

5. **DIVISION OF LAND**

5.1 DETERMINATION OF LAND DIVISION METHOD

5.1.1 Requirements for Plans of Subdivision

Generally all land division in the Municipality of Brighton shall take place by registered plan of subdivision. A plan of subdivision shall normally be required in the following instances:

- i) Where more than three (3) lots are to be created, except for a severance applications in accordance with Sections 5.2.1(vii) and (viii); and/or
- ii) Where a new road or an extension to an existing road is required.

5.1.2 Consent to a Land Severance

Where a plan of subdivision is not necessary for the proper and orderly development of the subject and surrounding lands, land division through the consent process may be considered. In reviewing any application for consent to a land severance, the Consent Granting Authority shall consider the need for a plan of subdivision.

5.2 GUIDELINES FOR LAND SEVERANCE APPROVALS

It shall be a policy of this Plan that the Municipality shall only recommend for approval applications for a consent to a severance that conform to this Plan and particularly the policies set out below. When considering an application for consent to a severance, the Consent Granting Authority shall be guided by the following policies:

5.2.1 General Criteria

- i) Severances which create new lots may only be considered when both the newly created lot and the retained lot front on an assumed public road that is currently maintained on a year-round basis by a public road authority.
- ii) Both the severed and retained lots shall have direct driveway access from a public road. A single shared driveway entrance from a public road may be considered for the purposes of providing direct driveway access for two adjacent lots, subject to the approval of the public road authority.

- iii) The parcel of land to be created by severance and the proposed use shall generally conform to all applicable provisions of the Zoning By-law, save that the consent to sever may be granted on the condition that a Zoning By-law amendment be approved or that the condition may be varied by the Municipality's Committee of Adjustment, where such action is warranted.
- iv) An application for a severance shall have the effect of creating only one (1) new lot in addition to the retained lot. If more than one (1) new lot is created, an additional application shall be required.
- v) In the Brighton Urban Area and the Hamlet designation, the maximum number of residential lots that may be created by consent per land holding shall be three (3) severed lots and one (1) retained lot. Notwithstanding this policy, one additional severed lot (i.e., for a total of four (4) severed lots and one (1) retained lot) may be considered for a land holding where:
 - a) The fourth severed lot will have the effect of building out of the development potential of the property;
 - b) All severed and retained parcels front on an existing, assumed public road; and
 - c) All lots comply with the applicable provisions of the Zoning By-law and the Official Plan.
- vi) In order to provide maximum flexibility for commercial and industrial development in the Core, District Commercial and Industrial, the number of consents granted per land holding in these designations shall not be restricted, and shall be considered on their own merits provided that the consents comply with all applicable provisions of the Zoning By-law and the Official Plan.
- vii) In all other designations, the maximum number of lots that may be created by consent per land holding shall be three (3) severed and one (1) retained lot.
- viii) Lot creation in the Agricultural designation shall only be permitted in accordance with Section 5.2.4 of this Plan. The number of lots that may be created by consent in the Rural designation shall be determined in accordance with the policies of Section 5.2.5 of this Plan.

- ix) For the purposes of Sections 4.2.1(vii), (xiii) and (ix), in all designations except the Rural and Agricultural designations, a land holding is a parcel of land recorded as a separate parcel in the Land Registry Office as of January 1, 2000.
- x) An application for a severance should not be granted where such severance would result in a demand for the premature extension of municipal services, or result in or contribute to a land use pattern of strip development.
- xi) Severances which have the effect of changing boundary lines or which do not create additional new buildable lots may be evaluated on their own merits.
- xii) Consents for easements shall generally be preferred to consent for severance where linear rights-of-way are being created.
- xiii) An application for severance to create a new lot involving merged properties which formerly existed as separate and distinct lots may be permitted, providing such application is accompanied by legal confirmation that prior to merger the lots existed on title as separate deeded parcels and conforms to all applicable policies of this Plan and the Municipality's Zoning By-law. The expectation is that the lot boundary shall follow the original boundary line between the two lots. Notwithstanding the above, this policy shall not apply to lots within the Agricultural designation
- xiv) An application for a severance shall not be granted where the proposed use would contravene the Minimum Distance Separation formula requirements, as amended from time to time.
- xv) Severances shall not be permitted:
 - a) In Provincially Significant Wetlands, including significant coastal wetlands and significant habitat of endangered or threatened species;
 - b) In significant woodlands, significant wildlife habitat, significant valleylands or significant areas of natural and scientific interest unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions;
 - c) On lands adjacent to significant woodlands, significant wildlife habitat, significant valleylands, significant areas of natural and scientific interest, significant habitat of endangered and threatened species and significant

wetlands including significant coastal wetland unless the ecological functions of the adjacent lands have been evaluated and it has been demonstrated that there will be no negative impacts in the natural features or their ecological functions; or

- d) In fish habitat except in accordance with provincial and federal requirements.

Notwithstanding the aforementioned policies, severances in the Environmental Protection designation shall not be granted unless sufficient lands are available outside of the sensitive area to accommodate a suitable building envelope. In addition, the Conservation Authority shall be consulted to determine the need for an Environmental Impact Study in accordance with Section 3.9.5 of this Plan.

- xvi) An application for a severance in the Aggregate Resource designation shall be considered in accordance with the policies of Section 4.11 of this Plan.
- xvii) The policies of Section 3.2.4 of this Plan, Development Abutting or in Proximity to Railways, shall apply to a severance application in the vicinity of a railway.
- xviii) In no case shall any lot created by consent be further subdivided by consent of the Consent Granting Authority.
- xix) Conditions of a provisional consent may be required for the following matters and other matters as deemed necessary by the Consent Granting Authority:
 - a) Registration of notices on title in accordance with the policies of this Plan;
 - b) Undertakings for the joining together of lands under the same owner's name;
 - c) Preparation of a plan of survey;
 - d) Provision of appropriate storm water management and other municipal services and infrastructure;
 - e) Dedication of parkland or cash-in-lieu of parkland in accordance with Section 51.1 of the Planning Act;
 - f) Dedication of land for road widening purposes;
 - g) Payment of all applicable development charges and property taxes;

- h) Agreements in accordance with Section 51(26) of the Planning Act;
- i) Fencing where deemed appropriate; and
- j) Compliance with applicable municipal by-laws, for example, the Property Standards By-law.

5.2.2 Severance Policies Applicable for Residential, Commercial, Industrial and Institutional Uses

In addition to the policies of Section 5.0, the following special policies shall apply to severance applications for residential, commercial, industrial and institutional uses:

- i) The creation of new residential lots by consent shall be permitted only in those areas designated as Hamlet, Rural, Shoreline, and within the Brighton Urban Area, in accordance with all applicable policies of this Plan. Residential lot severances shall not be permitted in those areas designated as Agricultural except for those consents permitted by Section 4.2.4(iii) of this Plan.
- ii) The creation of new lots for commercial, industrial or institutional purposes shall only be permitted in designations that permit the proposed use of the lot.
- iii) An application for a severance should not be approved land where access might create a traffic hazard because of limited sight lines on curves or grades. Consideration shall be given to the function of the road in the Transportation policies of this Plan.
- iv) Direct access from County Roads will be discouraged. Where an applicant proposes direct access from a County Road, comments from the County shall be critical in determining whether the consent should be granted. Any such access to County Road must satisfy all applicable provisions of this Plan, in particular Section 7.1.
- v) The size and shape of any parcel of land created by severance should be appropriate for the proposed use and the services available. The creation of a new lot should not be permitted where the effect of the consent is to create a lot or lots of disproportionate depth or width, or an irregular-shaped lot, having regard to the established lot pattern in the vicinity of the proposed new lot.

- vi) An application for a severance to create a new lot should only be considered when it has been determined by the local Health Unit or appropriate agency that soil and drainage conditions are suitable to permit the proper siting of buildings to obtain sufficient potable water and to permit the installation of an adequate means of sewage disposal for both the severed and retained parcels.
- vii) The compatibility of land uses shall be considered in accordance with Section 3.16 of this Plan, “Land Use Compatibility.”

5.2.3 Special Severance Policies for the Brighton Urban Area

In addition to the policies of Sections 5.0, the following special policies shall apply to the Brighton Urban Area as shown on Schedule “A” of this Plan.

- i) Consideration may be given to the granting of consents for new lots provided that it can be demonstrated that the size and location of the new lot(s) will not inhibit growth in the Urban Area nor preclude future access to interior lands for future development.
- ii) Consents for infilling will generally be given preference over lots that have the effect of extending new development.
- iii) Consents may be considered for large severed and retained lots, provided that future development of these large parcels is to proceed by plan of subdivision, and the size and location of the lots will not inhibit growth in the Urban Area.
- iv) Consents for new lots shall be considered having regard to the policies of Section 3.3 of this Plan. New lots shall be serviced by municipal water and sewage services, subject to the availability of uncommitted reserve servicing capacity. A new lot created by consent shall not be serviced by private water and/or sewage disposal services.

5.2.4 Special Severance Policies for the Agricultural Designation

The fragmentation of land holdings within the Agricultural designation shall be discouraged. Notwithstanding any other provision of this Plan, lot creation and lot boundary adjustments in the Agricultural designation may only be permitted for the following purposes:

- i) Agricultural uses, provided that both the severed and retained parcels have a minimum lot area of 36 hectares.
- ii) For the purposes of this policy, “agricultural uses” means the uses that are permitted by Section 4.1.2 of this Plan.
- iii) Agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services.
- iv) For the purposes of this policy, “agriculture-related uses” means the uses that are permitted by Section 4.1.2.2 of this Plan.
- v) A residence surplus to a farming operation as a result of a farm consolidation provided that the Municipality ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. This may be achieved through a zoning by-law amendment for the remnant parcel or other means that maintain the intent and purpose of this policy.
- vi) For the purposes of this policy, a “residence surplus to a farming operation” means an existing farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).
- vii) Infrastructure uses, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.
- viii) For the purposes of this policy, “infrastructure” means physical structures (facilities and corridors) that form the foundation for development, including sewage and water systems, septage treatment systems, waste management systems, electric power generation and transmission, communication/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines, and associated facilities.
- ix) Lot adjustments for legal or technical reasons.
- x) Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.
- xi) Legal or technical reasons means severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.

- xii) The creation of a new residential lot in the Agricultural designation shall not be permitted, except in accordance with Section 5.2.4 (iii) or (iv) above.

5.2.5 Special Severance Policies for the Rural Designation

The fragmentation of land holdings within the Rural designation shall generally be discouraged. In addition to the policies of Sections 5.2.1 and 5.2.2, the following special policies shall apply to severance applications in the Rural designation:

- i) Limited rural residential and other rural lot severances (such as hobby farms, small rural commercial and industrial uses, institutional and resource-based activities) may be considered in the Rural designation as shown on Schedule “A” of this Plan subject to the policies of Sections 5.2.1 and 5.2.2 and the following:
 - a) The creation or extension of rural residential strip development shall be discouraged.
 - b) A maximum of three (3) new rural lots per land holding may be considered on a parcel of land recorded as a separate parcel in the Land Registry Office as of January 1, 2001, including lots created on the basis of infilling.
 - c) Lots created by severance shall not be considered for further severance, regardless of the date upon which the lot was created.
 - d) A residential lot severance in the Rural designation may be considered if the effect of such a severance is for residential infilling. For purposes of this section, “infilling” means the creation of a residential lot between two existing non-farm residences which are on separate lots which are situated on the same side of a public street and the non-farm residences are separated by no more than 75 metres.
 - e) The creation of new lots for commercial, industrial or institutional purposes may only be considered where the proposed use is permitted within the Rural designation, and in compliance with the provisions of Section 4.6.4 of this Plan.

- ii) Lot Area:
 - a) A new residential lot created by consent should generally not exceed 0.8 hectares (2 acres) in area except where site conditions require a larger lot size for one or more of the following:
 - to satisfy requirements of the Health Unit or the Ministry of the Environment for lot servicing; or
 - to accommodate existing physical features of the site; or
 - to avoid the creation of an irregular-shaped lot.
 - b) The size of other rural lots shall be appropriate to the size of the proposed uses and the services available.

5.3 POLICIES FOR SUBDIVISION AND CONDOMINIUM APPROVALS

It shall be the policy of the Municipality to only recommend to the Subdivision/Condominium Approval Authority for draft approval a proposed plan of subdivision or condominium that conforms to the policies of this Plan. In considering a proposed plan of subdivision or plan of condominium, the Municipality and the Approval Authority shall be guided by the relevant objectives and policies of this Plan, in addition to the following:

5.3.1 Development Patterns

The development pattern of the proposed subdivision or condominium should mesh with existing development and roads on adjacent lands. To ensure that undeveloped lands adjacent to the proposed subdivision do not become landlocked or difficult to access, the development pattern should make provision for access to such lands if required. Wherever possible, the layout of proposed lots and roads should conform to the topography. The development pattern should also recognize and maintain natural linkages and preserve natural heritage features including individual specimen trees and established vegetative buffers.

5.3.2 Compatibility of Land Uses

The land use designations and policies of this Plan shall be applied to ensure compatibility between the type of development proposed for the subdivision or condominium and the land uses, both existing and future, in the surrounding area.

5.3.3 Provision of Public Services

The Municipality shall ensure that the proposed subdivision or condominium shall be provided with all necessary public services and amenities in accordance with the relevant policies of Section of this Plan.

5.3.3.1 Water Supply and Sewage Disposal

Development shall take place in accordance with the policies of Section 3.4 of this Plan.

5.3.3.2 Protection of Environment

If any part of the proposed subdivision or condominium is located in an environmental sensitive area, the Municipality shall review the proposal in accordance with the policies of Section 3.9 of this Plan.

5.3.3.3 Stormwater Management

A stormwater management plan in accordance with the relevant policies in Section 3.5 shall be required.

5.3.4 Zoning of Proposals

Lands subject to a subdivision or condominium proposal shall be zoned for their intended use as a condition of draft approval.

5.3.5 Minimum Distance Separation Requirements

The Municipality shall ensure that subdivision proposals comply with the provincial Minimum Distance Separation (MDS) requirements, as amended from time to time.

5.3.6 Special Policies for Condominium Developments

New condominium projects may provide additional opportunities for residential and commercial/industrial development, ownership and private equity participation. In this regard, the Municipality will consider new forms of condominium developments under the Condominium Act, 1998, such as vacant land condominiums, having regard to the following matters:

- i) The ownership of common facilities such as access roads, open space and recreation areas, stormwater management systems, water and sewage systems,

and common-use buildings and other facilities, including standards for the design, operation and maintenance of these facilities;

- ii) The provision of services such as garbage collection and snow removal;
- iii) Where applicable, the provision of adequate financial securities to ensure that common facilities and services do not become a financial burden on the Municipality; and
- iv) All applicable policies of this Plan.

5.3.7 Requirements for Plans of Subdivision

Generally all land division in the Municipality of Brighton shall take place by registered plan of subdivision. A plan of subdivision shall normally be required in the following instances:

- i) where more than three (3) lots are to be created; or
- ii) where a new road or an extension to an existing road is required.

The Municipality of Brighton may require that approvals of plans of subdivision include a lapsing date in accordance with Section 51(32) of the Planning Act. If approval of a draft plan of subdivision lapses, the growth management objective of this Plan shall be considered as a key component of the development review process. If a plan of subdivision or part thereof has been registered for eight (8) years or more, and does not meet the growth management objectives of this Plan, the Municipality may use its authority under Section 50(4) of the Planning Act to deem it not to be a registered plan of subdivision.