

## BACKGROUND

Subdivision is the division of a parcel by an instrument. (1) A parcel of land is defined as the aggregate of the one or more areas of land described in a certificate of title.(2) In most cases, instruments such as transfers, subdivision plans or separations of title, which result in the issuance of separate titles, and instruments such as leases, mortgages, or discharges, which deal with a part of a parcel, require subdivision approval.

## REGISTRATION PROCEDURE

1. **Subdivision Approval Required** - Except as provided in section 652 (see item 4.), the Municipal Government Act prohibits the registration of any instrument that has the effect of or that may have the effect of subdividing a parcel of land without subdivision approval. (3)

2. **Leases** - The courts have held that certain leases, which deal with only part of a parcel, do not have the effect of subdividing. (4) In each case, the court must examine the provisions of the lease in order to make such a determination.(5) If a lease is submitted for registration with a court judgment declaring that it does not have the effect of subdividing, the usual subdivision approvals are not required.

3. **Caveats re Part of a Parcel** - If an interest described in a caveat is claimed in respect of only part of the land included in the certificate of title, the caveat must be endorsed with a notice of subdivision approval by the subdivision authority. (6) Exceptions are as follows:

- a) subdivisions permitted in section 652 (see item 4.)
- b) a caveat protecting a leasehold interest in part of a parcel, if it is clear the lease does not have the effect of subdividing (e.g., if the lease is for part of a shopping centre, office building or warehouse). A statement in the affidavit supporting the caveat, which indicates that the lease does not constitute a subdivision, may be accepted as evidence that subdivision approval is not required.
- c) a caveat based on an agreement which is conditional on subdivision approval which one of the parties is obliged to obtain. (7)

If the caveat attempts to describe any portion of the parcel, it should be referred to the Surveys section.

4. **Subdivisions Where Subdivision Approval Is Not Required** - An instrument which has or may have the effect of subdividing a parcel may be registered without subdivision approval if its registration results or could ultimately result in the issuance of certificates of title and the parcel described in each certificate of title issued would

consist of one or more of the items described in the following examples. (8)

a) **A full or fractional quarter section, or any full river lot, lake lot or settlement lot as defined in the Surveys Act. A fractional quarter section includes all of an original quarter section not covered by water.**

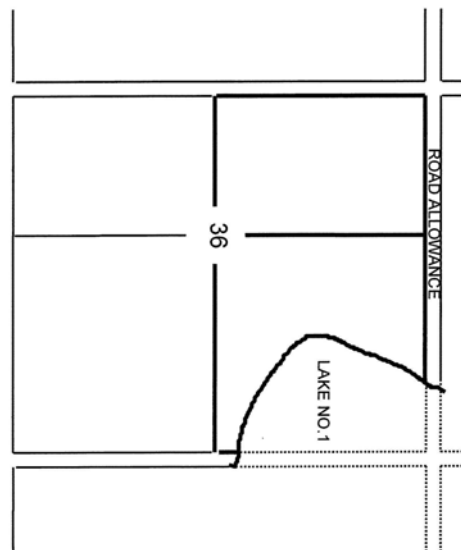
**Example:**

Meridian 4 Range 4 Township 61

All that portion of the North Half of Fractional Section 36

not covered by the waters of Lake No. 1 as shown on a Plan of Survey of the said Township dated February 19, 1921, containing 72.8 hectares (180 acres) more or less

Excepting Thereout All Mines and Minerals



From this, 2 new certificates of title may be issued as follows:

**Title No. 1**

Meridian 4 Range 4 Township 61

Section 36

The Fractional North West Quarter, containing 32.4 hectares (80 acres) more or less

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**Title No. 2**

Meridian 4 Range 4 Township 61

Section 36

All that portion of the North East Quarter

not covered by the waters of Lake No. 1 as shown on a Plan of Survey of the said

Township dated February 19, 1921, containing 40.5 hectares (100 acres) more or less  
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b) **A quarter section, fractional quarter section, river, lake or settlement lot which has any exceptions.**

**Example:**

Meridian 4 Range 5 Township 41

Section 6

North Half

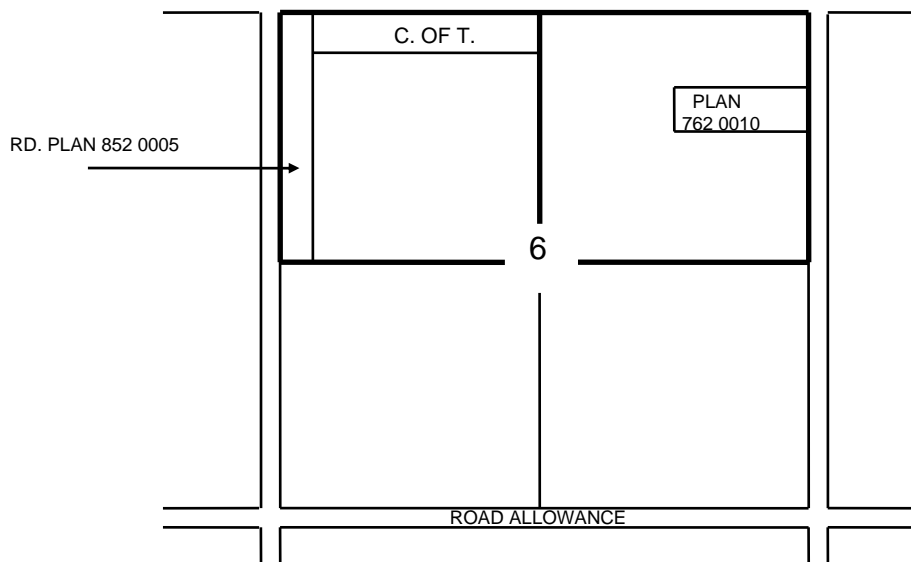
containing 64.7 hectares (160 acres) more or less, in each quarter section

Excepting Thereout:

	Quarter	Hectares	(Acres) more or less
A) Plan 7620010 - Subdivision	N.E.	7.16	17.68
B) Plan 8520005 - Road	N.W.	1.32	3.26
C) The most Northerly 100 metres in perpendicular width throughout of the North West quarter of said section, which lies east of Road Plan 8520005, containing		7.97	19.69

C) The most Northerly 100 metres in perpendicular width throughout of the North West quarter of said section, which lies east of Road Plan 8520005, containing

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From this, 2 new certificates of title may be issued as follows:

**Title No. 1**

Meridian 4 Range 5 Township 41

Section 6

Quarter North West

containing 64.7 hectares (160 acres) more or less

Excepting Thereout:

	Hectares	(Acres) more or less
A) Plan 8520005 - Road	1.32	3.26

B) The most Northerly 100 metres in perpendicular width throughout which lie East of Road Plan 8520005, containing 7.97 hectares (19.69 acres) more or less Excepting Thereout All Mines and Minerals

**Title No. 2**

Meridian 4 Range 5 Township 41

Section 6

Quarter North East

containing 64.7 hectares (160 acres) more or less

Excepting Thereout:

	Hectares	(Acres) more or less
A) Plan 7620010 - Subdivision	7.16	17.68

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C) **A parcel described by reference to a portion of a quarter section or to all LSD's described on the title to the parcel being subdivided within a quarter section.**

**Example No. 1:**

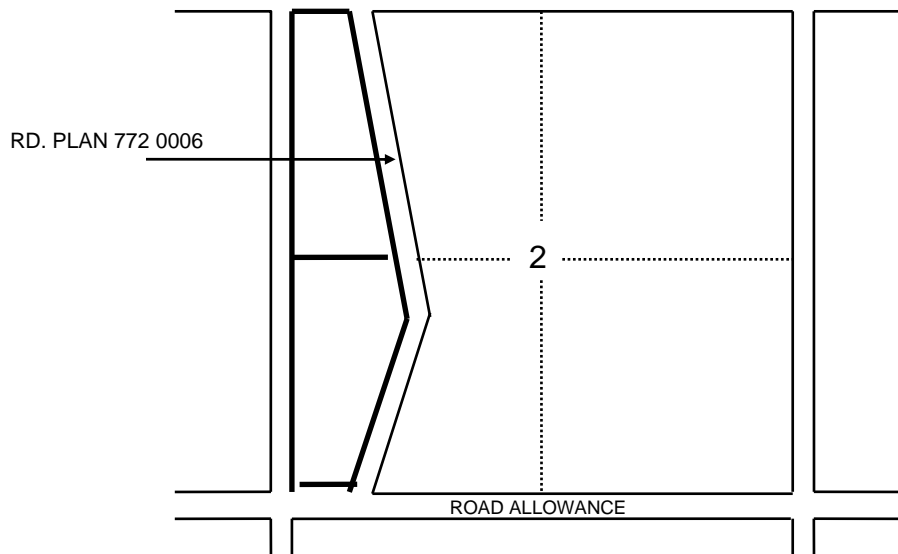
Meridian 6 Range 6 Township 51

Section 2

All that portion of the West Half, which lies West of Road Plan 7720006

containing 28.4 hectares (70.21 acres) more or less

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From this, 2 new certificates of title may be issued as follows:

**Title No. 1**

Meridian 6 Range 6 Township 51

Section 2

All that portion of the North West Quarter, which lies West of Road Plan 7720006

containing 11.6 hectares (28.55 acres) more or less

Excepting Thereout All Mines And Minerals

**Title No. 2**

Meridian 6 Range 6 Township 51

Section 2

All that portion of the South West Quarter, which lies West of Road Plan 7720006 containing 16.9 hectares (41.66 acres) more or less

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**Example No. 2:**

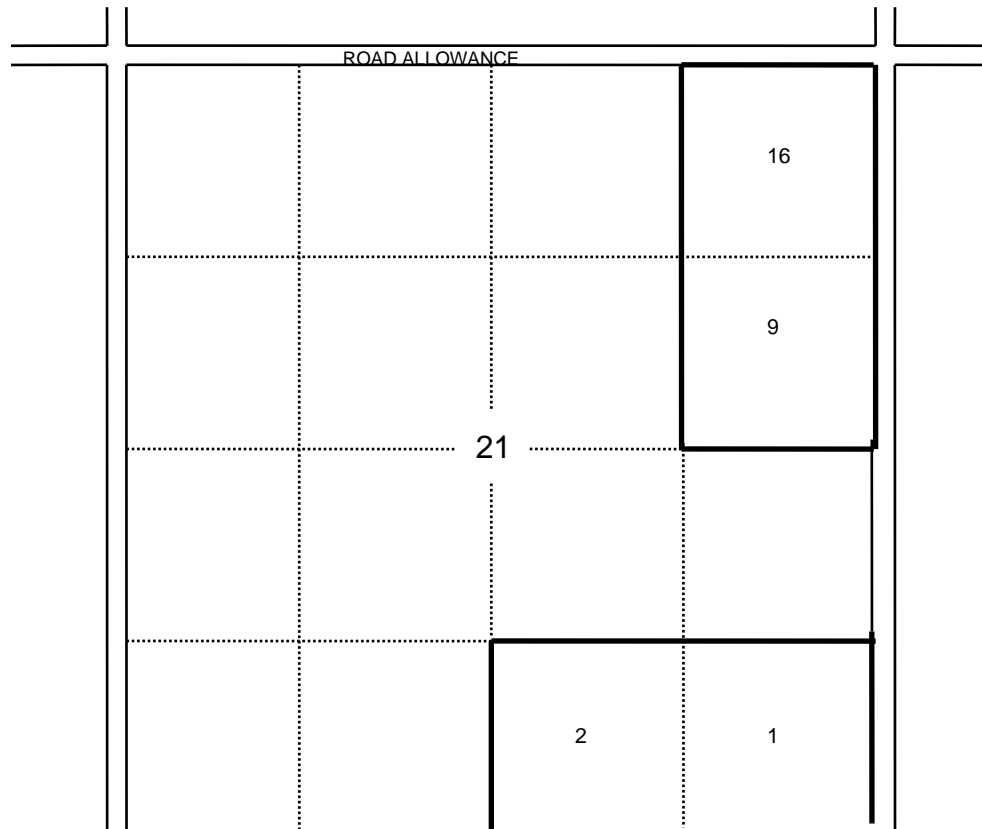
Meridian 4 Range 6 Township 46

Section 21

Legal Subdivisions 1, 2, 9 and 16

containing 64.7 hectares (160 acres) more or less

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From this, 2 new certificates of title may be issued as follows:

**Title No. 1**

Meridian 4 Range 6 Township 46

Section 21

Legal Subdivisions 1 and 2

containing 32.4 hectares (80 acres) more or less

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**Title No. 2**

Meridian 4 Range 6 Township 46  
Section 21  
Legal Subdivisions 9 and 16  
containing 32.4 hectares (80 acres) more or less  
Excepting Thereout All Mines And Minerals

d) **A parcel which contains 2 or more lots within a subdivision plan registered prior to July 1, 1950, where the net area of each lot or part lot at the time of the application for separation of title is 20 acres (8.09 hectares) or more.**

**Example:**

Plan D

Lot 1 containing 12.41 hectares (30.67 acres) more or less

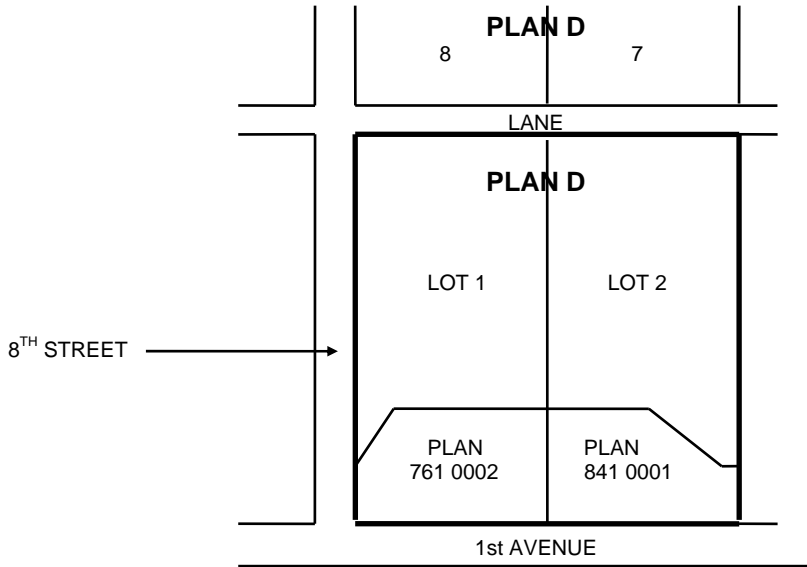
Lot 2 containing 11.43 hectares (28.24 acres) more or less

Excepting thereout:

	Lot	Hectares	(Acres) more or less
A) Plan 7610002 - Subdivision	1	4.31	10.65
B) Plan 8410001 - Subdivision	2	3.29	8.13

(SE 16-24-1-5)

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From this, 2 new certificates of title may be issued as follows:

**Title No. 1**

Plan D

Lot 1 containing 12.41 hectares (30.67 acres) more or less

Excepting thereout:

	Hectares	(Acres) more or less
A) Plan 7610002 - Subdivision	4.31	10.65

(SE 16-24-1-5)

Excepting Thereout All Mines And Minerals

**Title No. 2**

Plan D

Lot 2 containing 11.43 hectares (28.24 acres) more or less

Excepting thereout:

	Hectares	(Acres) more or less
A) Plan 8410001 - Subdivision (SE 16-24-1-5)	3.29	8.13

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e) **A lot within a subdivision plan registered after July 1, 1950.****Example:**

Plan 8520047

Block 1

Lots 1 and 2

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From this, 2 new certificates of title may be issued as follows:

**Title No. 1**

Plan 8520047

Block 1

Lot 1

Excepting Thereout All Mines And Minerals

**Title No. 2**

Plan 8520047

Block 1

Lot 2

Excepting Thereout All Mines And Minerals

5. **Other Exemptions by Virtue of Part 17 of the Municipal Government Act** - A development or subdivision is exempt from Part 17 of the Municipal Government Act and its regulations if it is effected *solely* for any of the following: (9)

a) a highway or public roadway,

b) a well (10) or battery (11) within the meaning of the Oil and Gas Conservation Act,

c) a pipeline, an installation (12) or structure incidental to the operation of a pipeline (Plant sites and sewage lagoons are not considered to be incidental to the operation of a pipeline.),

d) a transmission line (13) or electrical distribution system (14) as defined in the Hydro and Electric Energy Act, (15)

e) the construction, replacement, extension, alteration, modification, dismantling, abandonment, operation or maintenance of irrigation works if the corporation effecting the development or subdivision is an irrigation district as defined in the Irrigation Districts Act, (15) or

f) a lease of common property made pursuant to section 49 of the Condominium Property Act where the area or areas do not exceed 140 square metres. (15)

- g) providing for recreation services under the Recreation Development Act, (15)
- h) establishing historic sites or archaeological resources under the Historical Resources Act. (15)

#### **6. Exemptions from Subdivision Requirements by Virtue of Other Statutes or General Law (16)**

- a) Condominium plans for the division of a building where the building contains two or more units are exempt. (17)
- b) The Provincial and Federal Crown and Crown agents are not bound by the Municipal Government Act in either the disposition or acquisition of property. (18)
- c) Expropriation Act - all expropriations. (19)
- d) Post Secondary Learning Act - subdivisions of land owned by or leased to a university are exempt. (20)
- e) Land boundary adjustment schemes are exempt. (21)
- f) Railway right of way plans are exempt.

### **STATUTE AND CASE REFERENCES**

Statute references are to the Municipal Government Act, R.S.A. 2000, c. M-26, unless otherwise indicated.

- 1. s. 616(ee)
- 2. s. 616(s)
- 3. s. 652(1)
- 4. *Knowlton et al. v. Registrar of Land Titles for North Alberta Land Registration District et al.* (1982), 19 Alta. L.R. (2d) 31 (Q.B.)
- 5. *Robinson v. Guthrie & Guthrie* (1984), 30 Alta. L.R. (2d) 280 (C.A.)
- 6. s. 652(5); *Otan Developments Ltd. v. Kuropatwa* (1979), 7 Alta. L.R. (2d) 274 (S.C. App. Div.); *Newsome & Newsome v. Sullivan* (1987) 52 Alta. L.R. (2d) 304 (Alta. C.A.)
- 7. *Martha Hipple v. Power Farms Ltd.* (1991) 81 Alta. L.R. (2d) 97 (Alta. C.A.); also see *Carruthers v. Tioga Holdings Ltd.* (1998) 54 Alta. L.R. (3d) 95 (Alta. Q.B.)
- 8. s. 652
- 9. s. 618
- 10. "Well" is defined in s.1(eee) of the Oil and Gas Conservation Act, R.S.A. 2000, c. O-6, as: an orifice in the ground completed or being drilled
  - (i) for the production of oil or gas,
  - (ii) for injection to an underground formation,
  - (iii) as an evaluation well or test hole, or
  - (iv) to or at a depth of more than 150 metres, for any purpose, but does not include one to discover or evaluate a solid inorganic mineral and that does not or will not penetrate a stratum capable of containing a pool or oil sands deposit.
- 11. "Battery" is defined in s. 1(9) of the Oil and Gas Conservation Act, as: a system or arrangement of tanks or other surface equipment receiving the effluents of one or more wells prior to delivery to market or other disposition, and may include equipment or devices for separating the effluents into oil, gas, or water and for measurement.



12. "Installation" is defined in s. 1(1)(l) of the Pipeline Act, R.S.A. 2000, c. P-15, as:
  - (i) any equipment, apparatus, mechanism, machinery or instrument incidental to the operation of a pipeline, and
  - (ii) any building or structure that houses or protects anything referred to in sub clause (i), but does not include a refinery, processing plant, marketing plant or manufacturing plant.
13. "Transmission line" is defined in s. 1(1)(o) of the Hydro and Electric Energy Act, R.S.A. 2000, c. H-16, as: a system or arrangement of lines of wire or other conductors and transformation equipment, wholly in Alberta, whereby electric energy, however produced, is transmitted in bulk, and includes:
  - (i) transmission circuits composed of the conductors which form the minimum set required to so transmit electric energy,
  - (ii) insulating and supporting structures,
  - (iii) substations,
  - (iv) operational and control devices, and
  - (v) all property of any kind used for the purpose of, or in connection with, or incidental to, the operation of the transmission line, but does not include a power plant or an electric distribution system.
14. "Electrical distribution system" is defined in s. 1(1)(b) of the Hydro and Electric Energy Act, as: any system, works, plant, equipment or service for the delivery, distribution or furnishing of electric energy directly to the consumers, but does not include a power plant or transmission line.
15. Planning Exemption, Alberta Regulation 223/00
16. see Alberta Regulation 223/00, for further exemptions from Part 17, Municipal Government Act
17. s. 2.2, Condominium Property Act, R.S.A. 2000, c. C-22
18. s. 14, Interpretation Act, R.S.A. 2000, c. I-8
19. s. 2(1) and 3, Expropriation Act, R.S.A. 2000, c. E-13
20. s. 121, Post Secondary Learning Act, R.S.A. 2000, CP-19.5
21. s. 4(4), Crowsnest Pass, Alberta Regulation 197/2000