

# APPENDIX 26    REQUEST FOR EXEMPTION REVIEW

Note to Applicant: The purpose of this review is to enable Madison County officials to determine whether or not the proposed use of an exemption from local subdivision review would evade the Montana Subdivision and Platting Act. You will be notified of the Exemption Review Board's decision within 20 working days of submittal of a complete application to the Madison County Clerk and Recorder's Office. A complete application consists of the review fee and 3 copies of the request for exemption review, certificate of survey (as required) and supporting documents.

<b>1. Landowner</b> <i>(if more than two landowners, please attach additional sheets)</i>	
A. Name	E-mail:
Address	Phone
B. Name	E-mail:
Address	Phone
<b>2. Surveyor</b>	
Name	Firm
Address	Phone
<b>3. Existing Parcel(s)</b> <i>(if more than two parcels, please attach additional sheets)</i>	
A. Location _____ Section _____, Township _____ Range _____	
Other Legal Description:	
Geocode # 25- _____ - _____ - _____ - _____ - _____ - _____ <div style="text-align: center;"> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(4)</span> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(1)</span> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(4)</span> </div>	
When was the parcel created <i>(example: Occasional Sale COS 999, 5/1/92)?</i>	
Has a subdivision application for the parcel been withdrawn or denied? <input type="checkbox"/> Yes <input type="checkbox"/> No	
B. Location _____ Section _____, Township _____ Range _____	
Other Legal Description:	
Geocode # 25- _____ - _____ - _____ - _____ - _____ - _____ <div style="text-align: center;"> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(4)</span> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(1)</span> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(2)</span> <span style="margin: 0 10px;">(4)</span> </div>	
When was the parcel created <i>(example: Occasional Sale COS 999, 5/1/92)?</i>	
Has a subdivision application for the parcel been withdrawn or denied? <input type="checkbox"/> Yes <input type="checkbox"/> No	

<b>4. Type of Exemption and Reason or Justification</b>		
<input type="checkbox"/> <b>Gift or Sale to Immediate Family Member ("Family Transfer")</b>		
Recipient(s)	Relationship to Claimant	Age
<ul style="list-style-type: none"> <li>• Attach copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.</li> <li>• If recipients are under age 18, attach documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act., etc.</li> </ul>		
Date Landowner(s) became sole owner(s) of parcel to be divided.		
<input type="checkbox"/> <b>Agricultural Exemption</b>		
Description of current and proposed agricultural use:		
Explanation of eligibility under 15.7.202, MCA:		
<input type="checkbox"/> <b>Relocation of Common Boundary Lines Outside or Adjoining a Platted Subdivision</b>		
Describe and provide documentation showing the need or reason for the relocation: (attach supporting documentation)		
<input type="checkbox"/> <b>Lot Aggregation/Relocation of Common Boundary Lines within Platted Subdivision</b>		
Describe and provide documentation showing the need or reason for the relocation: (attach supporting documentation)		
<input type="checkbox"/> <b>Security for Construction ("Mortgage Exemption")</b>		
Attach signed and notarized statement from lending institution confirming that the exempt parcel is necessary to secure a construction loan for buildings or other improvements on the parcel or for refinancing.		
<input type="checkbox"/> <b>Other</b>		
Reason/justification:		

<b>5. Intentions for Use</b>	
Claimants' and recipients' intentions for the use of each parcel (including existing, new and remainder parcels) <i>(i.e. will the parcel(s) be used for agriculture, residences, etc.?)</i> :	
<b>6. Intentions for Disposition</b>	
Claimants' and recipients' long term and short term intentions for the disposition of each parcel (including existing, new and remainder parcels) <i>(i.e. after this transaction is finalized, will the parcel(s) be retained by recipient, sold, gifted, etc.?)</i> :	
<b>7. Attachments</b>	
	Certificate of Survey
	Certificate of Exemption, signed and notarized
	Copies of recorded deeds documenting present ownership for all affected parcels.
	Copies of draft deeds for exchange of ownership, if any exchange is proposed.
	Copies of draft deed restrictions or covenants, if any.
	Documentation supporting the proposed exemption.
	(Family Transfer) Copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.
	(Family Transfer) If recipients are under age 18, documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act, etc.
	(Mortgage Exemption) Statement from lending institution confirming need.
	(Ag Exemption) Draft deed(s) for transferring property or copy of agreement to buy and sell.

**8. Acknowledgements** (initialed by all landowners)

• **I 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.

**Landowner Initials:** (A) \_\_\_\_\_ (B) \_\_\_\_\_

• **I affirm** that this exemption claim is not an attempt to evade the Montana Subdivision and Platting Act.

**Landowner Initials:** (A) \_\_\_\_\_ (B) \_\_\_\_\_

• **I 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:

- 76-3-301(3). If transfers not in accordance with this chapter [i.e., Chapter 3, Local Regulation of Subdivisions] are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of this chapter. The cost of such action shall be imposed against the party not prevailing.

- 76-3-105 Violations. Any person who violates any provision of this chapter [i.e., Chapter 3, Local Regulation of Subdivisions] 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 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.
- 45-7-201. Perjury.
  - (1) A person commits the offense of perjury if in any official proceeding he knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made, when the statement is material.
  - (2) A person convicted of perjury shall be punished by imprisonment in the state prison for any term not to exceed 10 years or shall be punished by a fine of not more than \$50,000, or by both such fine and imprisonment.
  - (3) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law.
  - (4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the offender presents it as being so verified shall be deemed to have been duly sworn or affirmed.
  - (5) No person shall be guilty of an offense under this section if he retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.
  - (6) Where the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.
  - (7) No person shall be convicted of an offense under this section where proof of falsity rests solely upon the testimony of a single person other than the defendant.
- 45-7-202. False swearing.
  - (1) A person commits the offense of false swearing if he knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of such a statement previously made when he does not believe the statement to be true and:
    - (a) the falsification occurs in an official proceeding;
    - (b) the falsification is purposely made to mislead a public servant in performing his official function; or
    - (c) the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.
  - (2) Subsections (4) through (7) of 45-7-201 apply to this section.
  - (3) A person convicted of false swearing shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

Landowner Initials: (A) \_\_\_\_\_ (B) \_\_\_\_\_

**9. Affidavit (required from all landowners)**

\_\_\_\_\_, Landowner(s),  
being first duly sworn upon oath, deposes and says as follows:

I, as Claimant, have read the foregoing Subdivision Exemption Claim Application and affirm that it is true and correct.

\_\_\_\_\_  
*Landowner's Signature* Date \_\_\_\_\_

\_\_\_\_\_  
*Landowner's Signature* Date \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(seal)

Notary Public for the State of \_\_\_\_\_

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_