



ORDINANCE NO. 2008-004

AMENDING THE TORRANCE COUNTY SUBDIVISION REGULATIONS PERTAINING TO VACATION OF PLATS, PERTAINING TO STANDARDS AND PROCEDURES FOR EXEMPTIONS TO SUBDIVISIONS, AND PERTAINING TO FAMILY TRANSFERS OF LAND.

BE IT ORDAINED BY THE GOVERNING BODY OF TORRANCE COUNTY:

PART 1.

Article 7, Section 7.3.2., Request for Vacation, is amended by adding the following new sentence and the end of Section 7.3.2:

Copies of the request for vacation, including all supplemental information, shall be transmitted by the County Clerk within three (3) working days to the County Zoning Clerk who shall present such request to the Torrance County Planning and Zoning Commission for review and comment.

Article 7, Section 7.3.4. is amended by deleting and replacing the first sentence to read as follows:

In approving or denying the vacation of all or a part of a final plat, the Board of County Commissioners shall decide whether or not the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated.

PART 2.

Article 2, DEFINITIONS, is amended by deleting and replacing paragraph (1) listing exemptions to the definition of "subdivision" to read as follows:

- 1) sale, lease, or other conveyance of any parcel that is forty (40) acres or larger in size within any twelve (12) month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with §7-36-20 NMSA 1978, for the preceding three (3) years;

Article 2, DEFINITIONS, is amended by deleting and replacing the definition of "immediate family member" to read as follows:

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Immediate family member Family relations up to and including the Grandparent, Parent, Brother, Sister, and Child. Relationships of the half blood shall be recognized as natural relationships so long as the step relationship is legally extant at the time of the transfer

Article 2, DEFINITIONS, is amended by deleting and replacing paragraph (9) listing exemptions to the definition of "subdivision" to read as follows:

- 9) division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel of land per immediate family member; furthermore gifts of land may be transferred by father or mother to their children, natural or adopted, or grandchildren, or transferred by a person who as a legal guardian has performed the function of father, mother, grandfather or grandmother to an individual to whom the land is being transferred;

PART 3.

Article 7, Section 7.5, Exemptions, is amended as follows:

Paragraph b. of Section 7.5.2. is deleted and replaced with the following new wording:

- b. The Torrance County Planning and Zoning Commission shall review the claim of exemption and supporting documents at the next regularly scheduled meeting following receipt of a completed Claim of Exemption Application with all supporting documents. The Claim of Exemption Application must be deemed complete by the County Zoning Clerk. The person claiming the exemption, or a designated agent, shall be present at the meeting of the Torrance County Planning and Zoning Commission wherein the Claim of Exemption is considered.

Paragraph c. of Section 7.5.2. is deleted and replaced with the following new wording:

- c. If the claim of exemption is approved by the Torrance County Planning and Zoning Commission, the person claiming the exemption may divide the land in the manner proposed in the claim of exemption without complying with the subdivision provisions of these Regulations; however, the division of land must be in compliance with all other ordinances, including but not limited to the Torrance County Zoning Ordinance, and all other regulations.

Insert a new Section 7.5.3 pertaining to exemptions for land divisions created by inheritance or family transfer:

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7.5.3. Exemptions for Inheritance or Family Transfer Land Divisions.

- a. A lot is created by inheritance if it is created by an order of the Court in probate proceedings for the purpose of transmitting property to heirs or beneficiaries, but not for the purpose of sale or lease.
- b. **Plats for inheritance transfers shall be submitted with the following documentation:**
 - 1) The court order or other appropriate legal instrument from probate proceedings;
 - 2) A deed(s) transferring the parcel(s) to the heirs or beneficiaries as set forth in the court order or similar document shall be recorded at the time the plat is filed.
- c. A lot is created by Family Transfer if it is a division of land that is sold or donated as a gift to an immediate family member; or transferred by a person who as the legal guardian has performed the function of a father, mother, grandfather or grandmother to an individual to whom the land is being transferred. However, this exemption shall be limited to allow the seller or donor to sell or give no more than one parcel of land per immediate family member.
- d. **Plats for family transfers shall be submitted with an affidavit or affidavits to the County Zoning Clerk containing the following documentation which shall be conditions of approval for a development permit:**
 - 1) A legal description of the property being transferred;
 - 2) A statement that the person transferring the lot has not made any transfers of any other lots to the same person under the family transfer provisions of these Regulations or the Zoning Ordinance in effect;
 - 3) Proof that the land has been in the lawful possession of the immediate family member for no less than five (5) years and that the recipient is an adult or emancipated minor;
 - 4) A notation on the face of the plat stating that the division of land is a family transfer;
 - 5) A deed(s) transferring the parcel(s) to family members shall be recorded at the time a family transfer plat is filed;
 - 6) An affidavit showing that notice of the application for approval of a family transfer plat has been mailed by certified mail to owners of property, as shown by the records of the County Assessor, adjacent to and within one hundred feet, excluding public rights of way, of the proposed family transfer parcel(s).
- e. **Lots created by family transfer or inheritance shall meet special requirements as follows:**

- 1) Provisions have been made to ensure potable water is available to the lot and is in compliance with the water supply regulations of the Office of the State Engineer of New Mexico;
- 2) Provisions have been made for liquid waste disposal in compliance with the liquid waste regulations of the New Mexico Environment Department;
- 3) The natural drainage flow of all water courses, channels and streams shall be indicated on the plat and, where applicable, the one hundred (100) year flood hazard zone(s) shall be identified;
- 4) Provisions have been made to provide adequate roadway access to the lot, and any rights-of-way and easements associated with the lot shall be indicated on the plat;
- 5) Provisions have been made for applicable building and utility permits.

This Ordinance shall become effective on the 23rd day of April, 2008, following publication by title and general summary.

PASSED, APPROVED AND SIGNED this 23rd day of April, 2008, by the Board of County Commissioners of Torrance County, New Mexico.

[Signature]
Chairman

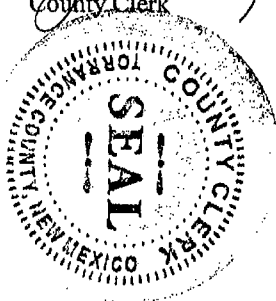
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ATTEST:

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