



## **SUBDIVISION EXEMPTION CLAIM APPLICATION**

The subdivision exemption request will be examined pursuant to §76-3-201 & §76-3-207, MCA and according to the criteria that the governing body or reviewing authority will use to determine whether proposed methods of disposition are attempts to evade the Montana Subdivision and Platting Act. The review criteria utilized by the governing body can be found in Section IX. Divisions of Land Exempt from Subdivision Review of the Broadwater County Subdivision Regulations (BCSR). *BCSR*, Section IX (last amended Jan. 18, 2023).

A pre-application meeting with the Subdivision Administrator is required prior to applying for an exemption pursuant to Section IX-B and IX-C. Claimants may seek a subdivision exemption claim on one parcel per application.

### **1. The Exemption Review Criteria**

*BCSR*, Section IX-B-2, states that the review criteria may include but is not limited to:

- i. the nature of the claimant's business;
- ii. the prior history of the tract in question;
- iii. the proposed configuration of the tracts; and
- iv. any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

*BCSR*, IX-B-2(a). Exempt divisions of land that would result in a pattern of development equivalent to a subdivision may be presumed to be adopted for purposes of evading the MSPA based on the surrounding circumstances listed above. *BCSR*, IX-B-2(b). When determining whether an exemption is claimed for the purpose of evading the MSPA, the subdivision administrator shall consider the criteria for review outlined for the specific exemptions listed in Section IX-C. *BCSR*, IX-B-2(c).

## 2. Required Documents

Claimants requesting an exemption listed under Section IX-C will provide the Subdivision Administrator with two paper copies and a digital copy of the following documents:

- a draft certificate of survey 18"x24" or larger, amended plat 18"x24" or larger, or, where a survey is not required, a draft instrument of conveyance;
- evidence of entitlement to the claimed exemption (such as recorded deeds, contracts, restrictions, and covenants related to all the affected properties that have been recorded at the Broadwater County Clerk & Recorder Office within the past year); and
- documentation in support of the sanitation exemption(s), if applicable.

Additional submittal requirements of Section IX-B-2 and those specific to certain types of exemptions are listed in Section IX-C. *BCSR*, Subsections IX-C-1 to IX-C-7.

**3. General Applicant Information** (Applicant must be Claimant or representative with power of attorney. If applicable, please attach documentation of POA.)

### a. Claimant(s)

Name: Janita Cookson  
Phone: 916-996-2891 Email: jcookson@citlink.net  
Address: 26 Moss Rock Road City: East Helena  
State: MT Zip: 59635

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_

### b. Surveyor

Name: Rylan Stahly, PLS, Stahly Engineering and Associates  
Phone: 406-439-1525 Email: rstahly@seaeng.com  
Address: 3530 Centennial Drive City: Helena  
State: MT Zip: 59601



**c. Existing Tract of Record Information**

i. *Parcel and Project Description* (only one parcel per application)

Legal Description: Tract 6, Lazy HM Estates, Phase 2, Doc. No. 136258, Bk. 1, Pg. 597

Section 9 & 10 Township 9N Range 1W

GEO Code: 43- 1789-09-4-01-11-0000

Parcel Total Size: 47.96 acres (Record)

Number of tracts being created: 1 Additional Tract of Record

Existing Use: Vacant lot to be used for residential purposes in accordance with covenants

ii. *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, 1974? ☒ Yes [ ] No

B. If the answer is yes, describe the history of the division of the proposed parcel since July 1, 1974. 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.)

Date recorded	Subdivision/COS #	Exemption utilized	Name of person who divided the property
6/16/1998	136258	None (Subdivision)	Illegible

iii. *Has a subdivision application for the parcel previously been withdrawn or denied?*

[ ] Yes ☒ No

If yes, please provide the name of applicant and preliminary application date: \_\_\_\_\_

**4. Exemption Requested** (please select only one exemption per application by completing the appropriate corresponding section, a-e)

**a. Gift or Sale to Immediate Family Member**, § 76-3-207(1)(b), MCA and BCSR, Section IX-C-1

Recipient	Relationship to Claimant	Minor (Yes or No)
Carter J. Cookson	Son	No

**b. Agricultural Exemption, § 76-3-207(1)(c), MCA and BCSR, Section IX-C-2**

This exemption requires a covenant running with the land in accordance with § 76-3-207(1)(c), MCA, 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:

Description of proposed use: \_\_\_\_\_

**c. Relocation of Common Boundary Lines and Aggregation of Lots, § 76-3-207(1)(a),(d),(e), and (f), MCA and BCSR, Section IX-C-3**

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

\_\_\_\_\_  
\_\_\_\_\_

**d. Right-of-Way or Utility Site, § 76-3-201(1)(h), MCA and BCSR, Section IX-C-7**

Right-of-way \_\_\_\_\_ Utility Site \_\_\_\_\_

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 Exemption, § 76-3-201 & § 76-3-207, MCA and BCSR Section IX-C-4, 5, 6**

Reason/justification: \_\_\_\_\_

\_\_\_\_\_



i. *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.

ii. *Court Order* also requires evidence of entitlement such as a copy of the Court Order.

## 5. Supplemental Questions

a. Other than the intended disposition set forth in this application, is there any type of agreement, oral or written, regarding the creation, sale or development of the parcel involved in this division of land? [ ] Yes ☒ No

b. Have you made prior subdivision exemption claims on any property in Broadwater County?  
Family Member Transfer claim was previously denied on the subject property. ☒ Yes [ ] No

c. Is your primary residence located on this parcel? [ ] Yes ☒ No

d. Do you own more than one parcel in Broadwater County? [ ] Yes ☒ No

e. Why are you proposing this division of land? To gift a tract of land to my son

f. What is the history of this parcel? Tract 6 was created by Lazy HM Estates Phase II Final Subdivision Plat, filed for record June 16, 1998, in Book 1, Page 597, records, Broadwater Co., MT (also see 3(c)(ii))  
g. How long have you owned or had an interest in this parcel? Since August 8, 2022

h. Was another family member's name previously on the deed to this parcel?  
Jeff Cookson, my husband, was previously listed on the deed as a trustee of the Cookson Family Trust. This proposed Family Member Transfer is to transfer a lot to my son, Carter Cookson. ☒ Yes [ ] No

1. If so, when was the family member's name removed? January 10, 2024

2. How was the parcel of land transferred from one family member to another? \_\_\_\_\_

It was transferred from the Cookson Family Trust to Janita Cookson via Quit Claim Deed

i. Has the Claimant contacted the Broadwater County Treasurer for certification that all real property taxes and special assessments assessed and levied on the land to be divided have been paid? ☒ Yes [ ] No

1. Are all taxes and special assessment paid to date? ☒ Yes [ ] No

j. Has the Claimant contacted a title company to check the status of liens on the property?

☒ Yes ☐ No

1. Are there any liens on the property?

☐ Yes ☒ No

k. Please describe any previous family transfers in which you or the intended recipients have been involved. Previously submitted Family Transfer application for the subject property January 2024, Denied March 6, 2024

l. Was the parcel created or affected by a previous exemption?

☐ Yes ☒ No

m. Have you previously attempted to sell any portion of this parcel?

☐ Yes ☒ No

n. Does this proposed family transfer exemption create more than one remaining parcel of less than 160 acres?

☐ Yes ☒ No


o. Is the parcel located within a subdivision?


☒ Yes ☐ No


1. If so, do the covenants allow for further subdivision of the parcels?

☒ Yes ☐ No

## 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 § 76-3-301(3), MCA, which states

“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.”

Mont. Code Ann. § 76-3-301(3). Additionally,

“if a governing body can prove by documented evidence in a court of competent jurisdiction that a person has knowingly evaded subdivision regulations through the use of a division of land pursuant to subsection (1)(b) or (2)(b), that person is subject to a civil penalty of \$5,000 for each division of land, payable to the governing body.”



Mont. Code Ann. § 76-3-207(6).

A I/we recognize that making false statements on this form could subject me to criminal prosecution for Perjury, § 45-7-201, MCA; False Swearing, § 45-7-202, MCA; and/or Unsworn Falsification to Authorities, § 45-7-203(1), MCA.

**7. Signatures** (This document must be signed before a Notary by the Claimant or Claimant's representative with power of attorney.)

I, Tanita J. Cookson, have read the foregoing Subdivision Exemption Claim Application and affirm that it is true and correct.

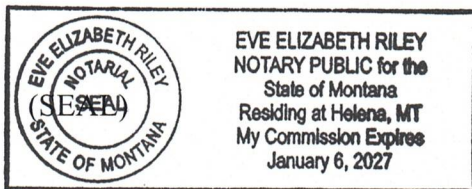
Claimant's Signature: [Signature] Date: 9.12.2024

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

Claimant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF MONTANA )  
: ss.  
COUNTY OF Lewis & Clark )

On this 12<sup>th</sup> day of September, 2024, Tanita J. Cookson personally appeared before me and having been duly sworn did herein execute the above instrument for the purposes stated.



[Signature]  
Notary Public for the State of Montana  
Eve E. Riley  
Printed Name

**OFFICE USE ONLY**

**\$400.00 Examination Fee**, as authorized by § 76-3-201(6) and § 76-3-207(4)(b), MCA, included: ☐ Yes ☐ No

**Required documents submitted:** ☐ Yes ☐ No

**Staff Signature:**

**Date:**