

County of Minburn No. 27

Subdivision Process Information



This package has been prepared as a general guide to assist individuals wishing to subdivide their land within the County. It does not contain all the rules, regulations, and application requirements and is intended to complement the information contained in the *Municipal Government Act*, Subdivision and Development Regulation, Municipal Development Plan, and Land Use Bylaw.

THINGS TO CONSIDER WHEN SUBDIVIDING LAND IN THE COUNTY OF MINBURN NO. 27

You should take into consideration the location of the property you are contemplating subdividing, along with the conditions specific to the proposed parcel(s).

- Where are the nearest residences?
- Where are the nearest oil and gas facilities or pipelines on the land and on adjacent land? Is there sour gas (H²S) in the area?
- Is there a good all weather public road adjacent to the area you propose to subdivide?
- Is the road chipsealed or gravel? Dust should be a consideration for helping determine building distance off of the road.
- What is the quality and quantity of well water for human consumption?
- For an undeveloped parcel, what type of sewage system will meet the on-site private sewage system requirements for the proposed parcel size?
- For a developed parcel, will the existing sewage system meet the current on-site sewage system setback requirements to the new boundaries, or will replacement or relocation of the sewage system be required?
- Where is the near-surface water table in the area?
- How far will power, gas, and telephone service be required to be brought in and the cost of each?
- How much traffic goes by this area? (eg: traffic to oil & gas operations, farming operations, etc.)
- Is this a school bus route or is it accessible to one, and what school will they be bussed to?
- Is there a Confined Feeding Operation in the area that might affect the subdivision?
- Where are the nearest fire protection, police, and ambulance services?
- Tax implications of subdivision.

The primary use of land in the County is agricultural in nature. Therefore, the County considers the right to farm first and foremost. Always take into consideration when subdividing that you are living in the country and will be subjected to the noises, smells, dust and inconveniences that are associated with an agricultural area.

Please keep in mind that you may also be responsible for providing many of your own services, such as removing the snow from your driveway and garbage disposal.

Depending on the nature of the application, you may also be required to redistrict (rezone) your land to the appropriate land use district.

If you have questions or concerns contact the Planning and Development Department of the County at 780-632-2082.

APPLYING FOR A SUBDIVISION

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PART I - INTRODUCTION

This package has been prepared as a general guide to assist individuals wishing to subdivide their land within the County. It does not contain all the rules, regulations, and application requirements and is intended to complement the information contained in the *Municipal Government Act*, *Subdivision and Development Regulation*, *Municipal Development Plan*, and *Land Use Bylaw*.

Individuals that intend to apply for subdivision approval are advised to contact Planning and Development Services at the County (780-632-2082) before filing an application.

1.1 WHAT IS A SUBDIVISION?

Subdivision is the dividing of a parcel into two or more parcels, each to be given a separate title. Subdivision is also used for a lot-line (boundary) adjustment of an existing parcel. The *Municipal Government Act (MGA)* and *Subdivision and Development Regulation (Sub. Reg.)* contain the regulations for subdivision that apply province-wide. The County is responsible for making subdivision decisions in accordance with its own *Land Use Bylaw* and *Municipal Development Plan*, any other statutory plan in effect, as well as the *MGA* and *Sub. Reg.*

Apart from the few exceptions listed under Section 652 of the *MGA*, subdivision approval and endorsement by the County must be given before a plan of subdivision can be registered at the Land Titles office and new titles issued.

1.2 WHO CAN APPLY TO SUBDIVIDE A PARCEL?

Only the person or persons who are the registered owners of the land that is to be subdivided can apply for a subdivision approval. However, the owner(s) may appoint an authorized agent to act on their behalf.

1.3 HOW TO APPLY FOR A SUBDIVISION APPROVAL

The first step is to meet with the County's Planning and Development Officer. A **PRE-APPLICATION MEETING** is strongly advised to discuss the application requirements. To arrange such a meeting, call 780-632-2082. You should have the legal description of your property available and identify the purpose of the application.

At the meeting, the Planning and Development Officer will verify the land use designation of your property and discuss with you information requirements, application procedures, the timeline for the application to be processed, and any matters of concern related to your interest to subdivide.

You may also wish to obtain relevant portions of any planning documents such as the *Municipal Development Plan*, *Land Use Bylaw*, or an *Area Structure Plan* if one exists in the subject area. These documents may restrict or prohibit the proposed use of the land. For more complicated applications the use of professional consulting services may reduce the overall subdivision or development costs, and improve the time required to register a plan of subdivision.

PART II – THE SUBDIVISION APPLICATION

2.1 BASIC APPLICATION REQUIREMENTS

- Completed application form;
- Tentative Plan of Subdivision – see 2.2 below;
- Application Fee – see 2.3 below;
- Copy of the Certificate of Title no older than 2 weeks prior to the application – see 2.4 below;
- Right of Entry Form – see 2.5 below;
- Agent Authorization Form, where applicable – see 2.6 below;
- A copy of any caveat or other documents or agreements registered on the title of the parcel to be subdivided as required by the Subdivision Authority Officer; and,
- Additional information as required by the Subdivision Authority Officer – see 2.7 below.

Note: the application must be deemed to be complete by the Subdivision Authority Officer in order to be accepted by the County for processing.

2.2 TENTATIVE PLAN OF SUBDIVISION

The subdivision application must be accompanied by a Tentative Plan of Subdivision. The Tentative Plan may be prepared by an Alberta Land Surveyor, or if the applicant provides all the necessary information, the County may prepare a plan based on the information provided. The plan is to be prepared at a 1:5000 scale, with metric dimensions that, at a minimum, must show the following:

- The location, dimensions, area, and boundaries of the parcel(s) to be subdivided.
- The location, dimensions, area, and boundaries of each new parcel to be created.
- The location of all buildings and structures (e.g. houses, shops, barns, oil and gas facilities, etc.) and distance to the existing and proposed parcel boundaries. Also indicate any buildings that are to be removed.
- The existing and proposed access points to the subdivided and remnant parcels.
- The location of any existing or proposed water well(s), dugouts, and any other domestic water supply facilities.
- The type and location of any existing or proposed on-site sewage treatment system and discharge point, along with the distances to the potable water supply, residence, any water course and the existing and proposed property lines.
- The location of all utility rights-of-way, easements, and identification of their ownership.
- The location of any highway, local road, lease road, or rail line within or adjacent to the parcel to be subdivided.
- Location of any steep (> 15%) sloped areas, water bodies, watercourses, and drainage ditches that are located within or adjacent to the land to be subdivided.
- The location of any treed areas and bush.
- The location of any gas or oil wells and pipelines.
- The location of any existing or proposed confined feeding operations or sour gas facilities within or adjacent to the land to be subdivided along with the applicable setbacks.
- The location of any existing, closed, reclaimed or proposed sewage lagoons or solid waste facilities within or adjacent to the land to be subdivided along with the applicable setbacks.

2.3 APPLICATION FEE

- Boundary adjustment or an application made to satisfy Section 652(4) of the Act - \$800.00
- Creation of a single additional lot - \$800.00
- Multi-lot subdivision of two (2) or more additional lots - \$800.00 for the first lot plus \$100.00 per additional lot.

2.4 CERTIFICATE OF TITLE

One copy of the current Certificate of Title is required which should be dated within the 2 weeks prior to the application being submitted. A certificate of title for your land may be obtained from an Alberta Registries office or via the internet at <https://alta.registries.gov.ab.ca/spinij>.

2.5 RIGHT OF ENTRY FORM

Prior to the subdivision report being prepared, the Planning and Development Officer may carry out an inspection of the land that is subject of the application to ensure that the parcel is suitable for subdivision. The owner is requested to fill out the right of entry form to give consent for the inspection to occur.

2.6 AGENT AUTHORIZATION FORM

An agent may be appointed to act on behalf of the owner for the purposes of the processing of a subdivision application. Although anyone can be appointed, an authorized agent is usually a planner, surveyor, engineer, solicitor or architect. If required the form must be executed, state the name of the agent, and accompany the application.

2.7 ADDITIONAL APPLICATION REQUIREMENTS

The information required for a subdivision approval will be dependent upon the complexity of the proposed application. The more complex or involved an application is (e.g. the greater the number of lots proposed) the more information to support the application is required.

Most subdivisions in the County can be fairly straightforward. The amount and type of information required to process such applications can be similarly straightforward.

An important consideration for any subdivision is the source of potable water and the method of sewage treatment. The application form must indicate the source of drinking water (ie: well, cistern, municipal, etc.) as well as what method of sewage treatment is to be utilized (ie: open discharge, treatment field, treatment mound, etc.)

A subdivision that results in the sixth or greater number of parcels within a quarter section must be accompanied by:

- An assessment prepared by a professional engineer licensed to practice in Alberta of the subsurface characteristics of the land that is to be subdivided. This may include but is not limited to information regarding the susceptibility to slumping or subsidence, depth to water table, and suitability for any proposed on-site sewage treatment systems and the construction of basements.

- A hydrogeological report prepared by a professional engineer that meets the requirements of the *Water Act*.

Any application may require additional information, as determined by the Subdivision Authority Officer, regarding water supply and on-site sewage treatment, as well as to ensure that the proposed subdivision is suitable for the proposed use of the parcel(s).

Note: the application must be deemed to be complete by the Subdivision Authority Officer in order to be accepted by the County for processing.

2.8 FINAL APPROVAL ENDORSEMENT FEE

If subdivision approval is granted, the applicant has one year from the date of approval to meet the conditions of approval and submit a registerable instrument (ie: descriptive plan or plan of survey) prepared by an Alberta Land Surveyor for the County's endorsement. Once the County is satisfied the conditions have been met and that the registerable instrument is consistent with the tentative plan of subdivision approved, endorsement to register the plan can be given. The fee for endorsement is:

- \$300.00

PART III - THE SUBDIVISION PROCESS

3.1 LAND USE POLICIES

Depending on the number of parcels proposed and/or the proposed use of the parcel(s), redistricting (rezoning) of the proposed parcel(s) may be required before submitting a subdivision application. A typical example might be a proposed commercial or multi-lot residential subdivision in an area zoned for agriculture. These redistricting and subdivision processes can occur concurrently, or the owner may first apply to change the land use of the property to the appropriate land use district before filing a subdivision application.

For a multi-lot subdivision (more than 5 parcels in the quarter section), the owner will also need to provide an area structure plan (ASP) or conceptual scheme (CS) with the redistricting application. The ASP or CS shall be prepared by a planner with their Alberta professional designation. Such an application would require the advertising of the re-districting application, a public hearing, and a decision by the Council on the suitability of the proposed land use.

3.2 TIME LINE FOR THE APPLICATION PROCESSING

The MGA and the Subdivision Regulation both require that a common application process be followed.

Once a complete application is accepted for processing, the applicant and landowner, adjacent owners and necessary agencies are notified. The Subdivision Authority in most cases must make its decision on the application within 60 days. However, if a decision cannot be made within the 60 day timeline, there are two potential outcomes:

1. The owner/applicant may agree to a time extension agreement (<http://minburncounty.ab.ca/wp-content/uploads/2018/12/Subdivision-Extension-fillable.pdf>) with the County to allow additional time to continue with the processing of the application.
2. The owner/applicant does not agree to a time extension agreement, and the decision is a deemed refusal - - see *Part V Appeals*.

Note: Should an ASP or CS be required in support of a subdivision application and/or accompanying redistricting application, the subdivision application will not be deemed to be complete unless and until an ASP or CS in an acceptable, completed form has been prepared and accompanies the subdivision application.

3.3 AGENCY AND ADJACENT OWNER NOTIFICATION

The 60-day timeline for processing applications allows for the notification to agencies (i.e. school board, utility companies, provincial and federal departments and other local governments). They are allowed to identify any requirements or recommended conditions of approval for a proposed subdivision.

Adjacent landowners will also be notified. They may provide input in writing, or appear as a delegation at the Subdivision Authority meeting. However, the adjacent owners do not need to be notified if the proposed subdivision is located within an adopted ASP or CS.

3.4 SITE SUITABILITY

Provided that the application meets all the requirements of the provincial and municipal legislation, the next step is the evaluation of the site suitability. Typically, this could include an evaluation of:

- Property boundaries;
- Building locations;
- Topography and suitability of a building site;
- Accessibility to a built public road;
- Availability and adequacy of an on-site potable water supply;
- In the case of land not serviced by a licensed wastewater collection system, whether the proposed subdivision boundaries, lot sizes and building sites comply with the requirements of the *Private Sewage Disposal System Regulation (AR 229/97)* in respect of lot size and distances between property lines, buildings, water sources and on-site sewage treatment systems;
- The location of a solid waste disposal facility;
- Soil characteristics and suitability for drainage, on-site sewage treatment and basement development;
- Potential for flooding, subsidence or erosion;
- Storm water collection and disposal;
- The use of land in the vicinity of the land that is the subject of the application;
- Municipal, school and environmental reserve considerations;
- Other matters the Subdivision Authority considers relevant.

Every application is reviewed on the basis of its conformity with the provincial legislation, land use policies, municipal regulations and policies, and site suitability.

PART IV – SUBDIVISION DECISIONS

4.1 REPORT AND CONDITIONS

The Subdivision Authority Officer prepares a report and recommendations for consideration by the Subdivision Authority. The applicant and/or owner may attend the Subdivision Authority meeting, and will be advised of the decision in writing.

The Subdivision Authority may impose conditions of subdivision approval that must be fulfilled before a plan of subdivision can be registered in the Land Titles Office. These may include, but are not limited to:

- Compliance with the relevant provincial or municipal regulations.
- Road, public utility, environmental, municipal, and school reserve dedications.
- Execution of a Development Agreement to provide for the construction of all roads, walkways, sewer, water, and utilities.
- Payment of any outstanding taxes or off-site levies.
- Any other condition required to ensure compliance with the *MGA*, Subdivision Regulation, Municipal Development Plan, Land Use Bylaw and any ASP or CS in effect.

4.2 RESERVES

In certain situations pursuant to the *Municipal Government Act* and Municipal Development Plan, the County will require the owner of the land being subdivided to provide up to 10 percent of the developable land for municipal and/or school reserve. The owner may be required to dedicate land, pay cash in-lieu-of land dedication or a dedication may be deferred to a later time, or some combination of all three. In the case of a deferred reserve caveat, it is most often registered on the title of the remainder parcel or remnant created by the plan of subdivision.

Environmental Reserve or Environmental Reserve Easement ("ER/ERE") may be provided for land that is unsuitable for development. It may include hazard lands, a swamp, gully, ravine, coulee or natural drainage course, land that is subject to flooding or possibly unstable, a strip of land (not less than 6m in width) abutting the bed and shore of any lake, river, stream, or other body of water for the purpose of preventing pollution or providing public access to and beside the bed and shore.

All municipal/school reserve land, ER/ERE land, and land needed for a road or public utilities is provided without compensation.

4.3 DEVELOPMENT AGREEMENTS

A development agreement may be imposed as a condition of subdivision. In the case of a straightforward application, the agreement would most likely deal with arrangements for future road widening and the provision of access to built public roads. In the case of a more complicated subdivision, it might also involve providing an engineered plan for an internal subdivision road, providing a stormwater management plan for the subdivision, and so forth. Because each subdivision application is potentially different, even in some small way, development agreements are only discussed in general terms here. Applicants are encouraged to discuss development agreements with the Planning and Development Officer at the pre-application meeting mentioned earlier on Page 3.

PART V – APPEAL OF DECISIONS

An owner/applicant or an agency may file an appeal on a subdivision refusal or on the conditions of approval. The appeal procedures are included in the decision letter issued by the County.

5.1 WHO MAY FILE AN APPEAL?

The land owner/applicant, a government department, a school authority, or a school board may file an appeal. While adjacent landowners have the right to make their views known to the Subdivision Authority as part of the subdivision approval process, they do not have the right to appeal a subdivision decision.

5.2 TIME LIMIT TO FILE AN APPEAL

A notice of appeal and a \$300.00 fee must be filed with the County's Subdivision and Development Appeal Board (SDAB) within 21 days of the date of the mailing of a subdivision decision. The notice of appeal must include the reasons for the appeal.

5.3 MUNICIPAL VS. PROVINCIAL APPEAL BOARD

Appeals can be filed with the County's SDAB or the Municipal Government Board (MGB) of the Province of Alberta.

If the reason for a decision is a provincial regulation such as the access or proximity to a highway, watercourse, sewage treatment plant, or waste management facility, the appeal is filed with the MGB; all other appeals are filed with the SDAB. Either the MGB or SDAB has the authority to reject or uphold any decision that is the subject of the appeal and amplify, diminish, or change any condition of the subdivision approval rendered by the Subdivision Authority.

The MGB or SDAB will make a decision based on the evidence supplied at an appeal hearing.

5.4 APPEAL OF A BOARD DECISION

The MGB or SDAB may approve or reject an appeal. As such, the MGB or SDAB may order a change, amendment, or add new conditions to the approval. The MGB or SDAB must provide the reasons for its decision in writing.

The only avenue of appeal of an MGB or SDAB decision is to file a leave to appeal application with the provincial Court of Appeal on a point of law or jurisdiction.

5.5 CAN THE OWNER RE-APPLY FOR A SUBDIVISION APPROVAL AFTER THE REFUSAL OF AN APPEAL?

The Subdivision Authority may not accept another application on the same parcel of land for 6 months from the date of a decision to refuse an application.

PART VI – ENDORSEMENT/REGISTRATION OF APPROVED SUBDIVISIONS

The subdivision approval is valid for one year from the date of the decision. During that time, all the conditions listed in the approval letter must be met and a descriptive plan or plan of survey prepared by an Alberta Land Surveyor must be submitted for endorsement. If the conditions cannot be met prior to the expiry of the approval, the owner may request a time extension.

6.1 LEGAL SURVEY

Ultimately, Alberta Land Titles will determine the method of registration required to register an approved subdivision. Alberta Land Surveyors will also be familiar with these requirements. Basically, there are two ways to register a subdivision; by plan of survey or by descriptive plan. Certain situations will simply require a plan of survey – e.g. the registration of many parcels within a single plan – but often there is the option of selecting one of these two methods. Each method has advantages and disadvantages.

6.2 WHAT IS A PLAN OF SURVEY?

A plan of survey is required when a parcel of land is subdivided into several lots or a dedication to the Crown is required. A plan of survey will establish the legal boundaries of the parcels in a subdivision, and survey evidence (posts) are placed in the ground to establish the physical boundaries. In addition, a plan is prepared showing the measurements and dimensions of the existing and new parcel boundaries.

6.3 ADVANTAGES AND DISADVANTAGES OF A PLAN OF SURVEY

Survey posts are placed at the corners of the lot(s) to identify the boundaries of the new parcel(s). As long as these posts are protected, and not disturbed or destroyed, the boundaries of the parcels can be identified at any time.

The cost of a plan of survey depends on the available survey evidence and size/complexity of a subdivision. Whenever a parcel 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 plan of survey can be further increased. A plan of survey would be required when a parcel has a watercourse as one of the boundaries.

Typically, the cost of producing a plan of survey is greater than that of a descriptive plan.

6.4 WHAT IS A DESCRIPTIVE PLAN?

Prior to 1988, subdivision was permitted by a metes and bounds description, which uses a combination of words, distances, and bearings to describe a parcel. This often proved to be difficult to follow. In 1988, the *Land Titles Act* was amended to allow the use of a descriptive plan to subdivide a parcel. While a descriptive plan provides much more certainty than the previously allowed metes and bounds description, it does not provide the same level of certainty as provided by a plan of survey.

6.5 ADVANTAGES AND DISADVANTAGES OF A DESCRIPTIVE PLAN

An Alberta Land Surveyor can choose to use a descriptive plan for subdivision, depending on some factors which may include, but are not limited to:

- proximity and number of the unsurveyed parcels;

- location of the land to be subdivided; or
- complexity of the boundaries.

Land Titles generally grants the approval of a descriptive plan when:

- the subdivision is the first parcel from a quarter section;
- the new parcel is square or rectangular in shape (ie: a minimum of two right angle corners must be present);
- no land is being dedicated to the Crown such as reserve lands or a road;
- a simple lot line adjustment is needed.

In a descriptive plan, while the parcel(s) is/are illustrated in a plan, the plan itself might be generated without any field or survey data being collected. This is not to say that field data is not used but descriptive plans can and are prepared based on air photos, plotted survey points, planimetric mapping and so forth. As such, while they are more accurate than the previous metes and bounds description method, descriptive plans simply do not provide the same level of accuracy as a plan of survey which is prepared using field data.

The disadvantage of a descriptive plan is that no legal survey posts are placed in the ground to show the location of the legal parcel boundaries. If the new parcel is to be fenced, an additional field survey may be required to confirm the new property boundary. In addition, a field survey or Real Property Report could be required for the sale of a parcel, or to locate a new building in accordance with the setbacks from a property line or pipeline right-of-way.

6.6 PLAN PREPARATION

The plan of subdivision is provided by the surveyor to Land Titles in a digital format. Print copies are available to assist in the review during the final steps of the approval and registration process. The County will usually require two copies of the final plan for its review and administrative procedures.

6.7 ENDORSEMENT

All documents and proof of the completion of all subdivision conditions must be submitted to the County within one (1) year of the date of approval and prior to the endorsement of a plan. The applicant/owner is responsible to meet or provide all the conditions of the subdivision approval at their cost. Once the County is satisfied that all conditions of approval have been satisfied and the required fee has been paid, endorsement of the plan of subdivision can be given.

6.8 CONSENT FORMS RELATING TO THE SUBDIVISION

Since the survey plan is in a digital format, it is submitted electronically. Original signatures on the Consent Forms must accompany the subdivision registration at Land Titles. All signatures pertaining to the registration of a plan of subdivision must be obtained on the appropriate Consent Forms. If any land is being dedicated for public use, Consent Forms are usually required from those parties 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.

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

6.9 REGISTRATION

Once the final document has been endorsed by the County, it is returned to the applicant (or agent) who is responsible for registering it with the Northern Alberta Land Titles Office in Edmonton. **Documents must be registered at Land Titles Office within one (1) year of the date of endorsement in order for the approval to remain valid.** Once the registration is completed, the Land Titles Office will issue titles for the newly created lot(s).

6.10 FURTHER INFORMATION

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