



611 Mulberry Road, Suite 300
 Derby, KS 67037
 Phone 316-788-6632
www.derbyks.com

**APPLICATION FOR:
 EXEMPTION FROM PLATTING**

This is an application for an exemption from the platting requirements of the Subdivision Regulations. This form must be completed in accordance with directions on the accompanying instructions and filed with the City Planner or Authorized Agent at Derby City Hall, 611 Mulberry, Derby, Kansas 67037.

AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED

Date: _____

FEES: \$100

Property is located within the Buckner Business District or West End, and may be eligible for a waived fees.

CONTACT INFORMATION

¹ Additional recording fees may apply

Owner(s) of the Property Requesting Platting:

Name: _____

Address: _____

Phone: _____ Email: _____

Primary Contact? (Please Check): Yes No

Agent Representing the Applicant (if applicable):

Name: _____

Address: _____

Phone: _____ Email: _____

Primary Contact? (Please Check): Yes No

Contract Purchaser (if applicable):

Name: _____

Address: _____

Phone: _____ Email: _____

Primary Contact? (Please Check): Yes No

REQUEST INFORMATION:

1. **Current Land Use:** _____

2. **Proposed Land Use:** _____

CONTINUE APPLICATION ON NEXT PAGE

3. Under what provision of Article 105 of the Subdivision Regulations is this Exemption requested (proof of exemption eligibility shall be required):

4. Location:

a. Address (if assigned): _____

b. General Location: _____

c. A legal description and location map shall be provided with this application.

5. Zoning:

a. Current Zoning District: _____

b. Does this Request Require a Zone Change: Yes No (If Yes, a Zone Change Application is required with this plat application)

c. If a Zone Change is required, indicate the proposed Zoning District: _____

6. General Information:

a. Gross Acreage of Property: _____ Acres

b. Total Number of Parcels: _____ Lots

Residential Lots: _____ Commercial Lots: _____

Industrial Lots: _____ Other: _____

7. Public Utilities: Indicate what public utilities/infrastructure will be provided. If publicly financed, draft petitions, cost estimate worksheets, and benefit district maps are required with the plat application:

a. Streets: Yes No

b. Sanitary Sewer: Yes No

c. Water: Yes No

d. Stormwater Sewer/Drainage Improvements: Yes No

8. Special Assessments: Are there existing special assessments levied against the property?

Yes No (If Yes, a Respread Agreement is required with this plat application, identifying how the existing specials will be reassessed to the new lot configuration.)

COMPLETE APPLICATION ON NEXT PAGE

CERTIFICATION

The undersigned acknowledges and certifies the following:

1. The applicant or their duly authorized agent hereby certifies that the information given herein is correct and will comply with the requirements of this application.
2. They have received and read the instruction material concerning the filing of this matter.
3. They agree to comply with the Derby Subdivision Regulations and all other pertinent ordinances or solutions of the City of Derby and Statutes of the State of Kansas.
4. They have been advised of the fee requirements established and that the appropriate fee is herewith tendered.
5. That all documents are attached hereto as noted in the instructions.
6. This application cannot be processed unless it is complete and accompanied by all required documents.

Property Owner(s)

Date

Agent (if applicable)

Date

Contract Purchaser (if applicable)

Date

OFFICIAL USE ONLY

Fee OR Fee Waived

Draft Petitions (if applicable)

Proof of Exemption Eligibility

Respread Agreement (if applicable)

This application has been checked and found to be complete and accompanied by the required documents and the appropriate fee.

City Planner or Authorized Agent

<stamp date received>

INSTRUCTIONS FOR AN EXEMPTION FROM PLATTING

1. **Application:** The application must be completed and signed by all owners of record of the application area.

All applicants are encouraged to meet with applicable City staff prior to filing an application. The purpose of the pre-application conference is to provide staff and the applicant an opportunity to discuss all forthcoming steps and any other applications or steps that may be necessary prior to commencement of a specific building project.

2. **Legal Description:** The legal description for the property subject to the adjustment application must be accurate. If it is discovered during the processing of the application that the legal description submitted on the application is unclear or incorrect, then this may delay processing of the application.
3. **Proof of Eligibility:** Article 105 of the Derby Subdivision Regulations indicates when a property is eligible for an exemption from platting. It is required that the application for an exemption to platting include a statement specifying under what provision of the Subdivision Regulation the exemption is requested. In addition, it is required that a copy of the deed of the property, which indicates that the subject property qualifies for the exemption, shall be submitted with the exemption application. In addition, it is advisable that a copy of the Health Departments approval of the exemption area for an on-site sewage treatment system also be submitted with the exemption application.
4. **Review Process:** City planning staff shall review the exemption request and associated documents in accordance with Article 105 of the Derby Subdivision Regulations (attached). Staff will answer the request in the affirmative or negative in written form within 45 days after the filing of the request or the exemption shall be considered granted. When City staff makes a negative determination, the property owner or their agent may appeal the decision to the Planning Commission.

If development of the subject property requires the extension of public services (water, sanitary sewer, stormwater sewer, streets), the applicant shall submit petitions for improvements to City planning staff. Petitions must be signed by all property owners within the proposed improvement district. Planning staff shall review such petitions and forward to the City Council for consideration. The City Council shall adopt resolutions for the improvements and costs of the improvements shall be assessed to the benefitting properties as special assessments.

Article 105 “Exemptions”
An Excerpt of the Derby Subdivision Regulations

Notwithstanding the requirements of Sections 103 and 104, these Regulations shall not apply in the following instances or transactions:

- A. Whenever any lot, parcel or tract of land located within the area governed by these Regulations has been legally subdivided, re-subdivided, replatted or established, on the records of the Register of Deeds, by a metes and bounds description prior to July 1, 1968.
- B. A transaction between owners of adjoining land which involves only a change in the boundary between the land owned by such persons and which does not create an additional building site or which does not result in the creation of a substandard building site by either owner according to any applicable zoning regulations or sanitary code.
- C. A conveyance of a portion of a lot or tract or interest therein for use as a street or railroad right-of-way, a drainage easement or easement to a public utility subject to local, state or federal regulation, provided a new street or easement of access is not created.
- D. Land used for county, state or federal highways or related public purposes concerning the dedication of a portion of a lot or tract for such a public use or instruments relating to the vacation of land impressed with such a public use.
- E. Any lot split divided in accordance with the provisions of Article 9 of these Regulations.
- F. A conveyance made to correct a description in a prior conveyance that is clearly labeled as a "Correction Conveyance."
- G. Any transfer by operation of law.
- H. For land in the unincorporated area, the division or further division of land into unplatted metes and bounds tracts, each of which contains 20 or more acres, and which:
 - 1) Does not involve any new streets or easements of access and is located adjacent to a public road which has been accepted by the County or a township or which is located adjacent to an existing private road whose right-of-way width conforms to the right-of-way standards of this Regulation.
 - 2) In the case of an existing private road, there must be covenants filed of record which provide for the maintenance of the private road. The covenants must provide a mechanism which authorizes the County to maintain the private road, and charge incurred costs to the owners of the land being provided access, if the owners fail to maintain the private road.
 - 3) Has land suitable for dwelling purposes which is not located in an area subject to flooding as determined by Section 606 of these Regulations. If any portion of unincorporated property lies in a flood hazard area as shown on the Flood Boundary and Floodway Maps published by the Federal Emergency Management Agency or if drainage channels and

swales exist on the property which carry runoff from adjacent property or public roads, the flood hazard area or drainage channel shall be protected by grant of easement, dedication or other similar device as may be required by the County;

- 4) If the property is located adjacent to a public road right-of-way which does not conform to the right-of-way width requirements of these Regulations, additional right-of-way shall be granted by dedication or easement as may be required to conform to these Regulations.
 - 5) Is to be used for agricultural or single-family residential purposes only; and
 - 6) Conforms with any applicable zoning regulations and sanitary code.
- I. Land in the unincorporated area which was divided into metes and bounds tracts or parcels of 10 or more acres in size prior to August 9, 1990 and which:
- 1) Does not involve any new streets or easements of access and is located adjacent to a public road which has been accepted by the County or a township or which is located adjacent to an existing private road whose right-of-way width conforms to the right-of-way standards of this Regulation.
 - 2) In the case of an existing private road, there must be covenants filed of record which provide for the maintenance of the private road. The covenants must provide a mechanism which authorizes the County to maintain the private road, and charge incurred costs to the owners of the land being provided access, if the owners fail to maintain the private road.
 - 3) Has land suitable for dwelling purposes which is not located in an area subject to flooding as determined by Section 606 of these Regulations. If any portion of unincorporated property lies in a flood hazard area as shown on the Flood Boundary and Floodway Maps published by the Federal Emergency Management Agency or if drainage channels and swales exist on the property which carry runoff from adjacent property or public roads, the flood hazard area or drainage channel shall be protected by grant of easement, dedication or other similar device as may be required by the County;
 - 4) If the property is located adjacent to a public road right-of-way which does not conform to the right-of-way width requirements of these Regulations, additional right-of-way shall be granted by dedication or easement as may be required to conform to these Regulations.

It shall be the responsibility of the property owner or their agent to provide to the City copies of recorded instruments which show the name of the current owner and a complete legal description of the property for which an exemption is requested, including documentation identifying that date upon which the legal description for the property was established.

Any request made in writing in a format established by the Secretary for a determination as to qualifications for being exempt from these Regulations shall be answered by City staff either in the affirmative or negative within 45 days after the filing of the request or the exemption shall be considered granted. When City staff makes a negative determination, the property owner or their agent may appeal the decision to the Planning Commission.