



# Safety Codes Council

**COUNCIL ORDER NO. 2025-02**

**OF THE ADMINISTRATIVE TRIBUNAL OF THE FIRE SUB-COUNCIL**

(the “Tribunal”)

**FOLLOWING A HEARING THAT TOOK PLACE ON SEPTEMBER 16, 2025**

**IN THE MATTER OF** the *Safety Codes Act*, Revised Statutes of Alberta 2000, Chapter S-1 (the “Act”);

**AND IN THE MATTER OF** the Building Permit Refusal issued to Bridgeland Distillery (the “Appellant”) by the City of Calgary (the “Respondent” or “Building AHJ”) on January 30, 2025, and the subsequent Fire Safety Codes Order issued by the City of Calgary Fire Department (the “Respondent” or “CFD”) on February 11, 2025;

**UPON REVIEWING AND CONSIDERING** the evidence named in **The Record**, including written submissions of the Appellant and Respondent; and **UPON HEARING** the testimony of the parties at the hearing;

**IT IS HEREBY ORDERED THAT:**

- (1) the Building Permit Refusal dated January 30, 2025 is confirmed; and
- (2) the Fire Safety Codes Order issued February 11, 2025 is varied as set out at paragraph 44 of this decision.

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

1. The hearing for this matter was conducted in a hybrid format, with the Tribunal and most participants attending in person, along with some participants and observers attending virtually.
2. At the commencement of the hearing, the Coordinator of Appeals confirmed the subject of the appeal as the Building Permit Refusal issued to the Appellant on January 30, 2025 by the Building AHJ, and the subsequent Fire Safety Codes Order issued February 11, 2025, by the CFD, and confirmed those in attendance:
  - a. Appearing for the Appellant, the Tribunal heard from: Daniel [REDACTED], Co-Founder, Bridgeland Distillery; Jacques [REDACTED] Co-Founder, Bridgeland Distillery (virtual); and Doug [REDACTED] P.Eng., ProTrace Engineering Inc.
  - b. Appearing for the Respondent, the Tribunal heard from: Glenn [REDACTED] SCO (Fire); Patrick [REDACTED], SCO (Buildings); Mark [REDACTED] SCO (Fire); and Nicole Maynard, lawyer for the City of Calgary (virtual)
  - c. Facilitating the hearing on behalf of the Safety Codes Council and providing independent legal counsel to the Tribunal: Kimberly Precht

- d. Several observers attended the hearing (virtually)
3. The Coordinator of Appeals then introduced the Chair of the Tribunal (the “Chair”), Chris Taylor and turned the hearing over to them.
  4. The Chair called the hearing to order and introduced the other Tribunal members: Cameron Bardas, Joseph Pipke, and Joshua Selby.
  5. The Appellant and Respondent confirmed there were no objections to any members of the Tribunal, and that the Safety Codes Council in general and the Tribunal in particular had jurisdiction to hear and decide the appeal. The Tribunal also confirmed they had jurisdiction to hear and decide this appeal.
  6. The Chair then explained the process of the hearing, and advised of the list of the written material before the Tribunal, consisting of the documents listed in **The Record** (see paragraph 7). The Appellant and Respondent confirmed that there were no objections to any of the material submitted to the Tribunal.

**The Record:**

7. The Tribunal considered, or had available for reference, the following documentation:

<u>Item</u>	<u>Description</u>	<u>Date</u>
i.	Notice of Appeal	February 6, 2025
ii.	Building Permit Refusal	January 30, 2025
iii.	Fire Safety Codes Order	February 11, 2025
iv.	Appellant Brief <ul style="list-style-type: none"> <li>• Slide Presentation</li> <li>• Notice of Appeal Form</li> <li>• Timeline of Events</li> <li>• Special Events Permit request and Refusal that forms the basis of this Appeal (and related documents) (i.e., the Building Permit Refusal)</li> <li>• Order: The City of Calgary Fire Department (i.e., the Fire Safety Codes Order)</li> <li>• Special Events Permit request and Refusal of subsequent Revision (and related documents)</li> <li>• City of Calgary Rejection of Subsequent Revised Permit and Variance Request</li> <li>• City of Calgary Fire Department Letter (2025 Special Events Letter) &amp; Final Email Correspondence</li> </ul>	August 28, 2025
v.	Respondent Brief <ul style="list-style-type: none"> <li>• Written Submission</li> </ul>	August 28, 2025

- Application Form
  - Deficiency Report
  - Building Permit Refusal letter
  - Email indicating refusal will be upheld
  - Fire Safety Codes Order 2025-003
  - 2019 Special Events Letter
  - December 16, 2024 email from CFD to Bridgeland
  - Distillery Classification Notice – Alberta Municipal Affairs
  - Small Assembly Advisory – 2019
  - Small Assembly Advisory – current
  - Original Qualitative Risk Assessment (“QRA”)
  - Architectural drawings from BP2018-13123
  - Bridgeland Distillery Events completed 2024
8. After the hearing concluded, the Tribunal asked the Respondent to provide an Appendix referenced in the 2019 Special Events Letter, for completeness of the Record. The Respondent provided the following two Appendices, both of which were prepared by the Appellant and referenced and relied on by the Respondent in the 2019 Special Events Letter:
- Appendix A – Hazard Identification Matrix
  - Appendix O – Distillery Operations Occupancy Operator Sign off Sheet
9. The Appellant also submitted some additional documents that, although referenced during the hearing, were not ultimately requested by the Tribunal. Specifically, the Appellant provided an example of a temporary occupant load card issued by the CFD for a special event at the distillery and fugitive emissions calculations and hazardous area classification calculations for the barrel storage room at a higher ambient temperature. After inviting and considering submissions from both parties as to whether the Tribunal should consider these additional documents, the Tribunal determined it could fairly decide the issues in this appeal without considering these additional documents.

**Background:**

10. The Appellant operates a distillery in a historic building in the Bridgeland neighbourhood in the City of Calgary. The distillery is classified as a high-hazard industrial (F1) occupancy under the Building Code. According to the Appellant, the distillery consists of a distilling and production room, tasting room, ageing room, lab and bottle storage room on the main floor, and an ageing room, grain room and boiler room in the lower walkout level. The distillery’s “ageing rooms” were also referred to by the parties as the “cask storage rooms” or “barrel storage rooms”. The tasting room is classified as a mercantile (E) occupancy, under a Calgary Building Services advisory that was in place when the distillery was constructed but was revised in 2022 to exclude distilleries.
11. Since 2019, the Appellant has hosted special events with up to 100 people at the distillery, subject to

meeting the conditions set out in a conditional approval letter issued by the City of Calgary Fire Department (“CFD”) on October 30, 2019 (the “2019 Special Events Letter”). Although the letter sets out conditions to apply to a “one time event” on December 3, 2019, it also refers to future event requests that “would have to be submitted through the same process and will be considered on a case by case individual basis and do not relate to [the Appellant’s] normal operating license, approval or occupant load.”

12. Over the next five years, the Appellant relied on 2019 Special Events Letter to host more than 40 special events. Each time, the CFD inspected the distillery for compliance with the conditions set out in the 2019 Special Events Letter and issued a temporary occupant load card for the event.
13. In late November 2024, CFD Safety Codes Officers met with the Appellant and advised that CFD would no longer approve special events based on the 2019 Special Events Letter. Rather than immediately serve an order on the Appellant, prohibiting them from using the production space for assembly purposes during special events, CFD gave the Appellant some time to try to achieve compliance with the National Fire Code (Alberta Edition) (“Fire Code”) and/or the National Building Code (Alberta Edition) (“Building Code”). Some potential compliance paths were discussed.
14. On January 29, 2025, the Appellant submitted a Request for Specific Variance to the Building AHJ to continue to allow up to 100 people attend special events hosted at the distillery in accordance with the 2019 Special Events Letter by allowing a “Temporary Use occupancy” during such special events. The Request for Specific Variance identified STANDATA interpretation 23-BCI-010/23-FCI-013 (the “Special Events STANDATA”) as the “Code or Standard to be Varied”. Provided with the Request for Specific Variance was a report prepared by Mr. [REDACTED] in his capacity as a professional engineer.
15. On January 30, 2025, the Request for Specific Variance, which the Building AHJ characterized as a building permit application, was refused (the “Building Permit Refusal”) for not meeting the required standards and not providing adequate information and documentation. Two main reasons were given:
  - The time duration indicated for the special function event permit (January 28, 2025 to December 31, 2049) did not support the concept of a “temporary use” but rather would require re-classifying the suite with a prohibited occupancy (A2) in conjunction with the existing F1.
  - In consultation with CFD, the safety measures provided for the cask storage room were largely consistent with the minimum requirement for an F1 and did not provide an increased level of safety to permit an assembly (A2) use directly adjacent.
16. After some further communication between the Appellant and the Building AHJ, the Building AHJ confirmed by email on February 6, 2025, that it would uphold the Building Permit Refusal. At this point, the Appellants filed an appeal of the Building Permit Refusal to Safety Codes Council.
17. On February 11, 2025, Safety Codes Order 2025-003 (the “Fire Safety Codes Order”) was served on the Appellant by SCO Mark [REDACTED] ordering the Appellants to “cease using the F1 High hazard occupancy production floor space as an A2 for assembly use”. The Appellant added the Fire Safety Codes Order, which had the same effect as the Building Permit Refusal, to the appeal.
18. On March 3, 2025, the Appellant submitted a revised Request for Specific Variance, proposing the construction of a 3-hour fire wall for the distillery’s ageing room. The Building AHJ did not accept this document on the basis that it was an amendment to a building permit application that had already

been refused and was no longer active (i.e., the Building Permit Refusal).

19. On March 19, 2025, the CFD issued a conditional approval letter for 11 specific events (mostly weddings) that the Appellant was already committed to hosting in 2025 (the “2025 Special Events Letter”). The 2025 Special Events Letter stated it was “not a blanket approval for additional or ongoing events” but an “interim measure while both parties work towards a solution through the appeal process or code compliance”. Among other conditions, the 2025 Special Events Letter placed limits on the volume of flammable liquids permitted to be present at the distillery, such that the Appellant would need to transport a significant portion of its full casks off site during special events.
20. Despite further meetings between the parties, no resolution has been reached.

**Issues:**

21. The Appellant has appealed both the Building Permit Refusal and the First Safety Codes Order. As such, the issues on appeal are as follows:
  - Issue 1: Should the January 30, 2025 Building Permit Refusal be confirmed, revoked, or varied, or should a written variance be issued?
  - Issue 2: Should the February 11, 2025 Fire Safety Codes Order be confirmed, revoked, or varied, or should a written variance be issued?
22. The question underlying both issues is whether the Appellant should be permitted to host special events at the distillery with up to 100 people assembled on the production floor.

**Submissions of the Parties:**

Appellant

*Based on the Appellant’s submissions, the Appellant’s position can be summarized as follows:*

23. It is the Appellant’s position that it should be allowed to continue hosting special events at the distillery under the conditions set out in the 2019 Special Events Letter. The Appellant submits that the 2019 Special Events Letter allows assembly on the production floor during special events, and that the CFD was aware that the Appellant was doing so based on more than 40 inspections carried out by the CFD under the 2019 Special Events Letter.
24. The Appellant relies on the Special Events STANDATA, which “identifies Safety Code requirements and enforcement for indoor and outdoor special events”, to support its position that hosting special events with up to 100 people in the production area should be permitted subject to the conditions set out in the 2019 Special Events Letter, despite the Building Code’s prohibition against using an area classified as an F1 (high-hazard industrial) occupancy as an A2 (assembly) occupancy. The Appellant submits that the conditions set out in the 2019 Special Events Letter, which include shutting down and making safe the distilling operations, are safer than the distillery’s normal operating conditions.

*The Appellant’s main arguments were as follows:*

25. The Appellant relied on the 2019 Special Events Letter to host 42 events at the distillery, with the CFD attending shortly before each event to inspect the distillery and ensure compliance with the conditions in the 2019 Special Events Letter. As such, the Appellant takes the position that CFD was

aware of every special event the Appellant hosted and that these events were taking place on the production floor. The Appellant submits that nothing changed since the 2019 Special Events Letter was issued, nor did the Appellant violate any of the conditions in the 2019 Special Events Letter during those 42 events.

26. The Appellant disagrees with the Respondent's position that hosting special events in the distillery is not a "temporary use". The Appellant submits that special events represent less than 2 percent of the time that the production is operating, and every time it hosts a special event under the conditions of the 2019 Special Events Letter, it must totally shut down production and purge the equipment in the production area. This is a temporary use that should fall within the Special Events STANDATA, which provides clarification for hosting "special events".
27. As for the barrel storage rooms, the Appellant submits it has adequately mitigated the risk of fire and/or explosion. The Appellant provided calculations and modelling showing no risk of an explosion in the barrel storage room at room temperature. Additionally, the Appellant identified risk mitigation measures such as sensitive gas detection equipment, no ignition sources, sprinklers, an approved fire alarm system, and trained staff present during special events to ensure the building is quickly evacuated in the unlikely event of a fire.
28. The Appellant's proposed solution addresses both hazard removal and mitigation. On the other hand, a requirement imposed by the Respondent in the 2025 Special Event Letter, requiring the Appellant to transport and store a significant portion of its barrels off-site each time it hosts a special event, is more dangerous than storing the barrels on-site.
29. The Appellant referenced standards in other jurisdictions which, it submitted, would allow a distillery such as the Appellant to host special events.
30. The Appellant also asked the Tribunal to consider that a F2 (medium-hazard industrial) occupancy for the distillery operations and barrel storage would allow A2 adjacent occupancies with 2-hour fire separation. However, the Appellant acknowledged the distillery is a F1 occupancy.
31. Generally, the Appellant expressed frustration with a perceived unwillingness by the Respondent to work with the Appellant to find a solution, which is contrary to the Special Events STANDATA, which assumes "all parties involved with the special event will work together to achieve compliance with all municipal bylaws and provincial regulations."
32. The Appellant disagreed with the Respondent's stark characterization of the situation as requiring the Appellant to "decide whether they were a distillery or an assembly". Whenever the Appellant hosts a special event, it must shut down the distilling operation to do so, which means that the Appellant is never operating as a distillery and an assembly at the same time. As a small business, hosting special events helps the Appellant to not lose money and allows the community to enjoy the Appellant's historic venue. However, the Appellant's main goal is to make whiskey and brandy.

#### Respondent

*Based on the Respondent's submissions, the Respondent's position can be summarized as follows:*

33. According to the Alberta Building Code 2014, under which the distillery was constructed, and all subsequent Building Code editions in Alberta, assembly occupancy (A2) is not permitted in a building with a high-hazard industrial occupancy (F1). It is the Respondent's position that the 2019 Special Events Letter never authorized assembly on the production floor, which is F1 occupancy, and that

the CFD issued the Fire Safety Codes Order upon becoming aware that the Appellants were hosting special events on the production floor.

34. The Respondent's position on this appeal is that the Appellant has not provided an alternative solution, either under the Building Code or the Fire Code, that supports permitting the Appellant to host regular "special events" at the distillery in the manner sought by the Appellant. The Respondent also argues that because the Appellant sought a 25-year window for special events when it submitted the Request for Specific Variance form and has not proposed any restrictions to the frequency or number of events, these events cannot be considered "special events" and are not comparable to the kind of events for which the Special Events STANDATA was written.

*The Respondent's main arguments were as follows:*

35. Regarding the Building Permit Refusal, the Respondent submits it would be inconsistent with established procedures to approve regular use for A2 special events in a floor area classified as F1, without a reclassification of the occupancy. The Respondent submits it is the City of Calgary's long-standing policy that special event permits within buildings that have already been granted occupancy fall under the CFD's jurisdiction.
36. While acknowledging that neither the Building Code nor the Special Events STANDATA defines "temporary use", the Respondent submits that the Special Events STANDATA does not apply to the types of events the Appellant wishes to hold, because the Appellant has not proposed any restrictions to the frequency or number of these events.
37. Further, the Respondent submits that the alternative solution proposed by the Appellants was deficient in that it did not indicate a code or standard to be varied, but instead sought variation of the Special Events STANDATA. In the Appellant's proposed alternative solution submitted with the Request for Specific Variance, the Appellant did not mention any objective or functional statements, and did not propose any measures that met or exceeded minimum requirements set out in the Building Code.
38. The 2019 Special Events Letter sets out a number of conditions and allows for "guided tours" of the production floor. The Respondent notes that only a few special events occurred in 2019-2022, with a significant increase in the number and frequency of events since 2023. Further, the Respondent submits that the bulk flammable storage in the building has grown from an estimated 12,800L of ethanol on one level at the time the 2019 Special Events Letter was issued to an estimated 64,400L of ethanol on two levels at the time the Fire Safety Codes Order was issued. Finally, the Respondent highlighted photographs from the Appellant's website that advertise an event booking space with images of open flames and assembly use on the production floor, as well as a photo of a bride and groom in the barrel storage area.
39. The Respondent submits that the safety features emphasized by the Appellant (ventilation, environmental monitoring, and fire sprinkler protection) are standard requirements in an F1 occupancy and are not a basis for permitting the increased risk associated with introducing an assembly use within a high-hazard environment.
40. The Respondent addressed several questions from the Tribunal about how the 2019 Special Events Letter should be characterized, and the regulatory authority under which it was issued. The Respondent acknowledged that the CFD's authority to "permit" special events was based on the City of Calgary's festivals and events policy, while the *Municipal Government Act* and municipal

bylaws allowed the CFD to establish fees for temporary load cards and inspections for special events. The Respondent did not provide any information to support the applicability of the festivals and events policy to a private function in a private space. Further, it was not clear from the Respondent's responses to these questions whether the CFD recognized Division B, Section 2.1.2.2 of the Fire Code (Hazardous Activities) as a regulatory mechanism to address temporary special event uses of the building.

41. Although the 2019 Special Events Letter was not issued as a variance, the Respondent acknowledged it looks like an informal variance in that it varies certain requirements under the Fire Code, and permits the use of a space that has already been granted occupancy for a purpose other than what it was designed for. The Respondent also took the position that the Appellant could still host special events by meeting the conditions in the 2019 Special Events Letter "as written" which, according to the Respondent, permitted "guided tours" but not assembly on the production floor.

#### **Tribunal's Powers on Appeal:**

42. On an appeal such as this, the powers of the Tribunal are set out in subsection 52(2) of the Act. The relevant excerpt is reproduced below:

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,
  - (b) confirm a refusal or direct that a designation, certificate or permit be issued and direct the inclusion of terms and conditions in the designation, certificate or permit,
  - (b.1) confirm the refusal by a safety codes officer to issue a written variance or revoke the refusal by a safety codes office to issue a written variance on the terms and conditions that the Council considers appropriate.
43. The Tribunal notes that the Appellant and Respondent characterized the Building Permit Refusal differently: the Appellant referred to it as a variance request, while the Respondent referred to it as a building permit application. In either case, the Tribunal has authority to confirm, revoke, or vary the Building Permit Refusal, or to issue a written variance.

#### **Tribunal's Decision**

44. For the reasons that follow, the Tribunal confirms the Building Permit Refusal and varies the Fires Safety Codes Order to read as follows:
- a. Effective February 15, 2026, the Appellant must cease using the industrial high hazard (F1) occupancy production floor space for assembly (A2) use, unless the Appellant has by then proposed and the Authority Having Jurisdiction has accepted an alternative solution under Division C, Section 2.3 of the Fire Code, to conform with the requirements regarding "Hazardous Activities" requirements at Division B, Subsection 2.1.2.2 of the Fire Code.
  - b. Until February 15, 2026, the Appellant may host special events including using the

production floor for assembly of up to 100 people, in accordance with the conditions set out in the 2019 Special Events Letter issued by the City of Calgary Fire Department on October 30, 2019.

### **Tribunal's Reasons for Decision:**

#### General Comments

45. The Tribunal accepts that it came as a surprise to the Appellant in late November 2024, when the CFD informed the Appellant that it would no longer permit special events at the distillery based on the 2019 Special Events Letter. Given that the CFD had permitted more than 40 such special events over the course of five years, inspecting the distillery for compliance with the 2019 Special Events Letter on each occasion, it strains credulity that CFD was unaware the Appellant was using the production floor for assembly during special events.
46. The Tribunal was surprised, however, by the photographs included in the Respondent's brief, which were taken from the Appellant's website and apparently used to promote the distillery as a special event venue. A photograph of tables set with candles on the production floor depicts a clear breach of the 2019 Special Events Letter, which states: "No smoking, vaping, open flames or other possible ignition sources permitted in the production area." Similarly, a photograph of a bride and groom in the barrel storage room is at odds with the 2019 Special Events Letter, which requires that the cask/storage room "[m]ust be secured from entry by ALL persons ...for the duration of the event". Even if these photographs were not taken during actual special events, using such photographs to promote the distillery as a special event venue shows poor judgment and disrespect (if not disregard) for the conditions set out in the 2019 Special Events Letter.
47. The Tribunal observed a general disregard from all parties with respect to relevant regulatory authority and the clear wording of the Fire Code. It appeared that mechanisms such as alternative solutions, building permit applications, and municipal policies were used with a lack of attention towards their actual regulatory purposes. This included confusion about the application of "temporary occupation" and building permits to address divergent uses of the building, reliance on municipal policies and bylaws with no clear understanding of their relevance and applicability, and haphazard use of alternative solutions which did not conform to the formal and substantive requirements set out in both the Building Code and Fire Code under Division C, Section 2.3.

#### Analysis

48. There is no dispute that Division B of the Fire Code prohibits A2 (assembly) occupancy in a distillery, which is classified as an F1 (high-hazard industrial) occupancy. This prohibition is set out at Subsection 2.1.2.2, under the heading "Hazardous Activities", which states:
  - 1) Activities that create a hazard and that are not allowed for in the original design shall not be carried out in a building unless provisions are made to control the hazard in conformance with this Code.
  - 2) No major occupancy of Group F, Division 1 shall be contained within a building with any occupancy classified as an assembly, care, home-type care, treatment, detention or residential occupancy.
49. In other words, the activity of hosting special events with up to 100 people assembled on the

production floor creates a hazard that is not allowed for in the original design of the distillery and may not be carried out unless provisions are made to control the hazard in conformance with the Fire Code.

50. As set out in Division A, Subsection 1.2.1.1.(1) of the Fire Code, compliance with the Fire Code can be achieved either by complying with the applicable acceptable solutions in Division B or by using alternative solutions that will achieve at least the minimum level of performance required by Division B in the areas defined by the objectives and functional statements attributed to the applicable acceptable solutions. The requirements for an alternative solution are set out in Division C, Section 2.3.
51. Given that the Fire Code does not permit A2 occupancy in a distillery, the core question in this appeal is whether the Appellant has provided an adequate solution that meets the requirements of Division C, Section 2.3 of the Fire Code, to support permitting special events with up to 100 people assembled on the production floor. As explained further below, the Tribunal finds the Appellant has not yet done so.
52. When the CFD issued the 2019 Special Events Letter, it was in effect accepting an alternative solution as a basis for permitting an activity that creates a hazard that was not allowed for in the distillery's original design, despite not expressly recognizing this as an applicable compliance path under the Fire Code. When the CFD determined in November 2024 that it would no longer accept the alternative solution, after having accepted this alternative solution more than 40 times over five years, it was appropriate for the CFD to give the Appellant some time to consider whether there was a different way to achieve compliance with the Fire Code in order to continue hosting special events at the distillery. The CFD waited until February 2025 before issuing the Fire Safety Codes Order, after the Appellant was unsuccessful in achieving compliance via the Specific Variance Request.
53. The Tribunal recognizes that the CFD's direction to the Appellant may have been confusing, to the extent the CFD suggested the Appellant could or should seek a building permit and a variance under the Building Code rather than pursuing an alternative solution under the Fire Code. Nevertheless, the Specific Variance Request was properly refused by the Building AHJ for several reasons.
54. First, the Appellant's reliance on the Special Events STANDATA as "allowi[ng] a Temporary Use occupancy" for special events is misplaced. The type of special events that the Appellant wishes to continue hosting at the distillery do not constitute a "temporary use" in the meaning of the Building Code, Division C, Section 2.2.11.3. Although "temporary use" is not defined in the Building Code, the examples provided at Note A-2.2.11.3.(1) do not involve an existing building's occupancy classification flipping back and forth to accommodate special events, but rather the use or occupancy of a building for a short period of time with a start and end date:

**A-2.2.11.3.(1) Temporary Use.** An authority having jurisdiction has the discretionary power to allow the temporary use or occupancy of a building even though the building may not comply entirely with all requirements of the NBC(AE). Exceptions to compliance with all requirements are permitted in cases where buildings are intended for use and/or occupancy for short periods of time. This reasonable approach allows tents and air-supported structures to be erected and occupied at

carnivals, circuses, sideshows, auctions, religious outdoor events, etc. It also allows for more permanent structures, although still temporary in nature, to be used as school rooms, trailers on car dealer lots, storage sheds, office accommodation at construction sites, or shelters to house plants during the spring season at shopping centres.

- 55.** Second, because the variance request relied on operational conditions rather than modifications to the building, the variance request should have been submitted to CFD to be considered under the Fire Code. This was not a Building Code issue.
- 56.** Third, even if the variance request had been submitted to CFD to be considered under the Fire Code, it did not meet the technical requirements for an alternative solution. Section 2.3 of Division C of the Fire Code sets clear expectations for documentation of alternative solutions, including the following requirements:
- It is the responsibility of the person requesting the use of an alternative solution to provide documentation demonstrating that the proposed alternative solution complies with the Code (Subsection 2.3.1.1.(1)). As such, if the documentation provided for a proposed alternative solution is deficient, it is not the responsibility of the Authority Having Jurisdiction or, on appeal, the Safety Codes Council, to rectify the deficiency.
  - Documentation of a proposed alternative solution must outline the analytical methods and rationales used to determine that the proposed alternative solution will achieve at least the level of performance required by Division B, and must identify the applicable objectives, functional statements and acceptable solutions (Subsection 2.3.1.1.(2)(a) and (3)). To frame this another way, the analysis must address the question: “as safe as *what?*” In answering this question, the “what” must be a minimum level of performance required by an applicable acceptable solution in Division B of the Code.
  - Documentation of a proposed alternative solution must also include information concerning any special maintenance or operational requirements that are necessary for the alternative solution to achieve compliance with the Code after the building is constructed (Subsection 2.3.1.1.(2)(b)).
- 57.** At the hearing, the Appellant conceded that the engineering report provided in support of its Request for Specific Variance did not identify specific Code references. In other words, the Appellant’s proposed alternative solution did not identify the applicable objectives, functional statements and acceptable solutions under Division B of the Fire Code. The Appellant gave various reasons for not providing specific Code references, including that the Request for Specific Variance form did not state that specific Code references were required, and that the City of Calgary did not subsequently request specific Code references. None of these reasons excuse a professional who takes on a responsibility under any Code from ensuring they understand and adhere to the Code’s requirements for documentation of an alternative solution.
- 58.** It is not sufficient for the Appellant to state, as it did at the hearing, that its proposed alternative solution is safer than normal operating conditions in the distillery. A distillery is an F1 occupancy. If the Appellant wishes to host an assembly of up to 100 people on the production floor for special events, the Appellant should have proposed an alternative solution demonstrating that it can meet the minimum level of performance required by Division B for an occupancy that *is* permitted with A2 occupancy, with specific reference to relevant acceptable solutions, objectives, and

functional statements. While the technical documentation provided by the Appellant addresses fire and explosion risks, it in no way associates those risks to the performance required under an acceptable solution, providing no objective basis for acceptability. The analysis by the Appellant's engineer made no attempt to relate the proposed alternative to an acceptable solution. As such, the technical analysis provided in support of the Appellant's Request for Specific Variance did not provide sufficient information for the Tribunal to assess whether the controls proposed by the Appellant will result in conformance with the Fire Code.

59. However, the Tribunal places weight on the fact that the CFD allowed more than 40 special events to proceed under the 2019 Special Events Letter, conducting an inspection of the distillery prior to each event. Further, the CFD did not consider it necessary in November 2024 to immediately issue the Fire Safety Codes Order requiring the Appellant to cease using the F1 High hazard occupancy production floor space as an A2 for assembly use but waited nearly three months before doing so. Based on CFD's approach and the Tribunal's own review of the controls the Appellant has implemented during special events under the 2019 Special Events Letter, the Tribunal determined it was appropriate to allow the Appellant to continue to rely on the conditions set out in the 2019 Special Events Letter, including assembly on the production floor, for a further three months from the date of this Order. During this time, the Appellant is advised to carefully review the technical requirements for an alternative solution under the Fire Code, and continue working with CFD with respect to how the Appellant will meet the "Hazardous Activities" requirements at Division B, Subsection 2.1.2.2 of the Fire Code.
60. Finally, the Tribunal considered whether it should extend the conditions in the 2025 Special Events Letter instead of the 2019 Special Events Letter, but was concerned that moving significant volumes of flammable liquid in casks off-site was a disproportionately hazardous activity.

Signed at the City of Edmonton )  
in the Province of Alberta )  
this 14<sup>th</sup> day of November, 2025 )



Chris Taylor  
Chair, Fire Sub-Council  
Administrative Tribunal