

## RESOLUTION 2024-065

### **A resolution approving Boulder County Community Planning & Permitting Docket DC-19-0003: Text Amendments to the Land Use Code Related to Articles 3, 9, and 18**

#### Recitals

A. The Board of County Commissioners of Boulder County (the “Board”) is authorized to amend the text of the County’s Zoning Regulations according to the procedures in Article 16 of the Boulder County Land Use Code and C.R.S. § 30-28-112, -116 and -133.

B. Under other statutory authority, the Board is empowered to adopt regulations related to the control of land use, including but not limited to Article 65.1 of Title 24 (Areas and Activities of State Interest); Articles 67 and 68 of Title 24 (Planned Unit Developments and Vested Rights); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.

C. By Resolution 94-185, adopted October 18, 1994, the Board approved a unified Boulder County Land Use Code (the “Code”), which the Board has amended on subsequent occasions.

D. In the present docket, DC-19-0003 (the “Docket”), authorized by the Board at a public meeting on July 2, 2019 and again on November 29, 2022, Boulder County Community Planning & Permitting staff proposed text amendments to Articles 3, 9, and 18 of the Code (the “Proposed Amendments”), as set forth in the Boulder County Community Planning & Permitting Department’s memorandum and recommendation dated August 22, 2024, with its attachments (the “Staff Recommendation”).

E. As outlined in **Exhibit A**, the Proposed Amendments will revise the Code to simplify and streamline the SE/EP process in Article 9, introduce a definition for Townsite in Article 18, and make necessary revisions in Article 3 to incorporate the changes made in Article 9.

F. The Boulder County Planning Commission (the “Planning Commission”) held a duly noticed public hearing on the Proposed Amendments on July 17, 2024. The Planning Commission recommended approval of the Proposed Amendments as presented by staff with recommendations regarding the formatting of subsections and subsection references and certified the Docket for action to the Board.

G. On August 22, 2024, the Board held a duly noticed public hearing on the Docket (the “Public Hearing”) and considered the Staff Recommendation, documents, and testimony presented by County Community Planning & Permitting Department staff. No members of the public spoke at the Public Hearing.

H. Based on the Public Hearing, the Board finds that the Proposed Amendments outlined in **Exhibit A** meet the criteria for text amendments contained in Article 16-100.B of the Code, in that the existing text is in need of amendment; the Proposed Amendments are not contrary to the

intent and purpose of the Code; and the Proposed Amendments are in accordance with the Boulder County Comprehensive Plan, subject to the conditions stated below.

Therefore, the Board resolves:

1. The Proposed Amendments in **Exhibit A** are approved, effective as of August 22, 2024.
2. Under § 30-28-125, C.R.S., the Board authorizes the Clerk to the Board to transmit this Resolution, with its **Exhibit A**, to the County Clerk and Recorder for filing and appropriate indexing.

A motion to approve the Docket was made by Commissioner Marta Loachamin, seconded by Commissioner Ashley Stolzmann, and passed by a 2-0 vote. Commissioner Claire Levy was excused from the Public Hearing.

**[Signature Page to Follow]**

**ADOPTED** as a final decision of the Board on this 10th day of September 2024.

The signatures below indicate approval of the text of the Resolution but are not necessarily reflective of the votes taken at the Public Hearing.

**BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:**

Ashley Stolzmann  
Ashley Stolzmann, Chair

Marta Loachamin  
Marta Loachamin, Vice Chair

Claire Levy  
Claire Levy, Commissioner

ATTEST:

Matthew Ramos  
Clerk to the Board

DC-19-0003: DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9.

### **3-100 Approvals and Permits Necessary Prior to Development**

- A. Actions Requiring Review by the Director, Board of Adjustment, Planning Commission, and/or Board of County Commissioners (The Board)
1. Appeal of an interpretation of the regulations set forth in this Code: Any person aggrieved by any decision of the Director or County Engineer made in the course of the administration or enforcement of Article 4 or any related provision of this code including, but not limited to, a decision to deny a building permit or other required permit, may appeal that interpretation or decision to the Board of Adjustment. See Section 4-1201.
  2. Areas and Activities of State Interest: Areas and activities designated by the County have to go through a review process which looks at physical impacts as well as compatibility with the Boulder County Comprehensive Plan. See Section 8-200.
  3. Correction Plats: A correction to a plat where the purpose of the correction is to rectify any technical error on the plat. Any corrections made must be consistent with the approved plat. See Section 5-401.
  4. Exemption Plats: ~~Exemption Plats are~~ The Director may approve changes to existing Plats which are exempt from review under the Subdivision Regulations as may be allowed pursuant to Article 9 of this Code, and pursuant to other provisions of this Code authorizing an Exemption Plats for specific circumstances (such as Article 4-300).
  5. Historic Designation: The Board, after review by the Historic Preservation Advisory Board, may designate structures, sites or areas as local historic landmarks. See Article 15.
  6. Land Use Code Text Amendments: Additions, deletions, or changes to the text of this Code. See Article 16.
  7. Limited Impact Special Review: A Board of County Commissioners shortened review of uses outlined in Article 4 as being allowed by limited impact special review to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of required services. See Section 4-600.
  8. Location and Extent: A review of proposed public or quasi-public facilities to ensure that the location and extent of the facilities are in conformance with the Boulder County Comprehensive Plan. See Article 8.
  9. Planned Unit Developments: Planned unit developments (PUDs), including nonurban, noncontiguous nonurban, and transfer of development right planned unit developments, are a type of subdivided land. PUDs may be permitted subject to the conditions set forth in a development agreement which has been approved in accordance with the applicable requirements of this Code. See Article 6.
  10. Replat: A replat is an amendment to a plat and may require the amendment of the sketch plan, preliminary plan, and/or final plat. See Section 5-402. (Replats which are processed as exemption plats fall under the requirements for exemption plats as set forth in this Code.) Final plat replats approved under the Subdivision Regulations (Article 5) constitute site specific development plans establishing vested property rights pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended (see section 3-207).
  11. Rezoning: A request to amend the official zoning district map to change the zoning on a particular parcel or parcels. See Section 4-1100 and Section 4-118 in the case of Neighborhood Conservation Overlay Districts.
  12. Road Name Changes: A road name which causes confusion may be changed in conformance with the 'Boulder County Roadway Naming and Housing Numbering Guide.' See Transportation



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Standards.

13. Site Plan Review Appeal: An appeal of the administrative review of an application for a building, floodplain development, access, and/or grading permit. See Section 4-800.
  14. Special Review: Required review of those uses defined in Article 4 of this Code as being allowed through special review. The purpose of the review is to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of services. See Section 4-600. Approved uses by special review constitute site specific development plans establishing vested property rights pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended (see section 3-207).
  15. Subdivisions to Plat Unsubdivided Land: Review of a subdivision resulting in the creation of subdivided land under the Subdivision Regulations. The process to plat unsubdivided land to create subdivided land includes three steps: sketch plan, preliminary plan, and final plat. In some cases, a combined process may allow for the concurrent review of these steps. See Article 5.
    - a. Sketch Plan: The sketch plan is the first step of the three step process to create subdivided land. The sketch plan is intended to review the feasibility and design characteristics of the proposal based on the standards and criteria set forth in Article 5. See Section 5-100.
    - b. Preliminary Plan: The preliminary plan is the second step of the process to create subdivided land. The preliminary plan process will review and evaluate the proposal prior to detailed engineering and design. See Section 5-200.
    - c. Final Plat: The final plat is the last step in the process to create subdivided land. The final plat process will review the final engineering plans, the development agreement, letters of credit, conservation easements, deeds of development rights, home owners covenants, the plat, and any other necessary documents, reports and studies. See Section 5-300. Approved final plats pursuant to the Subdivision Regulations constitute site specific development plans establishing vested property rights pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended (see section 3-207).
  16. Subdivision Exemptions: An approval by the ~~Board of County Commissioners~~ Director, per the requirements of Article 9 to take certain Unsubdivided Land or divisions of Unsubdivided Land out of the definition of "Subdivision," with the result that such land or divisions of land do not have to meet the requirements of the Subdivision Regulations. ~~Types of Subdivision Exemptions include boundary line adjustments, lot recognitions, and community facility lot splits.~~ See Article 9.
  17. Vacation of a Public Road or Easement: A request by a property owner for the vacation of road, right-of-way, or utility easements. See Article 10.
  18. Variances: The Board of Adjustment may approve a variance from the terms of this Code as set forth in Section 4-1200.
- B. Development Related Permits
1. Dependent on the specific nature of the activity, one or more of these permits will be required prior to undertaking development in the unincorporated areas of Boulder County.
    - a. Access Permit: Required for access onto public roads. Contact the Boulder County Public Works Department for more information.
    - b. Building Permit: Prior to construction of or alteration to a structure, a building permit is required. Applications for this permit are available from the Boulder County Community Planning & Permitting Department, Building Safety & Inspection Services Division.
    - c. Deconstruction Permit: Prior to the deconstruction of any building, a deconstruction permit is

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required. Applications for this permit are available from the Boulder County Community Planning & Permitting Department, Building Safety & Inspection Services Division.

- d. Special Review for Oil and Gas Facilities: Administrative review of oil and gas drilling and production facilities. Applications for this review are available from the Community Planning & Permitting Department. See Article 12.
  - e. Floodplain Development Permit: As required in Article 4 of this Code for development within the Floodplain Overlay District. Applications for this permit are available from the Engineering Division of the Boulder County Public Works Department.
  - f. Grading Permit: A grading permit is necessary for movement of greater than 50 cubic yards of material. A planning approval is required for the movement of more than 50 cubic yards of material, with some exceptions, as provided in Section 4-516 of this Code. Applications for this permit are available from the Boulder County Community Planning & Permitting Department, Building Safety & Inspection Services Division.
  - g. Historic Review: A review of building permit applications for demolition, remodeling, or addition to a structure greater than 50 years in age. See Article 15.
  - h. Site Plan Review: Administrative review for development.
  - i. Stormwater Quality Permit: As required under Article 7-904 and administered by the County Engineer to control construction and post-construction stormwater discharges and to protect water quality.
  - j. Small Cell Wireless Facility Supplemental Site Application: Administrative review for the siting of Small Cell Wireless Facilities.
2. Application forms and processing information are available from the appropriate Boulder County offices.
- C. The Board of County Commissioners may grant extensions of deadlines of no more than one year for sketch plans, preliminary plans, and final plats (with annual extensions totaling up to three years being allowed for recordation of the final plat in the case of TDR/PUDS: see Section 5-500) provided there has been no change in this Code, the County Comprehensive Plan, or the surrounding neighborhood which would substantially affect the approval.
- D. Special Authorization of the Building Official or Zoning Administrator
1. Approvals for certain temporary uses require special authorization of the Building Official or Zoning Administrator. The Building Official or Zoning Administrator will require information, as appropriate, concerning traffic, parking, sanitary facilities, water availability, hours of operation, and other information necessary to determine the impacts of the proposed use. The uses requiring special authorization are defined in Section 4-500 and listed in the Zoning District regulations Section 4-100.
  2. Application forms and processing information for special authorization are available from the Boulder County Community Planning & Permitting Department, Building Safety & Inspection Services Division. Property owners should apply for special authorization at least 30 days in advance of the desired approval in order to allow for adequate processing time. If the owner applies for authorization less than 30 days in advance, Land Use may not be able to review and approve the application.

### 3-200 General Process Outline

- A. The following is a general outline of the steps required for the approval of actions outlined in Section 3-100. Specific information regarding each of the steps follows this section. The requirements of this Article 3 may be supplemented or altered by the procedural requirements governing specific applications in other parts of this Code, including but not necessarily limited to Article 4-800 governing site plan review, Article 8-200 governing permits for areas and activities of state interest, Article 9 governing exemption plats and

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subdivision exemptions, and Article 15 governing historic preservation review.

1. Pre-application conference.
  2. Application.
  3. Referral to owners and interest holders in the subject property, adjacent and/or nearby property owners and affected agencies.
  4. Staff review.
  5. Public review before the Board of Adjustment, Planning Commission, and/or Board of County Commissioners.
  6. Post-approval requirements.
- B. In submitting any application under this Code, the Applicant shall be deemed to agree to and be bound by the applicable processing provisions and time frames of this Article 3.

### 3- 201 to 205 – No changes

### 3-206 Post Approval Requirements

#### ~~C. Subdivision Exemptions~~

- ~~1. Following approval or conditional approval of an exemption, following actions may be required.
 
  - ~~a. The applicant shall obtain all signatures necessary for execution of the appropriate documents. The Director shall be responsible for obtaining the signature of the Chair of the Board of County Commissioners.~~
  - ~~b. The applicant shall supply a title report as defined in Section 3-203.H. which includes all owners of record as of the date of recordation.~~
  - ~~c. The applicant shall obtain a certification from the County Treasurer's Office that there are no outstanding ad-valorem taxes to be paid on the property being exempted.~~
  - ~~d. The Director shall verify that the proper signatures have been secured on the exemption documents.~~
  - ~~e. The Director shall verify that references to the docket number of the exemption and date of approval are included on the deeds.~~~~
- ~~2. Upon finding that all corrections have been made to the exemption documents, the proper signatures have been received, that all payments have been received, and the documents are in the proper order and ready for recordation, the Director shall authorize the documents to be filed for recording with the Clerk and Recorder.~~
- ~~3. The applicant shall be responsible for all recording fees.~~

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**9-100 Building Lot**

- A. The following Parcels of land are Building Lots under this Code.
  - 1. A Parcel that meets the following criteria:
    - a. ~~Was~~ was lawfully created; ~~and~~.
    - b. ~~Met~~ met the zoning minimum lot size when it was created or was created prior to the ~~County's~~ county's establishment of a zoning minimum lot size governing the Parcel; ~~and~~.
    - c. ~~Did~~ did not require approval under the Subdivision Regulations.
  - 2. A Parcel of 35 acres or more.
  - 3. A Parcel that the Board approved as a Building Lot under the then applicable Subdivision Exemption provisions or Exemption Plat provisions of the Code.
  - 4. A Parcel that the Board approved as a Building Lot through a Conceptual Review, which was a process the Board used to determine the status of certain illegal Subdivisions created in the 1960s and 1970s. (Conceptual Review policy was replaced by the codified Subdivision Exemption process in ~~the 1980s~~ 1979 and is no longer a process in the Code).
  - 5. A Subdivided Lot that conforms to a lawfully recorded plat.
  - 6. A Subdivided Lot that was further divided so that it no longer conforms with the recorded plat if the following criteria are met:
    - a. ~~The~~ The division occurred before August 28, 1972 (the date on which the county codified the provisions of S.B. 35), as shown by Deeds recorded on or before August 28, 1972 ; ~~and~~.
    - b. ~~The~~ The lot complied with the zoning minimum lot size at the time of the division; ~~and~~.
    - c. ~~Subsequent~~ Subsequent to the division, the Building Official, based upon accurate information submitted by the permittee, issued a building permit for construction of floor area for a structure that required a Building Lot; ~~and~~.
    - d. ~~The~~ The permit was not for minor work including, without limitation, the provision of electrical service, the installation of heating or cooling facilities, plumbing, windows, siding, or the repair or replacement of a roof; ~~and~~.
    - e. ~~The~~ The permittee relied on the building permit in good faith, substantially completed construction according to the permit, and substantially completed any required inspections; ~~and~~.
    - f. ~~The~~ The Deed description for the resulting Subdivided Lot is clear and accurate, and it does not create discrepancies in boundaries with respect to adjacent Parcels. The Director may consult with the County Surveyor in making this determination; ~~and~~.
    - g. Where a Building Lot Existed but was then rendered not a Building Lot due to land division outside an appropriate subdivision process, the Building Lot can be reestablished by merging the parcels by deed back into the original configuration per Article 9-102.

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7. An Unsubdivided Parcel that does not otherwise meet the definition of a Building Lot, or a Subdivided Lot that was divided so that it no longer conforms with the recorded Plat and is included in an Administrative Exemption Plat as set forth in Article 9-301 .C, and the following criteria are met:
  - a. ~~S~~ubsequent to the division, the Building Official, based upon accurate information submitted by the permittee, issued a building permit for construction of floor area for a structure that required a Building Lot; ~~and~~
  - b. ~~T~~he permit was not for minor work including, without limitation, the provision of electrical service, the installation of heating or cooling facilities, plumbing, windows, siding, or the repair or replacement of a roof; ~~and~~
  - c. ~~T~~he permittee relied on the building permit in good faith, substantially completed construction according to the permit, and substantially completed any required inspections; ~~and~~
  - d. ~~T~~he Deed description for the resulting Parcel is clear and accurate, and it does not create discrepancies in boundaries with respect to adjacent Parcels. The Director may consult with the County Surveyor in making this determination.
8. A Parcel owned by a governmental entity that is transferred to a nongovernmental entity or person, provided that the Parcel met the zoning minimum lot size at the time title was transferred.
9. A Parcel that does not otherwise meet the definition of Building Lot, if the following criteria are met:
  - a. ~~T~~he Parcel was created by merging it with one or more other Parcels (whether Building Lots or not) to form a single Parcel; ~~and~~
  - b. ~~T~~he resulting combined Parcel reconstitutes a previously existing Building Lot.
10. A Parcel that met the definition of a Building Lot that is altered through condemnation or acquisition of a portion of the Parcel for public roadway purposes, except where the Parcel is split, and contiguity disrupted as a result of the roadway.
11. A Parcel or Parcels created through a division of land by a state court or through a boundary line agreement under § 38-44-112 to settle an action seeking a division of land by a state court if the division involves Unsubdivided Land and/or Subdivided Land that is included in an Administrative Exemption Plat as set forth in Article 9-301-B, and:
  - a. If the Parcel or Parcels were created after 2014 and immediately prior to the action, each Parcel subject to the division met the definition of a Building Lot and:
    - (i) The county was given timely notice of the pending action by the court and given the opportunity to join as a party in interest in the proceeding.
    - (ii) Each resulting Parcel has legal access.
  - b. If the Parcel or Parcels were created after 2014, and any of the Parcels subject to the division did not meet the definition of a Building Lot immediately prior to the action and the following criteria are met:

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- (i) The county was given timely notice of the pending action by the court and given the opportunity to join as a party in interest in the proceeding;~~and~~
  - (ii) Immediately prior to the action, the Parcel met the definition of a Building Lot;~~and~~
  - (iii) The Parcel size was not decreased;~~and~~
  - (iv) The resulting Parcel has legal access.
- c. If the Parcel or Parcels were created, even if the county was not given timely notice of the pending action by the court and given the opportunity to join as a party in interest in the proceeding and the following criteria are met:
- (i) Immediately prior to the action, the Parcel met the definition of a Building Lot;~~and~~
  - (ii) The Director determines, in his discretion, that the change to the Parcel from its original configuration is so minor that the county does not require a further Land Use process to recognize the lot;~~and~~
  - (iii) The resulting Parcel has legal access.
- d. Any other Parcel or Parcels that were created if:
- (i) The county was given timely notice of the pending action by the court and given the opportunity to join as a party in interest in the proceeding;~~and~~
  - (ii) The court issued an order requiring the county to recognize the Parcel as a Building Lot.

**9-101 Building Lot Determination**

- A. Any person may request that the Director determine if any Parcel of land in the unincorporated County is a Building Lot that meets the requirements of Article 9-100.
- B. Any Building Lot Determination request shall be made on an application provided by the Director. A complete application shall include payment of the specified processing fee, all information requested on the application, and any additional information that the Director determines is necessary to process the application including, without limitation, parcel maps, Deeds, surveys, county building permits, and county land use approvals or determinations issued for the Parcel.
- C. If the application is made by a person other than the Parcel owner, the Director will forward a copy of the application, as well as any Building Lot determination made on the Parcel, to the Parcel owner of record.
- D. A determination by the Director that a Parcel is a Building Lot is not a determination that the Parcel can be developed for any particular purpose or use. Development shall be reviewed and approved through the applicable county Land Use Code processes and may require related approvals from the County Public Works Department, County Public Health, and state agencies.
- E. If the Director determines that a Building Lot Determination has been issued in error, the Director may amend or rescind the determination as necessary.

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- F. County recognition of a specific Building Lot does not include an implied approval of any other Parcel as a Building Lot, even if the other Parcel was part of or a remainder piece from a Subdivision that created the Parcel being recognized.
- G. The Director’s interpretation of the definition of “Building Lot” in Article 9-100 made in the course of a Building Lot Determination, or the course of an amendment or rescission of a Building Lot Determination, may be appealed to the Boulder County Board of Adjustment under the provisions of Article 4-1200.

**9-102 Merger of ~~Unsubdivided~~ Parcels**

A. ~~At the request of a P~~property ~~O~~owner (s), the Director may merge two or more ~~Unsubdivided~~ Parcels, ~~one of which shall be a Building Lot owned by the same a single property owner(s). Upon final approval, the merged Parcel will constitute a single Building Lot.,~~ into a single Parcel of less than 35 acres in the following instances.

- 1. Where all Parcels were Building Lots, and upon final approval, the merged Parcel will constitute a single Building Lot.
- 2. Where one or more of the Parcels proposed to be merged are not Building Lots, the areas that were not legal Building Lots shall not be used for setback or building purposes for the merged lot.
  - a. A Subdivision Exemption approval is required to merge a Building Lot(s) and a Parcel(s) that is not a Building Lot for the entirety of the resulting Parcel to be a Building Lot.
- 3. Where a Building Lot Existed but was then rendered not a Building Lot due to land division outside an appropriate subdivision or Subdivision Exemption process, the Building Lot can be reestablished by merging the Parcels back into the original Building Lot configuration.

~~B.~~ ~~C.~~ Owner-Requested Merger Process

- 1. The property owner shall submit an application, provided by the Director, for merger and confirmation of addressing. A complete application shall include payment of the specified processing fee, all information requested on the application, and any additional information that the Director determines is necessary to process the application including, without limitation, Assessor’s Parcel Identification Numbers of affected Parcels, a site plan showing the proposed final lot configuration, parcel maps, Deeds, surveys, ~~C~~county building permits, and ~~C~~county land use approvals or determinations issued for the Parcels.
- 2. The application for merger shall also include a draft deed that: (1) properly describes the merged Parcel and; (2) includes the following statement on the face of the deed: *“This deed is given to merge into one parcel all property described in this deed. The parcels are merged with the property owner’s consent per CRS 30-28-139.”*
  - a. Where a merger combines a Building Lot(s) and a Parcel(s) that is not a Building Lot, the deed language shall also identify the area of the parcel that shall not be used for building or setback purposes.

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b. Where a merger is proposed for the purpose of reconstituting a Lot, as shown on the recorded plat, the following statement shall be included on the face of the deed: "This deed is given to reestablish Lot xx Block xx of (Subdivision Name)."

3. Upon approval by the Director, the ~~P~~property ~~O~~wner shall record a Deed in the real property records of the Boulder County Clerk and Recorder and provide a copy of the recorded Deed to the Community Planning & Permitting Department.
4. Upon the property owner's compliance with the conditions of approval, the Community Planning & Permitting Department will confirm addressing of the ~~merged Building Lot~~ resulting Parcel and send a Final Approval letter to the ~~P~~property ~~O~~wner.

C. ~~D.~~ For any merger of Parcels of land or lots under the provisions of this Code, which merger is not requested in writing by each owner of an affected Parcel, and which merger occurs for the first time on or after October 1, 2003 (the effective date of Senate Bill 03-067 as codified in Section 30-28- 139 of the Colorado Revised Statutes), the following provisions shall govern, as expressly required in Section 30-28-139:

1. Prior to the completion of the merger, the ~~C~~county shall send notice of the ~~C~~county's intent to complete the merger to each owner of the affected Parcels by certified mail, at the address shown on the records of the County Assessor. The notice shall also specify that each such owner may request a hearing on the proposed merger pursuant to Subsection 2, immediately below, and shall specify action to be taken by such owner to request such hearing including, without limitation, the requirement that said owner shall request the hearing no later than 120 days after the date on which the owner receives the notice. The date of the owner's receipt of the notice shall be the date on which the notice arrives at the owner's stated address, which date the county may presume to be three days after the date of the county's mailing of the notice, unless the circumstances known to the county clearly indicate a later receipt date.
2. Prior to the completion of the merger, where each owner of an affected Parcel has timely requested a hearing on the proposed merger satisfying the requirements of Subsection 1, immediately above, a public hearing on said merger shall be held before the Board of County Commissioners. The hearing shall be conducted for the purpose of allowing the Board to discuss with the owner of each affected Parcel the Board's reasons for proceeding with the merger, and to give each owner the opportunity to submit any basis provided under law for challenging the merger. In the case of a timely hearing request, the county shall provide notice of the time, place, and manner of the hearing to each owner of the affected Parcels and shall also publish the notice in a newspaper of general circulation in the ~~C~~county in a manner sufficient to notify the public of the time, place, and nature of said hearing. In order to give each such owner of an affected Parcel the opportunity to take whatever remedial action is allowed under the law prior to the hearing before the Board, the county shall not hold the hearing any sooner than 90 days after the date on which the owner received the ~~C~~county's initial mailed notice as provided in Subsection 1, above.



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3. Where the owner of each affected Parcel fails to timely request a hearing on the proposed merger satisfying the requirements of Subsection 1, above, no such hearing is required, and the affected Parcels shall be merged in accordance with the requirements of this Subsection ~~Ð~~ 9-102.C.
4. No merger of Parcels that is the subject of a hearing pursuant to Subsections 1 and 2, above, shall be effective unless:
  - a. The owner of the Parcels has given consent to the merger of said Parcels; ~~and~~.
  - b. The merger has been approved by a majority of the Board of County Commissioners.
5. Nothing in this Subsection ~~Ð~~ shall be construed to abrogate or otherwise diminish or expand any rights a landowner may have under Article 68 of Title 24, C.R.S., pertaining to vested property rights.

**9-200 Subdivision Exemptions**

~~A. The Board of County Commissioners may grant exemptions from the application of the Subdivision Regulations for any Subdivision of Unsubdivided Land that the Board determines, as authorized in C.R.S. Section 30-28-101(10)(d), is not within the purposes of Part 1 of Article 28 of Title 30, C.R.S. (the County Planning Act), as set forth in Article 1-300 of this Code.~~

~~1. Whether a Subdivision Exemption falls outside the purposes of the County Planning Act is determined under the criteria specified in Article 9-400.A.~~

~~B. The divisions of land set forth in Article 9-201.A are exempt from the definition of the term ‘Subdivision’ because the Board determined that such minor divisions are not within the purposes of the County Planning Act and are exempt from the requirement of a public hearing before the Board (“Administrative Subdivision Exemption”). The Director may approve an Administrative Subdivision Exemption if it meets the requirements in Article 9-201.~~

A. Eligibility for Subdivision Exemption. The divisions of land set forth here are exempt from the definition of the term ‘Subdivision’ and may be considered under Article 9-400 because the Board determined that such minor divisions are not within the purposes of Part 1 of Article 28 of Title 30, C.R.S. (the County Planning Act), as set forth in Article 1-300 of this Code, as authorized in C.R.S. Section 30-28-101(10)(d).

1. Lot Recognition.

- a. Recognition of an existing Parcel that is not a legal Building Lot as a Building Lot.
- b. Recognition of the merger of a Building Lot with a Parcel that is not a legal Building Lot, as a Building Lot in entirety.
- c. Where nonconforming multiple dwellings and/or uses exist on a Building Lot, a Building Lot(s) may be recognized which separates the dwellings and/or uses onto individual Lot(s).

2. Boundary Line Adjustment. Reconfiguration of Building Lots which results in the same or fewer number of Building Lots.

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

3. Community Facility Lot Split. Where the division creates Parcels for use as community facilities such as public parking areas, public educational facilities, public parks, open space purchase by a public entity, and utility land acquisitions including for utility substations without any dwelling units.
  - a. No exemption is necessary in those cases where the community facility lot split involves land which is, or through the split will be, owned by the county.
4. Any appeal to an eligibility determination made by the Director shall use the same process as set forth in Article 9-400.C.

~~B. C.~~ Proposals for condominiums, apartments, any other multiple dwelling units, or that otherwise create two or more separate interests without dividing a Parcel are exempt from the definition of the term 'Subdivision' because the Board determined that such divisions are not within the purposes of the County Planning Act and are exempt from the requirement of a public hearing before the Board. The Director or the Board may approve a proposal under this provision if it is regulated by, and meets the criteria of, a binding review process under this Code.

~~D. Lots that may be created under Articles 5 and 6 of this Code are not eligible for approval through the Subdivision Exemption process.~~

~~C. E.~~ When the Subdivision of Parcels involves land that is, or through the Subdivision will be, owned in full or in part by the county, Subdivision Exemption approval or approval under Article 5 of this Code is not required.

**9-300 Exemption Plats**

~~A. The Board of County Commissioners may grant exemptions from the application of the Subdivision Regulations pursuant to the requirements of Article 9-300 where the proposed division involves Subdivided Land.~~

~~B. Unsubdivided Land is not eligible for an Exemption Plat unless:~~

- ~~1. it is part of an application to add it to Subdivided Land to create a Subdivided Lot of 35 acres or more; or~~
- ~~2. the county has received proper notice in a judicial process; and a court has entered an order changing the boundary lines shown on a Plat or the action has been settled through a boundary line agreement; or~~
- ~~3. it is part of an application involving Subdivided Land where both Parcels meet the definition of a Building Lot, as described in 9-100.A.7.~~

~~C. The minor divisions of land set forth in Article 9-301 are exempt from application of the Subdivision Regulations and do not require a public hearing before the Board ("Administrative Exemption Plat").~~

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

**9-301 Administrative Exemption Plats**

~~A. Administrative Exemption Plats Through Criteria Review~~

- ~~1. The Director may approve an application for an Administrative Exemption Plat if the Director has determined that there is no potential for any significant conflict with the criteria listed in 9-400 of this Code such that no conditions to mitigate land use impacts of the proposal are necessary;~~
- ~~2. If the Director approves an Administrative Exemption Plat, the Director shall notify the owners of property located within 1500 feet of the affected property of the decision and provide such property owners with the opportunity to appeal the decision to the Board.~~
- ~~3. The Director's determination is final after 14 calendar days from the date of notice unless appealed to the Board of County Commissioners under the provisions of Article 9-600.~~
- ~~4. Once the Director's determination is final, the Director will present the final Exemption Plat to the Chair of the Board for a signature.~~

~~B. Administrative Exemption Plat to Resolve Property or Boundary Line Disputes~~

- ~~1. The Director may approve an application for an Administrative Exemption Plat to finalize a division of a Subdivided Lot or lots by state court or through a boundary line agreement under § 38-44-112 to settle an action seeking a division of a Subdivided Lot by state court that meets any of the definitions of a Building Lot in Article 9-100.A.12.a-d. The Director will present the final Exemption Plat to the Chair of the Board for a signature.~~
- ~~2. Recognition as a Building Lot of a Subdivided Lot changed by a state court or a boundary line agreement, to settle an action seeking a change to the Subdivided Lot by a state court, that does not meet the definition of a Building Lot is subject to the Exemption Plat criteria in 9-400 and requires a hearing before the Board of County Commissioners.~~

~~C. Administrative Exemption Plat for Subdivided Lots for Which the County Issued Permits~~

- ~~1. The Director may approve an application for an Administrative Exemption Plat to finalize a division of a Subdivided Lot that meets the definition of a Building Lot in Article 9-100.A.7. The Director will present the final Exemption Plat to the Chair of the Board for a signature.~~

**9-302 Vacations**

- ~~A. Road and utility easement vacations, resulting from Subdivided Lot reconfigurations through this process or otherwise requiring changes to the Plat, shall be heard and acted upon by the Board, in conjunction with the Exemption Plat hearing, following review of the vacation through the process in Article 10 of this Code by Planning Commission.~~

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

**9-300 Exemption Plats**

A. Eligibility for Exemption Plat

1. An amendment or change to a plat which at the Director’s discretion has been determined to not require a Replat under Article 5-402 may be processed under Article 9-400, including but not limited to reconfiguration of a parcel through boundary line adjustments without a change in the overall number of Building Lots, minor adjustment to a building envelope, parcel mergers that eliminate a Building Lot, and changes to plats resulting from the road or easement vacation process of this Code.
  - a. Any appeal to an eligibility determination made by the Director shall use the same process as set forth in Article 9-400.C.
2. ~~D.~~—No Exemption Plat approval shall permit an increase in the number of Subdivided Lots unless any additional resulting Subdivided Lot is 35 acres or more, unless the additional density was recognized through a court action where the County was given timely notice of the pending action by the court and given the opportunity to join as a party in interest in the proceeding, or unless the Parcel adding the additional density meets the definition of a Building Lot in Article 9-100.A.7.
3. Unsubdivided Land is not eligible for an Exemption Plat unless:
  - a. It is part of an application to add it to Subdivided Land to create a Subdivided Lot of 35 acres or more; or
  - b. The county has received proper notice in a judicial process and a court has entered an order changing the boundary lines shown on a Plat or the action has been settled through a boundary line agreement; or
  - c. It is part of an application involving Subdivided Land where both Parcels meet the definition of a Building Lot, as described in 9-100.A.7.
4. Exemption Plat to Resolve Property or Boundary Line Disputes
  - a. The Director may approve an application for an Exemption Plat to finalize a division of a Subdivided Lot or lots by state court or through a boundary line agreement under § 38-44-112 to settle an action seeking a division of a Subdivided Lot by state court that meets any of the definitions of a Building Lot in Article 9-100.A.12.a-d. The Director will present the final Exemption Plat to the Chair of the Board for a signature.
  - b. Recognition as a Building Lot of a Subdivided Lot changed by a state court or a boundary line agreement to settle an action seeking a change to the Subdivided Lot by a state court that does not meet the definition of a Building Lot is subject to the Exemption Plat criteria in 9-400.
5. For Subdivided Lots Which the County Issued Permits

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

- a. The Director may approve an application for an Exemption Plat to finalize a division of a Subdivided Lot that meets the definition of a Building Lot in Article 9-100.A .7. The Director will present the final Exemption Plat to the Chair of the Board for a signature.

**~~9-400 Review Criteria for Subdivision Exemptions and Exemption Plats~~**

~~A. A Subdivision Exemption or an Exemption Plat shall meet the following criteria:~~

- ~~1. For Subdivision Exemptions only, if the exemption would result in an increase in the number of currently existing lots, any identified land use impacts associated with the increase are sufficiently mitigated.~~
- ~~2. For Exemption Plats only, if the originally approved Subdivided Lots were 1.1 acres or less, the size of each of the proposed lots shall not change by more than fifteen percent, unless served by public water and/or sewer.~~
- ~~3. The proposed lots shall have legal access.~~
- ~~4. The proposed lots and potential development on them shall be capable of being served by an adequate physical access, including for emergency and non-emergency purposes, which meets the requirements of the County Engineer, and, if applicable, the local fire protection district.~~
- ~~5. The proposed lots and potential development on them shall be capable of being served by an adequate water supply.~~
- ~~6. The proposed lots and potential development on them shall be capable of being served by an adequate onsite wastewater system or sewage treatment system as required by Boulder County Public Health.~~
- ~~7. Adequate public facilities and services shall exist to serve the proposed lots and potential development on them.~~
- ~~8. If any of the proposed lots are in the Floodplain Overlay District:
  - ~~a. The potential impacts of creating the proposed lots or portions of proposed lots within the Floodplain Overlay District shall be sufficiently mitigated; and~~
  - ~~b. the development upon the proposed lots shall be possible outside the Floodplain Overlay District; or~~
  - ~~c. the potential development upon the proposed lots shall be capable of obtaining a floodplain development permit under Article 4-400 of this Code, as determined by the County Engineer.~~~~

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

~~9. The proposed lots and development on them shall be in harmony with the character of the neighborhood and compatible with the surrounding area and shall be appropriately landscaped and screened to minimize the obtrusiveness of structures and maximize visual blending with the surrounding topography.~~

~~10. The proposed lots and potential development on them shall not be subject to, or contribute to, significant risk from natural hazards such as unstable soils, steep or unstable slopes, floods, and wildfire.~~

~~11. The proposed lots and potential development on them shall not have a significant adverse impact on environmental resources identified in the Comprehensive Plan or through the review of the application, such as Wetlands and Riparian Areas; plant communities and vegetative cover; Critical Wildlife Habitat and Migration corridors; Natural Areas and Natural Landmarks; Environmental Conservation Areas; agricultural, forestry, or open lands; and views, vistas, and scenic corridors.~~

~~12. The proposed lots and potential development on them shall not have a significant adverse impact on historic, cultural, or archaeological resources identified in the Comprehensive Plan or through the review of the application.~~

~~13. The proposed lots and potential development on them shall not cause unnecessary or excessive site disturbance or erosion, or alter historic drainage patterns.~~

~~14. The proposed lots and potential development on them shall be in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development, and this Code.~~

~~15. Where the division creates Parcels for use as community facilities such as public parking areas, public or private educational facilities, public parks, and open space purchase by a public entity, and utility land acquisitions including for utility substations without any dwelling units, an exemption may be approved for the placement of a community facility where the size, location and available services are reasonable, appropriate, and customary for the proposed use.~~

**9-400 Subdivision Exemption and Exemption Plat Process**

- A. The Director, by delegation of authority from the Board of County Commissioners, pursuant to this Article, may grant exemptions from the application of the Subdivision Regulations where the proposal includes either Unsubdivided Land (a Subdivision Exemption) or Subdivided Land (an Exemption Plat).
- B. Upon receipt of a complete application, the Director shall review the application and issue a decision based on the criteria for Subdivision Exemption and Exemption Plat found in Article 9-500.
  - 1. If the Director finds that the application meets the standards set forth in Article 9-500, the Director shall approve the application.

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

2. If the Director finds that the application does not meet an applicable standard or standards, but that application of reasonable mitigation measures allows the standard to be met, the Director shall approve the application with conditions.
  3. If the Director finds that the application does not meet an applicable standard or standards and that reasonable mitigation measures do not allow the standard to be met, the Director shall deny the application.
  4. Once the Director issues a determination, the determination shall not be final for 14 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the Board of County Commissioners to call up the determination for further review pursuant to Article 9-400.C and D of this Article.
- C. Applicant’s Right of Appeal of a Conditional Approval or Denial
1. If the Director denies an application or conditionally approves it with conditions to which the applicant objects, the applicant shall be entitled to appeal the Director's determination to the Board of County Commissioners.
  2. The applicant must file an appeal for this purpose with the Community Planning & Permitting Department in writing received no later than 14 calendar days after the date of the Director's determination.
  3. The Board shall review the Director's determination at a public hearing held as soon as practical after the appeal has been filed. Prior written notice of this hearing shall be provided to the applicant and to property owners within 1500 feet and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.
  4. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the appeal but may review any aspect of the application. Based upon this evidence the Board may affirm the Director's decision, alter conditions, add new conditions, or reverse the Director's determination on any aspect of the application.
- D. Board of County Commissioner’s Review (“Call Up”) of a Conditional Approval or Denial
1. Upon receiving the Director's determination, and no later than 14 calendar days after the date of the approval, the Board may call the Director's determination up for review before the Board. The call-up generally shall be made by the Board at a public meeting convened within this 14-day period. However, if it is not practical for the Board to convene a public meeting for this purpose within the 14-day period, any member of the Board may authorize a call-up within the 14-day period, which call-up shall be effective provided that the Board subsequently ratifies the call-up at a public meeting held within a reasonable period of time after the 14-day period expires.
  2. The Board shall review the Director's determination at a public hearing held as soon as practical after the Director's determination. Prior written notice of this hearing shall be provided to the applicant

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

and to property owners within 1500 feet and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.

3. At the public hearing, the Board shall consider evidence related to the Director's decision which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the call-up but may review any aspect of the application. Based upon this evidence, the Board may affirm the Director's decision, alter conditions, add new conditions, or reverse the Director's decision on any aspect of the application.

**~~9-500 Conditions of Approval and Post-Approval Requirements for Subdivision Exemptions and Exemption Plats~~**

~~A. If an application for a Subdivision Exemption or an Exemption Plat does not meet all the listed criteria for approval, the Board, in its discretion, may impose reasonable conditions which allow a proposal to meet the criteria. Nothing in this provision shall require the Board to impose conditions if, in the Board's discretion, the Board determines that a reasonable basis for mitigation does not exist and that the application shall therefore be denied.~~

- ~~1. Conditions of approval which the Board may impose to allow an application to meet the listed criteria include, without limitation, structure height or floor areas restrictions; designation of building envelopes or locations in which structures, buildings, or site disturbance shall be confined; landmarking to protect historic or cultural resources; designation of preserved areas of land; required management practices to maintain preserved land, protect environmental resources, minimize erosion, control or eliminate noxious weeds or undesirable plants, regulate drainage, and prevent hazards both on and off the subject property including through wildfire mitigation; landscaping or other appropriate screening measures including through limiting building materials or colors; landowner grant of a Conservation Easement or restrictive covenant running with the land to preserve, and avoid the over-intensive use of, sites with recognized conservation and open land values; and purchase and retirement of development rights to mitigate an increase in density recognized through a Subdivision Exemption approval.~~

- ~~2. In exercising its discretion to determine whether an Exemption Plat meets or does not meet the listed criteria, the Board may weigh the evidence on the criteria which is presented, with regard to the property taxation treatment of the subject Subdivided Land, conveyancing history of the subject Subdivided Land, land use regulatory history of the Subdivided Land, existing development on the subject Subdivided Land, and reasonable investment backed expectation of the landowner in the subject Subdivided Land.~~

~~B. Post-Approval Requirements~~



Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

- ~~1. The Board or Director may impose post approval requirements upon any approved Exemption Plat or Administrative Exemption Plat including, without limitation, a title report including all owners as of the date of recordation of the new Deeds; that the owner include appropriate language on any required Deeds; and certification from the County Treasurer's Office that there are no outstanding ad valorem taxes to be paid on the property being exempted.~~

**9-500 Review Criteria for Subdivision Exemptions and Exemption Plats**

- A. A Subdivision Exemption or an Exemption Plat shall meet all of the following criteria:
  1. The proposed lots and potential development on them shall meet all of the following criteria:
    - a. Have legal access and be capable of being served by an adequate physical access, including for emergency and non-emergency purposes, which meets the requirements of the County Engineer, and, if applicable, the local fire protection district;
    - b. demonstrate how the property is capable of being served by an adequate water supply;
    - c. be served by an on- site wastewater system or sewage treatment system as required by Boulder County Public Health or connect to a public sewer service; and.
    - d. not cause unnecessary or excessive site disturbance, or erosion or alter historic drainage patterns.
  2. Structures should not be made to violate setback requirements and setback compliance should be maintained. The Director may approve an exemption resulting in structures being nonconforming with regards to the setback when it is determined necessary or appropriate and does not conflict with the other criteria.
  3. Conformance with the minimum lot size in the zone district shall be maintained and lot size shall be sufficient to support development. The Director may approve an exemption which results in lots that do not meet the minimum lot size when it is determined necessary or appropriate and does not conflict with the other criteria.
  4. The proposed lot configurations and development on them shall be in harmony with the character of the neighborhood.
  5. The proposed lots and potential development on them shall not be subject to, or contribute to, significant risk from natural hazards such as unstable soils, steep or unstable slopes, floods, and wildfire.
    - a. If any of the proposed lots are in the Floodplain Overlay District:
      - (i) The potential impacts of creating the proposed lots or portions of proposed lots within the Floodplain Overlay District shall be sufficiently mitigated; and.
      - (ii) The development upon the proposed lots shall be possible outside the Floodplain Overlay District; or

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

(iii) The potential development upon the proposed lots shall be capable of obtaining a floodplain development permit under Article 4-400 of this Code, as determined by the County Engineer.

6. The lots and potential development on them shall not result in adverse impact on resources identified in the Comprehensive Plan or through the review of the application, such as Wetlands and Riparian Areas; plant communities and vegetative cover; Critical Wildlife Habitat and Migration corridors; Natural Areas and Natural Landmarks; Environmental Conservation Areas; agricultural, forestry, or open lands; and views, vistas, and scenic corridors; historic, cultural, or archaeological resources.

7. The proposed lots and potential development on them shall be in accordance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development and this Code.

B. A Subdivision Exemption shall also meet the following additional criteria as applicable:

1. Recognition of an existing Parcel that is not a Legal Building Lot as a Building Lot shall meet all of the following criteria:

a. The property history analysis supports the recognition of the Parcel as a Building Lot. Analysis may rely on conveyance history, land use and regulatory history, building permit records, assessor records and any other relevant history which demonstrates that the property was developed in good faith and with reasonable reliance on available information;

b. Residential development has existed on the property since December 6, 1979, the dwelling received a building permit if required at the time of construction, has been occupied and used as a residence consistently since its construction, and facilities to support the residence are in place; and.

c. The Parcel is described on a deed on or before December 6, 1979.

d. Structures eligible for Historic Landmark status shall be Landmarked prior to recordation of deeds effectuating the Subdivision Exemption.

2. Recognition of an existing vacant Parcel that is not a Building Lot as a Building Lot shall meet all of the following criteria.

a. The Parcel in its current condition shall meet all of the following criteria:

(i) Have been created prior to December 6, 1979.

(ii) Be located within a Community Service Area or municipal growth area identified in an Intergovernmental Agreement.

(iii) Be ineligible for annexation.

(iv) No method to otherwise resolve the illegal Parcel status or correct the illegal subdivision shall exist.

b. Transferable Development Credits equivalent to a development right must be purchased and retired prior to finalization of the Subdivision Exemption.

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

3. Recognition of Building Lots where an exemption requests the division of a Parcel with non-conforming multiple dwellings or uses shall meet all of the following criteria:
  - a. Parcels resulting from the exemption shall be configured to locate each structure or use fully within a resulting parcel's boundary lines, no vacant parcels shall be created.
  - b. Development on the resulting parcels shall be limited to existing Floor Area plus the lesser of either 200 sq. ft. or size limitation expressed elsewhere in the Code.
  - c. Structures eligible for Historic Landmark status shall be Landmarked prior to recordation of deeds effectuating the Subdivision Exemption.
4. Community Facility Lot Split
  - a. The Director shall consider the specific or unique needs of the proposed community facility. An exemption may be approved for the placement of a community facility where the size, location and available services are reasonable, appropriate, and customary for the proposed use.

C. Additional Provisions for Exemption Plats

1. Building envelope adjustments shall not be used to increase Residential Floor Area on the parcel. Reconfigured building envelopes should maintain the original purpose and intent for the establishment of the building envelope and shall not be expanded in size unless the purpose of the area expansion is to support the implementation of goals established in the Comprehensive Plan.

**9-600 Appeal of Director's Determination**

- ~~A. The Director's determination, made under Article 9 201 or 9 301.A, of whether an application meets the criteria in Article 9 400 for a Subdivision Exemption or an Exemption Plat may be appealed to the Boulder County Board of County Commissioners.~~
  - ~~1. If any person aggrieved by the Director's determination files an appeal with the Community Planning & Permitting Department in writing within 14 calendar days, the Board shall review the Director's determination at a public hearing. If no appeal is made within 14 calendar days after the date of the determination, the Director's determination is final.~~
  - ~~2. Prior written notice of the public hearing on the appeal shall be provided to the applicant and to property owners within 1500 feet and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.~~
  - ~~3. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in its review to the subject of the appeal but may review any aspect of the application. Based upon this evidence the Board may affirm the Director's decision, add new conditions, or reverse the Director's determination. In the case of denial of an application, the Board shall state its reasons for its decision based upon the criteria in the applicable article of this Code.~~

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

~~B. The Director's determination, made under Article 9 301.B or 9 301.C, of whether an application meets the requirements for approval may be appealed to the Boulder County Board of Adjustment under the provisions of Article 4 1200.~~

**9-600 Conditions of Approval for Subdivision Exemptions and Exemption Plats**

- A. If an application for a Subdivision Exemption or an Exemption Plat does not meet all the listed criteria for approval, the Director, in their discretion, may impose reasonable conditions which allow a proposal to meet the criteria. Nothing in this provision shall require the Director to impose conditions if, in the Director's discretion, the Director determines that a reasonable basis for mitigation does not exist, and that the application shall therefore be denied.
1. Conditions of approval which the Director may impose to allow an application to meet the listed criteria include, without limitation, structure height or floor areas restrictions; designation of building envelopes or locations in which structures, buildings, or site disturbance shall be confined; landmarking to protect historic or cultural resources; designation of preserved areas of land; required management practices to maintain preserved land, protect environmental resources, minimize erosion, control or eliminate noxious weeds or undesirable plants, regulate drainage, and prevent hazards both on and off the subject property including through wildfire mitigation; landscaping or other appropriate screening measures including through limiting building materials or colors; landowner grant of a Conservation Easement or restrictive covenant running with the land to preserve, and avoid the over-intensive use of, sites with recognized conservation and open land values; and purchase and retirement of development rights to mitigate an increase in density recognized through a Subdivision Exemption approval.
  2. In exercising their discretion to determine whether an Exemption Plat meets or does not meet the listed criteria, the Director may weigh the evidence on the criteria which is presented, with regard to the property taxation treatment of the subject Subdivided Land, conveyancing history of the subject Subdivided Land, land use regulatory history of the Subdivided Land, existing development on the subject Subdivided Land, and reasonable investment backed expectation of the landowner in the subject Subdivided Land.

**9-700 Post-Approval Requirements for Subdivision Exemptions and Exemption Plats**

- A. The Director may impose post-approval requirements upon any approved exemption including, without limitation, a title report including all owners as of the date of recordation of the new Deeds or Final Plat Map; that the owner include appropriate language on any required Deeds or Final Plat Map; and certification from the County Treasurer's Office that there are no outstanding property taxes to be paid on the property being exempted.

Exhibit A

DC-19-0003: Update language in Article 9 (Building Lots, Mergers, Subdivision Exemptions & Exemption Plats) to simplify and streamline the SE/EP process. Introduce a definition for Townsite in Article 18 to help resolve issues around what a Townsite is considered in the county. Make necessary revisions in Article 3 of the Code to incorporate the changes made in Article 9

- B. Upon finding that all payments have been received and the documents are in the proper order and ready for recordation, the Director shall authorize the documents to be filed for recording with the Clerk and Recorder.

**9-800 9-700 Expiration of Subdivision Exemption and Exemption Plat Approval**

- A. ~~The Board of County Commissioners' or Director's decision to approve or conditionally approve~~ Any approval of an Exemption Plat or Subdivision Exemption shall, unless otherwise stated in such action, be effective for a period of one calendar year from the date of approval to the date of recordation of all required documents.
- B. ~~The Board of County Commissioners or~~ Director may grant up to two extensions of deadlines of no more than one year each for those dates specified in this Article, if they find that there has been no change in this Code, the Comprehensive Plan, or the surrounding neighborhood which would substantially affect the approved exemption.
- C. ~~On an annual basis, the Director may present to the Board of County Commissioners all those applications that will expire in the coming year and may need extensions of processing time.~~

Exhibit A

18-204 Subdivided Land

Land located within a platted subdivision, as depicted on a plat ~~approved in accordance with the Subdivision Regulations, and recorded in the office of the County Clerk and Recorder.~~ recorded in the office of the County Clerk and Recorder on or after July 1, 1947. The recorded document shall include the signature of either Planning Commission or the Board of County Commissioners.

*Insert and Renumber*

18-2xx Townsite

Unsubdivided Land where a land division map was recorded prior to July 1, 1947, and where the county does not recognize each mapped parcel as a legal building lot.

18-209B Unsubdivided Land or Unsubdivided Parcels

Land or parcels which do not fall within the definition of Subdivided Land (i.e., land or parcels which are not within a platted subdivision).