

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
December 13, 2017

Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I	9:00 A.M.	SDAB-D-17-507	Remove and refrain from parking any vehicles in the required front yard area. You must comply with this Order before December 8, 2017.
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12747 – 116 Street NW
Project No.: 266021468-001

II	10:30 A.M.	SDAB-D-17-241	Cease the use (Temporary Storage) by removing all vehicles and heavy equipment before December 21, 2017. The Order is to be complied with on or before December 21, 2017.
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12808 - 151 Street NW
Project No.: 246494846-003

NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-17-507

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 266021468-001

APPLICATION TO: Remove and refrain from parking any vehicles in the required front yard area. You must comply with this Order before December 8, 2017

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: November 17, 2017

DATE OF APPEAL: November 29, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12747 – 116 Street NW

LEGAL DESCRIPTION: Plan 381AJ Blk 6 Lot 15-16

ZONE: (RF2) Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

My driveway / parking has been in existence for at least 60 years since the neighbourhood was built. I bought the home in March 1991 and have used this parking without incident for almost 28 years before receiving a letter to comply to not park there. Also received a \$250.00 ticket.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) ...
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

...

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under sections 120.2(7), **Single Detached Housing** is a **Permitted Use** in the (RF2) Low Density Infill Zone.

Under section 6.1(2), **Accessory** means, “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Section 120.1 states that the **General Purpose** of the **(RF2) Low Density Infill Zone** is “to retain Single Detached Housing, while allowing infill on narrow lots, and Secondary Suites and Garden Suites.”

Under section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Objects Prohibited or Restricted in Residential Zones

Section 45.7 states:

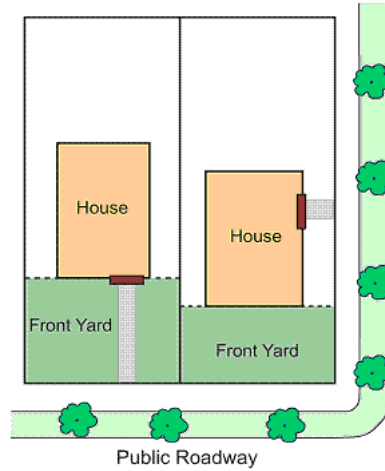
In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- a. vehicles shall not be located on the landscaped portion of the Yard; and

- b. vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

Under section 6.1(45), **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

Citizen Services
Community Standards and Neighbourhoods

City of Edmonton
2nd Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, AB T5J 0J4

edmonton.ca



Date: November 17, 2017

Reference/File No: 266021468-001

ORDER

(Issued Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000 c. M-26)

TO:

RE: Municipal Address: 12747 - 116 STREET NW

Legal Description: Plan 381AJ Block 6 Lot 15 - 16

Tax Roll Number: 2340156

(hereinafter referred to as “the property”)

As a result of an inspection of the property on November 16, 2017:

I find that the use of the land is not in accordance with the City of Edmonton Zoning Bylaw (Bylaw 12800) as follows:

Section 45: Objects Prohibited or Restricted in Residential Zones

45. (7) In the Front Yard of any Site in any Residential Zone, or in the case of a corner Site, in the Front Yard or the flanking Side Yard in any Residential Zone:

- (a) vehicles shall not be located on the landscaped portion of the Yard; and
- (b) vehicles shall only be allowed on a Driveway or within an attached or detached Garage.

THEREFORE YOU ARE ORDERED TO:

Remove and refrain from parking any vehicles in the required front yard area.

YOU MUST COMPLY WITH THIS ORDER BEFORE: December 8, 2017

Officer: Alicia
Complaints and Investigations
Community Standards Branch

EMEO#103

Telephone: 780-496-3970

OFFENCE FOR NON-COMPLIANCE:

Pursuant to Section 557(a.3) of the Municipal Government Act (hereinafter referred to as the "Act") a person who contravenes or does not comply with an order under section 645 is guilty of an offence and liable to prosecution.

Pursuant to Section 566(1) of the Act a person who is guilty of an offence is liable,

- (a) to a fine of not more than \$10 000, or
 - (b) to imprisonment for not more than one year,
- or to both fine and imprisonment.

ADDITIONAL CONSEQUENCES FOR NON-COMPLIANCE:

Pursuant to Section 646(1) of the Act if a person fails or refuses to comply with an order under section 645 the municipality may, enter on the land or building and take any action necessary to carry out the order.

Pursuant to Section 553(1)(h.1) of the Act when an order is carried out under section 646(1) the expenses and costs incurred in carrying out the order may be placed on the tax roll of the property and that amount:

- a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
- b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

If you fail to comply with the provisions of this order the City of Edmonton will, at its election, take action to enforce the order by taking whatever actions or measures are necessary to remedy the contravention of the bylaw or to prevent the re-occurrence, and all expenses of which will be placed on the tax roll of the property.

PROCEDURE FOR STARTING AN APPEAL OF THE ORDER

Pursuant to section 685(1) of the Act a person affected by an order under section 645 may appeal to the Subdivision and Development Appeal Board.

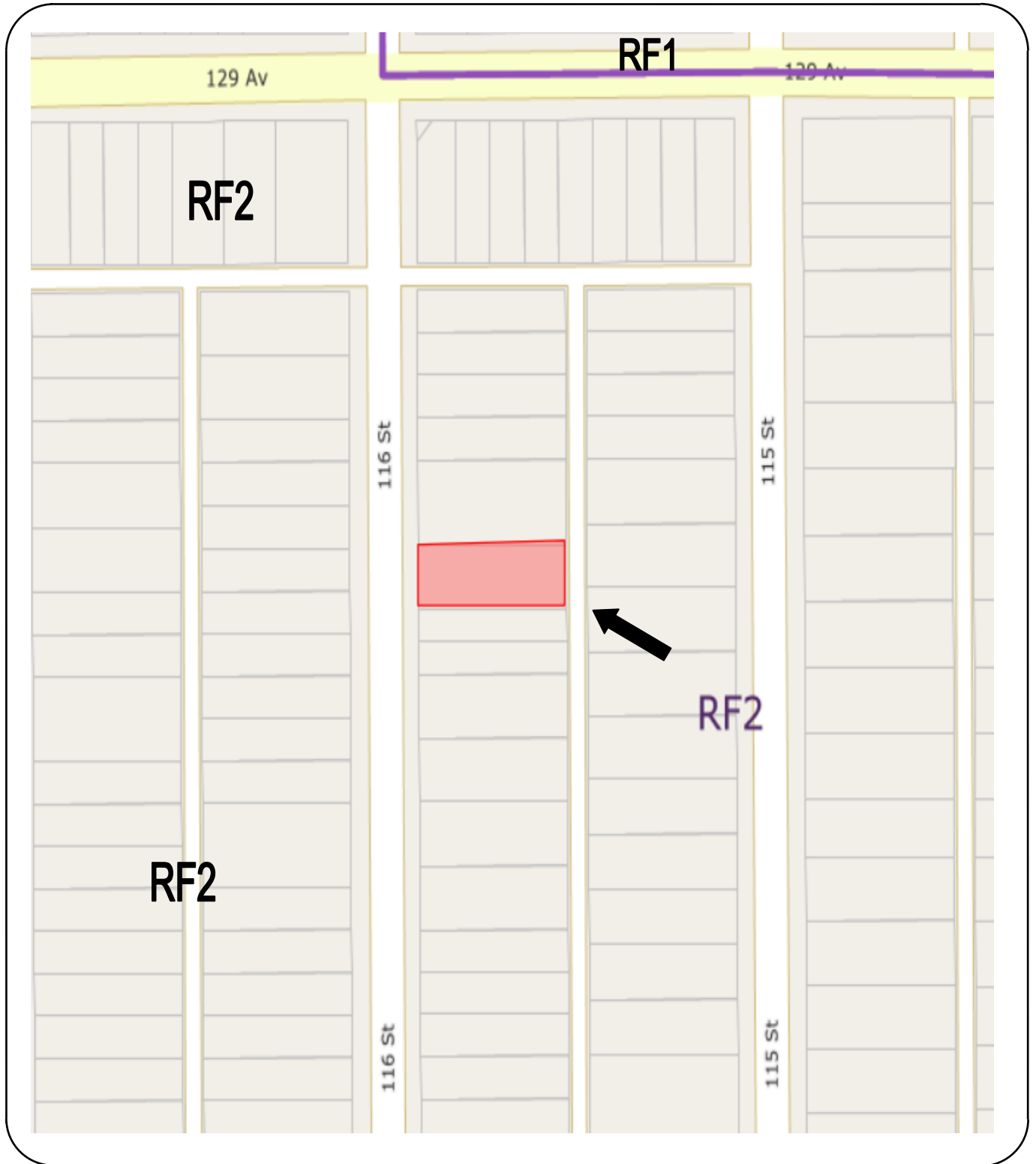
Pursuant to section 686(1) of the Act an appeal to the Subdivision and Development Appeal Board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days after the date on which the person is notified of the order under section 645.

Requests for review must be received by:

Subdivision and Development Appeal Board
Office of the City Clerk
10019 – 103 Avenue NW
Edmonton, AB T5J 0G9

Telephone: (780) 496-6079
Fax: (780) 496-8175

The Notice of Appeal must be accompanied by a cheque or money order in the sum of \$72.00 payable to the City of Edmonton or it is not considered complete and will not be processed. If you are delivering your notice of appeal in person you may pay with cash.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-507



ITEM I: 10:30 A.M.

FILE: SDAB-D-17-241

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 246494846-003

APPLICATION TO: Cease the use (Temporary Storage) by removing all vehicles and heavy equipment before December 21, 2017. The Order is to be complied with on or before December 21, 2017

DECISION OF THE DEVELOPMENT AUTHORITY: Order Issued

DECISION DATE: November 23, 2017

DATE OF APPEAL: December 1, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12808 - 151 Street NW

LEGAL DESCRIPTION: Plan 7621436 Blk 102 Lot 18

ZONE: (IB) Industrial Business Zone

OVERLAY: N/A

STATUTORY PLAN: Mistatim Area Structure Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

When we were advised by the City that we could not park our vehicles on the site, a rezoning application was made to rezone the site from IB to IM, approximately 2 months ago. The appeal is being filed to provide additional time for the rezoning application to be reviewed or to find another site.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Stop order

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) ...
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

...

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under sections 400.2 and 400.3, **Temporary Storage** is **neither** a Permitted Use **nor** a Discretionary Use in the (IB) Industrial Business Zone.

Under section 7.5(6), **Temporary Storage** means:

development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

Under section 400.1 states that the **General Purpose** of the **(IB) Industrial Business Zone** is:

to provide for industrial businesses that carry out their operations such that no nuisance is created or apparent outside an enclosed building and such that the Zone is compatible with any adjacent non-industrial Zone, and to accommodate limited, compatible non-industrial businesses. This Zone should normally be located on the periphery of industrial areas and adjacent to arterial or major collector roadways.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

City of Edmonton
Development and Zoning Services
Development Compliance & Inquiries

5th Floor, Edmonton Tower
10111 104 Avenue NW
Edmonton, AB T5J 0J4
Canada
edmonton.ca/developmentcompliance



November 23, 2017

Our File: 246494846-003

MUNICIPAL GOVERNMENT ACT ORDER

Dear Sir/Madam:

A check with Land Titles Office discloses that you are the registered owner(s) of the property located at 12808 - 151 STREET NW, legally described as Plan 7621436 Blk 102 Lot 18.

This Property was inspected by Development Compliance Officer Jordan McArthur, on November 22, 2017. City of Edmonton Development Compliance Officers have the authority to conduct site inspections and exercise development powers under Section 542 of the Municipal Government Act.

ZONING BYLAW INFRACTION:

This property is zoned IB (Industrial Business Zone) in accordance with Section 400 of the Edmonton Zoning Bylaw. Our investigation revealed that a Use (Temporary Storage) has been developed. The City of Edmonton has not issued a development permit to construct a Use, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.

Temporary Storage means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds (Edmonton Zoning Bylaw 12800 Section 7.5(5)).

The Use of the property for Temporary Storage is neither a Permitted nor Discretionary Use in the Industrial Business Zone (IB) as defined by the Edmonton Zoning Bylaw 12800.

ORDER:

Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:

1. CEASE the Use (Temporary Storage) by removing all vehicles and heavy equipment before December 21, 2017.

This Order is to be complied with on or before December 21, 2017

CONSEQUENCES FOR NON-COMPLIANCE:

In the event that a person fails to comply with an Order issued under Section 645, Section 646 of the Municipal Government Act authorizes the City to enter on the land and take any action necessary to carry out the Order. Section 553(1)(h.1) of the Act provides that the costs and expenses of carrying out an Order may be added to the tax roll of the property. Section 566(1), subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or to both a fine and imprisonment.

The property will be inspected on December 21, 2017 to determine compliance with this Order.

Failure to comply will result in action as described in Section 646.

YOU ARE HEREBY NOTIFIED that if you do not CEASE the Use (Temporary Storage) by removing all vehicles and heavy equipment before December 21, 2017. The City may carry out the Order by entering onto the land and performing remedial actions pursuant to Section 646, and all the costs and expenses in doing so will be added to the tax roll pursuant to Section 553(1)(h.1) of the Municipal Government Act R.S.A. 2000.

Following are Sections 553, 645, 646, 683, 685 and 686 of the Municipal Government Act, R.S.A. 2000, c.M-26.1, which provides you with the right to appeal this Order and enables the City to add all costs associated with this action to the tax roll of the property.

If you have any questions in regards to this matter, please contact the writer at 780-496-5375.

Regards,

**Adding
Amounts
Owing to tax
roll**

- 553(1)** A council may add the following amounts to the tax roll of a parcel of land:
- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
 - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
 - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
 - (d), (e) repealed 1999 c11 s35;
 - (f) costs associated with tax recovery proceedings related to the parcel;
 - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
 - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
 - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
 - (h.1) the expenses and costs of carrying out an order under section 646;
 - (i) any other amount that may be added to the tax roll under an enactment.

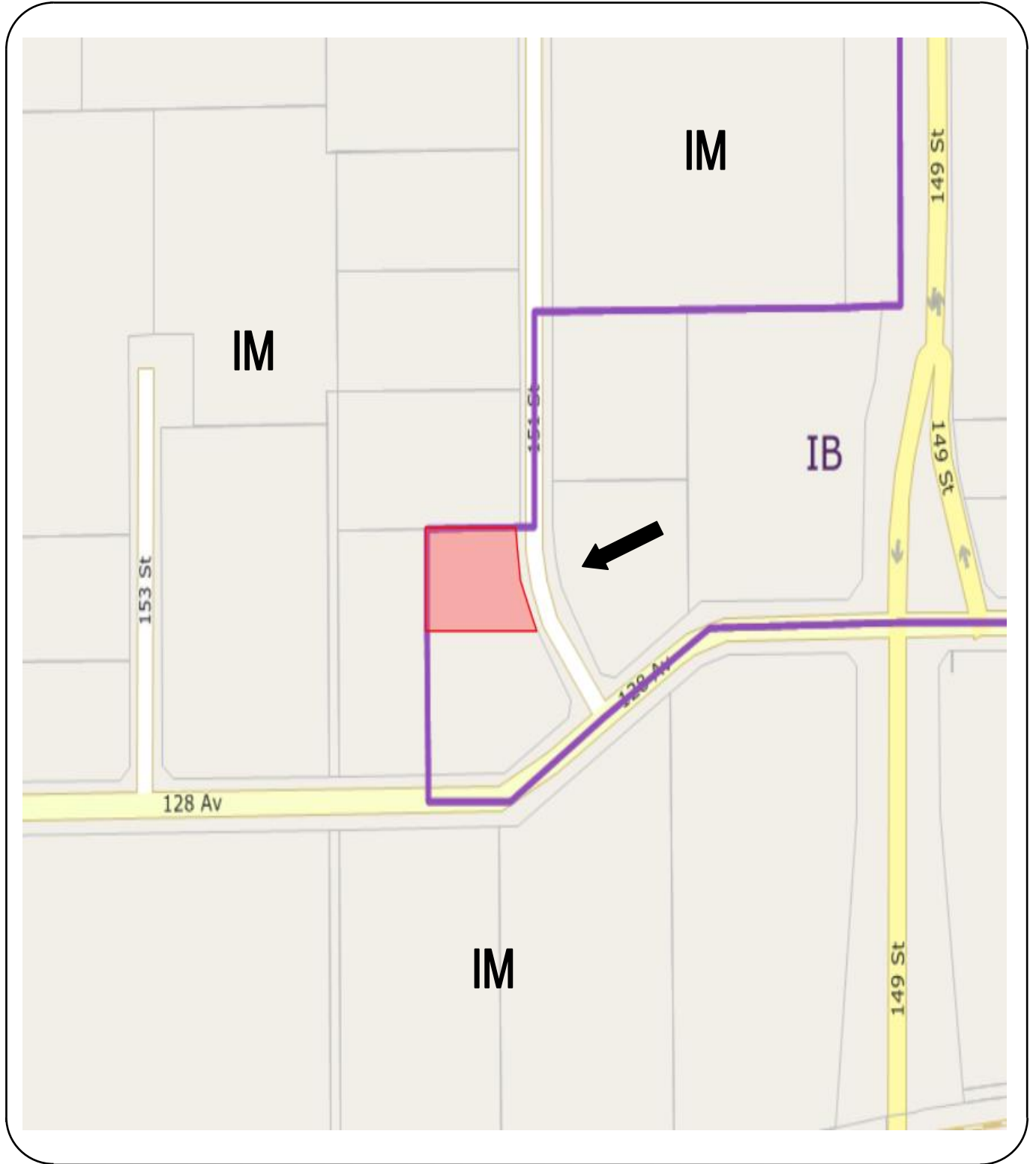
Stop order

- 645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,
- the development authority may act under subsection (2).
- (2)** If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3)** A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

**Enforcement of
stop order**

- 646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2)** A municipality may register a caveat under the Land Titles Act in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

- (3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.
- Permit**
- 683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.
- Grounds for appeal**
- 685(1)** If a development authority
- (a) fails or refuses to issue a development permit to a person,
 - (b) issues a development permit subject to conditions, or
 - (c) issues an order under section 645,
- the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.
- (2)** In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.
- (3)** Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.
- Appeals**
- 686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,
- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,
- or
- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3)** The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing
- (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
- (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- (5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-241

