



Consideration of Lea County Resolution No. 22-JUN-139R Approving County Manager or Their Designee to Accept Right-of-Way Dedication on Roadways Currently Maintained by Lea County

Lea County Subdivision Regulations and New Mexico State statutes enable land to be separated and replatted through three (3) different methods.

- Traditional Subdivisions. Larger subdivisions go through a process that involves staff review from the county and state agencies, the Lea County planning board, and the Lea County Board of County Commissioners.
- Summary Subdivision. Smaller subdivisions go through a process that involves staff review from the county and the Lea County Planning Board. The County Planning and Zoning Board has delegated the authority to approve any summary subdivision by 6.1.5 of the Lea County Subdivision Regulations.
- Claim of Exemptions. Lea County and State statutes allow for fifteen (15) exemptions to the Lea County Ordinances and New Mexico State Statutes. This process review only requires Lea County staff review to ensure the plat is meeting exemption requirements.



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Claim of Exemption

To claim an exemption from the requirements of the Lea County Subdivision Ordinance, you must complete this form, sign it before a notary public and submit it together with legible copies of all required documents to the County Manager. Be sure to check all exemptions which apply, attach legible copies of all supporting documents (proof of ownership, map/survey of original tract and proposed land division), and pay the required review fees.

The County Manager will notify you in writing within thirty (30) days as to whether your claim of exemption has been granted. If the claim of exemption is granted, or if you do not hear from the County Manager or his designee within thirty (30) days, you may proceed with the land division you propose without needing to comply with the requirements of the Lea County Subdivision Regulations. If your claim of exemption is denied, you may either seek approval of a subdivision or appeal the denial as provided in the Subdivision Regulations.

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I, _____, owner of property in Book _____ Page(s) _____, claim an exemption from the requirements of the New Mexico Subdivision Act and the Lea County Subdivision Regulations for the following reason(s). I certify that this transaction involves:

- the sale, lease or other conveyance of any parcel that is thirty-five (35) 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. **ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF PARCEL.**
- the sale or lease of apartments, offices, stores or similar space within a building. **ATTACH COPIES OF ALL PROPOSED SALE OR LEASE DOCUMENTS.**
- the division of land within the boundaries of a municipality. **ATTACH CERTIFIED SURVEY SHOWING LOCATION OF PROPOSED DIVISION.**
- 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 ALL PROPOSED CONVEYANCING DOCUMENTS.**
- the division of land created by court order where the order creates no more than one parcel per party. **ATTACH CERTIFIED COPY OF COURT ORDER.**
- the division of land for grazing or farming activities provided that the land continues to be used for grazing or farming activities. **ATTACH COPY OF PROPOSED CONVEYANCING DOCUMENTS AND DOCUMENTS RESTRICTING FUTURE USE TO GRAZING OR FARMING ACTIVITIES. SUCH DOCUMENTS MUST CONTAIN A COVENANT RUNNING WITH THE LAND AND REVOCABLE ONLY BY MUTUAL CONSENT OF THE BOARD OF COUNTY COMMISSIONERS AND THE PROPERTY OWNER THAT THE DIVIDED LAND WILL BE USED EXCLUSIVELY FOR GRAZING OR FARMING ACTIVITIES. THE COVENANT MUST BE SIGNED BY THE PROPERTY OWNER, THE BUYERS OR LESSEE, AND THE BOARD OF COUNTY COMMISSIONERS AND MUST BE FILED OF RECORD WITH THE COUNTY CLERK.**
- the division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not

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increased. **ATTACH CERTIFIED SURVEYS SHOWING ALL PARCELS AND PARCEL BOUNDARIES BEFORE AND AFTER PROPOSED ALTERATION.**

- the 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 per tract of land per immediate family member. As used herein the term "immediate family member" means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by birth or adoption. **ATTACH COPY OF PROPOSED CONVEYANCING DOCUMENT AND BIRTH CERTIFICATE, ADOPTION CERTIFICATE OR OTHER DOCUMENT DEMONSTRATING FAMILY RELATIONSHIP CLAIMED. BAPTISMAL CERTIFICATES ARE NOT ACCEPTABLE DOCUMENTATION.**
- 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 ALL FINANCING DOCUMENTS.**
- the sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty (140) acres; **ATTACH CERTIFIED SURVEY SHOWING LOCATION AND SIZE OF PARCEL(S).**
- 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 § 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 I.R.S. EXEMPTION LETTER, AND/OR DOCUMENTS DEMONSTRATING ENTITLEMENT TO EXEMPTION AND CERTIFIED SURVEY SHOWING LAND PROPOSED TO BE DONATED.**
- the sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five (5) year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five (5) years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act and these Regulations; provided further that a survey shall be filed with the county clerk indicating the five (5) year holding period for both the original tract and the newly created tract. **ATTACH CERTIFIED SURVEY SHOWING SIZE AND LOCATION OF ORIGINAL TRACT, PARCEL PROPOSED TO BE DIVIDED, ANY PARCELS PREVIOUSLY DIVIDED FROM THE ORIGINAL PARCEL AND DATES OF ALL DIVISIONS.**

I further certify that the information provided by me in this Claim of Exemption is true and correct and that all documents attached to or enclosed with this Claim of Exemption are originals or true, complete and correct copies of the originals.

Signature

Print your name here

Address

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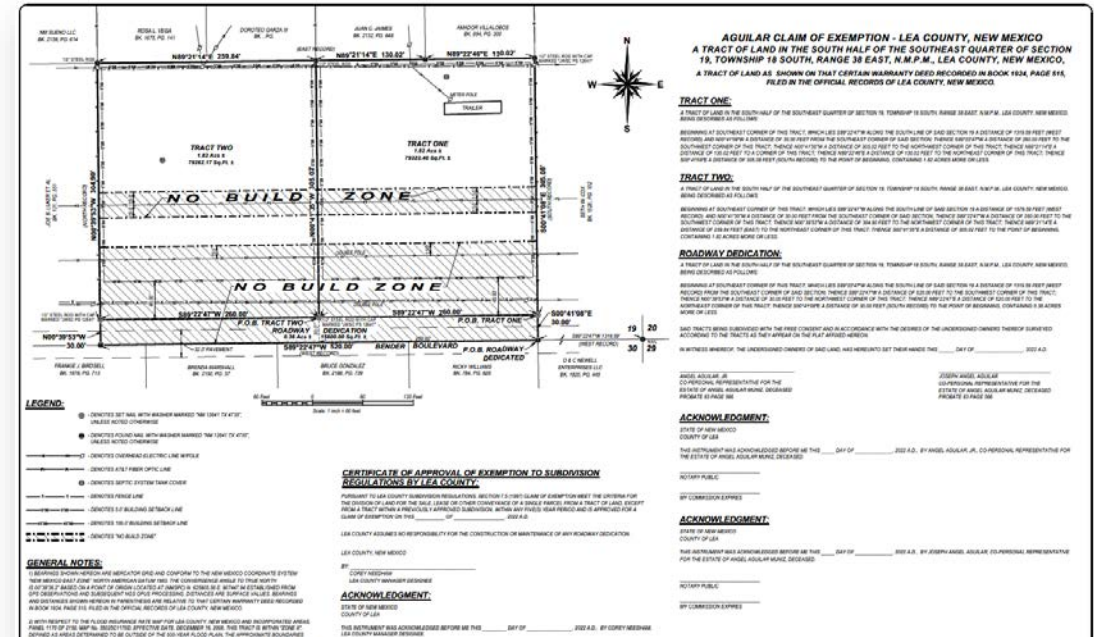
Consideration of Lea County Resolution No. 22-JUN-139R Approving County Manager or Their Designee to Accept Right-of-Way Dedication on Roadways Currently Maintained by Lea County

The Board of County Commissioners and/or its designee has the sole authority to make land acquisitions on behalf of Lea County. Currently, there exists a roadblock for a petitioner of an exemption plat in terms of right-of-way dedication. While a city's subdivision ordinance may require a right-of-way dedication and Lea County would encourage the right-if-way dedication, there is no means for Lea County to accept it.

Dedicating right-of-way to the public is a two (2) part process. The subdivider dedicates the right-of-way, and the public body access it.

One means of overcoming this roadblock would be to adopt a resolution that allows the County Manager or their designee to accept right-of-way only on county roadways that Lea County is currently maintaining.

This would not allow the County Manager or their designee to accept any new right-of-way or roadway that does not currently have a publicly maintained roadway.





**LEA COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY FORM**

LCBCC Meeting Date: Thursday, June 9, 2022

Submit this summary form & all attachments to the Finance Director clow@leacounty.net & cc the Community Engagement Manager sstout@leacounty.net; Public Information Officer mrussell@leacounty.net and County Manager mgallagher@leacounty.net by: **Thursday, June 2, 2022**

County Manager Approval required for all time sensitive issues that do not meet the above deadline.

DATE SUBMITTED mm-dd-yyyy: 06/02/2022	SUBMITTED BY Name, Title, Dept: Corey Needham, ACM
SUBJECT: Right-of-Way acceptance on Lea County Claim of Exemption plats	ATTACHMENT(S): Resolution
NO. OF ORIGINALS FOR SIGNATURE: 1	ACTION REQUESTED: Action Item
BUDGET LINE ITEM NUMBER: none	FISCAL BUDGET YEAR:
STRATEGIC PLAN Implementation of 5 Year Strategic Plan:	
SUMMARY: Lea County subdivision regulations and New Mexico State statutes enable land to be separated and replatted through three (3) different methods. <ul style="list-style-type: none"> • Traditional Subdivisions. Larger subdivisions go through a process that involves staff review from the county and state agencies, the Lea County planning board, and the Lea County Board of County Commissioners. • Summary Subdivision. Smaller subdivisions go through a process that involves staff review from the county and the Lea County Planning Board. The County Planning and Zoning Board has delegated the authority to approve any summary subdivision by 6.1.5 of the Lea County Subdivision Regulations. • Claim of Exemptions. Lea County and State statutes allow for fifteen (15) exemptions to the Lea County Ordinances and New Mexico State Statutes. This process review only requires Lea County staff review to ensure the plat is meeting exemption requirements. 	
Requested Items Needed for Presentation Easels/Laptop/Projector/Etc.: Easel <input type="checkbox"/> Laptop <input checked="" type="checkbox"/> Projector <input checked="" type="checkbox"/> Other: _____ <small>If checked, how many:</small>	See Additional Summary Attached <input type="checkbox"/>
SUBMITTER'S RECOMMENDATION(S):	Submitter's Signature Department Director, Etc.
FINANCE REVIEW Fiscal Impact/Cost: There is no financial impact to Lea County with this agenda item.	Reviewed by Finance Director Erin Smith <small>Digitally signed by Erin Smith Date: 2022.06.02 16:02:16 -06'00'</small>
LEGAL REVIEW: (Note: Travel does not need legal review)	Reviewed by County Attorney
COUNTY MANAGER REVIEW:	Approved by County Manager to be Placed on Agenda <i>Mike Collopy</i>

Item No. 0206 **RECORDING SECRETARY'S USE ONLY ~ COMMISSION ACTION TAKEN**

Approved: _____	Denied: _____	Other: _____
Resolution No. <u>22-JUN-139R</u>	Policy No. _____	Ordinance No. _____
Continued To: _____	Referred To: _____	Comments: _____

Summary Form Continued...

Many of the land separations and replats occur in the Extraterritorial Zones of the municipalities in Lea County. The county and city share joint jurisdiction of "planning and platting" functions in these zones.

Although some plats are exempt from Lea County subdivision regulations that would require roadway dedication or access to the public right-of-way, the requirement still exists in a city's subdivision requirements.

Many Lea County roadways are constructed on a prescriptive easement or "easement of use" and do not have the right-of-way with a defined width and use. These prescriptive easements can cause title insurance, clear zone, sight triangle, and exclusive use issues.

The Board of County Commissioners and/or its designee has the sole authority to make land acquisitions on behalf of Lea County. Currently, there exists a roadblock for a petitioner of an exemption plat in terms of right-of-way dedication. While a city's subdivision ordinance may require a right-of-way dedication and Lea County would encourage the right-of-way dedication, there is no means for Lea County to accept it.

Dedicating right-of-way to the public is a two (2) part process. The subdivider dedicates the right-of-way, and the public body accepts it. One means of overcoming this roadblock would be to adopt a resolution that allows the County Manager or their designee to accept right-of-way only on county roadways that Lea County is currently maintaining.

This would not allow the County Manager or their designee to accept any new right-of-way or roadway that does not currently have a publicly maintained roadway.

STATE OF NEW MEXICO
COUNTY OF LEA
RESOLUTION NO. 22-JUN-139R

A RESOLUTION APPROVING THE COUNTY MANAGER OR THEIR DESIGNEE TO ACCEPT RIGHT-OF-WAY DEDICATION ON ROADWAYS CURRENTLY MAINTAINED BY LEA COUNTY

WHEREAS, roadways play a critical role in the emergency response, quality of life, and economic vitality for citizens of Lea County; *and*

WHEREAS, many of Lea County maintained roadways are on prescriptive easements; *and*

WHEREAS, roadways that are dedicated to the public offer an advantage over prescriptive easement due to defined width, ownership, and use; *and*

WHEREAS, Lea County wishes to accept right-of-way on currently maintained county roads at the staff level to stay in compliance with summary plat and exemption plat procedures.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Lea County that the County Manager or their designee can accept dedication on roadways currently maintained by Lea County.

BE IT FURTHER RESOLVED that the Commission Chair and/or County Manager may finalize and sign any agreements consistent with the terms of this resolution.

PASSED, APPROVED AND ADOPTED on this 9th day of June, 2022, by the Lea County Board of County Commissioners in an open meeting in Lovington, New Mexico.

LEA COUNTY BOARD OF COUNTY COMMISSIONERS

Dean Jackson (District 1), Chair
Voted: Yes No Abstain

Gary G. Eidson (District 3), Vice Chair
Voted: Yes No Abstain

Rebecca Long (District 2), Member
Voted: Yes No Abstain

Jonathan Sena (District 4), Member
Voted: Yes No Abstain

Pat Sims (District 5), Member
Voted: Yes No Abstain

ATTEST: Keith Manes
Lea County Clerk

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:**

By: _____
Teri Davis, Deputy Clerk

John W. Caldwell, County Attorney