

Section 10 – Exemption

(orig. 4-20-10)

A. Intent and Purpose

This process was created in order to allow approval of development proposals that have minimal impacts to the health, safety and welfare of the citizens of Jefferson County. The process was developed based on the statutory allowance for the Board of County Commissioners to exempt certain development activities from the terms "subdivision" or "subdivided land" as set forth in Section 30-28-101, C.R.S., as amended. The process outlines time frames and expectations that should provide the applicant with a clear understanding of the steps involved prior to being scheduled for hearing before the Board of County Commissioners. The Planning Director may waive the time frames included in this process depending on Planning and Zoning staffing levels and the complexity of the proposal. (orig. 4-20-10)

B. Application

1. The Exemption Process may be used for the following types of development activities, provided the limitations set forth are met. The development activities and limitations described below can only be waived or modified by direct action of the Board of County Commissioners in a public hearing. The Planning Director's waiver authority described in the Waivers section of this Regulation shall not extend to the development activities and limitations set forth below. (orig. 4-20-10)
 - a. Improper Division: The correction of an improper division of land, where the applicant demonstrates compliance with the following limitations: (orig. 4-20-10)
 - (1) The correction is not eligible for the Residential Structure Exclusion as described in this Regulation. (orig. 4-20-10)
 - (2) The applicant swears that he or she was unaware of the improper division at the time of transfer of ownership. (orig. 4-20-10)
 - (3) The applicant wishes to correct the improper division of a single parcel, regardless of the number of improperly created parcels acquired in the sale. (orig. 4-20-10)
 - (4) The applicant has demonstrated a diligent and unsuccessful attempt to obtain relief from the sale of the improperly divided parcel. (orig. 4-20-10)
 - (5) The applicant has not used the Exemption Process in the past to correct another improper division. (orig. 4-20-10)
 - b. Pre-1972 Parcel Ownership: The division of residential property, where the applicant demonstrates compliance with the following limitations: (orig. 4-20-10)
 - (1) The original parcel must have been created on or before May 5, 1972. (orig. 4-20-10)
 - (2) Legal and equitable title was vested in the applicant on or before May 5, 1972 and the property has been owned continuously by the applicant since May 5, 1972; (orig. 4-20-10)
 - (3) The property has not been previously platted. (orig. 4-20-10)
 - (4) The property will be divided into three or fewer lots. (orig. 4-20-10)
 - (5) No lot shall be created which is less than 10 acres. (orig. 4-20-10)
2. A nonrefundable processing fee in an amount established by the Board of County Commissioners is required for this process. (orig. 4-20-10)
3. Notification is required in accordance with the Notification section. (orig. 4-20-10)
4. The following procedure and requirements shall apply to Exemption applications. (orig. 4-20-10)

C. Procedure

If the applicant complies with all given time frames, submits a complete application and complies with all requirements of this Regulation, the estimated time to reach the public hearing phase of the process is 79 calendar days from the date of the 1st Referral. (orig. 4-20-10)

Process Steps	Processing Time Frames	
Optional Pre-Application Review Process or Meeting with Staff	Prior to Process	
Steps prior to 1st Referral		
Sufficiency Review	7 calendar days	
Formal Application	3 calendar days	
Process from 1st Referral to Public Hearing		
1st Referral	14 calendar days	79 Days to tentatively scheduled hearing if processing time frames are met.
Forwarding 1st Referral Comments	5 calendar days	
Response 1st Referral	14 calendar days	
Submittal of Revised Documents	3 calendar days	
2 nd Referral	7 calendar days	
Forwarding 2 nd Referral Comments	5 calendar days	
Hearing Documents	10 calendar days	
Hearing Preparation	21 calendar days	
Public Hearing and Post Hearing Review		
Board of County Commissioners Hearing	Time varies based on BCC actions; and applicant meeting approval conditions	
Post Hearing Review		

Prior to submitting an application for this process, it is recommended that the applicant go through the Pre-Application Review Process, as identified in the Pre-Application Review Process Section. The Pre-Application Review Process will help identify the key issues that will need to be addressed during the process and will also help to establish the specific submittal requirements. The specific submittal requirements can also be established by obtaining an appointment with Staff to discuss the proposal. (orig. 4-20-10)

Steps Prior to 1st Referral

1. Sufficiency Review: The applicant shall submit all documents as identified in the Submittal Requirements Section for review by Staff. (orig. 4-20-10)

Staff shall have 7 calendar days to review this submittal. (orig. 4-20-10)

Staff will review the sufficiency application to determine if the submittal documents are complete. Following this review, Staff will prepare a letter explaining any deficiencies in the submittal documents. The letter will include a referral matrix that identifies the referral agencies that will require referral documents. The response from Staff will also include a request for the applicant to submit the notification documents that are required to be mailed when the case is sent out on the 1st Referral. The applicant shall revise the submittal information as may be required to comply with County standards and then submit the Formal Application. (orig. 4-20-10)

2. Formal Application: The applicant shall submit all documents as identified in the Staff response to the Sufficiency Review. (orig. 4-20-10)

The Case Manager shall have 3 calendar days to refer the application and referral fees to County divisions/departments and other agencies. A submittal package that is not complete in terms of the type and quantity of documents required will not be sent out on referral. (orig. 4-20-10)

Process from 1st Referral to Public Hearing

3. 1st Referral: The referral agencies shall have 14 calendar days to respond in writing to the application. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 4-20-10)

Notification is required at the time of the 1st Referral in accordance with the Notification section. (orig. 4-20-10)

The Case Manager will tentatively schedule the Board of County Commissioners hearing when the application is sent out on the 1st Referral. The Board of County Commissioners hearing will be tentatively set to the first available hearing date after 79 calendar days from the date of the 1st Referral. (orig. 4-20-10)

4. Forwarding 1st Referral Comments: The Case Manager shall have 5 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral agency responses. If the Case Manager indicates that the application is in substantial conformance with all applicable regulations and that only minor revisions to the documents are required, the application may proceed directly to the Hearing Documents phase of the process. Under this circumstance, the application will be scheduled for a hearing date earlier than that tentatively scheduled at the time of the 1st Referral. (orig. 4-20-10)
5. Response to 1st Referral: The applicant shall have 14 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and resubmit revised documents for the 2nd Referral. The applicant will be deemed to have consented to a later hearing date, than the tentatively scheduled hearing date, if the resubmittal is not received within the 14 calendar day period. (orig. 4-20-10)

The applicant shall have a maximum of 120 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fee and documents. The Planning Director may extend this 120 calendar day maximum response deadline for additional 120 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 4-20-10)

6. Submittal of Revised Documents: The Case Manager shall have 3 calendar days to refer the revised documents and referral fees to County divisions/departments and other agencies. A submittal package that is not complete in terms of the type and quantity of documents required will not be sent out on referral. (orig. 4-20-10)
7. 2nd Referral: The referral agencies shall have 7 calendar days to respond in writing to the 2nd Referral. (orig. 4-20-10)
8. Forwarding 2nd Referral Comments: The Case Manager shall have 5 calendar days after the end of the referral period to provide the applicant with a Staff response inclusive of referral agency responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to hearing or if revised documents should be submitted for a subsequent referral process. (orig. 4-20-10)

If the applicant has not consented to a later hearing date based on the time frames of this Regulation and chooses to move forward to the tentatively scheduled hearing, the applicant shall submit the Hearing Documents as requested by the Case Manager in accordance with the Hearing Documents phase of the process. (orig. 4-20-10)

9. Response to 2nd Referral Comments: The applicant shall have a maximum of 120 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Planning Director may extend this 120 calendar day maximum response deadline for additional 120 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 4-20-10)
10. Additional Changes: For the 3rd Referral, and for any subsequent referrals thereafter, the Case Manager shall have 3 calendar days to refer the revised documents and referral fees to County divisions/departments and other agencies. A submittal package that is not complete in terms of the type and quantity of documents required will not be sent out on referral. (orig. 4-20-10)

The referral agencies shall have 7 calendar days to respond in writing to the 3rd Referral, and for any subsequent referrals thereafter. (orig. 4-20-10)

The Case Manager shall have 5 calendar days after the end of the 3rd Referral, and for any subsequent referrals thereafter, to provide the applicant with a full Staff response inclusive of referral agency responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to hearing or if revised documents should be submitted for a subsequent referral process. (orig. 4-20-10)

The applicant shall have a maximum of 120 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Planning Director may extend this 120 calendar day maximum response deadline for additional 120 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 4-20-10)

11. Hearing Documents: The Hearing Documents shall be comprised of the revised Exemption Document and other final documents as identified by the Case Manager. (orig. 4-20-10)

If the applicant has not consented to a later hearing date based on the time constraints of this process, the applicant shall have 10 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and submit the Hearing Documents for the tentatively scheduled hearing. The applicant will be deemed to have consented to a later hearing date if the Hearing Documents are not received within the 10 calendar day period. (orig. 4-20-10)

The applicant shall have a maximum of 120 calendar days to respond to the referral comments or to submit the hearing documents, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fee and documents. The Planning Director may extend this 120 calendar day maximum response deadline additional 120 calendar days periods if, in his/her opinion, the delay in response is for good cause. (orig. 4-20-10)

12. Hearing Scheduled: If the applicant has consented to a later hearing date based on the time frames of this Regulation, the Board of County Commissioners hearing will be scheduled for the first available hearing date after 21 calendar days from the submittal of the Hearing Documents. (orig. 4-20-10)

13. Hearing Preparation:

- a. Revisions to Documents Prior to Hearing: To ensure completeness and to allow adequate public review, no substantial revisions or additions, except in response to a Staff request, or those specifically requested by the Board of County Commissioners, may be made to any application or supporting documents within 21 days prior to any hearing. (orig. 4-20-10)

- b. Notification: Notification of the scheduled hearing is required in accordance with the Notification section. (orig. 4-20-10)

Public Hearing and Post Hearing Review

14. Board of County Commissioners Hearing: The Board of County Commissioners shall review the application, the Staff report, receive testimony and evidence on the application, and shall approve, conditionally approve or deny the application. The Board of County Commissioners may continue the request for no more than 40 calendar days without the consent of the applicant; but in no event shall the case be continued for more than 180 calendar days. The continuance of a request shall be to a date certain. (orig. 4-20-10)

15. Post Hearing Review:

The applicant shall comply with all conditions of approval within 180 calendar days from the approval date by the Board of County Commissioners. If the applicant does not comply with the conditions within this timeframe, the approval shall be automatically rescinded. The Planning Director may extend this 180 calendar day recordation deadline for additional 180 calendar day periods if, in his/her opinion, the delay is for good cause. (orig. 4-20-10)

The Case Manager shall have 7 calendar days to review all documents submitted by the applicant for compliance with the approval conditions. If the revisions have been made in accordance with the approval conditions, the Case Manager will authorize the preparation of the Exemption mylar and final documents. If additional revisions are required to meet the approval conditions, the Case Manager will return a letter to the applicant identifying the revisions that must be made in order to comply with the approval conditions. (orig. 4-20-10)

At such time as the applicant complies with the approval conditions, submits the executed Exemption mylar and other final documents, and pays the recordation fees, Staff will obtain the

required County approval signatures on the Exemption mylar and final documents, and have the documents recorded, as appropriate. (orig. 4-20-10)

D. Format

1. The format of the Exemption document shall comply with the Final Plat provisions for format, survey, certificates and notes as set forth in this Regulation and in accordance with County procedures. (orig. 4-20-10)