

**TOWN OF CANMORE**  
**AGENDA**  
Special Meeting of Council  
Council Chambers at the Civic Centre, 902 – 7 Avenue  
**Tuesday, February 28, 2023 at 9:00 a.m.**

Times are estimates only.

- A. CALL TO ORDER AND APPROVAL OF AGENDA**  
9:00 – 9:05  
1. Land Acknowledgement  
2. Agenda for the February 28, 2023 Special Meeting of Council
- B. PUBLIC HEARINGS**  
9:05 – 9:35  
1. Land Use Bylaw Amendment 2022-2024 General Industrial District (IND-2)  
(1) Introduction  
(2) Administrative Presentation  
(3) Public Verbal Submissions  
(4) Public Written Submissions  
(5) Council Question Period  
(6) Closure of Public Hearing
- 9:35 – 10:05  
2. Land Use Bylaw Amendment 2022-07 Staircase Lands  
(1) Introduction  
(2) Town Solicitor Presentation  
(3) Public Verbal Submissions  
(4) Public Written Submissions  
(5) Council Question Period  
(6) Closure of Public Hearing
- C. DELEGATIONS – None**
- D. APPROVAL OF MINUTES - None**
- E. BUSINESS ARISING FROM THE MINUTES - None**
- F. UNFINISHED BUSINESS - None**
- G. BYLAW APPROVAL**  
10:05 – 10:20  
1. Land Use Bylaw Amendment 2022-2024 General Industrial District (IND-2)  
Recommendations:  
1. That Council give second reading to Revised Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2).  
2. That Council give third reading to Revised Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2).
- 10:20 – 10:35  
2. Land Use Bylaw Amendment 2022-07 Staircase Lands  
Recommendations:  
1. That Council give second reading to Land Use Bylaw Amendment 2022-07 Staircase Lands

Agenda prepared by: Allyssa Rygersberg, Deputy Municipal Clerk  
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2. That Council give third reading to Land Use Bylaw Amendment 2022-07 Staircase Lands.

**H. NEW BUSINESS** – None

**I. REPORTS FROM ADMINISTRATION** – None

**J. NOTICES OF MOTION** – None

**K. IN CAMERA** – None

10:35

**L. ADJOURNMENT**



# Request for Decision

**DATE OF MEETING:** Date of Meeting **Agenda #: G-1**

**TO:** Council

**SUBJECT:** Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2)

**SUBMITTED BY:** Riley Welden, Development Planner

**RECOMMENDATION:** That Council give second reading to Revised Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2).

That Council give third reading to Revised Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2).

## EXECUTIVE SUMMARY

Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2) received first reading on February 7, 2023 and is the subject of a public hearing on February 28, 2023.

Administration's analysis and position on this matter presented at first reading of this bylaw remains unchanged. Please see Attachment 1 for the Request for Decision and related attachments presented at first reading.

## ATTACHMENTS

- 1) RFD and attachments from the February 7, 2023 council meeting

## AUTHORIZATION

Approved by: Riley Welden  
Development Planner

Date February 16, 2023



# Request for Decision

**DATE OF MEETING:** February 7, 2023 **Agenda #:** G-3

**TO:** Council

**SUBJECT:** Revised Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2)

**SUBMITTED BY:** Riley Welden, Development Planner

**RECOMMENDATION:** That Council give first reading to Revised Land Use Bylaw Amendment 2022-24 General Industrial District (IND-2) and schedule a public hearing for February 28, 2023.

## EXECUTIVE SUMMARY

Town administration received an application to amend the Town of Canmore Land Use Bylaw to expand the consideration of office developments within the General Industrial District (IND 2 District). Currently, the IND 2 District limits the consideration of Offices (above the ground floor) to those properties located east of Elk Run Boulevard. Bylaw 2022-24 proposes to amend the Land Use Bylaw to allow for the consideration of Offices (above the ground floor) on all IND 2 District properties.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

The Town of Canmore Municipal Development Plan (MDP) as amended (Bylaw 2016-03) is the statutory plan which establishes overall policy direction for the community, including industrial land use and development.

The Land Use Bylaw (Bylaw 2018-22) regulates and controls the use and development of land and buildings within the municipality.

## DISCUSSION

Town administration received a Land Use Bylaw amendment application to expand the consideration of office developments within the IND 2 District. The IND 2 District only allows for office developments to be considered east of Elk Run Boulevard. The applicant owns an IND 2 District property west of Elk Run Boulevard and would like the opportunity to develop an office within their existing building. To accommodate this, an amendment to the “Office” use listed in the IND 2 District is required.

It is important to note that although the amendment is initiated by the applicant with the purpose of providing the opportunity to develop an office on their property, the change will be applied to and affect all properties with the IND 2 land use designation (zoning). This is because the amendment is for a listed use within the district, which applies to all designated properties. As such, both the applicant and administration sought feedback from other property owners potentially affected by the proposed amendment to confirm their support. The IND 2 district is only found in Elk Run, and lands within the district are shown in Figure 1.

The IND 2 District currently lists “Office (above the ground floor, east of Elk Run Boulevard only)” as a discretionary use. This means offices can only be considered above the ground floor of a building on IND 2 District properties located east of Elk Run Boulevard. The IND 2 District is applied to lands located both east and west of Elk Run Boulevard (see Figure 1).

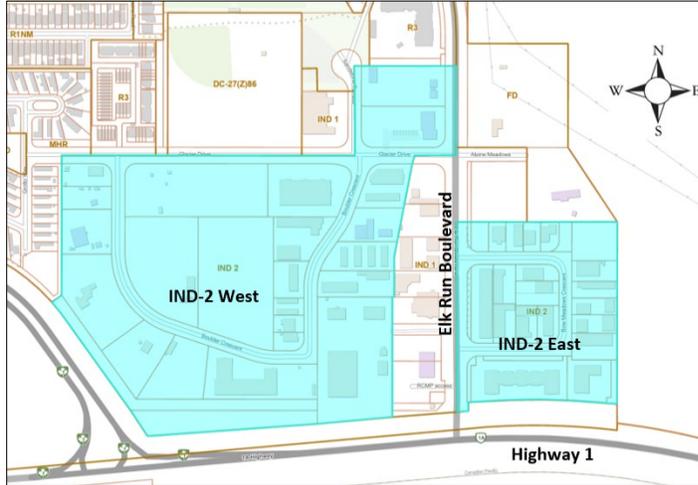


Figure 1: General Industrial District (IND 2) Designated Properties

The applicant is proposing to amend the IND 2 District to allow “Offices (above the ground floor)” to also be considered west of Elk Run Boulevard.

To facilitate this change, Bylaw 2022-24 proposes to amend the Land Use Bylaw to allow Offices (above the ground floor) to be considered as a discretionary use on all IND 2 District designated properties. To do this, the following IND 2 District sections are proposed to be changed:

1. *Section 5.3.2 Discretionary Uses*  
“Office (above the ground floor, east of Elk Run Boulevard only)” is changed to “Office (above the ground floor)”;
2. *Section 5.3.5 Additional Regulations*  
Sub-section 5.3.5.4 “An Office development shall only be located above the ground floor of a building and shall be located east of Elk Run Boulevard only” is changed to “An Office development shall only be located above the ground floor”

Office is defined in the Land Use Bylaw as follows:

*“Office means a facility primarily for the provision of professional, management, administrative or consulting services.”*

Alignment with Municipal Development Plan Policy Direction

1. *Business Attraction and Retention:*

*“Section 9.1.8: The Town will regularly review the commercial and industrial land use districts of the Land Use Bylaw to ensure the district continue to provide an appropriate range of uses to support economic development.”*

This application triggered a review of the IND 2 district by administration. This review included ensuring an appropriate range of uses are included to support continued economic development and the impacts

expanding the office use could have. The review confirmed an inconsistency in the consideration of “Office (above the ground floor)” in the IND-2 District, which this amendment will address. This change will expand the applicability of this use within this District, providing further economic development support through greater business options.

2. *Industrial:*

*Section 12.2.1: The focus of industrial activity will be directed to light industrial areas which will support businesses that directly related to manufacturing, contractor services and similar light industrial operations. Ground floors of light industrial developments should be retained for industrial uses.*

*Section 12.2.3: Offices and similar uses that are consistent with the industrial nature of the area may be allowed to be located on upper floors of light industrial developments.*

The proposed amendment ensures offices will only be developed above the ground floor of a building within the IND 2 District, which preserves ground floors for industrial uses/developments.

Based on the conclusions noted above, administration is supportive of the proposed amendment.

**ANALYSIS OF ALTERNATIVES**

Council could defeat Bylaw 2022-24. This would result in the consideration of Office (above the ground floor) remaining limited to properties east of Elk Run Boulevard. Offices (above the ground floor) on IND 2 District properties west of Elk Run Boulevard would not be considered. Administration does not support this option as it is not consistent with the MDP policy direction, limits the application of this use within this district, and does not respond to the changes in market and needs of the community.

**FINANCIAL IMPACTS**

None

**STAKEHOLDER ENGAGEMENT**

The applicant canvassed IND 2 District property owners west of Elk Run Boulevard and submitted nine letters of support for the amendment.

Administration completed a circulation of the application consisting of a mailout to landowners within, and adjacent to, the boundary of the IND 2 District. Landowners were provided one month to submit comments to administration. Eleven landowners provided feedback outlining support for the amendment, which included those canvassed by the applicant. One landowner expressed support provided the amendment does not allow for any residential component in the area.

**ATTACHMENTS**

- 1) Applicant’s submission
- 2) Bylaw 2022-24
- 3) IND-2 District - Redline

**AUTHORIZATION**

Submitted by: Riley Welden  
Development Planner Date: January 16, 2023

Approved by: Lauren Miller  
Manager of Planning and Development Date: January 18, 2023

Approved by: Whitney Smithers  
General Manager of Municipal Infrastructure Date: January 19, 2023

Approved by: Sally Caudill  
Chief Administrative Officer Date: January 26, 2023

## Attachment 1: Applicant Submission

### REASONS IN SUPPORT OF APPLICATION FOR AMENDMENT: attached to application

The IND 2, GENERAL INDUSTRIAL DISTRICT, is the only land use district in the Land Use Bylaw that has a subdistrict within the district. The requested amendment retains the “discretionary” status of offices in the district, while eliminating the seemingly arbitrary sub-district “east of Elk Run Boulevard”.

The town was petitioned by several owners on Bow Meadows Crescent in 2003-2004, to allow offices as a discretionary use, which resulted in the present-day wording. Property owners west of Elk Run were not consulted at that time.

The applicant originally had office tenants, with town business licences, in the second-floor units from 1995 until approximately 2016.

The applicant now has a prospective tenant, who has been unable to find alternative suitable office space in Canmore.

*Pursuant to the MDP, IND 1 & IND 2 are both classified as LIGHT INDUSTRIAL, as referenced by on Map 5 of the MDP*

*MDP section 12.2.3 states that “Offices and similar uses that are consistent with the industrial nature of the area may be allowed to be located on upper floors of light industrial developments.”*

MDP Section 12.1 General Industrial Policies 12.1.2 states that “the Town will accommodate and regulate a variety of light industrial and business industrial areas as shown on Map 5 - Commercial and Industrial Land Use.”

Uses defined under IND 1 and IND2 are identical, save for two uses in each sector. It is reasonable that the two districts could easily be served as one, given that the differences are already discretionary.

The requested amendment is, therefore, well supported by both the MDP and the Land Use bylaw. The MDP defines the area as Light Industrial:

**“12.2 LIGHT INDUSTRIAL (which includes all Elk Run Industrial areas, both IND 1 & IND 2)**

**12.2.1** The focus of general industrial activity will be directed to light industrial areas which will support businesses that directly relate to manufacturing, contractor services and similar light industrial operations. Ground floors of light industrial developments should be retained for industrial uses.

**12.2.2** Retail and similar commercial uses will not be allowed in light industrial areas, except where, as an accessory to the primary industrial use or where wholesale in nature and must comprise only a small portion of the overall floor area.

**12.2.3** Offices and similar uses that are consistent with the industrial nature of the area may be allowed to be located on upper floors of light industrial developments.

**12.2.4** Buildings in high visibility locations may be required to be designed consistent with the mountain town architectural character.”

## Land Uses and definitions for IND 1 compared to IND2 & further supporting information

### Rules:

**5.3.4 Restrictions on Non-Industrial Uses and Developments 5.3.4.1** In order to ensure that this District meets its purpose as a general industrial area, non-industrial uses will only be approved where such uses do not displace current industrial uses nor utilize land or buildings with potential development for general industrial purposes.

**5.3.5.4** An Office development shall only be located above the ground floor of a building and shall be located east of Elk Run Boulevard only.

### DEFINITIONS OF PERMITTED AND DISCRETIONARY USES IN IND 2

**Accessory Building** means a building which is subordinate or incidental to the principal building on a site that is not a Dwelling Unit. It must be located on the same site as the principal use and shall not precede the development of the principal building.

**Arts and Crafts Studio** means development used for the purpose of small scale, on-site, production of goods by hand manufacturing primarily involving the use of hand tools. Typical uses include pottery, ceramic, jewelry, toy manufacturing, and sculpture and artist studios.

**Administrative/Sales Office** means a temporary use which is incidental to the subdivision or development of a parcel of land which has received or is under consideration of subdivision, land use or development permit approval.

**Agriculture, Intensive** means a place that employs a concentrated method used to raise crops or to rear or keep livestock, or their products for market, including such operations as horse riding stables, poultry farms, pastures, rabbitries, fur farms, greenhouses, animal sanctuaries, tree farms, sod farms, nurseries and similar specialty uses conducted as the principal use of a building or site.

**Athletic and Recreational Facility, Indoor** means a facility for the purpose of indoor active recreation or athletic activities where patrons are predominantly participants, and any spectators are incidental. This includes but is not limited to gyms, athletic studios, skating and hockey rinks, swimming pools, rifle, archery and pistol ranges, bowling alleys and racquet courts.

**Automotive and Equipment Repair** means a facility for the servicing and/or repair of motor vehicles, motorcycles, snowmobiles, or similar vehicles and includes the sale, installation and servicing of related accessories and parts. [2020-16]

**Automotive Sales and Rentals** means a facility for the retail sale or rental of new or used automobiles and recreational vehicles together with incidental maintenance services and sale of parts. This includes automobile dealerships and car rental agencies.

**Bulk Fuel Station** means a facility for the purpose of storing fuel for distribution to customers and does not include a service station.

**Brewery/Distillery** means a facility licensed by the Alberta Gaming and Liquor Commission where beer, spirits and other alcoholic beverages are manufactured and may include the retail sale of products made on the premises for consumption off the premises. A Brewery/Distillery may include an area where products made on the premises are sold or provided to the public for consumption on the premises but are not considered an Eating and Drinking Establishment.

## Land Uses and definitions for IND 1 compared to IND2 & further supporting information

**Car Wash** means a facility for the washing, cleaning, or polishing of motor vehicles.

**Contractor Service and Repair** means a facility for the provision of contractor services primarily to individual households and the accessory sale of goods normally associated with such contractor services where all materials are kept within an enclosed building, and where there are no associated primary manufacturing activities.

**Crematorium** means an establishment with one or more cremation chambers used for the reduction of the human body by heat.

**Eating and Drinking Establishment** means a facility where food is prepared and served on the premises for sale to the general public and includes restaurants, delicatessens, and cafeterias but excludes Drive-in/Drive-through Food Services. This facility may be licensed by the Alberta Gaming and Liquor Commission such that alcoholic beverages may be served to the general public for consumption on the premises

**Educational Institution** means a place of instruction operated with public or private funds. Can be a private, public, separate, commercial, or post secondary school.

**Employee Housing** means one or more Dwelling Units used exclusively for the residence of employees and members of their family. **Employee** means a person who is primarily employed by an employer within the municipal boundaries of the Town of Canmore. For the purpose of this definition, a person is primarily employed if that person is performing, or is reasonably expected to perform, the services of an employee for an employer, for a minimum of an average of twenty (20) hours per week. The employee shall not be the same person as the employer. This provision may be varied at the discretion of the Development Authority where a proposed development meets the purpose of the applicable land use district and/or meets the intent of the Town's employee housing policies (e.g., in a building designed for a Live/Work Studio where a person is self-employed and living adjacent to their place of employment). In addition to the above, those individuals who can provide written proof (through such means as lease or rental agreements) of continuous residency within the Town of Canmore for a minimum of twenty-four (24) continuous months and who are primarily employed by an employer within the boundaries of the M.D. of Bighorn west of and including the hamlet of Seebe, or within the Town of Banff or Banff National Park, shall be considered an "employee" for the purposes of this Bylaw and shall be eligible to occupy a unit in an approved employee housing project.

**Industrial Operation** means a business engaged in secondary manufacturing, processing, assembling, disassembling, packaging, cleaning, servicing, testing, storing and distribution of materials, goods, products, or equipment.

**Industrial Sales and Rental** means a facility for the sale or rental of equipment typically used in building, roadway, pipeline, oilfield and mining construction or agricultural production. This includes development used for the sale or rental of new or used heavy trucks, motorhomes, and manufactured homes, together with incidental maintenance services and the sale of parts and accessories. Typical uses include heavy truck dealerships, recreation vehicle sales and manufactured home dealerships.

**Kennel** means a facility where dogs or cats or other domestic pets may be maintained, boarded, bred, trained, or cared for or kept for the purposes of sale but excludes a Veterinary Clinic

**Laboratory** means a facility for the purpose of scientific or technical research, investigations or experimentation

## Land Uses and definitions for IND 1 compared to IND2 & further supporting information

**Laundry Facility, Industrial** means a non-retail laundry facility serving business establishments, usually on a contract basis.

**Light Manufacturing** means a business engaged in secondary manufacturing which involves no Outdoor Storage, and which causes no environmental disturbances such as the creation of smoke, noise, dust or odors. [2020-16]

**Logging or Logging Operation** means the cutting of trees where the total area subject to cutting is greater than 500 m2 or where the merchantable timber being cut on the parcel contains over 25 m3 of gross wood volume.

**Lumber Yard** means a facility where bulk supplies of lumber and other building materials are stored, offered, or kept for retail sale and includes storage on or about the premises of such material but does not include retail sales of furniture, appliances or other goods not ordinarily used in building construction.

**Office** means a facility primarily for the provision of professional, management, administrative or consulting services.

**Open Space** means land designated or reserved for active or passive recreational use by the general public, or to be left in a natural state, and includes all natural and man-made landscaping, facilities, playing fields, gardens, buildings and other structures that are consistent with the general purpose of parks and open space. Uses may include tot lots, picnic grounds, pedestrian pathways and trails, landscaped buffers, and playgrounds.

**Outdoor Storage** means the storing, stockpiling, or accumulating of goods, equipment or material in an area that is open or exposed to the natural elements, and includes vehicles, automobiles, recreational vehicles and boats, waste materials, debris, or garbage

**Pet Care Facility** means a facility for the cleaning, grooming and care of domestic pets where no overnight kenneling or keeping of any animals occurs.

**Printing Establishment** means a retail business providing photocopying and/or commercial offset printing and retail services, or a facility providing non-retail commercial, industrial printing and publishing services normally using automated, web-type presses or full colour process printing.

**Public Building** means a facility owned or operated by or for the Municipality, the Provincial Government, the Federal Government, or a corporation which is an agent of the Crown under federal or provincial statute for the purpose of furnishing services or commodities to or for the use of the inhabitants of the municipality

**Recycling Depot** means an indoor facility for the buying and/or temporary storage of household items for reuse where all storage is contained within an enclosed building.

**Retail Sales** means the use of a building in which the primary function is for the sale of finished goods or products to customers, and also includes rental services.

**Storage Facility** means a building or group of buildings used for internal storage of materials and goods that are not considered hazardous or toxic.

**Transportation Terminal** means a facility utilizing a building, structure, land, or any or all of them for the processing and loading and unloading of passengers and baggage to and from buses, vans, trains, or similar conveyances available for use by the general public.

**Land Uses and definitions for IND 1 compared to IND2 & further supporting information**

**Trucking establishment** means a facility for the purpose of storing and dispatching trucks and tractor trailers for transporting goods.

**Warehouse** means a building for the storage of materials or commercial goods.

**Wholesale Sales** means a facility for the wholesale or retail sale of a limited range of bulky goods.

**USES for EXISTING TENANTS OF 102 BOULDER:**

**Main floor**

Bays 1, 2, 3, 5, 6: Canmore Woodcrafters – **light manufacturing**

Bay 4: Epi – **Light manufacturing & eating**

Bay 7 & 8a: Fairmont - **Laundry facility industrial**

Bay 8b & 9: Woseley - **contractor services/ wholesale sales**

**Upper Level**

201&202: Athletic facility

203 & 204: VACANT

205 & 206: woodcrafters- **storage for light manufacturing**

207: Athletic facility

208: Canmore woodcrafters ; **storage for light manufacturing**

209: **art studio - light manufacturing**

## Land Uses and definitions for IND 1 compared to IND2 & further supporting information

### IND 1 VS IND 2 differences:

#### **IND 1 LIGHT INDUSTRIAL DISTRICT**

The purpose of this district is to provide for a limited range of industrial uses which are located adjacent to arterial roads or residential areas and have a high standard of architectural appearance. Non-industrial uses are appropriate only in the limited circumstances and locations where such uses do not displace industrial uses or utilize land or buildings with potential for light industrial development.

##### **5.2.1 Permitted Uses**

Accessory Building  
Arts and Craft Studio [2020-16]  
Brewery/Distillery  
Contractor Service and Repair  
**Industrial Operation\* IND 1 only**

Laboratory  
Laundry Facility, Industrial  
Light Manufacturing  
Open Space---(*discretionary in 2*)  
Public Building

##### **5.2.2 Discretionary Uses**

Administrative/Sales Office  
Agriculture, Intensive  
Athletic and Recreation Facility, Indoor  
Automotive and Equipment Repair  
Automotive Sales and Rentals  
Car Wash  
Eating and Drinking Establishment  
Educational Institution  
Employee Housing (above the ground floor)  
Industrial Sale and Rental  
Kennel  
Logging Operation  
Lumber Yard-(*permitted in 2*)  
Office (above ground floor GFA up to 250m2)  
Outdoor Storage  
Pet Care Facility  
Printing Establishment  
Recycling Depot  
Retail Sales  
Storage Facility  
Transportation Terminal  
Trucking Establishment  
Warehouse-(*permitted in 2*)  
**Wholesale Sales\* IND 1 only\***

#### **IND 2 GENERAL INDUSTRIAL DISTRICT**

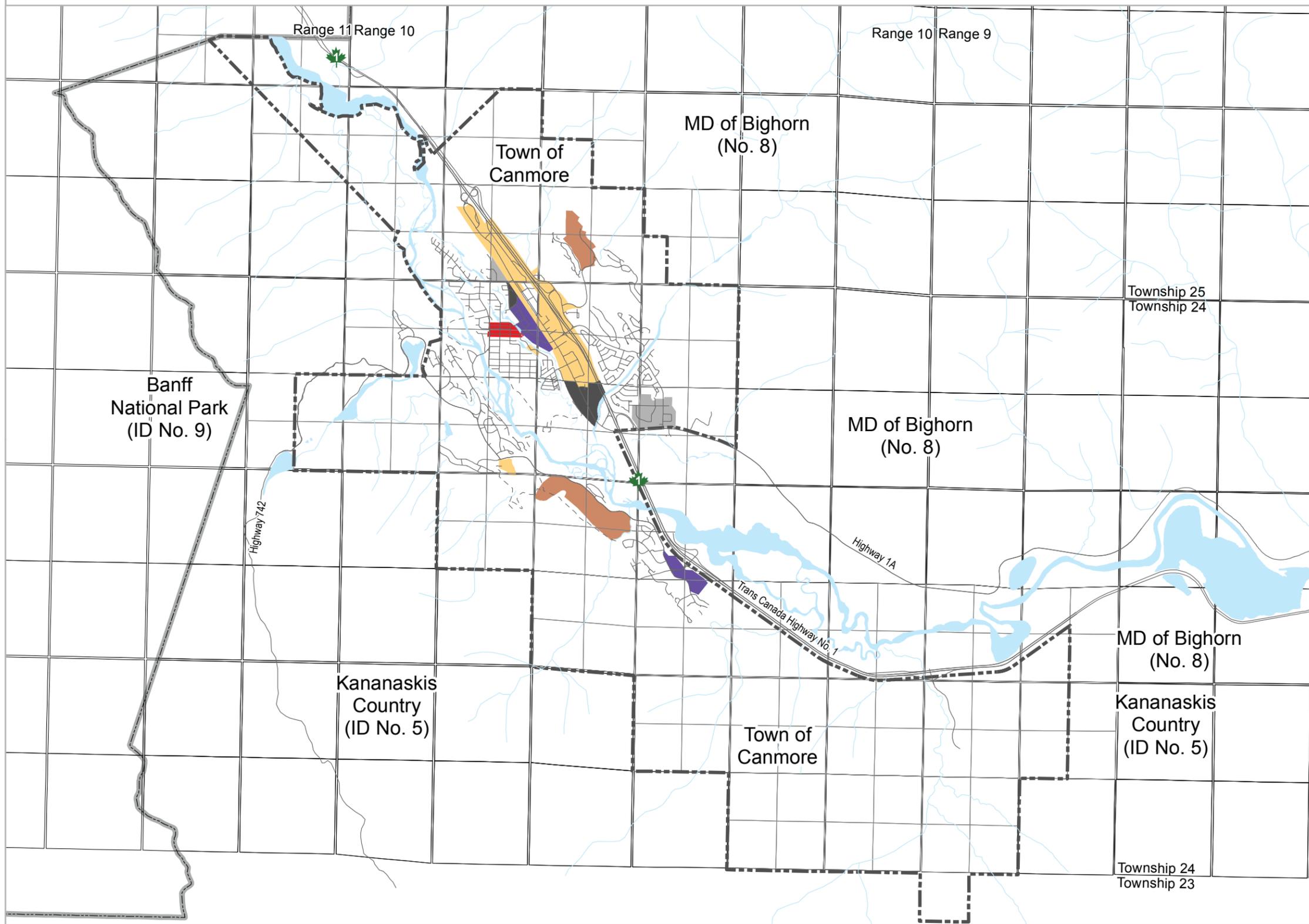
The purpose of this District is to provide for a range of industrial uses which allow for intensive & efficient use of Canmore's industrial land base in accordance with policies in the Municipal Development Plan. Non-industrial uses are appropriate only in the limited circumstances & locations where such uses do not displace current industrial uses or utilize land or buildings with potential for general industrial development.

##### **5.3.1 Permitted Uses**

Accessory Building  
Arts and Craft Studio [2020-16]  
Brewery/Distillery  
Contractor Service and Repair  
Laboratory  
Laundry Facility, Industrial  
Light Manufacturing  
Lumber Yard --(*discretionary in 1*)  
Public Building  
Warehouse -(*discretionary in 1*)

##### **5.3.2 Discretionary Uses**

Administrative/Sales Office  
Agriculture, Intensive  
Athletic and Recreational Facility, Indoor  
Automotive and Equipment Repair  
Automotive Sales and Rentals  
**Bulk Fuel Station\* IND 2 only**  
Car Wash  
**Crematorium\* IND2 only**  
Eating and Drinking Establishment  
Educational Institution  
Employee Housing  
Industrial Sales and Rentals  
Kennel  
Logging Operation  
Office (above ground floor, **east of Elk Run only**)  
Open Space--(*Permitted in 1*)  
Outdoor Storage  
Pet Care Facility  
Printing Establishment  
Recycling Depot  
Retail Sales  
Storage Facility  
Transportation Terminal  
Trucking Establishment

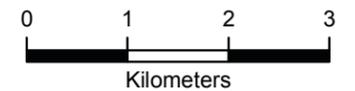


Legend

- Commercial and Mixed Use
  - Gateway Mixed Use
  - Tourist Service
  - Town Centre
- Resort Centre
  - Resort Centre
- Industrial
  - Light Industrial
  - Business Industrial
- Town Boundary

**Disclaimer:**

The Town of Canmore provides this information in good faith but it provides no warranty, nor accepts any liability arising from any incorrect, incomplete or misleading information or its improper use. Unless otherwise specified within the MDP, the boundaries or locations of any symbols or areas shown on a map are approximate only, not absolute and will be interpreted as such. They are not intended to define exact locations or the extent of areas or influences. Precise location of areas, influences or boundaries, for the purpose of evaluating development proposals, will need to be confirmed before any development decisions are made or will be determined by Town Administration at the time of application.



**BYLAW 2022-24**

**A BYLAW OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, TO  
AMEND REVISED LAND USE BYLAW 2018-22**

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The Council of the Town of Canmore, in the Province of Alberta, duly assembled, enacts as follows:

**TITLE**

- 1 This bylaw shall be known as the “Revised Land Use Bylaw Amendment – General Industrial District Office Amendment.”

**INTERPRETATION**

- 2 Words defined in revised Land Use Bylaw 2018-22 shall have the same meaning when used in this bylaw.

**PROVISIONS**

- 3 Revised Land Use Bylaw 2018-22 is amended by this bylaw.
- 4 Section 5.3.2 is amended by striking out “Office (above the ground floor, east of Elk Run Boulevard)” and substituting “Office (above the ground floor)”.
- 5 Section 5.3.5.4 is amended by striking out “and shall be located east of Elk Run Boulevard only”.

**ENACTMENT/TRANSITION**

- 6 If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.
- 7 This bylaw comes into force on the date it is passed.

FIRST READING:

PUBLIC HEARING:

SECOND READING:

THIRD READING:

Approved on behalf of the Town of Canmore:

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Sean Krausert  
Mayor

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Date

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Cheryl Hyde  
Municipal Clerk

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Date

## 05 INDUSTRIAL LAND USE DISTRICTS

### 5.3 IND 2 GENERAL INDUSTRIAL DISTRICT

#### Purpose

The purpose of this District is to provide for a range of industrial uses which allow for intensive and efficient use of Canmore's industrial land base in accordance with policies in the Municipal Development Plan. Non-industrial uses are appropriate only in the limited circumstances and locations where such uses do not displace current industrial uses or utilize land or buildings with potential for general industrial development.

#### 5.3.1 Permitted Uses

Accessory Building  
Arts and Craft Studio [2020-16]  
Brewery/Distillery  
Contractor Service and Repair  
Laboratory  
Laundry Facility, Industrial  
Light Manufacturing  
Lumber Yard  
Public Building  
Warehouse

#### 5.3.2 Discretionary Uses

Administrative/Sales Office  
Agriculture, Intensive  
Athletic and Recreational Facility, Indoor  
Automotive and Equipment Repair  
Automotive Sales and Rentals  
Bulk Fuel Station  
Car Wash  
Crematorium  
Eating and Drinking Establishment  
Educational Institution  
Employee Housing  
Industrial Sales and Rentals  
Kennel  
Logging Operation  
Office (above the ground floor, ~~east of Elk Run Boulevard only~~)  
Open Space  
Outdoor Storage  
Pet Care Facility  
Printing Establishment  
Recycling Depot  
Retail Sales  
Storage Facility  
Transportation Terminal  
Trucking Establishment

### 5.3.3 Regulations

- 5.3.3.1 The minimum lot area shall be 557 m<sup>2</sup>.
- 5.3.3.2 The minimum lot width shall be 15.0 m.
- 5.3.3.3 The minimum front yard setback shall be 15.0 m adjacent to Bow Valley Trail and 7.5 m on all other sites.
- 5.3.3.4 The minimum side yard setback shall be 3.0 m abutting any residential district; 3.0 m on the street side of a corner site; and zero at other locations,
- 5.3.3.5 The minimum rear yard setback shall be zero except where the site abuts a residential district, in which the minimum rear yard setback shall be 6.0 m.
- 5.3.3.6 The maximum building height shall be 11.0 m.

### 5.3.4 Restrictions on Non-Industrial Uses and Developments

- 5.3.4.1 In order to ensure that this District meets its purpose as a general industrial area, non-industrial uses will only be approved where such uses do not displace current industrial uses nor utilize land or buildings with potential development for general industrial purposes.

### 5.3.5 Additional Regulations

- 5.3.5.1 The maximum GFA of an Automotive Sales and Rentals development shall be 4,000 m<sup>2</sup>.
- 5.3.5.2 An Eating and Drinking Establishment may be considered and approved in this District only where the proposed location is not generally suitable for industrial uses.
- 5.3.5.3 The maximum GFA of an Eating and Drinking Establishment shall be 93.0 m<sup>2</sup>.
- 5.3.5.4 An Office development shall only be located above the ground floor ~~of a building and shall be located east of Elk Run Boulevard only.~~
- 5.3.5.5 Environmental Issues
- a. At the discretion of the Development Authority, uses which involve the storage of hazardous materials may be considered where the Authority is satisfied contaminants can be safely contained on site.
  - b. Industrial uses which emit airborne pollutants or noxious odours or which have unacceptable fire or explosive risks shall not be allowed within this District.
  - c. An application for approval of a use employing flammable chemical materials must be accompanied by the plan approved by the Provincial Fire Marshall.
  - d. A storage vessel with a volume exceeding 7,570 litres and which contains liquefied petroleum products shall:
    - i. Meet all applicable Federal or Provincial safety standards;
    - ii. Be set back at least 15.0 m from all property lines; and
    - iii. Be at least 121 m from any place used or which may be used for public assembly such as schools, Hospitals, theatres, and residential areas.

5.3.5.6 Landscaping and Screening

- a. Outdoor Storage shall be screened and fenced to the satisfaction of the Development Authority.
- b. A Kenel or Pet Care Facility shall have adequate separation from residential areas and must be designed, constructed and operated in a manner to prevent a nuisance to any residential area in regard to such factors as noise, odours and waste.
- c. The front yard setbacks shall not apply to freestanding or projecting Signs.
- d. All outdoor areas for the purpose of conducting Industrial Operations, storage areas, and waste handling areas shall be screened from view from roadways and park reserves, to the satisfaction of the Development Authority.
- e. Development on all sites adjacent to a residential district shall be screened from the view of the residential district, to the satisfaction of the Development Authority.
- f. All apparatus on the roof shall be screened to the satisfaction of the Development Authority.

**5.3.6 Employee Housing Provisions**

5.3.6.1 Employee Housing may be considered and approved in this District, only when located above the ground floor of a building and when the following issues can be addressed to the satisfaction of the Development Authority:

- a. Adequate long-term and legally-binding provisions are in place to ensure the units remain as bona fide Employee Housing and are demonstrably subordinate in terms of area and intensity to other uses in the building.
- b. The space proposed for Employee Housing would not be reasonably used for commercial or industrial purposes.
- c. The Employee Housing units are appropriate in design for Employee Housing, particularly with respect to the unit size.
- d. Employee Housing units would not constrain any future permitted or discretionary, commercial or industrial uses from developing on the site or on surrounding areas.
- e. Employee Housing would not unduly interfere with existing and any potential industrial development in the area.
- f. Outdoor Amenity Space such as balconies may be provided as part of the Employee Housing while meeting all of the above-described requirements in regard to impacts to or from adjacent industrial uses.



# Request for Decision

**DATE OF MEETING:** February 28, 2023 **Agenda #: G-2**

**TO:** Council

**SUBJECT:** Land Use Bylaw Amendment 2022-07 Staircase Lands

**SUBMITTED BY:** Adam Driedzic, Town Solicitor

**RECOMMENDATION:** That Council give second reading to Land Use Bylaw Amendment 2022-07 Staircase Lands.

That Council give third reading to Land Use Bylaw Amendment 2022-07 Staircase Lands.

## EXECUTIVE SUMMARY

Land Use Bylaw Amendment 2022-07 Staircase Lands received first reading on November 29, 2022 and is the subject of a public hearing on February 28, 2023.

Administration's analysis and position on this matter presented at first reading of this bylaw remains unchanged. See attachment 1 for the Request for Decision and related attachments presented at first reading.

## ATTACHMENTS

1) RFD and attachments from the November 29, 2022 council meeting

## AUTHORIZATION

Approved by: Adam Driedzic  
Town Solicitor

Date February 16, 2023



# Request for Decision

**DATE OF MEETING:** November 29, 2022 **Agenda #:** G1

**TO:** Council

**SUBJECT:** Bylaw 2022-27 - Land Use Bylaw Amendment – Staircase Lands

**SUBMITTED BY:** Adam Driedzic, Town Solicitor

**RECOMMENDATION:** That Council give first reading to Bylaw 2022-27 and schedule a public hearing for February 28, 2023.

## EXECUTIVE SUMMARY

The Alberta Court of Kings Bench has ordered the Town of Canmore to commence proceedings to acquire the upper triangle of the Staircase Lands or redesignate these lands to Future Development District. Council has resolved to redesignate the lands to Future Development District to comply with the Court Order. The redesignation requires an amendment to the Land Use Bylaw through the process provided by the *Municipal Government Act* (MGA).

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

The decision of the Court of Kings Bench (formerly the Court of Queens Bench) in *Three Sisters Mountain Village Properties Ltd v. Canmore (Town)* [2022 ABQB 511, Court file: 2101 07730] was based on Section 644 of the MGA which concerns the acquisition of land designated for public use. Administration reported to Council on the Court's reasons for decision on August 16, 2022. Council made a unanimous resolution directing administration to:

- acquire the upper portion of the Staircase Lands to satisfy the decision of the Court of Queen's Bench; and
- report on detailed options for implementing this decision [Resolution 200-2022].

Through litigation counsel, administration made an offer to acquire the lands. The landowner, through litigation counsel, rejected this offer. In mid-October of 2022, the Court issued its finalized Order which requires the Town to commence proceedings to acquire the land or to rezone the land to Future Development District. Administration returned to Council on November 1, 2022, seeking a resolution to commence expropriation, or redesignate the lands to Future Development District. Council made a unanimous resolution directing administration to:

- bring a Land Use Bylaw amendment application to redesignate the upper triangle of the Staircase Lands to Future Development District and that the first reading of the bylaw amendment occur no later than November 29, 2022, and that the public hearing on the bylaw amendment, if required, occur no later than March of 2023. [Resolution 270-2022].

**DISCUSSION**

**Unique circumstances:** There is a lack of precedent to guide the Town on implementing the Court Order. The Staircase Lands is likely the first reported court decision on Section 644 of the MGA in its current form. The Court’s Reasons for Decision recognized that Section 644 is a unique provision within the MGA that has received little judicial consideration to date. Administration consulted with two planning advisors at the ministry of Municipal Affairs, neither of whom were aware of any precedents of a court ordering a municipality to adopt a specific land use district.

**Need for Council decision:** Redesignating the upper triangle of the Staircase Lands to Future Development District requires an amendment to the Land Use Bylaw. Neither Section 644 of the MGA nor the Court Order provide for this process. The general provisions of the MGA for making a Land Use Bylaw amendment will apply. Sections 202 and 203 of the MGA provide the authority to make bylaws to Council and prevent Council from delegating this authority to administration. Section 187 of the MGA provides that every proposed bylaw must have three distinct and separate readings. Section 189 and 313 provide that a bylaw is passed when it receives third reading and is signed by the presiding officer and a designated officer.

**Need for a public hearing:** Section 692(1) of the MGA requires a public hearing before second reading of a proposed bylaw amending a land use bylaw. Both planning advisors at Municipal Affairs with whom administration consulted were of the view that a public hearing is required. Administration has sought a formal opinion from the Town’s external legal counsel on the requirement for a public hearing. Preliminary consultation supports the requirement for a public hearing.

**Representations at the public hearing:** Section 692(1) requires a public hearing to be accordance with [section 216.4](#). Section 216.4(4) provides that, in the public hearing, Council:

- (a) must hear any person, group of persons or person representing them who claims to be affected by the proposed bylaw or resolution and who has complied with the procedures outlined by the council, and
- (b) may hear any other person who wishes to make representations and who the council agrees to hear.

**Open mind:** Common law principles require municipal councillors hearing an application to have an open mind capable of being persuaded. The test to ascertain bias on the part of councillors is more liberal when the decision of council is more legislative in nature as compared to when it has more of a judicial element. Some pre-disposition is inherent in the role of an elected councillor when performing a legislative function. On an application for a bylaw, councillors are not disqualified for bias due to having previously made strong position statements or previous decisions that are relevant to the matter at hand. Disqualifying bias arises where previous statements of councillors are a final opinion that cannot be dislodged, and representations of different views would be futile. All seven councillors in the matter have demonstrated an open mind to date, as the resolution of August 16<sup>th</sup> was unanimous to acquire the land and the resolution of November 1<sup>st</sup> was unanimous to rezone. The Court Order predates Council’s resolution of November 1<sup>st</sup> so does not render this resolution irreversible in some way that prevents councillors from having an open mind on the bylaw application. Council can alter its own resolutions and all councillors have shown interests in options other than rezoning to Future Development.

**Discretion:** Section 216.4(5) provides that after considering the representations made at the public hearing and after considering any other matter it considers appropriate, Council with may (a) pass the bylaw, (b) make any amendment to the bylaw it considers necessary, or (c) defeat the bylaw. The matter at hand does not provide Council with the full range of alternatives to pass, amend, or defeat the bylaw provided by Section 216.4 of the MGA. Section 216.4 is a provision of general application to all bylaws that require a public hearing. The power to make land use bylaws and the specific limits on this power are provided by Part 17 through the MGA. Under Part 17, Section 644 of the MGA sets a specific limit on zoning power. The Court applied this limit, and the only redesignation option that it provided to the Town is Future Development District. Administration recommends that Council not follow representations in support of other rezoning options and that it not defer any readings of the bylaw to consider other rezoning options.

**Corporate duties:** The respondent in the Court action was the municipal corporation, not Council. The effect of the Court Order is to limit the options for legal compliance on the part of the municipal corporation. Under these circumstances, Council must consider that it is not solely accountable to the electorate or to any specific constituency. Council also functions much like the board of directors of the municipal corporation and has fiduciary duties to look after the interests of the corporation. This relationship is reflected in Section 142 of the MGA which makes Council the governing body of the municipality and Section 153 which puts a duty on individual councillors to consider the welfare and interests of the municipality as a whole. The need to either expropriate or rezone makes the municipal corporation entirely dependent on Council for compliance with the Court Order and MGA. Administration is incapable of achieving legal compliance for the corporation on this matter without actions of Council. This fiduciary obligation further supports exercising discretion only in ways that fit the options in the Court Order.

#### **ANALYSIS OF ALTERNATIVES**

**Expropriation:** If the public hearing involves representations in favor of expropriation as the means to comply with the Court Order, then this is relevant to the matter before Council, and it is foreseeable that councillors with an open mind will consider this option. If so, councillors should consider that the deadline in the Court Order has past and that the opportunity to commence expropriation proceedings on November 1<sup>st</sup> will have been delayed by commencing the bylaw application. If the catalyst for expropriation is representations at the public hearing, then the resolution to expropriate should be made immediately after concluding the hearing rather than proceeding to second reading of the bylaw. Administration has already recommended the expropriation resolution and it has already been deliberated by Council on November 1<sup>st</sup>:

That Council direct administration to commence expropriation proceedings for the portion of the Staircase Lands zoned Natural Park District under Land Use Bylaw 2018-22, being a portion of the parcel legally described as Meridian 5; Range 10; Township 24; Section 29 by filing, serving and publishing a Notice of Intention to Expropriate

Council must not defeat the bylaw application without commencing expropriation proceedings. Defeating the bylaw without commencing expropriation proceedings will put the Town out of compliance with the Court Order by having no active proceedings to implement the options provided by the Court Order.

**Postpone:** If Council prefers to take time to consider the input from the public hearing, the decision could be postponed, but will need to come back quickly as action should be taken no later than March of 2023 in order to comply with the Court Order.

**FINANCIAL IMPACTS**

Costs for rezoning are nominal, as described in the Request for Decision of August 16, 2022 and November 1<sup>st</sup>, 2022. If Council were to reconsider expropriation based on the input received at the public hearing, Administration would need to consider funding options. The approved 2022 capital project budget for TSMVPL litigation was based on direct legal costs and did not include major land acquisitions. At the time of the Request for Decision of August 16, 2022, there were sufficient funds to pursue an acquisition of the upper triangle of the Staircase Lands at or around the appraised value obtained by the Town. There will be insufficient funds in the current litigation project budget for expropriation of the Staircase Lands while engaging in the other TMSVPL litigations. If Council resolves to expropriate, then Administration will use the TSMVPL litigation capital project to fund the expropriation costs and will return to Council at a later date with a funding proposal for any costs that exceed the budget amount.

**STAKEHOLDER ENGAGEMENT**

None.

**ATTACHMENTS**

- 1) Bylaw 2022-27 Land Use Bylaw Amendment – Staircase Lands

**AUTHORIZATION**

Submitted by:	Adam Driedzic Town Solicitor	Date: <u>November 18, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date: <u>November 18, 2022</u>

**BYLAW 2022-27**

**A BYLAW OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, TO  
AMEND REVISED LAND USE BYLAW 2018-22**

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The Council of the Town of Canmore, in the Province of Alberta, duly assembled, enacts as follows:

**TITLE**

- 1 This bylaw shall be known as the “Land Use Bylaw Amendment – Staircase Lands.”

**INTERPRETATION**

- 2 Words defined in revised Land Use Bylaw 2018-22 shall have the same meaning when used in this bylaw.

**PROVISIONS**

- 3 Revised Land Use Bylaw 2018-22 is amended by this bylaw.
- 4 Map 3 of Land Use Bylaw 2018-22 is amended in accordance with Schedule A of this bylaw.

**ENACTMENT/TRANSITION**

- 5 If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.
- 6 Schedule A forms part of this bylaw.
- 7 This bylaw comes into force on the date it is passed.

FIRST READING:

PUBLIC HEARING:

SECOND READING:

THIRD READING:

Approved on behalf of the Town of Canmore:

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Sean Krausert  
Mayor

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Date

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Cheryl Hyde  
Municipal Clerk

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Date

# Schedule A: Bylaw 2022-27

