

EXEMPT PLAT REVIEW PROCESS



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SERVING BILLINGS, BROADVIEW, AND YELLOWSTONE COUNTY

EXEMPT PLATS

The State of Montana allows for certain divisions of land, which would otherwise constitute subdivisions, to be exempt from local subdivision review and approval, unless the division is an attempt to evade the Montana Subdivision and Platting Act (MSPA). While exempt plats are not subject to subdivision review, they are subject to survey requirements, zoning where applicable, and a brief examination for errors and omissions by the City or County.

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Exempt Plat Review Process

While state law does not identify a specific review process for exempt plats, the City of Billings and Yellowstone County have adopted an examination process for this type of land division, as outlined below:

- The first step is to hire a surveyor after confirming with the Planning Division that the exemption you are requesting is valid and legal. The Planning Division cannot recommend any surveyors, however any Montana State licensed surveyor is permissible.
- Once the survey is complete, the surveyor will submit a copy of the checkprint (paper copy) of the Certificate of Survey and any associated documents, and the review fee, to the Planning Division for review and routing. The checkprint survey will be routed to all pertinent City or County departments for corrections and comments.

****Please note that plats are not permitted to be “hand carried” or routed by the applicant. Should you need to check on the status of a plat, please contact the Planning Division at 247-8676.**

- Once the checkprint is returned to the Planning Division, typically within 2-3 weeks, the assigned Planner will contact the surveyor regarding any corrections that need to be made prior to submittal of the final mylar survey and associated documents. Please note that for city plats, the Engineering Division will contact the surveyor with their comments separately.
- Once the mylar and documents are submitted, it will be redistributed to the appropriate reviewing agencies for signatures. The time frame for routing is dependent upon when the surveyor resubmits it to the Planning Division and could take an additional 2-3 weeks for processing prior to recording of the mylar.
- The Yellowstone County Clerk & Recorder’s Office will contact the applicant once the plat is ready to be filed. A recording fee will be charged at that time.

Exemption for a Gift or Sale to a Member of the Immediate Family
(76-3-207(1)(b), MCA)

The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family without undergoing local subdivision review. **Immediate family** is defined as the spouse, children by blood or adoption, or parents of the grantor (76-3-103(8), MCA). The use of this exemption must also consider the following:

- One gift or sale of a parcel to each member of the landowner's immediate family in each county is eligible for exemption from subdivision review.
- The use of the exemption may not result in more than one remaining parcel of less than 160 acres.
- All resultant parcels of the survey must meet minimum lot sizes prescribed by the zoning on the property, if applicable.
- A corporation or partnership cannot claim a family exemption.
- A title in mixed ownership, such as a brother and sister cannot claim the family exemption.
- Lots within platted subdivisions are not eligible for family exemptions.

Any proposed use of the family conveyance exemption to divide a tract that was previously created through use of an exemption shall be presumed to be an evasion of the MSPA if it creates a pattern of development consistent with an overall plan with characteristics such as common roads, utility easements, restrictive covenants, open space or common marketing.

The following are required with the submittal of a family transfer survey:

- _____ A properly executed deed to the family member receiving the parcel
- _____ A Realty Transfer Certificate (required to record all deeds). A Realty Transfer Certificate document is available on the County website <http://www.co.yellowstone.mt.gov/clerk/>
- _____ A \$200.00 processing fee for the Planning Division (Visa/Mastercard accepted; cash; or checks made payable to The City of Billings)
- _____ A receipt from the Yellowstone County Treasurer's office showing all current taxes have been paid on all property affected by the survey

Below is an example of certification required on the face of the survey:

<p>CERTIFICATE OF EXEMPTION (FAMILY GIFT OR SALE)</p> <p>I (We) certify that the purpose of this survey is to create Tract # _____ for transfer of ownership as a family gift or sale and that no prior family sale has been conveyed to ((name), our (my) (relationship)_____ and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-3-207(1)(b), MCA, and the Yellowstone County Subdivision Regulations.</p> <p>DATED THIS _____ day of _____, 20_____.</p> <p style="text-align:center"><i>(Signature)</i> _____</p> <p style="text-align:center">Property Owner(s)</p>
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Exemption to Provide Security for a Construction Mortgage, Lien or Trust Indenture
(76-3-201(1)(b), MCA)

The purpose of this exemption is to allow the creation of a parcel to provide financing security for mortgages, liens, or trust indentures for construction, improvements to the land being divided, or refinancing purposes. Under policies of many lending institutions and federal home loan guaranty programs, a landowner who is seeking financing for improvements to a tract of land is required to hold title to the specific site on which the residence or improvements will be built.

The use of this exemption is presumed to have been used for the purpose of evading the MSPA if:

- It will create a site for more than one dwelling unit;
- The loan is for someone other than the owner of record or the recorded contract purchaser of the parcel to be divided.
- It will create a pattern of development which is equivalent to a subdivision with characteristics such as common roads, sewer, water, utility easements, restrictive covenants, open space or a common marketing or promotional plan.

This exemption may be used to create a parcel of any size, regardless of zoning limitations that may be in place; however, the created parcel may not be conveyed to any other entity, except the lending institution in the event of foreclosure of the mortgage, lien, or trust indenture.

The following are required with the submittal of a mortgage survey:

- _____ A signed original letter from the lender on their letterhead requesting the survey and stating the reason for the survey
- _____ A \$200.00 processing fee for the Planning Division (Visa/Mastercard accepted; cash; or checks made payable to The City of Billings)

Below is an example of certification required on the face of the survey:

<p>CERTIFICATE OF EXEMPTION (SECURITY FOR MORTGAGE, LIEN OR TRUST INDENTURE)</p> <p>I certify that the purpose of this survey is to create a parcel of land to provide security for mortgage or loan purposes and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-3-201(1)(b) MCA and from review by the Montana Department of Environmental Quality (16.16.605(1)(b)).</p> <p>DATED THIS _____ day of _____, 20_____.</p> <p style="text-align: center;"><i>(Signature)</i> _____ Property Owner(s)</p>
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Exemption for Agricultural Purposes
(76-3-207(1)(c), MCA)

The intention of this exemption is to allow a landowner to create a parcel that will be used only for production of livestock or agricultural crops and where no residential, commercial, or industrial buildings will be built. **Agricultural Purpose**, for purposes of these exemption criteria, means the use of land for raising crops or livestock, or for the preservation of open space, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands under this exemption are exempt from review by the Montana Department of Environmental Quality (MDEQ), provided the applicable exemption is properly invoked by the property owner.

The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purposes of evading the MSPA:

- The parties to the transaction by gift, sale, or agreement, must enter into a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by the property owner, the buyer or lessee, and the governing body.
- The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings will be built (e.g., a statement signed by the owner or buyer).
- Any change in use of the land for anything other than agricultural purposes subjects the parcel to full review as a subdivision. Residential, commercial and industrial structures, including facilities for commercial processing of agricultural products, are prohibited uses on parcels created under this exemption unless the covenant is revoked and the land division is reviewed as a subdivision. The governing body must approve lifting the agricultural covenant.
- Lots within platted subdivisions are not eligible for agricultural exemptions.

The following are required with the submittal of an agricultural survey:

- _____ An agricultural covenant with the signature of the owner and the signatures of the governing body either shown on the survey or as a separate document shall be provided with the covenant language, owner's signature and governing body's signatures. Action for this acceptance by the governing body shall be scheduled for a meeting.
- _____ A \$200.00 processing fee for the Planning Division (Visa/Mastercard accepted; cash; or checks made payable to The City of Billings)
- _____ A receipt from the Yellowstone County Treasurer's office showing all current taxes have been paid on all property affected by the survey

Exemption for Agricultural Purposes Continued

Below is an example of certification required on the face of the survey:

**CERTIFICATE OF EXEMPTION
(FOR AGRICULTURAL PURPOSES)**

I (We) certify that the purpose of this survey is to create Tract # _____, as shown on this certificate of survey, for gift or sale, which is to be used for agricultural purposes only, and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-3-207(1)(c), MCA and the Yellowstone County Subdivision Regulations.

I also hereby enter a covenant, to run with the land, that Tract _____ as shown hereon, will be used exclusively for agricultural purposes only. No building or structure requiring water or sewer facilities shall be utilized on Tract _____. This covenant is revocable only by the mutual consent of the governing body and the property owner.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property Owner(s)

Relocation of Common Boundary Line and the Aggregation of Lots
(76-3-207(1)(a), 76-3-207(1)(d), and 76-3-207(1)(e), MCA)

The intended purpose of this exemption is to allow a change in the location of a boundary line between two parcels without subdivision review. If the relocation of a common boundary would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision. If a temporary tract is created, language shall be added to indicate that the temporary tract is merged forever with the adjacent tract. Within a platted subdivision, a division of lots that redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the County Clerk and Recorder in accordance with the Amended Plat procedures found in the Subdivision Regulations.

The following are required with the submittal of a boundary line relocation survey:

- _____ If the ownership of all parcels with common boundaries being relocated is not the same, then a Quit Claim deed to the owner receiving the additional land shall be required
- _____ A Realty Transfer Certificate (required to record all deeds). A Realty Transfer Certificate document is available on the County website <http://www.co.yellowstone.mt.gov/clerk/>
- _____ A \$200.00 processing fee for the Planning Division (Visa/Mastercard accepted; cash; or checks made payable to The City of Billings)
- _____ A receipt from the Yellowstone County Treasurer's office showing all current taxes have been paid on all property affected by the survey

Below is an example of certification required on the face of the survey:

<p>CERTIFICATE OF EXEMPTION (RELOCATION OF COMMON BOUNDARY)</p> <p>I (We) certify that the purpose of this survey is to relocate common boundaries between adjoining properties existing outside of a platted subdivision <i>(or inside a platted subdivision) (or between a single lot within a platted subdivision and adjoining land outside a platted subdivision)</i>. Therefore this survey is exempt from review as subdivision pursuant to Section 76-3-207 (1)(a), (d), or (e), MCA.</p> <p>DATED THIS _____ day of _____, 20____.</p> <p style="text-align: center;"><i>(Signature)</i> _____ Property Owner(s)</p>

Court Order Exemption
(76-3-201(1)(a), MCA)

This is a division of land created by order of any court of record in this state or by operation of law, or in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain.

The following are required with the submittal of a court order survey:

- _____ Properly executed deeds for the transfer of the property
- _____ A Realty Transfer Certificate (required to record all deeds). A Realty Transfer Certificate document is available on the County website <http://www.co.yellowstone.mt.gov/clerk/>
- _____ A copy of the court order
- _____ The docket number for the court order needs to be cited on the survey
- _____ A \$200.00 processing fee for the Planning Division (Visa/Mastercard accepted; cash; or checks made payable to The City of Billings)

Right-of-Way/Utility Exemption
(76-3-201(1)(h), MCA)

This exemption applies to a division of land created for the purpose of rights-of-ways or utility sites on a property. Any subsequent change in the use of the property as residential, commercial or industrial uses shall subject the land division to the subdivision regulations. (76-3-201, MCA)

The following are required with the submittal for a right-of-way/utility survey:

- _____ A deed transferring the parcel to the appropriate entity
- _____ A Realty Transfer Certificate (required to record all deeds). A Realty Transfer Certificate document is available on the County website <http://www.co.yellowstone.mt.gov/clerk/>
- _____ If it is a utility lease site, a copy of the lease needs to be provided

Retracement or Correction Surveys
(76-3-404, MCA)

Except as provided in [70-22-105](#), MCA, within 180 days of the completion of a survey, the registered land surveyor responsible for the survey, whether the surveyor is privately or publicly employed, shall prepare and submit for filing a certificate of survey in the county in which the survey was made if the new survey:

- Provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;
- Reveals a material discrepancy in the map;
- Discloses evidence to suggest alternate locations of lines or points; or
- Establishes one or more lines not shown on a recorded map, the positions of which are not ascertainable from an inspection of the map without trigonometric calculations.
- **No fee is required**

Exempt Plat Review Checklist

Date:	
Prepared For:	
Surveyor/Engineer :	
Planner:	
Sent to:	
Date:	
Type of Exemption(s)	
<ul style="list-style-type: none"> • Court Order • Gift or Sale to a Member of the Immediate Family • To Provide Security for a Construction Mortgage, Lien or Trust Indenture • Relocation of Common Boundary • ROW/Utility • Aggregation of Lots • Retracement 	
Exempt Plat Format:	
	Plat sizes: 18” x 24” or 24” x 36” To include a 1.5-inch margin on the binding side
	In instances when more than one mylar sheet must be used to adequately depict the land surveyed, each mylar sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one mylar sheet.
Survey Data:	
	The title and title block must contain the quarter section, section, township, range, Principal Meridian, county, and city in which the surveyed land is located.
	The Certificate of Survey must not bear the title “Plat,” “Subdivision,” or any title other than “Certificate of Survey” unless the survey modifies lots in a platted and filed subdivision and invokes an exemption from subdivision review. In this case, the plat must be titled “Amended Plat of the ‘Subdivision Name’”.
	Include the name(s) of the person(s) who commissioned the survey and the names of any adjoining platted subdivisions and numbers of any adjoining Certificates of Survey previously filed.
	Include the date the survey was completed and a brief explanation of why the certificate was prepared; i.e., to create a new parcel, retrace a section line, and/or retrace an existing parcel of land.
	Include a north arrow and a scale bar.
	Include the location of, and other information relating to, all monuments found, set, reset, replaced, or removed as required by Sect. 8.94.3001 (1)(c)
	If additional monuments are to be set after the Certificate of Survey is filed, these monuments must be shown by a distinct symbol, and the surveyor must explain why the monuments have not been set and a date by which they will be set.
	Clearly show all monuments found during retracements that influence the position of any corner or boundary indicated on the Certificate of Survey.
	Clearly show the location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey.

	Witness and reference monuments and basis of bearings.
	Include the bearings, distances and curve data of all boundary lines.
	Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.
	Include a narrative legal description of the parcel surveyed (See 8.94.3002 (xii, A-E))
	All parcels created by the survey must be designated by a number or letter, and the dimensions and area of each parcel provided.
	Provide the location of any easement that will be created by reference to the Certificate of Survey
Certifications	
	Provide Certificate of Surveyor, date, signature and seal of surveyor responsible for survey. Memorandum of oaths pursuant to 76-3-405, MCA.
	Include signatures of all landowners whose parcels will be altered by the proposed relocation.
	Include space for the clerk and recorder's filing information.
	Provide Errors and Omissions Review - City Engineer along with Certification of Municipal Services (City only)
	Required agency signature blocks: Legal, County Treasurer, RiverStone Health (if applicable), and Governing Body (if applicable).
	Specific declarations, signatures, etc (See 8.94.3002 (F, i-iv))
Notes:	

LOCAL GOVERNMENT CONTACTS

City-County Planning Division		
Jeannette Vieg, Receptionist	247-8676	vielj@ci.billings.mt.us
Juliet Spalding, Subdivision Coordinator	247-8684	spaldingj@ci.billings.mt.us
Tammy Deines, Planning Clerk	247-8610	deinest@ci.billings.mt.us
City Legal Department		
Denise Bohlman, Legal Secretary	657-8205	bohlmand@ci.billings.mt.us
City Clerk		
Cari Martin, City Clerk	657-8210	martinc@ci.billings.mt.us
City Public Works - Engineering Division		
Tim Grant, City Surveyor	657-8240	grantt@ci.billings.mt.us
Chris Hertz, Engineer II	657-3095	hertzc@ci.billings.mt.us
City Public Works - Utilities Division		
Joe Sheridan, Engineer I	657-8341	sheridanj@ci.billings.mt.us
County Public Works Department		
Darin Swenson, Engineer/Floodplain Administrator	256-2735	dswenson@co.yellowstone.mt.gov
RiverStone Health (City/County Health Dept.)		
Adam Harris, Sanitarian	256-2770	adam.har@riverstonehealth.org
County GIS/Addressing		
Janelle Luppen	869-3553	jluppen@co.yellowstone.mt.gov
County Clerk & Recorder		
Jeff Martin, Clerk & Recorder	256-2785	jmartin@co.yellowstone.mt.gov