



LINCOLN COUNTY PLANNING DEPARTMENT

512 CALIFORNIA AVE | LIBBY, MT. 59923 | P: (406) 283-2309

LCPLANNING@LIBBY.ORG | WEBSITE: [HTTP://WWW.LINCOLNCOUNTYMT.US/PLANNING-HOME](http://www.lincolncountymt.us/planning-home)

Procedures & Requirements for Family Transfer Exemption Claims

The Lincoln County Subdivision Regulations (as amended in May 2026) provide the following for review of Family Transfer Exemptions (*See Chapter VI-D-2 for complete regulations*):

- The MSPA provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the use of the exemption is an attempt to evade the Montana Platting and Subdivision Act (MSPA), Section 76-3-201 et. seq. MCA;
- In assessing the claimant's purpose, the county's Survey Review Committee (comprised of staff from the Planning, Clerk & Recorder, and Environmental Health departments) will evaluate all relevant circumstances including the nature of the claimant's business and use of the parcel, the prior history of the particular tract in question, the proposed configuration of the tract(s) if the proposed exempt transactions are completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review;
- NOTE Attorney General Opinion further provides that the Claimant has the burden of proof in satisfying the Commission that the exemptions claim is appropriate. (40 A.G. Op. No. 16).

General Procedures

To prevent abuse of the family transfer exemption, claims will be evaluated as follows:

- Applicant submits complete application to Planning Department with review fees;
- Planning Department & Exemption Review Committee reviews application materials for completeness and appropriateness of exemption, and determines whether the application meets criteria for approval;
- If the application is determined not to be an evasion, the Planning Department shall prepare an approval letter with conditions as applicable; or
- If the application is suspected to be an evasion of the MSPA the Planning Department will prepare and present a report based on its findings to the Board of County Commissioners.



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A. Family Transfer General & Evasion Criteria

- One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review.
- Statement of Intent: The intention of this exemption is to allow a landowner to convey one (1) parcel to each member of his or her immediate family without local subdivision review;
- A title in mixed ownership, such as a brother and sister cannot claim family exemption;
- Lots previously created through the use of another exemption may not be divided through the use of this exemption
- Each lot must have physical and legal access; Naming of a road and signage could be a requirement. Claimant will be responsible for those additional costs & road sign **MUST** be installed and approved before filing of final survey;
- The term "immediate family" means the spouse, children (by blood or adoption), or parents of the grantor [76-3-103(8), MCA]. This exemption may be used only by grantors who are natural persons and not by non-corporal legal entities such as corporations, partnerships, and trusts;
- Filing of any certificate of survey (or recording of an instrument of conveyance) that would use this exemption to create a parcel for conveyance to a family member must show, *on the face of the plat*, the "Landowner Certification of Exemption - Family Gift or Family Sale" (See below);
- The use of the family conveyance exemption to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space or common marketing or promotional plan raises a rebuttable presumption that the use of the exemption is adopted for purposes of evading the Act.
- Use of the exemption on a lot in a platted subdivision shall be subject to any original conditions of approval of the subdivision.
- All gifted lots (and parent parcels if not previously approved) will require DEQ approval for septic and well placement.



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LAND OWNER CERTIFICATION OF EXEMPTION - FAMILY GIFT OR FAMILY SALE

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 _____, our (my) _____ and that this exemption complies with all conditions imposed on its use.

This is the first and single gift or sale in this county to this member of my immediate family and the owner of record certification of compliance and that the tract/parcel will not be transferred back to the grantor within 24 months of filing without written consent of the governing body. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-3-207(1)(b), MCA, and the Lincoln County Subdivision Regulations.

Dated This _____ Day of _____ 20____.

Grantor Signature

Grantor Signature