

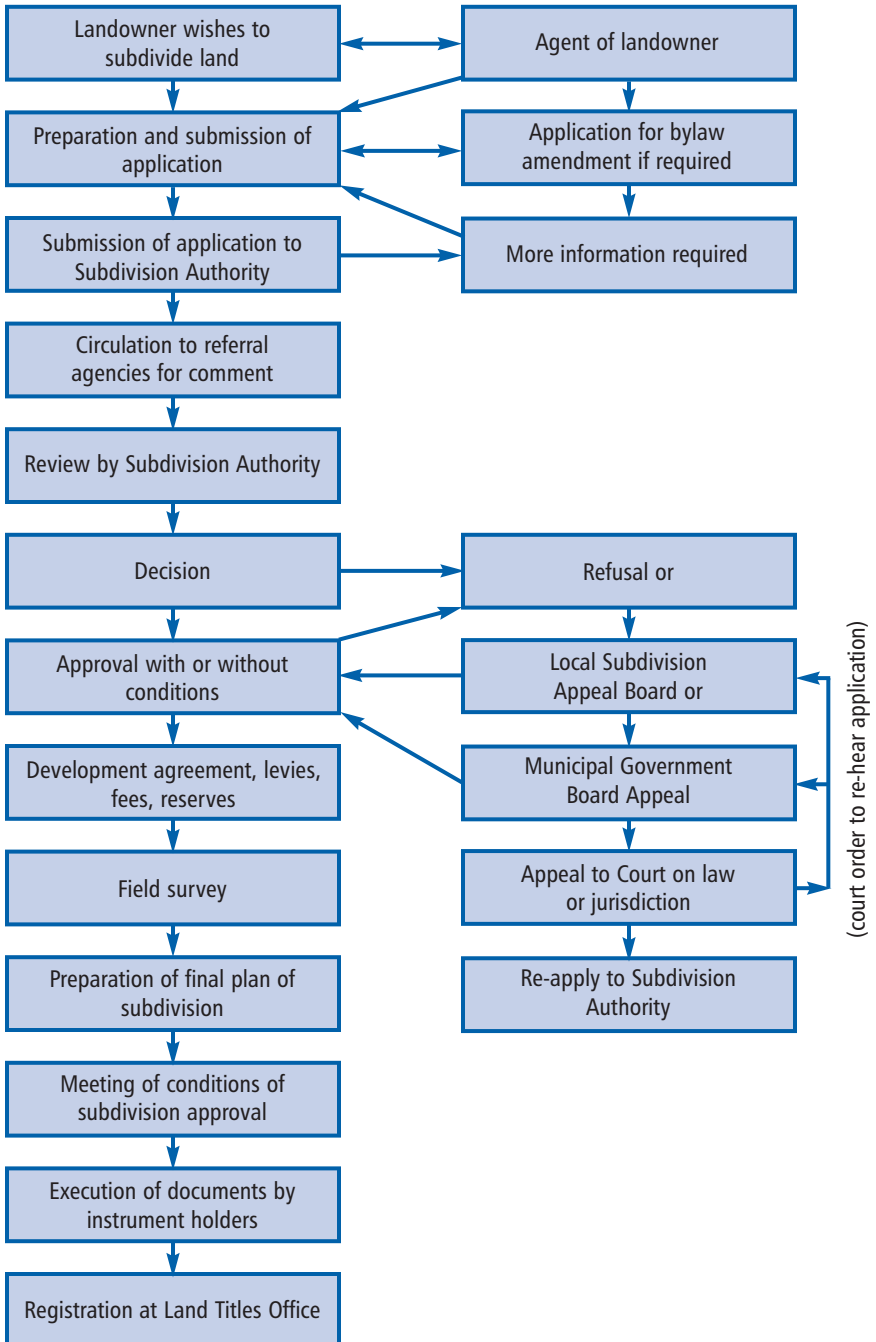
Alberta's Subdivision Process



Alberta Land Surveyors' Association



The Subdivision Process



Purpose

This brochure has been prepared to assist individuals wishing to subdivide land within the Province of Alberta. It is intended to complement information contained in provincial legislation or provided by the Subdivision Authority of the municipality in which the land is located.

What is subdivision?

Subdivision is the dividing of a single parcel of land into two or more parcels, each to be given a separate title. Subdivision is also used for existing lot line adjustments. Notwithstanding a few exceptional circumstances, subdivision approval and endorsement by the local municipality must always be received before the subdivision can be registered at the Land Titles Office and titles issued (including bare land condominiums).

Exceptions may occur with parcels of land that contain more than one quarter section, a river lot, a lake lot, or some settlement lots created prior to July 1, 1950. Ask your local Subdivision Authority, an Alberta Land Surveyor or Alberta Land Titles staff for information about the particular circumstances of the parcel of land in question.

NOTE: This booklet is a general guide to Alberta's subdivision process. It does not contain all the rules and regulations. Individuals applying for subdivision of land must contact the local municipality for local regulations. Applicants may also wish to obtain a copy of the *Municipal Government Act* and the *Subdivision and Development Regulation*.

Where do subdivision rules come from?

The *Municipal Government Act* and *Subdivision and Development Regulation* govern subdivision of land. This legislation specifies the

authority and responsibilities of the municipality in receiving and deciding on subdivisions.

Each municipality must enact a subdivision bylaw to provide for a Subdivision Authority to exercise powers and duties on behalf of the municipality.

The municipality may choose to have subdivision decisions made by:

- any or all members of council;
- a designated officer of the municipality;
- a municipal planning commission;
- any other person or organization.

The applicant for subdivision approval must submit an application and supporting information to the designated authority. The basic application form (page 17) comes from the *Subdivision and Development Regulation*. These are minimum requirements. Actual requirements will vary from municipality to municipality.

Who can apply for subdivision?

Only the landowner or an agent acting on behalf of the landowner may apply for subdivision. An agent may be any person acting on behalf of the owner. Often landowners hire or contract an Alberta Land Surveyor or other professional—planner, lawyer, engineer—to act on their behalf when they do not wish to undertake the application on their own. The subdivision application must clearly indicate the name of the agent.

How do landowners or their agent apply for subdivision approval?

The first step is completion of the subdivision application form. The landowner or their agent should contact the municipality to determine who is the specified Subdivision Authority and obtain the official subdivision application form. Each municipality may have a

different format and different requirements in terms of what constitutes a “completed application.” Evaluation of a subdivision application will not begin until a “completed application” is received by the Subdivision Authority.

It is wise to ask the Subdivision Authority for a copy of any relevant planning documents such as *Municipal Development Plan*, *Area Structure Plan*, *Area Redevelopment Plan* and *Land Use Bylaw*. These documents may restrict or prohibit the proposed use of the land subject to subdivision, without a bylaw amendment.

The subdivision application requires the following information: name, address, phone number of the applicant and agent, the legal description of the land, its location, its existing and proposed future uses, its physical characteristics, and indication of water and sewer services. In addition, the application must include a proposed (tentative) plan of the subdivision, the required fee and a copy of the current title for the land (available from private registry agents).

Applicants often hire a professional, as noted earlier, to determine the likelihood of success, or for assistance in refining the proposals so that the chance of approval is increased. A pre-application meeting can often be arranged with the Subdivision Authority to discuss issues related to a proposed subdivision. Use of professional services may actually reduce the overall subdivision or development costs to the landowner.

Is more information required?

The amount of information required for subdivision approval will be dependent upon the complexity of the proposed subdivision application. Generally, the greater the number of lots proposed, the more detail will be required. Usually more information is better than less.

An applicant must also submit sketches or proposed plans showing the location, dimensions and boundaries of the land to be

subdivided and the parcels to be created as well as rights of way, locations and types of existing buildings, the bed and shore of any river, lake or stream within the boundary, locations of roads, rail lines and oil and gas facilities, pipelines and the like. A Subdivision Authority may request that a Real Property Report be prepared, showing locations of buildings and improvements that will remain in place.

An important consideration for any subdivision is the source of potable water and the method of sewage disposal. Any sketch should show the location of existing wells (rural) and sewage systems and dimensions relative to proposed property lines.

An Alberta Land Surveyor is the only person who may legally establish boundaries in accordance with the *Surveys Act*. A proposed plan prepared by an Alberta Land Surveyor may make the process go easier because working with an Alberta Land Surveyor often increases accuracy and supporting detail for the application.

Where can landowners go for help?

Use of professional assistance for gathering information for complex applications will save time and frustration. Professionals are usually consulted for information about:

- land use—permitted or discretionary;
- boundaries, building locations, encumbrances;
- access and sight distances along municipal roads;
- location of boundaries to meet wishes of applicant;
- preparation of application to meet planning requirements;
- water quantity and quality;
- soil reports;
- environmental reviews;
- topographic information for building site locations;
- flood plain maps, water table and drainage information;
- environmental reserves, easements;

- location of nearby sour gas facilities or livestock operations;
- sewer system locations and percolation tests;
- municipal reserve requirements or cash-in-lieu of reserve (applicant may be responsible for obtaining a current property appraisal—at discretion of municipality).

How is a subdivision application evaluated?

The first considerations by the Subdivision Authority include:

- suitability of the proposed site for the intended use;
- conformity of the proposal to local planning legislation, The *Municipal Development Plan*, any *Area Structure Plan*, and *Land Use Bylaws*;
- conformity to the provisions of the *Municipal Government Act* and the *Subdivision and Development Regulation*.

A subdivision cannot be approved if it does not comply with the foregoing criteria.

If the proposed subdivision does not meet the criteria set out in the statutory plans, the applicant may consider asking for an amendment to them. A typical example might be an applicant proposing a multi-parcel country residential subdivision in an area zoned exclusively for agriculture. The applicant must first apply to change the designation of the entire zoned area of the subject land to include the country residential use classification. Such an action may also require amendment of a *Municipal Development Plan* or *Area Structure Plan*. The municipality would hold public hearings, consider the merits of the proposal and make a judgement accordingly. If the application meets the provincial and municipal planning legislation, the next step is evaluation of the specific site characteristics. This analysis includes evaluation of:

- boundaries and building locations;
- topography (is there a suitable building site?);

- soil characteristics (suitability for drainage or sewage);
- storm water collection;
- adequacy of water supply (quantity and quality);
- road accessibility and internal roads;
- erosion, slope, environmental concerns;
- other matters the Subdivision Authority considers relevant.

To assist in evaluation, the Subdivision Authority may refer the application to other agencies for comment, these may include: Alberta Registries; school authorities, Alberta Agriculture, Food, and Rural Development; Department of Sustainable Resource Development, Department of Environment, Department of Transportation, the Alberta Energy and Utilities Board, irrigation districts, adjacent municipalities, encumbrancees, and other persons or authorities whose input would assist in evaluating the application. Adjacent landowners will be notified of the application and may provide input or appear at hearings if hearings are held. Adjacent landowners do not have to be notified if the application is part of an *Area Structure Plan* or a conceptual scheme and public hearings have been held. Notification may occur at the discretion of the municipality.

Timing

Once the completed application has been received, the Subdivision Authority has certain time frames in which to consider the application.

In most cases referrals to other agencies, such as those listed above are required. A decision must be made within 60 days unless the applicant and the Subdivision Authority agree to a time extension.

If the Subdivision Authority fails to issue a decision within the specified time frame and extensions are not agreed to, the applicant may initiate an appeal. Such an appeal is considered an appeal of a deemed refusal.

Decisions

The Subdivision Authority may approve, vary or refuse an application. An approval may include a variety of conditions.

If an application is refused, the Authority must provide reasons for the refusal. An applicant may appeal any subdivision refusal, or any subdivision approval containing unacceptable conditions but may not appeal land use designation.

Conditions

The Subdivision Authority may impose conditions that must be fulfilled before the subdivision can be registered at the Land Titles Office. These may include:

- requirements to ensure the subdivision complies with all planning regulations or documents, including site-specific conditions such as water supply, internal roads, etc.;
- requirements for an agreement to be entered into with the municipality to pay for construction of roads, walkways, sewer and water systems, other utilities, or off-site levies;
- payment of any outstanding taxes;
- dedication of reserve land, or other arrangements in-lieu-of land.

A municipality may require the landowner to provide municipal and/or school reserve land as part of a subdivision approval. The applicant may be required to give up land or, if the municipality prefers, to pay cash in-lieu-of land. Up to 10 percent of developable land may be taken for municipal reserve purposes. Occasionally the taking of land may be deferred to a later time. In those cases a caveat is registered on the title.

Environmental reserve is land with environmental conditions that may make it unsuitable for development. These areas may include: steep slopes, swamps, gullies, ravines, natural drainage courses, flood prone areas, or land immediately adjacent to lakes, rivers,

PROPOSED PLAN

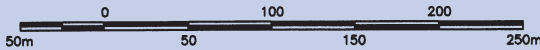
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STRATHCONA COUNTY

SCALE 1: _____ 1998 A.B. CEE, A.L.S.



KEY PLAN

N.T.S.



ABC SURVEYS (1982) LTD.

1234-56 STREET, EDMONTON. Ph: ____-____

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SURVEYOR'S STAMP

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DATE: 07/22/96

REVISED: 01/24/97

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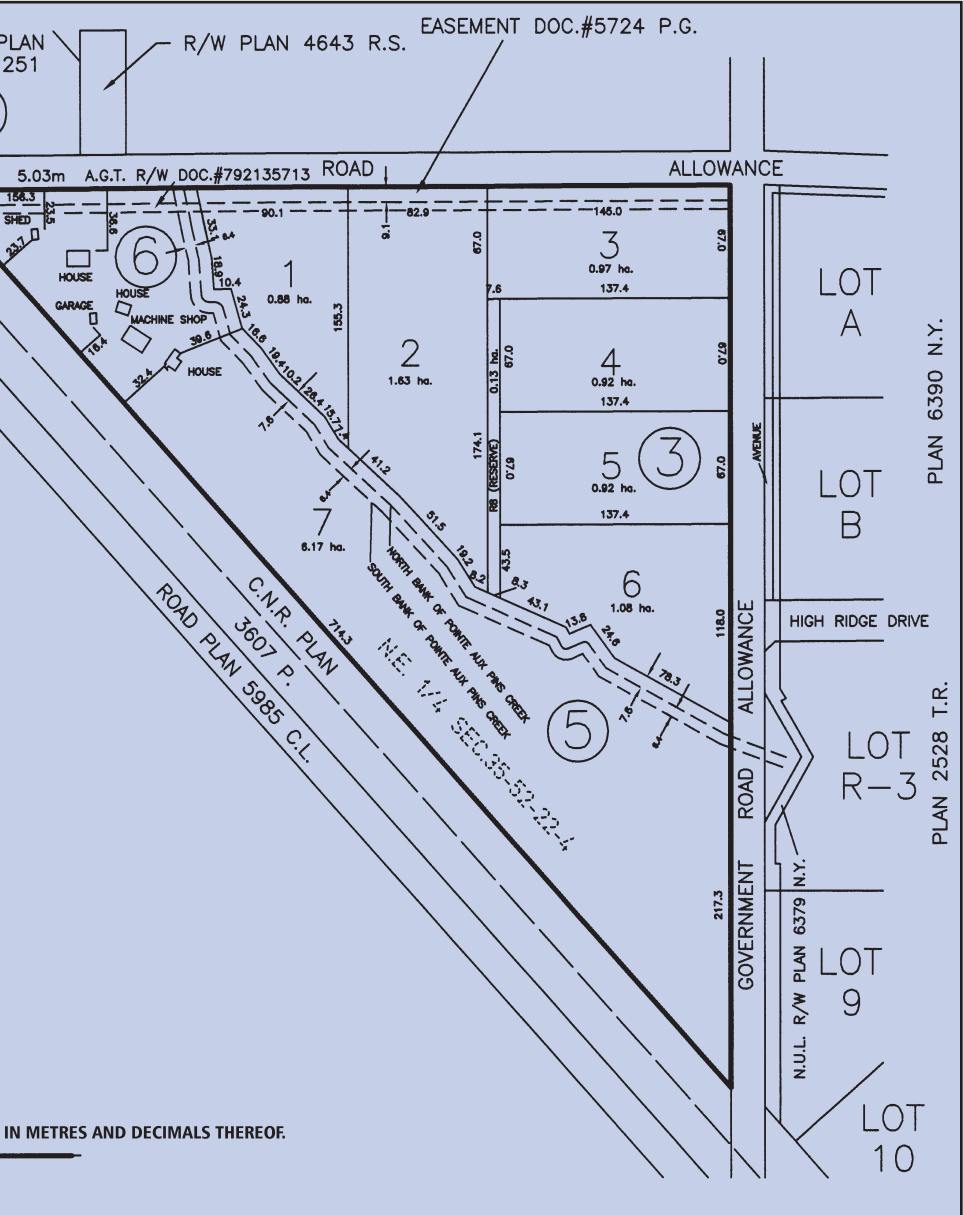
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- AREA DEALT WITH BOUNDED THUS.

A typical tentative plan, prepared by an Alberta Land Surveyor, that would form part of a

1. Location of the proposed subdivision in the municipality;
2. Legal description of the land;
3. All lot locations and measurements;
4. All easements, rights of way, roads, railways, etc.;
5. Location or surveyed boundaries of any environmental features such as a water course;



subdivision would show:

6. Building locations and setbacks;
7. Other information (external to diagram, i.e. potable water)
8. Name of Alberta Land Surveyor preparing plan;
9. Alberta Land Surveyor's Permit Stamp (if corporation).

streams or other bodies of water. If the municipality and owner agree, a caveat may be filed against the land to protect it as environmental reserve. There is no restriction on the amount of land which can be dedicated or restricted as environmental reserve.

Reserve land and land for road requirements are taken without compensation. The Subdivision Authority may require land for roads and public utilities up to a maximum of 30 percent of the area of the parcel of land less the area taken as environmental reserve or environmental reserve easement.

Appeals

Any decision or condition issued by a Subdivision Authority may be appealed. Appeals can be to a local Subdivision and Development Appeal Board or to the Municipal Government Board (for very limited matters relating to highways or water bodies). The applicant or agent for the subdivision, government departments, the local municipality or local school authorities may launch an appeal. Adjacent landowners may not launch an appeal.

An appeal must be commenced within 14 days of receipt of a written decision. A notice of appeal must include reasons for the appeal.

In rendering a decision, the appeal body will examine the same details relating to the application as the original Subdivision Authority. The appeal boards are not bound by the same rules and regulations. Appeal decisions will be in writing and will include reasons for the decision. Appeals must be heard within 30 days of receipt of the appeal and a written decision with reasons must be issued within 15 days of the hearing.

An additional appeal may be launched to the Court of Appeal on a matter of law or jurisdiction.

Re-application

A Subdivision Authority may refuse to accept another application on the same parcel of land for the period of time specified in the *Municipal Government Act*, Section 656 (3).

After the approval—the final conditions

The subdivision approval is valid for a period of one year. During that time, all conditions must be met. If they cannot, the applicant may contact the Subdivision Authority and request an extension prior to the one-year period lapsing—extensions are discretionary and may not always be granted.

Alberta Registries—Land Titles Office will determine the method of survey, which they will accept to register the subdivision of land. There are two methods—Subdivision by Descriptive Plan or Subdivision by Plan of Survey.

What is a Subdivision by Descriptive Plan?

In 1988 a provision within the *Land Titles Act* allowed the use of a Descriptive Plan to subdivide a parcel of land. The process of using a Descriptive Plan replaced the use of a metes and bound description. The metes and bounds description used words to describe a parcel of land and often proved difficult to follow. The Descriptive Plan proved a better method of showing a subdivision of land graphically, on a plan.

The Land Titles Office may give approval for the use of a Descriptive Plan to subdivide a parcel of land. Some factors that the Land Titles Office considers include:

- the number of existing unsurveyed parcels;
- the location of the land;

- the cost of a survey;
- the intended use of the land;
- the value of the land; or
- the complexity of the Descriptive Plan (showing only distances).

The Land Titles Office generally grants approval of a subdivision by Descriptive Plan when:

- the subdivision is the first parcel from a quarter section;
- the new parcel is square or rectangular in shape;
- no land is being dedicated to the Crown such as a road or reserve land; and/or
- is a simple relocation of a lot boundary.

Advantages and Disadvantages of a Descriptive Plan

The subdivision of the parcel of land is described on a plan and only a minimal field survey is conducted. This minimal field survey involves approximate measurements to ensure buildings, fences, trees or other items are contained inside or outside a new property boundary. A field survey would also be required when a new parcel of land has a natural watercourse (creek, river, lake, etc.) as one of the boundaries. With minimal field surveying, the cost of a subdivision by Descriptive Plan is less than a subdivision by Plan of Survey.

The disadvantage of a subdivision by Descriptive Plan is no legal survey posts are placed to show the location of the property boundaries. If the new parcel of land is to be fenced, an additional field survey may be required in order to construct the fence on the new property boundary.

What is a Subdivision by Plan of Survey?

A subdivision by Plan of Survey is required when a parcel of land is subdivided into several lots and land is dedicated to the Crown for roads and reserves. A legal field survey is conducted to sufficiently establish the boundaries of the original parcel of land; and legal survey posts are placed in the ground to establish the new parcel boundaries. A Plan of Survey is prepared showing the measurements and dimensions of existing and new parcel boundaries.

Advantages of a Plan of Survey

The boundaries of the new parcel of land are identified by legal survey posts placed at the corners of the lots. As long as these posts are protected and not disturbed or destroyed, the boundaries of the parcel of land can be identified at any time.

The cost of a Plan of Survey, depending on the situation, may be significant. Whenever a new parcel of land has a north-south quarter line, east-west quarter line or a section line without a road allowance as one of its boundaries, the cost of a field survey can be further increased.

Final Survey Plan

Once the field survey has been completed, an Alberta Land Surveyor prepares a final survey plan. The final survey plan is in digital format but hard copy prints are usually available to assist in review for the final steps of the subdivision process.

Final Endorsement by the Subdivision Authority

The applicant must meet all the conditions of the subdivision decision before the Subdivision Authority can endorse the final subdivision plan, prepared by an Alberta Land Surveyor.

Consent Forms relating to the Subdivision

All signatures pertaining to the subdivision must be obtained on the appropriate Consent Forms. Since the final survey plan is in digital format and submitted electronically, original signatures on the Consent Forms must accompany the subdivision registration request.

Consent Forms are required from all the landowners registered on the original Certificate of Title and from the Subdivision Authority. If land is being dedicated for public use by way of a road dedication or land dedicated for reserves or public utility lots, Consent Forms are usually required from those with a registered interest on the title (instrument holders). Instrument holders may choose to consent to the subdivision, thereby having their particular interest and instrument carried forward onto the new lot or lots; or the instrument holder may decide to partially discharge their instrument over certain lots.

Normally all the appropriate Consent Forms are prepared and original signatures from the required parties are obtained by the Alberta Land Surveyor.

Cost

The cost of subdividing a parcel of land varies according to the complexity of the proposal. Each Subdivision Authority determines its own application fees and endorsement fees. The Land Titles Office levies a registration fee and cadastral mapping. Professional consultants will determine their own fees based on the complexity and extent of their work. The cost of the entire process may vary from a thousand dollars to several thousands of dollars.

Glossary of Terms

Municipal Government Act (MGA): Provincial government legislation that forms the legal basis for the way local governments in cities, towns, villages and rural areas operate in Alberta.

Subdivision Authority: Established by the municipality - receives, processes and decides on subdivision applications in accordance with the Act (MGA), regulations, and Land Use Bylaws.

Subdivision and Development Appeal Board: Established by the municipality this board hears appeals of decisions made by the Subdivision or Development authority.

Subdivision and Development Regulation: Regulation under the MGA that regulates subdivision applications, subdivision and development conditions, registration and endorsements of subdivision and setbacks for provincial appeals. Also, regulates and defines development distances from a Green Area, highway, body of water, sewage treatment or waste management facility.

Municipal Development Plan: A Plan produced by a municipality creating policies for land use in the entire municipality.

Area Structure Plan: Produced by the municipality this plan establishes the general land use, transportation, and servicing structure for a specific area undergoing new development.

Area Redevelopment Plan: A plan produced by the municipality that addresses planning issues when rejuvenating existing developed areas.

Land Use Bylaw: Laws established by a municipality to regulate the use and development of parcels of land.

Certificate of Title: A legal document that identifies the current owner of a parcel of land and shows all outstanding registered interests in the land, such as mortgages, caveats, easements and builders' liens.

SCHEDULE (Excerpt from *Subdivision and Development Regulation*)

FORM 1

Application for Subdivision (example only)

Date of receipt of completed Form _____ File No. _____

Fee Submitted: _____

THIS FORM IS TO BE COMPLETED IN FULL WHEREVER APPLICABLE BY THE REGISTERED OWNER OF THE LAND THAT IS THE SUBJECT OF THE APPLICATION OR BY A PERSON AUTHORIZED TO ACT ON THE REGISTERED OWNER'S BEHALF.

1. Name of the registered owner of the land to be subdivided _____ Address and phone no. _____
2. Name of agent (person authorized to act on behalf of the registered owner,) if any, Address and phone no. _____

3. LEGAL DESCRIPTION AND AREA OF THE LAND TO BE SUBDIVIDED

All/part of the _____ sec. _____ twp. _____ range _____ west of _____ Meridian Being all/parts of lot _____ block _____ Reg. Plan No. _____ C.O.T. No. _____ Area of the above parcel of land to be subdivided _____ hectares Municipal address (if applicable) _____

4. LOCATION OF LAND TO BE SUBDIVIDED

- a. The land is situated in the municipality of _____
- b. Is the land situated immediately adjacent to the municipal boundary? Yes _____ No _____
If yes, the adjoining municipality is _____
- c. Is the land situated within 0.8 kilometers of the right of way of a highway?
Yes _____ No _____ If yes, the highway is No. _____
- d. Does the proposed parcel contain or is it bounded by a river, stream, lake or other body of water or by a drainage ditch or canal? Yes _____ No _____ If yes, state its name _____
- e. Is the proposed parcel within 1.5 km of a sour gas facility Yes _____ No _____

5. EXISTING AND PROPOSED USE OF THE LAND TO BE SUBDIVIDED

- a. Existing use of land _____
- b. Proposed use of land _____
- c. The designated use of the land as classified under a land use bylaw _____

6. PHYSICAL CHARACTERISTICS OF THE LAND TO BE SUBDIVIDED (WHERE APPROPRIATE)

- a. Describe the nature of the topography of the land (flat, rolling, steep, mixed) _____
- b. Describe the nature of the vegetation and water on the land (brush, shrubs, tree stands, woodlands, etc.) _____
- c. Describe the kind of soil on the land (sand, loam, clay, etc.) _____

7. EXISTING BUILDINGS ON THE LAND TO BE SUBDIVIDED

- a. Describe any buildings and any structures on the land and whether they are to be demolished or moved _____

8. WATER AND SEWER SERVICES

If the proposed subdivision is to be served by other than a water distribution system and a wastewater collection system, describe the manner of providing water and sewage disposal _____

9. REGISTERED OWNER OF PERSON ACTING ON THE REGISTERED OWNER'S BEHALF

I, (Full Name) _____ hereby certify that I am the registered owner, or I am the agent authorized to act on behalf of the registered owner and that the information given on the form is full and complete and is, to the best of my knowledge, a true statement of the facts relating to this application of subdivision.

Address _____ (Signed) _____

Phone No. _____ Date _____

FURTHER INFORMATION MAY BE PROVIDED BY THE APPLICANT ON THE REVERSE OF THIS FORM

NOTE: This is the minimum only. Additional requirements will vary from municipality to municipality.

Alberta Land Surveyors

Alberta Land Surveyors are professionals—current standards require completion of extensive post-secondary education, followed by articling and writing of professional examinations. Alberta Land Surveyors are governed by provincial law with a mandate to protect the public’s interest in matters of real property boundaries. Additionally, they must be registered with the Alberta Land Surveyors’ Association.

If you wish to learn more about surveying or the surveyor’s role in the land subdivision process please contact an Alberta Land Surveyor.

Please consult your “Yellow Pages” under “Surveyors—Alberta Land” for the names of registered Alberta Land Surveyors working in your area. For a province-wide list contact the Alberta Land Surveyors’ Association.

Alberta Land Surveyors’ Association

Toll Free: 1-800-665-2572

Website: <http://www.alsa.ab.ca>

E-mail: info@alsa.ab.ca



“Hiring a professional may Alberta Land Surveyor be the best investment one can make in terms of getting a subdivision done quickly, accurately, and at minimal cost.”

***J.G. (Jim) Halliday, President,
Alberta Land Surveyors' Association***

The benefits of hiring a professional:

- The subdivision process can be quite complex. A professional— Alberta Land Surveyor, Planner, Lawyer, Engineer, etc.— understands planning regulations and can design a subdivision that meets the legislated requirements of the province and municipality.
- It is often less costly to retain professional help at the application stage, rather than later when difficulties arise and professional consultants are required to rectify a problem.
- Properly prepared applications usually proceed more quickly and registration at the Land Titles Office is achieved sooner.
- A professional Alberta Land Surveyor must be in charge of the determination of boundaries for plan registration at the Land Titles Office.

This brochure is provided compliments of: