

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. A two-family unit must conform to the current International Building Code. 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; am. 7-17-18)
 - (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 in writing that they were not aware of the improper division at the time of transfer of the property to their ownership. (orig. 4-20-10; am. 7-17-18)
 - (4) If the improper division was the result of the adjustment of boundaries between previously proper divisions of land or improper division of a two-family unit on a lot, 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 any other owners will not participate will serve as verification of such unsuccessful attempt. Any owners unwilling to work together to resolve the improper division of land shall not qualify for a future Residential Structure Exclusion process to bring their property into conformance. (orig. 4-20-10; am. 7-17-18)
 - (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 previously been granted. (orig. 4-20-10; am. 7-17-18)
 - (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 Onsite Wastewater Treatment 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; am. 7-17-18)
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

The following are the typical processing steps and timeframes for the development application. 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 83 calendar days from the date of the 1st referral. (orig. 4-20-10; am. 12-21-10; am 7-17-18)

Process Steps	Processing Time Frames	
Optional Pre-Application Review Process or Meeting with Staff	Prior to Process	
Steps prior to 1st Referral		
Sufficiency Review and Referral Distribution or Deficiency Response	5 calendar days	
Process from 1st Referral to Determination		
1 st Referral and Staff Response	21 calendar days (14-day referral, 7 days for Staff response)	83 Days to tentatively scheduled determination if processing time frames are met.
Applicant's Response to 1 st Referral	Varies, 21 calendar days used for example timeframe	
Sufficiency Review and Referral Distribution	5 calendar days	
2 nd Referral and Staff Response	21 calendar days (14-day referral and 7 days for Staff Response)	
Final Documents	10 calendar days	
Determination Preparation	5 calendar days	
Determination		
Determination	Time varies based on Director of Planning and Zoning action and the applicant meeting approval conditions	

Prior to submitting a development application, 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 help to establish the specific submittal requirements. The specific submittal requirements can also be established by obtaining an appointment with Staff to discuss the development proposal. (orig. 4-20-10; am. 7-17-18)

If an applicant is going to request relief from a standard, to avoid processing delays, it is recommended that a request for relief from a standard be submitted early in the development process. Requests for relief of a standard are subject to different specific processing timeframes, which may add to the length to the processing of the development application. (orig. 7-17-18)

Notification is required at the time of the 1st Referral in accordance with the notification provisions of this Regulation. (orig. 7-17-18)

Steps Prior to 1st Referral

1. Sufficiency Review and Referral Distribution (1st Referral):

The applicant shall electronically submit all documents as identified in the Submittal Requirements Section of this Regulation for review by Staff. (orig. 4-20-10; am. 7-17-18)

The Case Manager shall have 7 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents (including the appropriate referral fees). A submittal that is not complete in terms of the type of documents required will not be sent out on referral. (orig. 4-20-10; am. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

Process from 1st Referral to Determination

2. 1st Referral and Staff Response:

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; am. 7-17-18)

The Case Manager shall have 7 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Final Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 7-17-18)

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; am. 7-17-18)

3. Applicant's Response to 1st Referral:

For the application to be processed in accordance with the example timeframe in the table above, the applicant shall have 21 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 21-calendar day period. (orig. 4-20-10; am. 7-17-18)

Regardless of the example timeframe, the applicant shall have a maximum of 180 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 180-calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 4-20-10; am. 12-21-10; am. 7-17-18)

4. Sufficiency Review and Referral Distribution (2nd Referral):

The Case Manager shall have 5 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. A submittal that is not complete in terms of the type of documents required will not be sent out on referral. All resubmittal documents shall be submitted as a complete package and not sent in a fragmentary manner. (orig. 4-20-10; am. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

5. 2nd Referral and Staff Response:

The referral agencies shall have 14calendar days to respond in writing to the 2nd Referral. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 4-20-10; am. 7-17-18)

The Case Manager shall have 7 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 Final Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 7-17-18)

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)

6. Applicant's Response to 2nd Referral Comments:

The applicant shall have a maximum of 180 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 180-calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 4-20-10; am. 12-21-10; am. 7-17-18)

7. Additional Referrals and Response:

For the 3rd Referral, and for any subsequent referrals thereafter, the processing of the application shall

follow the same steps identified above in the Sufficiency Review and Referral Distribution (2nd Referral) process, the 2nd Referral and Staff Response process and the Applicant's Response to 2nd Referral process. The only exception shall be that for the 3rd Referral, and for any subsequent referrals thereafter, the referral agencies shall have 7 calendar days to respond in writing to the referral. (orig. 4-20-10; am. 7-17-18)

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)

8. Final Documents:

The applicant shall electronically submit the Final Documents as identified in the Case Manager response to the last referral. (orig. 4-20-10; am 7-17-18)

9. 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

10. Determination:

This part of the process shall be completed in approximately 10 calendar days. (orig. 7-17-18)

The Case Manager shall review the Final Documents and either prepare the decision memorandum or respond to the applicant explaining any deficiencies in the Final Documents. If the Case Manager identifies deficiencies in the Final documents, then upon resubmittal of the documents the timeframe for this portion of the process will reset to be approximately 10 days. (orig. 7-17-18)

Resubmittal of Final Documents (if required): The Case Manager shall review the Final Documents and either prepare the decision memorandum or respond to the applicant explaining any deficiencies in the Final Documents. (orig. 7-17-18)

The Director of Planning and Zoning shall 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, the Case Manager shall record the approved Residential Structure Exclusion. (orig. 4-20-10; am. 12-21-10; am. 7-17-18)

11. 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)

Notification of the Board of County Commissioners' hearing is required in accordance with the Notification Section. (orig. 7-17-18)

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)