

## SECTION 14. SUBDIVISION EXEMPTIONS

### D. Exemption To Provide Security For A Construction Mortgage, Lien Or Trust Indenture (76-3-201(1)(b) MCA).

1. Statement of Intent: Under policies of many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a landowner who is buying a tract using financing or a contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.
2. When claiming this exemption, the landowner shall submit the following documents to the City County Planning Office:
  - a. A signed statement from both the landowner and the lending institution that the creation of the exempted parcel is necessary for the owner to secure construction financing through a construction mortgage, lien or trust indenture on the exempted parcel.
  - b. Any certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the statutory exemption claimed, and include the language provided in Appendix A, Section H of these regulations.
3. The use of this exemption will be presumed to have been adopted for the purpose of evading MSPA if:
  - a. It will create a site for more than one dwelling unit;
  - b. The loan is for someone other than the owner of record or the recorded contract purchaser of the parcel to be divided.
  - c. 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.