



611 Mulberry Road, Suite 300  
 Derby, KS 67037  
 Phone 316-788-6632  
[www.derbyks.com](http://www.derbyks.com)

**APPLICATION FOR:  
 EXCEPTION**

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: \_\_\_\_\_

**Fee: \$350\*<sup>1</sup>**

*\* Potentially qualifies for fee waiver,  
 contact Derby Planning & Engineering Department  
<sup>1</sup> Additional recording fees may apply*

**CONTACT INFORMATION**

**Owner(s) of the property requesting the Exception:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Primary Contact? Yes \_\_\_ No \_\_\_ (Please Check)

**Agent representing the applicant (if applicable):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Primary Contact? Yes \_\_\_ No \_\_\_ (Please Check)

**Contract Purchaser (if applicable):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Primary Contact? Yes \_\_\_ No \_\_\_ (Please Check)

**REQUEST INFORMATION:**

**1. Requested Exception:** \_\_\_\_\_

\_\_\_\_\_

**2. Zoning District of Property:** \_\_\_\_\_

**3. Location:**

- a. Address (if assigned): \_\_\_\_\_
- b. Legal Description: Lot(s) \_\_\_\_\_, Block \_\_\_\_\_, \_\_\_\_\_ Addition
- c. If Property is not platted, a metes and bounds description and location map shall be provided with this application. An Exception will not be officially approved until subject property/properties have been platted

**4. Written Statement:** A written statement in compliance with Article 1004.A of the Zoning Regulations is required to accompany this application.

**5. Site Layout Plan:** A site layout plan indicating the location of the use, parking, screening, landscaping, and utilities in compliance with Article 1004.C of the Zoning Regulations is required to accompany this application.

**CERTIFICATION**

The undersigned acknowledges and certifies the following:

- 1. They have been advised of the fee requirements established and that the appropriate fee is herewith tendered.
- 2. That the information given herein is correct.
- 3. This application is accompanied by a current ownership list certified by an abstractor for the notification area.
- 4. They have been advised of his/her rights to bring action in the District Court of the County to appeal the decision of the Derby Board of Zoning Appeals.
- 5. That all documents are attached hereto as noted in the instruction.
- 6. That the Derby Board of Zoning Appeals has the authority to require such conditions as are deemed necessary and reasonable in order to serve the public interest.
- 7. That 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

<p><b>OFFICIAL USE ONLY</b></p> <p><input type="checkbox"/> Fee <u>OR</u> <input type="checkbox"/> Fee Waived</p> <p><input type="checkbox"/> Certified Ownership List</p> <p><input type="checkbox"/> Written Statement</p> <p><input type="checkbox"/> Site Plan</p> <p>This application has been checked and found to be complete and accompanied by the required documents and the appropriate fee. _____</p> <p style="text-align: center;">City Planner or Authorized Agent</p>	<p>&lt;stamp date received&gt;</p>
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## EXCEPTION APPLICATION INSTRUCTIONS

1. **Application:** An application form for an exception must be completed and signed by all the property owners their authorized agent(s) (if applicable), and/or contract purchasers/lessees (if applicable) and filed with the City Planner or their Authorized Agent. If spaces on the application ask for information that is not applicable to the request, then such spaces shall be marked N/A. Applicants are advised that the Board of Zoning Appeals is authorized only to grant exceptions which are specifically provided for by the Zoning Regulations (see Article 1004 of the Zoning Regulations).

In order for an application to be scheduled, it must be filed with the City Planner or Authorized Agent, by one of the specific “closing dates” established by the Board of Zoning Appeals. A copy of the “closing dates” may be obtained upon request.

All exception applicants are encouraged to meet with applicable City staff prior to filing an exception 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 provided on the application must be accurate. Should it be discovered during processing the case that the legal description used for required public notices is inaccurate, then the notice shall be considered null and void and the notification process, required by State Law, must be started over. This will necessitate the repayment of the application fee. In this regard, at least 20 days must elapse between the date the legal notice is published and the public hearing date. Also, at least 20 days must elapse between the date of mailing notices to persons listed on the ownership list and the hearing date.
3. **Ownership List:** Applicants must submit a current ownership list certified by a licensed land abstractor. The ownership list shall include names, mailing addresses and zip codes of all landowners within 200 feet of the boundary of the area described in the application if within the city limits. If such area is located adjacent to the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall also provide the names, mailing addresses and zip codes of all landowners extending 1,000 feet into the unincorporated area (see section 1003.B “Notice and Hearing”).
4. **Fee:** The application must be accompanied by a filing fee of \$350.00. A project may qualify for a fee waiver, contact Derby Planning & Engineering department for more information.
5. **Public Hearing Sign:** A sign advertising the date, time, location, and purpose of the public hearing shall be posted on the property subject to rezoning a minimum of 20 days prior to the public hearing date. The sign shall remain onsite and continually displayed for the general public’s viewing until after the public hearing.
6. **Written Statements Required:** In accordance with Section 1004.A of the zoning regulations, the applicant shall submit written statements explaining:
  - a. Compliance with any use limitations and/or special conditions or requirements imposed upon the exception by Section 1004.C and/or applicable district regulations of the Zoning Regulations.

- b. Why the proposed exception will not cause substantial injury to the value of other property in the neighborhood;
  - c. How the proposed exception is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations; and
  - d. Present other data which supports the standards specified in Section 1004.E (attached).
7. **Site Plan Required:** In order to demonstrate how the subject property will be developed if the requested exception is approved, a site plan depicting the particulars of the exception shall be submitted with the application. The site plan shall be drawn to scale and shall indicate how the proposed exception will meet the requirements of the zoning regulations and the development standards referenced in Section 1004.E (attached).
  8. **Additional Materials:** Information such as photographs, renderings, landscaping/screening plans or other reports may be submitted and/or required by the City Planner or Authorized Agent along with the site plan. Such materials will be made a part of the case file and become public record.
  9. **Public Hearing:** The Board of Zoning Appeals will hold the public hearing advertised in the official notices in accordance with State law. At the meeting, the applicant(s) will be provided time to offer a statement along with members of the general public. Staff will present the written findings of fact and the Board will deliberate. The standards for an exception are attached.

The Board will adopt a resolution to approve or deny the exception request. The Board may attach additional conditions of approval to the exception request. A copy of the resolution will be provided to the applicant(s) by City staff. If approved, the applicant may proceed with applying for necessary building and zoning permits for construction of the project for which the exception was requested. The applicant is required to abide by any and all conditions of approval made by the Board of Zoning Appeals.

10. **Deferral of the Public Hearing:** The applicant may, prior to or at the advertised Public Hearing, request that the Board's recommendation on the merits of their application be deferred or tabled until an upcoming meeting of the Board. Approval of any such request shall be at the discretion of the Board of Zoning Appeals. If the Board determines a deferral or tabling of action on an Exception request is appropriate, then the required Public Hearing shall be continued to a date and time that is certain in the future. Such future date and time for continuation of the advertised Public Hearing will be stated as part of the Board's action to table or defer consideration of a rezoning case.
11. **Period of Validity & Extension:** An exception approved by the Board of Zoning Appeals shall lapse and become ineffective if the exception is not commenced upon the property within 180 days and/or continuously maintained on the property thereafter. The Board may grant additional extensions not exceeding 180 days each, upon written application, without further notice and hearing.

## Section 1004.E. Derby Zoning Regulations

**E. Standards.** The Board may grant an exception by permit based upon specific written findings of fact made after consideration of the request and any comments and/or evidence presented to the Board before and during the hearing provided in accordance with subsection D above in light of relevant factors, including but not limited to the following:

1. The proposed exception complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards, unless a concurrent application is in process for a variance.
2. The proposed exception will not cause substantial injury to the value of other property in the neighborhood.
3. The location and size of the exception, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the exception will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the exception will so dominate the immediate neighborhood, consideration shall be given to:
  - a. The location, nature and height of buildings, structures, walls and fences on the site; the hours of operation; and
  - b. The nature and extent of landscaping and screening on the site.
4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas may be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
5. Adequate utility, drainage, sidewalks and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
7. Adequate fire and police protection will be provided which promotes the safety of individuals and property.
8. Orderly land use planning will be achieved in keeping with the goals and proposals of the Comprehensive Plan.