

SECTION 14-900 SUBDIVISION EXEMPTION

14-901 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.

14-902 ELIGIBILITY/APPROVAL CRITERIA

- A. The Planning Division Manager or designee shall initially determine whether or not the application meets the intent of the Subdivision Exemption. If the application does not meet the Exemption criteria set forth in these regulations, the application will be required to comply with the applicable subdivision process as set forth in the Land Development Code. For any such requested exemption, the County may require from the applicant any public improvements, right-of-way dedication, dedication of land or cash-in-lieu thereof, as needed to address development impacts of the exemption proposal in accordance with the applicable requirements of the Land Development Code.
- B. The Board may approve Subdivision Exemptions upon the finding that one or more of the following criteria apply:
 1. Land is being used for public or quasi-public purposes including but not limited to: utility facility, park, open space, fire station, sheriff substation, library, metro district office, water/sewage facility, cemetery, and school district facilities.
 2. A boundary line adjustment between parcels of thirty-five acres or greater in size and where no additional parcels are created. An application for exemption that qualifies under this provision may be approved even though the boundary line adjustment may reduce the size of one of the parcels to less than 35 acres.
 3. Exemptions that create additional parcels shall be permitted for parcels with more than one principal residence provided that all of the following criteria are met:
 - a) Each residence was constructed in conformance with the applicable County regulations in effect at the time the residence was constructed;
 - b) Each residence shall have a documented history of continuous use as a single-family dwelling since May 5, 1972;
 - c) Legal and physical access shall be provided to all parcels by public right-of-way or recorded easement acceptable to the Arapahoe County Engineering Division.
 - d) No more than four parcels shall be created from a thirty-five (35)-acre maximum sized parcel.
 4. Other divisions of land that were created by a deed recorded in the Office of the Arapahoe County Clerk and Recorder, without having been first approved for subdivision in accordance with the applicable Arapahoe County Subdivision Regulations in effect at the time of the division, may be approved for a subdivision exemption pursuant to this Section 14-900, *et seq.*, provided that all of the following apply:
 - a) The lot or parcel was created before July 31, 2018.
 - b) The current owners did not create the lot or parcel and had no involvement in the creation of the lot or parcel.

Chapter 14: Subdivision Regulations

- c) Any residential structure(s) shall be served by a public or private central water system or by a permitted well.
- d) Any residential structure(s) shall be served by public sanitation or the applicant shall produce a "Use Permit" from the applicable public health authority that authorizes the use of the onsite wastewater treatment system.
- e) The lots or parcels are zoned for agricultural or single family residential use.
- f) The exemption creates no new lots or building sites other than those created by the original deed that effected the land division.
- g) If it is determined by reason of the nature and scope of the exemption request, that the application reasonably should be processed as a subdivision or minor subdivision or by evidence that the applicant is improperly attempting to use this exemption process to circumvent the Subdivision Regulations, the applicant shall not be permitted to process an exemption plat and instead be required to process an appropriate subdivision plat that complies with the applicable provisions of the Subdivision Regulations in order to cure the improper land division.

14-903 ADDITIONAL EXEMPTION CRITERIA

- A. No more than four lots or parcels shall be created from a thirty-five (35)-acre maximum sized parcel.
- B. Except for an exemption authorized under 14-902(b)(4), the proposed parcel(s) of land shall be in compliance with the current zoning requirements.
- C. The proposed exemption shall not be contrary to the adopted Arapahoe County Comprehensive Plan.

14-904 PROCESS

- A. Prior to submitting a complete application for the Subdivision Exemption, the applicant shall meet with Arapahoe County staff to determine whether the proposal meets the exemption criteria and to be advised on submittal requirements. 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 process found within this Resolution.
- B. Following the Pre-submittal meeting described in 14-904(A), the Applicant must complete all of the requirements of the review process as prescribed by the PWD Department. The Planning and/or Engineering Division Managers may waive any portion of the formal submittal requirements in writing.
- C. As part of the review process, referral agencies are notified and have the opportunity to respond in writing. The Applicant may be required to pay any fees assessed by these referral agencies in advance of their review. This referral period is up to twenty one (21) days and can be extended by up to thirty (30) additional days by mutual consent of the Applicant and the Planning Division Manager or designee.
- D. When all outstanding referral and review issues and comments have been satisfactorily addressed, the application will be scheduled with the Board of County Commissioners.

Chapter 14: Subdivision Regulations

- E. The Subdivision Exemption submittal, along with the recommendations of staff, shall be presented at a public meeting on the consent or general business agenda of the Board of County Commissioners. The Board shall evaluate the Subdivision Exemption, staff recommendations, referral agency comments, public testimony and other information relevant to the plan, and shall either approve, conditionally approve, or deny the Subdivision Exemption. The Board's action shall be based on compliance with the adopted standards, regulations, policies and other guidelines.
- F. If denied by the Board, the Applicant may pursue subdivision in accordance with the appropriate process contained in this Resolution.

14-905 SUBMITTAL REQUIREMENTS

The following items shall be submitted with each Subdivision Exemption Application:

- A. Completed Land Use Application
- B. Application fee
- C. Written Letter of Intent describing the proposed development including background information explaining why the request is being made, important geographic details on and off-site that relate to the proposal, potential sales contracts for parcel(s) being developed and any other pertinent information for clarification.
- D. For exemption applications made under Section 14-902(B)(4), a sworn and notarized affidavit from the applicant affirming that they did not create the land division without proper subdivision approval and did not have any involvement in such land division.
- E. Certification that all taxes due on the property have been paid.
- F. Proof of ownership, which includes a current or updated title insurance policy or other acceptable form of ownership and encumbrance verification, not more than thirty (30) days old.
- G. As necessary, property deeds proving the date the property was created in its current configuration.
- H. If applicable, a notarized Letter of Authorization from all landowners permitting a representative to process the application with a disclaimer that no other party's consent is required.
- I. Subdivision Exemption exhibits with all supporting documents required by staff (per this Section 14-905 herein). The format for all exhibits shall be in upper-case sans-serif. Font size shall be readable when reduced to an 11x17-inch size. No exhibits shall include copyright restrictions.
- J. Evidence of permanent easement or public road access to public rights-of-way for all parcels.
- K. Permanent utility easement(s) shall be provided where necessary.
- L. Proposed source of water and sewage treatment shall be stated. If the proposed parcel to be created lies within Special District providing water and sewage treatment services, a "will serve" letter from that District must be submitted with the exemption application.
- M. The County may require an exhibit with additional information such as zoning, adjacent uses, and other pertinent features of the property, including but not limited to, existing structures, utility lines, natural and artificial drainage-ways, ditches, lakes, vegetative groundcover, rock outcroppings, geologic features and hazards, dams, reservoirs, presence of delineated floodways or floodplains, mines, fence lines, driveways, easements, well sites, septic systems and leach fields.

14-906 PLAN EXHIBIT

- A. The Subdivision Exemption exhibit shall be a photographic mylar or equivalent (prepared such that the text/line work does not bleed, flake, or scratch off) on 24" x 36" single/double matte

Chapter 14: Subdivision Regulations

mylar. The drawing shall be in upper case sans serif with a minimum 12-point font unless otherwise approved by the Planning Division Manager or designee.

- B. The title of the Subdivision Exemption shall be located at the top of each sheet. On each sheet a subtitle, in smaller lettering, shall indicate the quarter (1/4) section(s), section(s), Township and Range in which the Subdivision Exemption is located. The name of the county and the state shall be included in the subtitle.
- C. Each sheet of the Subdivision Exemption shall show the date of the survey, north arrow, and the written and graphic scale. The drawing date and any revision dates shall be shown on the cover sheet. The minimum scale of the drawing shall be one (1) inch to one hundred (100) feet. Enough sheets shall be used to accomplish this end.
- D. Vicinity Map (scale of 1" = 2000' preferred) showing the Subdivision Exemption in relation to section lines and existing or proposed streets within one mile.
- E. The Surveyor's Certificate of Survey. The acceptable format is located in Section 16-100, herein.
- F. The Board of County Commissioners Approval Block. The acceptable format is located in Section 16-100, herein.
- G. An accurate and complete Monumented Land Survey pursuant to paragraph thirteen (I 3) of Section 38-51-102 of the Colorado Revised Statutes, shall be made of the land to be included in the Subdivision Exemption. A traverse of boundaries when computed from field measurements on the ground must have a minimum unadjusted ratio of closure of one (1) part in fifteen thousand (15,000).
- H. Legal Description of the land included in the Subdivision Exemption.
 - 1. The Monumented land Survey shall be an accurate reflection of the legal description.
 - a) The legal description shall be in the following format:

A parcel of land in the ___ 1/4 of Section, Township ___ South, Range ___ West of the Sixth Principal Meridian, County of Arapahoe, State of Colorado more particularly described as follows:
 - b) The legal description shall be by metes and bounds, incorporating a complete traverse and the accuracy standards as described in 14-905.07 above. The area to the nearest one hundredth of an acre (.01) more or less shall be included.
 - 2. A legal description of any parcel within the Subdivision Exemption shall be prepared in the manner described above.
- I. The Point of Beginning of the Subdivision Exemption shall be tied (distance and bearing) to two adjacent section or quarter section corners of the Public Land Survey System. The monument found/set at the section or quarter section corners must be described on the Exhibit.

Chapter 14: Subdivision Regulations

- J. The surveyor shall rehabilitate or upgrade any section or quarter section corner used to control the survey of the Subdivision Exemption as required by the Rules of Procedure promulgated by the State Board of Registration for Professional Engineers and Professional Land Surveyors.
- K. A Basis of Bearing statement in a format acceptable to the State Board of Registration for Professional Engineers and Professional Land Surveyors shall be included on the Exhibit. The line being referenced shall be shown on the exhibit and the survey of the Subdivision Exemption shall be tied to the line being used for the Basis of Bearing.
- L. A Colorado Land Survey Monument Record for each section or quarter section corner used to control the survey of the Subdivision Exemption shall be prepared at the time the Subdivision Exemption is submitted to the County. Each Monument Record shall describe both supporting and contradicting evidence, as well as the monument found and accepted, established, restored or rehabilitated, and at least three (3) accessory or reference points.
 - 1. If the latest Monument Record on file describes the existing monument, meets the above described criteria, and the reference points are still existing, the surveyor only needs to submit a copy of the existing Monument Record with the Subdivision Exemption.
- M. The Exhibit shall show complete survey and mathematical information, including curve data, and other data necessary to locate all monuments and locate and retrace any interior parcel lines. Distance and bearings shall be used.
- N. The boundary of the Subdivision Exemption shall be delineated with a heavy solid line.
- O. The Exhibit shall include all appropriate notes and signature blocks described in Section 16-100 herein.
- P. Ownership and recording information of all adjacent parcels shall be shown.

14-907 POST APPROVAL ACTIONS

Prior to the County's recognition of parcel(s) created through an Exemption, the approved Exemption Exhibit shall be recorded in the Office of the Arapahoe County Clerk and Recorder. The recordation of the approved Exemption and associated documentation shall occur within ninety (90) days of approval by the Board. Within thirty (30) days of receipt of the all required documentation described below, the staff planner shall obtain the signatures of the Board Chair, attested by the Clerk and Recorder and record the documents. Prior to recording of the Subdivision Exemption, the Applicant shall submit the following items:

- A. The Applicant must submit all required documentation, recordation fees, a certificate of taxes paid along with the amended Exemption exhibit in accordance with the Board of County Commissioner's approval.
- B. The Applicant shall provide evidence through a current title insurance policy or commitment that the signature of the owner on the final mylar is the owner of the property.

Chapter 14: Subdivision Regulations

- C. When necessary to clarify ownership or to accurately transfer property, the Applicant shall prepare deeds that accurately describe the land approved by the Exemption and all necessary easements. The deeds shall be recorded concurrently with the Exemption Exhibit and shall also include the following:
 - a) A statement on the deed, immediately following the legal description, that states:
“This deed is given to implement a Subdivision Exemption from Article 28 of Title 30 of the Colorado Revised Statutes (SB35), File (#), on (date) by the Board of County Commissioners.”

- D. Within 60 days of approval of the Exemption, unless stated otherwise in such approval, the Applicant shall submit a photographic mylar or equivalent (prepared such that the text/line work does not bleed, flake, or scratch off) of the approved Exemption plat ready for recordation except for the signatures of the Board Chair or designee. An original drawing in black ink is also acceptable.

- E. 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. The PWD Department shall record such documents in the Office of the Clerk and Recorder.

- F. For good cause shown, the Planning Division Manager or designee may grant a time extension to the deadlines stated in this Section 14-907 for up to one (1) year, upon a written request by the Applicant. If required documents are not provided before the expiration of the time extension, the exemption approval shall lapse and the exemption case shall be closed.

- G. If the Exemption request 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 Planning Division Manager, shall not be accepted within one (1) year of such denial.

14-908 ADDRESS PLAT NOT REQUIRED

Arapahoe County will assign addresses within subdivision exemptions if they have not been assigned already.