



Scope

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11. Construction

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15. Maintenance Bonds

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There are two types of subdivisions governed by the **Local Government Act** that are possible within the boundaries of the City of Nelson:

1. **Land Title Act** Subdivisions
2. **Strata Property Act** Subdivisions

The City's Approving Officer may permit either type of subdivision for lands within the City's boundaries. The Approving Officer has the authority to approve subdivision plans. The Approving Officer is consulted through all stages of the process, from Preliminary Layout Review to the signing of the final subdivision plan. The **Local Government Act** and **Land Title Act** give the Approving Officer discretionary powers to refuse the approval of a subdivision plan if:

- The subdivision does not conform to all applicable provisions of the **Local Government Act**, City of Nelson Zoning Bylaw and the City's Subdivision and Development Servicing (SDS) Bylaw; or
- The subdivision plan is, in the Approving Officer's opinion, against the public interest.

In accordance with Section 85 of the **Land Title Act**, an application for subdivision must be approved or rejected by the Approving Officer within two (2) months after the date it is tendered for examination.

Any person, being the owner of land, has the right to apply for subdivision. Under section 89 (1) of the **Land Title Act**, the decision of the Approving Officer to deny an application for subdivision may be appealed by the Owner to the Supreme Court within one (1) month of rejection or one (1) month after the time frame for approval has passed.

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A **Minor Subdivision** is a subdivision that consists of only a lot line adjustment, consolidation, or the creation of two or three lots. Roads fronting the property to be subdivided may already have been constructed to full City standards and/or utility services may be readily available without further extension. In these cases, some of the requirements listed in the process section below may not be necessary; however, each subdivision proposal is unique. Exact requirements for approval of subdivision can only be determined after City staff has had the opportunity to review the proposal and discuss the matter with the Owner.

The general process for approval of subdivisions under both the *Land Title Act* and the *Strata Property Act* is outlined below.

Process

Step 1 – Preliminary Inquiry

The Owner should hold preliminary discussions with the Approving Officer or delegate to identify the scope and nature of the proposal. The Approving Officer or delegate will use this opportunity to provide information regarding the requirements of the various bylaws and explain the process. The Approving Officer should also determine if the proposal is appropriate according to the requirements of the City of Nelson Zoning, Official Community Plan (OCP) and Subdivision and Development Servicing Bylaws. If the proposal does not conform to land use policies for the area, it will be suggested that the Owner consider changes to the proposal or pursue other avenues such as an amendment to the Official Community Plan and/or Zoning Bylaws to accommodate the proposed use.

Step 2 – Submission of Application

If the Approving Officer determines that the proposal is consistent with the requirements identified above, the City of Nelson "Development Application" is provided to the Owner. The application form must be filled out with respect to:

- Name & Address of the Registered Owner(s);
- Legal Description of Property;
- Location of Property;
- Size of Property;
- Present OCP Designation;
- Present Zoning Designation;
- Description of Existing Use/Development;

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- Description of Proposed Development;
- Proposed Phasing Plan, if applicable;
- Description of Existing or Readily Available Services;
- Proposed Water Supply Method;
- Proposed Sewage Disposal Method;
- Proposed Storm Drainage Method;
- Site Profile Waiver;
- Approximate Commencement Date of Proposed Project; and
- Reasons and Comments in Support of the Application.

Additional information and materials that are required to be submitted along with the application form include:

- Application fee as determined in any applicable City of Nelson Fees & Charges Bylaw;
- Proof of Ownership** (a State of Title Certificate, or a title search record dated no more than 30 days prior to submission of the application);
- Written Authorization** from the registered property owner which allows the Owner to apply on behalf of the owner, if the Owner is not the registered owner; and
- Submission of a plan or plans drawn to a minimum of 1:1000 scale, including an electronic version (.pdf) of all drawings, clearly indicating:
 - a) The legal description of the parcel or parcels to be subdivided;
 - b) The dimensions of the parcel or parcels to be subdivided with the boundaries outlined in red;
 - c) The arrangement of parcels and streets which would be created by the subdivision, including the widths of the proposed streets and the approximate dimensions and area of each proposed parcel complete with lot numbers;
 - d) The relationship of the proposed subdivision to adjacent and existing streets and parcels and the connections of proposed streets thereto;
 - e) The existing and proposed uses of the parcel or parcels to be subdivided;
 - f) Existing buildings and/or structures located and identified, and illustrating the dimensions and the relationship of same to existing and proposed property lines;
 - g) The approximate location of any buildings to be demolished upon approval of the subdivision;
 - h) Existing property lines and streets to be eliminated by the proposed subdivision;
 - i) Utility and other existing rights-of-way located and identified, including flood plain areas where applicable;
 - j) Existing topography based upon true datum with contour lines at no greater than 0.5 metres

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- l) Existing creeks, watercourses, natural drainage channels and other pertinent topographic features, including all large or desirable trees on or near proposed roadways;
- m) The location of all existing roads, pipelines and utilities;
- n) The location of existing septic tank and septic tank drainage fields where applicable;
- o) The location of any wells within 30 metres of the parcel or parcels to be subdivided if the proposed lots are to be served by septic systems;
- p) The location of any existing drainage facilities, such as storm sewers, tile drains or culverts, whether in use or not;
- q) The proposed water and sewer main extensions to service the subdivision;
- r) The proposed road grades where steep and uneven terrain exists; and
- s) A scale, north arrow and any other plan identification that shall be considered relevant.



At the time of providing application forms, the Approving Officer or delegate may require that the following information accompany the application prior to Preliminary Layout Review:

- Any elevations, cross-sections or detail drawings which may be relevant
- Copies of any previous studies or reports made on the subject property relating to its present condition and suitability for the proposed use/development, e.g. geotechnical reports, site contamination and remediation studies
- A geotechnical overview, topographic mapping and development servicing and phasing analysis.

Step 3 - Preliminary Layout Review

The Approving Officer can proceed with the Preliminary Layout Review of the proposed subdivision if:

- All the necessary information has been submitted;
- All planning considerations have been addressed; and
- Appropriate application fees have been paid.

To facilitate the Approving Officer's review, the Owner must provide information regarding various servicing and utility requirements.

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This can include, but is not limited to:

- Roads** – Are changes to the road system going to be required as a result of the proposed subdivision?
- Water** – Is there sufficient capacity in the available water system? Will extensions or upgrading be required?
- Sanitary Sewer** – Will the current systems be sufficient? Is an upgrade in capacity going to be necessary? Will a community system extension be required?
- Storm Sewer/Drainage Ditches** – Will the current system be sufficient? Will upgrading of the system’s capacity be necessary?
- Electrical/Street Lighting;**
- Telephone/Cablevision;** and
- Natural Gas.**

The Approving Officer may investigate the following aspects of the application as part of the Preliminary Layout Review:

- Floodplain** – Is the subject property located in the floodplain?
- Geotechnical** – Is the land stable to support all proposed buildings and infrastructure on the subject property?
- Development Permit** – Is the subject property located within a Development Permit area?
- Highway** – Is the subject property located adjacent to a provincial or controlled access highway?
- Taxes** – Does the owner of the subject property owe any outstanding property taxes to the City?
- Public Open Space** – Will the Owner be required to provide parkland or cash-in-lieu of parkland under to section 941 of the *Local Government Act*?

Step 4 - Referral to Government Agencies

At the discretion of the Approving Officer, the application for subdivision may be referred to appropriate agencies whose interests may be affected. These agencies may include but are not limited to:

- Regional District of Central Kootenay;
- Ministry of Community Development;
- Ministry of Environment;
- Department of Fisheries and Oceans;
- Ministry of Transportation and Infrastructure;
- Ministry of Energy, Mines and Petroleum Resources;
- British Columbia Assessment Authority;
- Interior Health Authority;
- School District #8;
- City of Nelson Public Works Department;
- City of Nelson Fire Department;
- City of Nelson Police Department;
- Canada Post Corporation; and
- Local Utility Companies.

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Steps 5 & 6

1. Preliminary Inquiry

2. Submission of Application

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5. Preliminary Layout Approval

6. Public Notification

7. Notification of Applicant

8. Design Approval

9. Provision of Insurance

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Step 5 – Letter of Preliminary Layout Review

After the Preliminary Layout Review has been completed, the Approving Officer has four options:

- Provide a Letter of Preliminary Layout Review;
- Ask the Owner for additional information in order to further consider the application;
- Refer the application and the results of the technical review to the City's planning and engineering staff and/or consultants for their comments; or
- Deny the application.

Under section 85 of the *Land Title Act*, the Approving Officer must approve or reject a subdivision application within two (2) months of the date it is tendered for examination. In accordance with section 85 of the *Land Title Act*, if the application is denied the Approving Officer must immediately notify the Owner in writing of the rejection. The Approving Officer must state the reason(s) for rejection and the officer's requirements if applicable.

Under section 89 of the *Land Title Act*, the Owner may appeal the decision to deny the application to the Supreme Court within one (1) month of receiving the Approving Officer's rejection.

Step 6 - Public Notification

The Approving Officer may forward a Notice of Application to all parties who have an interest in land within a specified distance of the land under application for Subdivision as determined by the Approving Officer.

Under section 86 of the *Land Title Act*, the Approving Officer is under no obligation to hear from surrounding landowners or any other person in the community. However, the Approving Officer may decide that a public meeting may be beneficial to gain input with respect to the proposed subdivision. Notice of the meeting should state the subject matter of the application, the date, time and place where copies of the proposed application may be inspected and the time and place when the matter will be discussed.

The Approving Officer will advise the Owner if a public meeting is required at this stage, with all fees associated with this public meeting to be paid for by the Owner.

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Steps 7 to 10

1. Preliminary Inquiry

2. Submission of Application

3. Preliminary Layout Review

4. Referral to Government Agencies

5. Preliminary Layout Approval

6. Public Notification

7. Notification of Applicant

8. Design Approval

9. Provision of Insurance

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18. Final Subdivision Approval

19. Registration

Step 7 - Notification of Applicant

The Approving Officer will advise the Owner in writing if the application has been either denied or granted a Letter of Preliminary Layout Review. If granted, the Preliminary Layout Review is valid for a period of one (1) year. The Owner may apply for one (1) six-month extension, which may be granted by the Approving Officer. After this period, if the subdivision has not proceeded as per the conditions outlined by the Approving Officer during the Preliminary Layout Review stage and been granted Final Approval, the Owner must reapply for subdivision.

Step 8 - Design Approval

In order to receive Design Approval, works or services may be required. The Approving Officer may require the Owner to submit detailed engineering drawings (both electronic and hard copy versions) for review by City Staff and/or the City's consultants. The Approving Officer will also require the Owner to submit:

- Minimum of three (3) copies of the original survey plans;
- Minimum of three (3) copies of design plans as per the Subdivision and Development Servicing Bylaw;
- A schedule of quantities and cost estimates for any and all off-site works triggered by the proposed development;
- Notice that taxes have been paid; and
- Parkland dedication or cash-in-lieu of parkland, as outlined in the Official Community Plan and *Local Government Act*.

Step 9 - Provision of Insurance

Prior to issuing a construction permit, the City will require evidence of acceptable liability insurance with appropriate clauses indemnifying and saving harmless the City of Nelson and its employees. This must identify, but will not be limited to the:

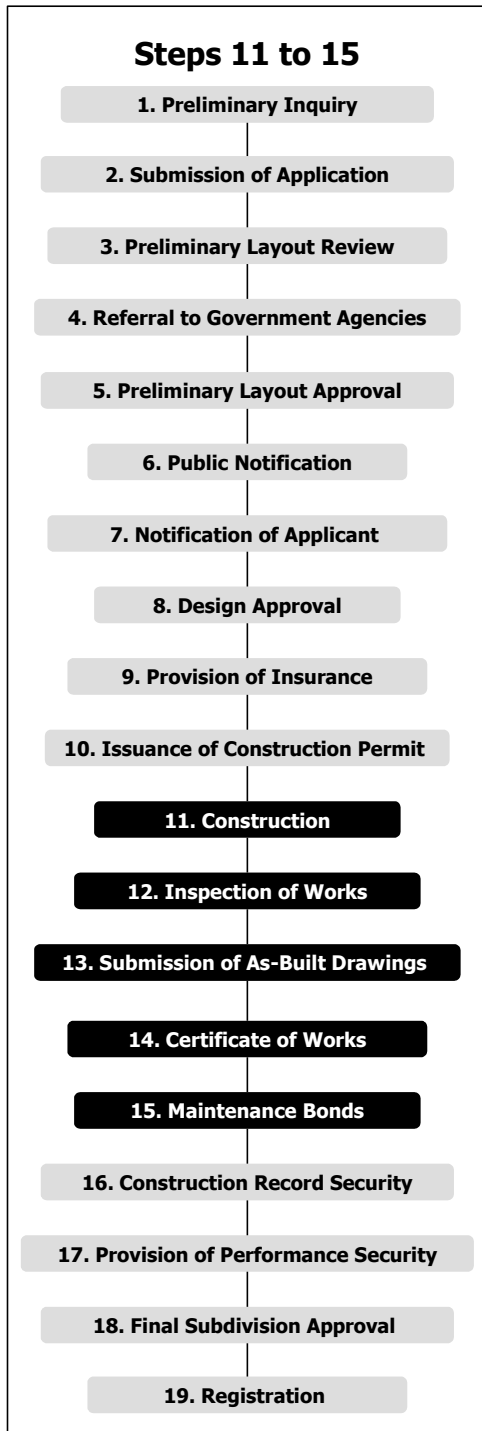
- Level of insurance;
- Name of insured;
- Standard time period where amendments are not permitted; and
- Coverage (type of policy).

Step 10 – Issuance of Certificate to Proceed with Construction

Prior to issuing a Certificate to Proceed with Construction, the City Engineer may require security, in the form of cash or irrevocable letter of credit, for the off-site works and services to be provided. If the City of Nelson is constructing the off-site works, payment of the estimated cost of construction is required prior to issuance of a construction permit.

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Once the evidence of liability insurance and security for works and services are provided, the City Engineer will issue a "Certificate to Proceed with Construction" to the Owner. The City Engineer may choose to consult with the City's consultants before issuing the permit.

Step 11 - Construction of Works

The Owner proceeds with construction in accordance with the approved design drawings and specifications.

Step 12 - Inspection of Works

Throughout the construction period, the Owner's Consulting Engineer shall be responsible for inspecting the Works and Services to confirm that they are completed in accordance with the design drawings and specifications. The City Engineer, or delegate, may also conduct inspections on behalf of the City. However, such inspections do not relieve the Owner and the Owner's Consulting Engineer from their responsibilities to confirm that the Works and Services have been constructed generally in compliance with the approved design.

Step 13 - Information Provided by Applicant

Once the construction of works is complete, the Owner must provide the following for review:

- Record drawings, in both hard copy and digital (.pdf and AutoCad .dwg) versions;
- Property record cards;
- Evidence of substantial performance pursuant to the Builder's Lien Act;
- Deficiency list; and
- Other information requested by the City Engineer.
- Certificate of Completion provided by the Owner's Consulting Engineer

Step 14 - Certificate of Works

Following receipt of the Certificate of Total Completion provided by the Owner's Consulting Engineer, the Approving Officer shall issue a Certificate of Acceptance. This will not occur however, until the City Engineer is satisfied that the works are constructed as per the submitted engineering drawings.

Step 15 - Maintenance Security

The Subdivision and Development Servicing Bylaw requires that the Owner provide a Maintenance Security of ten (10) percent of off-site construction cost estimates.

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Steps 16 to 17

1. Preliminary Inquiry

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8. Design Approval

9. Provision of Insurance

10. Issuance of Construction Permit

11. Construction

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14. Certificate of Works

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16. Construction Record Security

17. Provision of Performance Security

18. Final Subdivision Approval

19. Registration

The City will hold the Security for one (1) year after final approval of the subdivision is granted (referred to as the Maintenance Period). Security Deposits will not be required for private developments not requiring subdivision or works not within the dedicated road right-of-way or on City property.

Step 16 - Construction Record Security

If the Owner wishes to have the Approving Officer sign the Final Subdivision Plan prior to the Approving Officer receiving the construction Record Drawings, the Owner must provide Construction Record Security as per the Subdivision and Development Servicing Bylaw. The City will hold this security until the Final Approval is granted for the subdivision. This could occur, for example, if the Owner wanted to apply for a Building Permit prior to receiving Final Approval of the subdivision.

Step 17 - Provision of Performance Security if Works Not Completed

In the event that the Owner does not plan to construct the works immediately, the Owner may enter into a Subdivision Servicing Agreement with the City in an approved form as contained in the Subdivision and Development Servicing Bylaw. Design plans must be submitted and approved by the Approving Officer. Subdivision Servicing Agreements are available for the Approving Officer to consider only after all buried utilities are installed and roads are constructed to top of granular sub-base.

Under the terms of the *Local Government Act*, the Works and Services Agreement will require posting of security in the amount specified in City of Nelson Subdivision and Development Servicing Bylaw. If the Owner does not construct and install the works and services by the date specified in the agreement, the Owner will be required to forfeit the security.

If the Approving Officer enters into an agreement with the Owner, Final Approval of the subdivision may be provided.



Steps 18 to 19

1. Preliminary Inquiry

2. Submission of Application

3. Preliminary Layout Review

4. Referral to Government Agencies

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6. Public Notification

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8. Design Approval

9. Provision of Insurance

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Step 18 – Final Subdivision Approval

The Approving Officer will either grant Final Subdivision Approval or notify the Owner in writing that Final Approval is being withheld. Under section 87 of the *Land Title Act*, Final Approval may be withheld for the following reasons only:

- The completed works are not constructed as per the Record Drawings submitted to the City;
- The required works have not been constructed according to the requirements of the Subdivision and Development Servicing Bylaw, or an agreement satisfactory to the City has not been achieved relating to the provision of these works;
- Applicable connection fees and charges have not been paid;
- Taxes and charges have not been paid; or
- Ministry of Transportation approval has not been given if the subdivision is adjacent to a controlled access highway.

Step 19 - Registration

Once Final Subdivision Approval has been granted and the Approving Officer signs the plans, they are returned to the Owner. The Owner must submit the approved plans to the Land Title Office for registration.

Following registration, the Owner must submit the following to the Approving Officer:

- The subdivision plans and any rights-of-way or easement plans that affect the subject property. The plans must contain controlled survey points with a legal base that is tied to the coordinate system used by the City (Universal Transverse Mercator, or UTM);
- Text documents; and
- Proof of title.

These documents assure the Approving Officer that registration has occurred.