

APPENDIX E

**CARBON COUNTY APPLICATION FOR EXEMPTION
FROM SUBDIVISION CLAIM**

A. GENERAL INFORMATION

Name of Claimant(s) If more than two claimants, use additional sheets.

#1 Name

Address

Phone

#2 Name

Address

Phone

Name of Surveyor

Address

Phone

Location (nearest town)

Parcel(s) If more than two parcels, use additional sheets.

#1 Address

Legal Description
(1/4 section)

**Existing Zoning and
Zoning District**

**How and When
Parcel Created**
(example, COS 432,
6/4/2001)

#2 Address

Legal Description
(1/4 section)

**Existing Zoning and
Zoning District**

**How and When
Parcel Created**
(example, COS 432,
6/4/2001)

B. EXEMPTION TYPE

Family Conveyance

Recipient(s)	Relationship to Claimant	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ Attach copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.

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

Date Claimant(s) became sole owner(s) of parcel to be divided: _____

See Attached Exemption Supplement A for Family Conveyance that must be completed and signed and is subject to the following Affidavit.

Agricultural Exemption (Covenant running with the land, revocable only by mutual consent of the Commission and the property owner, that the land will be used exclusively for agricultural purposes. No structure requiring water or sewer facilities shall be utilized on this parcel.)

Description of current and proposed agricultural use

Relocation of Common Boundary Lines (All lots outside of a platted subdivision or a lot within a platted subdivision and adjoining unplatted land.)

Description, which type proposed?

Reason or justification

Relocation of Common Boundary Lines Within Platted Subdivision (All lots inside of a platted subdivision.)

Reason or justification

Security for Construction (“mortgage survey”.)

_____ Attach signed and notarized statement from the lending institution confirming that the exempt parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.

Aggregation of Parcels or Lots

Other

Reason or justification

C. INTENTIONS FOR USE

Claimants’ and recipients’ intentions for the **use** of **each** parcel (including existing, new and remainder parcels) (e.g will parcels be used for agriculture, residences, etc.?)

D. INTENTIONS FOR DISPOSITION

Claimants’ and recipients’ **long term and short term** for the **disposition** of **each** parcel (including existing, new and remainder parcels) (e.g. will parcels be gifted, sold, retained, etc.?)

E. APPLICATION MATERIALS

- Certificate of Survey:**
- Four paper copies (six for family conveyance or complex boundary realignments)
 - Two Mylar copies, with all required certificates, including:
 - County Commission's Surveyor's, signed
 - Clerk and Recorder's Treasurer's certificate, signed
 - Claimant's certificates of exemption, signed and notarized
- Copies of recorded deeds** documenting present ownership in all affected parcels
- Copies of proposed deeds** for exchange of ownership, if any exchange is proposed
- Copies of proposed deed restrictions or covenants** if any are proposed
- Copies of existing deed restrictions or covenants**, if any
- If parcel is in a zoning district, a **Site Plan** showing all existing and proposed structures and proposed property lines.
- If claim is for family conveyance, **Copies of all deeds, contracts, restrictions and covenants related to the property recorded within the past year.**
- If recipients are under age 18, **attach documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act, etc**
- If claim is for mortgage exemption, **Statement from lending institution confirming need.**

F. ACKNOWLEDGEMENTS

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

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 [e.g. 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 violation of the provisions of these this chapter [e.g. Chapter 3 Local Regulation of Subdivisions] or these Regulations is an offense punishable by a fine of not less than \$100.00 nor more than \$500.00 or imprisonment in a county jail for not more than three months or by both fine and imprisonment. Each sale or transfer, or offer of sale or transfer, of each separate parcel of land in violation of any provision of these regulations 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 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 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 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.

G. AFFIDAVIT

_____, Claimant(s) being first duly sworn upon oath, deposes and says as follows:

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

 Claimant's signature Date: _____

 Claimant's signature Date: _____

State of: _____

County of: _____

(Continued next page)

Subscribed and sworn to before me on this _____ day of _____, 20____.

Seal

Notary Public for the State of _____
Residing at: _____
My commission expires: _____

EXEMPTION SUPPLEMENT A

FAMILY CONVEYANCE

1. Are you or any of your immediate family real estate professionals, developers, builders, etc? _____
2. Have you made prior subdivision exemption claims on any property in Carbon County? _____
3. Is your primary residence located on this parcel? _____
4. Do you own more than one parcel in Carbon County? _____
5. Why are you proposing this division of land? _____

6. What is the history of this tract? _____

7. How long have you owned or had an interest in the tract? _____
8. Do you own the tract free and clear? _____ If not, describe your mortgage or lending agreement _____
9. Are you delinquent at all with regard to the payments of this property? _____
10. At anytime in the last three years have you been delinquent? _____
11. Does the retirement of debt influence your decision to divide this land? _____
12. Was the parcel created by a previous exemption? _____
13. Please describe any previous family transfers in which you or the intended recipients have been involved? _____

14. Have you or a recent owner previously expressed an interest in subdividing the parcel? _____
If yes, why didn't you or a recent owner pursue subdivision? _____
15. Have you previously attempted to sell any portion of the parcel? _____
If yes, when and where did you attempt to sell it? _____
If yes, when and why did you decide not to sell it? _____
16. Are any persons other than your immediate family interested in purchasing or developing any of the tracts? _____