



Province of Alberta

MUNICIPAL GOVERNMENT ACT

**CANMORE UNDERMINING
REVIEW REGULATION**

Alberta Regulation 34/2020

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Extract

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ALBERTA REGULATION 34/2020
Municipal Government Act
CANMORE UNDERMINING REVIEW REGULATION

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Schedules

Definitions

1(1) In this Regulation,

- (a) “Act” means the *Municipal Government Act*;
- (b) “Area Mining Impact Overview Report Compliance Certificate” means the compliance certificate referred to in section 4(b);
- (c) “Area Mining Impact Overview Report Compliance Review Certificate” means the review certificate referred to in section 4(d);
- (d) “Canmore” means The Town of Canmore;
- (e) “Canmore agents” means
 - (i) Canmore’s councillors, chief administrative officer, designated officers and employees,

- (ii) members of Canmore’s council committees, and
 - (iii) a volunteer member of a fire ambulance service or emergency measures organization established by Canmore or any other volunteer performing duties under the direction of Canmore;
- (f) “compliance certificate” means
- (i) an Area Mining Impact Overview Report Compliance Certificate,
 - (ii) a Subdivision Mining Impact Assessment Report Compliance Certificate, or
 - (iii) a Project Undermining Assessment Report Compliance Certificate;
- (g) “designated land” means
- (i) the land described in Part 2 of Schedule 1 and within the boundaries shown on the map in Part 1 of Schedule 1, including the Government road allowances,
 - (ii) the land required for access roads from Highway 1 to the land described in subclause (i), and
 - (iii) the land required for access roads from Highway 742 to the land described in subclause (i);
- (h) “developer” means a person who, in respect of the designated land, is planning a development, applies for subdivision approval or undertakes a development through an application for a development permit;
- (i) “development” means development as defined in section 616(b) of the Act;
- (j) “independent third party engineer” means a professional engineer who did not assist in the preparation of the original undermining report and is not associated with or employed by the individuals or firm that prepared the original undermining report;
- (k) “landowner” means, in respect of land, the person who is registered under the *Land Titles Act* as the owner of a fee simple estate in the land;
- (l) “Minister’s guidelines” means the guidelines established under section 7;

- (m) “professional engineer” means an individual who holds a certificate of registration to engage in the practice of engineering under the *Engineering and Geoscience Professions Act*;
 - (n) “Project Undermining Assessment Report Compliance Certificate” means the compliance certificate referred to in section 6(1)(b);
 - (o) “Project Undermining Assessment Report Compliance Review Certificate” means the review certificate referred to in section 6(1)(d);
 - (p) “review certificate” means
 - (i) an Area Mining Impact Overview Report Compliance Review Certificate,
 - (ii) a Subdivision Mining Impact Assessment Report Compliance Review Certificate, or
 - (iii) a Project Undermining Assessment Report Compliance Review Certificate;
 - (q) “Subdivision Mining Impact Assessment Report Compliance Certificate” means the compliance certificate referred to in section 5(1)(c);
 - (r) “Subdivision Mining Impact Assessment Report Compliance Review Certificate” means the review certificate referred to in section 5(1)(e);
 - (s) “undermining and related conditions” means the presence of coal and methane gas and any abandoned opening or excavation in, or working of, the surface or subsurface for the purpose of working, recovering, opening up or proving any coal, coal-bearing substance or methane gas, and includes abandoned works, waste piles and machinery at or below the surface belonging to or used in connection with any or all of the openings, excavations or workings;
 - (t) “undermining report” means
 - (i) an Area Mining Impact Overview Report,
 - (ii) a Subdivision Mining Impact Assessment Report, or
 - (iii) a Project Undermining Assessment Report.
- (2) A compliance certificate must be in Form 1 of Schedule 2.
- (3) A review certificate must be in Form 2 of Schedule 2.

Scope

2 This Regulation applies only to designated land.

Undermining review exemption

3(1) Part 17 of the Act and the *Subdivision and Development Regulation* (AR 43/2002) do not apply with respect to undermining and related conditions in designated land to the extent that those provisions deal with the matters dealt with under this Regulation.

(2) Canmore and Canmore's agents have no responsibility, duty or obligation to consider undermining and related conditions in designated land with respect to the adoption of an area structure plan or the subdivision, development or other land use planning function of Canmore under Part 17 of the Act and the *Subdivision and Development Regulation* (AR 43/2002), including, without restricting the generality of the foregoing, with respect to the enforcement, maintenance or inspection of undermining and related conditions in designated land.

(3) Except as provided in subsection (2), Canmore has all the duties, obligations and responsibilities of a municipality under Part 17 of the Act.

Area Mining Impact Overview Report

4 Before the adoption of or an amendment to an area structure plan with respect to the development of the designated lands,

- (a) the developer must, at the developer's expense, engage a professional engineer to prepare an Area Mining Impact Overview Report in accordance with the Minister's guidelines and accepted professional practice,
- (b) if after reviewing the land the professional engineer is satisfied that the land is suitable for the intended development, the engineer must issue to the developer an Area Mining Impact Overview Report Compliance Certificate attesting to that fact and confirming that the Area Mining Impact Overview Report was prepared in accordance with the Minister's guidelines and accepted professional practice,
- (c) on receipt of the Area Mining Impact Overview Report Compliance Certificate, the developer must, at the developer's expense, engage an independent third party engineer to review the Area Mining Impact Overview Report to determine whether the Report was prepared in accordance with the Minister's guidelines and accepted professional practice, and

- (d) if the independent third party engineer is satisfied that the Area Mining Impact Overview Report was prepared in accordance with the Minister's guidelines and accepted professional practice, the independent third party engineer must issue an Area Mining Impact Overview Report Compliance Review Certificate.

Subdivision Mining Impact Assessment Report

5(1) Following approval of an area structure plan and before a subdivision application is submitted with respect to the development of the designated lands,

- (a) the developer must, at the developer's expense, engage a professional engineer to prepare a Subdivision Mining Impact Assessment Report in accordance with the Minister's guidelines and accepted professional practice,
- (b) if municipal infrastructure is to be constructed the Subdivision Mining Impact Assessment Report must identify any necessary mitigative measures for the land that is to receive the municipal infrastructure,
- (c) if after reviewing the land the professional engineer is satisfied that the land is suitable for the intended development, the engineer must issue to the developer a Subdivision Mining Impact Assessment Report Compliance Certificate attesting to that fact and confirming that the Subdivision Mining Impact Assessment Report was prepared in accordance with the Minister's guidelines and accepted professional practice,
- (d) on receipt of the Subdivision Mining Impact Assessment Report Compliance Certificate, the developer must, at the developer's expense, engage an independent third party engineer to review the Subdivision Mining Impact Assessment Report to determine whether the Report was prepared in accordance with the Minister's guidelines and accepted professional practice, and
- (e) if the independent third party engineer is satisfied that the Subdivision Mining Impact Assessment Report was prepared in accordance with the Minister's guidelines and accepted professional practice, the independent third party engineer must issue a Subdivision Mining Impact Assessment Report Compliance Review Certificate.

(2) If any mitigative measures, actions or duties are recommended in the Subdivision Mining Impact Assessment Report, including but not limited to monitoring of conditions and

maintenance of mitigative measures as set out in that Report, the developer and any future landowners

- (a) must carry out the mitigative measures, actions and duties in accordance with the recommendations, and
- (b) must engage a professional engineer to certify that the mitigative measures, actions and duties have been carried out in accordance with the recommendations.

Project Undermining Assessment Report

6(1) Before Canmore issues a development permit with respect to the development of the designated lands,

- (a) the developer must, at the developer's expense, engage a professional engineer to prepare a Project Undermining Assessment Report in accordance with the Minister's guidelines and accepted professional practice,
- (b) if after reviewing the land the professional engineer is satisfied that the land is suitable for the intended development, the engineer must issue to the developer a Project Undermining Assessment Report Compliance Certificate attesting to that fact and confirming that the Project Undermining Assessment Report was prepared in accordance with the Minister's guidelines and accepted professional practice,
- (c) on receipt of the Project Undermining Assessment Report Compliance Certificate, the developer must, at the developer's expense, engage an independent third party engineer to review the Project Undermining Assessment Report in order to determine whether the Report was prepared in accordance with the Minister's guidelines and accepted professional practice, and
- (d) if the independent third party engineer is satisfied that the Project Undermining Assessment Report was prepared in accordance with the Minister's guidelines and accepted professional practice, the independent third party engineer must issue a Project Undermining Assessment Report Compliance Review Certificate.

(2) If any mitigative measures, actions or duties are recommended in the Project Undermining Assessment Report, including but not limited to monitoring of conditions and maintenance of mitigative measures as set out in that Report, the developer and any future landowners

- (a) must carry out the mitigative measures, actions and duties in accordance with the recommendations, and
- (b) must engage a professional engineer to certify that the mitigative measures, actions and duties have been carried out in accordance with the recommendations.

Minister may make guidelines

7 The Minister may, by order, establish guidelines for the purposes of sections 4, 5 and 6.

Development inconsistent with report or certificates

8 If a developer wishes to undertake a development that is not consistent with an undermining report prepared with respect to that development, or with a compliance certificate or a review certificate issued with respect to that development, the developer must before undertaking that development ensure that a new undermining report is prepared in accordance with sections 4, 5 and 6 and the Minister's guidelines, as applicable.

Notification of reports and certificates

9(1) On completing a review certificate, a professional engineer engaged by a developer must

- (a) send the original undermining report, a copy of the applicable compliance certificate and a copy of the relevant review certificate to the Minister,
- (b) send a copy of the undermining report, a copy of the applicable compliance certificate and a copy of the relevant review certificate to Canmore, and
- (c) send a copy of the undermining report, a copy of the applicable compliance certificate and a copy of the relevant review certificate to the developer.

(2) The Minister must notify Canmore and the developer on receipt of an undermining report, a compliance certificate and a review certificate provided by an independent third party engineer.

(3) Canmore must retain a copy of any undermining report, compliance certificate and review certificate and make it available at a location within the municipal boundaries of Canmore that is open to the general public during normal business hours.

(4) The requirement to send undermining reports, compliance certificates and review certificates, or copies of them, to the Minister under this Regulation is solely for record-keeping

purposes and does not require the Minister or any department administered by the Minister to undertake any further review or any assessment of a report or certificate.

Insurance

10(1) The developer must ensure that every professional engineer and independent third party engineer engaged by the developer under this Regulation maintains professional errors and omissions liability insurance coverage to insure against claims for damages arising from the engineer's professional errors and omissions while performing professional services referred to in this Regulation, in an amount of at least \$5 000 000 per claim and in the aggregate and for a period of 10 years from the date the documents referred to in section 9(1)(b) are sealed by the applicable engineer.

(2) The developer must maintain general liability insurance, in an amount of at least \$5 000 000 per occurrence, insuring against bodily injury, personal injury and property damage, including loss of use of the property, for the period of time that the developer is involved in the development plus 2 years.

(3) The developer must, on an annual basis, submit to the Minister a certificate providing proof of the insurance required under subsections (1) and (2).

Caveat

11(1) A developer must, within 90 days of receipt of an undermining report and the applicable review certificate, file with the Registrar of Land Titles a caveat against any title to land for which an undermining report was prepared and a review certificate issued under this Regulation, and the Registrar may register the caveat.

(2) A caveat under subsection (1) must describe the undermining and related conditions of the land and the duties of a landowner with respect to the undermining and related conditions.

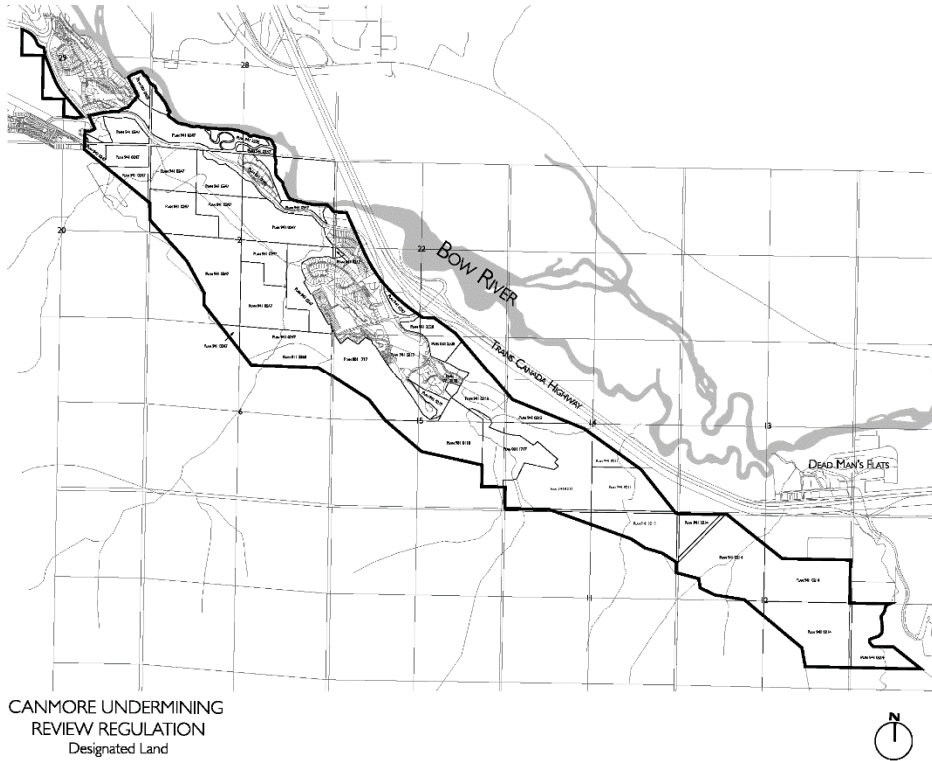
Repeal

12 The *Canmore Undermining Review Regulation* (AR 114/97) is repealed.

Coming into force

13 This Regulation has effect on April 1, 2020.

Schedule 1
Part 1
Designated Land (Map)



Part 2
Designated Land (Description)

If there is a discrepancy between the map in Part 1 and the description in this Part, the description in this Part prevails.

Plan	Legal Description	Former Area	Acreage
9410214	SW 1/4 7 24 9 W5M	Area F	52.36 acres
9410213	NW 1/4 11 24 10 W5M	Area O	4.79 acres
9410213	NE 1/4 11 24 10 W5M	Area N	55.13 acres
RW37	tramway right of way Grainger Collieries Limited NW 12 24 10 W5M		4.47 acres
9410214	NE 1/4 12 24 10 W5M	Area K	82.45 acres
9410214	SE 1/4 12 24 10 W5M	Area M	90.34 acres
9410214	SW 1/4 12 24 10 W5M	Area L	2.86 acres
9410214	NW 1/4 12 24 10 W5M, excepting thereout: tramway R/W 37 (4.47 ac)	Area J	126.88 acres
9410213	SE 1/4 14 24 10 W5M LSD 1 & 2	Area P	60.74 acres
9410213	SE 1/4 14 24 10 W5M	Area P	16.23 acres
9410213	NW 1/4 14 24 10 W5M	Area R	18.07 acres
9410213	SW 1/4 14 24 10 W5M, and all subdivisions and plans contained therein	Area Q	157.83 acres
9410213	NW 1/4 15 24 10 W5M, and all subdivisions and plans contained therein	Area U	131.80 acres
9410213	SE 1/4 15 24 10 W5M, and all subdivisions and plans contained therein	Area S	29.95 acres
9410213	NE 1/4 15 24 10 W5M, and all subdivisions and plans contained therein	Area T	119.26 acres
9410247	NW 1/4 16 24 10 W5M	Area Z	5.23 acres
9410247	NE 1/4 16 24 10 W5M, and all subdivisions and plans contained therein	Area Y	71.90 acres
9410247	NE 1/4 20 24 10 W5M, excepting thereout: N 1/2 LSD 16 in NE 1/4 (19.97 ac)	Area HH	22.14 acres
9410247	NE 1/4 20 24 10 W5M N 1/2 LSD 16 in NE 1/4	Area HH	19.97 acres
9410247	SE 1/4 21 24 10 W5M, and all subdivisions and plans contained therein	Area AA	171.65 acres
9410247	SW 1/4 21 24 10 W5M, and all subdivisions and plans contained therein	Area BB	87.25 acres
9410247	That portion of NE 1/4 21 24 10 W5M commencing south of the southern boundary of the Bow River containing 119.89 acres, and all subdivisions and plans contained therein.	Area CC	119.89 acres
9410247	NW 1/4 21 24 10 W5M, and all subdivisions and plans contained therein	Area DD	169.49 acres
9410247	SE 1/4 22 24 10 W5M, and all subdivisions and plans contained therein	Area V	10.50 acres
9410247	NW 1/4 22 24 10 W5M, and all subdivisions and plans contained therein	Area X	14.83 acres
9410247	SW 1/4 22 24 10 W5M LSD 5 and 6, and all subdivisions and plans contained therein	Area W	36.95 acres

9410247	SW 1/4 22 24 10 W5M LSD 3 and 4, and all subdivisions and plans contained therein	Area W	72.17 acres
9410247	SW 1/4 28 24 10 W5M SW, described as follows commencing at the south west corner of said quarter section thence northerly along the west boundary thereof to its intersection with the south bank of the Bow River thence south easterly along the said south bank of said river to its intersection with the south boundary of said quarter section thence westerly along said south boundary to the place of commencement as shown on plan of survey of the said township dated 2 March 1889 containing 12.9 hectares (32 acres) more or less	Area EE	32.00 acres
9410247	SE 1/4 28 24 10 W5M	Area GG	3.45 acres
9410247	SW 1/4 28 24 10 W5M	Area FF	0.97 acres
9412235	Portion of Area A (Island) lying within SW 28-24-10-5 containing 3.18 hectares (7.86 acres) more or less excepting thereout all mines and minerals	Area A (Island)	7.86 acres
9412235	FIRST: Portion of Area A (Island) lying within SE 28-24-10-5 containing 1.99 hectares (4.92 acres) more or less excepting thereout all mines and minerals SECONDLY: Area 'B' (Island) containing 0.279 hectares (0.69 acres) more or less excepting thereout all mines and minerals	Area A (Island) Area B (Island)	4.92 acres (A) 0.69 acres (B)
0010420	SW 1/4 28 24 10 W5M, Area "C" containing 2.38 hectares (5.88 acres) more or less, excepting thereout all mines and minerals	Area C	5.88 acres
0010420	SE 1/4 29 24 10 W5M, Area "B" containing 3.95 hectares (9.76 acres) more or less, excepting thereout all mines and minerals	Area B	9.76 acres
N/A	SE 1/4 29 24 10 W5M containing (A) Legal Subdivision 1, the east half of Legal Subdivision 2, the east half of the south half of Legal Subdivision 7 and those portions of Legal Subdivision 8 which lie to the southwest and northeast of the Bow River containing 40.472 hectares (99.92 acres) more or less excepting thereout: Subdivision 9312316 (0.069 ha), Subdivision 9512060 (3.952 ha), Subdivision 9610638 (4.742 ha), Subdivision 9611299 (1.616 ha),	Portion of, Area II	95.20 acres

	<p>Subdivision 9710407 (2.51 ha), Road 9711289 (1.196 ha), Road 9813256 (2.73 ha), Subdivision 9813497 (2.42 ha).</p> <p>(B) That portion of Legal Subdivision 8 which lies northeast of the left bank of the Bow River as shown on the Township Plan approved at Ottawa 22 October 1928 containing 0.067 hectares (1.5 acres) more or less; and</p> <p>(C) Subdivision 0112391 (1.24 ha) excepting thereout all mines and minerals</p>		
N/A	<p>NE, NW, SE, SW 1/4 29 24 10 W5M, those portions which lies to the east and west of the Bow River as shown on the township plan approved at Ottawa 2 March 1889 containing 36.4 hectares (90 acres) more or less east of the river and containing 184 hectares (456 acres) more or less west of the river excepting thereout:</p> <p>(A) the west half of the south half of Legal Subdivision 2, all of Legal Subdivisions 3, 4, and 5, and the west half of Legal Subdivision 6, all of Legal Subdivision 12, and the south half of the west half of Legal Subdivision 13, all in said section 29 containing 80.9 hectares (200 acres) more or less</p> <p>(B) Legal Subdivision 1, the east half of Legal Subdivision 2, the east half of the south half of Legal Subdivision 7, and those portions of Legal Subdivision 8 which lie to the south west and north east of Bow River all within said section 29 containing 40.5 hectares (99.92 acres) more or less</p> <p>(C) those portions of Legal Subdivisions 7, 10, 11 and 14 in said section 29, bounded as follows: commencing at the south east corner of the east half of the north half of said Legal Subdivision 7, thence westerly on an assumed bearing of due west, a distance of 400 feet, thence in a north westerly direction to intersection with the north western corner of the said east half of said Legal Subdivision 7, thence north 35 degrees west a distance of 600 feet, thence north 68 degrees west to intersection with the southern limit of the road on Plan 7367 JK, thence north easterly along said southern limit to intersection with the southern boundary of Block 'D2' on Plan RW 542, thence easterly along said southern boundary of Block 'D2' to intersection with west bank of the Bow River as shown on the Township Plan approved at Ottawa</p>	“Staircase Lands”	

	March 2, 1889 thence southerly along said west bank to intersection with the east boundary of said Legal Subdivision 7, thence southerly along the said east boundary of said Legal Subdivision 7, to the point of commencement containing 13.0 hectares (32.2 acres) more or less				
	(D)				
		plan number	hectares	(acres)	more or less
	road	7687 HX	0.004	0.01	(NW)
	road	528 IX	0.085	0.21	(NW)
	subdivision	4171 JK	3.23	7.98	(NW)
	road	7367 JK	3.14	7.76	(NW)
	subdivision	7810522	29.8	73.81	(NE)
	subdivision	8210815	20.62	50.95	(NW)
	road	9312237	1.393	3.44	(NW)
			0.604	1.49	(SW)
	subdivision	9312316	1.029	2.54	(SW)
			2.733	6.75	(NW)
			2.412	5.96	(NE)
			4.079	10.1	(SE)
	subdivision	9512060	6.191	15.30	(SE)
	subdivision	9512060	2.075	5.15	(SW)
	subdivision	9611299	0.004	0.01	(NE)
	road	9711289	0.671	1.66	(SE)
	Excepting thereout all mines and minerals				
9810118	A				Lease Area 'A' - Land described in Miscellaneous Lease #910136

Schedule 2 Certificates

Form 1 Compliance Certificate

Pursuant to the *Canmore Undermining Review Regulation*, a review of the land described in (name of undermining report) dated ____ was carried out to determine whether the area is suitable for the intended development, _____, having regard to undermining and related conditions. The review was made in accordance with the guidelines established by order of the Minister and accepted professional practice and accordingly includes the investigations considered necessary in the circumstances.

In my opinion, the land described in the above report is considered suitable for the intended development, subject to any mitigative measures outlined in the (name of undermining report) with respect to the undermining and related conditions.

Professional Seal

Municipality: _____

Date: _____

Form 2
Compliance Review Certificate

Pursuant to the *Canmore Undermining Review Regulation*, I have made a review of the (name of undermining report) dated _____ to determine whether the report complies with the guidelines established by order of the Minister and whether the review of the land described in the report was made in accordance with accepted professional practice and accordingly included the investigations necessary in the circumstances.

In my opinion, the (name of undermining report) complies with the guidelines established by order of the Minister.

In my opinion, the review of the land described in the (name of undermining report) was made in accordance with accepted professional practice and accordingly included the investigations necessary in the circumstances.

I certify that I did not assist in the preparation of the (name of undermining report) and I am not associated with or employed by the individuals or firm that prepared the undermining report.

Professional Seal

Municipality: _____

Date: _____



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