

C. The report shall consist of the following:

1. A map drawn at the same scale as the plan locating all lots, drainage ways, floodplains, slopes in excess of twenty-five percent (25%), surface and subsurface soils hazards, geologic hazards, depth to bedrock, water table depth and other hazards.
2. Percolation tests shall be conducted for no fewer than twenty percent (20%) of the total number of lots in the filing. In cases in which unique geologic, topographic or soils conditions, such as depth to bedrock, depth to water, slopes in excess of ten percent (10%), etc. are found, additional tests may be required.
3. All locations not suited for placement of leach fields due to soils, geologic, topographic or hazard conditions shall be noted on the plan.
4. Relationship of the leach fields to other leach fields, wells, structures, lakes, streams, irrigation systems and other water forms on adjoining parcels. Identify any possible hazards. Such identification shall be based on an analysis of the probable effects of water on the soils, geology and hydrology of the area. (Weld County Code Ordinance 2007-1)

ARTICLE VIII

Exemptions

Sec. 24-8-10. Exemption from definition.

A. The Board hereby determines that land divisions which meet the requirements for exemption in this Article are not within the purposes of Article 28 of Title 30, C.R.S. Pursuant to Subsection 30-28-101(10)(d), C.R.S., such land divisions are exempt from the definition of *subdivision* or *subdivided land* and from following the complete regulations, requirements and procedures set forth in this Chapter. The land divisions shall follow the procedures set forth in this Article. Exemptions approved pursuant to this Article shall be referred to as *recorded exemptions* and *subdivision exemptions*.

B. Owners of land are eligible to apply for an exemption only when at least one (1) of the resulting parcels would be less than thirty-five (35) acres in size.

C. No lot which is part of an approved subdivision plat or any map or plan providing for lots or parcels of less than 35 acres filed in the records of the County Clerk and Recorder prior to adoption of any regulations controlling subdivisions, or part of any minor subdivision, shall be redivided or changed in any manner by the exemption procedures. Such platted lots may only be resubdivided or changed by utilizing the applicable resubdivision process. (Weld County Code Ordinance 2002-9)

Sec. 24-8-20. Recorded exemption.

A. The Recorded Exemption is a land division process used to divide a lot into two (2), three (3) or four (4) separate lots. Examples of when a Recorded Exemption application may be submitted include creating a lot in the A (Agricultural) Zone District for a single-family residential building site, separating existing improvements from agricultural land, and creating a lot in a Commercial or Industrial Zone District for existing or future development. A Recorded Exemption must not be for the purpose of evading the requirements and intent of this Chapter.

B. REPEALED. (Weld County Code Ordinance 2003-10)

C. The recorded exemption application shall include the total contiguous land ownership, except in the A (Agricultural) Zone District. In the A (Agricultural) Zone District, the following will apply:

1. When a contiguous ownership equals at least one hundred sixty (160) acres, or is a parcel otherwise recognized as a complete quarter section, a portion of the parcel equal to the minimum

buildable lot size (eighty [80] acres, or a parcel otherwise recognized as half of a quarter section) may be used in the two-lot recorded exemption application. When a contiguous ownership equals two (2) or more parcels created prior to the initiation of subdivision regulations, a single parcel may be used in the two-lot recorded exemption application. Lot B of a two-lot recorded exemption is eligible for future land exemption five (5) years from the date of recording the exemption plat, in accordance with Section 24-8-40.M. Lot A of a two-lot recorded exemption created prior to March 1, 2004, is eligible for a one-time-only future land exemption. Lot A of a two-lot recorded exemption created after March 1, 2004, is not eligible for a future land exemption.

2. A three-lot recorded exemption application may be submitted when contiguous land ownership equals a minimum of one hundred twenty-two (122) acres. Remaining contiguous property must be included unless the remaining parcel equals at least eighty (80) acres; is a parcel otherwise recognized as a complete half of a quarter section; is a lot of an existing recorded exemption; or is a parcel created prior to the initiation of subdivision regulations. Two (2) of the proposed parcels shall be less than thirty-five (35) acres in size, and the third parcel must be at least one hundred twenty (120) acres in size. Lot C of a three-lot recorded exemption is eligible for future land exemption five (5) years from the date of recording the exemption plat, in accordance with Section 24-8-40.M. The two (2) smaller lots of a three-lot recorded exemption created prior to March 1, 2004, are eligible for a one-time-only future land exemption. The two (2) smaller lots of a three-lot recorded exemption created after March 1, 2004, are not eligible for a future land exemption.

3. A four-lot recorded exemption application may be submitted when contiguous land ownership equals a minimum of one hundred twenty-three (123) acres. Remaining contiguous property must be included unless the remaining parcel equals at least eighty (80) acres; is a parcel otherwise recognized as a complete half of a quarter section; is a lot of an existing recorded exemption; or is a parcel created prior to the initiation of subdivision regulations. Three (3) of the proposed lots shall be sized in conformance with the requirements of Section 24-8-40.L, and the fourth lot must be at least one hundred twenty (120) acres in size. The three (3) smaller lots shall attempt to be clustered together. The three (3) smaller lots are not eligible for future land exemptions. The larger lot (Lot D) is eligible to apply for a future land exemption five (5) years from the date of recording the exemption plat, in accordance with Section 24-8-40.M.

4. When a contiguous ownership equals two (2) or more parcels created prior to the initiation of subdivision regulations, a single parcel may be used in the two-lot recorded exemption application. (Weld County Code Ordinance 2001-1; Weld County Code Ordinance 2002-9; Weld County Code Ordinance 2003-10; Weld County Code Ordinance 2005-01; Weld County Code Ordinance 2007-15)

Sec. 24-8-25. Recorded exemption process and time parameters.

After a complete application is received, the recorded exemption should be completed within sixty (60) days. (Weld County Code Ordinance 2003-10)

Sec. 24-8-30. Subdivision exemption.

A. The subdivision exemption is intended for the following four (4) purposes:

1. Division of a parcel of interest in a parcel which does not result in the creation of a new residential or permanent building site. When otherwise allowed by recorded exemption regulations, the subdivision exemption can be utilized in

conjunction with a recorded exemption to separate one (1) additional existing habitable residence with accessory outbuildings from any of the recorded exemption parcels. A subdivision exemption lot in conjunction with a recorded exemption created prior to March 1, 2004, is eligible for a one-time-only land exemption. A subdivision exemption lot in conjunction with a recorded exemption created after March 1, 2004, is not eligible for a future land exemption. The subdivision exemption must meet the following criteria:

- a. A minimum of two (2) habitable residential improvements are required.
 - b. The residential use of the improvements must be continuous with any gap in use being less than one (1) year.
 - c. The residential improvements must be continuously claimed and taxed as residences by the Assessor's Office.
 - d. The subdivision exemption is the best alternative to dispose of existing improvements.
 - e. No more than one (1) subdivision exemption for this purpose may be submitted with a recorded exemption application.
 - f. The applicant is only eligible to apply for a subdivision exemption if it is the first recorded exemption done on the property on or after December 15, 1992, the inception date of the subdivision exemption.
 - g. The residences were not originally constructed on separate legal lots.
2. For adjustment of property lines between two (2) contiguous parcels.
 3. For the creation of lots for the purpose of financing.
 - a. Lots created for the purpose of mortgaging a dwelling unit shall not result in the creation of a lot to be sold separately. Upon termination of the mortgage arrangement, the lot shall cease to exist.
 - b. Foreclosure of the parcel created for financing purposes shall not create a separate legal parcel unless the process described in Section 24-1-40, *Subdivision* or *Subdivided land*, b. has been followed.
 4. For the temporary use of a parcel for public utility facilities. (Weld County Code Ordinance 2001-1; Weld County Code Ordinance 2002-9; Weld County Code Ordinance 2005-01; Weld County Code Ordinance 2009-8)

Sec. 24-8-35. Subdivision exemption process and time parameters.

After a complete application is received, the subdivision exemption should be completed within sixty (60) days. (Weld County Code Ordinance 2003-10; Weld County Code Ordinance 2004-5; Weld County Code Ordinance 2005-01)

Sec. 24-8-40. Exemption standards.

An exemption application shall comply with all of the following standards:

- A. The water supply for all proposed lots is adequate in terms of quality, quantity and dependability.
- B. An adequate sewer service is available to serve the uses permitted on all proposed lots. The sewer service shall comply with the requirements of the applicable zone district and the Department of Public Health and Environment.
- C. An access is, or can be made, available that provides for safe ingress and egress to a public road. All accesses shall be in accordance with Chapter 8, Article II of this Code, and shall endeavor to achieve the goal of no "net increase" in the number of accesses onto adjacent County roads when accesses already exist.
 - 1. Where the access is adjacent to a state highway, the Colorado Department of Transportation has jurisdiction over existing or proposed access points. The applicant shall be responsible for obtaining a new access permit from the Colorado Department of Transportation.
 - 2. Contiguous lots created through the exemption process shall, when practicable, share access.
 - 3. Existing or future public rights-of-way and additional access points on County roads shall be dedicated or reserved in conformance with Chapter 22 of this Code and any adopted intergovernmental agreements or master plans of affected municipalities.
 - 4. A new access with a choice as to which County road it feeds onto shall choose the County road with the lowest traffic count.
- D. The proposed recorded exemption will comply with Chapter 23, Article V of this Code.
- E. The proposal is consistent with the policies and goals of Chapter 22 of this Code.
- F. The proposal is consistent with any adopted intergovernmental agreement, if applicable.
- G. The proposal has taken into consideration master plans of affected municipalities.
- H. The proposal is compatible with the existing surrounding land uses.
- I. The proposal is consistent with the intent of the zone district the exemption is located within as expressed in Chapter 23 of this Code.
- J. The proposal is consistent with sound land use planning practices.
- K. The proposal is consistent with the Statement of Purpose as expressed in Section 24-1-30 of this Chapter.
 - 1. The approval of an exemption may be conditioned or restricted to carry out the intent of Section 24-1-30 of this Chapter or to mitigate impacts or address concerns of referral agencies. Conditions and restrictions may include, but are not limited to, designation of building envelopes, creation of conservation easements or other legal mechanisms to encourage agricultural production on the parcels and to maintain irrigation water for the parcels, the utilization of existing housing, and the satisfaction of school district concerns, pursuant to the requirements of Section 30-28-133(4)(a), C.R.S. Conditions of approval shall be met prior to recording the plat, and restrictions may be enforced by means of notes on the plat.

2. The fact that the applicant has conveyed, within the last calendar year, land which would have been considered contiguous had it been retained, may be considered as evidence of an intent to evade the purpose provisions of Sections 24-1-30 and 24-8-20 of this Chapter.

L. The minimum size of any lot proposed with a public water supply is not less than one (1) acre net. The minimum size of any lot proposed with a well as the water supply is not less than two and one-half (2½) acres net. Minimum lot sizes do not apply in zone districts which allow smaller lots or where exempted by the Board of County Commissioners. The minimum lot size does not apply to subdivision exemption lots created for the temporary use of a parcel for public utility facilities.

M. After March 1, 2004, the proposed recorded exemption is eligible for land exemption if it is not part of:

1. The largest lot of a recorded exemption which was recorded within the last five (5) years.

2. The largest lot of a recorded exemption which was done in conjunction with a subdivision exemption which was recorded within the last five (5) years.

N. None of the smaller lots of recorded exemptions approved after March 1, 2004, are eligible for future land exemptions.

O. The proposal is consistent with good agricultural practices, if applicable. (Weld County Code Ordinance 2002-9; Weld County Code Ordinance 2003-10; Weld County Code Ordinance 2005-01)

Sec. 24-8-50. Submittal requirements.

The following information shall be completed and submitted to the Department of Planning Services as part of the exemption application:

A. A recorded exemption or subdivision exemption application form provided by the Department of Planning Services. All fee owners of property must sign the application or, if an authorized agent signs, a letter of authorization from all fee owners must be included with the application. If a corporation is the fee owner, notarized evidence must be included showing that the signatory has legal authority of the partnership to sign for the corporation or partnership and that the corporation or partnership has the authority to do business in the State.

B. A copy of a deed or legal instrument identifying the applicant's interest in the property under consideration.

C. A certificate of conveyances form provided by the Department of Planning Services and completed by a Title Insurance or Abstract Company.

D. A detailed description of the request and its purpose and benefits.

E. Evidence that a water supply of sufficient quality, quantity and dependability will be/is available to serve the proposed lots, if applicable. A letter from a water district or municipality or a well permit are examples of evidence for domestic use.

F. A statement explaining that the proposed lots will/do have adequate means for the disposal of sewage in compliance with the requirements of the underlying zone district and the Department of Public Health and Environment, if applicable. An existing septic system permit or a copy of a letter from a sanitation sewer district indicating existing service or availability of sewage disposal to each proposed lot are examples of evidence for domestic use.

G. A description of how the property is being used. When the parcel is located in the A (Agricultural) Zone District, the description shall include number and types of livestock and any existing improvements such as the principal residence, labor home, mobile home, manufactured home, barn, outbuildings, irrigation ditches and oil well production facilities on the property.

H. A statement describing existing land uses of adjacent properties and how the proposal will be compatible with these uses.

I. A Weld County Road Access Information Sheet.

J. A Statement of Taxes from the County Treasurer showing no delinquent taxes for the area referred to in the application materials.

K. A statement describing the current irrigation practices occurring on the site. The statement shall include the type and quantity of irrigation water available to the site along with details on how adequate provision will be made to protect irrigation practices, the flow of irrigation water, access to the irrigation system and name of the ditch company.

L. An exemption sketch map drawn on a sheet of paper eight and one-half (8½) inches by eleven (11) inches. The sketch map shall be legible and include the following information:

1. The boundary of the proposed exemption property.
2. The boundaries of the lots being created or exchanged, and new parcels which will result upon approval of the request.
3. A north arrow.
4. The location of all existing and proposed driveways and accesses associated with the lots.
5. The names of any existing roads or highways abutting the proposed exemption property.
6. All existing structures on the proposed exemption property. This includes, but is not limited to, principal and labor homes, mobile homes, manufactured homes, outbuildings, pens, irrigation ditches, domestic wells, plugged or abandoned oil and gas wells, oil well production facilities and electrical transmission lines.
7. All easements or rights-of-way located on the proposed exemption property.
8. All unique physical characteristics of the proposed exemption property, including, but not limited to, substantial groves of vegetation, severe topographical conditions, substantial irrigation canals and water bodies, CRP lands, floodplains, geohazard areas and airport zones.
9. Building envelopes shall be designated, if the applicant intends to designate a building envelope as a means of establishing compliance with the provisions of this Code, including but not limited to, Sections 24-1-30.A and 24-1-30.J.

M. An affidavit listing the names and addresses of all entities with a security interest in the property being considered. The list shall be compiled from the title commitment issued by a title insurance company or a title opinion by an attorney licensed to practice in the State, and shall be current as of a date not more than thirty (30) days prior to the date the application is submitted to the Department of Planning Services. (Weld County Code Ordinance 2002-9; Weld County Code Ordinance 2005-01; Weld County Code Ordinance 2006-2; Weld County Code Ordinance 2007-1)

Sec. 24-8-60. Exemption plat.

An exemption plat shall be prepared after an application is approved and all conditions of approval have been met. The plat shall be submitted to the Department of Planning Services for recording in the office of the County Clerk and Recorder. The plat shall meet the following requirements:

- A. The plat shall be prepared by a registered professional land surveyor in the State.
- B. The plat shall be delineated in nonfading permanent black ink on a dimensionally stable polyester sheet such as Mylar or other product of equal quality, three (3) millimeters or greater in thickness. The size of each shall be either eighteen (18) inches in height by twenty-four (24) inches in width or twenty-four (24) inches in height by thirty-six (36) inches in width. The mixing of sheet sizes is prohibited. No plat submitted shall contain any form of stick-on-type material such as, but not limited to "sticky-back," adhesive film or kroy lettering tape. The drawing shall be at a scale of one (1) inch equals one hundred (100) feet or (1) inch equals two hundred (200) feet. Vicinity maps shall be at a minimum scale of (1) inch equals two thousand (2,000) feet. The type face shall not be less than eight (8) point in size. Maps drawn to other scales must be approved in writing by Planning Staff.
- C. A photo Mylar copy or diazo-sensitized Mylar copy of the original ink drawing may be submitted. The material shall be at least three (3) millimeters or greater in thickness.
- D. The plat submitted will contain the original signatures and seals of all parties required to sign the plat. If a photo Mylar copy or diazo-sensitized Mylar copy is submitted, the original signatures and seals shall be contained thereon. All components, including signatures, shall be made with nonfading permanent black ink.
- E. The plat shall include a complete and accurate legal description of the parcels being created or exchanged and new parcels which will result.
- F. Existing public rights-of-way providing access to the lots shall be shown.
- G. The plat shall include a vicinity map. The map shall locate the exemption lots with respect to adjacent roads and other major land features.
- H. The plat shall include an accurate drawing of all approved lots.
1. Recorded exemption. The smallest parcel shall be designated Lot A. For a two-lot recorded exemption, the larger parcel shall be designated Lot B. For a three-lot recorded exemption, the medium-sized parcel shall be designated Lot B and the largest parcel shall be designated Lot C. For a four-lot recorded exemption, the smallest parcel shall be designated Lot A, the next largest parcel shall be designated Lot B, the third largest parcel shall be designated Lot C and the largest parcel shall be designated Lot D. The net and gross acreage for all lots shall be given. All lots shall be accurately surveyed and the drawing shall include bearings, distances and curve data for all lines of all lots, which shall be referenced to two (2) public land survey monuments of record.
2. Subdivision exemptions for lot line adjustments shall include in the drawing the lots before and after the exemption.
- I. The exemption plat shall show the location of any plugged or abandoned oil and gas well. The well shall be permanently marked by a brass plaque set in concrete, similar to a permanent bench mark, to monument its location. Such plaque shall contain any information required on a dry hole marker by the Colorado Oil and Gas Conservation Commission.
- J. All work shall comply with the requirements of Sections 38-50-101, 38-51-101, 38-51-102, 38-53-103 and 38-53-104, C.R.S.
- K. All work shall comply with the requirements of the Bylaws and Rules of Procedure of the State Board of Registration for Professional Engineers and Professional Land Surveyors and the Rules of Professional Conduct of the State Board of Registration for Professional Engineers and Professional Land Surveyors – Board Policy Statements.

L. A signed copy of all Colorado Land Survey Monument Records for indicated "Aliquot Corners" (Section 38-53-102(2), C.R.S.) will be submitted with the exemption plat. If any "Aliquot Corner" indicated on the plat is substantially as described in an existing monument record previously filed and in the appropriate records of the County Clerk and Recorder, a copy of that monument record and a letter of certification stating that it is as described on the Colorado Land Survey Monument Record shall be submitted.

M. An exemption plat shall bear the certifications shown in Appendix 24-F to this Chapter. (Weld County Code Ordinance 2002-9; Weld County Code Ordinance 2003-10; Weld County Code Ordinance 2005-01; Weld County Code Ordinance 2007-1)

Sec. 24-8-70. Duties of Department of Planning Services and Board of County Commissioners.

A. The Board of County Commissioners delegates the authority and responsibility for processing and approving exemptions to the Department of Planning Services. The Department of Planning Services shall also have the responsibility of ensuring that all application submittal requirements are met prior to initiating any official action. Once a complete application is submitted, the Department of Planning Services shall send the application to referral agencies for review and comment. The agencies shall respond within twenty-eight (28) days after the application is mailed. The failure of any agency to respond within twenty-eight (28) days may be deemed a favorable response. All referral agency review comments are considered recommendations to the County. The authority and responsibility for approval and denial of an exemption application rests with the County.

B. The Department of Planning Services shall refer the application to any agencies or individuals whose review the Department of Planning Services or the Board of County Commissioners deems necessary.

C. The County Planner shall prepare a staff recommendation within sixty (60) days of receipt of a complete application. The recommendation shall address all aspects of the application, including but not limited to comments received from agencies to which the proposal was referred and the standards contained in this Article.

D. When, in the opinion of the Department of Planning Services, an applicant has not met one (1) or more of the standards of Subsections 24-8-40.A through O, a hearing shall be scheduled before the Board of County Commissioners.

E. The Board of County Commissioners shall hold a public hearing to consider the exemption application and to take final action thereon, if the Planning Staff has determined that the application has not met the standards of Subsections 24-8-40.A through O above. The Board of County Commissioners' decision shall consider the recommendation of the Planning Staff, referral agency responses, the application case file and facts presented at the public hearing. The Board of County Commissioners shall approve the exemption application unless it finds that the applicant has not met one (1) or more of the standards as listed in Section 24-8-40.

F. The Department of Planning Services shall submit to the Board of County Commissioners for review any plat required under Section 24-8-60 above which does not comply with the approved exemption.

G. The Department of Planning Services shall submit to the County Clerk and Recorder for recording plats of approved actions required in Section 24-8-60 above. (Weld County Code Ordinance 2002-9; Weld County Code Ordinance 2003-10; Weld County Code Ordinance 2005-01)