

PROPOSED

- a. makes a non-conforming building conforming through the granting of a relaxation of the requirements or rules to which the existing building does not conform; and
 - b. may include the approval of an addition, structural alteration or both, on the same development permit.
- 1.7.8 If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building shall not be repaired or rebuilt except in accordance with the Bylaw, provided however a non-conforming use may continue in a rebuilt conforming building.
- 1.7.9 The use of land or the use of a building is not affected by reason only of a change of ownership, tenancy or occupancy of the land or building.
- ~~1.7.10 An existing structure upon a site which does not comply with the density and site coverage regulations of the Bylaw shall be deemed to be a permitted use on that site if:~~
- ~~a. the building and use had been approved on or before January 1, 1998 by a development permit which has not expired;~~
 - ~~b. it has been accidentally destroyed by a normally insurable peril; and~~
 - ~~c. it will be redeveloped with no variation whatsoever, except as may be permitted pursuant to s.4.7.0 of this Bylaw, in that structure, except as may be necessary to comply with other applicable legislation including the Alberta Safety Codes Act and Schedule "B" of this Bylaw.~~
- 2.1.5 Section 2.3.0 is amended by inserting the following definition of “Development Authority”: Development Authority means a person or body appointed as a Development Authority as contemplated by and in accordance with the Municipal Government Act.
- 2.1.6 Section 2.3.0 is amended by deleting the definition of “Development Approving Authority”: ~~Development Approving Authority means a Development Officer, the Municipal Planning Commission (MPC) or the Development Appeal Board (DAB) as the context requires.~~
- 2.1.7 Section 2.3.0 is amended by deleting the following words in ~~strikeout~~ in the definition of “Development”. Development means an excavation or stockpile and the creation of either of them; signs; a building, or an addition to, or replacement, or major renovation, or repair of a building and the construction or placing in, on, over or under land of any of them; a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building; the cutting or removal of trees; or repainting or refinishing buildings ~~in a commercial district~~ to a substantially different colour or finish.

PROPOSED

- 2.1.8 Section 2.3.0 is amended by deleting the following words in ~~strikeout~~ in the definition of “Development Appeal Board”. Development Appeal Board (DAB) means the body established by Council to carry out the duties required by this Bylaw. ~~Responsibilities of the DAB are described in s.3.3.0.~~
- 2.1.9 Section 2.3.0 is amended by deleting the following words in ~~strikeout~~ and inserting the following words in underline in the definition of “Development Officer”. Development Officer means a person appointed as a Development Officer by ~~resolution of Council~~ the Town Manager to fulfill the duties specified by this Bylaw.
- 2.1.10 In Section 2.3.0, the definition of “Development Permit” is amended by inserting the following words in underline: Development Permit means a document authorizing a development issued pursuant to this Bylaw including the plans and conditions of approval, or, for development approved prior to May 1990, it means architectural and siting approval issued by Parks Canada.
- 2.1.11 Section 2.3.0 is amended by inserting the following definition of “Director, Planning and Development”: Director, Planning and Development means the person who holds the position of Director, Planning and Development Planning for the Town of Banff.

3.0 REPEAL

- 3.1 Section 3.0.0 of Land Use Bylaw 31-4 is hereby repealed in its entirety.
- 3.2 Section 4.0.0 of Land Use Bylaw 31-4 is amended by deleting it in its entirety and replacing it with a new Section 4.0.0. attached hereto as Schedule A.

4.0 SEVERABILITY

- 4.1 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.

5.0 ENACTMENT

- 5.1 This bylaw comes into force when it receives third reading and is signed by the Mayor and the Town Manager or designates.
- 5.2 This bylaw comes into force after the date of final passing, upon approval and execution by the Superintendent, Banff National Park, for the Minister of Environment and Climate Change.
- 5.3 The Town Manager is authorized to consolidate the Land Use Bylaw.

PROPOSED

READ A FIRST TIME this 22 day of March, 2021.

Pursuant to the Municipal Government Act (Alberta), a PUBLIC HEARING was held this xx day of month, 2020.

READ A SECOND TIME this xx day of month, 2020.

READ A THIRD TIME this xx day of month, 2020.

SIGNED AND PASSED this _____ day of _____, 2020.

Karen Sorensen
Mayor

Kelly Gibson
Town Manager

APPROVED by the Minister of Environment and Climate Change, by his delegate this ____ day of _____, 2020:

Minister of Environment and Climate Change/Delegate

SCHEDULE A

4.0.0 Development Permits

4.1.0 Development Permit Required

4.1.1 Except those listed in the following section, no person, government, private or public agency, or business shall commence, or cause or allow to be commenced, or to carry on, or cause or allow to be carried on, any development unless a development permit has been issued.

4.2.0 Development Permit Exemptions

No development permit is required for the developments listed below, provided that they comply with the Bylaw. If a development permit application is received for a development listed below, the Development ~~Officer~~ Authority shall advise the applicant that no permit is required and return the submission, including any fees paid, except that a development permit may be issued when the applicant requests a permit to be issued to indicate compliance with this Bylaw. In addition to the sign exemptions in s.11.2.1, developments exempted from application are as follows:

- a. maintenance and repair of any development that is of a regular and routine nature, including minor interior renovations, roof repair, mechanical and electrical work, and repainting or refinishing a building or sign to the same ~~or similar~~ colour or finish;
- b. a deck with a height less than 1.0 m above finish grade and an area less than 15 m²;
- c. retaining walls that are less than 1.2 m in height, measured from the lowest grade at any point adjacent to the retaining wall to the highest grade retained by the retaining wall;
- d. accessory buildings not greater than 5.0 m² in area nor exceeding 2.4 m in height;
- e. landscaping where the existing grade and natural surface drainage pattern is not materially altered, provided it is not in the PE (Environmental Protection) District;
- f. the erection or placement of a temporary building less than 50 m² gross floor area, the sole purpose of which is incidental to the erection of a building for which a development permit has been granted, provided the temporary building is removed within thirty days of substantial completion of the building for which a development permit has been issued as determined by ~~a~~ the Development ~~Officer~~ Authority;
- g. use of ~~all or part of~~ a building as a temporary polling station, returning officer's headquarters, candidate's campaign office, and any other

- ~~government~~ temporary use in connection with a federal, provincial, municipal, or school board election, referendum or census;
- h. demolition only where a development permit has been issued for a new development on the same site, and the demolition of the existing development is explicit or implicit in that permit;
 - i. the temporary use of a portion of a development not to exceed 12 consecutive months for which a development permit has been granted under this Bylaw, for the marketing of the development;
 - j. seasonal or routine pruning and maintenance of trees;
 - k. the removal of hazardous or dead trees as determined by ~~a the~~ Development ~~Officer~~ Authority ;
 - l. the removal of trees in whole or in part where a development permit has been issued for a new development on the same site and the removal of trees is implicit or explicit in that permit;
 - m. fences which are less than the height specified in s.8.8.0 subject to s.8.8.2;
 - n. the construction, installation or repair of a public roadway or utility by the Town or its agents or under the authority of the ~~Director, Engineering of Environmental Services;~~ including water, sewage and storm water lines and facilities, traffic management control systems, pedestrian bridges, landscaping projects, parks, transit shelters and street furniture;
 - o. ~~specialized environmental remediation equipment required for environmental remediation or monitoring;~~
 - p. holiday decorations provided they are erected no longer than the season or holiday they depict and in any case no longer than 45 days in a year;
 - q. satellite dishes which are less than 0.6 m in diameter provided the conditions of s.8.11.0 are met; and
 - r. the erection or placement of a temporary building or concession stand on public parkland by the Town or its agents, the sole purpose of which is incidental to an authorized special event. In no case shall the temporary building or concession be erected longer than ~~48~~ 72 hours.

4.3.0 Development Permit Applications

- 4.3.1 A completed development permit application form signed by the ~~registered~~ owner of the ~~site~~ land, an authorized agent or other persons having legal or equitable interest in the parcel ~~of the owner~~ shall be filed with ~~a the~~ Development ~~Officer~~ Authority. In the case of a development permit application relating to common property within a leasehold condominium, authorization shall be provided by ~~will be required from~~ the condominium corporation.

4.3.2

An application shall be accompanied by the processing fee with ~~seven~~ two sets of drawings to a metric scale satisfactory to ~~the~~ the Development ~~Officer~~ Authority, plus one set of drawings reduced to 8½" x 11" (21.5cm X 28cm) or 11" X 17" (28cm X 43cm) sheets. Portable Document Format (PDF) files of the full application package are also required at the time of submission and must be provided electronically with all supporting hardcopy documentation as identified in the application package.

a. Sign Applications

~~i. Letter of consent from property or building owner~~

ii. Sign drawings (minimum scale of 1:50 metric)

- Dimensions, thickness and area of sign
- Materials, finishes, and colours
- Size of lettering and graphics
- Method of illumination
- ~~- Mounting details~~
- ~~-~~

iii. Location drawings (or photos)

- Location of all existing and proposed signs on a building façade or on a site
- Mounting height or clearance to grade

iv. Structural Engineer's stamp for freestanding signs ~~over 1.0m in height and 1.5m²~~

v. Encroachment agreement for signs encroaching over public roadway or municipal property

b. Tree-Cutting Applications

~~i. letter of consent from property owner~~

ii. plan or photos showing specific location of trees to be removed relative to buildings, property lines and utilities

iii. number, size, species, and condition of trees to be removed

iv. reason for removal and indication if tree poses an immediate hazard

v. proposed replacement landscaping

c. Home Occupation Applications

~~i. letter of consent from property owner~~

- ii. brief description of operation (services or product, equipment used, pick up and delivery requirements, number of employees, number of parking stalls available)
- iii. approximate floor area required as a percentage of total floor area and/or floor plan showing area used
- iv. photos showing interior work area and exterior of dwelling
- v. site plan showing existing and proposed parking

d. Bed and Breakfast Applications

~~i. letter of consent from property owner~~

- ii. brief description of home (number and dimensions of rooms available for guests, available parking, common space, amenities)
- iii. floor plan of building and guest areas including common area and kitchen/dining
- iv. site plan showing exterior landscaping, amenity areas, and parking
- v. photos showing building exterior and interior including all rooms devoted to the bed and breakfast operation
- vi. any proposed signs

e. Single Family, Duplex and Fourplex Permit Applications

- i. Plot plan (or legal survey if available)
- ii. Site plan (minimum scale of 1:200 metric) including:
 - building program (site area, number of bedrooms, gross floor area, site coverage, floor area ratio, number of parking stalls required/provided)
 - size and location of all existing and proposed buildings/uses
 - size, location and paving of driveways and parking areas showing grades and paving material
 - footprints of adjacent development within 6 m of the property line
 - dimensioned setbacks
- iii. Architectural plans (minimum scale of 1:100 metric) including:
 - floor plans of all proposed structures
 - elevations/sections showing building height, finishes and colours
 - elevations (or photos) of buildings on adjacent properties

- iv. Landscape plan (minimum scale of 1:200 metric) including:
 - existing and finished grades
 - vegetation to be retained and method of protecting it during construction
 - existing and proposed fencing and lighting
 - existing and proposed plant species, quantities and sizes
 - proposed boulevard landscaping
 - proposed decks, pathways and patios

f. Commercial, Multi-Family Residential, and Institutional Development Permit Applications

- i. Context plan (minimum scale of 1:500 metric) showing location of property, adjacent streets, and land use districts
- ii. Current copies of any Restrictive Covenants, Utility Rights-of-Way, Easements, or Caveats registered on the Title(s)
- iii. Colour photographs of the site from front and rear as well as adjoining parcels on either side (minimum of four different views) showing the unique features of the property, details of curbs, driveways, sidewalks, waste enclosures and overhead poles
- iv. Site survey (minimum scale of 1:200 metric) including:
 - dimensioned boundaries and site area
 - legal description and municipal address of property
 - adjacent line of curb or street/lane
 - footprints of all buildings and structures on adjacent sites within 6 m of the property line
 - spot elevations at corners of site
 - 1 m contours showing slopes over 30%
 - existing or proposed rights-of-way or easements
 - any wetlands, ponds, or watercourses
 - existing trees and vegetation
 - any existing rock outcroppings or other geologic features
 - any existing buildings to be removed
- v. Site plan (minimum scale of 1:200 metric) including:
 - building program (type of development, number of residential units, site area, gross floor area by use, floor area ratio, site coverage, parking and housing required and provided)
 - north arrow and scale
 - dimensioned setbacks

- size and location of all existing and proposed buildings/uses including accessory buildings and structures, garages, and fences
- dimensioned parking spaces and driveways showing grades and paving material
- vehicular circulation, location and geometrics of access points and existing and proposed geometrics for adjacent roadways
- drainage concept and snow storage areas
- location of fire hydrants and service connections
- garbage room location, dimensions, and details adjacent sidewalks, streets, and curbs
- footprints of adjacent buildings within 9 m of property line

vi. Architectural plans including:

- floor plans (minimum scale of 1:100 metric) showing dimensioned floor plans of all structures including typical unit plans
- elevations/sections (minimum scale of 1:100 metric) showing proposed building height, finishes and colours, signage and lighting
- site section from front to rear property line (minimum scale of 1:200 metric) including adjacent streets and lanes
- roof plan (minimum scale of 1:100 metric) showing snow dump areas, major roof structure and equipment and screening details
- outline elevations and photos of buildings on adjacent sites within 9 m of the property line

vii. Landscape plan (minimum scale of 1:200 metric) including:

- existing and finished grades
- open space and recreational amenities
- vegetation to be retained and method of protecting it during construction
- planting plan
- existing and proposed plant species, quantities, and sizes
- method of irrigation (if any)
- all paving surfaces
- proposed boulevard landscaping and paving
- existing and proposed fencing and site lighting
- proposed decks, pathways, patios, and amenity areas

viii. For development applications for all commercial developments (except CS Districts), any mixed use development, and any apartment development a Development Officer may also require:

- a written description of design approach relative to the Banff Design Guidelines (see Schedule “B”)
- site photographs showing all adjacent development
- a shadow diagram
- a **scale** model (minimum scale of 1:200 metric) including adjacent buildings
- a written description of the environmental design approach relative to the Environmental Design Standards (see s.8.3.0)
- a detailed typical building elevation and section through street façade (minimum scale of 1:50 metric)
- a lighting ~~details plan including~~ **showing number of units or modules, photometric data, areas of illuminance illustrated with isometric lines in foot candle or lux values, fixture specifications (full cut off and International Dark Sky Association (IDA) compliant fixtures number of units or modules, lamp type and output (wattage and lumens), mounting height and details, ~~cut sheet showing~~ design and finishes of all fixtures, and building elevations showing the location and direction of all fixtures, and numerical light level grid or iso-illuminance plans.**

- ix. In addition a Development Officer may require a traffic impact analysis ~~prepared by a qualified, registered Professional Engineer, to evaluate the effect of a proposed development on the roadway network in terms of additional traffic.~~

g. Change of Use Applications

- i. Context plan (minimum scale of 1:500 metric) showing location of property, adjacent streets, and land use districts
- ii. Development program, including:
- total building gross floor area
 - existing and proposed uses (gross floor area by use)
 - required and proposed parking
 - required and proposed housing.
- iii. Site plan (minimum scale of 1:200 metric) including:
- size, location and paving of driveways and parking areas showing grades and paving material
 - footprints of adjacent development within 6 m of the property line
 - dimensioned loading areas
 - garbage room location, dimensions and details
 - existing and proposed services

iv. Architectural plans (minimum scale of 1:100 metric) including:

- floor plans of all structures and additions
- any exterior changes
- any sign changes

~~v. Letter of consent from property owner~~

~~-detailed description of operation~~

vi. Development permit application for any required housing (in conjunction with commercial or institutional projects)

h. Change of Use Applications for Storefront Cannabis Retail

- i. All materials required under Section 4.3.2(g);
- ii. Context plan (minimum scale of 1:500 metric) showing location of premises and separation distances from parcels as required by Section 8.21.0; and
- iii. Confirmation from the Alberta Liquor and Gaming Commission that an application for a Cannabis Store License has been received and deemed eligible for processing.

i. Transportation Service Applications

- i. Context plan (minimum scale of 1:500 metric) showing location of property, adjacent streets, and land use districts
- ii. Site plan (minimum scale of 1:200 metric) including:
 - north arrow and scale
 - adjacent sidewalks, streets and curbs
 - dimensioned setbacks
 - size and location of all existing and proposed buildings and land uses including accessory buildings
 - any existing rights-of-way or easements
 - dimensioned parking spaces and driveways showing grades and paving material
 - vehicular circulation, location and geometrics of access points and existing and proposed geometrics for adjacent roadways
 - drainage plan and snow storage areas
 - location of fire hydrants and service connections
 - garbage room location, dimensions, and details
- iii. Landscape plan (may be combined with the site plan, minimum scale of 1:200 metric), including:

- existing and finished grades
- vegetation to be retained, and method of protecting vegetation during construction
- planting plan
- existing and proposed plant species, quantities and sizes
- irrigation method (if any)
- all paving surfaces
- proposed boulevard landscaping and paving
- existing and proposed fencing and lighting.

iv. Development permit application for any required housing.

~~v. Letter of consent from property owner.~~

vi. Detailed description of operation.

vii. In addition, ~~a~~ the Development ~~Officer~~ Authority may require a traffic impact analysis ~~prepared by a qualified, registered Professional Engineer, to evaluate the effect of a proposed development on the roadway network in terms of additional traffic.~~

4.3.3 The applicant shall provide any additional plans, models, photos, surveys or other materials as ~~a~~ the Development ~~Officer~~ Authority may consider necessary to properly evaluate an application.

4.3.4 If a development requires ~~assessment or review~~ under ~~federal environmental assessment legislation Canadian Environmental~~, the applicant shall also file ~~project and environmental information~~ in conformity with the ~~requirements of Parks Canada. Canadian Environmental Assessment.~~

4.3.5 An application shall not be considered as complete for purposes of the commencement of the decision-making time until the information and materials required above have been filed.

4.3.6 Notwithstanding s.4.3.5, ~~a~~ the Development ~~Officer~~ Authority may consider an application complete ~~although not all of the requirements of s.4.3.2 have been met~~ if, in ~~the their~~ opinion ~~of a Development Officer~~, an informed decision can be made based on the material that has been submitted.

4.3.7 The Development Authority may refuse to accept a development permit application where the information required is not provided, the quality of the information provided is inadequate to properly evaluate the application, or if the fee for a development permit application has not been paid.

4.4.0 Application Notification Sign

4.4.1 Within seven (7) days after submitting a development permit application ~~that has been deemed complete by the Development Authority~~, the applicant shall post the site that is the subject of the development permit application with a sign notifying the public that a

development permit application has been submitted. Where an application involves approval of several development permits, one (1) application notification sign for the site may be permitted at the discretion of the Development ~~Officer~~ Authority.

- 4.4.2 Within seven (7) days after submitting a development permit application, The sign shall be posted for a minimum of twenty-one (21) days.
- 4.4.3 The applicant shall notify the Development ~~Officer~~ Authority when the sign has been posted.
- 4.4.4 The applicant is responsible for the preparation, posting, maintenance and removal of the sign.
- 4.4.5 Notification signs are not required for developments deeming to be minor in nature by a Development ~~Officer~~ Authority, signs (unless a variance is requested), tree removal permits, or home occupations.
- 4.4.6 The notification sign shall be posted on the site in a conspicuous place easily visible from an adjacent public roadway to the satisfaction of the ~~Development Officer~~ Authority. Signs shall be:
 - a. Located at the front of property within 2m from a front or side lot line, and readable from a public roadway (not including a lane);
 - b. Freestanding or fixed to a structure.
- 4.4.7 The notification sign shall meet the specifications and contain the information set out in Schedule “E.”
- 4.4.8 Within seven (7) days after receiving a development permit application, the Development ~~Officer~~ Authority shall send a notice to property owners whose property is within 45m of the subject property for development permit applications that require an application notification sign as per Section 4.4.1. Notice may be sent by regular mail or electronic mail for property owners who have provided consent to receive electronic mail.

4.5.0 Decisions on Permitted Uses

- 4.5.1 ~~A~~ The Development ~~Officer~~ Authority shall approve a development permit, with or without conditions, where the development is a permitted use in the district in which it is located, and the proposed development conforms in every respect to the provisions of the Act, the Agreement, the Banff National Park of Canada Management Plan, all applicable statutory plans, and this Bylaw.
- 4.5.2 Except as permitted in s.4.5.3, ~~a~~ the Development ~~Officer~~ Authority may approve a development permit for a permitted use that does not comply with the regulations of this Bylaw or with the Act, ~~the Agreement, the Banff National Park Management Plan,~~ and all applicable statutory plans, provided that the conditions in the permit require compliance.

- 4.5.3 ~~A The Development Officer Authority~~ shall refuse a development permit for a permitted use that does not conform in every respect to the provisions of the Act, the Agreement, the Banff National Park of Canada Management Plan, all applicable statutory plans, and this Bylaw, unless a variance to this Bylaw has been granted pursuant to s.4.7.0.
- 4.5.4 ~~A The Development Officer Authority~~ may refuse a development permit application for a permitted use if, in ~~the Development Officer's~~ their opinion, the application does not make adequate provision in respect to the regulations or guidelines of this Bylaw.
- 4.5.5 ~~A The Development Officer Authority~~ may refuse a development permit for a permitted use if, in ~~a Development Officer's~~ their opinion, satisfactory arrangements have not been made for the supply of water, power, sewer or other services, utilities, and facilities, or for the payment of any required fees or levies.
- 4.5.6 ~~A The Development Officer Authority~~ shall refuse an application for a development permit for a use that is not a permitted use, a discretionary use, nor a use deemed to be a discretionary use pursuant to s.2.3.3.
- 4.5.7 A Development Officer may, at ~~his~~ their discretion, refer to the Municipal Planning Commission for decision a development permit application for a permitted use, in which case the Municipal Planning Commission shall decide the application pursuant to s.4.5.1 to s.4.5.5.

4.6.0 Decisions on Discretionary Uses

- 4.6.1 The Municipal Planning Commission may approve or refuse, at its discretion, an application for a development permit for a discretionary use that complies in every respect with the provisions of this Bylaw, the Act, the Agreement, the Banff National Park of Canada Management Plan, and all applicable statutory plans.
- 4.6.2 ~~Except as permitted in s.4.6.3 and s.4.7.0, the Municipal Planning Commission shall refuse an application for a development permit for a discretionary use that does not comply with this Bylaw, the Act, the Agreement, the Banff National Park Management Plan, and all applicable statutory plans.~~
- 4.6.3 The Municipal Planning Commission may approve an application for a development permit for a discretionary use that does not comply with the regulations of this Bylaw, the Act, ~~the Agreement, the Banff National Park Management Plan,~~ and all statutory plans, provided that it imposes conditions in the permit requiring compliance, ~~or a variance has been granted pursuant to s.4.7.0.~~

4.7.0 Variances

- 4.7.1 A Development ~~Approving~~ Authority may grant a development permit for development that does not comply with the regulations of the Bylaw, only if, in its opinion:
- a. the deviation from this Bylaw is minor;

- b. the proposed development 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
- c. the proposed development conforms with the use prescribed for that building or land in the district that applies to it; and either
- d. an unusual site configuration, 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; or
- e. approval of the variances will, in the opinion of the development approving authority, substantially improve the quality of design of the development relative to the Banff Design Guidelines; or contribute to the preservation of the heritage value of a recognized historical building or resource.

4.7.2 Before approving a development permit pursuant to s.4.7.1, a Development ~~Approving~~ Authority may request and consider comments from nearby residents and owners.

4.8.0 Conditions of Development Permits

- 4.8.1 A Development ~~Approving~~ Authority shall impose as conditions those ~~mitigative mitigation and other~~ measures ~~required by an environmental assessment identified subsequent to an assessment or review carried out pursuant to the Canadian Environmental Assessment Act to minimize any potential adverse environmental effects~~ ~~federal environmental assessment legislation~~.
- 4.8.2 When a development involves construction of a structure over the boundaries of adjoining lots, any development permit issued shall be subject to the condition that, prior to release of a development permit, the owner shall consolidate the leases for the lots involved.
- 4.8.3 A Development ~~Officer~~ Authority may impose the following conditions in a development permit:
 - a. conditions to ensure compliance with the Act, ~~the Agreement, the Banff National Park Management Plan~~, any applicable statutory plan, and this Bylaw;
 - b. conditions requiring the applicant to make satisfactory arrangements for the supply of gas, water, electric power, telephone, sewer service, vehicular and pedestrian access and any other utility, service, or facility, including payment of installation or construction costs by the applicant;
 - c. a condition that the applicant enter into an agreement with the Town for any of the following:
 - i. to construct or pay for the construction or improvement of a public roadway required to give access to the development;

- ii. to construct or pay for the construction of a pedestrian walkway system to serve the development; or a pedestrian walkway that will connect the pedestrian walkway system serving the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development, or both;
 - iii. to specify the location, standard, and number of vehicular and pedestrian access locations to a site from public roadways;
 - iv. to install or pay for the installation of utilities to municipal standards necessary to serve the development;
 - v. to construct or pay for utilities, roadways, and improvements with an excess capacity pursuant to s.650 of the Act;
 - vi. to construct or pay for the construction of off-street or other parking facilities, and garbage, recycling, loading and unloading facilities;
 - vii. to pay an off-site levy or redevelopment levy, or both, imposed by a Bylaw adopted pursuant to the Act; and,
 - viii. to give security to the Town to ensure terms of the agreement under this section are carried out.
- d. a condition requiring the applicant to repair or reinstate, or to pay for the repair or reinstatement, to original condition any street furniture, curbing, sidewalk, boulevard landscaping and tree planting which may be damaged, destroyed, or otherwise harmed by the development;
 - e. conditions respecting the paving, fencing, and landscaping of the lot and adjacent public roadways during and after its development including that the applicant provide security in the amount of 125% of the estimated paving, fencing, and landscaping cost, the condition of the security being that, if these works are not completed in accordance with this Bylaw and the landscaping within one growing season after the completion of the development, then the amount fixed shall be paid to the Town for its use in completing the works;
 - f. conditions respecting the time within which a development or any part of it is to be completed; and
 - g. conditions limiting the length of time that a development permit may continue in effect.

4.8.4

The Municipal Planning Commission may impose the following conditions in a development permit approved by it:

- a. any of the conditions that a Development Officer may impose in a development permit;

- b. a condition imposing a development standard that is more restrictive or onerous than the regulations of this Bylaw, having regard to the nature of the development, the Act, the Agreement, the Banff National Park Management Plan, any applicable statutory plan, and the provisions of this Bylaw; and
- c. such other conditions as it considers appropriate to the circumstances.

4.8.5 The Town may register a caveat in respect of an agreement under s.4.8.2 or s.4.8.3 against the parcel that is subject of the development permit. The caveat may be discharged when the agreement has been complied with.

4.9.0 Notification of Decision

4.9.1 Within seven (7) days after a decision has been made on a development permit application for a permitted use, or for the continued, unchanged use of an existing bed and breakfast home, bed and breakfast inn, or home occupation, ~~a the~~ Development ~~Officer~~ Authority shall provide a written Notice of Decision to the applicant, either by ordinary mail or personal service, and shall post a copy of the Notice of Decision for public view in the Town offices, stating the nature of the proposed development, its location, the nature of any variances granted, and whether a development permit was approved or refused.

4.9.2 Within seven (7) days after a decision has been made on a development permit application for a discretionary use (except for tree removal, sign, or for the continued, unchanged use of an existing bed and breakfast home, bed and breakfast inn, or home occupation) or where a variance has been granted for a permitted use, ~~a the~~ Development ~~Officer~~ Authority shall do those things required by Section 4.9.1 and shall also send a copy of the Notice of Decision by regular mail to adjacent owners, advising them of the nature of the development approved, the nature of any variances granted, and that there is a right of appeal by affected persons.

4.9.3 Within fourteen (14) days after a decision has been made on a development permit application for a discretionary use (except for tree removal, sign, or for the continued, unchanged use of an existing bed and breakfast home, bed and breakfast inn, or home occupation) or for a permitted use where a variance has been granted, ~~a the~~ Development ~~Officer~~ Authority shall publish a notice in a local newspaper stating location, the nature of the development approved, the nature of any variances granted, and that there is a right of appeal by affected persons.

4.9.4 ~~After refusing a development permit application for a permitted use that does not comply with all of the applicable requirements and rules of this Bylaw, the Development Authority must provide written notification of the decision and the reasons for it to the applicant.~~

4.10.0 Effective Date of a Development Permit

4.10.1 When a development permit has been approved by ~~a the Development Officer or the Municipal Planning Commission~~ Authority, the permit shall not be issued:

- a. before the 21 day appeal period referred to in the Municipal Government Act has expired;
- ~~b. until 14 days from the date of posting referred to for a permitted use;~~
- c. until ~~14~~ 21 days from the date of publication in the newspaper for a discretionary use or a variance; ~~and~~
- d. until all conditions of the permit, except those of a continuing nature, have been fulfilled or arrangements for fulfillment satisfactory to the Development ~~Officer~~ Authority have been made; ~~and~~.
- ~~e. unless no appeal has been made to the Development Appeal Board within the appeal period.~~

4.10.2 No appeal lies from a development permit for a permitted use unless the provisions of the Land Use Bylaw were relaxed, varied or misinterpreted.

4.10.3 If an appeal has been filed, a development permit shall not be issued unless the Development Appeal Board issues an order approving a development permit and all conditions of such permit, except those of a continuing nature, have been fulfilled or arrangements for fulfillment satisfactory to the Development ~~Officer~~ Authority have been made.

4.10.4 When a development permit has been issued, but an application to the Court of Appeal has been commenced, any action taken by the permit holder in proceeding with the development is at the sole risk of the permit holder.

4.10.5 For the purpose of this section, the term "effective date of approval of the development permit" means:

- a. the date upon which the Development Authority approves the development permit application;
- b. in the case of an appeal to the Development Appeal Board, the date upon which the Development Appeal Board renders a written decision approving the development permit application; or
- c. In the case of an appeal or leave to appeal to the Court of Appeal, the date the judgement roll or decision of the court is filed with the Court of Appeal allowing the development to proceed pursuant to an approved development permit.

4.10.6 The approval of a development permit application and the release of a development permit does not authorize construction to either commence or continue except in conjunction with all other required permits.

4.11.0 Expiry of a Development Permit

4.11.1 Where a development permit is issued for a change of use, or a change of intensity of use, or both, the development shall commence within one year of the date of issuance of the development permit.

4.11.2 Where a development permit is issued for construction, or for construction combined with either a change of use or intensity of use, or both, development shall commence within ~~one~~ two years of the date of issuance of the development permit.

4.11.3 ~~The Development Officer may extend:~~

~~a. the one-year period referred to in Section 4.11.1, or~~

~~b. the one-year period referred to in Section 4.11.2, upon written request by the applicant before the initial one-year period ends. The maximum extension is one year.~~

~~The Director, Planning and Development may grant a request to extend the date before which development must commence as specified in this Bylaw provided:~~

~~a. the development permit is not for a change of use, a change of intensity of use or both;~~

~~b. no more than two extensions are granted for any development permit;~~

~~c. the length of any extension is up to two years;~~

~~d. the request is made in writing on a form approved by the Director, Planning and Development and must be submitted with the fee as prescribed by resolution of Council; and~~

~~e. the request is granted prior to the development permit lapsing.~~

4.11.4 Where development has not substantially commenced in accordance with s.4.11.1; ~~or s.4.11.2; or s.4.11.2.1,~~ the development permit shall cease to be valid.

4.11.5 Where a development permit expires pursuant to s.4.11.1, s.4.11.2, or 4.11.3 a new development permit application for the same development is required. Such application shall be dealt with as a new application and there shall be no obligation to approve a development permit on the basis that a previous permit had been issued.

4.12.0 Temporary Development Permits

4.12.1 Except in the case where a development permit issued for a use intended to be permanent, a Development ~~Approving~~ Authority may issue a permit to be valid for a specified time period as set out in the permit.

4.12.2 Where a development permit has been issued for a limited period, the permit lapses on expiration of that period, whereupon the development shall cease and the developed site shall be restored to its condition prior to the issuance of the permit.

4.12.3 An application to extend the duration of a temporary development permit shall be dealt with as a new development permit application. There shall be no obligation to approve a development permit on the basis that the previous permit had been issued.

4.13.0 **Revocation or Suspension of a Development Permit**

4.13.1 Where a development permit is issued and where any other development permit is in effect for the same site, the subsequent permit shall operate to revoke the previous permit if both developments could not occur together on the site in accordance with this Bylaw.

4.13.2 A Development ~~Officer~~ Authority may suspend or revoke a development permit where:

- a. the applicant fails to comply with the conditions of the permit;
- b. the development is contrary to the terms or conditions of the development permit or provisions of this Bylaw;
- c. the permit was issued, ~~in the opinion of a Development Officer,~~ on the basis of substantive incorrect information or misrepresentation by the applicant; ~~or~~
- d. the development permit was issued in error; ~~or~~
- e. the applicant requests, by way of written notice to the Development Authority, the cancellation of the development permit, provided that commencement of the use, development or construction has not occurred.

4.13.3 A person who undertakes or causes or permits any development on a site without a permit, or after a permit has been suspended or revoked, shall discontinue such development upon notice in writing issued by ~~a~~ the Development ~~Officer~~ Authority and shall not resume such development unless a permit is reinstated or a new permit is issued.

4.13.4 If the Development Authority suspends or cancels a development permit, the Development Authority must provide written notice of the suspension or cancellation to the applicant.

4.13.5 Upon receipt of the written notice of suspension or cancellation, the applicant must cease all development and activities to which the development permit relates.

4.14.0 **Administrative Cancellation of an Application**

4.14.1 In the case of an inactive or non-responsive application the Director of Planning and Development may, in their sole and unfettered discretion, cancel a development permit application subsequent to acceptance, where it is determined that the information provided is not adequate for the Development Authority to properly evaluate the application.

4.14.2 The Director of Planning and Development must provide written notice of the cancellation of the development permit application including reasons for the decision to the applicant.

4.14.3 The fees associated with a development permit application cancelled by the Director of Planning and Development may be refunded.

4.15.0 Resubmission Interval

4.15.1 When an application for a development permit is refused, another application for the same or a similar use on the same site shall not be submitted by the same or any other applicant until six months after the date of the decision to refuse has been made. ~~A The Development Officer Authority~~ shall have the discretion to waive the waiting period for the submission of a new development permit application for the same or similar use.

4.15.2 If ~~a the Development Officer Authority~~ refuses to accept an application pursuant to s.4.14.1, the application shall be returned with any fees paid to the applicant without decision, and the application shall be deemed to be withdrawn.

4.15.3 When another development permit application is submitted pursuant to s.4.14.1, it shall be considered as a new application.

4.16.0 Development Permit Appeals

4.16.1 A person affected by an order made under s.645 of the Act in respect of development may appeal the order to the Development Appeal Board.

4.16.2 An applicant for a development permit or a person affected by an order, decision, or development permit may appeal to the Development Appeal Board.

4.16.3 The time for filing an appeal and the procedures to be followed by an appellant and the Development Appeal Board shall be in accordance with ~~s.686 to s.687(3)(e) of the Act. and s.3.3.0 of this Bylaw.~~

4.16.4 At the time of filing an appeal with the Development Appeal Board, the appellant shall pay the processing fee, ~~which may be refunded to the appellant at the discretion of the Development Appeal Board~~ as prescribed by resolution of Council.

4.17.0 In determining an appeal, the Development Appeal Board:

- a. shall comply with the Act, the Agreement, the Banff National Park of Canada Management Plan, any applicable statutory plan, and, subject to s.4.15.6 4.18.0 of this Bylaw;
- b. shall impose the same conditions in its decision as a Development Approving Authority is required to impose in a development permit;
- c. may impose the same conditions as a Development Approving Authority may impose; and
- d. may exercise the same discretion as a Development Approving Authority.

- 4.18.0 ~~Subject to s.4.15.7 and s.4.15.8 the~~ The Development Appeal Board may make an order ~~or a decision,~~ or issue or confirm the issuance of a development permit ~~that or~~ approve an application for subdivision approval notwithstanding that the proposed development or subdivision does not comply with this Bylaw if, in its opinion:
- a. the deviation from this Bylaw is minor ~~in nature;~~
 - b. strict application of the Bylaw would cause unnecessary hardship to the applicant arising out of circumstances peculiar to his land; and
 - c. the deviation from the Bylaw would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties.
 - ~~d. the proposed development 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,~~
 - ~~e. the proposed development conforms with the use prescribed for that building or land in the district that applies to it; and either,~~
 - ~~f. an unusual site configuration, 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; or,~~
 - ~~g. approval of the variances may, in the opinion of the Development Approving Authority, substantially improve the quality of design of the development relative to the Banff Design Guidelines; or contribute to the preservation of the heritage value of a recognized historic building or resource.~~
- 4.19.0 The Development Appeal Board shall not approve a development that does not conform with the uses prescribed by this Bylaw.
- 4.20.0 The Development Appeal Board shall not approve a development ~~that does not~~ comply with the requirements of an environmental assessment performed under the Canadian Environmental Assessment Act and shall not approve a development without attaching as conditions those ~~where the requirements for~~ assessment or review under federal environmental legislation have not been completed or where the mitigative measures required by the environmental assessment to minimize any adverse environmental effect of the development ~~are not~~ included as conditions of the permit.
- 4.21.0 When the Development Appeal Board approves a development permit that had been refused by a Development ~~Approving~~ Authority, the decision of the Development Appeal Board is the development permit. When the Development Appeal Board upholds a decision to approve a development permit that has been issued by a Development ~~Approving~~ Authority, the previous development permit shall be modified as provided for in the decision of the Development Appeal Board and the decision is part of the permit.
- 4.22.0 Where the Development Appeal Board refuses a development permit that was previously issued, the development permit is ~~null and~~ void.