

TO:	CHAIR AND MEMBERS COMMUNITY & PROTECTIVE SERVICES COMMITTEE MEETING ON TUESDAY, JULY 19, 2016
FROM:	JOHN KOBARDA FIRE CHIEF LONDON FIRE DEPARTMENT
SUBJECT:	RESPONSE/UPDATE TO RESOLUTIONS CONCERNING PUBLIC SAFETY MATTERS

RECOMMENDATION

That on the recommendations of the Fire Chief and the concurrence of the Managing Director of Neighbourhood, Children and Fire Services, this report **BE RECEIVED** as information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- None

BACKGROUND

At its June 28, 2015 meeting, Municipal Council resolved the following:

- 5) *That the following actions be taken with respect financial penalties for violations of provincial regulations related to fire and life safety issues:*
 - a) *the Civic Administration **BE REQUESTED** to urge the Ministry of Community Safety and Correctional Services and London Fire Department to request the Ontario Fire Marshal's (OFM) office to review current fines issued against property Owners found to be in violation of provincial regulations related to fire and life safety issues, with a view to asking the OFM to establish additional and more substantive pre-set Part I minimum fines for such violations;*
 - b) *the London Fire Department and Municipal Law Enforcement and Licensing staff **BE ENCOURAGED** to continue a coordinated approach, where applicable, to improve the safety and quality of life for Londoners and to include, where appropriate, other agencies and provincial officials in this coordinated approach; and,*
 - c) *the Civic Administration **BE REQUESTED** to investigate and report back at a future meeting of the Community and Protective Services Committee, with respect to the possibility of posting information pertaining to properties that are found to be in non-compliance of Fire Code and municipal by-law regulations on the City of London's website. (5/8/CPSC)*

The purpose of this report is to provide an update on the status of resolutions noted above.

RESOLUTION 5(a)

Background

Several years ago the Province initiated a review to seek methods to more efficiently address Fire Code violations. Early in 2015, the Province included 41 new ticketable violations that fall under Part I. There are now 47 ticketable offences. The change broadens the ability of Fire Prevention Inspectors to address Fire Code violations to issue tickets. During the review, the Province also reviewed the dollar amount of the initial offences. The fines range from \$195 to \$295.

Actions

Last fall, the London Fire Department (LFD) submitted Council's Resolution to the Office of the Fire Marshal and Emergency Management (OFMEM) to initiate discussion and possible consideration. Al Suleman, Director /Deputy, Standards, Training and Public Education, Office of

the Fire Marshal and Emergency Management, recently responded to the request. Mr. Suleman advised that the OFMEM will be reviewing the number of ticketable offences this year with a view to increase the number ticketable violations. As well, they will be revisiting the fine structure. Any changes would be subject to the approval of the Chief Justice.

Further to the above, Civic Administration recently sent a letter on Council's behalf to the Honourable David Oraziotti, Minister of Community Safety and Correctional Services, requesting a review as well.

RESOLUTION 5(b)

The LFD and Municipal Law Enforcement Services (MLES) staff work together in a coordinated approach. Both organizations do so to improve the safety and quality of life for Londoners. Routinely, our respective Inspectors advise each other of situations of concern. Where applicable, Inspectors also conduct coordinated inspections. One recent example would be our joint initiative surrounding vacant buildings. The LFD and MLES assembled a multidisciplinary team that jointly inspected and documented all of the City's vacant buildings. Where necessary, Inspectors undertook their independent actions, as provided for under the Ontario Fire Code and Municipal Bylaws. Since August of 2015, frontline LFD fire crews visually inspect every building monthly to ensure it is secure.

Additionally, the London Fire Department continues to work with a number of agencies including those listed below.

- London Police Services
- Middlesex-London EMS
- London & Middlesex Housing Corporation
- Canadian Mental Health Association
- Community Care Access Centre
- Homeless Coalition
- Middlesex-London Health Unit
- London Cares
- City of London Social Services
- London Assertive Community Treatment Team
- Ministry of Labour
- Technical Standards & Safety Authority

Another example of LFD's collaborative approach includes being one of the first City of London departments to join the Province's Service Ontario pilot project. The project's goal was to develop an efficient and coordinated approach to inspecting and licensing specific businesses. LFD remains committed to continuing its participation in the future.

RESOLUTION 5(c)

Civic Administration was requested to investigate and report back at a future meeting of the Community and Protective Services Committee about the possibility of posting information about properties that are found to be in non-compliance of Fire Code and municipal by-laws on the City of London's website.

Web-Posting Convictions

For the purposes of this report, it is recommended that only non-compliance as determined by a **court of law** should be considered for web-posting. This would include convictions resulting from tickets paid out of court as well as guilty pleas and trials with convictions. It might include Inspection Orders where appeal periods have expired, but this would have to be explored further. The City must be cautious not to interfere with or compromise an on-going investigation or a prosecution and therefore it is not recommended that information relating to violations that are under investigation or before the courts be posted on the web.

One critical factor to keep in mind is that any public disclosure of a conviction must comply with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, Chapter M.56 (MFIPPA). To that end, Civic Administration recommends that personal names not be web-posted.

Where Part I tickets are paid out of court, additional analysis for web-posting is required. Part I tickets are processed by the Provincial Offences Administration office, and the LFD would need to determine if and how it could access the conviction information from this office. Each ticket would need to be tracked for follow-up. If the information cannot be provided electronically, the charges would need to be entered manually.

Web-Post Using Dynamic Web Page

Currently, the City uses a dynamic web page for its Property Inquiry System (<http://apps.london.ca/permitinquiry/inquiry.aspx>) that shows the status of Building Permits. In order to obtain information about a building or property, the user is required to enter the specific address. The information returned only relates to that address. Dynamic Web Pages is a methodology that the Information and Privacy Commissioner of Ontario (IPC) recommends. It is also the recommended method should Council wish to post “non-compliance” information on the City’s website. With respect to this methodology, the IPC states,

Generating Dynamic Web Pages A dynamically-generated web page or site is one in which content is returned in response to information provided by the user. Dynamic web pages are typically controlled by a website application server that processes user inputs and delivers customized content. Page results are not static but are generated on the fly in response to a visitor’s capabilities, preferences, or actions. For example, dynamic web pages are able to serve pages tailored for mobile browsers, or location-aware content based on the visitor’s IP address or cookie information.

By developing a dynamic web page, a municipality can have more control over how information is displayed and made available to site visitors. For example, website administrators of dynamic web pages can restrict a user’s ability to search for individual names and limit robots’ ability to access content. This can include preventing URLs from being bookmarked or linked. In addition, dynamic web pages can administer page loading restrictions, such as limiting the display of page content and serving customized page content in response to user actions and capabilities. This can effectively slow-down information discovery and retrieval processes and prevent unauthorized or large-scale harvesting of information on your website by both humans and automated agents.

While dynamic web pages have numerous benefits, it is important to note that they are more complex to implement and maintain, requiring specialized knowledge of programming languages on specialized application servers that handle client-user interactions. This can be costly and time consuming, and you will need to consider if this approach is right for your municipality.¹

Current Web-Posting of Information about Residential Rental Unit Licensing (RRLU) on City Website

Currently, the City has a Residential Rental Units Licensing Bylaw CP-19 in place (<http://www.london.ca/city-hall/by-laws/Documents/rentalunitsCP19.pdf>). This By-law applies to any building containing four or less rental units and converted dwellings, while apartment and townhouse buildings are exempt. Any person operating a rental unit must hold a current valid license to do so, which requires that the property be in accordance with the requirements of the *Building Code Act*, the *Fire Protection and Prevention Act, 1997*, and the Property Standards By-law. A fire inspection is required at the time of a new application.

Information about the status of licensing for a residential rental unit is available on the *Citymap* for review. The website identifies buildings that the City has licensed under the Bylaw, as well as those with applications pending. The scope of the by-law however does not include all types of residential rental units.

Noted above, as a part of the City’s RRLU licensing process, the LFD inspects each building to ensure they meet the requirements of the Fire Code. Where the building does not meet the Fire Code, the Fire Prevention Inspectors will take the necessary action(s). The LFD will not approve a RRUL until such time all of the Fire Code violations are addressed. Individuals can access the website through:

http://webmap.london.ca/mapclient/main.asp?Script=Public&Browser=W3C&Width=1280&Referer=http://www.london.ca/d.aspx?s=/awards_and_recognition/streetsofhonour.htm&Provider=SV&K10=0&lpad=0.

¹ Government of Ontario. (2016, July 8). *Transparency, Privacy and the Internet: Municipal Balancing Acts*. Retrieved from Information and Privacy Commissioner of Ontario: <https://www.ipc.on.ca/images/Resources/2015-municipal%20guide-public%20discl-access.pdf>, p 13.

Web-Posting Convictions Policy

If Council wishes to release conviction information on-line or in any other public manner, it is highly recommended that, a council-approved policy with respect to the release of such information be approved and implemented. Such a policy would include direction on such matters as what information could be released and in accordance with MFIPPA, how it could be released, when it could be released, when it would be removed from public posting. Having such a policy would provide protection to the City, as well as Owners, before the implementation of the public posting.

Web-Posting of Convictions – Not a Reliable Source of Information for Current Compliance Status

Posting of convictions on-line should not be intended to be used as a reliable source of information of the current compliance status of any building. All that the web-posting would indicate is that a property had a conviction at some point in time for an offence in the past. Given the relatively slow court process to trial, such conviction could occur months or years after an offence occurred. A conviction will not provide an accurate representation of the current compliance status of a property. Conversely, lack of a web-posting for a conviction would not necessarily mean that a property is currently in compliance.

The only way to provide a system that would show the current status of property compliance would be to implement a frequent inspection of buildings program. The LFD lacks the resources to inspect buildings on a frequent schedule. Again, an inspection is simply a snapshot in time and may not reflective the state of the building when the posting is viewed.

In review, the system would not necessarily provide the information desired. The posting of information on the City's website in this circumstance should not be relied upon by potential purchasers and renters with respect to the current status of the property.

Council may wish to consider the utility of posting convictions on line for past offences given its limitations.

Survey of Peer Practices

During its review, the LFD contacted the 20 largest fire departments in Ontario to determine if they used a practice of posting buildings in non-compliance with the Fire Code. Eleven of the 20 fire departments surveyed responded. All of the respondents indicated that they do not post or map buildings with Fire Code violations. The findings of the survey are summarized in Appendix A.

Municipal Law Enforcement

Provided by Orest Katolyk, Chief Municipal Law Enforcement Officer

Municipal Law Enforcement Services address a number of by-law issues under the following protocols: respond to complaint, proactive enforcement / neighbourhood blitzes and referrals from partner agencies (Fire, Police, & Health). If an investigation identifies a by-law violation an Order is sent to the property owner. For property standards Orders, there is also the option to post the Order on site. Currently, all active property standards Orders are identified in the Property Inquiry system on the City's website. While a physical copy of the Order is not linked to the Property Inquiry system, a summary of the Order is given (for example: exterior non-compliance). Property owner information is not provided in the Property Inquiry system. There are plans to include all active by-law violation Orders in the Property Inquiry system. This would include by-laws such as the Yard and Lot Maintenance by-law (long grass/weeds, derelict vehicles), Zoning by-law (illegal uses), and Sign by-law (illegal signs). At this time, there is no mapping proposed for the active Orders.

For purposes of providing a customer service interface when making decisions for rental accommodations, buildings licensed under the City's Rental Residential Unit Licensing by-law are identified in the City Map on the website.

POTENTIAL ISSUES OF WEB-POSTING INFORMATION

If Council wishes to proceed with web-posting, Civic Administration recommends: (i) only posting **convictions** related to a building; and (ii) using a Dynamic Web Pages methodology for providing information. Even taking these precautions, web-posting information still has its challenges. The challenges include:

- Compiling the Information
- Wide range of severity of violations;
- Building types;
- Duration of a posting; and
- Technological challenges.

Compiling the Information

It may not be a simple task to compile the conviction information from the Provincial Offences Office. LFD does not have easy or automatic access to this information. Making Inspection Orders (where there are no further appeals) searchable by property might be explored for input into a Property Inquiry System. The LFD could include such an option as part of the LFD's technology project.

Wide Range of Severity of Violations

Addressing all Fire Code violations regardless of their severity is important to ensure the safety of occupants, noting that the Fire Code does not categorize violation by severity. For example, a burned out exit light depending upon all of the circumstance, might be considered minor in nature. On the other end of the spectrum, severe violations would include disabling or non-functioning sprinkler system or alarm panel. Through its inspection activities, the LFD discovers Fire Code issues that range between the two extremes. The question arises as to whether convictions related to all Fire Code violations be posted or those deemed to be more severe. That being said, a very strict policy and quality audits would need to be put in place to ensure consistency.

Building Types

It would be important to determine what types of buildings should be included in this initiative. While the Fire Department uses and applies the *Fire Protection and Prevention Act* and the Ontario Fire Code when carrying out its duties, for simplicity, this section will refer to the Ontario Building Code (OBC). The OBC identifies six (6) types of buildings/occupancies denoted by the letters A through F and they are as follows:

- **Group A:** Assembly including, but not limited to churches, schools, libraries, restaurants.
 - Four (4) divisions encompassing 32 subcategories
- **Group B:** Care including, but not limited to hospitals, nursing homes, long-term care homes, police stations.
 - Three (3) divisions encompassing 20 subcategories
- **Group C:** Residential/Lodging including, but not limited to apartments, college residences, hotels, motels.
 - Twenty-one (21) subcategories
- **Group D:** Business and Professional Services including, but not limited to banks, medical offices, dental offices, general offices.
 - Eleven (11) subcategories
- **Group E:** Mercantile including but not limited to department stores, markets, supermarkets, shops.
 - Seven (7) subcategories
- **Group F:** Industrial including, but not limited to laboratories, repair garages, warehouses.
 - Three (3) divisions encompassing 37 subcategories

The City's building stock numbers in the tens of thousands of buildings and includes almost every type of occupancy contained within the Groups and subcategories. Arguably, every type of building could be included within the scope of the Resolution; however, such an undertaking would be a monumental task requiring additional resources. If the decision of Council is to proceed with posting properties with convictions, it is recommended that the scope be narrowed only to apply to Group C occupancies falling under the Fire Code – those in which the citizens and students reside but are not single-family homes. This would exclude convictions related to the lack of a functioning Smoke Alarm and/or a Carbon Monoxide Detector in Owner occupied single-family residences without rental/leased units.

Duration of Listing

The length of time that the City should list such a building on its website would have to be determined, and this should be set out in a policy.

Given the resources available within the LFD, the inspection schedule for buildings varies. Buildings posing a possible higher risk are inspected annually, while others might be inspected up to every three years. As such, the value of posting properties loses value. The identification of the building on the website as having Fire Code violations due to a conviction(s) may or may not be a true indication of its current state. Its current state can only be determined by another inspection.

It is important to note that the City or the Fire Department might remove a posting from the website, but such information depending on how it is posted could remain available indefinitely. It may also be subject to retrieval by other means (Freedom of Information Act request, litigation). Posting information to the Internet changes the nature of somewhat limited public access information and may conflict with what the courts and legislature originally had in mind. Persistent information on the Internet could make it difficult for an Owner to rent or sell a property. This could create some liability on the Corporation of the City of London, especially if the information posted by the City is incorrect or outdated.

Technological Challenges

The LFD's current records management system, which is an "in-house" developed system and is used by the Fire Prevention and Fire Fighting Divisions, is at the end of its life and has limitations. One of the keystone subprojects within the LFD's overarching technology project is a new records management system. Scoping of the project will not likely occur until the fall of this year. It is highly likely that the records management system would not be fully functional before the summer/fall of 2017. Several options exist, including developing customized software. It is important to note that the LFD has not previously contemplated and therefore has not budgeted for a comprehensive software solution focused on automatically posting of convictions. If Council wishes the LFD to further explore the possibility of posting the information described within this report, it would include such an option into its scoping exercise.

FINANCIAL IMPACT

Council approved a capital project LFD technological improvements, including a records management system. Preliminary meetings with Information Technology Services (ITS) recently occurred. Based on those discussions, project scoping will not likely occur until this fall. However, this budget was not predicated on the implementation of a software solution that includes all of the capabilities that may be required. Accordingly, the funding currently available in the capital plan may not be sufficient to implement such a comprehensive solution. Nonetheless, if Council wishes to proceed the LFD will include the option within the project's scope should funding permit.

SUMMARY

Three (3) Resolutions directed the Civic Administration and the London Fire Department to undertake separate actions with respect to fire safety in the City of London.

Resolution 5(a) spoke to Civic Administration urging the Ministry of Community and Correctional Services and the London Fire Department requesting that the Ontario Fire Marshal's Office (Office) review the fines issued against property Owners found to be in non-compliance with the Fire Code. The OFEM has responded that they will be undertaking another review of the number of ticketable offences, as well as the monetary amount of fines. Civic Administration is sending a letter to the Minister of Community and Correctional Services seeking the same.

Resolution 5(b) encourages the LFD and Municipal Law Enforcement and Licensing (MLEO) to work a coordinated approach. The LFD and MLEO continue to work in strong partnership toward improving the safety and quality of life of Londoners. Particularly in the last year or so, the LFD has expanded its reach with respect to partnerships. It will continue to build upon those partnerships, as well as seek new opportunities.

The final resolution, Resolution 5(c), requested that Civic Administration investigate and report back at a future meeting of the Community and Protective Services Committee about the

possibility of posting information about properties that are found to be in non-compliance with the Fire Code and municipal by-laws on the City of London's website.

The LFD can post on the City's website buildings with Fire Code violations. However, if Council wish to move forward with the posting of buildings on the City website found to be in non-compliance with the Fire Code that the following be considered:

- a) that such postings only include those properties where the Owner has been convicted;
- b) that such actions comply with the Municipal Freedom of Information and Protection of Privacy Act. R.S.O. 1990, Chapter M.56 (MFIPPA), noting that only building addresses may be used and not the names of Owners;
- c) that the type of buildings included be C occupancies, as designated by the Chief Building Official, but excluding Owner occupied single family residences except where a rental/leased unit is contained within the building;
- d) that a Dynamic Web Page be used limiting a search to a specific address, which would be in line with the recommendations of the IPC;
- e) that a council-approved policy with respect to release of such information be passed prior to the implementation of such an initiative to protect the City, as well as Owners;
- f) that the posting of convictions on the City's website should not be relied upon by potential purchasers and renters with respect to the current compliance status of the property;
- g) that the City might bear liability if it posts such information and it is incorrect or outdated; and,
- h) it is unknown if the posting of information on the City's website could potentially affect property values and rentals.

Notwithstanding the above, the LFD review also identified a number of challenges related to the concept. They included: What level of non-compliance would be posted?; What types of buildings would be posted?; How long would the non-compliant information be posted?; Information removed from the website can still be retrieved in the future; The City process should conform to the recommendations of the IPC; An inspection is simply the state at a point in time and, therefore, not reflective of the current or future state of a building. The City could be exposed to liability through this process.

Finally, in its review, the LFD contacted the 20 largest fire departments in Ontario to determine if they used a practice of posting buildings in non-compliance with the Fire Code. Eleven of the 20 fire departments surveyed responded. All of the respondents indicated that they do not post or map buildings with Fire Code violations.

RECOMMENDED BY:	REVIEWED AND CONCURRED BY:
JOHN KOBARDA FIRE CHIEF	LYNNE LIVINGSTONE MANAGING DIRECTOR, NEIGHBOURHOOD, CHILDREN & FIRE SERVICES

C. George Kotsifas
Orest Katolyk

APPENDIX A

2011 Provincial Population Ranking	Municipality	2011 Population	2011 Total private dwellings	<i>Do you post or plot on a map information pertaining to properties that are found to be in non-compliance with the Ontario Fire Code?</i>
1	Toronto	2,615,060	1,107,851	NO
2	Ottawa	883,391	370,217	NO
3	Mississauga	713,443	242,538	NO
4	Brampton	523,911	154,663	No Response
5	Hamilton	519,949	214,542	No Response
6	London	366,151	168,175	
7	Markham	301,709	93,202	NO
8	Vaughan	288,301	88,282	NO
9	Kitchener	219,153	89,603	No Response
10	Windsor	210,891	96,483	NO
11	Richmond Hill	185,541	60,169	NO
12	Oakville	182,520	63,894	No Response
13	Burlington	175,779	69,813	NO
14	Greater Sudbury	160,274	72,420	No Response
15	Oshawa	149,607	61,306	NO
16	Barrie	135,711	52,185	NO
17	St. Catharines	131,400	59,209	NO
18	Cambridge	126,748	47,818	No Response
19	Kingston	123,363	57,623	No Response
20	Whitby	122,022	41,931	No Response