

Code Excerpts



Exemption Plat

Excerpt from Article 9 • Exemption Plat

9-300 Exemption Plats

- A. The Board of County Commissioners may grant exemptions from the application of the Subdivision Regulations pursuant to the requirements of Article 9-300 where the proposed division involves Subdivided Land.
- B. Unsubdivided Land is not eligible for an Exemption Plat unless:
 1. it is part of an application to add it to Subdivided Land to create a Subdivided Lot of 35 acres or more; or
 2. the county has received proper notice in a judicial process; and a court has entered an order changing the boundary lines shown on a Plat or the action has been settled through a boundary line agreement; or
 3. it is part of an application involving Subdivided Land where both Parcels meet the definition of a Building Lot, as described in 9-100.A.7.
- C. The minor divisions of land set forth in Article 9-301 are exempt from application of the Subdivision Regulations and do not require a public hearing before the Board (“Administrative Exemption Plat”).
- D. No Exemption Plat approval shall permit an increase in the number of Subdivided Lots unless any additional resulting Subdivided Lot is 35 acres or more, unless the additional density was recognized through a court action where the County was given timely notice of the pending action by the court and given the opportunity to join as a party in interest in the proceeding, or unless the Parcel adding the additional density meets the definition of a Building Lot in Article 9-100.A.7.

9-301 Administrative Exemption Plats

- A. Administrative Exemption Plats Through Criteria Review
 1. The Director may approve an application for an Administrative Exemption Plat if the Director has determined that there is no potential for any significant conflict with the criteria listed in 9-400 of this Code such that no conditions to mitigate land use impacts of the proposal are necessary;
 2. If the Director approves an Administrative Exemption Plat, the Director shall notify the owners of property located within 1500 feet of the affected property of the decision and provide such property owners with the opportunity to appeal the decision to the Board.
 3. The Director’s determination is final after 14 calendar days from the date of notice unless appealed to the Board of County Commissioners under the provisions of Article 9-600.
 4. Once the Director’s determination is final, the Director will present the final Exemption Plat to the Chair of the Board for a signature.

- B. Administrative Exemption Plat to Resolve Property or Boundary Line Disputes
 - 1. The Director may approve an application for an Administrative Exemption Plat to finalize a division of a Subdivided Lot or lots by state court or through a boundary line agreement under § 38-44-112 to settle an action seeking a division of a Subdivided Lot by state court that meets any of the definitions of a Building Lot in Article 9-100.A.12.a-d. The Director will present the final Exemption Plat to the Chair of the Board for a signature.
 - 2. Recognition as a Building Lot of a Subdivided Lot changed by a state court or a boundary line agreement, to settle an action seeking a change to the Subdivided Lot by a state court, that does not meet the definition of a Building Lot is subject to the Exemption Plat criteria in 9-400 and requires a hearing before the Board of County Commissioners.
- C. Administrative Exemption Plat for Subdivided Lots for Which the County Issued Permits
 - 1. The Director may approve an application for an Administrative Exemption Plat to finalize a division of a Subdivided Lot that meets the definition of a Building Lot in Article 9-100.A.7. The Director will present the final Exemption Plat to the Chair of the Board for a signature.

9-302 Vacations

- A. Road and utility easement vacations, resulting from Subdivided Lot reconfigurations through this process or otherwise requiring changes to the Plat, shall be heard and acted upon by the Board, in conjunction with the Exemption Plat hearing, following review of the vacation through the process in Article 10 of this Code by Planning Commission.

9-400 Review Criteria for Subdivision Exemptions and Exemption Plats

- A. A Subdivision Exemption or an Exemption Plat shall meet the following criteria:
 - 1. For Subdivision Exemptions only, if the exemption would result in an increase in the number of currently existing lots, any identified land use impacts associated with the increase are sufficiently mitigated.
 - 2. For Exemption Plats only, if the originally-approved Subdivided Lots were 1.1 acres or less, the size of each of the proposed lots shall not change by more than fifteen percent, unless served by public water and/or sewer.
 - 3. The proposed lots shall have legal access.
 - 4. The proposed lots and potential development on them shall be capable of being served by an adequate physical access, including for emergency and non-emergency purposes, which meets the requirements of the County Engineer, and, if applicable, the local fire protection district.
 - 5. The proposed lots and potential development on them shall be capable of being served by an adequate water supply.
 - 6. The proposed lots and potential development on them shall be capable of being served by an adequate on-site wastewater system or sewage treatment system as required by Boulder County Public Health.
 - 7. Adequate public facilities and services shall exist to serve the proposed lots and potential development on them.
 - 8. If any of the proposed lots are in the Floodplain Overlay District:
 - a. The potential impacts of creating the proposed lots or portions of proposed lots within the Floodplain Overlay District shall be sufficiently mitigated; and
 - b. the development upon the proposed lots shall be possible outside the Floodplain Overlay District; or
 - c. the potential development upon the proposed lots shall be capable of obtaining a floodplain development permit under Article 4-400 of this Code, as determined by the County Engineer.
 - 9. The proposed lots and development on them shall be in harmony with the character of the neighborhood and compatible with the surrounding area and shall be appropriately landscaped and screened to minimize the obtrusiveness of structures and maximize visual blending with the surrounding topography.
 - 10. The proposed lots and potential development on them shall not be subject to, or contribute to, significant risk from natural hazards such as unstable soils, steep or unstable slopes, floods, and wildfire.
 - 11. The proposed lots and potential development on them shall not have a significant adverse impact on environmental resources identified in the Comprehensive Plan or through the review of the application, such as Wetlands and Riparian Areas; plant communities and vegetative cover; Critical Wildlife Habitat and Migration corridors; Natural Areas and Natural Landmarks; Environmental Conservation Areas; agricultural, forestry, or open lands; and views, vistas, and scenic corridors.
 - 12. The proposed lots and potential development on them shall not have a significant adverse impact on historic, cultural, or archaeological resources identified in the Comprehensive Plan or through the review of the application.
 - 13. The proposed lots and potential development on them shall not cause unnecessary or excessive site disturbance or erosion, or alter historic drainage patterns.

14. The proposed lots and potential development on them shall be in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development, and this Code.
15. Where the division creates Parcels for use as community facilities such as public parking areas, public or private educational facilities, public parks, and open space purchase by a public entity, and utility land acquisitions including for utility substations without any dwelling units, an exemption may be approved for the placement of a community facility where the size, location and available services are reasonable, appropriate, and customary for the proposed use.

9-500 Conditions of Approval and Post-Approval Requirements for Subdivision Exemptions and Exemption Plats

- A. If an application for a Subdivision Exemption or an Exemption Plat does not meet all the listed criteria for approval, the Board, in its discretion, may impose reasonable conditions which allow a proposal to meet the criteria. Nothing in this provision shall require the Board to impose conditions if, in the Board's discretion, the Board determines that a reasonable basis for mitigation does not exist and that the application shall therefore be denied.
 1. Conditions of approval which the Board may impose to allow an application to meet the listed criteria include, without limitation, structure height or floor areas restrictions; designation of building envelopes or locations in which structures, buildings, or site disturbance shall be confined; landmarking to protect historic or cultural resources; designation of preserved areas of land; required management practices to maintain preserved land, protect environmental resources, minimize erosion, control or eliminate noxious weeds or undesirable plants, regulate drainage, and prevent hazards both on and off the subject property including through wildfire mitigation; landscaping or other appropriate screening measures including through limiting building materials or colors; landowner grant of a Conservation Easement or restrictive covenant running with the land to preserve, and avoid the over-intensive use of, sites with recognized conservation and open land values; and purchase and retirement of development rights to mitigate an increase in density recognized through a Subdivision Exemption approval.
 2. In exercising its discretion to determine whether an Exemption Plat meets or does not meet the listed criteria, the Board may weigh the evidence on the criteria which is presented, with regard to the property taxation treatment of the subject Subdivided Land, conveyancing history of the subject Subdivided Land, land use regulatory history of the Subdivided Land, existing development on the subject Subdivided Land, and reasonable investment backed expectation of the landowner in the subject Subdivided Land.
- B. Post-Approval Requirements
 1. The Board or Director may impose post-approval requirements upon any approved Exemption Plat or Administrative Exemption Plat including, without limitation, a title report including all owners as of the date of recordation of the new Deeds; that the owner include appropriate language on any required Deeds; and certification from the County Treasurer's Office that there are no outstanding ad-valorem taxes to be paid on the property being exempted.

9-600 Appeal of Director's Determination

- A. The Director's determination, made under Article 9-201 or 9-301.A, of whether an application meets the criteria in Article 9-400 for a Subdivision Exemption or an Exemption Plat may be appealed to the Boulder County Board of County Commissioners.
 1. If any person aggrieved by the Director's determination files an appeal with the Land Use Department in writing within 14 calendar days, the Board shall review the Director's determination at a public hearing. If no appeal is made within 14 calendar days after the date of the determination, the Director's determination is final.
 2. Prior written notice of the public hearing on the appeal shall be provided to the applicant and to property owners within 1500 feet and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.
 3. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in its review to the subject of the appeal but may review any aspect of the application. Based upon this evidence the Board may affirm the Director's decision, add new conditions, or reverse the Director's determination. In the case of denial of an application, the Board shall state its reasons for its decision based upon the criteria in the applicable article of this Code.
- B. The Director's determination, made under Article 9-301.B or 9-301.C, of whether an application meets the requirements for approval may be appealed to the Boulder County Board of Adjustment under the provisions of Article 4-1200.

9-700 Expiration of Subdivision Exemption and Exemption Plat Approval

- A.** The Board of County Commissioners' or Director's decision to approve or conditionally approve an Exemption Plat or Subdivision Exemption shall, unless otherwise stated in such action, be effective for a period of one calendar year from the date of approval to the date of recordation of all required documents.
- B.** The Board of County Commissioners or Director may grant up to two extensions of deadlines of no more than one year each for those dates specified in this Article, if they find that there has been no change in this Code, the Comprehensive Plan, or the surrounding neighborhood which would substantially affect the approved exemption.
- C.** On an annual basis, the Director may present to the Board of County Commissioners all those applications that will expire in the coming year and may need extensions of processing time.