

OFFICE USE ONLY: _____	DATE: _____
Examination Fee (According to the adopted Fee Schedule): \$400.00 included: _____	Yes No
Required documents submitted: _____	Yes _____ No _____
Staff Signature: _____	

The subdivision exemption request will be examined pursuant to MCA 76-3-201 and 76-3-207 and according to Section XI "Divisions of Land Exempt from Subdivision Review" of the 2024 County Subdivision Regulations (pages 97-111).

The COS Review Committee (Planner, Sanitarian, and Clerk & Recorder) will review the exemption materials and provide the claimant(s) and/ or their representative with electronic (email) comments/changes needed to comply with the Subdivision and Platting Acts, Sanitation in Subdivision Act, and the Uniform Standards for Certificates of Survey (COS). The claimant(s) and/or their representative will address the comments/changes provided by the Planner, Sanitation, Clerk & Recorder, and Examining Land Surveyor. Any exemption comments/changes or denials can be appealed to the County Commission by the claimant(s) and/or their representative.

An Advisory pre-application meeting may be requested prior to submitting an application for an exemption Section XI-B (pages 97-111). The following materials are required: a vicinity map, recorded survey (COS or Subdivision), and recorded deed(s).

The Exemption Review Criteria (page 99) includes:

- i. The nature of the claimant's business
- ii. The prior history of the particular tract in question (the tract of record on file at the County Clerk & Recorder Office filed prior to July 1, 1973)
- iii. Clerk & Recorder Office filed prior to July 1, 1973
- iv. The proposed configuration of the tract(s) if the proposed exempt transaction(s) is completed.
- v. A pattern of exempt transactions that will result in the equivalent of a subdivision without local government review. [*State ex rel. Dreher v. Fuller*, 849 P.2d 1045 (1993)]

Required Documents [Sections XI-C, page 100]:

Three paper and a digital copy of the following documents will need to be submitted the Subdivision Administrator

- _____ Draft Certificate of Survey (COS), amended plat (**Three paper copies 18"x24" or larger and 1 pdf of the same size**), or where a survey is not required (MCA 76-3-401), a draft instrument of conveyance.
- _____ Evidence of entitlement (such as): recorded deeds, contracts, restrictions, and covenants related to all the affected properties that have been recorded at the County Clerk & Recorder Office within the past year.
- _____ Documentation in support of the sanitation exemption(s), if applicable.

General Applicant Information:

1. Claimant(s):

Name: _____
Phone: _____ Email Address: _____
Address: _____ City: _____ State: _____ Zip: _____

Name: _____
Phone: _____ Email Address: _____

Address: _____ City: _____ State: _____ Zip: _____

2. Surveyor

Name: _____
Phone: _____ Email Address: _____
_____ Address: _____ City: _____ State: _____
_____ Zip: _____

3. Existing Tract of Record Information

a) Parcel and Project Description:

Parcel (1)

Legal Description: _____
Section _____ Township _____ Range _____
GEO Code: - _____
Parcel Total Size: _____ Number of tracts being created: _____
Existing Use: _____

Parcel (2)

Legal Description: _____
Section _____ Township _____ Range _____
GEO Code: - _____
Parcel Total Size: _____ Number of tracts being created: _____
Existing Use: _____

b. History of the parcel:

a. Is the parcel proposed to be divided as the result of a division (subdivision or COS) that occurred after July 1, 1973? Yes ___ No ___

c. If the answer is yes, describe the history of the division of the proposed parcel since July 1, 1973. Include the recorded date of the plat or survey, the name or number of the subdivision or the COS number of each division of the parcel, and the name of person who divided the property. If the parcel is within a platted subdivision, it is sufficient to reference the plat. (Attach copies of the recorded documents.)

Dated Recorded	Subdivision/COS Number	Type of Exemptions used	Name of person who divided the property

d. Has a subdivision application for the parcel(s) been withdrawn or denied?

_____ Yes _____ No

If yes, please provide the name of applicant, preliminary application date: _____

4. Type of exemption requested (See Exhibit A: Questions asked by County Commission)

a. Gift or Sale to Immediate Family Member (“Family Transfer”) MCA 76-3-207(1)(b) and according to Subdivision Regulations Section XI-C, pages 100-102.

Recipients	Relationship to Claimant	<u>Minor</u> (under 18years) Yes or No
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The “Required Documents” listed above, and one paper and a digital copy(s) of the proposed instruments of conveyance such as a deed(s) for exchange of ownership will need to be submitted (Resolution No.2017-19)

1. Are you aware of the 24-month hold period for Family Transfers that is required by Beaverhead County Subdivision Regulations? Yes ___ No ___
2. Have you made prior Family Transfer exemption claims on this or any other property in Beaverhead County? Yes ___ No ___
3. Is your primary residence located on this parcel? Yes ___ No ___
4. Why are you proposing this division of land?

5. Is the Grantee one of the Grantors? Yes ___ No ___

6. Is the recipient a minor? Yes ___ No ___

If yes,

- please provide documentation that transfer is in accordance with UTMA, MCA 72-26-603.

If No,

- Will the property be developed? Yes ___ No ___
- Will the recipient of the property be residing on the property? Yes ___ No ___

7. Please describe any previous family transfers in which you or the intended recipients have been involved.

8. Have you previously attempted to sell any portion of this parcel? Yes ___ No ___

- Please explain:

9. Are any persons other than your immediate family members interested in purchasing or developing any of the tracts involved in this division of land? Yes ___ No ___

- *If Yes*, please explain:

10. Have you, or your immediate family members, had any discussion with a person interested in purchasing a portion of your land? Yes ___ No ___

- *If Yes*, please explain:

11. Other than the intended disposition set forth in your application on file with the Survey Review Committee, is there any type of agreement, verbal or written, regarding the creation, sale or development of the tracts involved in the division of land? Yes ___ No ___

- *If Yes*, please explain:

12. Do you know that any parcel under 20 acres will have to be reviewed by the DEQ prior to construction of any structure requiring water or sewer or if the parcel is over 20 acres it will need to be reviewed by the local Sanitarian? Yes ___ No ___

❖ *If this property is sold, the seller should inform the buyer of DEQ approval.*

b. Agricultural Exemption, MCA 76-3-207(1)(c) and according to Subdivision Regulations Section XI-C-2, pages 102-104.

Agriculture Definition: The use of land for growing, raising, or marketing of plants or animals to produce food, feed, and fiber commodities. Examples include but are not limited to, cultivation and tillage of the soil; dairying; raising of livestock, poultry, bees, fur-bearing animals, or biological control insects; timber and wildlife management areas; and the growing and harvesting of fruits, vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes. This definition specifically excludes gardening for personal use, keeping of house pets, kenneling, landscaping for aesthetic purposes, and residential, commercial, and industrial uses, including the commercial processing of agricultural products. This definition is not construed to exclude ancillary or accessory uses or improvements necessary or related to the function of a bona fide agricultural operation.

(Covenant running with the land that the land will be used exclusively for agricultural purposes. No structures requiring water or sewer facilities shall be built or utilized on this parcel. The agricultural covenant is revocable only through the subdivision review process, aggregation back into the original tract of record or use of the land for a public purpose by a government or public entity after a public hearing.) The exemption requires a covenant running with the land in accordance with MCA 76-3-207(1)(c) and a signed and acknowledged recitation of the covenant on the face of the survey (or conveyance document).

Any such certificate of survey must be accompanied by a separate, recordable, document citing the covenant.

Description of current use and proposed use: _____

The property owner must explain their intent to produce \$1,500 annual gross income (if not already established) or more in sales of agricultural products, including livestock, marketed by the property owner, the property owner's family members, or the property owner's agent, employee, or lessee.

The "Required Documents" listed above along with the covenant as noted in this section will need to be submitted if it will be a separate document

c. Relocation of Common Boundary Lines and Aggregation of lots, MCA 76-3-207(1)(a),(d), (e), and (f) and according to Subdivision Regulations Section XI-C-3, pages 104-105.

Describe and provide documentation showing the need or reason for the relocation of the boundary lines or the aggregation of lots:

The "Required Documents" listed above and if applicable a paper and digital copy of the Platted Subdivision will need to be submitted.

d. Right-of-Way or Utility Site, MCA 76-3-201(1)(h) and according to Subdivision Regulations Section XI-C-5, pages 107-108.

_____ Right-of-way _____ Utility Site (Please check one)

Description of current use and proposed use: _____

The "Required Documents" listed above along with the following:

___ Documentation to verify the utility meets the term of a "public utility" in 69-3-101. MCA.

___ Landowner approval and proof of eminent domain authority by the utility

___ Documentation to be filed shall include a notarized statement from the recipient accepting the right-of-way or utility site, and noticing that under 76-3-201, MCA a subsequent change in the use to residential, commercial, or industrial subjects the division to review under the MSPA and the local subdivision regulations.

___ Instrument of conveyance, such as a deed.

e. Other (MCA 76-3-201 and 76-3-207, MCA) and according to Subdivision Regulations Section XI-C-6 & 7, pages 108-110.

Reason/justification: _____

The “Required Documents” listed above and the following (one paper and digital copy):

- Mortgage Exemption also requires the following:
 - A statement of how many parcels within the original tract would be created by use of the exemption;
 - The draft deed, trust indenture or mortgage for the exempt parcel (which states that the tract of land is being created only to secure a construction mortgage, lien or trust indenture);
 - A statement explaining who will have title to and possession of the balance of the original parcel after title to the exempted parcel is conveyed;
 - A signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel; and
 - Documentation that the lending institution is a financial or lending institution registered to do business in the State of Montana.
- Court Order also requires the following:
 - Evidence of entitlement such as a copy of the Court Order.

5. Nature of the claimant’s business:

- a. Is the claimant in the business of dividing and selling land? Yes _____ No _____
 Has the claimant divided property in Beaverhead County by use of an exemption after July 1, 1974?
 Yes _____ No _____
- b. If the claimant has previously used exemptions to divide property in Beaverhead County, please list the divisions and state the date, the COS Number or amended plat name and the exemption used. (Attach additional sheets as needed).

Date	C.O.S. or Amended Plat Reference	Exemption used:

6. Acknowledgements

- I (we) understand that the State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Montana Subdivision and Platting Act.
- I (we) affirm that this exemption claim is not an attempt to evade the Montana Subdivision and Platting Act.
- I (we) recognize that I may be subject to penalty if my actions are deemed to be an effort to evade subdivision review, as set forth in the Montana Code Annotated:
 - MCA 76-3-301(3): If transfers not in accordance with the Montana Subdivision and Platting Act are made, the County Attorney shall commence action to enjoin further sales or transfers and

complete compliance with all provision of the Montana Subdivision and Platting Act. The cost of such action shall be imposed against the party not prevailing.

- Violations: Any person who violates any provision of the Montana Subdivision and Platting Act or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than \$100 or more than \$500 or by imprisonment in a county jail for not more than three (3) months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of this chapter or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.
- I (we) also recognize that making false statements on this form could subject me to criminal prosecution for False Swearing (MCA 45-7-202) and Perjury (MCA 45-7-201).
- I (we) also recognize that pursuant to MCA 45-7-203(1) (Unsworn falsification to authorities), a person commits an offense under MCA 45-7-203 if, with the purpose to mislead a public servant in performing an official function, the person:
 - makes any written false statement that the person does not believe to be true;
 - purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements from being misleading;
 - submits or invites reliance on any writing that the person knows to be forged, altered, or otherwise lacking in authenticity; or
 - submits or invites reliance on any sample, specimen, map, boundary mark, or other object that the person knows to be false.
 - I (we) understand that if the Subdivision Administrator determines that my (our) request is an attempt to evade the Montana Subdivision and Platting Act then I (we) have the right to appeal that decision to the governing body according to the Subdivision Regulations Section VIII-B-1-c. Appeals.

7. Signatures: (if more than two claimants please attach additional sheets)

I (we), _____ [Name of Claimant(s)], have read the foregoing Subdivision Exemption Claim Application and affirm that it is true and correct.

Claimant's Signature

Date

I, _____ [Name of Claimant(s)], have read the foregoing Subdivision Exemption Claim Application and affirm that it is true and correct.

Claimant's Signature

Date