

## TOWN OF CANMORE

### AGENDA

Regular Meeting of Council  
Council Chambers at the Civic Centre, 902 – 7 Avenue  
Tuesday, November 1, 2022 at 9:00 a.m.

Times are estimates only.

- 9:00 – 9:05      **PUBLIC QUESTION PERIOD – Before meeting is called to order**
- 9:05 – 9:10      **A. CALL TO ORDER AND APPROVAL OF AGENDA**  
                    1. Land Acknowledgement  
                    2. Agenda for the November 1, 2022 Regular Meeting of Council
- B. PUBLIC HEARINGS - None**
- C. DELEGATIONS - None**
- 9:10 – 9:15      **D. APPROVAL OF MINUTES**  
                    1. Minutes of the October 4, 2022 Regular Meeting of Council
- E. BUSINESS ARISING FROM THE MINUTES**
- 9:15 – 9:30      **F. UNFINISHED BUSINESS**  
                    1. **Homelessness Society of the Bow Valley (HSBV) Request**  
                        Recommendation: That Council direct administration to offer the Scout Hall to the Homelessness Society of the Bow Valley as a potential rental location to be used as an emergency overnight shelter from December 1, 2022 to March 15, 2023.
- 9:30 – 9:40      2. **Bylaws 2022-09 and 2022-10 800 3<sup>rd</sup> Avenue Municipal Development Plan and Land Use Bylaw Amendments Update**  
                        Recommendation: That Council direct administration to return no later than June 2023 with a response from the applicant to Council direction from the May 24, 2022 Council meeting regarding Bylaws 2022-09 and 2022-10.
- 9:40 – 10:10     3. **Paid Parking Revenue Statistics and Business Improvement Area (BIA) Request**  
                        Recommendation: That Council direct administration to create a Town Centre Grant Program to begin in 2023 funded by the Paid Parking Reserve with the annual amount determined as part of the budget process.
- G. BYLAW APPROVAL - None**
- 10:10 – 10:40    **H. NEW BUSINESS**  
                    1. **Non-resident Employee Paid Parking Monthly Passes**  
                        Recommendation: That Council direct administration to implement a non-resident employee paid parking monthly pass option for the off-peak season only.
- 10:40 – 10:55      **Meeting Break**

- 10:55 – 11:05      **2. 2022 New Municipal Climate Change Action Centre (MCCAC) Grant Funded Project – Extreme Heat and Wildfire Smoke Emergency Response Plans**  
 Recommendation: That Council approve a new 2022 capital project to create Emergency Response Plans for Extreme Heat and Wildfire Smoke for up to \$80,000, to be funded from the Municipal Climate Change Action Centre Climate Resilience Capacity Building Program.
- 11:05 – 11:35      **3. Commercial Food Waste**  
 Recommendation: That Council direct administration to prepare a mandatory commercial food waste program, to include a Waste Control Bylaw amendment and implementation plan, by April 2023 for a program start of October 1, 2023.
- 11:35 – 11:45      **4. Property Tax Policy Amendment**  
 Recommendation: That Council approve Property Tax Policy FIN-005 as amended.
- 11:45 – 12:00      **5. Land Transaction Policy Amendment**  
 Recommendation: That Council approve Land Transaction Policy EX-007 as amended.
- 12:00 – 1:00              **Lunch Break**
- 1:00 – 1:30              **6. Court of King’s Bench of Alberta decision re. “Staircase Lands” (Three Sisters Mountain Village Properties Ltd. v. Canmore, 2022 ABQB 511)**  
 Recommendation: That Council direct:
  1. 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; and
  2. that the 2023 budget include a capital project for acquisition of a portion of the Staircase Lands in an amount sufficient to cover estimated expropriation costs and land value.
- 1:30 – 3:00              **I. REPORTS FROM ADMINISTRATION**
- 1. Three Sisters Mountain Village Properties Ltd. Litigation – Permission to Appeal and Application for Mandamus**  
 Purpose: To brief Council on:
  1. the Town’s receipt of permission to appeal the Land and Property Rights Tribunal decisions to the Court of Appeal of Alberta; and
  2. a separate court action by Three Sisters Mountain Village Properties Ltd. seeking an order on the Town to adopt the Smith Creek and Three Sisters Area Structure Plan as ordered by the Land and Property Rights Tribunal

**J. NOTICES OF MOTION - None**

**K. IN CAMERA**

During item H6

**1. Court of King’s Bench of Alberta decision re. “Staircase Lands” (Three Sisters Mountain Village Properties Ltd. v. Canmore, 2022 ABQB 511)**

Recommendation: that Council take the meeting in camera to prevent disclosure of solicitor-client privilege in accordance with section 27(1)(a) of the Freedom of Information and Protection of Privacy Act.

During item I1

**2. Three Sisters Mountain Village Properties Ltd. Litigation – Permission to Appeal and Application for Mandamus**

Recommendation: that Council take the meeting in camera to prevent disclosure of solicitor-client privilege in accordance with section 27(1)(a) of the Freedom of Information and Protection of Privacy Act.

3:00

**L. ADJOURNMENT**



**TOWN OF CANMORE  
MINUTES**

Regular Meeting of Council  
Council Chambers at the Civic Centre, 902 – 7 Avenue  
**Tuesday, October 4, 2022 at 9:00 a.m.**

**COUNCIL MEMBERS PRESENT**

Sean Krausert	Mayor
Jeff Mah	Deputy Mayor
Jeff Hilstad	Councillor
Karen Marra	Councillor
Tanya Foubert	Councillor
Wade Graham	Councillor

**COUNCIL MEMBERS ABSENT**

Joanna McCallum	Councillor
-----------------	------------

**ADMINISTRATION PRESENT**

Sally Caudill	Chief Administrative Officer
Therese Rogers	General Manager of Corporate Services
Whitney Smithers	General Manager of Municipal Infrastructure
Scott McKay	General Manager of Municipal Services
Adam Driedzic	Town Solicitor
Cheryl Hyde	Municipal Clerk (Recorder)
Lisa Brown	Manager of Community Social Development
Keri Martens	Deputy Fire Chief
Lauren Miller	Manager of Planning and Development
Adam Robertson	Communications Advisor

Mayor Krausert called the October 4, 2022 regular meeting to order at 9:00 a.m.

**PUBLIC QUESTION PERIOD – Before meeting is called to order**

**A. CALL TO ORDER AND APPROVAL OF AGENDA**

1. Land Acknowledgement
2. Agenda for the October 4, 2022 Regular Meeting of Council

234-2022

Moved by Mayor Krausert that Council approve the agenda for the October 4, 2022 meeting as presented with one addition:

- Under In Camera add: K2 IAFF Union Negotiation Update.

**CARRIED UNANIMOUSLY**

**B. PUBLIC HEARINGS – None**

**C. DELEGATIONS – None**

**D. APPROVAL OF MINUTES**

235-2022      **1. Minutes of the September 6, 2022 Regular Meeting of Council**  
Moved by Mayor Krausert that Council approve the minutes of the September 6, 2022 meeting as presented with one amendment:

- Under B1 strike out “Amending” from the title (Clean Energy Improvement Tax ~~Amending~~ Bylaw 2022-21).

**CARRIED UNANIMOUSLY**

236-2022      **2. Minutes of the September 13, 2022 Special Meeting of Council**  
Moved by Mayor Krausert that Council approve the minutes of the September 13, 2022 meeting as presented.

**CARRIED UNANIMOUSLY**

**E. BUSINESS ARISING FROM THE MINUTES – None**

**F. UNFINISHED BUSINESS**

237-2022      **1. Bow Valley Connection Centre**  
Moved by Mayor Krausert that Council accept administration’s review of Bow Valley Connections Centre’s request for interim Life Campus Space as information.

**CARRIED**

**In favour: Foubert, Graham, Hilstad, Mah, Marra**

**Opposed: Krausert**

**G. BYLAW APPROVAL**

238-2022      **1. Borrowing Bylaw 2022-20 Clean Energy Improvement Program**  
Moved by Mayor Krausert that Council give second reading to Clean Energy Improvement Borrowing Bylaw 2022-20.

**CARRIED UNANIMOUSLY**

239-2022      Moved by Mayor Krausert that Council give third reading to Clean Energy Improvement Borrowing Bylaw Borrowing Bylaw 2022-20.

**CARRIED UNANIMOUSLY**

**H. NEW BUSINESS**

240-2022      **1. 2022 New FRIAA Grant Funded Projects**  
Moved by Mayor Krausert that Council approve two new 2022 capital projects with grant funds from Forest Resource Improvement Association of Alberta (FRIAA): Vegetation Management Plan Update for \$15,000 and Wildfire Preparedness Plan Update for \$15,000.

**CARRIED UNANIMOUSLY**

**Meeting Break 9:32 – 9:45**

**I. REPORTS FROM ADMINISTRATION – None**

**J. NOTICES OF MOTION – None**

Minutes approved by: \_\_\_\_\_

**K. IN CAMERA**

1. **Three Sisters Mountain Village Litigation Update**
2. **IAFF Union Negotiation Update**

241-2022

Moved by Mayor Krausert that Council take the meeting in camera at 9:45 a.m. to:

- prevent disclosure of information subject to solicitor-client privilege in accordance with s.27(1)(a) of the Freedom of Information and Protection of Privacy Act (Item K1) and
- prevent disclosure of information related to the Town's contractual negotiations in accordance with s.25(1)(iii) of the Freedom of Information and Protection of Privacy Act (Item K2).

**CARRIED UNANIMOUSLY**

Note to minutes: Item K2 IAFF Union Negotiation Update was heard first, after which Councillor Marra left the meeting at 10:07 a.m. Item K1 Three Sisters Mountain Village Litigation Update was heard after Councillor Marra departed.

The following members of administration were present for the in camera session: Sally Caudill, Whitney Smithers, Therese Rogers, Scott McKay, Cheryl Hyde, Adam Driedzic, Adam Robertson, and Lauren Miller.

242-2022

Moved by Mayor Krausert that Council return to the public meeting at 11:21 a.m.

**CARRIED UNANIMOUSLY**

**L. ADJOURNMENT**

243-2022

Moved by Mayor Krausert that Council adjourn the October 4, 2022 meeting at 11:21 a.m.

**CARRIED UNANIMOUSLY**

---

Sean Krausert, Mayor

---

Cheryl Hyde, Municipal Clerk

Minutes approved by: \_\_\_\_\_



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** F-1

**TO:** Council

**SUBJECT:** Homelessness Society of the Bow Valley (HSBV) Request

**SUBMITTED BY:** Lisa Brown, Manager of Community Social Development

**RECOMMENDATION:** That Council direct administration to offer the Scout Hall to the Homelessness Society of the Bow Valley as a potential rental location to be used as an emergency overnight shelter from December 1, 2022 to March 15, 2023.

## EXECUTIVE SUMMARY

The Homelessness Society of the Bow Valley (HSBV) is a community-based organization with a mission to provide low barrier shelter and programs to individuals who are experiencing homelessness during the coldest months of the year. For the previous two winter seasons, HSBV has operated out of the St. Michael's Anglican Church. The church has requested that the Society look for an alternative overnight shelter space for the 2022/2023 winter season as the church will be resuming pre-pandemic programs that may interfere with shelter operations.

In September 2022, HSBV presented as a delegation to Council and requested that Council consider providing a municipal space to support shelter operations. Council referred the request to Administration for review and recommendation. Administration reviewed potential spaces with municipal departments, and based on this review, is recommending that the Town offer Scout Hall to HSBV as a potential rental location for the winter emergency shelter program.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

On September 6, 2022 Homeless Society of the Bow Valley presented a delegation report to Council and requested that Council consider providing a municipal space to support shelter operations from December 1, 2022 to March 15, 2023 (from 8pm-8am daily).

On September 6, 2022 Council approved two motions:

- 1) That consideration of the Homelessness Society of the Bow Valley request be added to the current meeting agenda as Item C – 1.1.
- 2) That the Homelessness Society of the Bow Valley's request be referred to Administration for review and recommendation.

**DISCUSSION**

In order for HSBV to run the winter emergency shelter program in the same manner as previous seasons, HSBV requires space from 8pm to 8am, daily, from December 1, 2022 to March 15, 2023. This includes weekends and holidays. HSBV can commit to cleaning the space daily so that the hall can support other programs in daytime hours and will not be exclusively for the shelter program.

In HSBV’s presentation to Council, staff requested a shelter space that is centrally located and that can be divided into separate areas. Ideally the space will also include access to showers, a kitchen, and bathrooms.

Administration considered several town spaces. There is no ideal space-match based municipal operations and requirements articulated by HSBV, however, Scout Hall does meet some of the Society’s requirements and works with municipal operations. The space is available during the night, although hours may need to be adjusted slightly to meet other program needs. In addition, the space has bathrooms and a kitchen as well as access to storage.

If Council were to approve the operation of HSBV’s shelter program at the Scout Hall, Administration would require that HSBV connect with neighbours and other Scout Hall user groups prior to opening the shelter and during program operations to share information about the program and address any questions or concerns. As part of the rental agreement, the Town will reserve the right to end the rental agreement with HSBV should the shelter not abide by the Town’s Community Standard’s Bylaw and/or the rental permit terms and conditions that accompany all facility rentals administered by the Town.

HSBV is also in the process of exploring other potential locations for the 2022-2023 winter emergency shelter program. If Council approves HSBV as a potential renter of the Scout Hall, if another location that better fits the operational needs of the program becomes available HSBV may not enter into a rental agreement with the Town.

**ANALYSIS OF ALTERNATIVES**

Administration explored the idea of leasing land to the Society for a shelter program that could operate in portable pods. As the Society does not currently have the funds to lease both land and portable space, administration has not yet investigated potential land areas.

**FINANCIAL IMPACTS**

Current non-profit rate for Scout’s Hall is \$15 per hour. If the Society rents the program for 12 hours per night, the nightly program cost would be \$180 per night or approximately \$5,400 per month.

**STAKEHOLDER ENGAGEMENT**

Consultation occurred with all municipal departments as well as impacted external stakeholders (Girl Guides, Scouts, other Scout Hall user groups).

**ATTACHMENTS**

N/A



**AUTHORIZATION**

Submitted by: Lisa Brown  
Manager of CSD Date: September 13, 2022

Approved by: Palki Biswas  
Manager of Finance Date: October 14, 2022

Approved by: Scott McKay  
GM of Municipal Services Date: October 13, 2022

Approved by: Sally Caudill  
Chief Administrative Officer Date: October 24, 2022



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** F-2

**TO:** Council

**SUBJECT:** Bylaws 2022-09 and 2022-10 800 3<sup>rd</sup> Avenue Municipal Development Plan and Land Use Bylaw Amendments Update

**SUBMITTED BY:** Lauren Miller, Manager of Planning & Development

**RECOMMENDATION:** That Council direct administration to return no later than June 2023 with a response from the applicant to Council direction from the May 24, 2022, Council meeting regarding Bylaws 2022-09 and 2022-10.

## EXECUTIVE SUMMARY

Administration has had discussions with the applicant regarding their response to the May 24, 2022, public hearing and Council's specific direction subsequent to the hearing. The applicant continues to require additional time to develop a response to Council's direction.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

At the May 24, 2022 meeting of Council, motion 125-2022 was made directing administration to work with the applicant to prepare a recommendation and/or wording for a potential amendment with respect to Bylaws 2022-09 and 2022-10 ("the bylaws") regarding each of the following topics and provide the said recommendations and/or wording to Council prior to the 2<sup>nd</sup> reading of the bylaws.

1. Limiting house sizes in the subject area;
2. Creation of a legal instrument upon all parcels of the subject lands, which will include the following elements: (i) if a palliative care facility is not constructed in Area A then Area A will revert to the owner and the land in Area A will remain in a natural state; (ii) there is to be no trail or road connection between the Spring Creek development and 3rd Avenue through the subject lands; and (iii) the lands shall be protected in perpetuity from any further development except as described in the application;
3. Minimizing the distance between the buildings in Area B and 3rd Avenue in order to minimize the disruption to the undeveloped areas of the lands;
4. Removing the buildings in Area C, subject to an agreement between the Spring Creek development and the applicant whereby the Spring Creek development provides at its own cost water servicing to the palliative care facility (if such is determined to be needed) and provides at its own cost fill, landscaping, and a trail for Area C to become a park; and
5. Limiting maximum building height.

At the July 5<sup>th</sup>, 2022 meeting of Council, a motion was made directing administration to return no later than November 1, 2022 with a response to Council on motion 125-2022.

**DISCUSSION**

The applicant has had discussions with administration in an effort to develop a response to Council’s direction. Based on the last meetings administration had with the applicant, progress has been made on most of Council’s concerns. However, item 2 of Council’s motion – creation of a legal instrument – requires further legal review and discussion. Administration will continue to make itself available to the applicant to flush out these details in order to respond to Council’s concerns. While administration is hopeful that the application will be in a position to return to Council for consideration in the coming months, administration is recommending coming back no later than June of 2023, in the event that resolving the legal matters takes more time than anticipated.

**ANALYSIS OF ALTERNATIVES**

Council could proceed with second and third reading of these bylaws, despite receiving any further comment back from the applicant. Council could:

- a) make changes to the bylaw that speak to their initial concerns and then vote on those changes;
- b) choose not to make any changes to the bylaws and proceed with second and third reading of these bylaws as proposed by the applicant; or
- c) defeat the bylaw.

Administration acknowledges that as more time elapses between the date of the public hearing and when Council proceeds with subsequent bylaw readings, the necessity and urgency around some of the motions made regarding changes to the bylaw can begin to shift or fade. Administration is in support of moving this application as expediently through the process as possible and recommends proceeding after receiving a full response to Council’s motions from the applicant.

**FINANCIAL IMPACTS**

None.

**STAKEHOLDER ENGAGEMENT**

None.

**ATTACHMENTS**

None.

**AUTHORIZATION**

Submitted by:	Lauren Miller Manager of Planning & Development	Date:	<u>October 5, 2022</u>
Approved by:	Whitney Smithers General Manager of Municipal Infrastructure	Date:	<u>October 7, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date:	<u>October 24, 2022</u>



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** F-3

**TO:** Council

**SUBJECT:** Paid Parking Revenue Statistics and Business Improvement Area (BIA) Request

**SUBMITTED BY:** Danielle Liwanag, Paid Parking Coordinator

**RECOMMENDATION:** That Council direct administration to create a Town Centre Grant Program to begin in 2023 funded by the Paid Parking Reserve with the annual amount determined as part of the budget process.

## EXECUTIVE SUMMARY

This report provides statistics from the paid parking program that was implemented June 29, 2022, up until September 29, 2022. The report details permit, revenue, enforcement, and inquiry statistics. Based on these statistics and the jurisdictional scan of other municipalities with paid parking programs, administration recommends that direct administration to create a Town Centre Grant Program to begin in 2023 funded by the Paid Parking Reserve with the annual amount determined as part of the budget process.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

Motion 94-2022: Council postponed the request from the Downtown Canmore Business Improvement Area (BIA) to grant 25% of net monies from paid parking in the Town Centre to the BIA on an annual basis until the November 2022 regular meeting of Council, at which time administration will provide the statistics of the current net revenue derived from paid parking in the Town Centre from its inception until the end of September 2022.

FIN-007: Reserves Policy - Paid Parking Reserve. To fund improvements in areas where paid parking has been implemented, and/or to fund fare free transit services and/or to fund offsite parking related infrastructure such as intercept parking or shuttle services.

Motion 273-2020: Integrated Parking Management – Paid Parking and regulation: Council direct Administration to implement a paid parking program and associated parking strategies in the Town Centre in 2021 and to develop an implementation plan for a paid parking program and associated parking strategies for high parking demand areas outside of the Town Centre.

**DISCUSSION**

The following statistics are from June 29, 2022 to September 29, 2022.

**Permits**

Total resident permit applications processed	11,684
Vehicles registered for resident parking permit	9,818
Permit applications rejected	135
Permit applications on hold	200
Permit applications cancelled by user	231
Permit applications for individuals processed	11,177
Permit applications for businesses processed	507

Resident permit applications started coming in at the beginning of June and peaked when the paid parking program was implemented on June 29<sup>th</sup>. Parking ambassadors assisted individuals at pay machines and helped front counter employees with the influx of residents coming in for assistance with their permit for the new program.

**Enforcement**

Total Parking Sessions Activated	183,057
Number of plates checked	23,707
Total Warnings Issued	633
Tickets issued for failing to pay for parking	2,623
Tickets issued for parking in paid zone for longer than permitted	124
Tickets issued for parking in controlled resident zone without valid permit	205
Tickets for other Traffic & Road Use Bylaw infractions	536
Total tickets issued by Parking Ambassadors	3,488

When appropriate, the parking ambassadors have taken an education-based approach when enforcing parking violations. What is not reflected in the above table is the number of interactions parking ambassadors had regarding parking that resulted in neither a warning nor a ticket. Parking users frequently approach parking ambassadors to ask them about a variety of topics, such as how to use resident 3-hour parking, what payment methods exist, and where to register for a Canmore Resident Parking Permit. Parking ambassadors also enforce non-paid parking related infractions. With the implementation of the new program, administrative reviews (appeals) on tickets were more lenient as residents and visitors became familiar with the new program. Parking ambassadors identified problematic areas where signage was unclear and actively sought solutions to ensure greater compliance with the program.

**Paid Parking Revenue**

<b>Revenue Total (June 29 to September 29, 2022)</b>	
Gross Revenue Total	\$836,000
Gross Town Centre Total	\$652,000
Gross Quarry Lake Total	\$184,000
<b>Resident Parking Sessions</b>	
Free Resident Parking Sessions – Town Centre	33,180
Free Resident Parking Sessions – Quarry Lake	8,937
Total Free Resident Parking Sessions	42,117

Revenue shown above does not include program costs or fine revenue and is limited to peak-season usage from June 29 to September 29, 2022. The full costs of the program have not yet been expensed to give an accurate net revenue estimate at this time.

Residents who used their parking permits made up approximately 25% of the paid parking users. Some of the resident parking sessions used the free three hours and then had payment for additional hours. The remaining users paid for parking and did not use a permit. Seasonal changes can be expected, in September resident made up 37% of paid parking zone users. The trend will be monitored to better understand how parking is being utilized by different users throughout the year.

**Inquiries**

Assistance setting up account	192
Business registering vehicle	34
Canmore resident parking permit	4
Downtown paid parking inquiry	146
Methods of payment – paid parking	37
Parking rates	10
Quarry Lake paid parking inquiry	43
Residential parking permit zones	88
Other	237
Total inquiries received through form	791

The paid parking team encouraged all inquiries and feedback to come in through the Paid Parking Inquiry form, available at [canmore.ca/parking](http://canmore.ca/parking). The category breakdown of inquiries in the above table does not include inquiries received via phone, in person, or by email, of which there were numerous correspondences.

**Request from the Downtown Canmore Business Improvement Area**

Administration continues to encourage the use of multi-modal transportation and to fund fare-free transit. The paid parking program is assisting in encouraging a transportation mode shift by Town residents, businesses, and visitors.

It is estimated that paid parking will generate approximately \$1.14M in revenue in 2023. There are several costs associated with the paid parking program, including employee salaries, vendor contract costs, and service fees. Given the total costs of expenses to operate the program near \$400K, the net revenue assumption is that there will be \$740K to distribute to the reserve or allocated to other uses. While there was an approximate 80/20% split between Town Centre/Quarry Lake revenue observed in the first few months of operation, Administration estimates an annual split of 85/15% between Town Centre/Quarry Lake revenue annually, meaning the net revenue generated in the Town Centre is estimated to be approximately \$630K in 2023.

Revenues generated by the paid parking program are to offset the cost of the program first, then used in accordance with the Reserves Policy FIN-007 for fare-free transit, offsite parking related infrastructure, and improvements to the areas in which paid parking has been implemented.

Appearing as a delegation at the April 5, 2022 regular meeting of Council, the BIA requested a 25% share of net revenues from the paid parking program in support of their operating cost and to continue and expand on beautification and vibrancy measures. In the past, these measures have been enabled by grant programs by Travel Alberta, Rotary of Canmore, Tourism Canmore Kananaskis, and the Town of Canmore. The Town has seen good value in the projects where there has been collaboration with the BIA, including funding member projects for parklets and patios that have addressed strategic priorities of the Integrated Parking Management Plan (IPMP).

Separately, the BIA has indicated that it would like the Town to consider enhancements to the Town Centre, including a new washroom facility, and have suggested this is a membership priority. The paid parking reserve is a potential source of funding for a downtown washroom project and maximizing contributions to the reserve could be used to help specific BIA priority projects move forward.

To continue supporting the BIA in its effort to enhance to the Town Centre, Administration is recommending a Town Centre Grant Program. Such a grant program would give the BIA an opportunity to provide input and help direct funding when it comes to projects and enhancements that benefit the Town Center. Criteria and priorities for the grant program can be reviewed with the BIA each year.

Additionally, Administration will continue to consult the BIA on short, medium, and long-term priorities for improvements to the Town Centre and solicit BIA feedback on the Town Centre Area Redevelopment Plan. Feedback from the BIA may result in recommendations to Council that could inform future expenditures from the Paid Parking Reserve that go beyond the proposed grant program. These recommendations may include continuing, expanding, or cancelling the Town Centre Grant Program, and include capital and operational investments.

#### **ANALYSIS OF ALTERNATIVES**

Administration reviewed and analyzed the request from the BIA. An analysis of other municipalities found that paid parking revenues are predominantly allocated by the municipality to operating costs, parking infrastructure improvements and maintenance, and life cycle rehabilitation. Where municipalities do provide consideration for BIAs, the funds are usually provided through the form of a grant or project approval, typically these projects are delivered by the municipality. The types of projects that generally receive approval are those which positively impact the transportation management goals of the municipality.

Administration considered the following alternative recommendations:

**Option 1: Council could direct Administration to provide the BIA with a defined annual contribution from the paid parking revenue instead of a percentage.**

The initial request from the Business Improvement Association was for 25% of net paid parking revenues. It is estimated that 25% of Town Centre net revenues for 2023 of \$630K will be approximately \$157K. Other allocation percentages were discussed and analyzed, but ultimately this option is not recommended as the Town has several priorities and projects with limited revenue sources, the regular budget cycle where projects are all considered at the same time is a more strategic way to ensure priority items receive funding. Allocating a percentage is not recommended because the program has run for only one summer and changes will likely occur over time. Administration will work with the BIA to ensure their requests and needs are brought forward for consideration as part of each budget cycle and may be eligible for grant funding under the proposed Town Center Grant Program.

If Council were to choose this option, then the recommendation would be: *That Council direct Administration to budget that \$xx (or xx%) amount be dedicated to the BIA for the duration of the paid parking program at the time of budget deliberations.*

**Option 2: Council could direct Administration to allocate 100% of the Paid Parking revenues to the reserve.**

Administration does not support this recommendation because making improvements in the Town Centre is a shared interest between the Town and the BIA, with many projects having operating impacts to the Town. Therefore, Administration has recommended the grant program as a way to ensure that downtown area improvements projects can be funded by paid parking revenues and are managed by Administration in partnership with the BIA to ensure operating impacts on the Town are fully understood.

**FINANCIAL IMPACT**

By creating a Town Centre Grant Program where the BIA can provide direction regarding specific projects, Administration can ensure that funds are not distributed for discretionary use and instead are used to fund appropriate priority projects that meet both Council's and the BIA's strategic priorities and goals. If Council approves Administration's recommendation, the exact amount of the grant will be determined during the budget process.

**STAKEHOLDER ENGAGEMENT**

Administration has discussed the recommendation and statistics with the Downtown Canmore Business Improvement Area Executive Director. Administration will seek BIA input on the development of the grant program.

**ATTACHMENTS**

N/A



**AUTHORIZATION**

Submitted by:	Danielle Liwanag Paid Parking Coordinator	Date:	<u>September 29, 2022</u>
Approved by:	Caitlin Miller Manager of Protective Services	Date:	<u>October 7, 2022</u>
Approved by:	Eleanor Miclette Manage of Economic Development	Date:	<u>October 24, 2022</u>
Approved by:	Palki Biswas Manager of Finance	Date:	<u>October 14, 2022</u>
Approved by:	Scott McKay General Manager of Municipal Services	Date:	<u>October 13, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date:	<u>October 25, 2022</u>



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** H-1

**TO:** Council

**SUBJECT:** Non-resident Employee Paid Parking Monthly Passes

**SUBMITTED BY:** Danielle Liwanag, Paid Parking Coordinator

**RECOMMENDATION:** That Council direct administration to implement a non-resident employee paid parking monthly pass option for the off-peak season only.

## EXECUTIVE SUMMARY

Paid parking was introduced to the Town of Canmore town centre in June 2022 and is one of many strategies laid out in the Town's Integrated Parking Management Plan (IPMP). Administration is recommending that non-resident employee monthly passes be made available during the off-peak season only.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

Motion 96-2022: At the May 3, 2022, regular meeting, Council accepted the request from the Downtown Canmore Business Improvement Area (BIA) to reconsider the option of monthly passes as information only.

Motion 115-2022: At the May 3, 2022, regular meeting, Council directed administration to bring a report with recommendations with respect to paid parking monthly passes for non-resident employees for the Town Centre.

Motion 130-2022: At the June 7, 2022, regular meeting, Council postponed further dealing with paid parking monthly passes to the November 1, 2022, meeting.

## DISCUSSION

The paid parking program currently includes paid parking zones in both the Town Centre and Quarry Lake, in addition to Resident Permit Parking zones in the areas which surround paid parking zones. Paid parking has been implemented to assist in achieving the goals of the IPMP, which have been outlined below:

1. Provide the right mix of parking options to meet the needs of residents, visitors, workers, and customers.
2. Ensure high use parking areas are not exceeding capacity during peak season days on a regular basis.
3. Focus on using parking facilities efficiently, not simply providing more parking space which comes with a cost.

The Town Centre paid parking program includes several free downtown parking options. 350 stalls provide free parking for 9-hours and are located within a 3–10-minute walk of the Town Centre. Additionally, accessible stalls and loading zones remain free to ensure that individuals with mobility issues and those needing to load/unload equipment are still able to access the Town Centre. Businesses that maintain a Town of Canmore business license are eligible to register company vehicles for a Canmore Resident Parking Permit (RPP). Registered vehicles can then access 3 hours of free parking within paid zones, park within RPP zones, and will be able to obtain a monthly parking pass for an additional fee.

In addition to parking areas designated by the Town of Canmore, there are approximately 400 privately owned parking stalls located within the Town Centre. One of the goals of the IPMP is to focus on using parking facilities efficiently, which includes private parking areas. A survey conducted by the Downtown Canmore Business Improvement Area (BIA) to downtown businesses included questions regarding private parking stall utilization. There were 94 responses and approximately half of respondents indicated that they did have private parking stalls dedicated to their business. However, most respondents indicated that they did not dedicate these private stalls to their staff.

The utilization of longer-term parking ensures more short-term parking stalls are available in the Town Centre, encourages more frequent vehicle turnover, and is considered a higher value parking use when compared to long term stays and monthly pass options. The increased parking turnover created by paid parking programs has shown that those who are using paid parking are more likely to visit the businesses and amenities that the Town Centre has to offer.

Prior to the implementation of paid parking, most Town Centre parking stalls were designated with a 2 or 4-hour time limit. Long-term Town Centre parking was only available in the parking lots located at 7 St. and 6 Ave, and 9 St. and 8 Ave. The free intercept parking currently being provided does not have a significantly longer travel time from one’s vehicle to the Town Centre when compared to these pre-existing lots.

The recommendation to introduce a non-resident employee parking pass during the off-peak season aligns with the goals of the IPMP and seeks to ensure that high-use parking spaces are being employed for the highest value uses. While administration continues to primarily encourage the use of 9-hour parking areas for commuters, offering a non-resident employee monthly parking pass during the off-peak season can both address concerns attributed to paid parking and work towards achieving the goals of the IPMP. The non-resident employee monthly parking pass would allow for unlimited parking within a one-month time frame in the same downtown parking lots designated for monthly resident parking passes. By ensuring prime parking areas can be more readily available during the peak season but also providing more convenient parking spaces for downtown employees while days are shorter and weather is colder, this approach balances the goals of the IPMP with the convenience of non-resident employees. Off-peak season non-resident employee parking passes have a proposed price of \$96/month. Like the resident monthly pass, a \$1.25 processing fee from the parking services vendor would be added on to the price. Non-resident monthly employee passes would realistically be available sometime in 2023.

To qualify for a non-resident monthly employee permit, the applicant will have to attest that they are an employee working at a business located in the Town Centre. These monthly permits would only be available for purchase by the registered owner of the vehicle, and as such, they will be required to submit a copy of their vehicle registration, like the process of applying for an RPP. Requiring the registered owner of the vehicle to apply for and purchase their parking permit simplifies the process, compared to if businesses were allowed to purchase parking permits on the behalf of their employees. This would reduce the need for exchanging personal information between multiple parties. Additionally, it would provide businesses who wish to reimburse their staff for parking permits greater flexibility, as the business would then be able to choose if they would like to partially or fully subsidize the cost of the parking permit for their employees.

The monthly pass program for residents and non-residents will continue to be monitored over time. Fees are subject to change and the option for monthly passes may be discontinued if there is low uptake or unforeseen, unintended consequences of the program.

**ANALYSIS OF ALTERNATIVES**

In analyzing the following alternatives, a variety of factors were considered. These include, but were not limited to:

- Affordability;
- Potential costs and revenues to the Town of Canmore;
- Employee retention for Town Centre businesses;
- The goals of the IPMP;
- The availability of alternative parking options or modes of transportation;
- Consistency with programs in other municipalities; and
- Estimated implementation timelines associated with providing monthly passes.

**Option 1: Implement a year-round monthly pass for non-resident employees of the Town Centre**

This option would be somewhat consistent with the approach taken by the Resort Municipality of Whistler (RMOW), though there are significant differences between the two programs. Administration’s review indicates that Canmore’s current program is a better option. While paid parking is in effect, the RMOW offers a resident/employee monthly parking pass, at \$36/month. However, the parking lots designated for these parking passes are located approximately a 7–10-minute walk from the center of Whistler Village. The RMOW does not offer employee parking passes within Whistler Village. Currently, all three 9-hour free parking zones designated for Canmore’s paid parking program are approximately a 3–10-minute walk from our Town Centre.

While this would create a more affordable option than paying for daily parking for some employees and businesses, a year-round monthly pass option for non-resident employees of the Town Centre is not aligned with the values of the IPMP. Making monthly passes available year-round for non-resident employees for high-use Town Centre parking does not encourage alternative modes of transportation, optimization of existing parking, or ensure that high-use areas are employed by high-value uses. Monthly parking permits will be restricted to the same parking lots as the resident monthly passes and would not guarantee a parking space at any given time. During the peak-season, this could lead to numerous instances of individuals having purchased a monthly pass and not being able to park in a designated space.

Fees during peak season would be \$144/month and during off-peak season would be \$96/month. Like the resident monthly pass, a \$1.25 processing fee from the parking services vendor would be added on to the price, for either pass option, to allow for cost recovery.

If this option is chosen, the recommendation would be: that Council direct administration to pursue and implement a year round non-resident employee paid parking monthly pass option.

### **Option 2: Implement a monthly pass for non-residents**

This option would allow for the purchase of monthly passes for all non-residents, but unlike Option 1 would not include eligibility requirements that limit the pass to employees of the Town Centre. This would be easier to implement than Option 1 as the Town would not have additional eligibility criteria to verify.

Proposed pricing for non-resident monthly passes is based on operational costs and will be more affordable than paying for parking daily. Pricing would be set at a threshold that still encourages the optimization of private and public parking located within the Town Centre. The non-resident monthly passes would be priced at a rate of \$144/month during the peak season, and \$96/month during the off-peak season. Like the resident monthly pass, a \$1.25 processing fee from the parking services vendor would be added on to the price, for either pass option, to allow for cost recovery. There would be a one-time fee of approximately \$7,500 to implement this option.

Parking would be restricted to the same parking lots as the resident monthly passes and would not guarantee a parking space at any given time. This option would not be available until sometime in 2023. Making parking passes available for high-use parking areas would work against the above-mentioned goals of the IPMP being met by means of encouraging lower-value uses of high-traffic parking areas, which would hinder the goal of ensuring these parking areas are not exceeding capacity during peak season days on a regular basis.

If this option is chosen, the recommendation would be: that Council direct administration to pursue and implement a non-resident paid parking monthly pass option for the off-peak season only, with no employee eligibility requirement.

### **Option 3: Allow businesses to enrol their non-resident employees as residents**

Administration also explored amending the paid parking program to allow non-resident employees of the Town Centre businesses to register as residents (for a monthly fee). Such a system would allow eligible employees to purchase an RPP, providing them with access to RPP zones, three hours of free parking, and the ability for the employee to purchase a Town Centre monthly pass at the resident rate.

This option is not recommended as it comes with a variety of challenges. This type of permitting cannot be automated and would require manual processing to verify that businesses are located within the Town Centre and regularly verify employee status. There are privacy concerns with employees needing to provide their personal information to businesses for the purposes of this program. Additionally, implementing a permitting system that could support this type of option would be costly, with a development fee of at least \$7,500, but likely more, and additional administrative time and still would not be available until late 2023.

If this option is chosen, the recommendation would be: that Council direct administration to pursue and implement a non-resident employee paid parking monthly pass option with the ability for businesses to enroll employees themselves.

**Option 4: Allow non-residents to purchase a resident-zone parking pass**

The viability of allowing non-residents to purchase resident-zone parking passes that allows them to access three free hours and unlimited parking in residential zones was analyzed. This option would not meet the goals of the IPMP and would increase challenges with spillover in residential parking zones. Administration is currently working with residents who have expressed concerns with the amount of spillover parking they are seeing on their streets and are actively working on alternative solutions to deter residents and business from using residential parking permit zones as free all-day parking for the downtown.

**Option 5: Status-Quo and continue with the paid parking program as-is**

Proceeding with the current paid parking program would not address the concerns raised by the BIA who have requested a non-resident employee monthly parking permit. The goal of the non-resident employee monthly pass is to provide non-resident employees an option to park in paid zones while taking the cost to residents for all transportation infrastructure into account.

If this option was chosen, Council should defeat the motion as recommended by Administration.

**FINANCIAL IMPACTS**

Implementing a new permitting system to allow for non-resident employee monthly parking passes would incur a \$7,500 software development cost. Revenue projections are unknown at this time.

**STAKEHOLDER ENGAGEMENT**

At the May 3, 2022, regular meeting of Council, a delegation from the BIA presented their request to council for a monthly parking pass to accommodate employees who work within the Town Center. This request included both residents and non-residents, as some businesses in the Town Center employ individuals who do not live within the Town of Canmore and as such, do not qualify for a Resident Parking Permit.

A survey administered by the BIA asked businesses of the Town Centre about various impacts paid parking had on their business over the 2022 Summer season. The results of this survey were taken into consideration by administration in selecting a recommendation. The survey had a high response rate compared to other BIA surveys with 94 responses. Ahead of implementation of paid parking, there was concern that the program would result in a higher staff turnover rate for downtown businesses. While almost half of the respondents indicated they had experienced a high turnover rate since July 1, 2022, the majority attributed the higher rate to cost of living in general and lack of housing specifically. The survey also reported that those respondents with private parking stalls do not dedicate those stalls to their employees. Lastly, the survey indicated that employees or businesses do have interest in purchasing a non-resident monthly pass.

Monthly pass options for non-resident employees have been discussed and developed with the Engineering, Economic Development, Communications, Finance, and Protective Services departments.

**ATTACHMENTS**

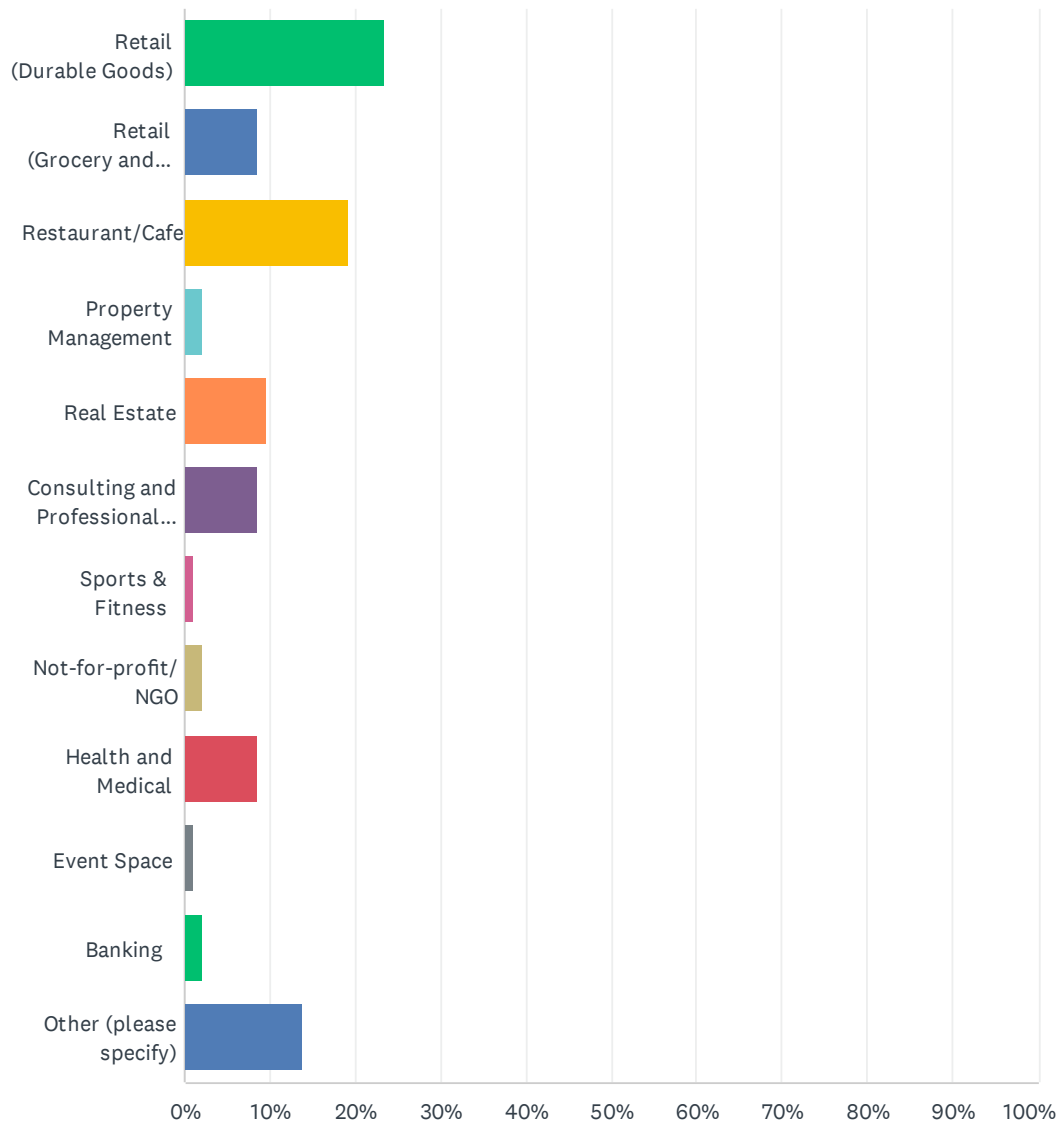
- 1) BIA – Paid Parking Survey Summary
- 2) Town Center Paid Parking Program Lots – Monthly Pass Locations

**AUTHORIZATION**

Submitted by:	Danielle Liwanag Paid Parking Coordinator	Date:	<u>September 29, 2022</u>
Approved by:	Caitlin Miller Manager of Protective Services	Date:	<u>October 11, 2022</u>
Approved by:	Scott McKay General Manager of Municipal Services	Date:	<u>October 13, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date:	<u>October 25, 2022</u>

# Q1 What type of business do you own or represent?

Answered: 94 Skipped: 0



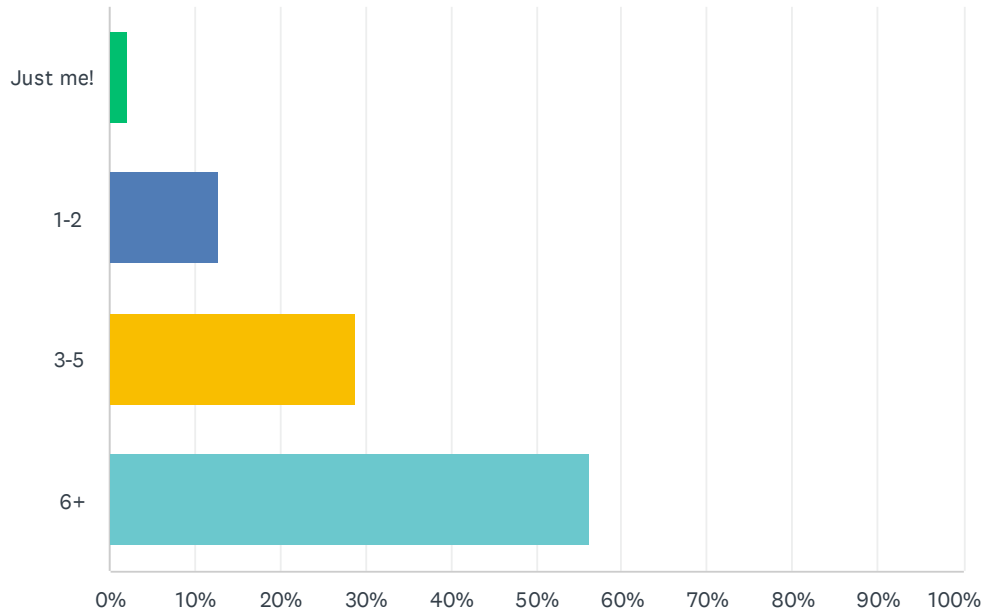


## Paid Parking and Downtown Businesses

ANSWER CHOICES	RESPONSES	
Retail (Durable Goods)	23.40%	22
Retail (Grocery and Consumables)	8.51%	8
Restaurant/Cafe	19.15%	18
Property Management	2.13%	2
Real Estate	9.57%	9
Consulting and Professional Services	8.51%	8
Sports & Fitness	1.06%	1
Not-for-profit/NGO	2.13%	2
Health and Medical	8.51%	8
Event Space	1.06%	1
Banking	2.13%	2
Other (please specify)	13.83%	13
<b>TOTAL</b>		<b>94</b>

## Q2 How many employees work at your business?

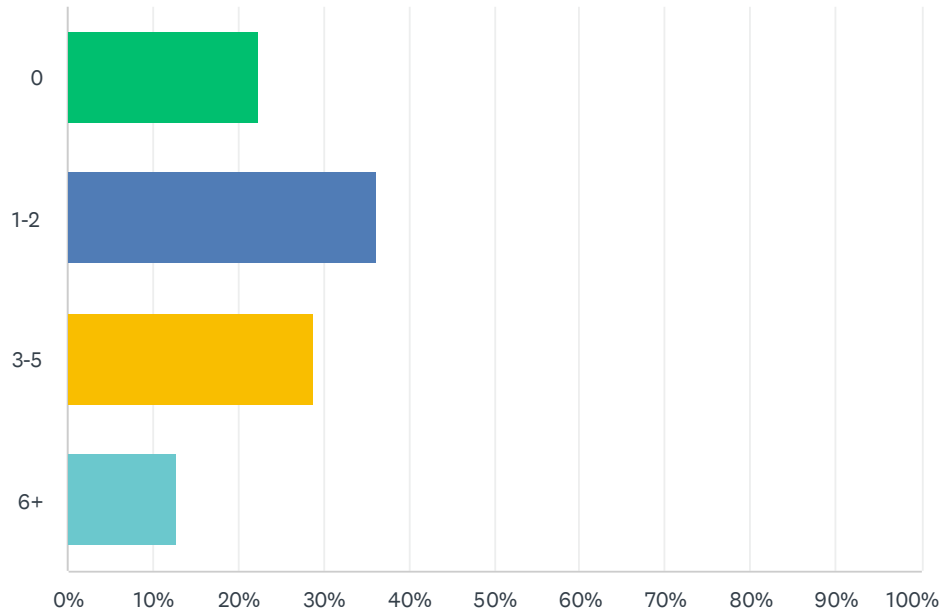
Answered: 94 Skipped: 0



ANSWER CHOICES	RESPONSES
Just me!	2.13% 2
1-2	12.77% 12
3-5	28.72% 27
6+	56.38% 53
<b>TOTAL</b>	<b>94</b>

### Q3 How many employees at your business travel to work from outside Canmore? (Including MD of Bighorn, Banff, Cochrane, Calgary, or further.)

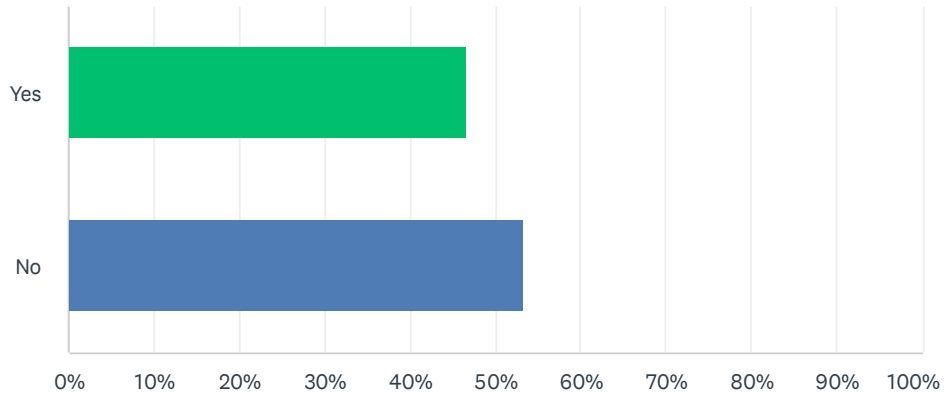
Answered: 94 Skipped: 0



ANSWER CHOICES	RESPONSES	
0	22.34%	21
1-2	36.17%	34
3-5	28.72%	27
6+	12.77%	12
TOTAL		94

## Q4 Have you experienced higher-than-normal staff turnover since July 1st, 2022?

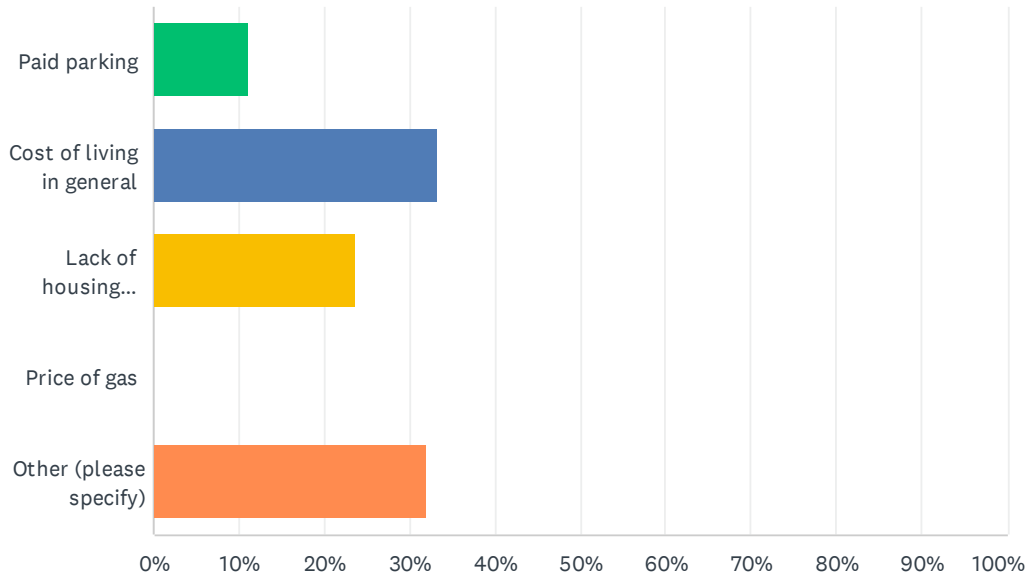
Answered: 92 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	46.74%	43
No	53.26%	49
TOTAL		92

### Q5 If yes, what do you attribute this turnover to?

Answered: 72 Skipped: 22



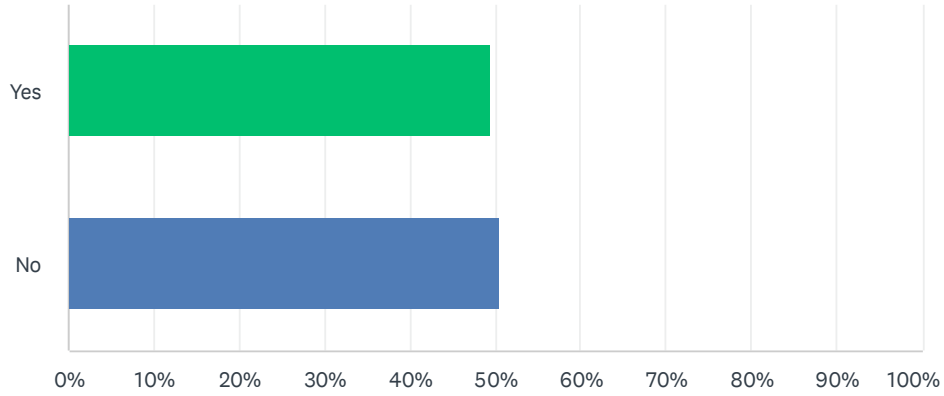
ANSWER CHOICES	RESPONSES	
Paid parking	11.11%	8
Cost of living in general	33.33%	24
Lack of housing specifically	23.61%	17
Price of gas	0.00%	0
Other (please specify)	31.94%	23
<b>TOTAL</b>		<b>72</b>

Q6 Please elaborate as to why you chose the specific reason for staff turnover in your business:

Answered: 67 Skipped: 27

### Q7 Do you or the building you are in have dedicated private parking as part of your location downtown?

Answered: 93 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	49.46%	46
No	50.54%	47
TOTAL		93

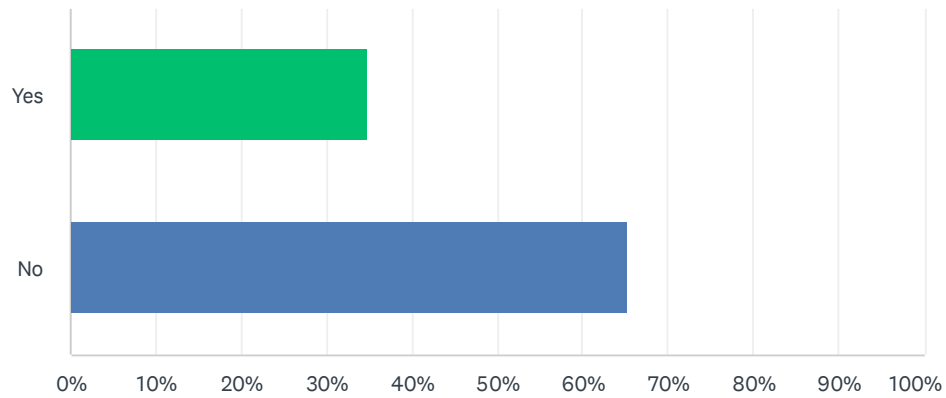
## Q8 If yes, how many parking stalls?

Answered: 66 Skipped: 28



### Q9 Do you dedicate any of these parking stalls to your staff?

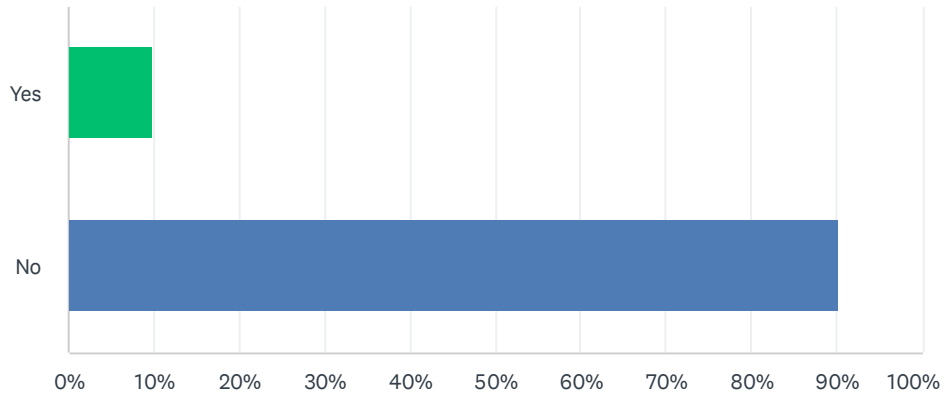
Answered: 75 Skipped: 19



ANSWER CHOICES	RESPONSES	
Yes	34.67%	26
No	65.33%	49
<b>TOTAL</b>		<b>75</b>

### Q10 Did you authorize Municipal Enforcement to respond to this lot?

Answered: 72 Skipped: 22



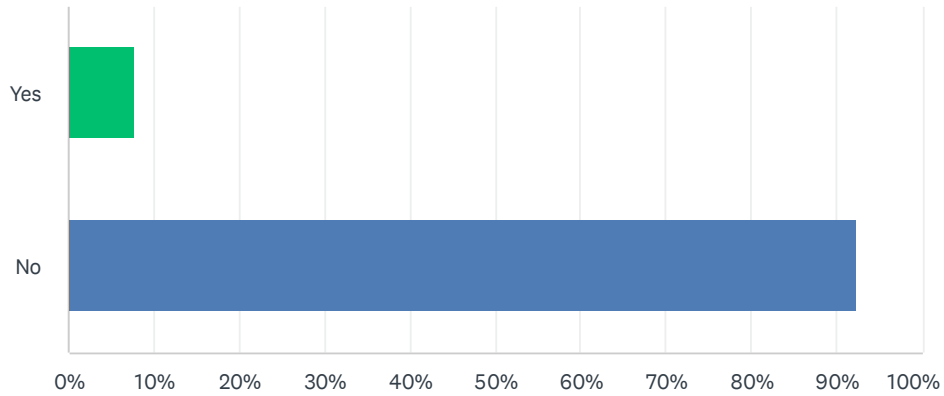
ANSWER CHOICES	RESPONSES	
Yes	9.72%	7
No	90.28%	65
<b>TOTAL</b>		<b>72</b>

**Q11** What new concerns, if any, have you identified with your private parking lot since the implementation of paid parking in the Town?

Answered: 67 Skipped: 27

### Q12 Did you or the building owner activate paid parking on this lot?

Answered: 78 Skipped: 16



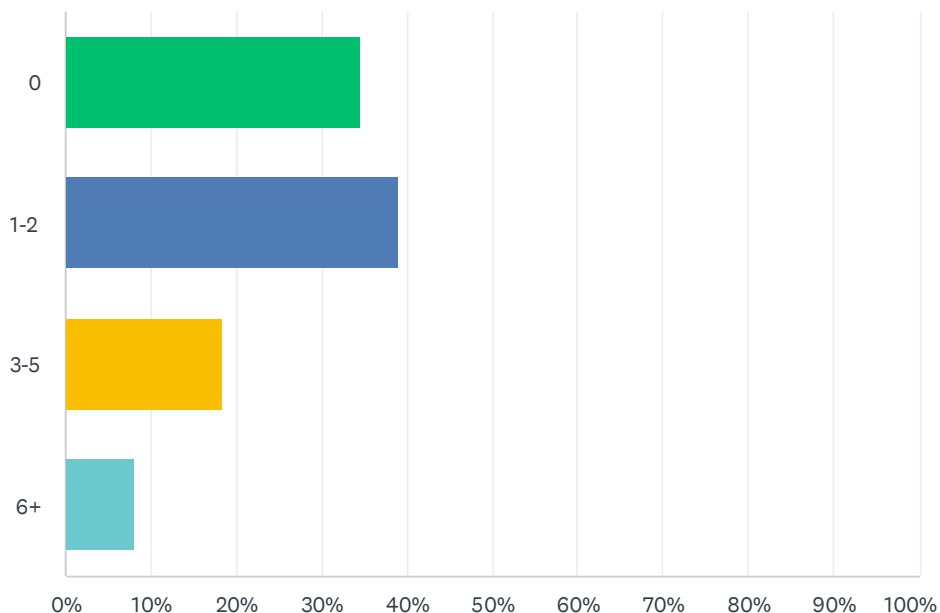
ANSWER CHOICES	RESPONSES	
Yes	7.69%	6
No	92.31%	72
TOTAL		78

Q13 Would you be interested in speaking with the Town of Canmore about your private paid parking lot and how that is going? If yes, please add your email address and/or phone number below. (Contact information will be kept confidential and used for this purpose only.)

Answered: 45 Skipped: 49

### Q14 If a monthly employee parking pass for employees living outside of Canmore were introduced for a monthly fee, how many of your employees do you anticipate would purchase the pass?

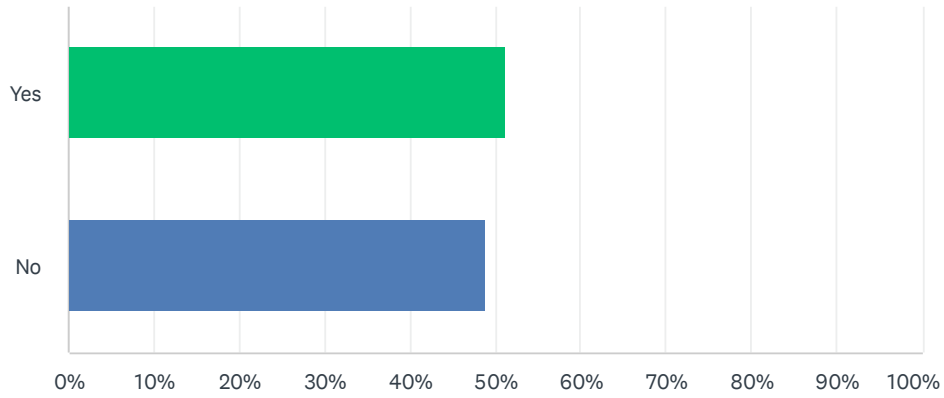
Answered: 87 Skipped: 7



ANSWER CHOICES	RESPONSES	
0	34.48%	30
1-2	39.08%	34
3-5	18.39%	16
6+	8.05%	7
TOTAL		87

### Q15 Would your business consider purchasing the pass for employees to help gain or retain staff?

Answered: 90 Skipped: 4



ANSWER CHOICES	RESPONSES	
Yes	51.11%	46
No	48.89%	44
TOTAL		90

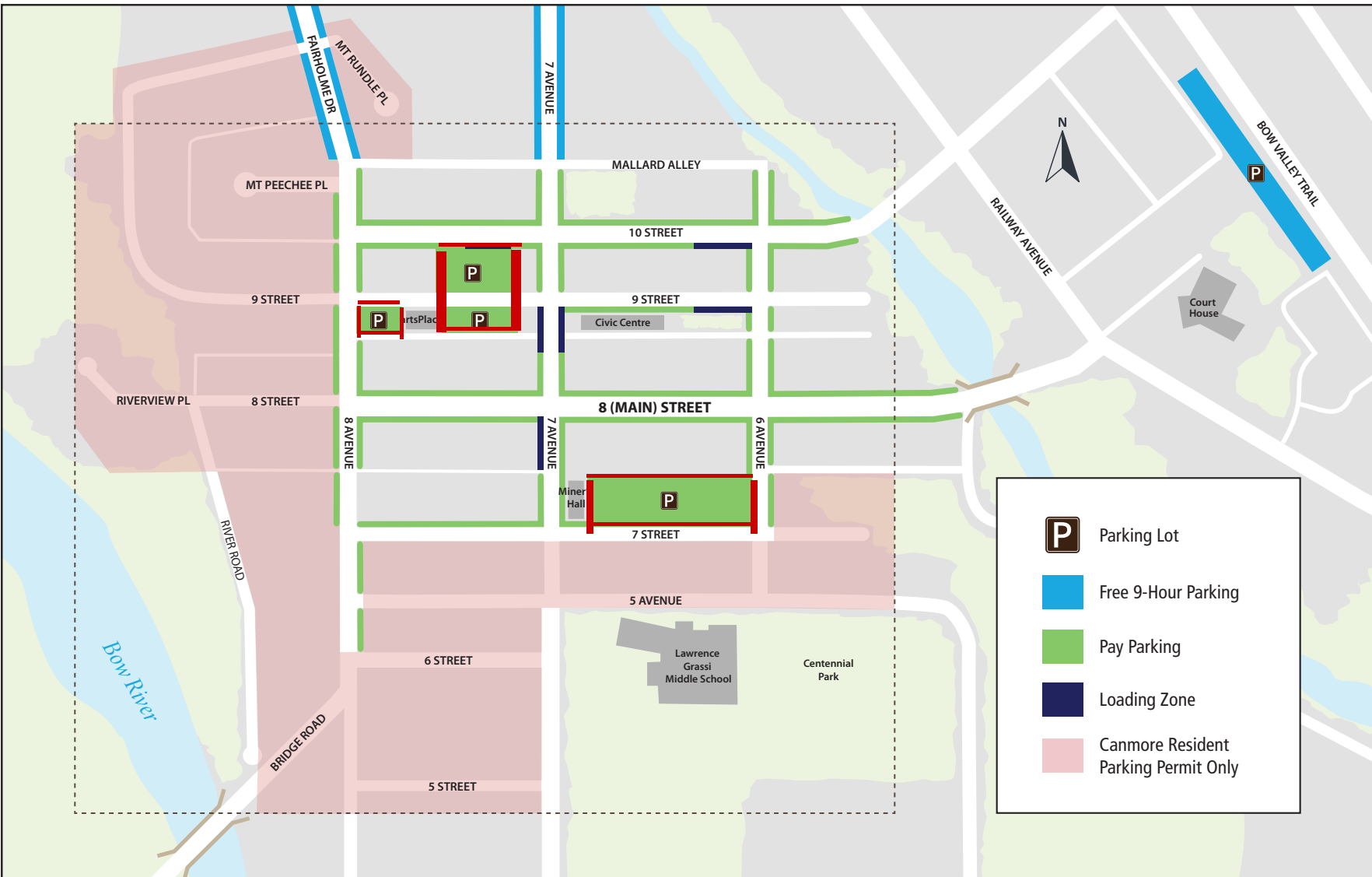
Q16 Please add any other concerns you might have regarding your business and paid parking in Canmore town centre. Where applicable and/or possible, please consider supporting these concerns with data you or your business may have gathered.

Answered: 67 Skipped: 27





# Town Centre Paid Parking Program



All on street parking not indicated on map is 72 hours maximum.  
 This map is intended to be used as a guideline. Local/temporary signage will always take precedence.



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** H-2

**TO:** Council

**SUBJECT:** 2022 New Municipal Climate Change Action Centre (MCCAC) Grant Funded Project – Extreme Heat and Wildfire Smoke Emergency Response Plans

**SUBMITTED BY:** Caitlin Van Gaal, Supervisor of Environment and Sustainability

**RECOMMENDATION:** That Council approve a new 2022 capital project to create Emergency Response Plans for Extreme Heat and Wildfire Smoke for up to \$80,000, to be funded from the Municipal Climate Change Action Centre Climate Resilience Capacity Building Program.

## EXECUTIVE SUMMARY

Administration has begun the process of applying for grant funding through the Municipal Climate Change Action Centre (MCCAC) through the Climate Resilience Capacity Building Program. To receive the grant funding, the Town was required to submit an expression of interest, go through the tendering process to contract a consultant, and then submit the final grant application. The Request for Proposal for this work closed on October 11<sup>th</sup> and Administration is now in the process of finalizing the grant application and contract details. Project funding is available for 100% of the project costs up to \$80,000. The Town is waiting for the capital budget and grant application approval and then the tender to be awarded to determine the exact project cost; however, it is anticipated that the cost will be less than the \$80,000 of available funding.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

- 2010: Environmental Sustainability Action Plan (ESAP) (309-10)
- 2016: Climate Change Adaptation Background Report and Resilience Plan (282-2016)
- 2018: Climate Action Plan (269-2018) and Greenhouse Gas (GHG) reduction targets
- 2019: Council declared a State of Climate Emergency (207-2019)

**DISCUSSION**

The Town of Canmore’s Hazard Identification Risk Assessment (HIRA) review conducted through the Town’s Emergency Management Agency has identified several natural hazards and risks to the community, civic infrastructure, and business continuity. The highest ranked natural hazards identified through this process are wildfire, steep creek flooding and watercourse flooding. These top natural hazards all have an associated Emergency Response Plan that sits within the Town’s Municipal Emergency Management Plan. The next highest ranked natural hazards are extreme heat and wildfire smoke. These hazards are emerging risks to the Town and are being exacerbated by climate change. Due to these two hazards being relatively recently identified as areas of concern to the Town, Administration has not had the opportunity to build out the proper response plans to direct and support staff and the Emergency Management Agency during an extreme heat or wildfire smoke event.

The MCCAC announced a funding opportunity for climate resilience capacity building in the spring of 2022. This funding is available on a first come first served basis. The Town submitted an expression of interest to MCCAC in summer 2022 to explore the build out of two Emergency Response Plans for Extreme Heat and Wildfire Smoke. At that time, the Town was informed that as part of the grant application with MCCAC, the Town is required to complete the tendering process to provide them with an accurate scope and costing details. As a result, starting in mid-September, the Town through an open tender process began to seek out a qualified consultant to complete a review of the extreme heat and wildfire smoke risks to the town. This includes identification of the risk of these events occurring over time, areas of the town that are most vulnerable to these hazards, individuals who may be most impacted, and measures the Town could take to prepare for, adapt to, and mitigate the risks associated with these events.

The tendering process closed on October 11, 2022. Once the successful proponent is determined, Administration will submit the grant application to MCCAC. Upon receiving capital budget and grant approval, Administration will award the project to the successful proponent and the work will begin in later this year.

At the end of this project the intent is to have an Emergency Response Plan for Extreme Heat and an Emergency Response Plan for Wildfire Smoke. It was also requested that the successful proponent supply the Town with a supplemental report that summarizes all the research and analysis that was conducted and highlights a series of adaptation recommendations to help prepare the Town and the community for these events.

**ANALYSIS OF ALTERNATIVES**

N/A

**FINANCIAL IMPACTS**

This request is to add a new capital project in 2022 that will be fully funded by the MCCAC grant for a total of up to \$80,000. The final project cost will be determined once the grant application is approved. However, it is anticipated that this work will be less than the \$80,000 available. Should Administration be unsuccessful in obtaining grant funding, staff will not proceed with this project.

The grant funding from MCCAC covers 100% of the project costs up to \$80,000. The Town will receive 75% of the grant upon signing the funding agreement with MCCAC and the remaining 25% of the funds upon project completion.

**STAKEHOLDER ENGAGEMENT**

External stakeholder engagement for this project will be minimal however outreach will take place as required.

The Director of Emergency Management participated in the project design, priorities, RFP development and grant submission.

The Manager of Community Social Development and the Manager of Facilities provided feedback on the RFP.

The Town of Canmore Emergency Management Agency supports this capital project.

**ATTACHMENTS**

N/A

**AUTHORIZATION**

Submitted by:	Caitlin Van Gaal Supervisor of Environment and Sustainability	Date:	<u>October 4, 2022</u>
Approved by:	Palki Biswas Manager of Finance	Date:	<u>October 11, 2022</u>
Approved by:	Caitlin Miller Manager of Protective Services	Date:	<u>October 11, 2022</u>
Approved by:	Andreas Comeau Manager of Public Works	Date:	<u>October 11, 2022</u>
Approved by:	Whitney Smithers General Manager of Municipal Infrastructure	Date:	<u>October 13, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date:	<u>October 24, 2022</u>



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** H-3

**To:** Council

**SUBJECT:** Commercial Food Waste

**SUBMITTED BY:** Simon Robins, Supervisor of Solid Waste Services

**RECOMMENDATION:** That Council direct administration to prepare a mandatory commercial food waste program, to include a Waste Control Bylaw amendment and implementation plan, by April 2023 for a program start of October 1, 2023.

## EXECUTIVE SUMMARY

The commercial food waste program was launched in the winter of 2020. Due to the impact of COVID-19 public health restrictions on restaurants and hotels, initial uptake was quite slow. Over the last year and a half, the Town has actively recruited businesses to join the food waste program. As of September 2022, there are 40 customers representing 36% of relevant business. Food waste makes up at least 1/3 of the waste sent to landfill by commercial and institutional sectors. More efforts must be taken to increase the amount of food waste being diverted from landfill.

## BACKGROUND/HISTORY

In 2019 the Organics Diversion Program was approved as a capital project. This project was supported by the 2012 Waste Management Strategy, the 2013 Environmental Sustainability Action Plan, Council's Strategic Initiatives and community expectation. The project included the expansion of the Waste Management Centre, which was required to receive and transfer food waste separately from waste; the implementation of communal residential food waste collection; and the creation of a commercial food waste collection service.

The Organics Diversion Program began with a residential pilot launched in September 2019, which consisted of the installation of five residential neighbourhood food waste bins. During the pilot phase, the Town of Banff accepted Canmore's food waste at their transfer station and transported it to a composting facility. The Waste Management Centre expansion was completed in December 2020, allowing food waste collections to begin transferring from Canmore. At this same time implementation and recruitment for the commercial food waste program began.

## DISCUSSION

The commercial food waste collection service was launched in December of 2020.

The commercial food waste collection service is a user pay system. Businesses and institutions that subscribe to the service are provided with a 240 litre roll cart and pay \$10 each time the cart is emptied. The Town works with customers to help decide on the number of carts that are needed and the frequency for scheduled pickups. Wherever possible the roll carts are stored indoors or in an approved animal proof enclosure.

There are numerous locations where there is no indoor space available, and these locations are provided with certified bear resistant roll carts.

In the fall of 2020, Communita volunteered to be part of the pilot program to work out the logistics of pickup and emptying the carts. Full recruitment began in December 2020 with over 80 relevant businesses. Businesses that generate food waste were directly contacted and invited to participate in the program. Restaurants were the main target for this program; however, they were closed to in-person dining and under various degrees of public health restrictions on and off through 2020 and the first half of 2021. This, coupled with businesses having staff shortages, resulted in slower than anticipated uptake. There were only 20 program participants as of September 2021. In November 2021 recruitment efforts were increased and 104 businesses and 8 institutions were directly contacted, and an additional 22 participants were recruited. Unfortunately, over this time 2 participants also cancelled the services, resulting in a new total of 40 businesses/institutions participating in the program. The 40 participants account for 36% of relevant businesses and institutions in Canmore.

In addition to direct recruitment, the Town was fortunate to have the Rotary Club of Canmore step in as a partner in the spring of 2021. Recognizing that food service businesses had been particularly impacted by the pandemic, the Rotary Club generously offered \$3,250 to cover the cost of ten weeks of collection for businesses. The subsidy enabled restaurants and other businesses to try the food waste collection program at no charge, helping address the upfront cost hurdle during a challenging financial time. Many businesses that signed up during this time noted the subsidy as the reason.

Through the recruitment and account management processes, businesses and institutions have been able to share their reasons for participating or not in the food waste collection service.

The reasons for participation in the food waste collection program are:

- desire to be a good environmental steward / recognition of the environmental benefits
- economic benefits – commercial waste disposal is expensive; and,
- participation in program will alleviate challenges with waste receptacle being overfull, especially during busier summer months.

The reasons for not participating in the food waste collection program are:

- property owner – tenant relationships create economic risk and complexity
- waste diversion is not a business or institutional priority, even if it can save money
- participation in the program will cost more (often waste disposal is included in lease fees in a multi-use building and an individual business would be required to pay for their food waste collection).
- key personnel at the business / institution are not interested in participating, even if there is at least one internal champion who would like to see the program implemented.

With two separate and thorough recruitment drives, as well as the Rotary Club subsidy, it appears the program has reached its limit for voluntary sign up. Despite an available food waste collection program there is still a significant amount of food waste ending up in the landfill. An average of 13,000kg are collected per month when there is potentially 100,000kg created (according to the 2016 Waste Characterization study). Many other communities (including the City of Calgary and Town of Banff) have mandated food waste diversion in commercial sectors and therefore administration recommends taking a similar approach.

To achieve greater food waste diversion in Canmore’s commercial sectors, administration proposes that the Recyclables and Waste bylaw be updated. These updates could include banning food waste from being placed in the garbage and requiring that all properties that have food service be required to provide food waste collection services. The bylaw changes would also need to be supported with education and guidance for businesses/properties to find suitable food waste collection services. Administration is proposing returning to Council in the spring of 2023 with an amended bylaw and an implementation plan for providing guidance and support to impacted businesses based on lessons learned and the attached report.

**FINANCIAL IMPACTS**

No financial impacts related to this request for direction.

**STAKEHOLDER ENGAGEMENT**

Through the recruitment process 112 business and institutions were directly contacted:

- Over 400 phone calls were made
- Over 500 emails were sent
- Over 100 in person visits were conducted

**ATTACHMENTS**

- 1) Town of Canmore: Commercial Food Waste Collection Recruitment & Outreach

**AUTHORIZATION**

Submitted by:	Simon Robins Supervisor of Solid Waste Services	Date: <u>September 22, 2022</u>
Approved by:	Andreas Comeau Manager of Public Works	Date: <u>September 29, 2022</u>
Approved by:	Whitney Smithers General Manager of Municipal Infrastructure	Date: <u>October 13, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date: <u>October 24, 2022</u>

# Town of Canmore Commercial Food Waste Collection Recruitment & Outreach

## Program Status & Lessons Learned

July 6, 2022



Composting  
Waste Reduction & Diversion  
Environment & Sustainability

**Shannon Ripley, MSc., P.Ag.**

36 Ridge Road

Canmore, AB

T1W 1G6

E-mail: [swripley@gmail.com](mailto:swripley@gmail.com)

Phone : (403) 609-5004



**Page left blank intentionally**

## Table of Contents

<b>1. Program Outreach &amp; Recruitment Work .....</b>	<b>2</b>
1.1. Scope of Work .....	2
1.2. Description of Recruitment and Outreach Work Completed .....	2
<b>2. Current Status of Commercial Food Waste Collection Program.....</b>	<b>3</b>
<b>3. Lessons Learned from Recruitment and Outreach .....</b>	<b>6</b>
3.1. Why Businesses and Institutions Participate in the Program.....	7
3.2. Why Businesses and Institutions Don't Participate in the Program .....	8
3.2.1. Property Owner – Tenant Relationships .....	9
3.2.2. Waste Diversion is Not a Priority.....	10
3.2.3. Participation in the Program Will Cost More or Is Perceived to Cost More.....	10
3.2.4. Key Decision-Maker is Not Interested in Program .....	11
<b>4. Potential Approaches to Increase Program Participation .....</b>	<b>11</b>
4.1. Make Diversion of Food and Food-Soiled Paper Mandatory .....	11
4.2. Adjust Rate Structure to Provide Economic Incentive.....	13
<b>5. Communication Opportunities to Support Program Success .....</b>	<b>14</b>
5.1. Broad Community Awareness Campaign for Commercial Food Waste Collection Program .	14
5.2. Provide Educational Tools on Website .....	14
5.3. Promote and Provide Tools for Special Event Food Waste Collection .....	15
5.4. Patronize Program Participants .....	15
5.5. Communicate How Program Follows Wild Smart Principles.....	15
<b>6. Engineering Design &amp; Construction Guidelines (EDCG) – Potential Opportunities.....</b>	<b>16</b>
6.1. Clarification Around Mixed-Use Developments.....	16
6.2. Clarification Around Multi-Family Residential Requirements.....	16
<b>7. Other Program Considerations .....</b>	<b>17</b>
7.1. Consider Removing Biodegradable Bags from Town Dog Bag Dispensers .....	17

## Table of Figures

**Figure 1.** Number of Canmore businesses and institutions in 10 participation / non-participation categories for the Town of Canmore Commercial Food Waste Collection Program, as of June 2022..... 5

## **Table of Tables**

**Table 1.** Participants in the Town of Canmore Commercial Food Waste Collection Program.... 3

**Table 2.** Lessons Learned from Recruitment and Outreach for Commercial Food Waste Collection Program..... 6

**Table 3.** Examples of Canadian jurisdictions that have mandatory food waste diversion in the commercial and institutional sectors.....12

# **1. Program Outreach & Recruitment Work**

## **1.1. Scope of Work**

The scope of work for this project was the following:

- Outreach to businesses (email, phone calls, in person visits, etc.) to encourage them to sign up for the program;
- Identifying potential new businesses to approach;
- Identifying and following up on new promotion opportunities (e.g. working with third party organizations to help encourage businesses to sign up);
- In-person site visits to interested businesses to assess bin location and set them up in the program;
- Maintaining and updating a tracking spreadsheet;
- Potential data analysis and providing a summary on the program status;
- Potential liaison with Canmore Rotary Club members on their subsidy offer (providing them updates on uptake); and,
- Providing support for businesses that are currently in the program (answering questions, targeted support to increase diversion or address issues of concern such as overfull bins).

## 1.2. Description of Recruitment and Outreach Work Completed

The Town of Canmore Commercial Food Waste Collection Program began in January 2021. Town of Canmore staff carried out initial recruitment for the program by sending personalized e-mails to businesses that were labelled as part of the food and beverage industry from the business license registry list, and additional businesses and institutions that generate food scraps, such as grocery stores and schools.

A first round of initial recruitment emails were sent to businesses in December 2020. A second round of initial recruitment emails were sent to businesses that had not responded to the initial email in April and May 2021. Throughout this initial recruitment period, there were significant challenges for businesses in the food and beverage industry due to the COVID-19 pandemic.

By September 2021, there were 20 participants in the Commercial Food Waste Collection Program.

In November 2021, the Town engaged Shannon Ripley as a contractor to carry out additional recruitment and outreach activities, as described in Section 1.1. above.

Between November 2021 and June 2022, Shannon reached out directly to 104 businesses and eight institutions in Canmore to invite participation in the Commercial Food Waste Collection Program. Each of these businesses and institutions was contacted via at least one phone call and follow-up email. For some businesses where there were language barriers, Shannon conducted initial outreach in-person. Numerous businesses that expressed some interest in participating in the program or were difficult to reach received multiple follow-up phone calls and e-mail messages.

This active recruitment led to an additional 19 businesses and institutions joining the program.

As part of this outreach and recruitment work, Shannon gave a presentation on ‘How do my food scraps become compost?’ for students in a cooking class at Canmore Collegiate High School in November 2021. Staff at Lawrence Grassi Middle School have requested that this presentation be delivered to their students when classes resume in fall 2022.

One constraint to the recruitment approach used was that those conducting recruitment did not have access to contact information for a complete list of businesses and institutions that generate food scraps and food-soiled paper. The business list used as the basis for outreach was the list of businesses labelled as ‘food and beverage’ that have agreed to have their names published publicly. This list excluded businesses that did not authorize the Town to publish their names and institutions such as health care facilities, senior care facilities and others that generate large quantities of food scraps.

## 2. Current Status of Commercial Food Waste Collection Program

As of June 30, 2022, there will be 36 businesses and institutions participating in the Town of Canmore Commercial Food Waste Collection Program. There are 34 locations with food waste collection cart service; there are some locations where multiple businesses share access to one food waste cart. Since the start of the Commercial Food Waste Collection Program, five businesses have participated in the program, and then left the program.

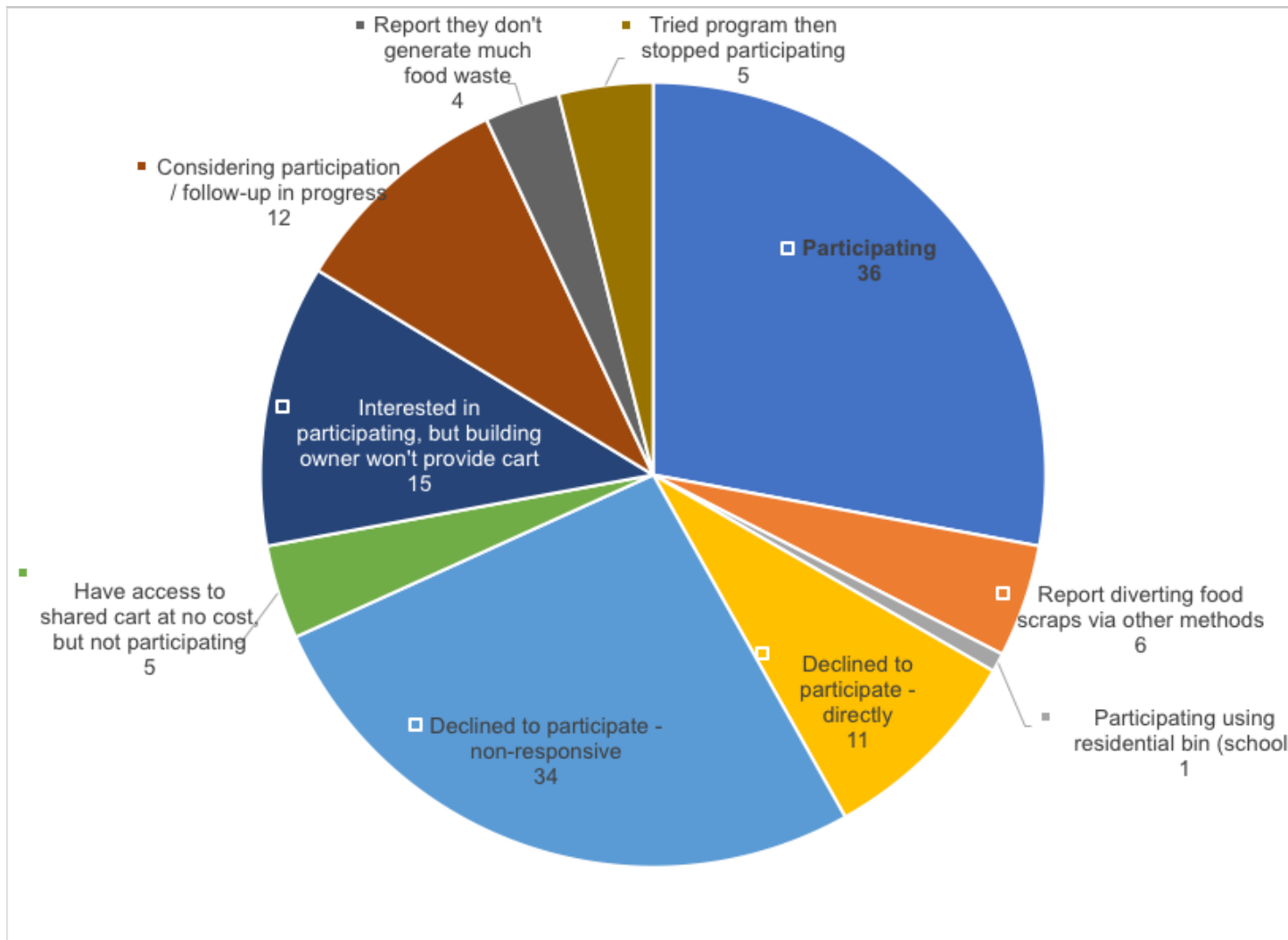
Table 1 lists businesses that are participating in the Commercial Food Waste Collection Program as of the end of June 2022. Figure 1 summarizes the participation status of 129 businesses and institutions that have been actively invited to participate in the program.

As shown in Figure 1, 45 businesses have declined to participate in the Commercial Food Waste Collection Program, either through directly communicating that they did not wish to participate or through not responding to multiple emails and follow-up phone calls. There are 15 businesses and institutions that are interested in participating, but are not able to participate because the property owner where they are a tenant is not willing to provide a food waste collection cart. There are five businesses that have access to a shared food waste collection cart at no cost, but have chosen not to participate, despite repeated outreach.

**Table 1.** Participants in the Town of Canmore Commercial Food Waste Collection Program.

Participants as of June 30, 2022	
1. Communitéa Café	19. Tank 310 – Grizzly Paw
2. Gaucho Brazilian BBQ	20. Table
3. Kain Tayo	21. Crazyweed Kitchen

4. Glacier Holdings – 710 / 722 Main Street (a) Good Earth Coffeehouse (b) Canary Coffee (c) Evoolution	22. Bear Bell Grill (in Canmore Recreation Centre)
5. Rocky Mountain Bagel Co. – Main Street	23. Stirling Lounge & Grill (Malcolm)
6. Rocky Mountain Bagel Co. – Bow Valley Trail	24. Bear & Bison
7. Rocky Mountain Flatbread Co.	25. Mountain Munchkin Daycare
8. The Grizzly Paw Brewing Co. – Main Street	26. Our Lady of the Snows School
9. Harvest Café	27. Elizabeth Rummel School
10. Glacier Holdings – 837 Main Street (a) Mountain Juice Café	28. Alpine Club of Canada
11. Tanner Properties – 737 Main Street (a) Beamer’s Coffee Bar	29. Silvertip
12. Sauvage Restaurant	30. 1 Industrial Place (iPlace)
13. Tavern 1883	31. Where the Buffalo Roam Saloon
14. Ānkôr	32. Sage Bistro
15. Eclipse Coffee Roasters	33. Good Earth Coffeehouse – Elevation Place
16. Chez François	34. 633 Main Street (Glacier Holdings) – seasonal food trucks
17. Pocaterra Inn	
18. Thai House	



**Figure 1.** Number of Canmore businesses and institutions in 10 participation / non-participation categories for the Town of Canmore Commercial Food Waste Collection Program, as of June 2022.

### 3. Lessons Learned from Recruitment and Outreach

Table 2 summarizes the lessons learned from the recruitment and outreach process conducted between November 2021 and June 2022.

**Table 2.** Lessons Learned from Recruitment and Outreach for Commercial Food Waste Collection Program.

Lesson Learned	Description and Details
Many businesses were unaware of the Commercial Food Waste Collection Program, prior to phone recruitment.	<ul style="list-style-type: none"> <li>• Less than 15% of the businesses and institutions Shannon contacted were aware of the Town’s Commercial Food Waste Collection Program, despite the fact many had already received two recruitment e-mails inviting them to participate in the program.</li> <li>• Some business owners that were very keen to participate and expressed appreciation for the program did not know that the program existed prior to Shannon’s phone call to them to invite them to participate – despite the fact they had been sent e-mails about the program.</li> <li>• Broad public communication about the existence of the Commercial Food Waste Collection Program early in the program could have helped address this lack of knowledge and led to more unprompted sign-ups from keen participants.</li> </ul>
E-mail communication has limited effectiveness as a recruitment tool.	<ul style="list-style-type: none"> <li>• E-mail is effective for setting up a time to meet and arranging details once a business or institution has indicated they would like to participate in the program.</li> </ul>
Direct phone recruitment was most successful.	<ul style="list-style-type: none"> <li>• Direct phone conversation with business owners and managers was most successful as a recruitment approach.</li> <li>• Those business owners and managers who were interested in participating were interested in reading a follow-up e-mail message, and much more likely to respond to such a follow-up message.</li> </ul>
Some interested businesses didn’t sign up, even after significant outreach and recruitment effort	<ul style="list-style-type: none"> <li>• There were some businesses who expressed interest in the program, but even after more than five follow-up phone calls and numerous follow-up emails still had not decided whether to participate.</li> <li>• It seemed the greatest factor in this was that the owners / managers were busy, and food waste diversion was not a priority.</li> </ul>



<p>Extensive follow-up was required to achieve participation of some businesses.</p>	<ul style="list-style-type: none"> <li>• Even some business owners and managers who were interested in the participating in the program needed to be contacted by phone and e-mail multiple times, prior to them signing up for the program.</li> <li>• Again, the biggest reason for this was owners / managers were busy, and food waste diversion was not a priority.</li> </ul>
<p>Time spent on successful and unsuccessful recruitments was highly variable.</p>	<ul style="list-style-type: none"> <li>• Some successful recruitments were relatively straight-forward and did not require much time.</li> <li>• Some successful recruitments required extensive follow-up and repeated communication.</li> <li>• Some unsuccessful recruitments were very time-consuming. In one case, I reached out to 10 business owners who were all willing to join the program at the building complex where they are tenants. Ultimately, the property owner was not willing to provide a food waste collection cart for tenants in the shared recycling / garbage room, and therefore participation by the 10 businesses could not occur.</li> </ul>
<p>Property owner – tenant relationships can be barriers to program participation.</p>	<ul style="list-style-type: none"> <li>• Some property owners declined to pay for a food waste collection cart, if they couldn't be assured that tenants would use it (and therefore result in reduced garbage collection costs for property owner).</li> <li>• Some tenants were keen to participate in the program, but their property owner / manager did not wish to provide a food waste collection cart at their property.</li> </ul>
<p>Non-participation in the program should not be interpreted as non-support in all circumstances</p>	<ul style="list-style-type: none"> <li>• At least three business owners who declined to participate indicated that they support the objectives of the program and expect that at some point they will be required to participate. They noted that a growing number of Canadian communities require the separation of food scraps and food-soiled paper from the waste stream, and that this is the direction society is moving.</li> </ul>

### 3.1. Why Businesses and Institutions Participate in the Program

The most common reasons that business / institution owners and managers gave for participating in the Commercial Food Waste Collection Program were the following – in order of frequency communicated:

- desire to be a good environmental steward / recognition of the environmental benefits;
- economic benefits – commercial garbage disposal is expensive; and,
- participation in program will alleviate challenges with garbage receptacle being overfull, especially during busy summer months.

At least six restaurant owners that participate in the Commercial Food Waste Collection Program do so for solely environmental reasons. These restaurant owners rent the commercial space they use, and the property owners they rent from are unwilling to provide a food waste collection cart as part of the common amenity services they pay for in their rent. These restaurant owners pay the additional cost to participate because they support the environmental benefits of the program and want to do their part to keep food scraps and food-soiled paper out of the waste stream. Two institutional participants operate within economic structures that result in program participation costing them additional money; they participate because they believe it is the right thing to do.

Tory Kendall, property manager for a number of downtown properties for Glacier Holdings noted: “Participating in the Commercial Food Waste Collection Program is astronomically less expensive than paying for garbage collection. There is potential to save thousands of dollars per year by participating in this program.”

Sage Bistro recently joined the Commercial Food Waste Collection Program, and owns the building they operate from and therefore manages their own waste removal contract and costs. Owner Todd Kunst was certain that participation in the program would save money. The restaurant uses a private waste hauler to remove waste, and during the past year they’ve switched from regular waste removal service to on-demand. Adding food waste collection service to their current waste diversion efforts will result in very infrequent waste collection, and anticipated cost savings in the order of hundreds of dollars per year.

Two businesses clearly identified that they felt that by participating in the program they would have fewer challenges with their garbage bin becoming over-full during the busy summer season. In one case, this wasn’t the primary motivation for participating – simply an additional benefit.

Many of the businesses who joined the Commercial Food Waste Collection Program actively expressed appreciation for the existence of the program. At least two restaurant owners expressed the sentiment of “I’ve been waiting for such a program to exist in Canmore” and their relief to not be placing food scraps in the garbage any longer.

### **3.2. Why Businesses and Institutions Don’t Participate in the Program**

Based on the phone conversations and e-mails exchanged with the more than 110 business / institution owners and managers Shannon communicated with as part of program recruitment and outreach, the main reasons that businesses and institutions don’t participate in the Commercial Food Waste Collection Program appeared to be the following:

- property owner – tenant relationships create economic risk and complexity;
- waste diversion is not a business or institutional priority, even if it can save money;
- participation in the program will cost more;
- key personnel at the business / institution are not interested in participating, even if there is at least one internal champion who would like to see the program implemented.

Each of these main reasons are discussed in more detail below.

### **3.2.1. Property Owner – Tenant Relationships**

The complexity of property owner – tenant relationships and economic implications associated with this seemed to be one of the two greatest barriers to voluntary participation in the Commercial Food Waste Collection Program.

The majority of food service businesses in Canmore are tenants in the buildings in which they operate. Most often, waste collection is paid for through rent to the property owner. In properties where there are multiple tenants, there is most often a shared waste and recycling area, and waste and recycling services are paid for through rent as a “common amenity” service. The ideal pathway to successful participation in the Commercial Food Waste Collection Program in this circumstance involves the following:

- property owner agrees to pay for food waste collection cart service;
- food service businesses at property divert food scraps into the food waste collection cart;
- diversion of food scraps enables a reduced garbage pick-up frequency; and,
- savings from reduced garbage pick-up frequency covers the cost of food waste collection cart service, and may lead to cost savings for the property owner and/or tenants.

There are various scenarios in which this successful participation pathway is not reached:

- property owner / manager does not agree to pay for food waste collection cart service as they are not interested in program, and tenant does not want to pay extra for food waste collection cart, as there is no opportunity for them to save money by generating less garbage;
- property owner / manager does not agree to pay for food waste collection cart service as they are uncertain that tenants will fully participate in diverting food waste, and therefore they doubt that they will be able to reduce garbage collection frequency, and therefore off-set the cost of the food waste collection cart service; and,
- property owner / manager agrees to provide a food waste collection cart for use by tenants, but tenant(s) are unwilling to separate food scraps and food-soiled paper into the food waste collection cart, and therefore no or minimal diversion takes place, garbage collection frequency cannot be reduced and there are additional costs for the property owner and/or tenants.

Shannon observed examples of all of these scenarios when carrying out recruitment and outreach for the Commercial Food Waste Collection Program.

Currently, in circumstances where a food service business is a tenant and pays for waste / recycling through their rent, both the property owner and tenant must be interested in and committed to participating in the program for potential economic benefits to be realized and enjoyed by the party putting in the effort to divert the food scraps and food-soiled paper.

### **3.2.2. Waste Diversion is Not a Priority**

The second of the two greatest barriers to voluntary participation in the Commercial Food Waste Collection Program is that business / institution owners and managers are busy and waste diversion is not a priority, even when there may be potential economic benefits.

The majority of businesses don't closely track their waste management costs or focus attention on how they might divert waste resources and save money.

The combination of waste diversion not being a priority and current business staffing challenges means that many businesses choose not to respond to the invitation to participate in the Commercial Food Waste Collection Program.

### **3.2.3. Participation in the Program Will Cost More or Is Perceived to Cost More**

As described in Section 3.2.1. there are situations in which participation in the Commercial Food Waste Collection Program will cost more for a business or institution – especially when the financial structure between property owner and tenant means that the business that is interested in diverting food scraps through the program has no way to reduce their garbage collection costs. This is a significant barrier to participation – especially when the business / institution does not feel an underlying environmental or social motivation to participate.

When waste management and waste diversion is not a business or organizational priority, there can be a perception that participation in the Commercial Food Waste Collection Program will cost more, as there is not a good understanding of what current waste management costs are and how diversion of food scraps can lead to reduce garbage pick-up and therefore cost savings.

Given that there is a flat rate for food waste collection, with a \$10/cart/pick-up rate, there is no discount as the quantity of food waste collected increases. As a result, at businesses and institutions where a large quantity of food waste is generated, the per cubic yard cost to have food waste removed can be higher than the cost to place the food waste in the garbage, which can provide a disincentive to participate.

For example, under the current the Town of Canmore's current rate structure, the cost to empty a 6-cubic yard garbage bin is \$75/collection, which is \$12.50 per cubic yard for garbage collection. The cost to empty a 240 L food waste collection cart is \$10/collection. This is equivalent to \$31.85 per cubic yard, which is 2.5 times as expensive as garbage collection.

Of the five businesses that have tried and left the Commercial Food Waste Collection Program, three mentioned cost as a significant barrier. In most, if not all, of these situations, the cost factor was related to the property owner – tenant barrier.

### **3.2.4. Key Decision-Maker is Not Interested in Program**

During recruitment and outreach, there were numerous examples in which one individual in the business or institution was very interested in the program; however, another business partner or institutional leader was disinterested, and ultimately the business or institution has not joined the program.

## **4. Potential Approaches to Increase Program Participation**

Given the extensive active recruitment and outreach that has now taken place, as described in Section 1, the Commercial Food Waste Collection Program has likely almost reached the limit of participation that can be achieved through voluntary sign-up, given the current waste management structure, economics and policies within Canmore.

Given the extensive program recruitment that has taken place over the past eight months, owners and managers of businesses and institutions that generate food scraps and food-soiled paper have now been made aware of the program and actively invited to participate through multiple communication channels.

Achieving significant increased program participation will likely now require policy and program approaches that address the barriers to participation identified in Section 3: property owner – tenant relationships, waste diversion is not a priority, participation in the program will cost more or is perceived to cost more and key decision-maker is not interested in program.

### **4.1. Make Diversion of Food and Food-Soiled Paper Mandatory**

The most common tool used by Canadian municipalities and provinces to achieve high rates of organic waste diversion in the commercial and institutional sector is to mandate separation of food scraps and food-soiled paper from the waste stream. Some examples of Canadian jurisdictions that have implemented or are about to implement such mandatory food waste diversion in the commercial sector are described in Table 3.

During recruitment and outreach for the Commercial Food Waste Collection Program, a number of business / institution owners and managers requested that the Town of Canmore make diversion of food scraps mandatory. In some cases, making food scraps diversion mandatory would improve the economics for those who are currently paying extra to make a positive environmental choice – with no opportunity to achieve garbage service cost savings. In other cases, a mandatory program would enable tenants to access the infrastructure to separate food scraps, when currently their property owner / manager is not willing to provide the infrastructure. Even some businesses who did not opt to join the voluntary Food Waste Collection Service at this point noted that they expected to be required to do so at some point in the near future.

**Table 3.** Examples of Canadian jurisdictions that have mandatory food waste diversion in the commercial and institutional sectors.

Jurisdiction	Details for mandatory commercial food waste diversion
<b>Town of Banff</b>	<ul style="list-style-type: none"> <li>• Council recently passed a Food Scraps and Recycling Bylaw that requires all non-residential sector entities to separate food scraps and recycling from garbage. This bylaw comes into effect on October 1, 2022, with enforcement beginning in 2023.</li> <li>• Building owners and property managers are responsible for ensuring adequate bins are in place and informing tenants of the requirement to separate food scraps from garbage.</li> <li>• All businesses that rent space in a building are expected to participate in the program.</li> <li>• Garbage bins that contain visible amounts of food scraps and recycling will no longer be acceptable and could be subject to fines.</li> <li>• This requirement for food waste diversion is a key component of the Town of Banff's goal to reach 70% waste diversion by 2028.</li> </ul>
<b>City of Calgary</b>	<ul style="list-style-type: none"> <li>• Since November 1, 2017, businesses and organizations are required to separate food and yard waste from the garbage for composting or diversion.</li> <li>• Since November 1, 2016, businesses and organizations are required to recycle a specific list of materials.</li> <li>• The City also requires that businesses and organizations provide signage on all collection containers and education to tenants at least once per year.</li> <li>• The bylaw applies to all businesses and organizations, including property management companies, offices, stores, restaurants, hotels, schools, healthcare facilities, manufacturers, non-profits, places of worship and other operations.</li> </ul>
<b>Whitehorse, Yukon</b>	<ul style="list-style-type: none"> <li>• In 2019, Whitehorse (population ~25,000) made it mandatory for all commercial food producers (restaurants, grocery stores, food distributors, commercial kitchens) to separate food waste for collection.</li> <li>• In 2020, this requirement extended to multi-unit residential properties (more than 5 units) like condos and apartments.</li> <li>• The City of Whitehorse offers collection of commercial organics using both green carts (similar to Canmore) as well as 2-cubic yard and 3-cubic yard green bins, to accommodate businesses and multi-family residential units with both small and large volumes of organic waste.</li> <li>• Commercial program details, including application forms and pricing are found <a href="#">here</a>.</li> </ul>
<b>Metro Vancouver</b>	<ul style="list-style-type: none"> <li>• In 2015, Metro Vancouver banned food waste from the garbage in the 21 cities that make up the Metro Vancouver region.</li> <li>• This ban includes businesses, schools, single-family and multi-family residential units and institutions.</li> </ul>

<p><b>Regional District of Nanaimo</b></p>	<ul style="list-style-type: none"> <li>• In 2005, Nanaimo introduced a landfill ban on the disposal of all food waste from commercial premises.</li> <li>• Commercial premises include businesses and institutional facilities that generate commercial organic waste including food wholesalers / distributors, food and beverage stores, community food services, educational and health care facilities.</li> </ul>
<p><b>Provinces of Nova Scotia and Prince Edward Island</b></p>	<ul style="list-style-type: none"> <li>• The province of Nova Scotia banned landfill disposal of all compostable items in 1997. This includes disposal from all communities in Nova Scotia, regardless of size.</li> <li>• The province of Prince Edward Island banned landfill disposal of all compostable items in 1999.</li> </ul>

**4.2. Adjust Rate Structure to Provide Economic Incentive**

As discussed in Section 3.2.3., given that there is a flat rate for food waste collection, with a \$10/cart/pick-up rate, there is no economy of scale discount as the quantity of food waste collected increases. As a result, at businesses and institutions where a large quantity of food waste is generated, the per cubic yard cost to have food waste removed can be higher than the cost to place the food waste in the garbage, which can provide a disincentive to participate.

It would be valuable to review the current program and pricing design for the Commercial Food Waste Collection Program, to explore opportunities to address this financial disincentive. Some potential options are to create a rate structure in which the cost per cart collected is lower for multiple carts collected at once, and/or a structure in which the cost per cubic yard for organics collection is lower than for garbage.

Two commercial food waste collection programs and pricing structures that provide examples of pricing incentives and provision of food waste collection service at green cart and larger collection bin scales include [The Town of Banff Non-Residential Food Waste Rate Structure \(2022\)](#) and The City of Whitehorse – [Large volume organics \(Green Bin\) application](#) and City of [Whitehorse Small-volume organics \(Green Cart\) application](#).

## 5. Communication Opportunities to Support Program Success

### 5.1. Broad Community Awareness Campaign for Commercial Food Waste Collection Program

It would be valuable for the Town of Canmore to consider planning and implementing a broad community awareness campaign to increase public awareness and recognition of the Commercial Food Waste Collection Program. More than 85% of businesses Shannon contacted were unaware that the Commercial Food Waste Collection Program existed. This included businesses that were keen to participate, once personally invited to join the program.

As the Town looks forward to evaluate options and policy tools that could increase diversion of food scraps and food-soiled paper in the commercial sector, it would be valuable to increase overall public awareness of the Commercial Food Waste Collection Program. Such a public awareness campaign could serve to remind business and institution owners and managers about the existence of the program – most especially those who have not chosen to participate to date. It would also serve to inform the public about the existence of the program, which enables motivated citizens to encourage the food service establishments they frequent to participate in the program, if they are not already.

One component of a broad public awareness campaign could include featuring the positive experiences of current participants. As an example, Sage Bistro has succeeded in quite dramatically reducing their overall waste management costs through participation in the Commercial Food Waste Collection Program, diversion of recyclable materials and careful tracking of waste management costs. Glacier Holdings' property manager Tory Kendall has articulated clearly to program coordinators that the Commercial Food Waste Collection Program helps their business to reduce waste management costs. Most current program participants are quite enthusiastic about their participation.

The Town could consider highlighting and recognizing businesses and institutions that are currently participating in the Commercial Food Waste Collection Program.

### 5.2. Provide Educational Tools on Website

Many jurisdictions with commercial food waste collection programs provide educational tools, such as printable posters, on their websites. This enables business and institution managers, and members of the public to print educational posters off themselves. Two examples are:

- [Town of Banff – Waste diversion collection container labels; and](#)
- [City of Calgary – Business waste diversion program: tools and resources.](#)



### **5.3. Promote and Provide Tools for Special Event Food Waste Collection**

Food waste diversion can be supported and promoted by providing tools to help people organizing special events to set up food waste and recycling collection containers at their event, and then to take the separated materials to an appropriate food waste collection and recycling bin after the event. Such materials and resources can be useful for individuals, organizations and businesses.

Examples of such educational materials and tools are the following:

- [Greater Sudbury – Composting and recycling at special events](#);
- [Vancouver North Shore Recycling – Guide to creating a zero waste event](#); and,
- [Port Moody – Special event waste management planning tool](#).

Such an initiative would help support the goals of the Town of Canmore 'Towards Zero Waste Events' policy.

### **5.4. Patronize Program Participants**

It would be valuable for the Town of Canmore as an organization to recognize those businesses that have voluntarily chosen to participate in the Commercial Food Waste Collection Program. One way to do this is to focus on patronizing these businesses for any town catering. The Town could consider encouraging the Biosphere Institute to do the same. A key component of such an approach would be to share the list of current program participants with Town staff and encourage staff to select from this list of businesses when choosing catering and patronizing local food service businesses. It would be valuable to communicate with program participants that this approach is being used to procure food and beverage services, in recognition of the businesses' participation in the Commercial Food Waste Collection Program, which furthers Town waste diversion and climate action objectives.

### **5.5. Communicate How Program Follows Wild Smart Principles**

Town of Canmore residents and businesses take pride in working to be a WildSmart community. It would be valuable to add a webpage to the Town's website within the Food Waste Collection program section which focuses on sharing information about how the Town's approach to food waste collection follows WildSmart principles.

It would be valuable to share information about how the outdoor 240-litre food waste collection carts have been tested and rated to be bear-proof. Business / institution managers and owners, and members of the public are curious about how this works and want to ensure that collection containers cannot be accessed by wildlife. The science of how this testing is done is interesting, and links to the broader Town goals and Council priority of living respectfully and safely with wildlife.

## **6. Engineering Design & Construction Guidelines (EDCG) – Potential Opportunities**

The Town of Canmore Engineering Design and Construction Guidelines (Section 11) describe the solid waste infrastructure requirements for new and redeveloped residential developments, and commercial development. This includes requirements for the provision of food waste collection bins.

There are a few sections of the EDCG Section 11 (Solid Waste) that could be strengthened to provide greater clarity around the provision of food waste collection infrastructure.

### **6.1. Clarification Around Mixed-Use Developments**

It would be helpful to provide some additional text to clarify what the requirements for mixed-use developments are with respect to provision of food waste collection bins. Do mixed-use developments fall under the 'Residential' or 'Commercial' category, or a combination? Are new mixed-use developments being required to provide food waste collection infrastructure, as a new residential or commercial development would? For example, have any new mixed-use developments in Spring Creek been required to provide residential food waste collection bins and/or commercial food waste collection carts?

### **6.2. Clarification Around Multi-Family Residential Requirements**

Section 11.1 (Guidelines for New and Re-developed Residential Development) currently read as though they are mainly focused on single-family development. Would there be situations where a certain number of food waste collection carts would be accepted as a food waste collection option, rather than a 2-cubic-yard collection bin? Some increased clarity here could help provide clarity for proponents and those reviewing and approving development approvals.

## 7. Other Program Considerations

### 7.1. Consider Removing Biodegradable Bags from Town Dog Bag Dispensers

Biodegradable bags are currently being used to stock Town of Canmore dog bag dispensers. Biodegradable bags are neither compostable nor recyclable – they simply break down into smaller pieces of plastic. Also, the terms biodegradable and oxy-biodegradable cause a lot of confusion in composting programs, as people tend to think (understandably) that ‘biodegradable’ means compostable, when in this context this is not the case.

It would be valuable to consider removing biodegradable bags from the Town of Canmore dog bag dispensers as stocking the Town of Canmore dog bag dispensers with biodegradable bags perpetuates the notion that ‘biodegradable bags’ are desirable, and may contribute to confusion over the differences between certified compostable and biodegradable bags.

It would be valuable for the Town of Canmore to consider whether the circumstances and timing are right to explore options to collect pet waste as part of the residential and commercial organics programs. There are many elements to consider in this decision, including:

- Is the Town in a position to create and distribute adequate educational messaging to help citizens understand that certified compostable bags (not biodegradable bags) must be used, if pet waste is being bagged?; and,
- Are the current and any potential future organics processors willing to accept pet waste?

There are many jurisdictions and compost facilities across Canada that accept and process pet waste, including cat litter and dog feces<sup>1</sup>. It is important for compost facilities processing pet waste to carefully manage and monitor the temperature of the composting process, to ensure adequate pathogen destruction. One of the main challenges in composting pet waste is ensuring that there is clear and widespread communication with pet owners that dog feces and cat litter cannot be placed in the compost stream in plastic bags that are not compostable. It is advisable to encourage cat owners to place cat litter directly into the compost bin, without placing the litter in a bag. A second barrier that some compost facility operators have expressed concern about is negative public perception around composting pet waste, even when it is done safely.

---

<sup>1</sup> Hofman, JH. 2010. [Cat litter and dog feces: Compost or waste?](#) Nova Scotia Resource Recovery Fund Board.



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** H-4

**TO:** Council

**SUBJECT:** Property Tax Policy Amendment

**SUBMITTED BY:** Palki Biswas, Manager of Finance

**RECOMMENDATION:** That Council approve the Property Tax Policy FIN-005 as amended.

## EXECUTIVE SUMMARY

Administration is recommending the Property Tax Policy FIN-005 be amended to reflect the change to Municipal and Vital Homes tax rates of the tourist homes (rental option) so that they are calculated in parity with the non-residential class municipal mill rate as directed by Council when approving the 2022 Property Tax Bylaw.

Administration also recommends changing the policy format to align with the policy template currently in use. Specifically, the section numbering is amended, the “vision alignment” section is removed, and a section addressing policy review is added.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

Municipal Government Act (MGA) subsection 353(1) requires Council to pass a property tax bylaw annually, section 354 speaks to the tax rates set by the Property Tax Bylaw, and subsection 203(2) stipulates that a Council may not delegate its power to pass bylaws.

At the December 15, 2015, regular meeting, Council approved the Property Tax Policy via Resolution 364-2015. This policy was to outline the guiding principles to be considered when setting annual property tax rates (attachment 2). This was one of the recommendations made by Ben Brunnen in conjunction with a Property Tax Task Force who conducted a study of Canmore’s tax regime at that time.

At the meeting on April 26, 2022, the Finance Committee directed Administration to prepare the property tax bylaw for 2022 to increase the tourist home class mill rate to equal the non-residential class mill rate via Resolution 9-2022FIN.

At the May 3, 2022, regular meeting, Council approved the tax rates for the Town of Canmore for the 2022 year by giving three readings to the Property Tax Rate Bylaw 2022-12. At this time, Council made a change for tourist homes non-personal use so that they were calculated in parity with the non-residential class mill rates.

Council reviewed recommended changes to the Property Tax Policy at the October 18, 2022 Committee of the Whole meeting. No additional changes were recommended.

**DISCUSSION**

The Town’s property tax policy outlines the purpose of setting and managing property taxes with local and provincial legislation, while thriving and remaining financially viable over the long term. It also clearly states Council’s guiding principles regarding their approach to decision making as it relates to setting property taxes that are responsive to economic conditions, comparable to other communities, equitable within the tax base and accountable to the ratepayers. The Town conducts a review of classification, assessment, use, market dynamics and tax policies relating to the residential and non-residential sectors, and revises/updates municipal property tax and assessment policies and regulations for these properties”.

The current taxation rates for 2022 are as follows:

	<b>Residential and “Tourist Home – Personal Use”</b>	<b>Non-Residential</b>	<b>“Tourist Home”</b>	<b>Vacant Serviced Land</b>
Municipal	2.26132	7.01860	7.01860	2.26132
School Support	2.58258	3.64734	2.58258	2.58258
Bow Valley Regional Housing (BVRH)	0.17052	0.17052	0.17052	0.17052
Vital Homes	0.03066	0.16294	0.03066	0.03066
<b>Total Mill Rate</b>	<b>5.04508</b>	<b>10.99940</b>	<b>9.80236</b>	<b>5.04508</b>
Municipal Tax Ratio (Class: Residential)	1:1	3.1:1	3.1:1	1:1

As a point of clarity, given that the “Tourist Home” and “Tourist Home – Personal Use” classifications are both residential subclasses, Council only has the authority to adjust the Municipal tax rate and the Vital Homes tax rate for these properties. The education requisition (school support) is applied to properties based on the residential to non-residential assessment split. The Bow Valley Regional Housing (BVRH) requisition is applied using the same tax rate across all tax classes.

In May 2022, when the property tax rates were set and approved, a change was made to bring tourist homes non-personal use so that they are calculated in parity with the non-residential class mill rates. This was done to the **municipal portion** of the tax rates as can be seen in the table above (in blue). There was no reference to changing the **vital homes** mill rate for Tourist Homes (in red). Council has the authority to split up the Vital Homes requisition as they see fit, so could make the Vital Homes tax rate the same for Tourist Home as Non-Residential. This would be more in line with the intent of Council to do everything within their power to align Tourist Home taxes with Non-Residential taxes.

Since the equalization of the tax rate between non-residential and Tourist Home properties was applied only to the municipal taxes in 2022, Administration is now recommending that the property tax policy provide clarity regarding the Municipal and Vital Homes tax rates. Going forward (starting 2023) increasing the Vital Homes taxes for Tourist Homes to one that is equal to the non-residential tax rate supports the intent of Council to tax Tourist Homes and Visitor Accommodation in an equitable fashion where within their control.

Therefore, sections 8, 9 and 10 under the **Equity for tourist homes, visitor accommodation units, and residential properties** of the policy (attachment 1) should say the following:

8. Class 1 property is divided into subclasses for property assessment purposes while visitor accommodation units are classified as non-residential properties. Two class 1 subclasses are “Tourist Home” and “Tourist Home - Personal Use”.

9. *A tourist home property will be taxed at a rate equivalent to that of non-residential properties for municipal and vital homes taxes* in recognition of the fact that it is used as a non-residential visitor accommodation unit and can be rented out for short-term and long-term accommodation purposes.

10. A tourist home property shall be placed in the tourist home – personal use subclass for any given taxation year if all owners registered on title, on or before January 31 of each fiscal year, sign a statutory declaration, in form approved by the Chief Administrative Officer, declaring that the property will be used only for personal purposes and will not be advertised or operated for short-term or long-term rental during the current taxation year. The *tax* rate for the tourist home- personal use subclass shall be the same as the tax rate for the residential subclass.

**ANALYSIS OF ALTERNATIVES**

N/A.

**FINANCIAL IMPACTS**

The proposed tax policy amendment will have no immediate financial impacts, as it merely codifies those property tax philosophies already held and followed by Council.

**STAKEHOLDER ENGAGEMENT**


N/A.

**ATTACHMENTS**

- 1. Draft Property Tax Policy as amended
- 2. Property Tax Policy FIN-005

**AUTHORIZATION**

Submitted by:	Palki Biswas Manager of Finance	Date: <u>October 18, 2022</u>
Approved by:	Therese Rogers General Manager, Corporate Services	Date: <u>October 18, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date: <u>October 24, 2022</u>

	<b>Council Policy</b>
<b>Policy Title:</b>	<b>Property Tax</b>
<b>Policy Number:</b>	FIN-005
<b>Date in Effect:</b>	December 15, 2015
<b>Current as of:</b>	<del>December 15, 2015</del> approval pending

**POLICY STATEMENT**

1. It is the policy of the Town of Canmore to set and manage property taxes in compliance with local and provincial legislation, while thriving and remaining financially viable over the long term.

**PURPOSE**

2. To clearly state Council's guiding principles regarding their approach to decision making as it relates to setting property tax rates that are responsive to economic conditions, comparable to other communities, equitable within the tax base and accountable to the ratepayers.

**GUIDING PRINCIPLES****Accountability and clarity in collection of property taxes**

3. In setting annual property tax rates and collection amounts, focus will be placed only on the municipal component of the property tax. No consideration will be given to the provincial education tax component and impact. Work will continue to clarify and communicate to ratepayers the distinctions between the provincial education and municipal taxes, and direct inquiries to appropriate sources.

**Accountability in engaging stakeholders in tax policy decisions**

4. A tax policy education session will be incorporated into the Council orientation package. Municipal property tax policies will be reviewed once every term of Council and the review will include citizen engagement activities, the results of which will help to inform any tax policy revisions.

**Stability in managing tax changes**

5. When establishing an annual tax rate, consideration will be given to the previous years' tax burden to ensure a consistent and equitable distribution between assessment classes.

**Equity and competitiveness in the distribution of the residential and non- residential tax share**

6. Indicators of tax rate ratios and residential taxes per capita in neighboring and comparator municipalities will be monitored on an ongoing basis, with an intention to target a residential/non-residential tax share split in line with the average of these findings. Competitor municipalities are those in the same (or a similar) market as Canmore from an economic perspective.

Policy approved by: \_\_\_\_\_

**Equity for vacant residential properties**

- 7. The same tax rate will be applied to the vacant land residential subclass and the residential class.

**Equity for tourist homes, visitor accommodation units, and residential properties**

- 8. Class 1 property is divided into subclasses for property assessment purposes while visitor accommodation units are classified as non-residential properties. Two class 1 subclasses are “Tourist Home” and “Tourist Home - Personal Use”.
- 9. A tourist home property will be taxed at a rate equivalent to that of non-residential properties for municipal and vital homes taxes in recognition of the fact that it can be used as a non-residential visitor accommodation unit and can be rented out for short-term and long-term accommodation purposes.
- 10. A tourist home property shall be placed in the tourist home – personal use subclass for any given taxation year if all owners registered on title, on or before January 31 of each fiscal year, sign a statutory declaration, in a form approved by the Chief Administrative Officer, declaring that the property will be used only for personal purposes and will not be advertised or operated for short-term or long-term rental during the current taxation year. The tax rate for the tourist home- personal use subclass shall be the same as the municipal tax rate for the residential subclass.

**Equity from a user pay perspective**

- 11. Where possible, cost recovery from user fees and charges will be pursued to replace property tax revenue.

**Social and economic considerations**

- 12. A broad range of indicators will be considered in making tax decisions to ensure responsiveness to local social and economic conditions.

**RESPONSIBILITIES**

- 13. Administration will provide Council with comparator data at the time property tax rates are being set each fiscal year. These guiding principles will be considered when setting the annual property tax rates.

**VISION ALIGNMENT**

~~By adopting this policy Council will complete an action directly linked to their strategic initiatives to~~

~~“deliver effective and fiscally responsible services while valuing innovation” and “the Town’s finance policy complements and supports the municipality’s strategic plan while emphasizing policy coordination between debt, reserve, and taxation management.”~~

**POLICY REVIEW**

- 14. This policy will be reviewed by Council on or before November 30, 2026.

**RELATED DOCUMENTS**

Part 10, Division 1 of the Municipal Government Act (MGA) sets out the regulatory requirements regarding taxation.



The Town of Canmore’s Bylaw 2013-01 a bylaw to provide for the division of class 1 property into subclasses for property assessment purposes.

A Property Tax Policy Framework for the Town of Canmore: Analysis and Recommendations – Report prepared for the Town by Ben Brunnen Policy and Research

**AUTHORIZATION:**

\_\_\_\_\_

Sean Krausert  
Mayor

\_\_\_\_\_

Cheryl Hyde  
Municipal Clerk

**REVISION HISTORY**

Action	Date	Council Motion	Notes
Approved	2015-12-15	364-2015	



# Property Tax Policy

**DATE APPROVED:** December 15, 2015

**COUNCIL RESOLUTION:** 364-2015

## 1. POLICY STATEMENT

It is the policy of the Town of Canmore to set and manage property taxes in compliance with local and provincial legislation, while thriving and remaining financially viable over the long term.

## 2. PURPOSE

To clearly state Council's guiding principles regarding their approach to decision making as it relates to setting property tax rates that are responsive to economic conditions, comparable to other communities, equitable within the tax base and accountable to the ratepayers.

## 3. GUIDING PRINCIPLES

### 3.1 Accountability and clarity in collection of property taxes

In setting annual property tax rates and collection amounts, focus will be placed only on the municipal component of the property tax. No consideration will be given to the provincial education tax component and impact. Work will continue to clarify and communicate to ratepayers the distinctions between the provincial education and municipal taxes, and direct inquiries to appropriate sources.

### 3.2 Accountability in engaging stakeholders in tax policy decisions

A tax policy education session will be incorporated into the Council orientation package. Municipal property tax policies will be reviewed once every term of Council and the review will include citizen engagement activities, the results of which will help to inform any tax policy revisions.

### 3.3 Stability in managing tax changes

When establishing an annual tax rate, consideration will be given to the previous years' tax burden to ensure a consistent and equitable distribution between assessment classes.

### 3.4 Equity and competitiveness in the distribution of the residential and non- residential tax share

Indicators of tax rate ratios and residential taxes per capita in neighboring and comparator municipalities will be monitored on an ongoing basis, with an intention to target a residential/non-residential tax share split in line with the average of these findings. Competitor municipalities are those in the same (or a similar) market as Canmore from an economic perspective.

Policy approved by: \_\_\_\_\_

### 3.5 Equity for vacant residential properties

The same tax rate will be applied to the vacant land residential subclass and the residential class.

### 3.6 Equity for tourist homes, visitor accommodation units, and residential properties

Class 1 property is divided into subclasses for property assessment purposes while visitor accommodation units are classified as non-residential properties. Two class 1 subclasses are “Tourist Home” and “Tourist Home – Personal Use”.

A tourist home property will be taxed at a rate of 2.9 times the residential tax rate in recognition of the fact that it can be used both as a non-residential visitor accommodation unit (it can be rented out for short term accommodation purposes), as well as a residential property (there are no length of stay limitations, thus it can be used as a primary residence).

A tourist home property shall be placed in the tourist home – personal use subclass for any given taxation year if all owners registered on title, on or before January 31 of each fiscal year, sign a statutory declaration, in a form approved by the chief administrative officer, declaring that the property will be used only for personal purposes and will not be advertised or operated for short-term or long-term rental during the current taxation year. The municipal tax rate for the tourist home- personal use subclass shall be the same as the municipal tax rate for the residential subclass.

### 3.7 Equity from a user pay perspective

Where possible, cost recovery from user fees and charges will be pursued to replace property tax revenue.

### 3.8 Social and economic considerations

A broad range of indicators will be considered in making tax decisions to ensure responsiveness to local social and economic conditions.

## 4. RESPONSIBILITIES

Administration will provide Council with comparator data at the time property tax rates are being set each fiscal year. These guiding principles will be considered when setting the annual property tax rates.

## 5. VISION ALIGNMENT

By adopting this policy Council will complete an action directly linked to their strategic initiatives to

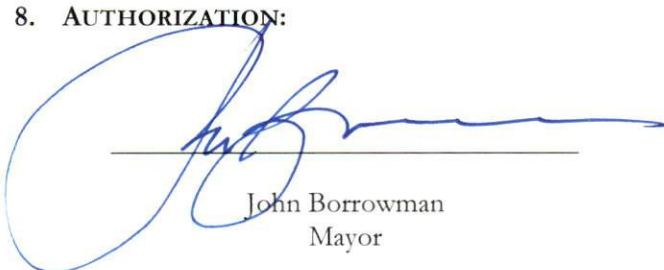
*“deliver effective and fiscally responsible services while valuing innovation” and “the Town’s finance policy complements and supports the municipality’s strategic plan while emphasizing policy coordination between debt, reserve, and taxation management.”*

Policy approved by: \_\_\_\_\_

**6. RELATED DOCUMENTS**

- 5.1 Part 10, Division 1 of the Municipal Government Act (MGA) sets out the regulatory requirements regarding taxation.
- 5.2 The Town of Canmore's Bylaw 2013-01 a bylaw to provide for the division of class 1 property into subclasses for property assessment purposes.
- 5.3 A Property Tax Policy Framework for the Town of Canmore: Analysis and Recommendations – Report prepared for the Town by Ben Brunnen Policy and Research

**8. AUTHORIZATION:**



---

John Borrowman  
Mayor



---

Lisa de Soto, P.Eng.  
Chief Administrative Officer

Policy approved by:  



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** H-5

**TO:** Council

**SUBJECT:** Land Transaction Policy Amendments

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

**RECOMMENDATION:** That Council approve Land Transaction Policy EX-007 as amended.

## EXECUTIVE SUMMARY

This report proposes amending the Land Transaction Policy in three areas:

- to recognize the process for tax-recovery proceedings under the MGA;
- to enable the efficient acquisition of small parcels for approved municipal infrastructure projects; and
- to make the Town Solicitor responsible for administrative guidelines under this policy.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

Land Transaction Policy EX-007 was approved by Council in 2017 to replace a Land Sales Policy that had been in place since 1990.

## DISCUSSION

The Land Transaction Policy was originally approved in 2017 to replace a Land Sales Policy that had been in effect since 1990. Council-approved policies are typically subject to review once every Council term. The Land Transaction Policy has not been reviewed since it was approved in 2017 and is due for review.

The policy requires that all acquisitions and disposals of land by the Town require Council resolutions unless authorized by the MGA. This approach remains generally sound; however, as the municipality continues to grow, it is becoming increasingly common for the circumstances in which the Town acquires and disposes of land to not be contemplated in the policy. As of 2021, there is also opportunity to shift the administration of the policy to in-house legal counsel.

**Tax recovery:** Section 3.2 of the policy provides that additional or different requirements in the MGA prevail over the policy respecting the acquisition and disposal of land. This is an acknowledgement of the law as-is, given that the policy cannot alter the MGA. Section 3.2 then lists the situations in which the MGA provides for the acquisition or disposal of land in ways that differ from the policy. This list is for convenience, so that readers do not need to review the many provisions of the MGA in relation to every municipal land transaction. Section 3.2 currently omits tax recovery proceedings under the MGA, which the Town undertook for the first time in 2021. The proposed amendments add this situation to the list.

**Land for Municipal Infrastructure:** Section 4 of the policy currently requires that all offers from third parties to sell land to the Town must be brought to Council for a decision. Administration occasionally has opportunities to acquire small or remnant parcels of land for minimal monetary consideration to help deliver on municipal infrastructure projects including multi-modal pathways and trails. In some cases, the parcels will be available from private developers but will not qualify for a “taking” (as a municipal reserve, road allowance or public utility lot) through the subdivision process. The landowner may be willing to transfer the land to the Town; but may be unwilling or unable to grant an easement or right-of-way, or the transfer cannot be contemplated through the subdivision application itself. This currently creates the need for Council resolutions to approve contracts for small transactions involving remnant parcels, which even if agreeable between the parties will create transaction costs that are disproportionate to the value of the land and may delay regulatory approvals. In other cases, lands may be available from the provincial Crown for municipal purposes at less than market value, which provides the Town with greater security for a greater range of uses than can be provided through Crown leases or licences of occupation. The proposed amendments to Section 4 will allow Administration to acquire land to deliver on infrastructure plans and projects that have been approved by Council. The reliance on approved plans and projects will allow Council to retain effective control over Administration’s ability to acquire land, and at what price.

**Town Solicitor:** The Town has historically relied on the General Manager of Municipal Infrastructure for the oversight of land transactions and the maintenance of internal procedures to comply with the policy. As of 2021, the Town has in-house legal counsel available for this task. Transfer of this responsibility will help decouple land transactions from regulatory process where beneficial to do so.

#### **ANALYSIS OF ALTERNATIVES**

The alternatives to the recommended amendments differ for each proposed amendment.

**Tax recovery proceedings:** Council could delete the entire list of MGA situations from Section 3.2 and rely on the general acknowledgement that different requirements in the MGA prevail over the policy. This approach will avoid need for amendments to the policy as new MGA situations arise; however, it will be harder to apply the policy as it will require referring to the MGA to identify the applicable provisions of the MGA on each land transaction. Council could also leave Section 3.2 as is. This will omit an MGA situation that will foreseeably occur in the future and will leave uncertainty over how the policy should be applied to tax recovery proceedings with respect to maximizing value from a public sale process or finding clear community benefit from direct sales at less than market value. Council direction would be required for each unique tax recovery transaction. This alternative is not recommended as it is administratively burdensome.

If Council wants to remove this section, the first motion would be an amendment to the motion:

*That Council delete the entire list of MGA situations from Section 3.2*

And then Council would move the recommendation from this report.

**Land for municipal infrastructure:** Council could leave Section 4 of the policy as-is and require that Council make the decision on all offers to provide lands to the Town. This will retain Council control over matters that are highly administrative in nature with respect to acquisition of small or remnant parcels for infrastructure projects. This alternative is not recommended as retaining the policy as-is could result in suboptimal outcome on the delivery of council-approved plans and projects.

Another alternative is for the policy to prescribe a specific size of parcel or a dollar amount under which the Town could acquire land without a Council resolution. This alternative is not recommended as the quantifiable limits will be arbitrary.

If Council wants to remove this section, the first motion would be an amendment to the motion:

*That Council delete the proposed changes to Section 4*

And then Council would move the recommendation from this report.

### **FINANCIAL IMPACTS**

The proposed amendments should reduce administrative costs associated with land transactions. These administrative costs include the human resource costs of bringing applications for Council decisions on matters for which the administration otherwise has authority under the MGA and current bylaws.

Regarding, tax recovery, Council should consider that the properties to which the municipality has acquired title can be as much a liability as an asset due to the stringent MGA requirements for dealing with these properties and the sale proceeds. Efficient disposal of tax recovery properties for a reasonable price will often be more cost-effective than having to administer public sales and maximize proceeds.

Regarding land for municipal infrastructure, the financial rationale is to maximize the return on opportunities to acquire land as they arise. The costs of land and construction are increasing. If the administration cannot acquire land from development permit applicants in an efficient manner, then it may need to have developers construct conventional sidewalks in lieu of enabling the development of the multi-modal pathway system. Likewise, additional Council proceedings may limit the administration's ability to acquire Crown lands for less than market value for the purpose of municipal facilities, parks, and trails.

### **STAKEHOLDER ENGAGEMENT**

Internal discussions on the proposed amendments to the tax recovery provisions have included the Manager of Finance and the Property Tax Coordinator. Internal discussions on the proposed amendments to the municipal infrastructure provisions have included the Manager of Planning and Development and the Manager of Engineering.


### **ATTACHMENTS**

- 1) Draft Land Transaction Policy redline
- 2) Land Transaction Policy EX-007

**AUTHORIZATION**

Submitted by:	Adam Driedzic Town Solicitor	Date: <u>October 11, 2022</u>
Approved by:	Whitney Smithers General Manager of Municipal Infrastructure	Date: <u>October 13, 2022</u>
Approved by:	Therese Rogers General Manager of Corporate Services	Date: <u>October 7, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date: <u>October 24, 2022</u>



	<h2>Council Policy</h2>
<b>Policy Title:</b>	<b>Land Transactions Policy</b>
<b>Policy Number:</b>	EX-007
<b>Date in Effect:</b>	June 27, 2017
<b>Current as of:</b>	<u>Pending approval</u>

### POLICY STATEMENT

1. It is the Town's policy to carry out land transactions in an open, transparent, and accountable manner.

### PURPOSE

2. This policy is intended to set parameters around the Town's acquisition and disposal of land.

### AUTHORITY

3. Unless otherwise authorized by the Municipal Government Act or this policy, the Town shall acquire or dispose of land only if authorized by Council resolution.
4. In the event the Municipal Government Act sets out additional or different requirements to those stated in this policy, the Municipal Government Act shall prevail. These circumstances include, without limitation:
  - a) land acquired through area redevelopment plans,
  - b) land acquired through expropriation,
  - c) land designated for public use under the Land Use Bylaw,
  - d) minerals acquisition,
  - e) land acquired outside municipal boundaries,
  - f) land acquired for roads; ~~and~~
  - g) An estate or interest in
    - i) land transferred or granted for less than its market value, or
    - ii) a public park or recreation or exhibition grounds, ~~and~~

Policy approved by: \_\_\_\_\_

- h) land acquired and disposed of through the tax recovery process.

**LAND ACQUISITION**

- 5. Land purchasing decisions will be based on the principle of obtaining best value for money in accordance, where applicable, with the Town’s Purchasing Policy.
- 6. The Town will not pay more than fair market value when purchasing land.
- 7. Any offer from a third party to sell land to the Town will be brought to Council for a decision.
- 8. Notwithstanding any other provisions of this policy, the Town may acquire land without bringing offers from third parties to Council or obtaining a Council resolution authorizing the acquisition where
  - a) the acquisition of the land supports the delivery of a Council-approved plan or capital project for the development of municipal infrastructure, and
  - b) the consideration to be provided by the Town for the land is either
    - i) available through an approved capital project budget,
    - ii) a nominal amount, or
    - iii) does not involve monetary payment by the Town.

**DISPOSAL OF MUNICIPAL LAND**

- 9. When selling municipal land, the Town will use a competitive process open to any person wishing to purchase the land.
- 10. Land sales will be advertised, at a minimum, in one local newspaper and on the Town’s website for a 2-week period.
- 11. Land sale decisions will be based on providing maximum value to the Town.
- 12. Council may impose any limitations, terms or conditions on a disposal of land it deems necessary, including but not limited to:
  - a) a requirement to develop the lands within a specified time frame;
  - b) a first right of refusal to purchase the lands within a specified time frame if they are offered for resale; and
  - c) a re-purchase or transfer back provision if development is not undertaken within a specified time frame.
- 13. Council may, by resolution, approve an exception to Part 5 if it determines the exception will provide a clear community benefit.

Policy approved by: \_\_\_\_\_

**RESPONSIBILITIES**

- 14. The ~~General Manager of Municipal Infrastructure~~ Town Solicitor is responsible for creating and maintaining any administrative procedures necessary for compliance with this policy.

**POLICY REVIEW**

- 15. This policy will be reviewed by Council on or before November 30, 2026.

**RELATED DOCUMENTS**

- ~~15.~~ 16. Purchasing Policy

**ATTACHMENTS**

None

**REPEALS POLICY:** Land Sales Policy 207-2012

**AUTHORIZATION:**

\_\_\_\_\_  
Sean Krausert  
Mayor

\_\_\_\_\_  
Cheryl Hyde  
Municipal Clerk

**REVISION HISTORY**

Action	Date	Council Motion	Notes
Approved	2017-06-27	211-2017	Repealed Land Sales Policy 207-2012
<u>Amended</u>	<u>2022-11-01</u>		<u>Added new parameters for land acquisition and amended number format.</u>

Policy approved by: \_\_\_\_\_



## Land Transactions Policy

**POLICY NUMBER:** EX-007

**DATE IN EFFECT:** June 27, 2017

### 1. POLICY STATEMENT

It is the Town's policy to carry out land transactions in an open, transparent, and accountable manner.

### 2. PURPOSE

This policy is intended to set parameters around the Town's acquisition and disposal of land.

### 3. AUTHORITY

3.1. Unless otherwise authorized by the Municipal Government Act, the Town shall acquire or dispose of land only if authorized by Council resolution.

3.2. In the event the Municipal Government Act sets out additional or different requirements to those stated in this policy, the Municipal Government Act shall prevail. These circumstances include:

- a) Land acquired through area redevelopment plans;
- b) Land acquired through expropriation;
- c) Land designated for public use under the Land Use Bylaw;
- d) Minerals acquisition;
- e) Land acquired outside municipal boundaries;
- f) Land acquired for roads; and
- g) An estate or interest in
  - i) land transferred or granted for less than its market value or
  - ii) a public park or recreation or exhibition grounds.

### 4. LAND ACQUISITION

4.1. Land purchasing decisions will be based on the principle of obtaining best value for money in accordance, where applicable, with the Town's Purchasing Policy.

4.2. The Town will not pay more than fair market value when purchasing land.

4.3. Any offer from a third party to sell land to the Town will be brought to Council for a decision.

### 5. DISPOSAL OF MUNICIPAL LAND

5.1. When selling municipal land, the Town will use a competitive process open to any person wishing to purchase the land.

5.2. Land sales will be advertised, at a minimum, in one local newspaper and on the Town's website for a 2-week period.

Policy approved by:   
November 1, 2022 Council 9 a.m.

- 5.3. Land sale decisions will be based on providing maximum value to the Town.
- 5.4. Council may impose any limitations, terms or conditions on a disposal of land it deems necessary, including but not limited to:
  - a) a requirement to develop the lands within a specified time frame;
  - b) a first right of refusal to purchase the lands within a specified time frame if they are offered for resale; and
  - c) a re-purchase or transfer back provision if development is not undertaken within a specified time frame.
- 5.5. Council may, by resolution, approve an exception to Part 5 if it determines the exception will provide a clear community benefit.

**6. RESPONSIBILITIES**

6.1. The General Manager of Municipal Infrastructure is responsible for creating and maintaining any administrative procedures necessary for compliance with this policy.

**7. RELATED DOCUMENTS**

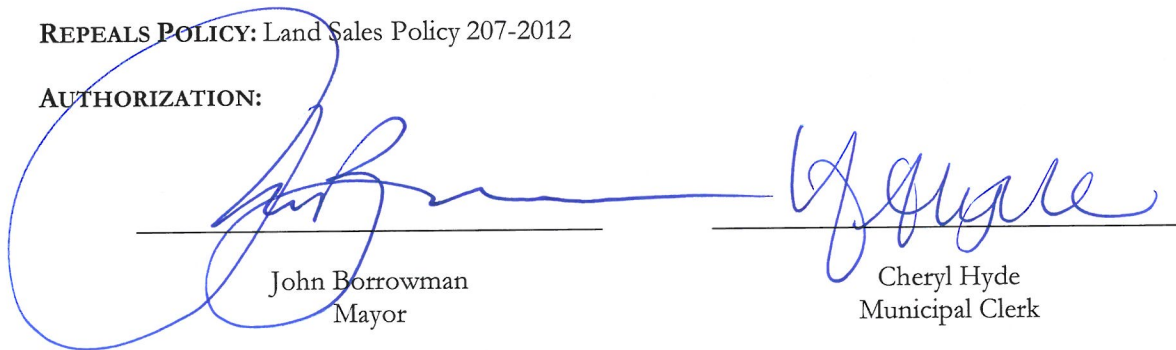
7.1. Purchasing Policy

**8. ATTACHMENTS**

None

**REPEALS POLICY:** Land Sales Policy 207-2012

**AUTHORIZATION:**



\_\_\_\_\_

John Borrowman  
Mayor

\_\_\_\_\_

Cheryl Hyde  
Municipal Clerk

**REVISION HISTORY**

	<b>Approved</b>	<b>Repealed</b>
Land Transactions Policy	2017-06-27	
Land Sales Policy 207-2012	2012-05-15	2017-05-15
Land Sales Policy 398-2011	2011-11-01	2012-05-15
Land Sales Policy 107-2006	2006-03-07	2011-11-01
Land Sales Policy 207-90	1990-04-24	2006-03-07

Policy approved by: CTJ JB



# Request for Decision

**DATE OF MEETING:** November 1, 2022 **Agenda #:** H-6

**TO:** Council

**SUBJECT:** Court of King’s Bench of Alberta decision re. “Staircase Lands” (Three Sisters Mountain Village Properties Ltd. v. Canmore, 2022 ABQB 511)

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

**RECOMMENDATION:** That Council direct:

1. 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; and
2. that the 2023 budget include a capital project for acquisition of a portion of the Staircase Lands in an amount sufficient to cover estimated expropriation costs and land value.

## EXECUTIVE SUMMARY

TSMVPL has declined the Town’s offer to purchase the upper triangle of the Staircase Lands for the purpose of implementing the above court decision. The finalized Court Order requires the Town to commence proceedings to acquire or redesignate the land. Continuing Council’s current direction to acquire the lands will require a Council resolution for expropriation.

## RELEVANT COUNCIL DIRECTION, POLICY, OR BYLAWS

The Staircase Lands are a single parcel of privately-owned land in the vicinity of Quarry Lake. Under Land Use Bylaw 2018-22, part of the Staircase Lands is zoned Natural Park District and the remainder of the parcel is zoned Future Development District. The Request for Decision of August 16, 2022 reviews the litigation concerning “acquisition of land designated for public use” under Section 644 of the *Municipal Government Act* (MGA) and court decision requiring the Town to acquire or redesignate portion of the lands currently zoned Natural Park District (the “upper triangle” of the lands). It also outlines other council-approved plans and policies relevant to this area.

On August 16, 2022, Council made resolution 200-2022 directing the administration to:

- Acquire the upper portion of the Staircase Lands to satisfy the decision of the Court of Queens Bench; and
- Report on detailed options for implementing this decision.

## DISCUSSION

On September 9, 2022 the Town's legal counsel made an offer to purchase the upper triangle of the Staircase Lands. On October 14, 2022, TSMVPL's legal counsel replied declining the Town's offer to purchase. In mid-October, 2022, the Court directed the final terms of its Order requiring the Town to commence proceedings by October 25, 2022 to either acquire the land or redesignate the land to Future Development.

At the time of the Request for Decision of August 16, 2022, Administration was not in position to advise Council on whether all or part of the Staircase Lands could be acquired through a voluntary transaction or if it would require expropriation. Following TSMVPL's reply and the finalization of the Court Order, Administration can now advise Council that the commencement of expropriation proceedings will be necessary to acquire the land.

The power of municipalities to expropriate is provided by Sections 14 and 15 of the MGA which provide broad authority to expropriate for municipal purposes. The process of expropriation is provided by the *Expropriation Act*. Section 14 of the MGA provides expropriation powers to Council, and Section 7 of the Expropriation Act makes Council the approving authority in the expropriation process.

Expropriation is a multi-stage process that is commenced by issuing a Notice of Intention to Expropriate in a form prescribed by regulations under the *Expropriation Act*. The Notice of Intention to Expropriate must be registered on land title, served on the landowner and published in the local newspaper. The landowner will have opportunity to file a Notice of Objection to the expropriation that can trigger a quasi-judicial inquiry by a provincial officer into whether the expropriation is fair, sound and reasonably necessary to achieve the objectives of the expropriating authority. Once any objections are resolved, proceeding with the expropriation will require Council to approve a Certificate of Approval for the expropriation through a resolution or bylaw. This Certificate of Approval will be registered on title and the municipality will acquire title to the land. The *Expropriation Act* and regulations provide further process concerning taking possession of the land, serving notice of the expropriation and settling payment. The expropriation process provides opportunity for the parties to settle compensation by agreement; however, the landowner may dispute compensation and seek a determination from the Land and Property Rights Tribunal (LPRIT). A landowner cannot ultimately stop a valid expropriation, but the process can be more protracted and costly without an agreement to compensation.

In a typical expropriation, the lands will be required for a municipal infrastructure project for which Council has already approved a capital project budget. Administration will be in position to issue the Notice of Intention to Expropriate, then seek Council approval of the Certificate of Approval in due course. Expropriation of the Staircase Lands differs as it will serve to comply with a Court Order against the municipal corporation. There is no approved capital project or dedicated funds for this acquisition. Under these circumstances, if Council wishes to expropriate, then Council should make a resolution direct the commencement of proceedings through the Notice of Intention to Expropriate. Direction from Council to commence proceedings will ensure that Council will approve the Certificate of Approval and funds for the compensation payment. Council should also make a resolution for the capital project budget at the same time as the resolution directing commencement of expropriation proceedings.

## ANALYSIS OF ALTERNATIVES

Council could choose to redesignate the upper triangle of the Staircase Lands to Future Development District. Administration is recommending expropriation because the Council decision on August 16, 2022 indicated Council's desire to acquire the lands. The Administrative Request for Decision report from that meeting outlined multiple sub-options for redesignation and considerations for this alternative. However, the court Order finalized in October of 2022 will only allow rezoning to Future Development District.

Council has already considered the option of rezoning to Future Development District on August 16, 2022 when it directed the administration to acquire the lands. The only change in circumstances is the need for expropriation to acquire the lands, which will increase the costs of acquisition. This is a relevant consideration.

As redesignation will serve to comply with a Court Order that requires the commencement of proceedings, should Council wish to proceed with rezoning, a resolution of Council will be needed to direct Administration to commence the bylaw application and schedule meetings. This will include a requirement for a public hearing before second reading as provided by Sections 216.4 and 692 of the MGA, to be advertised in accordance with Section 606 of the MGA.

If Council wishes to rezone to Future Development District, Administration recommends the following resolution:

- that Administration 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 occur no later than March of 2023.

## FINANCIAL IMPACTS

### (a) Expropriation

**Process costs:** Expropriation can be economical if the parties settle compensation by agreement or very costly if they do not. The process provided by the *Expropriation Act* will require the Town to pay the costs of an inquiry if one occurs and the landowner's reasonable legal and appraisal costs if compensation is disputed at the LPRT.

**Land costs:** The Town's appraisal is discussed in the Request for Decision of August 16, 2022. If the Town commences expropriation proceedings, then TSMVPL will propose a higher value and will need an appraisal if the matter goes to the LPRT. Final land costs through expropriation will be higher than the Town's initial appraisal.

**Human Resources:** Expropriation proceedings will be run by outsourced litigation counsel and make use of third-party evidence of land value. There will be a human resource cost in the time required from the Town Solicitor and subject-matter experts in the Municipal Infrastructure Branch, most likely the Engineering Department. Much like civil litigation, there will be document productions, use of witnesses, and cross-examinations. The administrative burden will not be sustained throughout the expropriation proceedings, but may be onerous and intensive during specific stages of the proceedings. Acquiring land will require ongoing management costs.



**(b) Redesignation costs**

Redesignating the land is the low-cost option. It involves no direct spending, and the quantifiable costs will consist mostly of administrative time to run a Town-led application for a Land Use Bylaw amendment. If Council chooses to redesignate, then the second recommended motion should be defeated.

**(c) Available funds**

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 recommends that a new capital project be established for this purpose through the 2023 budget approvals. This new capital project will include estimated expropriation process costs and land costs. A capital project is the Town’s general practice for major municipal land acquisitions and has been used to enable the Town’s most recent expropriation.

**STAKEHOLDER ENGAGEMENT**

None.

**ATTACHMENTS**

N/A

**AUTHORIZATION**

Submitted by: Adam Driedzic  
Town Solicitor Date: October 26, 2022

Approved by: Sally Caudill  
Chief Administrative Officer Date: October 26, 2022



# Briefing

**DATE OF MEETING:** November 1, 2022 **Agenda #:** I-1

**To:** Council

**SUBJECT:** Three Sisters Mountain Village Properties Ltd. Litigation – Permission to Appeal and Application for Mandamus

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

**PURPOSE:** To brief Council on:

1. the Town’s receipt of permission to appeal the Land and Property Rights Tribunal (LPRT) Decisions to the Court of Appeal of Alberta; and
2. a separate court action by Three Sisters Mountain Village Properties Ltd. seeking an order on the Town to adopt the Smith Creek and Three Sisters Village Area Structure Plans as ordered by the LPRT .

## EXECUTIVE SUMMARY

The Court of Appeal of Alberta granted the Town’s application for permission to appeal the decisions of the Land and Property Rights Tribunal (LPRT) that order the Town to adopt the Smith Creek and Three Sisters Village Area Structure Plans (ASPs). Before this decision was rendered, Three Sisters Mountain Village Properties Ltd. (TSMVPL) commenced a separate court action in the Court of King’s Bench of Alberta seeking an order on the Town to adopt the ASPs, known as an order of “mandamus”. These are two separate court proceedings running concurrently.

## BACKGROUND

In 2018, Council approved the Terms of Reference for development of the Smith Creek and Three Sisters Village ASPs. In the spring of 2021, TSMVPL applied for approval of both ASPs and Council rejected the applications for both ASPs.

In mid to late 2021, TSMV commenced multiple legal proceedings related to rejection of the ASPs. These actions included a large information request under *Freedom of Information and Protection of Privacy Act* (a “FOIP” request) , appeals to the LPRT for each of the two ASPs, judicial reviews in the Court Kings Bench for each of the two ASPs and a civil suit claiming monetary damages against the Town. Thunderstone Quarries Canmore Ltd. (“Thunderstone”) also filed two civil suits claiming monetary damages against the Town regarding lands in the Smith Creek ASP area. These legal proceedings are listed in administration report to Committee of the Whole of September 27, 2022.

**The LPRT Decisions:** The first legal action between TSMVPL and the Town to receive a decision was TSMVPL’s appeals to the LPRT. The LPRT is an administrative tribunal established under the provincial *Land and Property Rights Tribunal Act* (“LPRT Act”) with a mandate under the MGA to hear appeals of the types of municipal decisions that were previously appealable to the now defunct Municipal Government Board. TSMVPL’s appeals to the LPRT were filed under Section 619 of the Municipal Government Act (“MGA”) on the basis that the Town was required to approve the ASPs due to consistency of the ASPs with the 1992 decision of the provincial Natural Resources Conservation Board (“NRCB”) that approved an application by Three Sisters Golf Resorts Inc. for a Recreation and Tourism Project (the “NRCB Decision”). The LPRT held multi-week hearing in February and March of 2022 and issued decisions on May 16, 2022 (the “LPRT Decisions”). The LPRT Decisions found that the ASPs were consistent with the NRCB Decision and ordered the Town to adopt both ASPs as originally submitted to Council.

**Application for permission to appeal:** Section 688(1) of the MGA directs appeals of LPRT decisions to the Alberta Court of Appeal on questions of law and jurisdiction. Section 688(3) of the MGA provides a test for permission to appeal that requires a question of law of sufficient importance to merit further appeal and which has a reasonable chance of success. Obtaining permission to appeal is a required preliminary step before the Court of Appeal will hear the substantive appeal of the decision being challenged. On June 7, 2022, the municipal administration brought a Request for Decision to Council recommending that council either direct the administration to bring forward the ASPs for approval as ordered by the LPRT or apply for permission to appeal the LPRT Decisions to the Alberta Court of Appeal (Agenda Item H-4, page 90-93). On June 7, 2022, Council directed the administration to apply for permission to appeal the LPRT Decisions to the Court of Appeal (Resolution 144-2022). The Town filed its application for permission to appeal on June 13, 2022, citing 9 grounds for appeal. The Town’s application for permission to appeal listed a stay of the LPRT Decisions as part of the relief sought from the Court. A stay is a formal suspension of the decision being appeal pending the outcome of the appeal. The Town has yet to make its application for a stay of the LPRT Decisions.

**Decision on permission to appeal:** The Court of Appeal heard the Town’s application for permission to appeal on October 5<sup>th</sup> and released its decision on October 25, 2022 (*Canmore (Town of) v. Three Sisters Mountain Village Properties Ltd.* ABCA 346). The Court granted the Town permission to appeal and in doing so found that:

The Town’s proposed grounds of appeal are interrelated and pertain to the scope of the Town’s involvement and ability to apply its own processes in considering applications for projects within its boundaries. These issues are compounded by the evolution of the legal landscape surrounding project development in the 30 years since the NRCB approval. [at para 13.

**Mandamus:** On August 11, 2022, TSMVPL filed an application into the Court of Kings Bench of Alberta seeking a court order directing the Town to adopt the ASPs as ordered by the LPRT. The legal terminology for a court order that directs an official decision-maker to perform a duty is “mandamus”.

**DISCUSSION**

**Next steps in litigation:** The Town having received permission to appeal does not itself determine the merits of the appeal, which remains to be heard. The Town is taking time to review this decision and will need to consider next steps in the context of multiple legal actions that can impact each other. Attachment 1, provided to the Town by McLennan Ross LLP (one of three law firms supporting the Town in the TSMVPL litigation), explains how TSMVP’s application for mandamus and the Town’s appeal to the Court of Appeal are two separate proceedings running concurrently, how the Town having received permission to appeal does not automatically “stay” (pause) the LPRT Decisions while the Town’s appeal is underway. TSMVP’s application for mandamus means that the Town could be ordered to approve the ASPs before the Town’s appeal of the LPRT Decisions is heard unless the Town can obtain a stay of the LPRT Decisions from the courts.

**Issues on appeal:** When the Town’s appeal of the LPRT Decisions is heard, section 689(1) of the MGA will limit the evidence to that which was submitted to the LPRT. The Court will also need to determine the standard of review that it will apply to the LPRT Decisions. The standard of review guides the level of deference that a court will provide to the decision being challenged and the court’s willingness to alter this decision. As the ASP matter moves upward through municipal Council to the LPRT to the Court of Appeal, the issues to be determined will become increasingly narrow, legalistic, and less directly connected to Canmore.

**FINANCIAL IMPACTS**

The Town began funding its response to legal actions filed by TSMVPL in 2021 by using the 2021 annual operating budget. This resulted in 2021 costs of roughly \$36,800 to preserve the Towns’ position in the legal proceedings. Operating budgets are generally for planned and predictable expenses due to the impact on annual taxation. As the cost of the TSMVPL litigation is a major, unplanned event, as of 2022 it has been funded by a separate capital project budget for \$750,000. This amount was based on direct costs of legal actions commenced in 2021 and did not include any land transactions related to the disposal of litigation. The civil suits by TSMVPL and Thunderstone Quarries claiming monetary damages were not included in the \$750,000 project budget and have not been major contributors to direct costs to date as litigation counsel is retained by the Town’s insurer. As of September 30, 2022, roughly \$260,000 of the 2022 project funds have been spent, of which roughly \$220,000 is related to the ASPs.

**STAKEHOLDER ENGAGEMENT**

None

**ATTACHMENTS**

1) Letter from McLennan Ross LLP to the Town of Canmore

**AUTHORIZATION**

Submitted by:	Adam Driedzic Town Solicitor	Date:	<u>October 27, 2022</u>
Approved by:	Sally Caudill Chief Administrative Officer	Date:	<u>October 26, 2022</u>



Gavin S. Fitch, Q.C.  
gavin.fitch@mross.com  
Direct 403.303.9120

Our File Reference: 20223915

Radha Singh, Assistant  
radha.singh@mross.com  
Direct 403.303.9112

October 14, 2022

Fax 403.303.1668

PLEASE REPLY TO CALGARY OFFICE  
SENT BY E-MAIL

TOWN OF CANMORE  
902 - 7TH AVENUE  
CANMORE, AB T1W 3K1

Attention: ADAM DRIEDZIC

Dear Adam:

Re: **Overview of TSMV application to compel adoption of ASPs**

McLennan Ross LLP has been retained by the Town of Canmore (the "**Town**") to represent it in relation to an application filed by Three Sisters Mountain Village Properties Ltd. ("**TSMV**") seeking to compel the Town to adopt the Three Sisters ASP and the Smith Creek ASP. This application is separate and distinct from the ongoing appeal of the LPRT decisions commenced by the Town. As instructed, we have prepared the following memorandum to provide an explanation of the relationship and interplay between TSMV's application and the Town's appeal of the LPRT decisions.

**1. Background**

On May 16, 2022 the Land and Property Rights Tribunal ("**LPRT**") ordered the Town to adopt the Three Sisters ASP and the Smith Creek ASP (the "**LPRT Decisions**"). The Town has sought permission to appeal ("**PTA**") the LPRT Decisions from the Alberta Court of Appeal. PTA will

**Edmonton**

600 McLennan Ross Building  
12220 Stony Plain Road  
Edmonton, AB T5N 3Y4  
Telephone 780 482 9200  
Facsimile 780 482 9100  
Toll-free 800 567 9200

**Calgary**

1900 Eau Claire Tower  
600 - 3<sup>rd</sup> Avenue SW  
Calgary, AB T2P 0G5  
Telephone 403 543 9120  
Facsimile 403 543 9150  
Toll-free 888 543 9120

**Yellowknife**

301 Nunasi Building  
5109 - 48<sup>th</sup> Street  
Yellowknife, NT X1A 1N5  
Telephone 867 766 7677  
Facsimile 867 766 7678  
Toll-free 888 836 6684

be granted if the court is persuaded that a proposed ground of appeal raises a serious and arguable question of law or jurisdiction. Obtaining PTA is a preliminary step in appeals from decisions of statutory tribunals such as the LPRT. It is therefore a prerequisite for challenging the LPRT Decisions on their merits.

The PTA application was heard by the Alberta Court of Appeal on October 5, 2022. The court reserved judgment and gave no indication as to when it intends to issue its decision.

To date, the ASPs have not been adopted by the Town. However, neither the filing of the PTA application nor even a favourable PTA ruling automatically act as a stay<sup>1</sup> of the LPRT Decisions. To date, the Town has elected not to request a stay of the LPRT Decisions from either the LPRT or the Court of Appeal. In the absence of a stay, the LPRT Decisions have full legal force and effect.

After the LPRT Decisions were released, TSMV issued a demand to the Town to adopt the ASPs. When the Town declined to do so, TSMV filed a court application (in the Court of King's Bench) to compel their adoption. The TSMV court application seeks an order in the nature of mandamus. Put simply, mandamus is an order directing a public body to carry out a duty it has failed to perform. Mandamus is an equitable remedy. That means the court enjoys some discretion in deciding whether it should be granted.

To succeed in opposing TSMV's application, the Town will need to convince the court that it should exercise its discretion in the Town's favour. Affidavit evidence will need to establish, among other things, that adopting the ASPs before the appeal is heard will cause it hardship and that the "balance of convenience" favours the Town. In assessing the balance of convenience, the court will consider which of the parties will suffer the greater harm from the granting or refusal of mandamus (i.e., will the Town suffer greater harm if the ASPs are adopted before the appeal is determined or will TSMV suffer greater harm if they are not).

TSMV's mandamus application was originally scheduled to be heard on September 29, 2022. It has been adjourned by consent to June 1, 2023. The Town has agreed to the following timelines ahead of that date:

- November 30, 2022 – the Town will provide any affidavits upon which it intends to rely.
- February 1, 2023 – Cross-examination on affidavits will be completed by both parties.
- March 6, 2023 – TSMV will file its written brief.
- March 20, 2023 the Town will file its written brief.

---

<sup>1</sup> A stay of proceedings is a legal order issued by a court or administrative tribunal that halts proceedings or the operation of a decision or order, temporarily or otherwise.

Although these dates have been agreed to by the parties, TSMV is entitled to apply to the court to expedite this timeline if it likes. The Town would be entitled to oppose any such application.

## **2. What happens next?**

The period between now and June 1, 2023 (the hearing of the mandamus application) can be split into two periods: (a) before the Court of Appeal issues its PTA decision; and (b) after the Court of Appeal issues its PTA decision.

### **a. Before the PTA decision is issued**

As noted above, the Court of Appeal has reserved judgment on the PTA application and not given any indication when it will issue a decision. However, based on the timing of other PTA applications recently heard by the court, it is reasonable to expect that the decision will be issued within 1 or 2 months. Therefore, it is unclear whether the outcome of the PTA application will be known before the first deadline in the mandamus application, namely the filing of the Town's affidavit evidence by November 30, 2022.

Even though the Town will likely have until November 30, 2022 to file affidavit evidence in the mandamus application, work to prepare that evidence should begin as soon as possible. Administratively, this work will likely be onerous and time consuming. TSMV may also ask the Court to expedite the mandamus application at any time. If it does, the Town will have to respond, either by opposing the request to expedite (on the basis that the mandamus application should not proceed while the PTA decision is outstanding) or agreeing to proceed on an expedited basis. While TSMV may be content to wait for the PTA decision before proceeding with its application for mandamus, it is not obliged to do so.

### **b. After the PTA decision is issued**

What happens after the PTA decision is issued will be dependent on the outcome of the decision itself. If PTA is denied, the Town's appeal of the LPRT Decisions will be over. Although the Town could seek to appeal the decision to the Supreme Court of Canada, it is unlikely that leave to appeal would be granted. Practically speaking, if the PTA application is unsuccessful, the Town will have no option but to adopt the ASPs.

If PTA is allowed, the Town will be entitled to file an appeal of the LPRT Decisions with the Court of Appeal on whatever grounds the court allows. The timing of the appeal is uncertain but could realistically take up to one year or more. As such, it is highly likely that TSMV's mandamus application will be heard in advance of the appeal being finally determined.

As previously indicated, neither the filing of the PTAs nor even a favourable PTA ruling will automatically stay the legal effect of the LPRT Decisions. Accordingly, even if the Town is successful in the PTA application, TSMV's mandamus application will proceed and the LPRT decisions will continue to have full force and effect unless the Town either: (a) succeeds in

opposing TSMV's mandamus application; or (b) obtains a stay of the LPRT Decisions from either the LPRT or the Court of Appeal.

If the court declines to grant mandamus, then the Town's appeal will proceed without the necessity that the Town adopt of the ASPs. If, on the other hand, Three Sisters is successful and the court grants mandamus, the Town will be obliged to seek and obtain a stay or adopt the ASPs notwithstanding the fact that the Town may ultimately be successful in its appeal. In the absence of a stay, any refusal by the Town to abide by a court order in Three Sisters' favour could result in a contempt of court ruling and the imposition of court costs, financial fines, or penalties.

To obtain a stay, the Town would need to prepare application materials and apply to the Court of Appeal.<sup>2</sup> To succeed, the Town would need to persuade the court that the matter is serious, the Town would suffer "irreparable harm" if the ASPs were adopted on an interim basis (harm that cannot be compensated for through the payment of money damages) and that the balance of convenience (discussed above) favours the granting of a stay. If a stay is obtained before the mandamus application is heard, it would render the mandamus application moot. The Town would have no duty to implement the ASPs if the LPRT Decisions are stayed pending the outcome of the Town's appeal.

Often, when a court grants a stay, it requires the party asking for the stay to provide an undertaking to pay damages to the other party in the event the other party (a) is ultimately successful; and (b) has suffered damage as a result of the imposition of the stay. In this case, that means that if a stay of the LPRT decision is granted but the Town's appeal is ultimately unsuccessful, the Town would be liable for the damages that TSMV incurs as a result of the delay in the adoption of the ASPs. TSMV has filed affidavit evidence in the mandamus application asserting that it is currently incurring monthly carrying costs of \$217,000 associated with the development. Whether this is actually the case is unknown. Ultimately, TSMV would be obligated to prove its actual damages prior to receiving compensation.

### **3. Conclusion**

Given that the PTA application has been heard by the Court of Appeal, and the mandamus application will not be heard until June 1, 2023, it is tempting to think that the Town can simply do nothing, at least until the PTA decision is released. This is not the case. Preparing affidavit evidence for the mandamus application will be onerous and needs to begin as soon as possible, regardless of whether TSMV seeks to have the mandamus application expedited.

---

<sup>2</sup> The Town could also seek a stay from the LPRT, but its jurisdiction to grant a stay is less clear and a request to the Court of Appeal seems preferable in the circumstances.



Yours truly,

A handwritten signature in blue ink, appearing to read "G. S. Fitch". The signature is fluid and cursive, with a long horizontal stroke at the end.

GAVIN S. FITCH, Q.C.

GSF/sog

Encl.

cc: Marco Baldasaro - McLennan Ross LLP

20223915 - 4163-9814-3552 v.1