

SUBDIVISION PROCEDURES

- 1) APPLICANT MEETS WITH CODE ENFORCEMENT OFFICER TO REVIEW POSSIBILITY OF SUBDIVISION.
- 2) APPLICANT ASKS TOWN CLERK'S OFFICE TO BE PUT ON AGENDA FOR THE NEXT PLANNING BOARD MEETING FOR A PRELIMINARY REVIEW OF SUBDIVISION.
- 3) TOWN CLERK'S OFFICE GIVES APPLICANT THE SUBDIVISION APPLICATION, S.E.Q.R. AND SHEET OF ADDITIONAL REQUIREMENTS. THE APPLICANT MUST SUBMIT FORMS AND AN EXISTING SURVEY OF PROPERTY TO TOWN CLERK'S OFFICE A WEEK BEFORE THE MEETING. APPLICANT WILL BE GIVEN DATE OF THE MEETING AND NOTIFIED BY MAIL OF THE APPLICANT'S TIME ON THE AGENDA.
- 4) THE PLANNING BOARD REVIEWS APPLICATION AND DECIDES IF THE SUBDIVISION IS FEASIBLE. IF SO, APPLICANT IS INSTRUCTED TO PAY THE TOWN CLERK'S OFFICE THE SUBDIVISION FEE AND HAVE ENGINEER PRINT SIX MAP COPIES AND A MILAR OF THE SUBDIVISION. THIS MUST BE COMPLETED ONE WEEK PRIOR TO NEXT PLANNING BOARD MEETING AND SUBMITTED TO THE TOWN CLERK'S OFFICE.
- 5) PUBLIC HEARING WILL BE AT THE SECOND MEETING. UPON APPROVAL, THE APPLICANT WILL RECEIVE STAMPED MAPS AND MYLAR. MYLAR MUST BE FILED AT COUNTY CLERK'S OFFICE WITHIN SIXTY DAYS.

A Subdivision is defined as "the division of any parcel of land into two or more lots, blocks, or sites, with or without streets or highways" (*Town Law §278, Village Law § 7-732, General City Law §34, General Municipal Law §239-d*). To successfully subdivide real property, local (town or village), county, and state laws and regulations may all apply.

Local Regulations

Many city, village and town governments have enacted subdivision regulations. Contact the appropriate city, village or town clerk's office to find out if local regulations are in effect.

If local rules are in effect, a review of the subdivision is commonly required by a local planning board or similar body. In certain instances, review will also be required by the Madison County Planning and Development Board. If local rules are in effect, the Madison County Clerk's Office cannot file a subdivision map unless approved and signed by the local planning board, or other body having jurisdiction.

Although they vary by locality, common components of local subdivision regulations and review are the number of lots that constitute a subdivision; compliance with SEQR (State Environmental Quality Review Act); width/depth ratios; and access of the proposed lots to public rights-of-way.

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MADISON COUNTY

**OFFICE OF THE
COUNTY CLERK**

Filing Subdivision Maps


In addition to requirements under Sections 2, 3 & 4 of Subdivision of Land requirements:

- Percolation and deep hole tests must be completed by a licensed engineer and the results noted on the subdivision map
- Designated NYS DEC wetlands must be shown on the map or a notation made on the map that there are none
- Floodplain areas must be shown on the map or a notation made on the map that there are none
- Contours must be shown if significant


Following data must be shown on the subdivision map:

NOTES:

1. Water Supply:
 1. Municipal, or
 2. Wells shall meet minimum standards of Madison County Department of Health and New York State Department of Health
2. Sanitary Sewer Disposal:
 1. Municipal, or
 2. Individual on-site sanitary sewage disposal systems shall meet Town of Lenox, Madison County Department of Health and New York State Department of Health standards
3. Tax Map Parcel No. _____
4. Total acreage this subdivision = _____
5. Zoning: _____
6. Existing Ground Contour : _____
7. This property (IS NOT) or (IS) located in the 100 year flood zone as delineated on maps on file with the Town of Lenox Clerk's office. There (ARE) or (ARE NOT) NYS DEC designated wetlands on this property.

 If this is an ANNEXATION Subdivision, the following notation must be added to the map:

This is an annexation to a contiguous parcel and does not create an autonomous lot. _____ acres of tax parcel # _____ (owner's name) is to be combined with tax parcel # _____ (owner's name).

 All Maps Must Show Neighbors (Including Across Road)

Town of Lenox, NY
Wednesday, May 20, 2015

Chapter 114. SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Lenox 4-11-1988 by L.L. No. 2-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 47.

Street and sidewalks — See Ch. 110.

Zoning — See Ch. 134.

114a App A Documents to be Submitted 

114b App B Street Designs 

114c App C Short Env Assess Form 

114d App D Administrative Checklist 

114e App E Technical Checklist 

114f App F Sample Application Form 

114g App G Sample Form of Performance Bond 

114h App H Sample Form of Resolution 

114i App I Administrative Flow Chart 

Article I. General Provisions

§ 114-1. Authority; policy.

By the authority of the resolution of the Town Board of the Town of Lenox, adopted on April 11, 1988, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Lenox is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary plats within that part of the Town of Lenox outside the limits of any incorporated city or village. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it 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, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Zoning Map, if such exists, and shall be properly related to the proposals shown on the Comprehensive Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. In order that land subdivisions may be made in accordance with this policy, the regulations in this chapter, which shall be known as and which may be cited as the "Town of Lenox Land Subdivision Regulations," have been recommended by the Planning Board on March 14, 1988, and approved by the Town Board on April 11, 1988.

Article II. Terminology

§ 114-2. Definitions.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

CLERK OF THE PLANNING BOARD

That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of this chapter, i.e., the Town Clerk.

COLLECTOR STREET

A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street.

COMPREHENSIVE PLAN/ZONING MAP

A Comprehensive Plan, prepared by the Planning Board pursuant to § 272-a of the Town Law, which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the Town, and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

DEAD-END STREET or CUL-DE-SAC

A street or a portion of a street with only one vehicular traffic outlet.

EASEMENT

Authorization by a property owner for the use by another and for a specified purpose of any designated part of his property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER

A person licensed as a professional engineer by the State of New York.

MAJOR STREET

A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy-traffic-generating areas.

MAJOR SUBDIVISION

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

MINOR STREET

A street intended to serve primarily as an access to abutting properties.

MINOR SUBDIVISION

Any subdivision containing not more than four lots fronting on any existing street, not involving any new street or road or the extension of municipal facilities, 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 Comprehensive Plan, Official Map, if such exists, or Chapter 134, Zoning, or this chapter.

PLANNING BOARD or BOARD

The Planning Board of the Town.

PRELIMINARY PLAT

A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, as specified in Appendix A, *Editor's Note: Appendix A is included at the end of this chapter.* Section 3, of this chapter, submitted to the Planning Board for approval prior to submission of the plat in final form

and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

SKETCH PLAN

A sketch of a proposed subdivision showing the information specified in Appendix A, *Editor's Note: Appendix A is included at the end of this chapter.* Section 1, of this chapter to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of this chapter.

STREET

Includes streets, roads, avenues, lanes or other trafficways between right-of-way lines.

STREET PAVEMENT

The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH

The width of right-of-way, measured at right angles to the center line of the street.

SUBDIVIDER

Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION

The division of any parcel of land into two or more lots, blocks or sites, with or without streets or highways, and includes resubdivision.

SUBDIVISION PLAT or FINAL PLAT

A drawing, in final form, showing a proposed subdivision, containing all information or detail required by law and by this chapter to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

SURVEYOR

A person licensed as a land surveyor by the State of New York.

TOWN ENGINEER

The duly designated Engineer of the Town.

Article III. Procedure for Filing Subdivision Applications

§ 114-3. Written application.

Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.

§ 114-4. Sketch plan.

- A. Submission of sketch plan and environmental assessment form (EAF). Any owner of land shall, prior to subdividing or resubdividing land, submit to the Clerk of the Planning Board at least 10 days prior to the regular meeting of the Board two copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of Appendix A, *Editor's Note: Appendix A is included at the end of this chapter.*

Section 1, for the purposes of classification and preliminary discussion. Two copies of the EAF shall be submitted (see Subsection C to determine whether to submit the short or long EAF).

- B. Discussion of requirements and classification.
- (1) The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of this chapter for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
 - (2) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision, as defined in this chapter. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedures outlined in Article III, §§ 114-5 and 114-9, of this chapter. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Article III, §§ 114-6, 114-7, 114-8, 114-9 and 114-10.
- C. State Environmental Quality Review (SEQR).
- (1) If the subdivision meets any Type I actions listed in 6 NYCRR Part 617.12, Part 1 of the long form must be completed and submitted. Lead agency for the SEQR process shall be determined according to the procedures outlined in 6 NYCRR 617.6. If the action is unlisted (not a Type I), then the applicant must complete and submit a short-form EAF (Appendix C *Editor's Note: This form is on file in the Town offices.*). For an unlisted action, the Planning Board has the option of either determining a lead agency or of making a negative declaration on its own.
 - (2) A determination of either no significant environmental impact (negative declaration) or a draft environmental impact statement (EIS) is required by the designated lead agency before the subdivision may be approved, using the criteria in 6 NYCRR 617.11. Any public hearing held pursuant to this subdivision chapter may also be used to solicit comments on the draft EIS under SEQR.
- D. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of this chapter and shall, where it deems it necessary, make specific recommendations, in writing, to be incorporated by the applicant in the next submission to the Planning Board.

§ 114-5. Approval of minor subdivision.

- A. Application and fee.
- (1) Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan, plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Appendix A, *Editor's Note: Appendix A is included at the end of this chapter.* Section 2A.
 - (2) All applications for plat approval for minor subdivisions shall be accompanied by a fee of \$25 plus \$50 per lot.
- B. Number of copies. Five copies of the subdivision plat shall be presented to the Clerk of the Planning Board at the time of submission of the subdivision plat.

- C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plat.
- D. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date on which the application for plat approval, complete and accompanied by the required fee and all data required by Appendix A,
Editor's Note: Appendix A is included at the end of this chapter.
Section 2, of this chapter has been filed with the Clerk of the Planning Board.
- E. Public hearing. A public hearing shall be held by the Planning Board within 62 days from the time of submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. The hearing may be used to solicit comments on any draft EIS prepared pursuant to SEQR.
[Amended 11-14-1994 by L.L. No. 2-1994]
- F. Action on subdivision plat.
- (1) The Planning Board shall, within 62 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove, or grant final approval and authorize the signing of the subdivision plat. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the plat.
[Amended 11-14-1994 by L.L. No. 2-1994]
- (2) Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed in her office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Upon completion of such requirements, the plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend that time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

§ 114-6. Preliminary plat for major subdivision.

- A. Application and fee.
- (1) Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form described in Appendix A,
Editor's Note: Appendix A is included at the end of this chapter.
Section 3, hereof.
- (2) The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law and Appendix A,
Editor's Note: Appendix A is included at the end of this chapter.
Sections 3 and 4, of this chapter, except where a waiver may be specifically authorized by the Planning Board.

- (3) The application for approval of the preliminary plat shall be accompanied by a fee of \$50, plus \$5 per lot for each lot in the proposed subdivision.
- B. Number of copies. Five copies of the preliminary plat shall be presented to the Clerk of the Planning Board at the time of submission of the preliminary plat.
 - C. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat.
 - D. Study of preliminary plat and compliance with SEQR. The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Comprehensive Plan/Zoning Map, Chapter 134, Zoning, and SEQR regulations.
 - E. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date on which the application for approval of the preliminary plat, complete and accompanied by the required fee and all data required by Appendix A
Editor's Note: Appendix A is included at the end of this chapter.
of this chapter has been filed with the Clerk of the Planning Board.
 - F. Approval of the preliminary plat.
 - (1) Within 62 days after the receipt of such preliminary plat by the Clerk of the Planning Board, 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 five days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. Within 62 days after the date of such hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat, and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent by the subdivider and the Planning Board. Upon approving a preliminary plat, the Planning Board shall state, in writing, modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as granted preliminary approval and a copy filed in her office, a certified copy mailed to the owner and a copy forwarded to the Town Board. Failure of the Planning Board to act within such sixty-two-day period shall constitute approval of the preliminary plat.
[Amended 11-14-1994 by L.L. No. 2-1994]
 - (2) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to:
 - (a) The modifications to the preliminary plat.
 - (b) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare.
 - (c) The amount of improvement or the amount of all bonds or letter of credit therefor which it will require as prerequisite to the approval of the final plat.
 - (3) Approval of a preliminary plat shall not constitute approval of the final plat. The final plat will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of this chapter. Prior to approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of

new information obtained at the public hearing.

§ 114-7. Plat for major subdivision.

- A. Application for approval and fee. The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application blank available from the Clerk of the Planning Board. All applications for plat approval for major subdivisions shall be accompanied by a fee of \$50. If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require a resubmission of the preliminary plat.
- B. Number of copies. A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Clerk of the Board with a copy of the application and three copies (one copy on linen) of the plat, the original and one true copy of all offers of cession, covenants and agreements and two prints of all construction drawings.
- C. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date on which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Appendix A,
Editor's Note: Appendix A is included at the end of this chapter.
Section 4, of this chapter, has been filed with the Clerk of the Planning Board.
- D. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the New York State Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, county and state agencies. Endorsement and approval by the New York State Department of Health shall be secured by the subdivider before official submission of subdivision plat.
- E. Public hearing. Within 62 days of the submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under § 114-6 of this article and modified in accordance with requirements of such approval, if such preliminary plat has been approved with modification, the Planning Board may waive the requirement of such public hearing. The hearing may be used to solicit comments on any draft EIS prepared pursuant to SEQR.
[Amended 11-14-1994 by L.L. No. 2-1994]
- F. Action on proposed subdivision plat.
- (1) The Planning Board shall, by resolution, conditionally approve, conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board if no hearing is held, or in the event that a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefor shall be deemed approval of the plat.
[Amended 11-14-1994 by L.L. No. 2-1994]
 - (2) Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in her office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly

authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

§ 114-8. Required improvements.

- A. Improvements and performance bond. Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection **A(1)** or **(2)** below:
- (1) In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond or letter of credit to cover the full cost of the required improvements. Any such bond or letter of credit shall comply with the requirements of § 277 of the Town Law, and, further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond or letter of credit within which required improvements must be completed.
 - (2) The subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond, letter of credit or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond or letter of credit shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.
 - (3) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection **A(2)** above, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond, letter of credit or certified check for all required improvements as specified in Subsection **A(1)** above, such bonds or letter of credit shall not be released until such a map is submitted.
- B. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required

improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

- D. Proper installation of improvements. If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond or letter of credit, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Building Inspector and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company or bank and take all necessary steps to preserve the Town's rights under the bond or letter of credit. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 114-9. Filing of approved subdivision plat.

- A. Final approval and filing. Upon completion of the requirements in §§ 114-7 and 114-8 above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and shall be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 60 days of the date upon which such plat is approved or considered approved by reasons of the failure of the Planning Board to act shall become null and void.
[Amended 11-14-1994 by L.L. No. 2-1994]
- B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat unless the said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 114-10. Public streets, recreation areas.

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such subdivision plat.
- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

§ 114-11. Applicability of § 278 of the Town Law.

[Amended 11-14-1994 by L.L. No. 2-1994]

Whereas, pursuant to resolution of the Town Board, the Planning Board is empowered to modify applicable provisions of Chapter 134, Zoning i.e., clustering and zero lot line, in accordance with the provisions of § 278 of the Town Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities, and to preserve the natural and scenic qualities of open lands, the following shall be the procedure:

A. Standards.

- (1) The Town of Lenox Planning Board may make such modifications only with respect to the lands within special development areas.
- (2) The minimum acreage to which this section may be applicable shall be 10 acres, except that, where public services, sewer and/or water are available, the Planning Board may determine the minimum size.
- (3) No subdivision shall be approved by the Planning Board pursuant to this section which shall not reasonably safeguard the appropriate use of adjoining land.
- (4) In the event that the utilization of this section results in a plat showing lands available for park, recreation or other municipal purposes, the Planning Board may impose such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes and may, further, in the case of lands to be retained in open space, require that such lands be restricted by deed restriction, restrictive covenant, conveyance of a scenic easement or other appropriate means against any development or land use inconsistent with their retention in open space.
- (5) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in other Town regulations or ordinances.

B. Procedures.

- (1) Request by subdivider. A subdivider may request the use of § 278 of Town Law simultaneously with or subsequent to presentation of the sketch plan as per procedure described in Article III. Any submission subsequent to preliminary approval of a plat shall require a reapplication for sketch plat review.
- (2) Sketch plat. A subdivider shall present, along with a proposal in accordance with the provisions of § 278, a standard sketch plat which is consistent with all the criteria established by this chapter, including but not limited to streets being consistent with Chapter 110, Streets and Sidewalks, and lots being consistent with Chapter 134, Zoning.
- (3) Plat submission. Upon determination that such sketch plat is suitable for the procedures under § 278 of Town Law and subsequent to the resolution authorizing the Planning Board to proceed, a preliminary plat meeting all the requirements of the resolution shall be presented to the Planning Board, and thereafter the Planning Board shall proceed with the required public hearings and all other requirements of this chapter.
- (4) Filing; notation on Zoning Map. On the filing of a plat in the office of the County Clerk in which § 278 has been used, the subdivider shall file a copy with the Town Clerk, who shall make appropriate notations and reference thereto in the Town Zoning Ordinance Map.
Editor's Note: See Ch. 134, Zoning.
The Secretary of the Planning Board shall notify the Building Inspector when such a plat is filed.

Article IV. Waivers

§ 114-12. Determination.

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided

that such waiver will not have the effect of nullifying the intent and purpose of the Official Map or Chapter 134, Zoning.

§ 114-12.1. Annexations to contiguous parcels.

[Added 4-8-1996 by L.L. No. 2-1996]

Where an application proposes that a parcel be subdivided and annexed to a contiguous parcel, where said subdivision does not create a nonconforming lot nor increase nonconformity of an existing lot, the Town of Lenox Planning Board may approve said subdivision only with a review and approval of the survey plat.

§ 114-13. Conditions; requirements.

In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

Article V. General Requirements and Design Standards

§ 114-14. Planning Board to follow guidelines.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article IV herein.

§ 114-15. Generally.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- B. Conformity to Comprehensive Plan/Zoning Map. Subdivisions shall conform to the Official Map of the Town and shall be in harmony with the Comprehensive Plan/Zoning Map.
Editor's Note: See Ch. 134, Zoning.
- C. Specification for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from the Town Engineer.

§ 114-16. Street layout.

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Comprehensive Plan and to accommodate the prospective traffic and afford access for firefighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
- B. Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or

impracticable, the above conditions may be modified.

- C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Special treatment along major arterial streets. When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in this chapter.
- F. Dead-end streets. The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing 20 lots or more shall have at least two street connections with existing public streets or streets shown on the Zoning Map or streets on an approved subdivision plat for which a bond or letter of credit has been filed.
- G. Intersections with collector or major arterial roads. Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.
- H. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be avoided.
- I. Angle of intersection. In general, all streets shall join each other so that, for a distance of at least 100 feet, the street is approximately at right angles to the street it joins.
- J. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- K. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited-access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ 114-17. Utilities and improvements.

- A. Improvements. Streets shall be graded and improved to meet Town requirements.
- B. Utilities.
 - (1) The subdivider shall connect to public utilities, i.e., sewer and water, when available. The Planning Board shall, wherever possible, require that all utilities be placed underground in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install or provide for installation of underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
 - (2) Utility easements. Where topography is such as to make impractical the inclusion of utilities

within the street rights-of-way, perpetual unobstructed easements at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

§ 114-18. Street names.

- A. Type of name. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.
- B. Names to be substantially different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90° without a change in street name.

§ 114-19. Lots.

- A. Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with Chapter 134, Zoning, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.
- B. Side lines. All side lines of lots shall be at right angles to street lines, unless a waiver from this rule will give a better street or lot plan.
- C. Corner lots. In general, corner lots should be larger than interior lots to provide for proper building setbacks from each street and provide a desirable building site.
- D. Driveway access. Driveway grades between the street and the setback line shall not exceed 10%.
- E. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat.

§ 114-20. Drainage improvements.

- A. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist, either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of the facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by Chapter 134, Zoning, in the watershed.
- C. Responsibility from drainage downstream. The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Engineer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload existing downstream drainage during a five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such

case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

- D. Uninhabitable land. Land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life of property or aggravate a flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

§ 114-21. Parks, open spaces and natural features.

- A. Recreation areas shown on Town plan. Where a proposed park, playground or open space shown on the Comprehensive Plan is located in whole or in part in a subdivision, the Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Subsection B below. Such area or areas may be dedicated to the Town or county by the subdivider if the Town Board approves such dedication.
- B. Parks and playgrounds not shown on Comprehensive Plan.
- (1) The Planning Board shall require that the plat show sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat.
 - (2) The Board shall require that not less than three acres of recreation space be provided per 100 dwelling units shown on the plat. However, in no case shall the amount be more than 10% of the total area of the subdivision. Such area or areas may be dedicated to the Town by the subdivider if the Town Board approves such dedication. Appropriate legal measures should be taken to assure that such land can never be developed for other than recreational purposes.
- C. Waiver of plat designation of area for parks and recreation.
- (1) In cases where the Planning Board finds that, due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or if in the opinion of the Board it is not desirable, the Board may waive the requirement that the plat show land for such purposes. The Board shall then require as a condition to approval of the plat a payment to the Town of Lenox of \$100 per gross acre of land which otherwise would have been acceptable as a recreation site. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Article V, § 114-21B.
 - (2) Such amount shall be paid to the Town Board at the time of final plat approval, and no plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund to be used for the acquisition of land that is suitable for permanent park, playground or other recreational purposes; is so located that it serves primarily the general neighborhood in which the land covered by the plat lies; and shall be used only for park, playground or other recreational land acquisition or improvements. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Planning Board finds there is a need for such improvements.

APPLICATION FOR SUBDIVISION
TOWN OF LENOX

Name _____

Address _____

Telephone Number _____

Licensed Land Surveyor or Engineer _____

Address _____

Telephone Number _____

Tax Map Number _____

Easements or other restrictions on property _____

REQUESTED EXCEPTIONS. The Planning Board is hereby requested to authorize the following exceptions to or waivers of it's regulations governing subdivisions(attach list of such exceptions with the reason for each exception set forth) _____

The undersigned hereby requests approval by the Planning Board of the above identified subdivision Plat:

Signature _____

Title _____ Date: _____