

**SECTION 5-270. SUBDIVISION EXEMPTION**

**A. Exemptions approved by the Board of County Commissioners.** The Board of County Commissioners may, pursuant to a Resolution duly adopted at a public meeting, exempt from the provisions of Section 5-280, Subdivision, any division of land, if it is determined that:

- 1. Not within purpose of Section.** Such division is not within the purposes of Section 5-280, Subdivision. Such divisions may include, but are not limited to, divisions that:
  - a. Condemnation.** Could be created pursuant to powers of condemnation;
  - b. Perpetual Open Space.** Would result in property division for the purpose of perpetual open space; or
  - c. Pre-Existing Lots.** Were created and established in the records of the Clerk and Recorder prior to May 5, 1972, notwithstanding compliance with Eagle County Land Use Regulations in existence at the time of the creation of the parcels. (*am 05/08/12*)
  - d. Lot Line Adjustments.** (*orig. 02/20/01*) Are for the purpose of making a lot line adjustment to correct boundary errors, align boundaries with topographic features, or straighten boundaries. This applies only to contiguous lots, neither of which lies within a subdivision approved pursuant to these Land Use Regulations, and which are not subject to merger with each other pursuant to Section 6-120.B., Contiguous Parcels Under Single Ownership. The Board may exempt a lot line adjustment if:
    - (1)** The total area of land subtracted from the one lot and added to the other, net of any addition to that lot as a result of the lot line adjustment, does not exceed 25% of the total area of the lot from which it is subtracted,
    - (2)** The resulting lots are in substantially the same configuration as the original lots before the adjustment, and
    - (3)** The lot line adjustment:
      - (a)** Does not create a nonconforming (in terms of applicable zoning) lot or increase the nonconformity of any lot, or
      - (b)** The Board determines that:
        - (i)** A site plan can be designed for the nonconforming lot(s) that is consistent with the use requirements of these Land Use Regulations, and minimizes to the greatest degree practicable any nonconformities, and,
        - (ii)** The nonconforming lot(s) can function adequately for its designated land use pursuant to a site plan(s) approved for the nonconforming lot(s) as a part of the exemption, and,
        - (iii)** Notwithstanding the nonconformity(ies) of the lot(s) which results from the adjustment, the site of the nonconforming

lot(s), taken as a whole, provides a more useable lot, or one more compatible with the neighborhood or with the public health and safety, than existed before the adjustment.

2. **Adequate access, adequate potable water, and adequate sewage treatment facilities are available.** Adequate access, adequate potable water, and adequate sewage treatment facilities are available. Pre-existing access shall be exempt from current driveway standards until the use of the access increases due to either a change, or intensity in use. (am 9/27/99) (am 3/12/02)

## B. Procedure.

1. **Initiation.** An application for exemption from Subdivision may be submitted at any time to the Planning Director by the owner or any other person having a written recognizable interest in the land for which the exemption is requested. The application shall contain the materials specified in Section 5-210.D.2., Minimum Contents of Application, and the following additional materials:
  - a. **Survey.** A certified survey of the parcel, including legal description which meets the minimum requirements of a Land Survey Plat pursuant to 38-51-106 C.R.S. Additionally, all record and apparent rights-of-way and easements shall be indicated on the plat. Monumentation shall be shown pursuant to 38-51-108 C.R.S. Further, a computer printout, in text format, of Parcel Summaries shall be provided, including lot closure analyses, block closure analyses, and other appurtenant information. (am 05/08/12)
  - b. **Access.** Demonstration that the proposed exemption has legal and physical access to a public street or right-of-way by conventional vehicle.
  - c. **Water Supply.** Demonstration that the land proposed for exemption will be provided a legal, physical, adequate and dependable potable water supply.
  - d. **Wastewater Disposal.** Demonstration that the land proposed for exemption will be provided a wastewater disposal system, or other lawful means of disposing of human wastes that complies with all applicable public health laws.
  - e. **Hazards.** Satisfactory evidence demonstrating that the exemption will not create hazards and the lot will contain a safe, adequate building site.
2. **Review of application.** The submission of an application for, determination of its sufficiency, staff review of, and notice and scheduling of a public hearing for an application for an exemption from Subdivision shall comply with the procedures established in Section 5.210.D, Common Procedure for Review of Applications.

- C. **Action by Board of County Commissioners.** The Board of County Commissioners shall conduct a public hearing on an application for Exemption to Subdivision. At the public hearing the Board of County Commissioners shall consider the application, the relevant support materials, the Staff Report, and the public testimony given at the public hearing. After the public hearing, the Board of County Commissioners shall approve or disapprove the Exemption for Subdivision based on whether: the

division is within the purposes of Section 5-280, Subdivision; adequate access, potable water, and sewage are available; whether the exemption will not create hazards; and whether the lot will contain a safe, adequate building site. If the Board approves the Subdivision Exemption, staff will present the Exemption Plat to the Chair of the Board for signature.

- D. Administrative Approval of Subdivision Exemptions.** The Planning Director may administratively approve an application for a Subdivision Exemption that falls within section 5.270.1.a and c (“Administrative Subdivision Exemption”). No less than fifteen (15) calendar days prior to the date of the Director’s approval or denial of an application for Administrative Subdivision Exemption, the Director, or its assigns, shall send a notice containing all the information required under Section 5-210.E.1., Notice in Newspaper, by mail, first-class postage prepaid, to all owners of land adjacent to the affected property. The Planning Director, or assigns, shall also be responsible for placing notice in the newspaper in accordance with Section 5-210.E.1, Notice in Newspaper. The Director shall consider the application, relevant supporting materials and any public comment submitted in response to the application for Administrative Subdivision Exemption. On the date set for issuance of the Director’s determination, the Director shall approve or disapprove the Administrative Subdivision Exemption based on whether the division is within the purposes of Section 5-280, Subdivision; adequate access, potable water, and sewage are available; whether the exemption will not create hazards; and whether the lot will contain a safe, adequate building site. The Director’s determination will be posted on Eagle County’s website. The Director’s determination shall be final thirty (30) calendar days from the date of the Director’s decision on the Administrative Subdivision Exemption, unless the determination is appealed to the Board under the provisions of Section 5-2400. Once the Director’s determination is final, the Director will present the Exemption Plat to the Chair of the Board for signature.