

Montana Subdivision and Platting Act Exemptions (after 2021 Session)

Section 76-3-201(1), MCA (provides for evasion review with fees; no survey required)

(a) Court order – HB 450

- Before ordering, court must notify governing body and allow written comment (now 76-3-201(3), MCA)
- Court cannot create more than four new lots or parcels under this exemption. (new 76-3-201(2), MCA)

(b) Mortgage or lien

- Must be security for purpose of construction, improvements to the land being divided, or refinancing purposes (now 76-3-201(4), MCA)
- Exemption applies only if land is conveyed to the financial or lending institution or purchaser upon foreclosure on the lien. Transfer of the mortgage parcel to any other party after October 1, 2003 requires subdivision review. (now 76-3-201(4) and (5), MCA)

(c) Severing minerals

(d) Cemetery lots

(e) Life estate

(f) Lease or rental for agricultural purposes

(g) No jurisdiction (e.g., federal or tribal lands)

(h) Parcels created for ROW or utility sites (change in use subject to subdivision review)

Section 76-3-203, MCA – (no survey required) condos, townhomes, or conversions on land that has gone through major or minor subdivision review or on lots in cities and towns, if:

- the original approval contemplated the development; or
- the proposal is in conformance with zoning.

Section 76-3-205, MCA

- (1) Lease or rent of publicly owned airport-related land for weather facilities, air navigation facilities, manufacture, maintenance, or storage of aircraft, or air-carrier related activities (no survey required)
- (2) Division of state-owned lands, unless creates a second or subsequent parcel from a single tract for residential use (no survey required)

Section 76-3-206, MCA – conveyances executed prior to July 1, 1974 (no survey required)

Section 76-3-207, MCA - (provides for evasion review with fees; survey required, zoning compliance required, all taxes certified as paid)

(1) *Outside platted subdivisions:*

(a) Common boundary relocations

(b) Family transfer (SB 231 – vetoed)

- Allows for single gift or sale from a parcel to each immediate family member per county
- Immediate family means “a spouse, children by blood or adoption, and parents” (76-3-103(8), MCA)

(c) Agricultural land sale, gift, or buy-sell agreement

- Requires covenant with governing body that land used exclusively for agriculture
- Governing body may revoke the covenant and no review required if:
 - Original lots restored; or
 - Public entity will use land for public purposes (76-3-211, MCA)

(1) *Within platted subdivisions:*

(d) Boundary relocations for five or fewer lots

- If increases number of lots or involves six or more lots, must undergo subdivision review (76-3-207(2), MCA)

(e) Common boundary relocation between a lot in platted subdivision and adjoining land outside platted subdivision

(1)(f) Aggregation of lots

Section 76-3-209, MCA – transfers of land acquired for state highway purposes (if not shown on highway plan, must be surveyed)