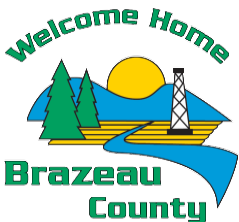




SUBDIVISION GUIDE



Prepared by the Planning and
Development Department

A GUIDE TO SUBDIVISION IN BRAZEAU COUNTY

This document is intended to assist individuals who are planning to subdivide their land. The information in this document provides a basis for understanding the subdivision process, but is not intended to provide a comprehensive explanation of all issues related to subdivision. Additional regulations and policies are outlined in the *Municipal Government Act*, the *Subdivision and Development Regulation*, Brazeau County's *Municipal Development Plan*, and Brazeau County's *Land Use Bylaw*. Please contact the Planning and Development Department at Brazeau County for information specific to the parcel you would like to subdivide.

1. PRE-APPLICATION MEETING

Subdivision applicants are strongly encouraged to attend a pre-application meeting with Staff prior to submitting an application for subdivision. If the applicant is someone other than the landowner, the landowner is also encouraged to attend. In order for Brazeau County to discuss subdivision options with respect to a specific piece of land, the written consent of the landowner is required.

This meeting is required in order to:

- a) allow the applicant(s) to discuss their objectives in subdividing their property; and
- b) allow Staff to discuss policies which dictate the subdivision process, including:
 - regulations for subdivision which dictate how many lots may be created, lot size(s), and the requirements that must be met in order to register the new lot(s); and
 - what steps the applicant must take in order to have their objectives meet the policies and regulations of Brazeau County's *Municipal Development Plan* and *Land Use Bylaw*.

2. APPLICATION REQUIREMENTS

When an applicant is ready to submit their application for subdivision, it must be accompanied by:

a) **Completed Subdivision Application Form**

This form must include all signatures of landowners listed on the Certificate of Title, as well as the signatures of the applicants if they are different than the landowners. Details (such as legal description and subject parcel size) can be found on the Tax Notice issued to the landowner.

If either the applicant or the landowner is a corporation, the signing of the Subdivision Application form must be accompanied by a corporate seal or a signed and commissioned Affidavit of Corporate Signing Authority.

b) Tentative Plan

A Tentative Plan must accompany the application; not including the Tentative Plan or including and incomplete Tentative Plan will render the application incomplete.

Please note that a Tentative Plan is not a Plan of Survey. The Plan of Survey is prepared at a later stage in the process when conditional approval of the subdivision has been granted.

A Tentative Plan for subdivision must include all of the items listed on the Tentative Plan Requirements checklist.

c) Information Disclosure Form

This form allows Staff to share information that would normally be protected under the *Freedom of Information and Protection of Privacy Act*. This disclosure is required for the purpose of processing an application and to allow Brazeau County to share information when circulating referral packages.

d) Other Information

In some cases, additional information is required from the applicant in order for Staff to recommend a decision, and for the Subdivision Authority to make a decision on a subdivision application. See the “Supporting Information that may be Required” Section below for additional information.

e) Time Extension Agreement

Under the *Municipal Government Act*, a decision (approval or refusal) for a subdivision application must be reached within sixty (60) days of the application being deemed complete. Due to fluctuations in the number of applications Brazeau County receives, and whether rezoning must be approved before subdivision can proceed, an application may not be able to be processed within this timeframe. Should this occur, a Time Extension Agreement will be requested at the time of submission of the application. This Agreement allows Staff additional time, beyond the sixty (60) day limit, to process the application.

f) Abandoned Well Information

Pursuant to Alberta Energy Regulator Directive 079 and as part of the subdivision application review process, the Planning and Development Department will assist the applicant in determining the location of any abandoned oil and gas wells on the subject parcel. If an abandoned well is located on the property, Staff will notify the Licensee (owner of the well) of the subdivision application.

Land Use Rezoning (if applicable)

Every property in the County has a land use zone. Primary categories of land use zones are Agricultural, Residential, Industrial, Recreational, and Institutional. The Land Use Bylaw outlines the land use zone for each parcel of land, along with specifications for the permitted and discretionary uses of the land, minimum lot sizes, and specific building setbacks. Other regulations, such as the size of buildings allowed on the lot, are also listed. In order to subdivide a lot, the assigned land use zone must permit the lot sizes and densities the applicant wishes to create. If the current land use zone does not allow them, the applicant will be required to submit a Land Use Bylaw Amendment Application along with the subdivision application.

For example, a proposed subdivision might include a lot which is smaller than permitted in an Agricultural zone. Rezoning to a different land use may allow for a smaller lot size. In these instances, rezoning would be required. Brazeau County will process a rezoning application concurrently with a subdivision application, however Council's decision regarding rezoning will be required prior to the Subdivision Authority making the decision regarding the subdivision application.

3. SUPPORTING INFORMATION THAT MAY BE REQUIRED

Staff may require the applicant to submit additional information to support the application for subdivision. Examples are:

- **Area Structure Plan:** Is required to provide broad direction for future development. This plan usually involves a large area of land, possibly belonging to several landowners. An Area Structure Plan is a statutory document that is endorsed by Council through the adoption of a bylaw.
- **Water Availability Study (Hydro-geotechnical Study):** Is required when the proposed subdivision will create the sixth (or more) lot on the quarter section. This information includes well driller's reports for the property and surrounding area, and a report from a professional engineer, hydrogeologist or geophysicist, licensed to practice in the province of Alberta, that states that there is sufficient water to supply 1,250 cubic metres of water per year for each proposed lot, and that the proposed diversion will not interfere with other residential licensees and traditional agricultural users, as defined in the *Water Act*, Section 23(3) (a).
- **High Water Table Study/Percolation Test:** Is required to determine if the soil on the subject parcel is suitable for development. If Staff has reason to believe that the subject parcel contains wetlands, waterbodies (seasonal or year-round), or other concerns regarding water on the property, this Study will be required to verify the suitability of the land for the intended use.
- **Geotechnical Evaluation:** This is a process in which the physical properties of a site are assessed for the purpose of determining which uses of the site will be safe. This study, conducted by a professional engineer, may include analysis of a property's grade, slope stability, flood potential, etc. The Study should identify potential construction problems and evaluate distress to earthworks and structures caused by weakness or failure of subsurface materials.
- **Traffic Impact Assessment:** This is a report that is prepared to better understand, assess and mitigate any identified traffic and transportation issues associated with the proposed subdivision and the subsequent use and development which is intended.

- **Storm Water Management Plan:** This is a long-term plan for the safe and effective management of storm water runoff, while protecting and improving the ecological sustainability. Brazeau County supports engineered storm water management systems that incorporate the use of wetlands and bioswales as storm water retention and/or hydrological recharge areas in the design of subdivisions. Storm Water Management Plans need to be approved by Brazeau County and provincial department responsible for water management, prior to implementing changes.
- **Grading Plans:** These are plans generally made to show the current site conditions along with the planned changes that would be made to it. This can include additions of structures and change in the water drainage patterns, based on an approved Storm Water Management Plan.
- **Heritage Site Assessment:** This is an assessment to determine the effect of the proposed operation or activity on historic resources in the area where the operation or activity is carried on, as required by the provincial department responsible for historical preservation.

4. REFERRAL

Once a complete subdivision application is received, Staff processes the application. Processing the application includes the circulation of notification of the application, along with maps and information generated by the County, to the following interested parties:

a) Referral Agencies

Meaning:

- i) power and gas service providers, FORTIS, TELUS and school divisions;
- ii) all interests registered on the subject parcel's Certificate of Title (eg. if the subject parcel includes a lease road and well site, the oil company will receive a referral notice); and
- iii) any agency or government body who may have an interest in the area around the subject parcel (eg. if access to the proposed lot(s) or remnant parcel is from a highway, a referral notice is sent to Alberta Transportation).

Referral agencies are asked to provide their comments, and are given the opportunity to provide conditions of approval or reasons for refusal.

b) Adjacent Landowners

The application is circulated for comment to all adjacent landowners whose property is directly abutting the subject parcel, or which would be abutting the subject parcel if not for a road or water body.

c) Internal Circulation

The application is circulated to all Brazeau County Departments for their review and comment. This will result in a response from Public Works and Infrastructure Department regarding the need for road widening, as well as access and approach conditions and upgrades which may be required. Other Departments may also provide comments or conditions, depending upon the nature of the subdivision.

These comments are used to evaluate the application and establish conditions of approval. The applicant is responsible for addressing any concerns or issues that may be identified by any agencies and/or adjacent landowners who comment on the application. County Staff is available to review the circulation responses with the applicant.

5. PLANNING CONSIDERATIONS

In the process of preparing the application for presentation to the Subdivision Authority, Staff will give consideration to the following items which are required by the *Subdivision and Development Regulations*:

- a) how the proposed subdivision will comply with the requirements of Brazeau County's Statutory Plans (including the Municipal Development Plan and any applicable Intermunicipal Development Plan and Area Structure Plan);
- b) how the proposed subdivision will comply with the County's Land Use Bylaw;
- c) the topography and soil characteristics of the subject parcel;
- d) impact to storm water collection and disposal, as well as the potential for flooding, subsidence or erosion;
- e) access to roads;
- f) servicing of water and sewer for both the proposed lot(s) and the remnant parcel;
- g) environmental concerns and the possible need for the dedication of reserves to preserve those lands;
- h) the availability of a building site using setbacks as described in the Land Use Bylaw and/or landforms (eg. steep slopes, water bodies) and various other conditions specific to the site;
- i) the need for any easements. (Examples of when an Easement may be used are in such cases as when an approach is shared by two properties, or to allow for use of a shared road that is located on only one property, to access shared wells, and similar instances. These registrations on title remain with the land; they are not discharged when a property is sold.); and
- j) the need for any Right(s)-of-Way to indicate an area where a landowner may not build anything. (If anything is built on a Right-of-Way, the landowner may be forced to remove any offending structure or, if work on the utility is required, the structure may be removed, damaged or destroyed by the owner of the Right-of-Way with no compensation or requirement for it to be repaired / replaced.)

6. SITE VISIT

The subject parcel is evaluated during a site visit performed by Staff to gather sufficient information to allow the Subdivision Authority to make an informed decision on the application. In addition, this site visit allows Staff to determine if additional studies or reports would be required to support the proposed subdivision.

7. PUBLIC WORKS AND INFRASTRUCTURE REQUIREMENTS

Roads

Most statutory government road allowances that have not been previously widened are approximately twenty metres (20 m) [sixty-six feet (66 ft)] in width. Roads in Brazeau County are classified by Public Works and Infrastructure based on the volume of traffic they convey and where they are located in the County, this information is translated into their Road Study identifying which roads need to be widened or upgraded over time. Section 662 of the *Municipal Government Act*, allows a Subdivision Authority to require the landowner of a subject parcel to provide part of that parcel for the purpose of roads. Therefore, during the subdivision process Public Works and Infrastructure may ask that road widening be dedicated adjacent to existing road allowances (developed or undeveloped) or as required by any transportation plan. This dedication can vary in width, but is usually five-point-one-eight (5.18 m) metres in width on either side of the road. Typically, the County requires that road allowance be dedicated as follows:

- a) when the road widening is required adjacent to the proposed lot(s), the landowner will be required to enter into a Land Acquisition Agreement with Brazeau County, dedicating the land without compensation, by either Plan of Survey or a separate Road Plan. The costs associated with preparation and registration of the Plan of Survey or Road Plan, shall be the responsibility of the applicant/landowner; and
- b) when the road widening is required adjacent to the remnant parcel, the landowner will be required to enter into a Land Purchase Agreement with Brazeau County, which is usually registered on the title of the remnant parcel by Caveat. In these instances, the landowner would retain ownership, care and control of the lands until such time that Brazeau County registers a Road Plan.

It should be noted that payment for any lands subject to the Land Purchase Agreement, will not be made until the instrument and the Plan of Survey or Road Plan are registered with Alberta Land Titles.

Approaches / Access

Satisfactory arrangements must be made with the County for access to the proposed lot(s) and the remnant parcel, including the construction or upgrading of approaches and off-site access roads, where deemed necessary. All approaches that need to be upgraded or built as a condition of subdivision must be completed in accordance with the County standards prior to endorsement of the subdivision.

Highways

As required by the *Subdivision and Development Regulations*, Service Road dedication may be required by Alberta Transportation if the subdivision is located adjacent to a Provincial Highway. The dedication requirement is application specific but is usually thirty (30 m) metres in width and to be dedicated by caveat and/or Road Plan (Plan of Survey). It should be noted that some applications may require construction of a portion of the Service Road, the costs for this construction would be the responsibility of the applicant/landowner.

8. SEPTIC COMPLIANCE

For the subdivision of a subject parcel containing an existing residence, the applicant must obtain written confirmation from an accredited safety codes officer that the sewage disposal system complies with the Private Sewage Disposal Systems Regulation respecting the setback distances from proposed property lines, buildings, water bodies, and water sources.

Please note that any issues identified by the safety codes officer regarding the operation of the sewage disposal system must be corrected before the final subdivision endorsement will be given by the County.

All costs associated with obtaining septic compliance and any system upgrades are the responsibility of the applicant.

9. ENVIRONMENTAL RESERVES AND HAZARD LANDS

This type of reserve is used to protect hazard lands to ensure that they are maintained in their natural state. Environmental Reserves can be acquired either through:

- a) an easement registered against the title of the land (land remains in the name of the landowner, but is protected from disturbance); or
- b) a dedication of the land (a separate lot is surveyed, subdivided and the title transferred to the County).

There is no maximum amount of land that can be dedicated as environmental reserve; however, the *Municipal Government Act* sets a minimum width for any environmental reserve land that borders a body of water.

10. MUNICIPAL RESERVES

The *Municipal Government Act* states that the registered owner of subject parcel shall provide to the County, without compensation, land for Municipal Reserve. These types of reserves can be used for a public park, recreation area, school board purposes, or to separate lands that are used for different purposes (e.g., as a buffer).

Land that is provided for Municipal Reserve shall not exceed ten (10%) percent of the gross area of the subject parcel.

The *Municipal Government Act*, Section 663, directs that the Subdivision Authority shall not require the dedication of municipal reserve if:

- one lot is to be created from the quarter section;
- subject parcel is to be subdivided into lots of 40 acres or more;
- the proposed lot to be subdivided is 2 acres or less;
- reserve land or a cash-in-lieu payment has previously been provided.

Subsequently, an important step in the review of your application for subdivision approval is determining if the dedication the Municipal Reserve requirement should be:

- a) in the form of land (a separate lot is surveyed, subdivided and the title transferred to the County);
- b) in the form of money in place of land (landowner retains all land and the County retains the funds for the development of Municipal Reserve lands in another location); or
- c) deferred onto the subdivided titles (a caveat is registered on title and the dedication of land or money in place of land is dealt with when/if the land is further subdivided).

The Subdivision Authority may require the registered owner to provide money in place of Municipal Reserve. Also referred to as “cash-in-lieu” of Municipal Reserve, this money shall not exceed ten (10%) percent of the appraised market value of the gross area of the land to be subdivided. The appraised market value is determined as a per acre value by the property assessor for Brazeau County.

In situations where the subdivision results in large lots that could be subdivided further, part or all of the Municipal Reserve may be deferred by caveat to the proposed lots or remnant parcel. If the lands are further subdivided, the deferred reserves will once again be considered by the Subdivision Authority and may be taken as land or money in place of land.

The registration of a Deferred Reserve Caveat is *required* by the *Municipal Government Act* if the municipality does not take the full dedication of land or cash-in-lieu at the time of subdivision.

11. SUBDIVISION AUTHORITY – MUNICIPAL PLANNING COMMISSION

The Subdivision Authority for the review and approval of subdivision applications is the Municipal Planning Commission. Municipal Planning Commission meetings are held every three (3) weeks. The Municipal Planning Commission is comprised of three (3) appointed County Councillors and two (2) members-at-large. During the Municipal Planning Commission meeting, a decision is reached to either approve (with conditions), table (usually for additional information to be provided) or refuse (with reason) the subdivision application.

Prior to the meeting, Staff prepares a report on the subdivision application to be presented to the Municipal Planning Commission. This report is based on a site visit and comments received through the referral process. Staff will provide a recommendation for approval, tabling or refusal, as well as conditions or reasons in support of their recommendation for the subdivision application.

Tabled Application

An application may be tabled from time to time, usually to allow the applicant to collect or provide further information. The information will be requested by the Municipal Planning Commission, and it is the responsibility of the applicant to comply with the Municipal Planning Commission’s request. The application will not be brought before the Municipal Planning Commission until this has been completed.

Approved Application

If the Municipal Planning Commission chooses to approve the application, they will also stipulate conditions of approval. Typical conditions of approval *include, but are not limited to*:

- submission of a final Plan of Survey for the proposed lot(s);
- payment of property taxes;
- provision of legal, physical access to the proposed lot(s) and the remnant parcel;
- dedication of Municipal Reserve; and
- septic compliance (where a residence exists).

Additional conditions, applicable to the application at hand, will also be established.

Refused Application

When an application is refused, the applicant/landowner may appeal the decision of the Municipal Planning Commission. The appeal board may be either the Subdivision and Development Appeal Board (SDAB) of Brazeau County or, if there is a provincial interest in the application (such as Alberta Transportation), the Municipal Government Board (MGB).

The appeal board under whose jurisdiction the appeal will fall will be identified on the Decision letter. The appeal must be received by the appeal board within nineteen (19) days of the date the Decision Letter was mailed. A copy of the appeal form will be enclosed.

Appeal of Municipal Planning Commission Decision

An appeal of the decision of the Municipal Planning Commission may occur on either a refusal of an application or on the conditions of the Municipal Planning Commission's approval. Any costs associated with the appeal of a decision are the responsibility of the appellant.

The appeal hearing will be held within thirty (30) days from the date the appeal was lodged to the SDAB, or within sixty (60) days if the appeal is lodged with the MGB. The appeal board must consider any Statutory Plan, uses of land referred to in the Land Use Bylaw, land use policies, and the *Subdivision and Development Regulation*.

The *Municipal Government Act* dictates which parties have the right to appeal a subdivision decision; this does not include adjacent landowners.

The decision of the appeal board is final, and no further appeals may be made, except to a court on a point of law or jurisdiction.

12. FINAL APPROVAL/ENDORSEMENT

Conditional approval means that the subdivision authority has granted permission to create those proposed lots shown on the approved tentative plan, provided that a number of conditions are met first.

Subdivisions cannot be endorsed and registered until the appeal period has expired or until the appeal has been heard and decided upon by the appropriate appeal board. **It is recommended that the applicant wait until the appeal period has expired before meeting any conditions of approval.**

In order for the subdivision to be endorsed by Brazeau County and proceed to Alberta Land Titles for registration, all conditions must be met to Brazeau County's satisfaction.

In order to finalize an application, Staff will conduct a review of the final Plan of Survey and confirm that all conditions have been met. Staff will endorse the final Plan of Survey and will endorse the Subdivision Authority Approval (SAA) and return it to the applicant's surveyor so that the subdivision may be registered at Alberta Land Titles.

Once registration is complete, Alberta Land Titles will issue new titles for all proposed lot(s). All Alberta Land Titles registration fees are the sole responsibility of the applicant/landowner. Registration must occur within twelve (12) months of the date of endorsement.

13. POTENTIAL COSTS

The initial cost equals the applicant's financial risk and includes the application fee, tentative plan and supporting studies as required.

Satisfying the conditions of subdivision may involve additional costs which must be paid by the applicant/landowner these may include but are not limited to:

- surveying fees (final plan and/or road plans);
- septic compliance certificate and any required septic upgrades;
- upgrading or installation of legal access and approach(es);
- money in place of Municipal Reserve;
- outstanding property taxes;
- final endorsement fees (as per Brazeau County Schedule of Fees);
- agreements or documents pertaining to the approval (as per Brazeau County Schedule of Fees); and
- time extension fees (as per Brazeau County Schedule of Fees).

14. FURTHER INFORMATION

- a) **Conditional approval does not mean that the proposed lot(s) have been created and can be sold.** The landowner cannot sell a proposed lot prior to registration at Alberta Land Titles. Section 94(1) of the *Land Titles Act* states, “No lots shall be sold under agreement for sale or otherwise according to a proposed subdivision plan until a plan creating the proposed lots has been registered”. **The proposed lots legally exist only when the subdivision has been registered with the Alberta Land Titles and separate Certificates of Title have been granted for each proposed lot.**

Also, it must be noted that if any transfers of title take place during the subdivision process and the Planning and Development Department has not been notified it may void the subdivision process.

- b) For additional information or to book a pre-application meeting, please contact:

Brazeau County
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7401 Twp Rd 494, Box 77
Drayton Valley, AB T7A 1R1
Email: planning@brazeau.ab.ca
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Or visit our website at: www.brazeau.ab.ca