



Subdivision Exemption Application and Affidavit

EXEMPTION REQUESTED

Select the Requested Exemption:

- ☐ Mortgage Security
- ☐ Severed Interest
- ☐ Cemetery Lot
- ☐ Reservation of Life Estate
- ☐ Agricultural Lease
- ☐ Federal or Tribal Land
- ☐ Right-of-way
- ☐ Utility Site
- ☐ Condominiums, Townhouses, and Townhomes
- ☐ Airport Land
- ☐ State-owned Lands
- ☐ Boundary Line Relocation
- ☐ Agricultural Covenant (including lifting of covenant)
- ☐ Aggregation

Family Transfer

Family Transfers use a separate [Family Transfer Application and Affidavit](#) which can be found on the Missoula County Planning, Development and Sustainability website.

REQUIRED MATERIALS

Review of Subdivision Exemption Applications are completed within 20 working days. The 20-working day timeline begins at the time of the applications submittal with all the required information below:

- ☐ Submission of a Complete and Thorough Application in Digital or Hardcopy
- ☐ Signed and Notarized Affidavit
- ☐ \$400 Payment
- ☐ Vicinity Map
- ☐ Draft Survey
- ☐ Schematic Sketches of Before and After the Division
- ☐ Specific Documents and Affidavits Required for the Exemption Listed in Section 2.1 of the Application
- ☐ Documentation that the Division will not Create a Tract(s) Entirely Within a Flood Hazard Area
- ☐ All Deeds, Contracts, Restrictions, and Covenants Recorded Within the Past Two Years
- ☐ Clerk and Recorder Verification that the Tract(s) to be Divided Exist as a Tract or Tracts of Record ⁽¹⁾
- ☐ Prior Contact and Consultation with DEQ and Local Sanitarian, as Applicable ⁽²⁾

INSTRUCTIONS

1. Complete the **Application Sections 1.1 through 1.6**.
2. Complete **Section 2.1** to provide **Specific Information** about the exemption(s) you are requesting.
3. Include all **Submittal Materials** listed in **Section 3.1** along with a **Cover Letter** as described below.
4. Each claimant and all owners of at least one tract involved in the request must sign the **Affidavit in Section 4.1** before a notary public.
5. **Submit completed application/affidavit** (attach additional sheets as necessary) and all submittal materials to the Planning Office in digital and hardcopy format.
6. **Submit \$400 non-refundable payment** to the Planning Office for each application.

COVER LETTER

The submittal may include a cover letter that includes, at a minimum, a description of the proposal and reason(s) for the request, information to address the general evasion criteria in [Section 8.4](#), and responses to the rebuttable presumptions listed under the specific exemption in [Section 8.6](#) of the Missoula County Subdivision Regulations.

Review of the application relies heavily on information provided in the cover letter and application materials. Providing new information after the application submittal may reset the 20-day review period. See [Section 8.8](#) of the Missoula County Subdivision Regulations for complete details of exemption review procedures.

1.1 CLAIMANT & AGENT INFORMATION

Claimant Name

Agent / Agency (if any)

Claimant Mailing Address (send info ☐)

Agent Mailing Address (send info ☐)

Claimant Phone Number

Agent Phone Number

Email Address

Email Address

Names and Addresses of Other Landowners of all Tracts (attach additional sheets, if needed)

Questions about this Application and Affidavit should be directed to: Claimant ☐ Agent ☐

1.2 PROPERTY IDENTIFICATION

	LEGAL DESCRIPTION FROM RECORDED DEED	GEOCODE FOR EACH AFFECTED PROPERTY	ZONING	ADDRESS (IF ASSIGNED) OF EACH AFFECTED PROPERTY
1				
2				
3				
4				
5				

1.3 LAND USE

A. Number of existing tract(s):

B. Number of proposed tract(s):

C. Current use of the property:

D. Growth Policy land use designation(s) for affected tract(s):

E. Is the affected property in a designated flood hazard area? Yes ☐ No ☐
(If yes, include map with floodplain designation clearly identified.)

F. Is the affected property located on an Indian Reservation? Yes ☐ No ☐
(The CSKT have 20 days to comment on proposed exemptions located on the tribal reservation).

- G. Identify location and type of access to the proposed tract(s).
- H. Identify any private or community sewer or water systems on or serving the affected tracts.
- I. Identify any private services that the proposed tract will share with any other tract.

1.4 HISTORY OF TRACT

- A. When did the claimant purchase or receive the property in a transfer?
(If the property was quit-claimed to or from the claimant, attach the deed(s).)
- B. How and when was the current configuration of the tract(s) created?
- C. Is the original tract the result of an exempt division that occurred after July 1, 1973? Yes ☐ No ☐
(If yes, provide the division history of the affected tract(s) since July 1, 1973.)

EXEMPTION USED	DATE	C.O.S., PLAT, OR DEED REFERENCE

- D. Are there covenants or deed restrictions that apply to the tract(s)? Yes ☐ No ☐
- E. Does the proposed division comply with the covenants or deed restrictions? Yes ☐ No ☐ N/A ☐
- F. Identify dates and describe any instances after July 1, 1973, when proposed divisions of the original tract(s) have been denied approval.

1.5 CLAIMANT HISTORY

- A. If the claimant or intended recipient has ever been known by any other name, please list other names.
- B. Is the claimant in the business of construction or dividing, developing, or selling land?
(If yes, provide an explanation of the business)
- C. Has the claimant divided other property in Missoula County by exemption after July 1, 1973?
Yes ☐ No ☐

EXEMPTION USED	DATE	C.O.S. OR DEED REFERENCE	NAME & RELATIONSHIP OF RECIPIENT TO CLAIMANT (IF FAMILY TRANSFER)

1.6 INTENDED USE OF TRACT(S)

- A. What is the acreage and intended use of each proposed tract? Please be specific.
- B. If boundary line relocation or aggregation is proposed, what is the purpose of the relocation?
- C. Do you intend to create an aliquot parcel to be transferred by deed? Yes ☐ No ☐

Provide any additional information that you think will assist the county in the review of this exemption application:

2.1 SUBMITTAL REQUIREMENTS FOR SPECIFIC EXEMPTION

A. Mortgage Security ([Section 8.6.2](#))

Once the security has been satisfied, the boundaries delineating the exempt parcel must be extinguished by including a statement on the security instrument and subsequent release that the security parcel does not exist as a transferable tract of record unless foreclosed upon.

1. *Institution Statement* ☐

Attach a signed, notarized statement from the lending institution certifying the following:

- a. That the lending institution is registered to do business in the State of Montana;
- b. That the interest is being created only to secure a mortgage, lien, or trust indenture for the purposes of construction, improvements to the land being divided, or refinancing; and,
- c. That the creation of the exempted parcel is necessary to secure a loan for construction or improvements on the exempted parcel.

2. *Landowner Statement* ☐

Attach a signed, notarized statement from the landowner(s) certifying the following:

- a. That landowners will retain title to the entire tract of record unless and until such time as the mortgage exemption parcel is foreclosed upon;
 - b. That transfer of ownership of the separate mortgage tract will only occur upon foreclosure;
 - c. That the landowner will not transfer ownership of the remaining portion unless the mortgage exemption parcel has been foreclosed upon, or the landowner has submitted a subdivision application and received final plat approval for the subdivision of the mortgage exemption parcel and the remaining portion; and,
 - d. That the purpose of the mortgage, lien, or trust indenture is for construction, or improvements to the land being divided, or refinancing.
3. Has a claimant ever separately conveyed or forfeited either the deed release parcel or the remaining tract? If yes, state the recording reference for each such conveyance or forfeiture. Yes ☐ No ☐

C. Severed Interest ([Section 8.6.3](#))

1. Attach a signed, notarized statement from the landowner(s) that demonstrates that there is neither a division of the surface ownership nor creation of new surface tracts. ☐

D. Cemetery Lot ([Section 8.6.4](#))

Floodplain regulations prohibit burial of human remains in the designated floodplain; therefore, burial plots must be located outside of the designated floodplain and new burial plots must be at least 100 feet away from any well, body of water, or agricultural land.

This section lists required information or submittal materials for specific exemptions that must accompany the application and affidavit.

Only the applicable portions of this section relevant to the requested exemption need to be completed.

Some exemptions do not have additional submittal materials and therefore are not listed in this section.

For more information about subdivision exemptions, submittal requirements, and review procedures, refer to [Chapter 8](#) of the Missoula County Subdivision Regulations.

E. Agricultural Lease ([Section 8.6.6](#))

1. Attach a graphic depiction or proposed certificate of survey of the proposed division which clearly identifies the new parcel intended for agricultural lease or rent. ☐
2. Attach a signed, notarized statement from the landowner(s) that limits the use of the proposed parcel exclusively to agricultural lease or rent only. ☐

F. Right-of-way ([Section 8.6.8](#))

1. Attach landowner approval or proof of eminent domain authority by the entity acquiring or accepting the right-of-way. ☐
2. Attach a signed, notarized statement from the grantee stating the purpose of the right-of-way and acknowledging, under §76-3-201, MCA, that any subsequent change in use to residential, commercial, or industrial subjects the division to review under the MSPA. ☐

G. Utility Site ([Section 8.6.9](#))

The utility intended for a utility site must meet the definition of public utility per §76-3-103(13), MCA.

1. Attach documentation that the utility utilizing the site meets the definition of public utility in §76-3-103(13), MCA. ☐
2. Attach a landowner agreement to sell or lease the land to a qualifying utility or proof of eminent domain authority by the utility utilizing the utility lot. ☐
3. Attach a signed, notarized statement from the utility stating the purpose of the utility site and acknowledging, under §76-3-201, MCA, that any subsequent change in use to residential, commercial, or industrial subjects the division to review under the MSPA. ☐

H. Condominiums, Townhouses, and Townhomes ([Section 8.6.10](#))

1. Attach evidence that the tract to be divided exists as a tract subdivided in compliance with the subdivision regulations and Title 76, Chapter 3, Parts 5 and 6, MCA, and the legal description of the tract of record. ☐ Attach a or b
 - a. Attach a copy of the filed plat or final plan approval documenting the land proposed for this exemption was approved as a subdivision that contemplated condominiums, townhouses, and/or townhomes and evidence of compliance with parkland dedication requirements, or ☐
 - b. Attach evidence of compliance with applicable zoning regulations. ☐
2. Attach the proposed site development plan. ☐
3. Attach the declaration of condominium or townhouse ownership to be filed with the Missoula County Clerk and Recorder (if applicable). ☐

I. Airport Land ([Section 8.6.11](#))

1. Attach a map showing the location related to airport lands and uses, and current ownership including but not limited to land owned by the city, county, state, or municipal or regional airport authority. ☐
2. Attach the tentative agreement between the lessee and the managing entity of the airport to lease or rent the proposed parcel for a use that is permitted by this exemption. ☐

J. State-owned Lands ([Section 8.6.12](#))

A division of vacant state-owned land, except this exemption may not be used for divisions after July 1, 1974, that create a second or subsequent parcel for sale, rent, or lease for residential purposes.

1. Attach documentation or a certified statement that there has been no previous division under the MSPA. ☐

K. Boundary Line Relocation ([Section 8.6.13](#))

CHOOSE ONE:

1. **Outside of Platted Subdivisions** ☐

A division of land that adjusts the boundary line between adjoining tracts of record outside of platted subdivision(s), pursuant to §76-3-207(1)(a), MCA.

2. **Within Platted Subdivisions** ☐

A division of land that adjusts the boundary line between five or fewer adjoining tracts of record within platted subdivision(s), pursuant to §76-3-207(1)(d), MCA.

3. **Between a Lot Within a Platted Subdivision and Adjoining Land Outside of the Platted Subdivision** ☐

A division of land that adjusts the boundary line between a single lot within a platted subdivision and adjoining land outside of platted subdivision(s), pursuant to §76-3-207(1)(e), MCA.

L. Family Transfer ([Section 8.6.14](#))

Family Transfers use a separate [Family Transfer Application and Affidavit](#) which can be found on the Missoula County Planning, Development and Sustainability website.

M. Agricultural Covenant ([Section 8.6.15](#))

1. Has the claimant ever used or revoked an agricultural exemption? Yes ☐ No ☐

If yes, please explain.

2. Does the claimant intend to transfer the agricultural tract or remaining tract to someone else?

Yes ☐ No ☐

3. Describe current and proposed agricultural use:

4. Attach a graphic depiction or proposed certificate of survey of the proposed division which clearly identifies the new tract intended for agricultural use.

5. Attach a signed, notarized statement from the landowner(s), to be used as a basis for the covenant language on the survey or division document, limiting the use of the proposed tract exclusively to agricultural use and verifying that only agricultural buildings exist or will be built on the new tract.

Only agricultural buildings as defined in [Section 8.2.2](#) of the Missoula County Subdivision Regulations are permitted on tracts created by use of the agricultural exemption.

N. Lifting of Agricultural Covenant ([Section 8.6.15.5.B](#))

1. If aggregating the covenanted agricultural tract to the original tract, state the legal description of the original tract.
2. If the lifting is for a governmental entity to use the tract for public purposes, state the name of the governmental agency:
3. State the purpose of lifting the agricultural covenant.

The Board of County Commissioners may, in its discretion, approve the removal of the agricultural covenant without subdivision review if:

- a. The original lot lines are restored through aggregation of the covenanted tract prior to, or in conjunction with, the lifting of the agricultural covenant; or,
 - b. The proposed lifting of the covenant is for a government entity seeking to use the tract for public purposes.
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3.1 GENERAL SUBMITTAL REQUIREMENTS

To divide land by use of exemption from subdivision review, submit one hard copy or an electronic copy of all items listed below, along with the review fee. Information submitted in other formats may incur additional charges for copying, scanning, or distribution.

- ☐ The application form, with all applicable sections completed (*Section 1.1 through 1.6, and applicable portion(s) of Section 2.1*).
- ☐ Evidence verified by the Clerk and Recorder that the tract(s) to be divided or revised exists as a tract or tracts of record (for more information see [Section 8.8.5, Evidence of Existing Tract of Record](#), in Chapter 8 of the Subdivision Regulations). Where pertinent, attach copies of deeds, contracts, restrictions, and covenants related to the property.
- ☐ Vicinity map, with the location of the lot, tract, or parcel that is the subject of the exemption clearly identified.
- ☐ If available, a draft survey of the proposed division.
- ☐ Schematic sketches of the original parcel(s) before and after the division, showing the locations and uses of all structures. If the land proposed for division is zoned, the schematic sketch shall indicate distances between structures and proposed new property lines and any other information to demonstrate compliance with the zoning district regulations.
- ☐ Documentation that the division will not create a tract(s) entirely within a flood hazard area which is intended for construction of roads, utilities, or other development, or any other land alteration such as grading or filling.
 - A. If a proposed exempt tract(s) is located within one mile of a Zone “A” designated floodplain as identified on the Flood Insurance Rate Map for Missoula County, the claimant shall analyze the land division history of the original tract dating back to August 15, 1983, to determine if a Zone “A” designated floodplain had been located on a parent parcel of an original tract.
 - B. If a Zone “A” designated floodplain had been located on a parent parcel of an original tract at any time since August 15, 1983, the County Floodplain Administrator may require an engineered flood analysis to determine the base flood elevation or may waive the requirement for a flood analysis based on a field determination.
 - C. In lieu of an engineered flood analysis showing that the division will not create tract(s) entirely within a flood hazard area, the claimant may instead include the statement as shown in *Section 8.8.6.11.D ** on the survey, or in the absence of a recorded survey, the claimant shall submit a notarized statement as shown in *Section 8.8.6.11.D ** to be recorded with any division document and/or instruments of conveyance.
- ☐ A notarized affidavit signed by all landowners of at least one tract involved in the exemption application (*Section 4.1 of Application*)

Remember to include documentation required for specific exemptions listed in Section 2.1

4.1 AFFIDAVIT

I/We understand that this Affidavit seeks approval of the use of an exemption to subdivision review to divide property. I/we are not using this subdivision exemption process in an attempt to evade the subdivision review process and recognize that I/we may be subject to penalties if my/our actions are deemed to be an effort to evade subdivision review, as set forth in Montana law.

I/We understand that approval of the use of the exemption does not mean the division is approved for zoning compliance, building permit, floodplain, septic systems, health code compliance, or compliance with other applicable regulations or availability of public services. Furthermore, I/we understand that this exemption is not being reviewed for adequate physical and legal access by all vehicles in all weather.

Under penalties of perjury, I/we declare that I/we have examined this form including any accompanying documents, and to the best of my/our knowledge and belief, it is true, correct, complete, and in compliance with all Montana State laws and Missoula City or County ordinances or resolutions and the transfer of property will occur as represented.

Claimant's Agent

Claimant

License No., if applicable

Claimant

Claimant

STATE OF MONTANA)

: ss.

County of Missoula)

On this ____ day of _____, _____, before me the undersigned Notary Public, personally appeared _____

_____ (Claimants)

known to me to be the one whose name is subscribed to this instrument, and acknowledged to me that they executed the same.

Notary Public for the State of

Residing at _____;

My Commission expires _____

Submit a digital copy application, affidavit, fee, and all required materials by email to:

Email: zoner@missoulacounty.us

Or

Submit one hard copy of application, affidavit, fee, and all required materials to:

Missoula County Department of Planning, Development and Sustainability

Physical Address:

127 E. Main Street, Suite 2, Missoula, MT 59802

Mailing Address:

200 W. Broadway, Missoula, MT 59802

Phone: (406) 258-4657

Fax: (406) 258-392

For inquiries regarding exemptions from subdivision review, contact the planning office at 406-258-4642 or email zoner@missoulacounty.us.

Please note that the evaluation of a proposed exemption involves an assessment of compliance with the general evasion criteria in *Missoula County Subdivision Regulations* [Section 8.4](#), along with applicable rebuttable presumptions, the *Montana Subdivision and Platting Act* (MSPA), the *Administrative Rules of Montana* (ARMs), and a coordinated review by agencies. Refer to [Section 8.8](#) of the Subdivision Regulations for complete details on exemption review procedures.

The evaluation of Subdivision Exemption Applications will be completed within 20 working days. Review begins when a complete application and fee is submitted accompanied by all necessary materials specified in this application form and as outlined in [Section 8](#) of the *Missoula County Subdivision Regulations*. The 20 working-day review period will not begin until all necessary application materials and fee are submitted. Please ensure that all information is accurate at the time of submission. Introducing new materials after the initial application submittal may result in resetting the 20-day review period.

⁽¹⁾ As per [Section 8.8.5](#), *Evidence of Existing Tract of Record*, evidence verified by the County Surveyor that the tract(s) to be divided or revised exists as a tract or tracts of record must be included in the application.

⁽²⁾ It is the claimant's responsibility to contact the Department of Environmental Quality ([DEQ](#)) reviewer or local sanitarian as applicable. Claimants are advised to consult with the appropriate sanitation reviewer prior to making application for a subdivision exemption. Separate application forms and materials may be required for review by DEQ and/or the local sanitarian.