

## Section 12 – Residential Structure Exclusion

(orig. 4-20-10)

### A. Intent and Purpose

This process allows an administrative approval of an improper transfer of any lot or parcel for residential properties with an existing residence, meeting specific criteria. 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 final determination by the Director of Planning and Zoning. The Director of Planning and Zoning 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; am. 12-21-10)

### B. Application

1. The Residential Structure Exclusion 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 authority of the Director of Planning and Zoning, described in the Alternative Standards/Requirements section of this Regulation, shall not extend to the development activities and limitations set forth below. (orig. 4-20-10; am. 12-21-10; am. 12-09-14)
  - 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) A residential structure exists on the lot or parcel, and the appropriate building permits were obtained. If the residential structure was built prior to the time that Jefferson County was issuing building permits, then verification through a search of the Jefferson County Assessor records for year built may satisfy the requirement of a valid building permit. (orig. 4-20-10)
    - (2) The improper lot or parcel was created before September 10, 2002, the date of the Board of County Commissioner adoption of the regulatory Residential Structure Exclusion Policy and Procedure (CC 02-427). (orig. 4-20-10)
    - (3) The current owners did not create the improper lot or parcel, and swears that they were not aware of the improper division at the time of transfer of the property to their ownership. (orig. 4-20-10)
    - (4) If the improper division was the result of the adjustment of boundaries between previously proper divisions of land, then the owner must prove an unsuccessful attempt to resolve the improper division of land with the other owners through an appropriate County process. A letter from an owner stating that they will not participate; a copy of a certified mailing and/or personal contact by County Staff will serve as verification of such unsuccessful attempt. Any owners unwilling to work together to resolve the improper of land shall not qualify for a future Residential Structure Exclusion process to bring their property into conformance. (orig. 4-20-10)
    - (5) The lot or parcel size complies with the Zone District minimum land area requirements that existed at the time the lot or parcel was subdivided, or a variance to the lot or parcel size has been granted. (orig. 4-20-10)
    - (6) The residential structure is served by a public or private central water system or by a permitted well. (orig. 4-20-10)
    - (7) The residential structure is served by public sanitation or by a permitted individual sewage disposal system. The type of sewage disposal system and the minimum lot or parcel size that shall meet the Public Health requirements in effect at the time the lot or parcel was subdivided, unless the Board of Health has granted a variance. (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. The following procedure and requirements shall apply to Residential Structure Exclusion 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 determination phase of the process is 63 calendar days from the date of the 1st referral. (orig. 4-20-10; am. 12-21-10)

Process Steps	Processing Time Frames
Optional Pre-Application Review Process or Meeting with Staff	Prior to Process
<b>Steps prior to 1st Referral</b>	
Formal Application/Sufficiency Review	3 calendar days
<b>Process from 1st Referral to Determination</b>	
1st Referral	14 calendar days
Forwarding 1st Referral Comments	5 calendar days
Response 1st Referral	14 calendar days
Submittal of Revised Documents	3 calendar days
2 <sup>nd</sup> Referral	7 calendar days
Forwarding 2 <sup>nd</sup> Referral Comments	5 calendar days
Final Documents	10 calendar days
Determination Preparation	5 calendar days
<b>Determination</b>	
Determination	Time varies based on Director of Planning and Zoning action and the applicant meeting approval conditions

Prior to submitting an application for this process, the applicant may choose to 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. Formal Application/Sufficiency Review: The applicant shall submit documents identified in the Submittal Requirements Section for review by Staff. (orig. 4-20-10)

Staff shall have 3 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 either send the documents out on the 1st Referral or prepare a letter explaining the deficiencies in the submittal documents. If revisions to the documents are required, the applicant shall revise the documents to comply with County standards, and then resubmit the documents for the 1st Referral. The Case Manager shall have 3 calendar days to send revised documents out on referral. (orig. 4-20-10)

**Process from 1st Referral to Determination**

2. 1st Referral: The referral agencies shall have 14 calendar days to respond in writing to the application. An extension of no more than 30 days may be agreed to by the applicant. (orig. 4-20-10)

The Case Manger will identify the tentative date for a decision to be made on the application based on the time frames of this process. This date will be set when the application is sent out on the 1st Referral. (orig. 4-20-10)

3. 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 Final Documents phase of the process. Under this circumstance, the application will be able to reach the Determination phase of the process earlier than the date tentatively scheduled at the time of the 1st Referral. (orig. 4-20-10)

4. 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 determination date than that tentatively scheduled, 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 and resubmit, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning 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; am. 12-21-10)

5. 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)
6. 2nd Referral: The referral agencies shall have 7 calendar days to respond in writing to the 2nd Referral. (orig. 4-20-10)
7. 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 the Determination Phase 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 determination date based on the time frames of this Regulation and chooses to move forward to the tentatively scheduled Determination, the applicant shall submit the Final Documents as requested by the Case Manager in accordance with the Final Documents phase of the process. (orig. 4-20-10)

8. 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 Director of Planning and Zoning 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; am. 12-21-10)
9. 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 for Determination 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 Director of Planning and Zoning 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; am. 12-21-10)

10. Final Documents: The Final Documents shall be comprised of the executed 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 determination 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 Final Documents for the tentatively scheduled determination. The applicant will be deemed to have consented to a later determination date if the resubmittal is 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 the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning 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; am. 12-21-10)

11. Determination Preparation: The Case Manager shall have 5 calendar days to review the final documents and prepare the Staff recommendation. (orig. 4-20-10)

If the additional revisions are required to comply with County standards, the Case Manager will return a letter to the applicant identifying the revisions that must be made in order to gain Staff support for the proposal. (orig. 4-20-10)

#### **Determination and Post Determination**

12. Determination: The Director of Planning and Zoning shall have 5 calendar days to review the request and Staff recommendation and approve, approve with conditions, or deny the application. The Director of Planning and Zoning may ask for additional documents before making a determination. Upon approval by the Director of Planning and Zoning, Staff shall file the approved Residential Structure Exclusion. (orig. 4-20-10; am. 12-21-10)

13. Appeal: If the Director of Planning and Zoning denies the Residential Structure Exclusion application, the applicant will have 30 calendar days to appeal the denial to the Board of County Commissioners. (orig. 4-20-10; am. 12-21-10)

The appeal shall be in writing and shall state the specific items being appealed and provide reasons and evidence why the decision by the Director of Planning and Zoning regarding the Residential Structure Exclusion application should be overturned. The appeal shall be submitted to the Planning and Zoning case manager. (orig. 4-20-10; am. 12-21-10)

Upon receipt of an appeal by the applicant, the Board of County Commissioners shall consider the Residential Structure Exclusion application. A hearing for said consideration will be scheduled to occur at the first available Board of County Commissioners' hearing date following 21 calendar days from submittal of the request for appeal. At the hearing, the Board of County Commissioners shall affirm, reverse, or modify the decision by the Director of Planning and Zoning, or continue the appeal for such additional hearings as may be necessary to receive additional information, complete testimony, obtain staff response or render a decision. Upon approval of an appeal by the Board of County Commissioners, the document shall be presented to the Director of Planning and Zoning, who shall be authorized to sign the exemption document and to place the document of record. (orig. 4-20-10; am. 12-21-10)

#### **F. 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)