of Tewksbury".