



Family Transfer Exemption Application and Affidavit

INSTRUCTIONS

1. Complete the **Application Sections 1.1 through 1.6**.
2. Complete **Section 2.1** to provide **Specific Information** about the Family Transfer requested.
3. Include all **Submittal Materials** listed in **Section 3.1** along with an optional **Cover Letter** 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 or hardcopy format.
6. **Submit \$400 non-refundable payment** to the Planning Office for each application.

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 as a Digital or Hardcopy
- Signed and Notarized Affidavit included in Section 4.1
- Signed and Notarized MT Attorney General Affidavit of Family Transfer per § 76-3-207(5), MCA
- \$400 Payment
- Vicinity Map
- Draft Survey
- Proof of Relationship
- Schematic Sketches of Before and After the Division
- 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⁾

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 8.6.14](#) 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 <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 Application and Affidavit should be directed to: Claimant <input type="checkbox"/> Agent <input type="checkbox"/>	

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. OR DEED/AMENDED PLAT 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
- 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 FAMILY TRANSFER EXEMPTIONS

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. Does the claimant intend to transfer property in the future to any remaining children? Yes No
3. Complete the 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				

1. 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.
2. What is the purpose of the family transfer?
3. Do the receiving family members intend to use or occupy the transferred tracts? Explain.
4. Does the claimant currently reside on the property? Yes No

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.

3.1 GENERAL SUBMITTAL REQUIREMENTS

To divide land by use of exemption from subdivision review, submit one hardcopy 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 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).

A signed and notarized [Affidavit of Family Transfer Division of Land](#) from the Montana Attorney General's Office for each applicant involved in the exemption application.

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 declare that this is a single gift or sale in Missoula County to a member of my/our immediate family, and I/we have not previously divided land in Missoula County for the benefit of this recipient through the family transfer exemption.

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) 258-3920

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 *Missoula County Subdivision Regulations Section 8.8* 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 *Missoula County Subdivision Regulations Section 8*. 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.