



## **COUNCIL ORDER No. 0015449**

**BEFORE THE FIRE TECHNICAL COUNCIL**

**On June 22, 2015**

**IN THE MATTER OF** the Safety Codes Act, Revised Statutes of Alberta 2000, Chapter S-1.

**AND IN THE MATTER OF** the Order dated January 29, 2015 issued by an Accredited Municipality (the Respondent) against a pallet recycling facility (the Appellant).

**UPON REVIEWING** the Order **AND UPON HEARING** the Appellant and the Respondent: **THIS COUNCIL ORDERS THAT** the Order is **VARIED**.

**FROM:**

1. Provide and maintain area sizes and clearances, for individual storage areas, that conform to Table 3.3.3.2. of the Alberta Fire Code 2006  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.3.2.(1)  
Compliance Date: May 1, 2015
2. Maintain a clear space of not less than 30 meters between stored products and brush or forested areas.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.3.(2)(a)  
Compliance Date: May 1, 2015
3. Provide level and solid ground for the storage site.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.11.(1)  
Compliance Date: May 1, 2015
4. Provide a Fire Department access route connected to a public thoroughfare in two locations which permits the approach of fire department vehicles within 60 meters travelling distance of any part of an individual storage yard.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Article 3.3.2.5  
Compliance Date: May 1, 2015
5. Install a water supply system that is capable of supplying water for a period of not less than 3 hours at a minimum rate of 8000 liters per minute. The water supply shall be available so that any part of the storage yard can be reached by using not more than 150 meters of hose.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Article 3.3.2.16  
Compliance Date: May 1, 2015

6. Portable fire extinguishers shall be provided in all storage areas so that the travel distance from any part of the storage area to a fire extinguisher is not more than 25 meters.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.10.(3)  
Compliance Date: May 1, 2015
7. Propane cylinders must be stored in an area that is protected from collision and mechanical damage.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.1.2.4.(1)  
Compliance Date: May 1, 2015
8. Prepare and provide a Fire Safety plan that includes:
  - a) Emergency procedures in case of fire, including
    - i. notifying staff of a fire.
    - ii. notifying the fire department.
    - iii. instructing staff and visitors on procedures to be followed when the fire alarm sounds.
    - iv. evacuating staff and visitors, including special provisions for persons requiring assistance.
    - v. Confining, controlling and extinguishing the fire.
  - b) The appointment and organization of designated supervisory staff to carry out fire safety duties.
  - c) The training of staff in their responsibilities for fire safety.
  - d) Documents, including diagrams, showing the type, location and operation of the building fire emergency systems.
  - e) The holding of fire drills.
  - f) The control of fire hazards.
  - g) The location and classification of the products stored.
  - h) The method of storage, including the clear spaces required and the maximum permitted size of individual storage area.
  - i) The location of firefighting equipment.
  - j) The control of fire hazards in and around the outdoor storage yard.
  - k) At least one copy of the fire emergency procedures shall be prominently posted at the outdoor storage site.  
Reference: Alberta Fire Code 2006, Division B, Part 2, Article 2.8.2.1. and Alberta Fire Code, Division B, Part 3, Article 3.3.2.9.  
Compliance Date: May 1, 2015
9. Install a portable fire extinguisher, with a minimum rating of 2-A: 30BC, on each motorized vehicle operating in the outdoor storage area.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.10.(2)  
Compliance Date: May 1, 2015
10. Provide proper spill control provisions for waste oils and dangerous goods under normal storage conditions or in a fire situation.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.13.(1)  
Compliance Date: May 1, 2015

11. Stop all smoking or activities that produce open flame, sparks or heat in the outdoor storage areas.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.8.(1) and Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.8.(2).  
Compliance Date: May 1, 2015

**TO:**

1. Provide and maintain area sizes and clearances, for individual storage areas, that conform to Table 3.3.3.2. of the Alberta Fire Code 2006  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.3.2.(1)  
Compliance Date: August 31, 2015
2. Maintain a clear space of not less than 6 meters between stored products and uncontrolled grass or weeds.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.3.(2)(b)  
Compliance Date: August 31, 2015
3. Provide level and solid ground for the storage site.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.11.(1)  
Compliance Date: August 31, 2015
4. Provide a Fire Department access route connected to a public thoroughfare in two locations which permits the approach of Fire Department vehicles within 60 meters travelling distance of any part of an individual storage yard.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Article 3.3.2.5  
Compliance Date: August 31, 2015
5. Provide a water supply in compliance to the requirements of AFC Div. B 3.3.2.16. The water supply shall be available so that any part of the storage yard can be reached by using not more than 150 meters of hose.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Article 3.3.2.16  
Compliance Date: July 1, 2016
6. Propane cylinders must be stored in an area that is protected from collision and mechanical damage.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.1.2.4.(1)  
Compliance Date: August 31, 2015
7. Install a portable fire extinguisher, with a minimum rating of 2-A: 30BC, on each motorized vehicle operating in the outdoor storage area.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.10.(2)  
Compliance Date: August 31, 2015
8. Provide proper spill control provisions for waste oils and dangerous goods under normal storage conditions or in a fire situation.  
Reference: Alberta Fire Code 2006, Division B, Part 3, Sentence 3.3.2.13.(1)  
Compliance Date: August 31, 2015

**Issue:**

1. The Appeal relates to Alberta Fire Code (AFC) compliance with respect to clearances for storage areas, a fire access route, water supply system, storage of propane cylinders, ground surface storage sites, fire safety plan, fire extinguishers, spill control provisions for waste oil and dangerous goods and the prohibition of smoking, torch cutting and welding in outdoor storage areas.

**Appearances and Preliminary, Evidentiary or Procedural Matters:**

2. Appearing for the Appellants, the Appeal Panel heard from the owner of the pallet recycling facility as well as legal counsel for the Appellant.
3. Appearing for the Respondent, the Appeal Panel heard from the Fire Safety Codes Officer, from the accredited municipality, as well as their legal counsel.
4. As a preliminary matter the Appeal Panel addressed the issue of the Order being issued jointly with another company, the owner of lot 2.
5. The Appellant acknowledged at the time the order was served they were occupying lot 2 for their business operation, however upon receipt of the order the owner of the property directed that they leave the property, to which they complied. The Appellant stated that lot 2 is now vacant; therefore there would be no ongoing issue there.
6. The Respondent confirmed that at the time the Order was served there were 3 lots occupied by the Appellant.
7. The Appeal Panel went *in-camera* to consider the potential jurisdictional issues with lot 2 and its owner; as well as how the Order would apply to the Appellants use of lot 2.
8. The Appeal Panel found that while the Order was issued jointly to another company and their property (lot 2) the panel has no jurisdiction to consider the Order as it applies to that company. The other company was jointly issued the Order of January 29, 2015 and did not appeal the matter. The Appeal Panel advised the parties present of its position on the matter.
9. The Appeal Panel found it does have the jurisdiction to consider the Appellants involvement on the property (lot 2), as they took it upon themselves to operate a portion of their business on the vacant land and in essence had an inherent responsibility of “care and control” of activities and hazards brought about by their business operation on the site. The Appeal Panel notes and accepts the Appellants representation at hearing, that subsequent to the Order they have vacated the property at the direction of the owner and the lot is now vacant. The Appeal Panel advised the parties present of its position on the matter.

10. At the commencement of the hearing, the Appellant and Respondent confirmed there were no objections to any members of the hearing panel, and that the Safety Codes Council (Council) in general and the Appeal Panel in particular had jurisdiction to hear and decide the appeal.
11. The Chair then explained the process to be followed in hearing this appeal, and read out a list of the written material before the panel, consisting of the documents listed below in the Record, paragraph 13 as items a) to j) in the Record. The Appellant and Respondent confirmed that there were no objections to any of the written material submitted to the Appeal Panel prior to the hearing.
12. At the outset of the hearing the Appellant submitted 2 sets of documents for consideration; recent photographs of the site, and legal description information which included a diagram of the lots showing the adjoining properties. The Respondent reviewed the documents and had no objection to their submission. The photographs were accepted as Exhibit A and the legal description information accepted as Exhibit B.

#### **The Record:**

13. The Appeal Panel considered, or had available for reference, the following documentation:
  - a) Copy of the Order on appeal dated January 29, 2015 (pages 1 to 6);
  - b) Notice of Appeal dated March 11, 2015 (pages 7 to 13);
  - c) Acknowledgement Letter dated March 11, 2015 (pages 14 to 21);
  - d) Request for Stay of Order Pending Appeal dated March 16, 2015 (page 22);
  - e) Stay of Order Letter dated March 26, 2015 (page 23);
  - f) Appeal Hearing Brief Preparation Guide (page 24);
  - g) Written Notification of Hearing (pages 25 and 26)
  - h) Brief of the Respondent (pages 27 to 126);
  - i) Exhibit A – Photographs of the site; and
  - j) Exhibit B - Legal description information which included a diagram of the lots showing the adjoining properties.

#### **Provisions of the Safety Codes Act:**

14. The applicable legislation is the *Safety Codes Act* S-1, RSA 2000 (the Act). Specifically:

##### ***Section 5***

The owner of any thing, process or activity to which this Act applies shall ensure that it meets the requirements of this Act, that the thing is maintained as required by the regulations and that when the process or activity is undertaken it is done in a safe manner.

##### ***Section 49(2)***

An order may be issued to a person who provides services that are the subject-matter of the order or to the owner, occupier, vendor, contractor, manufacturer or designer of

the thing or to the person who authorizes, undertakes or supervises the process or activity that is the subject-matter of the order, or may be issued to any 2 or more of them.

**Section 52(2)**

The Council may by order

- a) Confirm, revoke or vary an order, suspension or cancellation appealed to it and as a term of its order may issue a written variance with respect to any thing, process or activity related to the subject-matter of the order if in its opinion the variance provides approximately equivalent or greater safety performance with respect to persons and property as that provided for by this Act.

**Provisions of the Alberta Fire Code 2006 (AFC 2006):**

15. The Alberta Fire Code 2006 provides, *inter alia*:

**Division B**

**Part 2 Building and Occupant Fire Safety**

**2.8.1. General**

**2.8.1.1. Application**

- 1) Fire emergency procedures conforming to this Section shall be provided for
  - a) every *building* containing an *assembly* or a *care or detention occupancy*,
  - b) every *building* required by the Alberta Building Code 2006 to have a fire alarm system,
  - c) demolition and construction sites regulated under Section 5.6.,
  - d) storage areas required to have a fire safety plan in conformance with Articles 3.2.2.5., 3.3.2.9. and 3.3.6.7.
  - e) areas where *flammable liquids* or *combustible liquids* are stored or handled, in conformance with Article 4.1.5.5., and
  - f) areas where hazardous processes or operations occur, in conformance with Article 5.1.5.1.

**2.8.2. Fire Safety Plan**

**2.8.2.1. Measures in a Fire Safety Plan**

- 1) In *buildings* or areas described in Article 2.8.1.1., a fire safety plan conforming to this Section shall be prepared in cooperation with the fire department and other applicable regulatory authorities and shall include
  - a) the emergency procedures to be used in case of fire, including
    - i. sounding the fire alarm (see Appendix A),
    - ii. notifying the fire department,
    - iii. instructing occupants on procedures to be followed when the fire alarm sounds,
    - iv. evacuating occupants, including special provisions for persons requiring assistance (see Appendix A),
    - v. Confining, controlling and extinguishing the fire,

- b) the appointment and organization of designated *supervisory staff* to carry out fire safety duties,
  - c) the training of *supervisory staff* and other occupants in their responsibilities for fire safety,
  - d) documents, including diagrams, showing the type, location and operation of the *building* fire emergency systems,
  - e) the holding of fire drills,
  - f) the control of fire hazards in the *building*, and
  - g) the inspection and maintenance of *building* facilities provided for the safety of occupants.
- (See Appendix A.)

2) The fire safety plan shall be reviewed at intervals not greater than 12 months to ensure that it takes account of changes in the use and other characteristics of the *building*.

## **Division B**

### **Part 3 Indoor and Outdoor Storage**

#### **3.1.2. Dangerous Goods**

##### **3.1.2.4. Compressed Gases**

1) Cylinders and tanks of Class 2 gases shall be protected against mechanical damage.

#### **3.3.2. General**

##### **3.3.2.3. Individual Storage Areas and Clearances**

- 2) An outdoor storage area shall be arranged such that there is a clear space of not less than
  - a) 30 m between stored products and brush or forested areas, and
  - b) 6 m between stored products and uncontrolled grass or weeds.

##### **3.3.2.5. Fire Department Access**

- 1) Except as provided in Sentence (2), an access route constructed in conformance with Subsection 3.2.5. of Division B or the Alberta Building Code 2006 shall be provided to permit the approach of fire department vehicles to within 60 m travelling distance of any part of an *individual storage area*.
- 2) Where the total storage area exceeds 6000 m<sup>2</sup>, the access route required in Sentence (1) shall be connected with a public thoroughfare in at least 2 locations.

##### **3.3.2.8 Ignition Sources**

- 1) Unless controlled in a manner that will not create a fire hazard, a device, operation or activity that produces open flames, sparks or heat shall not be permitted in an outdoor storage area. (See A-4.1.5.2.(1) in Appendix A.)
- 2) Except as provided in Subsection 2.4.2., smoking shall not be permitted in an outdoor storage area.

##### **3.3.2.9. Fire Safety Plan**

- 1) A fire safety plan conforming to Section 2.8. and Sentences (2) and (3) shall be prepared.

- 2) The fire safety plan required in Sentence (1) shall identify
  - a) the location and classification of the products currently stored, as described in Sentence 3.3.1.1.(1),
  - b) the method of storage, including the clear spaces required and the maximum permitted size of *individual storage areas*,
  - c) the location of fire alarm systems and firefighting equipment, and
  - d) the control of fire hazards in and around the outdoor storage area.
- 3) At least one copy of the fire emergency procedures shall be prominently posted at the outdoor storage site.

#### **3.3.2.10. Portable Extinguishers**

- 1) Any *building* located in an outdoor storage area shall be provided with portable extinguishers.
- 2) Each motorized vehicle operating in an outdoor storage area shall be equipped with at least one portable extinguisher having a minimum rating of 2-A:30-B:C.
- 3) Portable extinguishers shall be provided in all storage areas so that the travel distance from any part of the storage area to an extinguisher is not more than 25 m.

\*Of note to the Appeal Panel with respect to 3.3.2.10. this section of the Alberta Fire Code was revised in the 2014 Alberta Fire Code; which deleted 3) *Portable extinguishers shall be provided in all storage areas so that the travel distance from any part of the storage area to an extinguisher is not more than 25 m.* The coming into force or implementation date of the change was May 1, 2015

#### **3.3.2.11. Site Preparation**

- 1) The storage site shall be
  - a) level, and
  - b) solid ground or paved with asphalt, concrete or other hard surface material.

#### **3.3.2.13. Spill Control**

- 1) Provision shall be made for the safe drainage and containment of waste oils or *dangerous goods* emptied or escaping from stored products under normal storage conditions or in a fire situation, in conformance with Subsection 4.1.6.

#### **3.3.2.16. Water Supply**

- 1) Except as permitted by Sentence (2), water supplies for firefighting shall be available from
  - a) a public or private water system, or
  - b) water supplies that conform to the requirements of NFPA 1142, “Water Supplies for Suburban and Rural Firefighting” (see Appendix A).
- 2) Other methods acceptable to the *authority having jurisdiction* are permitted to be used to supply water to a storage area in lieu of water supplies specified in Sentence (1).
- 3) The water supply system shall be capable of supplying water for a period not less than 3 h at a minimum rate of
  - a) 4 000 L/min if the storage volume is less than 600 m<sup>3</sup>, or
  - b) 8 000 L/min if the storage volume is equal to or greater than 600 m<sup>3</sup>.
- 4) On-site storage of at least 300 m of 65 mm hose and sufficient nozzles shall be



- provided if not immediately available from responding public fire departments.
- 5) Water supply required by Sentences (1) and (2) shall be available so that any part of the storage area can be reached by using not more than 150 m of hose.

### 3.3.3. General Outdoor Storage

#### 3.3.3.2. Individual Storage Areas and Clearance

- 1) Except as provided in Sentences (2) to (4), the size and clearances for *individual storage areas* shall conform to Table 3.3.3.2. (see Appendix A.)
- 2) Except as permitted in Sentences (3) and (4), a clear space of not less than 15 m shall be maintained between stored products and a *building* on the same property to reduce the risk of fire spreading from the outdoor storage area to the *building*.

**Table 3.3.3.2.**  
**Size and Clearances for Individual Storage Areas (ISA)**  
Forming Part of Sentence 3.3.3.2.(1)

Product Classification <sup>(1)</sup>	Max. Base Area, m <sup>2</sup>	Max. Height of Storage, m	Min. Clear Space Around Each ISA, m
Class III and IV commodities, Group A, B and C plastics, lumber, timber, manufactured <i>buildings</i> , wrecked vehicles	1 000	≤ 3	6
Wood chips, hogged material	1 000	> 3 but ≤ 6	twice the height of storage
Rubber tires, combustible pallets <sup>(2)</sup>	15 000	18	9
	1 000	3	15

**Notes to Table 3.3.3.2.:**

<sup>(1)</sup> See Sentence 3.3.1.1.(1).

<sup>(2)</sup> See Subsection 3.3.6. for Outdoor Storage of Used Tires.

- 3) It is permitted to waive the clearance required in Sentence (2) if
- the stored products do not consist of wood chips, hogged material, rubber tires or combustible pallets,
  - the exposed wall of the *building* has a *fire-resistance rating* of not less than 2 h, and
  - the stored products are separated from any unprotected wall opening by a horizontal distance of not less than
    - 3 m on either side of the opening, and
    - 6 m perpendicularly in front of the opening.
- 4) It is permitted to waive the clearance required in Sentence (2) if an *individual storage area* has a base area not greater than 5m<sup>2</sup>.

### Position of the Parties

#### 16. Appellant

*From the Appellant's submissions and testimony the Appellant's position is summarized as follows:*

- a) With respect to sizes and clearances for individual storage areas they acknowledge the order requirement has not been met. There was a fire in the past and they continue to

- work on the resulting clean-up and organization of the site.
- b)** The submitted pictures depict the situation and efforts to comply with the Order. The pictures show the back of the lots, the ground surface of the sites, pallet storage area, access route to the lots and locations of fire extinguishers.
  - c)** The principal business of the Appellant is to fix or recycle broken pallets. Burning of scrap pallets is done in an incinerator derived from a boiler. They also sell recycled plastic totes and other items.
  - d)** The Accredited Municipality owns the property described as a municipal reserve adjacent to the rear of their lots. The Appellant has asked the Municipality to clear brush from this area. The Municipality is part of the clearance problem by not maintaining the property.
  - e)** The Municipal property adjacent to the rear of their lots is not parkland. It is Municipal owned land for medium industrial use, not designated for a park. It is a grassy field with overgrown brush; a field of grass with a tree line.
  - f)** They are taxed for the entire property and should be able to use the entire area for storage.
  - g)** The back half of lots 3 and 4 are concrete to the property line.
  - h)** The entire lots 3 and 4 are either gravel or concrete.
  - i)** With respect to level and solid ground, the Respondent may have been looking at lot 2, which is no longer in use and not their property.
  - j)** All of the pallets are stored on concrete or gravel, as depicted in picture #3.
  - k)** Each of the two lots (3 and 4) has designated access routes in. Pictures 4 and 5 are presented to illustrate the routes. Picture 5 identifies the access route being blocked by storage containers, which could be moved.
  - l)** The cost of installing a water supply system would be approximately 1.4 million dollars. There is no fire hydrant in the immediate area. They have spoken to neighbours who would have the same water supply issues if contacted.
  - m)** They could have access to a private hydrant of a company further afield.
    - i.** They have a verbal agreement with the company for access.
    - ii.** They could have access any time if necessary.
    - iii.** This facility's water supply was used when they (the Appellant) had a fire in October of 2014, supporting this is a viable alternative.
    - iv.** The Municipality was aware of this hydrant as they connected to it at the time of the fire in October of 2014.
    - v.** The company makes cement and therefore it is assumed they have a good source of water.
    - vi.** It is a normal, yellow hydrant.

- n) The Appellant has owned the property since 2010 and had to obtain a development permit upon purchase.
- o) With respect to an appropriate water supply system, the Appellant would consider any alternative suggested.
- p) With respect to the provision of fire extinguishers in storage areas, they are in the process of complying. For the most part, compliance has been achieved, as depicted in pictures 6, 7 & 8. They have spread out the fire extinguishers where they could be located. They do not dispute the request; just need more time to fully comply.
- q) They store propane cylinders in the body of a van on site.
- r) They have complied with the requirement for a Fire Safety Plan. They are agreeable to the Respondent verifying the plan.
- s) They have complied with the requirement to install portable fire extinguishers on motorized vehicles, with the exception of a bobcat on which a fire extinguisher would not fit. The photographs 10, 11 & 12 confirm this compliance. They acknowledge the Respondent could check that any time.
- t) There are no waste oils or dangerous goods onsite; there is nothing to spill. There are totes on site which contained treated water that once had human waste in them, which is not a hazard. There are 5 wrecked vehicles on site. They have kitty litter on site to absorb any product spills.
- u) They have a designated smoking area, which is outside the main entrance as depicted in picture #13.

**17. Respondent**

***From the Respondent's submissions and testimony, the Respondent's position is summarized as follows:***

- a) The Municipality does own the property described as a municipal reserve bordering the two lots. By definition the property is parkland. As the area is considered parkland, tree cutting is not an option.
- b) There is a safety issue if pallets burn; dry brush could burn on a bordering lot.
- c) The owner should have considered the limitations of the property before they purchased it; such as access to a water supply and appropriate storage clearance areas.
- d) It is acknowledged lot 2 was the main area of concern with respect to level and solid ground. Pallets on lots 3 and 4 appeared to be stored on grass/dirt; it was difficult to tell what the pallets were stored on.

- e) Two access routes are necessary to access the site by emergency vehicles in the event of a fire.
- f) This is the first time they have heard of a proposition to obtain a water source from a neighbouring company in the area. There is no guarantee of the flow volume from the hydrant. This seems to be a preliminary proposal and without details it is not known if the proposal would meet the minimum requirement of the Alberta Fire Code.
- g) With respect to the fire in October of 2014, a number of pumper trucks were used. That number of trucks would be inadequate in a larger fire.
- h) There is no knowledge of a plan for the Municipality to install a hydrant in the area. There is potential depending on what develops in the area. Relatedly, unserviced land is usually less expensive than serviced land in the Municipality.
- i) The use of a van body may not comply with Alberta Fire Code requirements for storage of propane cylinders. With screening and proper modifications, compliance may be obtained. They would have to inspect to address compliance.
- j) There are a number of wrecked vehicles on site, which require proper spill containment. There is a need to have a plan in place to deal with oil spills and material to contain a spill from vehicles. The human waste on site may be a dangerous good.
- k) With respect to the issue of smoking or other activities that produce open flame, sparks or heat; there are no signs to make it clear to employees and other occupants that there is a designated smoking area. It is a matter of due diligence for companies to enforce this. With respect to other activities that produce flames, sparks or heat, there is no issue as long as the activities are conducted in a controlled manner, in a controlled environment.

**Reasons for Decision (Findings of Fact and Law):**

**18.** The Appeal Panel makes the following findings:

- a) The Panel notes that the municipal reserve is within an industrial area. The size of the parcel of land with only partial tree coverage would not constitute a forest.
- b) The Appeal Panel finds that in accordance with 3.3.2.3 (2) of the AFC, the area bordering lots 3 and 4 are better defined as “uncontrolled grass or weeds”. The Panel takes into consideration the testimony at the hearing, that at the time of the prior fire access to the lots was obtained from the bordering municipal reserve, indicative of an area where access to vehicles is obtainable, which would not be the case in a “brush or forested area”.
- c) The Panel notes that 3.3.2.3 (2)(b) specifically deals with outdoor storage areas.
- d) The Appeal Panel with respect to the issue of level and solid ground for the storage site finds the Order to remain in force, subject to verification of the site by the Respondent to

ensure the ground surface would be stable with respect to pallet storage.

- e) The Appeal Panel finds the storage area to include the whole property in its current use. Based on the evidence provided the Appeal Panel finds the area exceeds 6,000 m<sup>2</sup> therefore requiring access from a public thoroughfare in two places.
- f) The Appeal Panel finds the code to be very specific with respect to a water supply system and finds no means to provide a variance which would meet or exceed the code requirement. The Panel was presented with insufficient information to consider any form of variance.
- g) The Appeal Panel acknowledges the Appellant was hopeful compliance would be achieved with respect to a water supply system by looking at other options that would satisfy the Respondent, such as using water from the private hydrant of a neighbouring business. Therefore, the time to provide a water supply in accordance with 3.3.2.16 is extended. The Appeal Panel considered the impact of winter conditions on the Appellants ability to achieve compliance sooner when it considered a reasonable compliance date.
- h) The Appeal Panel notes the Appellant has taken measures to comply with the requirement for fire extinguishers in storage areas. As evident in photographs presented, fire extinguishers have been placed throughout the storage area. The Appeal Panel notes the Alberta Fire Code (AFC) applicable to the issue has changed from the 2006 AFC to the 2014 AFC. The 2014 AFC has an implementation or coming into force date as of May 1, 2015.

Considering the requirement in the 2014 AFC was changed to reflect the deletion of *“portable fire extinguishers shall be provided in all storage areas so that travel distance from any part of the storage area to an extinguisher is not more than 25m”* the Appeal Panel finds the Appellant has satisfied the current code application and therefore finds no current code violation to be in effect with respect to issue #6 on the initial order, warranting enforcement.

- i) The Appeal Panel finds that compliance has not been confirmed with respect to the storage of propane cylinders. The Appellant stated the propane cylinders are stored in a van body; the Respondent has not inspected the make-shift storage area to determine if it is code compliant.
- j) The Appeal Panel finds the issue with respect to providing a Fire Safety Plan to have been met. The Appellant advises they have a Fire Safety Plan and are in agreement with presenting such to the Respondent at any time. The Appellant has a responsibility to ensure a Fire Safety Plan is provided on an ongoing basis.
- k) The Appellant has indicated they have complied with the provision of portable fire extinguishers on motorized vehicles. The Appeal Panel notes the Appellant has indicated the Respondent could verify that at any time.

- l)** With respect to proper spill control provisions of waste oils and dangerous goods, the Appeal Panel notes the storage area continues to have a number of wrecked vehicles on site and finds the Respondent's demand for "proper spill control provisions for waste oils and dangerous goods under normal storage conditions or in a fire situation" to be appropriate.
  
- m)** The Appeal Panel finds with respect to the issue of smoking / ignition sources, that the owner of the property has a responsibility to provide and enforce the requirements of 3.3.2.8 of the AFC. If the Respondent finds the owner in violation, appropriate action should be taken at that time.

Dated at Edmonton, Alberta this 13th day of July 2015.

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Chair, Fire Technical Council Appeal Panel