

## ARTICLE 9 EXEMPTIONS

### 901 Intent

To establish criteria and a review process whereby the Board of County Commissioners may grant exemptions from the definition of the terms "subdivision" and "subdivided land" for any division of land if the Board determines that such a division is not within the purpose of Article 28, Title 30 of the Colorado Revised Statutes.

### 902 Prerequisite (Amended 3/25/14)

Prior to submittal of the exemption request, the applicant shall meet with a staff planner to determine whether the exemption request meets the exemption criteria and to explain the procedure and submittal requirements. If the proposed exempted parcel is within a recorded subdivision, the plat shall be amended in accordance with Article 7 of this Resolution. If it is determined that the applicant is using the exemption process to circumvent the subdivision process, the applicant shall be required to comply with the applicable subdivision articles as set forth in this Resolution.

### 903 Exemption Criteria (Amended 4/14/09)

An exemption proposal shall be consistent with one of the following criteria in order to receive an exemption from the definition of the term "subdivision". (Amended 3/12/97)

- 903.01 Boundary-line adjustments for parcels of 35 acres in size or greater where no additional parcels are created, and where such adjustment reduces the parcel acreage to less than 35 acres in size. (Amended 3/25/14)
- 903.02 Clustered 35-acre development where the density does not exceed 1 residence per 35 acres and individual lots are smaller than 35 acres. (Amended 8/25/99)
- 903.03 Exemptions that create additional parcels shall be permitted for parcels with more than one principal residence provided that all of the following criteria is met:
  - 903.03.1 each residence was constructed in conformance with the applicable County regulations in effect at the time the residence was constructed;
  - 903.03.2 each residence shall have a documented history of continuous use as a single-family dwelling;
  - 903.03.3 legal and physical access shall be provided to all parcels by public right-of-way or recorded easement, acceptable to the Douglas County Engineer in compliance with the Douglas County Roadway Design and Construction Standards.

903.03.4 **Note:** *The following shall not be considered to be a principal residence: structures previously considered uninhabitable or accessory to a principal residence, a guest house, resort or seasonal cabins used in conjunction with a lodge operation or housing for tenant labor.*

903.04 Divisions of land which create parcels for public or quasi-public use such as community facilities where no dwelling units are allowed, including but not limited to: utility facility, park, open space, fire station, sheriff substation, library, metro district office, water/sewage facility. An exemption for such facility may be determined unnecessary by the Director if the applicant is a public or quasi-public entity with condemnation authority, and the proposed facility meets the intent of the Douglas County Comprehensive Master Plan and Zoning Resolution as a necessary service. *(Amended 12/7/05)*

903.05 Other divisions of land effected by a deed recorded in the Office of the Douglas County Clerk and Recorder that the Board determines is not within the purposes of this Resolution. If it is determined that the applicant is using the exemption process to circumvent the subdivision regulations, the applicant shall be required to comply with the applicable sections of this Resolution.

#### 904 Submittal Process

904.01 The applicant shall submit one copy of the complete exemption request per Section 905 to the Planning Division following a required presubmittal meeting. *(Amended 3/25/14)*

904.02 A staff planner shall review the submittal for completeness and notify the applicant of any inadequacies. An incomplete submittal will not be processed.

904.03 Once the submittal is determined complete, the staff planner shall review the exemption request, all documentation submitted and prepare a staff report for the Board. Responses from referral agencies may be requested as part of the review process, as appropriate. When all outstanding issues have been satisfactorily addressed, the staff planner will notify the applicant of the public meeting with the Board. *(Amended 3/25/14)*

904.04 At a public meeting, the Board shall evaluate the exemption request, staff comments and public testimony and shall either approve, approve with conditions, table for further study or deny the request. The Board's action shall be based on the evidence presented, compliance with appropriate standards, regulations, policies and other guidelines.

904.05 If denied by the Board, the applicant may pursue subdivision in accordance with the appropriate process contained in this Resolution.

## 905 General Submittal Requirements

- 905.01 Completed Land Use Application (*available from Planning Division*)
- 905.02 Application Fee (*fee schedule available from Planning Division*)
- 905.03 Proof of ownership which includes an updated or current title insurance policy or other acceptable form of ownership and encumbrance verification, not more than 30 days old. (*Amended 3/25/14*)
- 905.04 A copy of the original deed that created the parcel
- 905.05 A notarized letter of authorization from the landowner permitting a representative to process the application, if applicable
- 905.06 Evidence that legal and physical access, acceptable to the Douglas County Engineer in compliance with the Douglas County Roadway Design and Construction Standards, shall be provided to all parcels by public right-of-way or recorded easement
- 905.07 Exemption exhibit (*per Section 907 or 908, herein*) (*Amended 3/25/14*)
- 905.08 Any other material essential to the evaluation as reasonably may be required by the staff planner to enable an adequate review of the exemption

## 906 Administrative Exemption Amendments (*Amended 3/25/14*)

- 906.01 The following amendments to existing parcels for which an exemption was previously approved by the Board (*including those approved through the Rural Site Plan process*), may be processed administratively in accordance with 906.02 herein:
  - 906.01.1 Parcel boundary adjustments when no additional parcels are created
  - 906.01.2 Building envelope or no-build zone adjustments that the Director determines are minor in nature and otherwise consistent with the original exemption approval
  - 906.01.3 Addition of land to an existing exemption parcel
- 906.02 The following submittal process is established for an administrative exemption amendment:

- 906.02.1 A presubmittal meeting shall be required to determine whether the exemption amendment is eligible for administrative processing and to determine the submittal and exemption exhibit requirements.
- 906.02.2 Following the receipt of a complete land use application, the staff planner shall prepare a report and recommendation for the Director's consideration. Responses from referral agencies may be requested as part of the review process, as appropriate.
- 906.02.3 The Director shall approve, approve with conditions, or deny the exemption amendment. A denial by the Director may be appealed, in writing, to the Board within 10 days from the date of the denial by the Director.

### 907 Exemption Exhibit

The applicant shall submit an exemption exhibit prepared on a sheet size approved by the staff planner, at a scale that best conveys the detailed survey, with a 1" margin entirely blank on all sides, as follows: *(Amended 3/25/14)*

- 907.01 The exemption exhibit shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado. *(Amended 8/25/99)*
- 907.02 A written legal description and a map showing all boundary lines and dimensions of the land to be exempted drawn at a scale of 1"=50' or 1"=100', or another scale approved by the Director.
- 907.03 When the sheet size is determined by the staff planner to be 24" X 36", the long dimension shall be horizontal. A margin, left entirely blank, a minimum of 1" on all sides shall be provided on each sheet. The exemption exhibit shall be a tapeless, spliceless, and creaseless original film mylar drawing *(3 millimeters thick)* using only permanent black ink that will adhere to drafting films *(no ball point, transfer type or stickybacks)*; or an acceptable fix-line photographic reproduction, or computer-generated reproduction *(emulsion up)* of the original drawing. Inaccurate, incomplete or poorly drawn plans, as well as, Diazo *(sepia)* or electrostatic-generated *(Xerox)* plans shall be rejected. *(Amended 8/25/99)*
- 907.04 The title shall be placed at the top of the sheet along the long dimension of each sheet and shall include the name of the proposal; project file number; a general legal description stating the aliquot portion of the section, township, range, 6th P.M., Douglas County; total acreage and total number of lots.

Example:

<p><b>SMITH EXEMPTION</b>  A part of the SW/4 NE/4 of Section 10, Township 6 South,  Range 66 West of the 6<sup>th</sup> P.M., Douglas County, CO  26 Acres 2 Residential Lots EX__-_____</p>
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- 907.05 A north arrow designated as true north; a written and graphic scale; the names and addresses of the owner; and date of preparation.
- 907.06 A vicinity map that depicts the area surrounding the proposed exemption within a 1-mile radius superimposed on a current Douglas County Subdivision Map, maintaining the same scale.
- 907.07 Topography of the site at 2' intervals, unless otherwise approved by the staff planner.
- 907.08 Ownership, zoning and use of all adjacent subdivided, unsubdivided and public lands.
- 907.09 Significant features including but not limited to, existing structures, utility lines, natural and artificial drainageways, ditches, lakes, vegetative groundcover, rock outcroppings, geologic features and hazards, dams, reservoirs, excavations, mines, fence lines, driveways, easements, well sites and water lines, septic systems and leach fields and waste lines, unless otherwise waived by the Director *(Amended 3/25/14)*
- 907.10 Signature Blocks *(Amended 8/25/99)*

The following signature blocks are required. All signatures must be signed with indelible black ink only as approved by the Clerk and Recorder. No ball points.

907.10.1 Surveyor

<p>I, (Surveyor's Name), a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this exemption exhibit truly and correctly represents the results of a survey made on (date of survey), by me or under my direct supervision and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:50,000 (second order); and that said exhibit has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivisions or surveying of land and all applicable provisions of the Douglas County Subdivision Resolution.</p> <p>I attest the above on this ____ day of _____, 20____.</p> <p>_____  (signature)  (Surveyor's Name)  Colorado registered Professional Land Surveyor #  Surveyor's seal shall appear with this certificate.</p>
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907.10.2 Clerk and Recorder

STATE OF COLORADO  
COUNTY OF DOUGLAS

I hereby certify that this exemption was filed in my office on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
A.D., at \_\_\_\_\_ a.m./p.m., and was recorded at Reception # \_\_\_\_\_.

\_\_\_\_\_  
Douglas County Clerk and Recorder

907.10.3 Director of Community Development

This exemption was approved by the Douglas County Board of County Commissioners on  
\_\_\_\_ (date) \_\_\_\_, Motion # \_\_\_\_\_

Accepted for recordation by: \_\_\_\_\_  
Director of Community Development Date

907.11 Any other data essential to the exemption request as reasonably may be requested by the staff planner to enable an adequate evaluation of the proposed exemption

908 Alternative Exemption Exhibit (Amended 3/25/14)

When the Director determines that the exemption exhibit can be adequately depicted by a land survey plat prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado and that topographic or other additional graphic information is not necessary to analyze the exemption request, certain exhibit requirements of Section 907 may be waived by the Director. The land survey plat must accurately depict the property in its present configuration as reflected on the most recent County Assessor maps. Staff shall prepare an approval certificate for the signature of the Director following Board or Director action, if the exemption or exemption amendment is approved. The land survey plat and vicinity map shall be appended to the approval certificate for recordation purposes.

Exemptions creating more than one parcel shall be prepared in accordance with Section 907.

909 Post Approval Actions

909.01 After the Board or Director, as applicable, has approved the exemption or exemption amendment, the applicant shall prepare deeds, when necessary to clarify ownership or transfer property, that accurately describe the land approved by the exemption or exemption amendment and all the necessary easements. The deeds shall also include the following: (Amended 3/25/14)

909.01.1 A statement on the deed, immediately following the legal description:

This deed is given to implement the approval of File # \_\_\_\_\_ on (date) by the Douglas County Board of County Commissioners.

- 909.01.2 A scaled drawing of the site attached as an exhibit
- 909.02 Maintenance agreements as may be deemed necessary by the Board for the proposed use of common facilities and continued maintenance of roads, driveways, water sources, waste disposal facilities and their associated easements shall be recorded with the deed referencing the project number and the date of approval.
- 909.03 Within 90 days of approval of an exemption or exemption amendment, unless stated otherwise in such approval, the applicant shall submit, ready for recordation, the deeds, exemption exhibit, and required easements or maintenance agreements to the staff planner. *(Amended 3/25/14)*
- 909.04 Within 30 days after submittal of the required documentation, the staff planner shall record such documents in the Office of the Clerk and Recorder.
- 909.05 The Director may grant extensions of time up to one year, upon a written request by the applicant. A denial of an extension by the Director may be appealed, in writing, to the Board within 10 days from the date of the denial by the Director. *(Amended 3/25/14)*
- 909.06 If the exemption request or appeal to the Director's decision is denied by the Board, the applicant may proceed with the subdivision request in compliance with this Resolution. An exemption request for the same or substantially the same request, as determined by the Director, shall not be accepted within 60 days of such denial. *(Amended 3/25/14)*

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