

ADMINISTRATION

TABLE OF CONTENTS

1. TITLE
2. PURPOSE
3. APPLICATION
4. PORTIONS FOUND INVALID
5. DEVELOPMENT PERMITS REQUIRED
6. DEVELOPMENT PERMITS NOT REQUIRED
7. **DEVELOPMENT PERMIT APPLICATION REQUIREMENTS**
8. ~~ISSUANCE OF PERMITS~~ **PROCESSING DEVELOPMENT APPLICATIONS**
9. DEVELOPMENT AGREEMENTS
10. APPEALS
11. COMMENCEMENT AND COMPLETION OF DEVELOPMENT
12. DEVELOPMENT AUTHORITY – DUTIES AND RESPONSIBILITIES
13. **VARIANCE POWERS**
14. SIMILAR USE
15. BYLAW AMENDMENTS
- xx ~~METRIC AND IMPERIAL MEASUREMENTS~~
16. NON-CONFORMING BUILDINGS AND USES
17. COMPLIANCE WITH OTHER BYLAWS, REGULATIONS AND LEGISLATION
- xx ~~LAND USE MAPS AND BOUNDARIES~~
18. BYLAW CONTRAVENTION
19. RIGHT OF ENTRY
20. OFFENCES AND PENALTIES
21. VIOLATION TAGS
22. VIOLATION TICKET

ADMINISTRATION

1. TITLE

This Bylaw shall be referred to as the TOWN OF CANMORE LAND USE BYLAW.

2. PURPOSE

The purpose of the Bylaw is to regulate and control the uses and development of land and buildings within the Municipality to achieve more sustainable, fair, orderly and economic development of land, and to:

Divide the Municipality into districts;

Prescribe and regulate for each district, the range of ~~uses~~ Permitted Uses and Discretionary Uses and purpose for which land or buildings may be used;

Establish the office of the Development Officer;

Establish a method of making decisions on applications for Development Permits including the issuing of Development Permits; and,

Prescribe the procedures to notify owners of land likely to be affected by the issuance of a Development Permit.

3. APPLICATION

This Bylaw shall apply to the whole of the Town of Canmore being all lands contained within its corporate limits.

4. PORTIONS FOUND INVALID

In the event any portion of this Bylaw is found invalid by a Court of Law or is overturned by a superior jurisdiction, the validity of the remaining portions of the Bylaw shall not be affected.

5. DEVELOPMENT PERMITS REQUIRED

Except as provided in this Bylaw, no person shall undertake any development as defined in PART "X" "Interpretive Clauses" unless:

(a) A Development Permit has first been issued pursuant to this Bylaw; and

(b) The development is proceeded with in accordance with the terms and conditions of the Development Permit issued in respect of the development, or;

(c) The development is exempted in accordance with **Section 6** and is otherwise in conformance with this Bylaw.

6. DEVELOPMENT PERMITS NOT REQUIRED

A Development Permit is not required in respect of the following developments but those developments shall otherwise comply with all provisions of the relevant land use district, all regulations in PART "X" - General Regulations, and any other provisions of this Bylaw and

ADMINISTRATION

must be carried out or performed in accordance with all other applicable legislation, regulations and bylaws:

(a) Works of maintenance, **renovation**, or repair on a structure, either internally or externally, if, in the opinion of the Development Officer, such work does not include; structural alterations; changes to the use or intensity of the use of the structure, **or: for buildings within commercial land use districts, does not substantially change the exterior appearance of the building.**

(b) The completion of a building which was lawfully under construction at the date this Bylaw comes into full force and effect, provided that:

(1) the building is completed in accordance with the terms of any permit granted by the Municipality, subject to the conditions of that permit; and

(2) the building, whether or not a permit was granted in respect of it, is completed within a period of twelve (12) months from the date this Bylaw comes into full force and effect.

(c) The use of any building referred to in Section 6 (b) for the purpose for which construction was commenced.

(d) The erection or installation of machinery needed in connection with construction of a building for which a Development Permit has been issued, for the period of construction.

(e) The construction and maintenance of a public utility placed in or upon a public thoroughfare or public utility easement **provided any required authorizations have been obtained.**

(f) The erection, construction, or the maintenance of **pedestrian** gates, fences, walls, or other means of enclosure less than 1.8 metres in height **in residential districts and 2.0 metres in height in industrial districts** provided that the erection of such fence, wall, or **pedestrian** gate conforms to Part C and does not contravene any other provision of this Bylaw. **For clarity, gates, fences or other structures across or above private or public roadways intended to limit access require a development permit and would not normally be allowed unless specifically provided for within the conditions of subdivision.**

(g) The installation and operation of a satellite dish antenna 1.0 m or less in diameter **and the installation of tower antenna no more than 1.0 metre higher than the maximum height of the principal building on site.**

(h) **The installation of solar collectors or similar energy collecting and storage devices which do not generate noise and are either: (a) attached to a principle or accessory building and the top of the collectors do not exceed the maximum height of the building to which they are attached by more than 1.0 metre, or (b) as freestanding structures which meet the height and setback requirements for accessory buildings within the relevant district.**

XX Signs not requiring development permits [NOTE: moved to new, separate section to be completed]

ADMINISTRATION

(i) The use by the Municipality of land of which the Municipality is the legal or equitable owner in connection with any municipal project and may without restricting the generality of the foregoing, include **buildings**, roads, traffic management projects, interchanges, vehicular and pedestrian bridges, water, gas, telephone and power installations, substations and pumping stations, water reservoirs, storm and sanitary sewer including treatment or related facilities, street furniture, street lighting, public recreational facilities, or similar facilities, works depots, parks, playgrounds, landscaping and streetscape improvement projects.

(j) The construction, maintenance and repair of private walkways, pathways, landscaping and similar works provided the construction **and any resulting drainage** is wholly confined within the legal boundaries of the subject property and conforms to **the drainage, grading and other provisions of PART "X"** General Regulations.

(k) Removal of soil from a site or stockpiling of soil on a site when a development permit has been issued or when a development agreement has been duly executed for that site **and said permit or agreement allows for or requires such activity.**

(l) The digging of test holes requiring less than 1.5 m² in surface area for exploration purposes.

(m) The erection of a retaining wall that is no more than 0.6 m in height measured from the lowest ground elevation adjacent to the wall provided the retaining wall and adjacent slopes conform to Part "X" General Regulations.

(n) A logging operation where the requirements of Part "X" General Regulations have been met as a condition of subdivision approval or as part of conditions for a development permit and the appropriate fee from the development permit fee schedule has been paid.

(o) The construction of **a permanent** accessory building located in a residential district provided the exterior surface of such an accessory building is completed in accordance with an approved building permit within one year of the issuance of such a permit.

(p) The construction of, or external addition to, a single family-detached dwelling, single-family manufactured home, duplex dwelling, or single-detached plus dwelling ~~within an R1, R1A, R1N, R1B, R1S, R2 or R2A District~~ where:

- (1) the use is a Permitted Use, *and*
- (2) the construction complies with all provisions of the Land Use Bylaw, *and*
- (3) the exterior details of such dwelling units are completed in accordance with approved building permit plans within one year of the completion of the foundations, *and*
- (4) where there are no off-site levies or municipal fees owing against the land or where the present owner has entered into an agreement with the Town for the payment of such levies or fees, *and*.
- (5) for a duplex dwelling only, if there is an approved Development Grading Plan in place for the subdivision, **if and** architectural requirements are registered on title and being implemented by the developer of the subdivision

ADMINISTRATION

- (q) A change of use within an existing commercial or industrial building where the following requirements are met to the satisfaction of a Development Officer;
- (1) the requirements of the development permit for the building have been fulfilled, *and*
 - (2) the change of use is from a permitted or discretionary use to a permitted use in the district designation applicable to the site, *and*
 - (3) the change is to a use that has required parking facilities no greater than that of the use it is replacing, *or*
 - (4) the change is to a use that has required parking facilities greater than that of the use it is replacing and the additional parking is provided on site *or has been previously provided as cash in lieu of parking, and*
 - (5) a certificate has been applied for and received from the Development Officer that certifies that the proposed change of use complies with the above clauses.

7. DEVELOPMENT PERMIT APPLICATION REQUIREMENTS

General Requirements

When, in the opinion of the Development Officer, insufficient information on a proposed development has been provided as part of an application for a Development Permit the Development Officer may return the application to the applicant. Such an application shall be deemed to be incomplete until all required information has been submitted to the satisfaction of the Development Officer.

When a proposed development requires a Sustainability Screening Report the application for a development permit shall be deemed incomplete until a Sustainability Screening Report has been approved *accepted by Council* in accordance with the Sustainability Screening Process, and shall constitute a valid reason for refusal of the application. The Development Authority shall *declare such an application incomplete and refuse* any application for which a required Sustainability Screening Report has not been ~~approved~~ *accepted by Council. Upon any appeal to determine the completeness of such an application the Subdivision and Development Appeal Board shall give due consideration to the fact that the sustainability of the proposal has not been demonstrated to Council.*

An application for a Development Permit shall be made to the Development Officer using the prescribed form, signed by the owner or his agent and accompanied by:

- (a) **letter of authorization** when an application is made by any person other than the registered land owner.
- (b) a **surveyed plot plan** prepared by an Alberta Land Surveyor;
- (c) **certificate of title** and any caveats or restrictive covenants;
- (d) a **fee** in accordance with a fee schedule established by Council;
- (e) **grade slip** in conformance with an approved grading plan;
- (f) an **application for an excavation**, stripping or grading operation shall include a plan showing the location of the operation relative to site boundaries and the depth of excavation

ADMINISTRATION

or the quantity of topsoil to be removed, a description of the excavation, stripping or grading operation **and the destination of any material that is to be removed from the site**

(g) an application for a **logging operation** must be accompanied by a harvesting plan prepared in accordance with the Alberta Timber Harvest Planning and Operating Ground Rules.

(h) **photographic prints** showing the site in its existing state;

(i) **photographic prints, slides, renderings or streetscape drawings** which show, to the satisfaction of the Development Officer, the form, massing, finishing material and character of the proposed development in relation to neighbouring buildings,

(j) a **written declaration** by the applicant that all of the information provided is true and accurate;

(k) samples of **exterior finishing materials** on request;

(l) for signs, a **coloured rendering of the proposed sign** dimensioned and drawn to scale; drawings showing the **location** of the sign on the building and site and the location of any **existing** signs on the building or site (**for additional details, see PART "X", "Signage Guidelines"**); and

(m) at least four (4) copies (*more copies are required if the proposed development is to be referred to the Canmore Planning Commission and/or to other agencies*) of **dimensioned site plans**, drawn to metric scale 1:100, or such greater or lesser scale as may be required by the Development Officer, showing:

- (1) north arrow, scale of plan, legal description, municipal address,
- (2) bylawed property line setbacks (*front, rear, side, water bodies, etc*), sidewalks and curbs dimensioned from building(s) and property lines
- (3) site topography and any special conditions (*wetlands, shallow bedrock, etc*),
- (4) location and size of existing buildings, structures and utility poles,
- (5) location of proposed development including lighting, landscaping and signage
- (6) **Dimensioned drawings in metric measurements showing all** exterior elevations, detailed descriptions of exterior finishing materials, **floor plans for each floor, including basement areas, and a roof plan.**
- (7) **Green Building evaluation form**
- (8) **Landscaping plans:** including: retaining walls detailed with elevations – top and bottom of wall at each end ; existing and proposed trees and shrubs and other types, sizes, number and location of plant material proposed; other physical features both existing and proposed on the site and adjoining boulevards; existing topography with the vegetation that is to be retained and the vegetation to be removed clearly identified, and; the location and materials for any proposed hard landscaping, pedestrian circulation and open space areas.
- (9) existing and proposed parking areas, entrances and exits, abutting streets, sidewalks & curbs, avenues and lanes
- (10) easements
- (11) adjacent buildings on adjoining sites, indicating building height, yards and the use of the buildings

ADMINISTRATION

- (12) Grading plans showing existing grades with spot elevations not more than 10 metres apart to illustrate topography; cross sections to show the existing grade of the site in relation to proposed grades; stormwater drainage; retaining walls detailed with elevations – top and bottom of wall at each end; proposed grades for the site; grade of adjacent sites & streets; and cross-sectional outline(s) of the proposed buildings on the site and existing buildings on adjacent properties;
- (13) 1:100 ground water elevation and the location of any floodway or flood fringe boundaries within the site;
- (14) a vicinity map of properties within 100 m. of the site
- (15) existing and proposed utility connections as detailed in the Engineering Design Guidelines
- (16) loading and parking provisions including parking for bicycles

Special Additional Requirements

The Development Officer, at his discretion, may require additional reports including, but not limited to, the requirements listed below. A development application may be deemed to be incomplete by the Development Officer until such time as a Report required in this Section has been ~~approved~~ **received in a form acceptable to the development authority.**

The Development Authority shall declare as incomplete and not approve any application for which a Sustainability Screening Report is required until the Report has been **approved** **accepted by Council.** **Upon any appeal to determine the completeness of such an application the Subdivision and Development Appeal Board shall give due consideration to the fact that the sustainability of the proposal has not been demonstrated to Council.**

acoustic impact assessments for sites in proximity to the Trans Canada Highway, CP Railway, Canmore heliport, or other noise generators

acoustic impact assessments in mixed commercial/residential buildings

construction and demolition waste management plan

construction management plan **– as detailed in the Engineering Design Guidelines**

economic impact assessments

employee generation data

employee housing requirements

environmental impact statement **in accordance with the policies of the Town of Canmore Municipal Development Plan [CCSP]**

environmental site assessments

fire risk assessment (including wildfire risk, fire access, wildland-urban interface & firesmart plans)

ADMINISTRATION

floodway/floodfringe impact assessments

geotechnical and groundwater assessments

historic resource impact assessments

slope stability analysis

social impact assessments

surveyed site plan in a digital format acceptable to the Town of Canmore

sustainability screening report

trade area market analysis

traffic impact assessments

utility box locations

visual impact assessments including digital or other modeling

wind and shadow assessments

window placement to assess potential privacy issues with adjacent developments

8. ISSUANCE OF PERMITS PROCESSING OF DEVELOPMENT APPLICATIONS

(a) The Development Authority may issue a development permit for a permitted use or a development permit for a discretionary use.

(b) A Development Permit issued pursuant to this Bylaw is not a Building Permit and, notwithstanding that plans and specifications for buildings may have been submitted as part of an application for a Development Permit, work or construction shall neither commence or proceed until a Building Permit has been issued pursuant to applicable bylaws and regulations.

8.1 Notice Of Application. Prior to making a decision on an application for a development permit which is a discretionary use or for a permitted use requiring a variance, the Development Authority shall require the applicant to post a notice on the property in a location and format determined by the Town describing the proposed development and advising any interested parties where further information regarding the application may be obtained. Such notice shall be posted for a minimum of 10 calendar days prior to the issuance of a notice of decision. The Development Authority may consider any timely responses to such postings but any comments received are not binding upon the Development Authority.

ADMINISTRATION

8.2 Referrals. The Development Authority may refer an application to any authority, jurisdiction or party that the Authority deems appropriate or necessary. The Development Authority may consider any timely responses to such referrals but any comments received are not binding upon the Development Authority.

8.3 Notice of Decision

(a) When an application for a Development Permit for a "Permitted Use" is approved, with or without conditions, the Notice of Decision shall be ~~mailed or hand delivered~~ **issued** to the applicant. If any variances from this bylaw have been granted for a permitted use a notice of the decision shall be posted conspicuously for a period of not less than 14 consecutive days on the property for which the application has been made.

(b) When an application for a Development Permit for a "Discretionary Use" is approved, with or without conditions, the Notice of Decision shall be ~~mailed or hand delivered~~ **issued** to the applicant and shall also be posted conspicuously for a period of not less than 14 consecutive days on the property for which the application has been made.

(c) The Development Officer shall advertise all approvals in a locally circulated newspaper.

(d) When an application for a Development Permit is refused, the Notice of Decision shall be ~~mailed~~ **issued** to the applicant.

(e) For the purposes of this Bylaw, a "Notice of Decision" on an application for a Development Permit is deemed to have been ~~given~~ **issued** on the latest of the following dates:

- (1) Date the Notice is posted on the property where such posting is required; or
- (2) Date the Notice is published in a locally circulated newspaper; or
- (3) Five working days after the Notice is mailed **or delivered electronically** to the applicant in accordance with the Alberta Interpretation Act, **unless an electronic receipt is received in which case the date of such receipt will be the date of the Notice of Decision.**

(f) A Development Permit shall not be issued until fourteen (14) days after the Notice of Decision has been given.

(g) When an appeal is made, a Development Permit which has been approved shall not be issued until and unless the Subdivision and Development Appeal Board has ~~upheld the decision of the development officer~~ **issued a written decision in regard to the appeal.**

(h) An application for a Development Permit ~~shall~~ **may**, at the discretion of the applicant, be deemed to be refused when a decision thereon is not made within forty (40) days after the receipt of the application in its complete and final form by the Development Officer. The applicant may appeal in writing as provided in the Act as though he had received a decision of refusal.

(i) When an application for a Development Permit has been refused pursuant to this Bylaw or ultimately after appeal, the submission of another application for a Development Permit on the same parcel of land for the same or similar use by the same or any other applicant need

ADMINISTRATION

not be accepted by the Development Officer for at least six (6) months after the date of refusal.

(j) Except where provided for a limited period of time, a development permit remains in effect unless the development permit is suspended or cancelled or development has not commenced in accordance with Section "X", PART "Y".

9. DEVELOPMENT AGREEMENTS

As a condition of approval for a development permit or a subdivision application the Development Authority may require the applicant to enter into an agreement with the Town in accordance with the relevant sections of the Municipal Government Act. Such an agreement may include but is not limited to:

- (a) the construction or payment for the construction of a road required to give access to the development;
- (b) the construction or payment for the construction of
 - (1) a pedestrian walkway system to serve the development, and/or
 - (2) pedestrian walkways to connect the pedestrian walkway system serving the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development.
- (c) the installation or payment for the installation of public utilities, other than telecommunications systems or works, that are necessary to serve the development;
- (d) the construction or payment for the construction of
 - (1) off-street or other parking facilities, and
 - (2) loading and unloading facilities;
- (e) the payment of an off-site levy or redevelopment levy;
- (f) the provision of security to ensure that the terms of the agreement are carried out.

10. APPEALS

Where the Development Officer:

- (a) refuses or fails to render a decision on an application for a Development Permit; or
- (b) approves an application for a development; or
- (c) issues an order under this Bylaw;

The person applying for the Permit or affected by the order, or any other person, as the case may be, may appeal to the Subdivision and Development Appeal Board within 14 days after the date the order or decision was posted, mailed, or published as applicable and whichever date is the later.

The rules and procedures governing the Subdivision and Development Appeal Board in considering an appeal are detailed in the Act and within the Subdivision and Development Appeal Board Bylaw.

11. COMMENCEMENT AND COMPLETION OF DEVELOPMENT

~~a) Where a development permit application is for a change of use or a change of intensity of use or both, development shall commence within one (1) year of the date of approval of the development permit and be completed within two (2) years of that date.~~

ADMINISTRATION

~~b) Where a development permit application is for construction, or for construction combined with either a change of use or a change of intensity of use, or both, development shall commence within one (1) year of the date of approval of the development permit and be completed within two (2) years of that date.~~

~~c) Where development has not commenced within one (1) year or a Development Completion Certificate has not been obtained within two (2) years in accordance with this bylaw the development approval shall cease to be valid and any permit issued shall be revoked.~~

~~d) After a development has commenced, the period for completion may be extended at the discretion of the Development Authority. In order for an extension to be considered, a written request for such an extension must be received by the Development Officer not less than thirty (30) days prior to the scheduled 2-year expiration date.~~

(a) Where a development permit application has been approved development shall commence within one (1) year of the date of approval of the development permit and any construction shall be completed within two (2) years of that date unless a longer period of construction is authorized by the Development Authority.

(b) Where development has not commenced within one (1) year from the date of approval the development permit shall cease to be valid and any permit issued shall be revoked.

(c) Where development requires construction and a Development Completion Certificate has not been obtained within two (2) years from the date of approval, the development approval shall cease to be valid and any permit issued shall be revoked.

(d) Notwithstanding subsection (c) the period for the completion of construction may be extended at the discretion of the Development Authority. In order for an extension to be considered, a written request for such an extension must be received by the Development Officer not less than thirty (30) days prior to the scheduled expiration date.

(e) For the purposes of this section, “completion” of development has occurred when a Development Completion Certificate has been issued by the Town.

12. DEVELOPMENT AUTHORITY - DUTIES AND RESPONSIBILITIES

Development Officer

The office of the Development Officer is hereby established and one or more employees of the Town of Canmore shall be appointed as Development Officer. A Development Officer shall:

(a) Administer this Bylaw and decide upon all development permit applications including those for sites designated “DC” Direct Control District unless the application is referred to Planning Commission or Council in accordance with the requirements of a DC District.

(b) Keep and maintain for the inspection of the public during office hours a copy of this Bylaw and all amendments thereto and ensure that copies of same are available to the public at a reasonable charge.

ADMINISTRATION

(c) Make available for inspection by the public during office hours a register of all applications for development permits and the decisions made thereon.

(d) Collect fees according to a scale established by Resolution of Council.

(e) ~~D~~Refer at the discretion of the Development Officer to Planning Commission or Council for its consideration and decision, development permit applications for discretionary uses, or development permit applications located on land designated "DC" Direct Control District, or any other development applications.

(f) The Development Officer or Development Authority shall not approve any application for which a Sustainability Screening Report is required unless the Screening Report has been accepted by Council.

Municipal Planning Commission

The Municipal Planning Commission is hereby authorized to decide upon all development permit applications referred to it by a Development Officer including development permit applications for lands designated "DC" Direct Control District where such DC District identifies the Planning Commission as the Development Authority.

13. VARIANCE POWERS OF DEVELOPMENT AUTHORITY

A Development Authority (*the Development Officer or the Canmore Planning Commission*) may grant one or more variances to the standards and regulations of the Land Use Bylaw as part of the development permit approval process only if ~~in its opinion~~ such variances fulfill the following requirements:

(1) The deviation from this bylaw is minor. *Unless other, larger, variances are specifically provided for within the Regulations or Design Requirements of a land use district or by Council policy (e.g. 30% maximum variance to cash-in-lieu of parking requirements) or by this section, the following maximum variances may be granted by the Development Authority:*

(i) Development Officer: A maximum variance of up to 10% to the applicable standards and regulations of the Land Use Bylaw;

(ii) Canmore Planning Commission: A maximum variance of 20% to the applicable standards and regulations of the Land Use Bylaw,

and:

(2) The proposed development, *in the opinion of the Development Authority,* would not unduly interfere with the amenities of the area or materially interfere with, or affect the use, enjoyment, safety, aesthetics, or value of neighbouring properties *and.*

(3) The proposed development conforms with the use prescribed for that building or land in the district that applies to it *and.*

ADMINISTRATION

(4) The variance was provided to implement specific objectives of the Municipal Development Plan and relevant sections of the Land Use Bylaw as approved by the Town of Canmore Council, including:

(i) Historic Resource Conservation (Section "X");

(ii) Density Bonus providing PAH housing (Section "X")

(iii) Significantly exceeding the Town's requirements for "green buildings" (Section "X")

(iv) Extraordinary provision of public spaces; or similar extraordinary benefits (Section "X" – PART "Y"), or;

~~(5) An unusual site condition, soil conditions, or other factors which are peculiar to the site and not common in the district may result in unnecessary hardship or practical difficulties for the proposed development to comply with the provisions of this Bylaw.~~

For a Permitted Use only, based on a professional analysis of the site, where the Development Authority is satisfied that due to topographic, soil, geotechnical or other constraints full compliance with the standards and regulations of the Land Use Bylaw is not possible or such compliance would cause unreasonable hardship for constructing a building that occupied 60% or less of the maximum building envelope for the site.

Referrals. Before approving a development permit for which a variance has been applied for the Development Authority may request, or require the applicant to provide, comments from nearby residents and owners.

Appeals against Variances. If an appeal of a development permit is submitted to the Subdivision and Development Appeal Board (SDAB) with respect to a variance approved pursuant to Subsection 13 (4), above, then the SDAB should consider that Council-approved policies in the Municipal Development Plan have identified such variances as providing important net benefits to the community. The SDAB should therefore consider the direction provided through these Council-approved policies with respect to the variance, and uphold the variance unless the Board determines there is a severe negative impact on the immediately adjacent properties that outweighs the net community benefit.

14. SIMILAR USE

The Development Authority may determine whether or not a proposed use not specifically provided for in the Bylaw with respect to any district is reasonably similar to another use that is included in the list of uses for that district. The development Authority may approve such a similar use even if that use is not specifically listed in the land use district.

In considering whether such a similar use may be appropriate in a district, the following general criteria shall be applied:

(a) the proposed use is similar in nature and impact on surrounding uses, and is compatible with the permitted uses listed in the land use district;

(b) the proposed use is consistent with statutory plans affecting the area, including the objectives and policies of the Municipal Development Plan; and

ADMINISTRATION

(c) the proposed use is consistent with the purpose of the district,

15. BYLAW AMENDMENTS

The Council may initiate amendments to this Bylaw.

A Any person may request an amendment to this Bylaw by applying in writing.

All applications for amendment to the Land Use Bylaw shall be made to the Town Council ~~through the Manager of Planning and Development~~ and shall be accompanied by the following:

- (a) an application fee as prescribed by Resolution of Council;
- (b) where appropriate, a current Certificate of Title for the land affected or other documents satisfactory to the ~~Manager of Planning and Development~~ Town including evidence of the applicant's interest in the said land;
- (c) any drawings required to be submitted shall be drawn to scale and accurately dimensioned to the satisfaction of the ~~Manager of Planning and Development~~ Town and
- (d) a statement of the purpose and reasons for the proposed amendments.
- (e) A Sustainability Screening Report

Prior to giving second reading to a proposed bylaw to amend or repeal this Bylaw, the Council shall conduct a public hearing in accordance with the Act.

Where an amendment proposes to change the land use designation of a parcel of land, the Town shall provide written notice of the proposed changes to the owner of affected land and to each owner of adjacent land as defined by the Municipal Government Act, Chapter M-26.1 of the Revised Statutes of Alberta 2000 and amendments thereto.

16. NON-CONFORMING BUILDINGS AND USES

In accordance with the relevant provisions of the Municipal Government Act, a non-conforming use of land or a non-conforming use of a building may be continued. However, if that use is discontinued for a period of six consecutive months or more, any future use of the land or building shall conform with the provisions of this Land Use Bylaw.

A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-~~complying~~ conforming building, shall not be enlarged or added to and no structural alterations shall be made thereto or therein.

A non-conforming use of part of a lot shall not be extended or transferred in whole or in part to any other part of the lot and no additional buildings shall be erected upon the lot while the non-conforming use continues.

A non-~~complying~~ conforming building may continue to be used but the building shall not be enlarged, added to, rebuilt or structurally altered except:

- a) as may be necessary to make it a conforming building, or

ADMINISTRATION

- b) as the Development Officer considers necessary for the routine maintenance of the building, or
- c) if at the discretion of the Development Authority, the alterations do not substantially increase the extent of non-~~conformance~~ ~~compliance~~ and are within all other requirements of the Bylaw.

If a non-conforming building is damaged or destroyed to the extent of more than 75 percent of the value of the building above its foundation, the building shall not be repaired or rebuilt except in accordance with the Land Use Bylaw.

The use of land or the use of a building is not affected by a change of ownership, tenancy or occupancy of the land or building.

No existing building, structure or lot shall be deemed to be non-conforming because of non-compliance with a metric equivalent used in this Bylaw where it conformed to the imperial measurement used in previous land use bylaws.

17. COMPLIANCE WITH OTHER BYLAWS, REGULATIONS AND LEGISLATION

In addition to this Bylaw, an applicant is responsible for complying with any federal, provincial or municipal legislation, bylaw or plans which may apply to a proposed development. The applicant is also responsible for complying with the conditions of any easement, covenant, lease, scheme, or agreement which affects the development or subdivision.

A duly registered "Conservation Easement" as described in the Alberta Environmental Protection and Enhancement Act is a valid planning consideration for the Development Authority. A Development Authority may deny an application for a development permit (whether the use is a permitted or a discretionary use) or attach such conditions to a development permit as are deemed appropriate by the Development Authority to enhance compliance with the easement.

Although a development permit may be issued, that permit does not entitle the applicant to carry on a business. Businesses are also governed by the Business Registry Bylaw and require a license under that Bylaw. Additionally, a building permit may also be required.

18. BYLAW CONTRAVENTION

Where a Development Officer finds that a development or use of land or buildings is not in accordance with the Act or the Regulations, or a Development Permit or subdivision approval, or this Bylaw, the Development Officer may issue an Order in writing to:

- (a) the registered land owner; or
- (b) the person in possession of the land or buildings; or
- (c) the person responsible for the contravention; or
- (d) all or any of them to:

ADMINISTRATION

- (1) **stop** the development or use of the land or building in whole or in part as directed by the notice; or
- (2) demolish, remove or replace the development; or
- (3) take such other measures as are specified in the Order so that the development or use of the land or buildings is in accordance with the Act, the Regulations, a Development Permit, subdivision approval or this Bylaw, as the case may be, within the time specified by the order.

A person who receives an Order may appeal to the Subdivision and Development Appeal Board.

Where a person fails or refuses to comply with an Order directed to him, the designated person appointed by Council, may, in accordance with the Municipal Government Act, Chapter M-26.1 of the Revised Statutes of Alberta, 2000, enter upon the land or building and take such action as is necessary to carry out the order.

Where the designated person appointed by Council, carries out an order, the Town shall cause the costs and expenses incurred in carrying out the order to be placed on the tax roll and that amount shall be collected in the same manner as taxes on land.

Where reasonable written evidence has been presented to the Development Officer that a development permit has been obtained through misrepresentation, the Development Officer may suspend or cancel the development permit and shall give written notification of such suspension or cancellation to the applicant.

SIGNS ON PUBLIC PROPERTY—[NOTE: moved to separate signage section]

~~Any sign which interferes with the work of a Town operation may be removed and disposed of by a Town employee, officer or agent without notice to the owner of the sign; Any sign which a Bylaw Enforcement Officer finds in breach of this Bylaw may be removed and impounded without prior notice to the owner of the sign; A sign impounded for a period of 14 days which has not been claimed by the owner may be destroyed without compensation by the Town to the owner.~~

19. RIGHT OF ENTRY

Pursuant to the Municipal Government Act, Chapter M-26.1 of the Revised Statutes of Alberta, 2000 and amendments thereto, an authorized person may only enter land or a building if:

- (a) the owner or person in possession of it gives his consent to the entry, or
- (b) the entry is authorized by an Order of the Court of Queen's Bench,

And then only for the purpose of ensuring compliance with The Act and the Regulations thereunder, or this Bylaw.

The Development Officer or such other person appointed by resolution of Council is designated as the "authorized person".

ADMINISTRATION

20. OFFENCES AND PENALTIES

The authority regarding offences and penalties of this Bylaw are governed by the Municipal Government Act, Chapter M-26.1 of the Revised Statutes of Alberta, 2000.

A person who:

- (a) contravenes or fails to comply with any provision of the Act or the Regulations; or
- (b) contravenes or fails to comply with an order under this Bylaw; or
- (c) contravenes or fails to comply with a development permit or subdivision approval or a condition attached thereto; or
- (d) obstructs or hinders any person in the exercise or performance of his powers or duties under the Act, the Regulations, or the Land Use Bylaw;

Is guilty of an offence and is liable on summary conviction to a fine.

Where a person is found guilty of an offence under this Bylaw, the court may, in addition to any other penalty imposed, order the person to comply with the Act, the Regulations, the Land Use Bylaw, an order issued under the Act or this Bylaw or a Development permit, subdivision approval or a condition attached to a subdivision approval, as the case may be.

Any person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine not less than \$100.00 and not exceeding \$10,000 per violation after conviction and costs, and upon failure to pay the fine and costs, to imprisonment for a period not exceeding 30 days unless such fine and costs are sooner paid. In addition, the Development Officer may suspend or revoke the development permit for the site on which the violation of this Bylaw has occurred.

21. VIOLATION TAGS

(a) A Peace Officer is hereby authorized and empowered to issue a Violation Tag to any person who the Peace Officer has reasonable and probable grounds to believe:

- (1) is conducting a development after the expiry of a temporary development permit;
- (2) is conducting a temporary business without a development permit;
- (3) is continuing development without a development permit or contrary to the conditions of a development permit when a "stop order" has been issued in accordance with the Municipal Government Act;
- (4) has developed, is operating, or is allowing to exist a dwelling unit on a site which is in excess of the number of dwelling units allowed for by the Land Use Bylaw or approved as part of a development permit;
- (5) is operating, or is allowing to be operated, a "tourist home" without a valid development permit;
- (6) has a vehicle, or is allowing the presence of a vehicle within a residential district which contravenes the regulations of Part "X";
- (7) is occupying a premises without an occupancy permit.
- (8) has contravened any provision of Part "X" "Sign Control", or Part "Y", Section "Z", Signage Guidelines;

<p>2009 TOWN OF CANMORE LAND USE BYLAW REVIEW: DRAFT ROLLOUT #1</p> <h2>ADMINISTRATION</h2>

(9) is conducting a "logging operation" without a development permit and without the authorization required in this Bylaw.

(b) A Violation Tag may be issued to such person

- (1) either personally; or
- (2) by mailing a copy to such person at their last known post office address.

(c) Where contravention of this Bylaw is of a continuing nature, further Violation Tags or a Violation Ticket may be issued by a Peace Officer, provided that no more than one Violation Tag or Violation Ticket shall be issued for each calendar day that the contravention continues.

(d) Where a Violation Tag is issued pursuant to this Bylaw the Person or Company to whom the Violation Tag is issued may, in lieu of being prosecuted for the offense, pay to the Town of Canmore the penalty specified on the Violation Tag as follows:

General offences related to developments conducted without development permits or contrary to the conditions of a development permit as described in "a", "b", and "c", above:

First offence within calendar year:	Specified penalty:	\$ 100.00
Second offence within calendar year:	Specified penalty:	\$ 250.00
Third and additional offences:	Specified penalty:	\$ 350.00

Offences related to unpermitted dwelling units:

First offence within calendar year:	Specified penalty:	\$ 100.00
Second offence within calendar year:	Specified penalty:	\$ 500.00
Third and additional offence:	Specified penalty:	\$ 1,000.00

Offences related to unpermitted tourist homes:

First offence within calendar year:	Minimum penalty:	\$ 2,500.00
Second and additional offences:	Minimum penalty:	\$ 5,000.00

Offences related to vehicles on residential properties:

First offence within calendar year:	Specified penalty:	\$ 50.00
Second offence within calendar year:	Specified penalty:	\$ 100.00
Third and additional offence:	Specified penalty:	\$ 250.00

Offences related to unauthorized occupancy of premises:

First offence within calendar year:	Specified penalty:	\$ 250.00
Second offence within calendar year:	Specified penalty:	\$ 350.00
Third and additional offence:	Specified penalty:	\$ 500.00

Offences relating to signage:

ADMINISTRATION

First offence within calendar year:	Specified penalty: \$ 50.00
Second offence within calendar year:	Specified penalty: \$ 100.00
Third & additional offence within calendar year:	Specified penalty: \$ 250.00

Offences relating to unauthorized logging:

First offence within calendar year:	Minimum penalty: \$ 1,000.00
Second and additional offences:	Minimum penalty: \$ 5,000.00

(e) Nothing in this Bylaw shall prevent a Peace Officer from issuing summons for the Mandatory Court appearance of any person or company who contravenes any provision of this Bylaw.

22. VIOLATION TICKET

Notwithstanding any other provision of this Bylaw, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to Part 2 of the Provincial Offences Procedures Act, SA 1988, c.P-21.5, as amended, to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw