

The Subdivision Process in the MD of Foothills



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Please note:

This booklet attempts to cover every stage of the redesignation/subdivision process and is provided solely as reference material. It is not intended to provide a legal interpretation.

Applicants are encouraged to review the appropriate sections of the Municipal Government Act. Any questions with regards to this document or the legislative framework for municipal planning should be directed to the Municipal District of Foothills No. 31 Planning Department at (403)652-2341.

What is Subdivision?

Subdivision refers to a process of dividing a tract or tracts of land for the purpose of creating new title(s). Subdivision of land into parcels (or lots) is an integral part of the land development process, and is subject to both Provincial regulations and Municipal bylaws and policies.

According to section 653 of the **Municipal Government Act**:

A person may apply to a subdivision authority for subdivision approval in accordance with the *Subdivision and Development Regulation* by submitting to the subdivision authority a proposed plan of subdivision or other instrument that describes the subdivision.

The subdivision authority in the MD of Foothills is the Municipal Council.

M.D. of Foothills Planning

The objective of land use planning is the orderly subdivision and development of land. Plans, policies and bylaws are put in place to assist Council in making decisions concerning subdivision and development.

The overarching legislation guiding all aspects of land use planning in the MD of Foothills, and throughout the Province of Alberta, is the Municipal Government Act (MGA). In accordance with the guidelines and regulations set out by the MGA, municipalities may prepare the following plans:

- A Municipal Development Plan (MDP)
- A Land Use Bylaw (LUB)
- Intermunicipal Development Plans (IDPs)
- Area Structure Plans (ASPs),
- Area Concept Plans (ACPs), and Outline Plans (OPs)

A Municipality's **MDP** is an overarching plan that provides a high level framework for future development in broad strokes. It is intended to capture a vision for the area based on the future aspirations of its residents. The MD of Foothill's MDP was prepared by a steering committee of residents based on extensive consultation with the citizens of the MD.

A **LUB** is the bylaw that governs all types of land uses in a municipality. It dictates things like the types of uses allowed or that will be considered as well as densities, parcel sizes and setback requirements. Any proposed subdivision must comply with the

LUB or an amendment to the LUB will be required prior to application for subdivision being made.

IDPs are prepared in conjunction with neighbouring municipalities. They are intended to provide guidance for the development of the lands bordering the two municipalities, as well as laying out how the municipalities will communicate and consult with one another and how they will attempt to settle disputes.

ASPs, ACPs and OPs can either be prepared internally by the municipality, or by landowners or consultants, upon request from Council. These documents provide more detailed direction for the future development of a smaller area of land. ASPs are statutory documents and need to be adopted by Council giving three readings to a bylaw. ACP's and OPs are non-statutory documents and are adopted by resolution of Council.

More detailed information regarding these plans and their relationship to each other and to the MGA can be found in Appendices A through C of the MDP2010. All of the MD of Foothill's planning documents can be viewed online at www.mdfoothills.com, or at the planning counter in the MD office.

ASPs, ACPs and OP's

When an application proposes multiple lots and there is no existing plan in place, Council may require the landowner to prepare an ASP, ACP or OP in support of the application. These documents serve to describe with reasonable detail the existing site conditions and the proposal for development including land use, density, lot sizes, open space, transportation access, servicing, stormwater management and any other aspects of the development deemed important by Council. The plan may be submitted in advance of or concurrently with the application for land use redesignation.

There is a **review fee** and an **application fee** that apply to the submission of one of these plans. The amounts can be found in the MD's Fee Bylaw and its associated schedules. This information can be obtained at the main reception of the MD office or on the MD's website under *Bylaws Policies and Forms – Forms - Fee Schedule*, at the following location: http://www.mdfoothills.com/council/resource_library.html.

Land Use Redesignation/Amendment to the Land Use Bylaw

All properties within the MD of Foothills No. 31 have a land use designation (zoning). To determine the designation (zoning) of a parcel of land you may view an updated land use map either at the planning counter at the municipal office or on the internet at <http://www.mdfoothills.com/services/planning-and-development/development-of-land/land-use-maps.html>.

The Land Use Bylaw contains text and maps outlining zoning and land use of each parcel of land in the MD. Specifications for each land use district in the LUB include both permitted and discretionary uses of land, in addition to parcels sizes and setbacks. Other regulations pertaining to development including the number of animals permitted and size of buildings allowed on parcel(s) are also found within the LUB.

In order to change the land use designation of a parcel of land located within the MD of Foothills you must apply to the municipality to “**redesignate**” the land. If the zoning of a parcel of land is to remain the same, but the creation of a new parcel is requested, an “**amendment**” to the land use bylaw is required. Although amendment and redesignation are different by definition, both applications follow the same process.

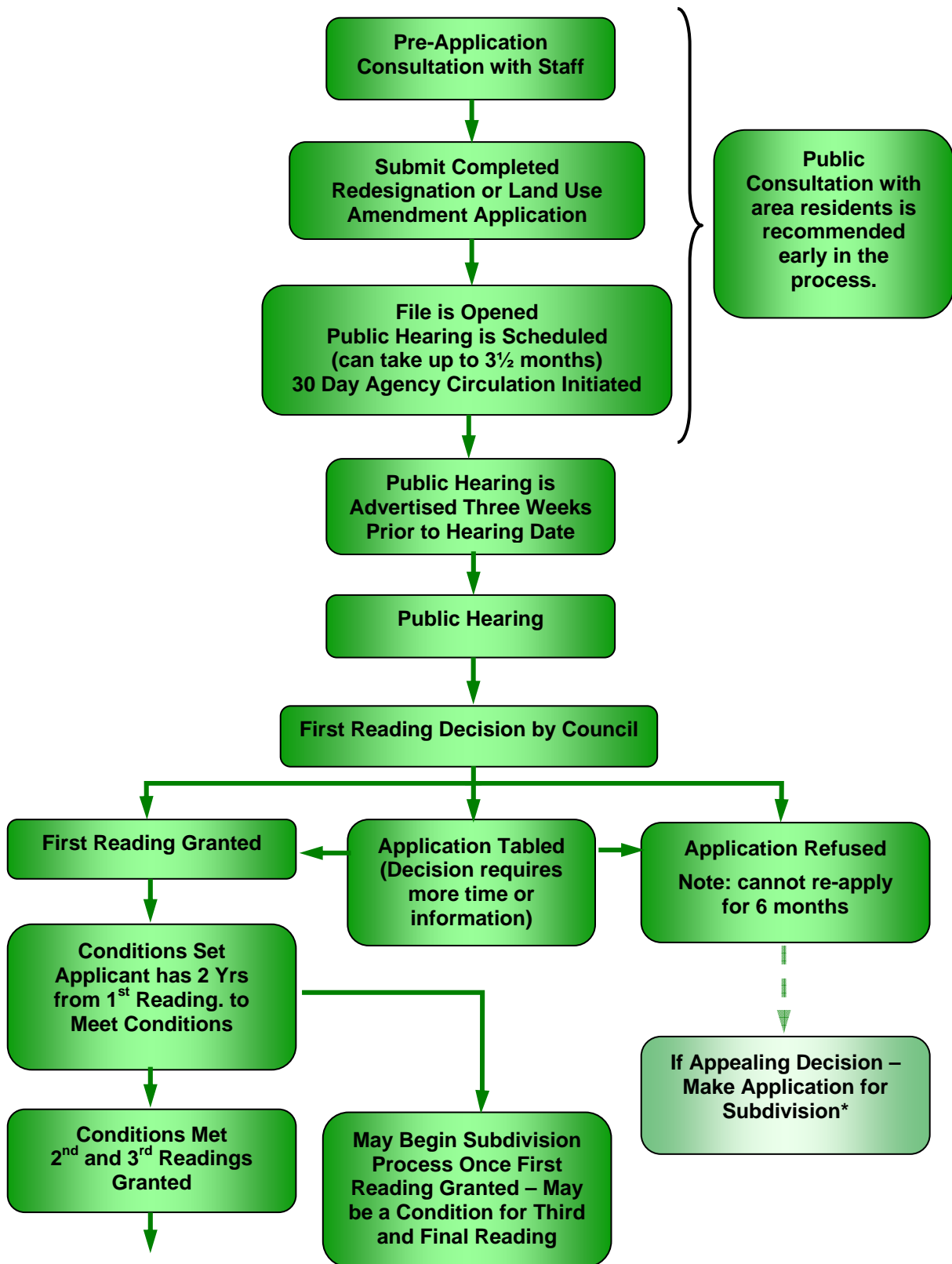
Please Note:

Only the Council of the M.D. of Foothills No. 31 has the authority to approve or refuse your application. Planning staff only processes your application and are not in a position to predict its outcome.

Please Also Note:

While you are welcome to discuss your project with your area Councillor prior to making an application; once an application has been submitted Council members are prohibited from discussing the application with anyone.

The Redesignation/Amendment to the Land Use Bylaw Process



Redesignation/Amendment to the Land Use Bylaw Application

An application for redesignation or amendment to the Land Use Bylaw to be considered complete requires: A completed application form, a complete site plan, a completed abandoned well sites form and all applicable fees.

Application forms may be obtained at the main reception desk at the MD office, or they may be found on the MD of Foothills website under *Bylaws Policies and Forms* at the following location: http://www.mdfoothills.com/council/resource_library.html

The **Site Plan** should show:

- The existing parcel(s) with area and dimensions
- The existing and proposed land use
- The proposed parcel(s) with area and dimensions
- Existing and proposed access to parcel(s)
- North arrow with site plan and text oriented correspondingly
- Location of all existing buildings, wells, septic tanks and fields
- Vegetation and physical characteristics throughout existing and proposed parcels
 - Treed areas
 - Water courses (intermittent and perennial)
 - Water bodies (including dugouts)
 - Ravines
 - Slopes in excess of 15%

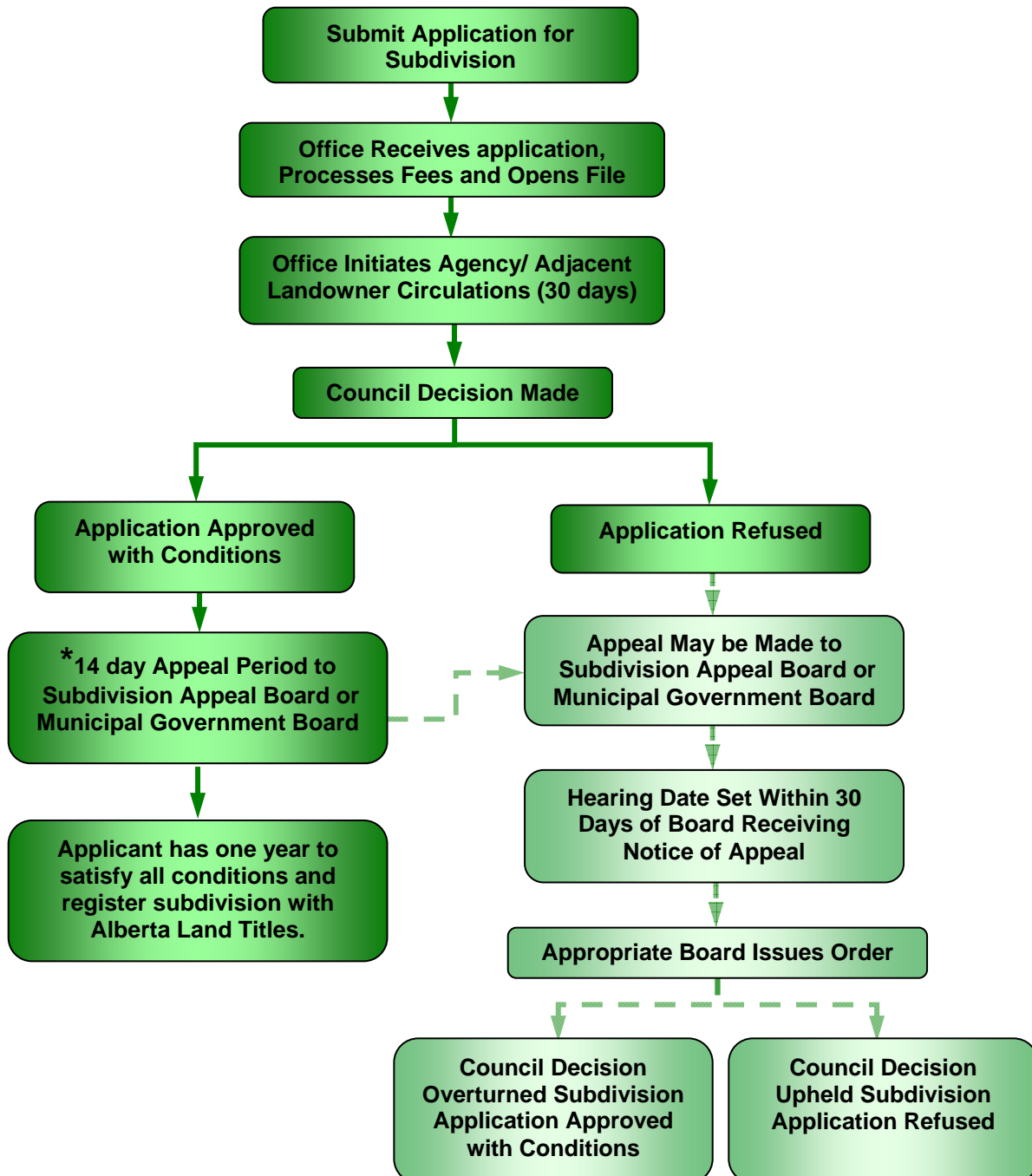
The **abandoned well sites form** explains the landowners responsibility for identifying any potential abandoned well sites on the property for which an application is being submitted and then provides space to indicate that either due diligence has been undertaken and no abandoned sites have been located or that abandoned well sites were found and their locations on the site are indicated on a plan attached. This form can be obtained at the main reception of the MD office or on the MD's website under *Bylaws Policies and Forms – Forms – Abandoned Well Sites* at the following location: http://www.mdfoothills.com/council/resource_library.html

The **Fees** required with the application include a filing fee and an initial new lot fee (charged based on the number of new lots proposed). If the application is approved there will be a final lot fee based on the number of new lots to be created. The amounts for the fees can be found in the MD's Fee Bylaw and its associated schedules. This information can be obtained at the main reception of the MD office or on the MD's website under *Bylaws Policies and Forms – Forms - Fee Schedule* at the following location: http://www.mdfoothills.com/council/resource_library.html.

Subdivision

Subdivision refers to a process of dividing a tract or tracts of land for the purpose of creating new title(s). Subdivision is subject to Provincial regulations and Municipal bylaws and policies. In the M.D. of Foothills, subdivision approval is contingent upon all conditions of redesignation being met. Once all conditions of 1st reading are fulfilled, planning staff may submit the redesignation application for 2nd and 3rd reading, and the subdivision application for approval; in some instances this may be done concurrently.

The Subdivision Process



Subdivision Application

A complete application for subdivision requires all of the following: A completed application form, a complete site plan, a completed abandoned well sites form and all applicable fees.

The **application** form may be obtained at the main reception desk of the MD office or on the MD's website on the Bylaws, Policies and Forms page: http://www.mdfoothills.com/council/resource_library.html. The **site plan** submitted must contain the same information as described in the Redesignation/Amendment to the Land Use Bylaw Application section of this document.

The **abandoned well sites form** explains the landowners responsibility for identifying any potential abandoned well sites on the property for which an application is being submitted and then provides space to indicate that either due diligence has been undertaken and no abandoned sites have been located or that abandoned well sites were found and their locations on the site are indicated on a plan attached. This form may be obtained at the main reception of the MD office or on the MD's website under *Bylaws Policies and Forms – Forms – Abandoned Well Sites* at the following location: http://www.mdfoothills.com/council/resource_library.html

The **Fees** required with the application include a filing fee, an initial application fee (charged based on the number of new lots proposed) and the **Subdivision Appeal Fee**. The subdivision appeal fee will be applied as a credit to the endorsement fees unless the applicant or agent appeals the decision of the Council on the subdivision or appeals the conditions of the subdivision. If the application is approved then the Endorsement Fee - based on the number of new lots to be created applies. The amounts for the fees can be found in the MD's Fee Bylaw and its associated schedules. This information can be obtained at the main reception of the MD office or on the MD's website under *Bylaws Policies and Forms – Forms - Fee Schedule* at the following location: http://www.mdfoothills.com/council/resource_library.html.

There are other fees that may apply to certain subdivision applications, these include the following:

- Offsite levies
- Fees associated with execution of a Development Agreement, easements, restrictive covenants or other types of legal agreements
- Fees associated with commissioning a surveyor, a well driller, an engineer or other type of qualified Professional
- Municipal reserves by way of cash in lieu
- Fees contributing to construction of roads and other infrastructure
- Community Sustainability fees
- Engineering review fees (when applicable)
- Water/wastewater hook-up fee

- Landscape drawing review fee
- Time extension fee – should a time extension be required
- Additional inspection fee for approaches and roads
- Fees for naming of roads

Boundary Adjustments

Boundary adjustments involve the consolidation of part of one parcel into an adjacent parcel, to adjust the acreage sizes of each parcel correspondingly. A boundary adjustment may follow only the subdivision process, or both redesignation process, and the subdivision process, depending on the proposal.

Redesignation and Subdivision Processes Required

The redesignation and subdivision processes are required when a boundary adjustment will change the zoning of one or more parcels of land further to the fact that it is changing the acreage sizes of the lands in question.

Only Subdivision Process Required

If the lands in question will not change zoning and will only cause a change in acreage sizes the, then only the subdivision process will be required.

Boundary Adjustment Applications

A complete application for a boundary adjustment requires all of the following: A completed application form, a site plan, a completed abandoned well sites form and all applicable fees.

The **application** form may be obtained at the main reception desk of the MD office or on the MD's website on the Bylaws, Policies and Forms page: http://www.mdfoothills.com/council/resource_library.html

The **site plan** submitted must contain the same information as described in the Redesignation/Amendment to the Land Use Bylaw and Subdivision Application sections of this document and must also clearly indicate which parcel of land area will be added to, and which parcel of land area will be subtracted from.

The **abandoned well sites form** explains the landowners responsibility for identifying any potential abandoned well sites on the property for which an application is being submitted and then provides space to indicate that either due diligence has been undertaken and no abandoned sites have been located or that abandoned well sites were found and their locations on the site are indicated on a plan attached. This form can be obtained at the main reception of the MD office or on the MD's website under

Bylaws Policies and Forms – Forms – Abandoned Well Sites at the following location:
http://www.mdfoothills.com/council/resource_library.html

The **Fees** required with the application include a filing fee, an initial application fee and the **Subdivision Appeal Fee**. The subdivision appeal fee will be applied as a credit to the final fees unless the applicant or agent appeals the decision of the Council on the subdivision of appeals the conditions of the subdivision. If the application is approved then the Final Fee applies. The amounts for the above mentioned fees can be found in the MD's Fee Bylaw and its associated schedules. This information can be obtained at the main reception of the MD office or on the MD's website under *Bylaws Policies and Forms – Forms - Fee Schedule* at the following location:
http://www.mdfoothills.com/council/resource_library.html.

Additional Considerations

The following guidelines or policies may apply depending on circumstances and should be reviewed in advance of submitting an application.

Public Reserve Policy

(Adopted April 18/96)
(Can be found in Appendix E of the MDP 2010)

Under Section 666(1) of the Municipal Government Act the Council may require the owner of a parcel of land that is subject to a subdivision proposal, to provide land for municipal reserve or provide money in place of the municipal reserve. The Municipal Government Act further states that a market value appraisal must be provided or, if the subdivision approving authority and applicant agree, a land value given based on recent sales within the particular area of the subdivision will be required. You therefore have the right to submit a certified appraisal done in accordance with the stipulations of the MGA, which will be given to Council along with your application for subdivision. Council will then determine the public reserve amount required of you when setting the conditions of subdivision approval.

Section 663 of the MGA states that the owner of a parcel of land that is the subject of proposed subdivision may **not** be required to provide reserve if:

- a. one lot is to be created from a quarter section;
- b. land is to be subdivided into lots of 16 hectares (39.5 acres) or more and is to be used only for agricultural purposes;
- c. the land to be subdivided is .8 hectares (1.98 acres) or less; or
- d. reserves have already been provided for the title.

Subject to the exceptions as set out in Section 663, a Subdivision Approving Authority is empowered to require an owner of land being subdivided to dedicate, without compensation, a portion of the land for park, school or park and school purposes, or to pay money in lieu of all or part of the land.

Section 671(2) states that Municipal reserve, school reserve or municipal and school reserve may be used by a municipality or school authority or by them jointly only for any or all of the following purposes:

- a. A public park;
- b. A public recreation area;
- c. School authority purposes;
- d. To separate areas of land that are used for different purposes.

In addition, it is important to note that, through Section 675 of the MGA, the Municipality has the right to remove the municipal reserve designation. On removal of the designation, the Municipality may sell, lease or otherwise dispose of the land, but the proceeds from the sale, lease or other disposition may be used only for any or all of the purposes referred to in Section 671(2) or for any matter connected to those purposes. Should the Municipality wish to proceed in the regard, a public hearing must be held. This would generally only occur when the land is not being used for any of the purposes noted above.

The amount of land or cash-in-lieu of land to be provided for municipal reserve will be equal to 10% of the titled parcel(s). The land required to be provided as environmental reserve or environmental easement will not be included in the calculation of municipal reserve. Even though no public reserve is required, a Deferred Reserve Caveat may be placed on title at the discretion of Council to notify the landowner that at the time that the parcel is further subdivided, municipal reserve will be required.

FORM OF RESERVE - DEDICATION OF LAND OR CASH-IN-LIEU:

For a redesignation or subdivision application, when the reserves to be provided are more than 1.98 acres, a separate lot must be shown on the site plan. It will be at the discretion of Council at the time of the decision as to whether land will be taken or cash-in-lieu.

On lots 21 acres or less, 10% cash-in-lieu of land will be required under the following circumstances:

- a. on the full original parcel where the land is being subdivided to the maximum density allowed under the Land Use Bylaw;
- b. on two of the lots where the proposal is to create 75% of the maximum allowable density with the reserves being deferred on the largest lot;

- c. on one of the lots where the proposal is to create 50% of the maximum allowable density with the reserves being deferred on the largest lot.

COUNCIL MAY REQUIRE THE RESERVES TO BE DEFERRED WHEN:

- a. It is deemed that the maximum density allowed under the Land Use Bylaw has not been obtained. The balance of the reserves owing on the existing title will be deferred, by Caveat, on the largest lot;
- b. Parcels are located within an urban fringe or Inter-Municipal Development area;
- c. The new lot is created under the 'Agricultural District' Land Use Rules.

A Deferred Reserve Caveat would be placed on title to notify the owner on title that at the time that this parcel is further subdivided municipal reserve may have to be provided.

Note: This policy will serve as a guideline and the form of Public Reserve will remain at the discretion of Council.

Planning Process Policy

(Adopted March 1/07)

At its March 1, 2007 meeting, Council passed a motion stating that in cases where an applicant proceeds to subdivision due to the conditions imposed upon first reading of the Bylaw, the Council will introduce a motion to rescind the Bylaw if the motion to refuse the subdivision has been carried.

Water Policy

(This policy can be found in appendix F of the MDP2010)

On quarter sections of land where the proposal would not create more than 5 lots proof of adequate water supply is a municipal requirement prior to final reading of a bylaw for redesignation and the subsequent subdivision of land.

The Municipality will require the applicant for redesignation or subdivision to drill one well per lot, to a maximum of three wells, and conduct a 12-hour pump and 12-hour recovery test on each well. These test results must be submitted to the Municipality with Q20 calculations, stamped and sealed by a member of APEGGA.

Each Q20 report must meet the following criteria:

- guidelines as per Alberta Environmental Protection specifications;
- a minimum safety factor of 0.7 must be used in calculating the Q20 results;
- the recommended pumping rate resulting from the Q20 calculations must be; equal to, or greater than, the total number of lots within 1/4 mile of the proposed lots (including the proposed lots), divided by 6;
- the well must recover to at least 90% of its original drawdown or be recovered for the same duration as the drawdown.

Note: The recommended Q20 from the engineer cannot exceed the rate at which the well was pumped. All test results must be recorded and calculated from the static water level.

Exceptions to the above policy may occur in areas which in council's opinion, are not known for water shortages.

Where the total number of lots within the 1/4 section, including the proposed lot(s), will not exceed 5 lots, council may require a 4-hour pump/4 -hour recovery test with results submitted to the municipality showing a minimum pump rate of 4 igpm;

Proof of water may NOT be required on lots containing an existing residence;

Proof of water may NOT be required on parcels exceeding 20 acres in size.

6 LOTS OR MORE PER ¼ SECTION

For all applications proposing the use of a communal water system or where 6 or more lots (including existing lots) will be on a ¼ section, proof of water must conform to the **Provincial Water Act**.

General Information

In cases where staff deems that the well test results submitted do not meet the requirements of this policy, an appeal can be made to Council.

If in the case where a 4 hour pump test is required and the well is unable to attain 4 IGPM, a Q-20 must be conducted, meeting the above noted Q-20 criteria.

January 21, 1999

Site Access

All Subdivision approvals are subject to the ability to provide suitable access from MD roadways to both the new lots being created and to the balance parcel. The location of

all approaches must be approved by the department of Public Works and Engineering prior to their installation or upgrading. All approaches (both new and existing) must meet the MD's approach standards as outlined in the *MD of Foothill's Municipal Standards* document.

Please note that all accesses onto Provincial highways must be approved by Alberta Transportation and must meet Provincial standards.

Riparian Setback Matrix Model

According to the MDP2010, riparian areas are lands adjacent to a watercourse where the vegetation and soils show evidence of being influenced by the presence of water.

Riparian areas have been shown to play a role in:

- Filtering sediment, nutrients, agricultural chemicals and other pollutants from surface runoff
- Protecting stream banks from erosion
- Providing food, water, and cover for many species of terrestrial animals
- Providing shade, food, and reducing stream water temperature for fish and other aquatic organisms
- Providing leaf litter and woody debris to the stream
- Providing travel corridors for a wide variety of wildlife; and
- Trees and grasses in riparian areas stabilize stream banks and reduce floodwater velocity, resulting in reduced downstream flood peaks

The MD of Foothills has developed a Riparian Setback Matrix Model and a set of Developers Guidelines to be used to determine appropriate development setbacks from riparian areas throughout the Municipality. If the lands subject to an application contain riparian lands, Council may require the applicant to apply the Matrix to determine development setbacks from those lands.

Environmentally Significant Areas

The MD is rich in significant natural landscapes, key wildlife areas and important fish habitats. These resources are part of the Municipality's natural capital which should be conserved.

If the lands subject to an application for redesignation or subdivision are suspected to include environmentally significant areas, Council may request that the applicant supply additional study in support of the application prior to making a decision.

The MD uses the guidelines provided by Alberta Environmental Protection to identify Environmentally Significant Areas (ESAs) throughout the Municipality. The Definition of Environmentally Significant Areas used by the MD of Foothills can be found in Appendix D and a map of environmentally significant areas in the MD can be found in Figure 1 on page 64 of the MDP2010.

Screening Standards

Screening standards were adopted by MD of Foothills council by resolution # 1554 on the 2nd of December, 2010 in order to mitigate the visual impacts of storage facilities and industrial uses in the MD. If a land use application contemplates a redesignation to an industrial land use district, the screening standards may be imposed by Council as a condition of approval.

The screening standards may be obtained at the main reception of the MD office or on the MD's website at the following location in the planning and development section: <http://www.mdfoothills.com/services/planning-and-development/development-of-land/development-topics.html>.