



## Exemption Application | Affidavit

### Instructions

#### Application

Complete Sections 1.1 through 1.6.

#### Submittal Requirements for Specific Exemptions

Complete the applicable portion(s) of Section 2.1, depending on which exemption(s) you are requesting.

#### General Submittal Requirements

Include documents listed in Section 3.1 as attachments.

#### Affidavit

Each claimant and all owners of at least one tract involved in the request must sign on the last page of the affidavit (Section 4.1) before a notary public.

#### Submittal

Submit completed application / affidavit (attach additional sheets if necessary) and all submittal materials to the Community and Planning Services office.

**THERE IS A \$200 NON-REFUNDABLE FEE PER EXEMPTION APPLICATION.**

### COMPLETE THIS APPLICATION FOR THE FOLLOWING EXEMPTION REQUESTS

- 1.** Court-Ordered Division (begin in County Attorney office)
- 2.** Mortgage Security
- 3.** Severed Interest
- 4.** Cemetery Lot
- 5.** Reservation of Life Estate
- 6.** Agricultural Lease
- 7.** Federal or Tribal Land
- 8.** Right-of-way
- 9.** Utility Site
- 10.** Condominiums, Townhouses, and Townhomes
- 11.** Airport Land
- 12.** State-owned Lands
- 13.** Boundary Line Relocation
- 14.** Family Transfer
- 15.** Agricultural Covenant (including lifting of covenant)
- 16.** Aggregation

You may contact our office for an assessment of whether the division appears to qualify as an exemption from subdivision review.

Review of a proposed exemption includes an assessment of compliance with the general evasion criteria in *Section 8.4\**, applicable rebuttable presumptions\*, the Montana Subdivision and Platting Act (MSPA), the Administrative Rules of Montana (ARMs), and a coordinated review by agencies. See *Section 8.8* of the Missoula County Subdivision Regulations for complete details of exemption review procedures.

*\*Refer to Subdivision Regulations Chapter 8, "Divisions of Land Exempt from Review Under MSPA."*

## 1.1 CLAIMANT INFORMATION

Claimant Name	Agent / Agency (if any)
Claimant Mailing Address (send info <input type="checkbox"/> )	Agent Mailing Address (send info <input type="checkbox"/> )
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 Affidavit should be directed to: Claimant ☐ Agent ☐

## 1.2 PROPERTY IDENTIFICATION

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

A. Type of Exemption(s) Proposed:

## 1.3 LAND USE

A. Growth Policy land use designation(s) for affected tract(s)?

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

C. Number of tract(s) affected by proposed division:

D. Number of tract(s) remaining if proposed division is approved:

E. Is the affected property located on an Indian Reservation? Yes ☐ No ☐  
(The CSKT have thirty (30) days to comment on proposed exemptions located on the tribal reservation).

F. Identify any private or community sewer or water systems on or serving the affected tracts.

G. Identify location and type of access to the proposed tract(s).

H. 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 deed.

B. How and when was the original 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. or Deed/Amended Plat Reference

D. Identify dates and describe any instances after July 1, 1973, when proposed divisions of the original tract(s) have been denied approval.

E. If there are covenants or deed restrictions that apply to the tract(s), would the proposed division be permissible under the covenants or deed restrictions? Yes ☐ No ☐

## 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 explanation of 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?

- 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 ☐

## 2.1 SUBMITTAL REQUIREMENTS FOR SPECIFIC EXEMPTIONS

### A. Court-Ordered Division (Section 8.6.1)

Most court-ordered divisions of land begin in the County Attorney's Office. Claimants must still complete an exemption application and submit to CAPS, along with the review fee.

1. Attach a copy of the court order and the proposed division. ☐
2. In the case of an agreement between a landowner and a public agency with the authority to declare eminent domain, attach a statement from the agency documenting the agency's plans for acquiring the tract and the authority for eminent domain, and the written agreement between the parties. ☐

### B. 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.

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

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

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

*For more information about subdivision exemptions, submittal requirements, and review procedures, refer to Chapter 8 of the Missoula County Subdivision Regulations.*

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.

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. ☐

**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 proposed site development plan. ☐

3. Attach the declaration of condominium or townhouse ownership to be filed with the Missoula County Clerk and Recorder. ☐

**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 a 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**

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)**

1. Table of Family Transfer Recipients (Attach proof of relationship, *i.e.* Birth or Marriage Certificate, Adoption Papers, *etc.*)

TRACT	NAME OF RECIPIENT	RELATIONSHIP OF RECIPIENT TO CLAIMANT	AGE OF RECIPIENT	RECIPIENT PLACE OF RESIDENCE (FULL ADDRESS)

2. Complete table if the claimant received property that was divided by exemption from the intended recipient.

	NAME OF RECIPIENT	RELATIONSHIP OF RECIPIENT TO CLAIMANT	DATE	C.O.S. OR DEED REFERENCE
1				
2				
3				

4. Does the claimant intend to transfer property in the future to any remaining children? Yes ☐ No ☐
5. Attach a signed, notarized statement from the landowner(s) verifying that the division will not result in more than one gift or sale of a tract to any member of the landowner's immediate family in Missoula County. ☐

This exemption may not be used when the land is owned by non-corporeal legal entities such as corporations, companies, partnerships, and trusts. The use of the family transfer exemption is prohibited on tracts that were previously approved as a family transfer tract within the past two years.

Before filing of a family transfer tract will be permitted, proof that a trust has been or will be set up in the name of any minor child or children must be presented to the Clerk and Recorder.

**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\* are permitted on tracts created by use of the agricultural exemption.

*\*Refer to Subdivision Regulations Chapter 8, "Divisions of Land Exempt from Review Under MSPA."*

**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.

**Submit application, affidavit, and all accompanying materials by email to:**

Email: [zoner@missoulacounty.us](mailto:zoner@missoulacounty.us)

**Submit hard copy of application, affidavit, and all accompanying materials to:**

Missoula County Community and Planning Services Department

*Physical Address:*

323 West Alder Street, Missoula, MT 59802

*Mailing Address:*

200 W. Broadway, Missoula, MT 59802

Phone: (406) 258-4657

Fax: (406) 258-3920

<http://tinyurl.com/ExemptionApplication>

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### 3.1 GENERAL SUBMITTAL REQUIREMENTS

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*To divide land by use of exemption from subdivision review, submit one hard copy and 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 County Surveyor that the tract(s) to be divided or revised exists as a tract or tracts of record (for more information see *Section 8.8.4, 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 8.8.6.9.A\** on the survey, or in the absence of a recorded survey, the claimant shall submit a notarized statement as shown in *Section 8.8.6.9.A\** 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*)

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

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## 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 \_\_\_\_\_