



# **SUBDIVISION EXEMPTION CLAIM**

## **APPLICATION /AFFIDAVIT**

Amount Received:  
\_\_\_\_\_ Check # \_\_\_\_\_  
Approved:  
Yes \_\_\_\_\_ No \_\_\_\_\_

**THERE IS A \$250 NON-REFUNDABLE FEE PER EXEMPTION APPLICATION IN ADDITION TO THE \$200 EXAMINING LAND SURVEYOR FEE, WHEN A SURVEY IS PROPOSED OR REQUIRED.**

### **1) PROPERTY OWNERS(S) CLAIMING EXEMPTION**

Name(s): \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Name(s): \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

### **2) DESIGNATED REPRESENTATIVE I (we) designate**

Name/Business: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Email: \_\_\_\_\_  
as my(our) representative for the purpose of this application.

### **3) PARCEL DESCRIPTION**

Physical Address: \_\_\_\_\_ Geocode: \_\_\_\_\_  
S/T/R: \_\_\_\_\_ COS: \_\_\_\_\_ Subdivision: \_\_\_\_\_

### **4) PARCEL HISTORY**

How and when the parcel was created \_\_\_\_\_  
If created as a result of an exempt division that occurred since July 1, 1973, provide the division history of the affected tract(s) and attach documents.

EXEMPTION	DATE	COS/ DEED/AMENDED PLAT
_____	_____	_____
_____	_____	_____
_____	_____	_____

### **5) LANDOWNER HISTORY**

Has the landowner divided other property in Sanders County by exemption since July 1, 1973? Attach documents. Use additional sheets if necessary, if additional exemptions have been done by the landowner(s).

EXEMPTION	DATE	COS OR DEED REFERENCE	NAME & RELATIONSHIP (IF FAMILY CONVEYANCE)
_____	_____	_____	_____
_____	_____	_____	_____

## 6) TYPE OF EXEMPTION

(COS = Certificate of Survey; AP = Amended Plat)

- \_\_\_\_ Mortgage Exemption Lending Institution \_\_\_\_\_ COS? Yes/No (circle)
- \_\_\_\_ Relocation of Common Boundary outside a platted subdivision; Certificate of Survey? Yes/No (circle)
- \_\_\_\_ Relocation of Common Boundary between a single lot within a platted subdivision and adjoining land outside a platted subdivision (COS or AP required for all such exemptions)
- \_\_\_\_ Relocation of Common Boundary for 5 or fewer lots in a platted subdivision Number of Lots \_\_\_\_  
(COS or AP required for all such exemptions)
- \_\_\_\_ Family Conveyance outside subdivision \_\_\_\_\_ COS \_\_\_\_\_ Deed
- \_\_\_\_ Family Conveyance inside subdivision (AP required)
- \_\_\_\_ Aggregation of Lots or Parcels by \_\_\_\_\_ COS or AP \_\_\_\_\_ Deed
- \_\_\_\_ Agricultural Use by \_\_\_\_\_ COS \_\_\_\_\_ Deed
- \_\_\_\_ Court Ordered by \_\_\_\_\_ COS \_\_\_\_\_ Deed/Order
- \_\_\_\_ Public Utility Site/Rights-of-Way by \_\_\_\_\_ COS or AP \_\_\_\_\_ Deed
- \_\_\_\_ Other -Explain: \_\_\_\_\_

## 7) SUBJECT TO DEQ REVIEW THROUGH SANITATION IN SUBDIVISION ACT? \_\_\_\_\_ Yes, OR:

-Exclusion (please cite sanitation exclusion): \_\_\_\_\_

***Attach current deeds and supporting documents such as a draft Certificate of Survey or Amended Plat; or, if a survey is not required, a draft instrument of conveyance.***

## 8) ADDITIONAL DOCUMENTATION FOR CERTAIN TYPES OF EXEMPTIONS

### MORTGAGE EXEMPTIONS

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.

#### Institution Statement ☐

- Attach a signed and notarized statement from the licensed financial institution certifying the following:
  - That the lending agency is registered to do business in the State of Montana;
  - 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
  - That the creating of the interest in the exempted parcel is necessary to secure a loan.

#### Landowner Statement ☐

- Attached a signed statement from the landowner(s) certifying the following:
  - That the landowners will retain title to the entire tract of record unless and until such time as the mortgage exemption parcel is foreclosed upon;
  - That transfer of ownership of the separate mortgage tract will only occur upon foreclosure;
  - Explanation of who would have possession of the remainder parcel if title to the exempted parcel is conveyed;

- 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
- That the purpose of the mortgage, lien, or trust indenture is for construction, or improvements to the land being divided, or refinancing.

### **CEMETERY LOT(S)**

Floodplain regulations prohibit burial of human remains in the designated floodplain; therefore, burial plots must be located outside of the designated floodplain.

- Attach a signed statement from the landowner(s) that the division is for creation of cemetery lot(s). ☐

### **FAMILY CONVEYANCE**

This exemption may not be used when the land is owned by non-corporeal legal entities such as corporations, companies, partnerships and trusts. A parcel may not be transferred or otherwise conveyed for 2 years after the date of division unless a variance has been granted by the governing body due to hardship situations.

- Attach proof of relationship such as birth certificate, adoption papers, marriage license etc. ☐

<u>Recipient</u>	<u>Relationship</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- If recipients are under age 18, attach documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act. ☐

### **UTILITY SITE**

- Attach documentation that the utility utilizing the site meets the definition of public utility in 76-3-103(14) MCA. ☐
- Attach the 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. ☐
- 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 the use to residential, commercial or industrial subjects the division to review under the MSPA. ☐

### **CONDOMINIUMS, TOWNHOUSES, AND TOWNHOMES**

- Attach evidence that the tract to be divided exists as a tract subdivided in compliance with the subdivision regulations. ☐
  - Attach a copy of the filed plat or final plan approval documenting the land proposed for this exemption was approved as a subdivision and contemplated condominiums, townhouses, and/or townhomes and evidence of compliance with parkland dedication requirements. ☐
  - Attach the proposed site development plan. ☐

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

### **AGRICULTURAL EXEMPTION**

Only agricultural buildings not requiring water or wastewater are permitted on the exempted, agricultural tract(s) created by this exemption.

Does the landowner intend to transfer the agricultural tract or remaining tract to someone else? Yes ☐ No ☐

- Provide documentation of valid agricultural use. ☐
- Attach a draft agricultural covenant. ☐

### **COURT ORDERED OR SIMILAR DIVISION**

- Attach a copy of the petition and/or other documents submitted to the court and the notification from the court to Sanders County of the pending division; ☐ or
- Attach a signed statement from the government entity that would receive the exempted parcel, explaining that an agreement between the parties to the sale has been unable to be reached, but that the exempted parcel could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, Chapter 30, MCA, and stating the public use for which the exempted parcel will be for. ☐

### **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 and/or the Montana Subdivision and Platting Act, as set forth in Montana law and/or the Sanders County Subdivision Regulations.

I/We understand that approval of the use of the exemption does not mean the division is approved for floodplain, wastewater, water health code compliance. Furthermore, I/we understand that this exemption is not being reviewed for adequate physical and legal access.

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 Sanders County regulations and the transfer of property will occur as represented.

\_\_\_\_\_  
Claimant's Agent

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Claimant