

TORRANCE COUNTY
CLAIM OF EXEMPTION APPLICATION

Date Received ____/____/____

To claim an exemption from the requirements of the Torrance County Subdivision Ordinance, you must complete this form, sign it before a Notary Public, and submit it together with ten (10) legible copies of all required documents to the County Planning & Zoning Director. Planning & Zoning Board Meetings are normally scheduled for the first Wednesday of each month. Be sure to check the appropriate exemption being claimed and attach legible copies of all supporting documents.

The Torrance County Planning & Zoning Board 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 Planning & Zoning Director. The applicant, or a designated agent, shall be present at the meeting of the Torrance County Planning & Zoning Board wherein the Claim of Exemption is to be considered.

This form must be accompanied by an administrative filing fee of \$200.00 payable to: Torrance County.

I, _____, claim an exemption from the requirements of the New Mexico Subdivision Act and the Torrance County Subdivisions Regulations. I understand this application must comply with all zoning regulations and certify that this transaction involves:

- ____ 1. The sale, lease or conveyance of any parcel, provided that no tract is smaller than forty acres or 1/16 of a section in size within any twelve (12) month period, provided that the tract has been used primarily and continuously for agricultural purposes, in accordance with Section 7-36-20 NMSA 1987, for the proceeding three (3) years.

ATTACH COPIES OF DEED, NOTICE OF VALUATION FROM THE ASSESSOR'S OFFICE, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING THE SIZE AND LOCATION OF PARCEL.

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. **NO FURTHER EXEMPT LAND DIVISION MAY OCCUR ON THESE TRACTS FOR TWELVE MONTHS AFTER RECORDATION.**
2. **TRACT ____ CANNOT BE DIVIDED BELOW FORTY (40) ACRES OR 1/16 OF A SECTION BY MEANS OF A CLAIM OF EXEMPTION, EXCEPT BY COURT ORDER, TO SECURE A MORTGAGE OR TO DONATE A PARCEL OF LAND.**

- ____ 2. The sale or lease of apartments, offices, stores, or similar space within a building.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, SKETCH PLAN, AND ALL PROPOSED SALE OR LEASE DOCUMENTS.

- ____ 3. The division of land within the boundaries of a municipality.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING THE SIZE AND LOCATION OF THE PROPOSED DIVISION.

- ____ 4. The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING THE SIZE AND LOCATION OF THE PROPOSED CONVEYING DOCUMENTS.

- _____ 5. The division of land created by court order where the order creates no more than one (1) parcel per party.

ATTACH COPIES OF DEED, CERTIFIED COPY OF COURT ORDER, PREVIOUS SURVEY, AND CERTIFIED SURVEY OF THE DIVISION AND CONVEYING DOCUMENTS.

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTE:

THESE LOTS WERE CREATED BY (name of court ordering division), COURT ORDER NO. _____, DATED _____.

- _____ 6. The division of land for grazing or farming activities provided that the land continues to be used for grazing or farming activities.

ATTACH COPIES OF THE DEED, ALL PROPOSED CONVEYING DOCUMENTS AND DOCUMENTS RESTRICTING FUTURE USE TO GRAZING OR FARMING ACTIVITIES. NO DWELLING UNITS, COMMERCIAL, OR INDUSTRIAL USES SHALL BE ALLOWED ON THE LOTS CREATED IN PERPETUITY. SUCH DOCUMENTS MUST CONTAIN A COVENANT RUNNING WITH THE LAND AND ARE REVOCABLE ONLY BY MUTUAL CONSENT OF THE PLANNING & ZONING BOARD AND THE PROPERTY OWNER, THAT THE DIVIDED LAND WILL BE USED EXCLUSIVELY FOR GRAZING OR FARMING ACTIVITIES.

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

- 1. TRACT _____ WAS CREATED FOR GRAZING AND FARMING ACTIVITIES ONLY; NO DWELLING OR COMMERCIAL USES ARE PERMITTED.**
- 2. NO FURTHER EXEMPT LAND DIVISION MAY OCCUR UNLESS THE COVENANTS ARE REVOKED BY MUTUAL CONSENT BETWEEN THE PROPERTY OWNER AND THE PLANNING & ZONING BOARD.**
- 3. RESTRICTIVE COVENANTS ARE RECORDED IN BK. _____ & PG. _____ AS DOCUMENT # _____ IN THE RECORDS OF THE TORRANCE COUNTY CLERK'S OFFICE.**

- _____ 7. The division of land resulting in the alteration or consolidation of parcels for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased.

ATTACH COPIES OF DEEDS, PREVIOUS SURVEY, AND CERTIFIED SURVEYS SHOWING ALL PARCELS AND PARCEL BOUNDARIES BEFORE AND AFTER PROPOSED ALTERATION.

- _____ 8. The division of land to create burial plots for a cemetery.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING THE PARCEL TO BE USED AS A CEMETERY AND ALL DOCUMENTS DEEMING IT AS SUCH.

- _____ 9. The division of land to create a parcel 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. Plats for family transfers shall be submitted with an affidavit or affidavits 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 transfers of any other lots to the same person under the family transfer provisions of the Torrance County Subdivision 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 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 same 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 adjacent to and within one hundred feet, excluding public rights of way, of the proposed family transfer parcels. Lots created by family transfer or inheritance shall meet special requirements as follows: 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; provisions have been made for liquid waste disposal in compliance with liquid waste regulations of the New Mexico Environmental Department; the natural drainage flow of all water courses, channels, and streams shall be indicated on the plat and, where applicable, the one hundred year flood hazard zone(s) shall be identified; 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; provisions have been made for applicable building and utility permits.

ATTACH COPIES OF THE DEED(S), PREVIOUS SURVEY, PROPOSED CONVEYING DOCUMENTS, A CERTIFIED SURVEY SHOWING THE LAND DIVISION(S), AND THE BIRTH CERTIFICATE, ADOPTION CERTIFICATE, MARRIAGE CERTIFICATE OR ANY OTHER DOCUMENTATION NECESSARY TO SHOW THE RELATIONSHIP CLAIMED. BAPTISMAL CERTIFICATES ARE NOT ACCEPTABLE DOCUMENTATION.

THE SURVEY MUST SHOW THE FOLLOWING NOTES:

1. **THE PARCEL BEING DIVIDED HAS BEEN IN THE POSSESSION OF _____ FOR A PERIOD OF FIVE (5) YEARS AS SHOWN BY THE _____ RECORDED IN BOOK _____, PAGE _____ AS DOCUMENT _____ IN THE OFFICE OF THE TORRANCE COUNTY CLERK.**
2. **(For tracts being conveyed to a minor child); AN IRREVOCABLE TRUST FOR THIS LAND DIVISION IS RECORDED IN BK. _____ & PG. _____ AS DOCUMENT # _____ IN THE OFFICE OF THE TORRANCE COUNTY CLERK.**
3. **DEEDS OF TRANSFER FOR THE TRACTS CREATED ARE RECORDED IN BOOK(S) _____ AND PAGE(S) _____ IN THE OFFICE OF THE TORRANCE COUNTY CLERK.**
4. **THE AFFIDAVIT STATING 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 THE TORRANCE COUNTY SUBDIVISION REGULATIONS OR THE ZONING ORDINANCE IN EFFECT.**

- ____ 10. The division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division is not the result of a seller-financed transaction.

ATTACH COPIES OF DEED, A COMMITMENT LETTER STATING THE MORTGAGE IS CONTINGENT ON THE APPROVAL OF THE CLAIM OF EXEMPTION, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING THE LOCATION OF PROPOSED DIVISION.

THE SURVEY NEEDS TO SHOW THE FOLLOWING NOTES:

1. **THIS PLAT CREATES A TEMPORARY LOT FOR MORTGAGE PURPOSES ONLY.**
2. **TRACT _____ SHALL AUTOMATICALLY BE CONSOLIDATED WITH THE ORIGINAL PARCEL UPON RELEASE OF MORTGAGE, LIEN OR DEED OF TRUST.**
3. **THESE PARCELS CANNOT BE SOLD SEPARATELY UNTIL FINAL FORECLOSURE DOCUMENTATION HAS BEEN SUBMITTED AND APPROVED BY THE PLANNING & ZONING BOARD.**

- ____ 11. The sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING LOCATION AND SIZE OF PARCEL(S).

- ____ 12. The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in Section 501 C (3) of the United States Internal Revenue Code of 1986,

as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis, or to any church or group organized for the purpose of divine worship, religious teaching or other specifically religious activity.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, IRS EXEMPTION LETTER, AND/OR DOCUMENTS DEMONSTRATING ENTITLEMENT, AND CERTIFIED SURVEY SHOWING LAND PROPOSED TO BE DONATED.

13. The sale, lease or other conveyance of a single parcel from a tract of land, except from a tract created within the previous five (5) years or a tract created by means of a Claim of Exemption, provided that the second tract is retained by the subdivider and neither tract can be further divided for a period of five (5) years from the date the first tract is sold, leased or conveyed or this division shall be subject to the provisions of the New Mexico Subdivision Act and the Torrance County Subdivision Regulations; provided further that a survey shall be filed with the County Clerk indicating the five (5) year holding period for both tracts.

ATTACH COPIES OF DEED, PREVIOUS SURVEY, AND CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PROPOSED PARCEL TO BE DIVIDED, PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL TRACT AND DATES OF ALL DIVISIONS WITHIN THE APPROPRIATE PARCEL. THE SURVEY NEEDS TO SHOW, IN BOLD AND OBVIOUS LETTERING, UNDER THE TITLE, THE FOLLOWING NOTE:

Declaration of Intent

The owner of the land platted herein certifies that he/she does not intend to sell, lease or otherwise convey Tract _____, but certifies that he/she intends to keep this tract for personal use for a minimum of five (5) years. If the tract is sold or leased within five (5) years, the owner acknowledges that he/she shall be subject to all applicable subdivision regulations and agrees that he/she will inform the Torrance County Planning & Zoning Director that he/she has created a subdivision. Further, if either of the two tracts created by this plat is divided within a period of five (5) years, such subdivision(s) shall be considered a subdivision subject to all applicable subdivision regulations.

I further certify that the information provided by me in this Claim of Exemption is true and correct and that all documentation attached to or enclosed with this Claim of Exemption are true originals or complete and correct copies of the originals. This exemption is not part of a common promotional scheme to avoid the applicable subdivision regulations.

Applicant's Name: _____
First Middle Initial Last

Address: _____

City State ZIP Code

Daytime Telephone: _____ Other Telephone/Contact #: _____

Applicant's Signature _____ Date _____

Agent's Name: _____

Subscribed and sworn before me this _____ day of _____, 20_____.

NOTARY PUBLIC _____

My commission expires _____

Notary Seal

FOR OFFICIAL USE ONLY

On this date _____ the foregoing Claim of Exemption has been:

_____ Approved _____ Denied

Conditions or Comments for this decision:

Name and Title: _____ Date: _____

Revised August, 2016