

TO:	CHAIR AND MEMBERS COMMUNITY and PROTECTIVE SERVICES COMMITTEE MEETING ON MAY 24, 2017
FROM:	FIRE CHIEF JOHN KOBARDA LONDON FIRE DEPARTMENT
SUBJECT:	COUNCIL POLICY FOR PUBLICLY RELEASING ENFORCEMENT INFORMATION

RECOMMENDATION

That on the recommendation of the Fire Chief and the concurrence of the Managing Director of Neighbourhood, Children and Fire Services, the attached By-law (Appendix A) **BE INTRODUCED** at the Municipal Council Meeting on May 30, 2017 **TO ADOPT** a policy with respect to the public reporting of information pertaining to by-law and fire code violations.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Response/Update to Resolutions Concerning Public Safety Matters, CPSC Tuesday, July 19, 2016.

BACKGROUND

PURPOSE

Municipal Council, at its meeting on July 26, 2016 resolved *that the Civic Administration BE DIRECTED to report back to the Community and Protective Services Committee (CPSC) with respect to a draft policy to provide for the public web-posting of information pertaining to "Group C" properties (residential/lodging including, but not limited to apartments, college residences, hotels and motels) with convictions of fire code and by-law violations; it being noted that the CPSC received an information report from the Fire Chief with respect to this matter. (2016-P16) (8/9/CPSC)*

The City of London is committed to the transparency of the municipality by providing information to the public about by-law and fire code enforcement activities. By providing access to this information, support for two of Council's Strategic Areas of focus are reinforced: Strengthening Our Community ("*healthy, safe and accessible city*") and Leading in Public Service ("*open accountable and responsive government*"; and, "*innovative and supportive organizational practice*").

The purpose of this report is to review current practices for public access to enforcement information of by-law violations and to present a proposed Council Policy that will improve public access to information on fire code violations.

BACKGROUND

There is no legislative requirement for a Municipality to make by-law or fire code enforcement activities available to the public. Currently, City of London property by-law violations are available to view on the City's website, fire code violations are not.

Municipal Law Enforcement Officers inspect buildings and have the option to lay charges under that authority of the *Building Code Act* and *Municipal Act*. Enforcement files related to property standards matters utilize the City's AMANDA platform. Information is available for public viewing on the City's website through the Property Inquiry System at <http://apps.london.ca/permitinquiry/inquiry.aspx>. Individual address searches through this portal returns information about property specific building permits, development applications, whether or not a property has a residential rental unit licence, or if there are any active property standards orders or building code violations on record. By-law violations date back

approximately 15 years.

The Fire Prevention Division of the London Fire Department enforces the *Fire Protection and Prevention Act, 1997* and the *Fire Code*. They issue tickets for violations of this code ranging from inoperable smoke alarms or carbon monoxide detectors to offences such as disabled alarms and detectors, non-functioning sprinkler systems etc. These tickets are issued to a defendant, which could be a building owner, tenant, building manager etc., and are then filed with the Provincial Offences Administration (POA) Court where they are assigned a court file number. The Fire Department maintains their own records of violations and tickets issued and must request status updates on individual tickets from the POA Court to maintain their files. The Fire Department does not currently make these records public. Convictions of Provincial offences (including Fire Code convictions) under the Ontario Court of Justice are publicly posted as part of the current day's hard copy docket of violations which shows: details of the offence, name of the defendant, date of birth, and case number. Public applications, through a freedom of information request, can be made to the POA for a fee.

A scan of fire departments across the Province revealed that, of the twelve who responded to a request for information, none publicly post fire code offences.

Development of a Policy to Publicly Release Enforcement Information

In order to deliver on Council's direction to publicly post enforcement information, Civic Administration presents a proposed by-law to adopt the Council Policy found in Appendix A. The policy sets out procedures for publicly releasing enforcement information and includes:

- Who determines what information can be released;
- What information can be released, when and how;
- How the City will monitor, audit and remove information published to the City's internet site; and,
- How public requests for correct data errors are to be handled.

Implementation

Municipal Law Enforcement Services is undertaking a review of all applicable policies as part of the omnibus review of municipal policies. As part of the review, Civic Administration will report on the sharing of enforcement related information for the purposes of compliance, health and safety and the prevention of unsafe occurrences. This review is expected to be reported out in Q3 2017.

The Fire Department will continue to track all fire code enforcement activities as is current practice. Changes are required to both AMANDA and the Property Inquiry System to enable web posting of the fire code violations. A request has been submitted through the Information Technology Services (ITS) Project Request Intake Process. Implementation of this request will be determined through the usual prioritization process. It should be noted that there are limitations to the enforcement information that will be posted. The information within the Property Inquiry System **should not** be considered a reliable source of information of the **current** compliance status of any building. The information would only indicate that a property was at one time in violation of the *Building Code Act, Municipal Act, Fire Protection and Prevention Act, 1997, or the Fire Code*. It is proposed that violations related to fire be posted start with the implementation of the program and be posted for a maximum of 2 years. A disclaimer itemizing the limitations will be included with each fire violation detail. Further details on these limitations is included in the attached Schedule A – Council Policy.

FINANCIAL IMPACT

By-law violation information is regularly updated in the AMANDA system and automatically populates the Property Inquiry System on the City of London website. No further financial impacts are anticipated to continue this practice.

Manual posting of the Fire Code violations can occur fairly easily with some additional training of existing staff within Fire Prevention. An ITS Project Request has been made and the committee will review this request in May 2017.

SUMMARY

This report supports Council's desire to help London tenants and those seeking rental accommodations to easily find information on by-law and fire code violations for specific addresses on the City of London website. By-law violations are currently posted on the Property Inquiry System and it is anticipated that Fire Code violations can also be posted, timing to be determined by ITS Project Request Intake Process and resource availability.

Acknowledgements: This report was prepared with the assistance of Lynn Marshall, Adam Brightling, Orest Katolyk, Lori Kolodiazny, Michael Schulthess, Diane Lebold, and Jack Burt.

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- C. Orest Katolyk, Chief Municipal Law Enforcement Officer
- Lynn Marshall, Solicitor, City Solicitor's Office
- Mat Daley, Director IT, Finance & Corporate Services

APPENDIX A

Bill No.

By-law No. CPOL -

A By-law to adopt a Policy for Publicly Releasing Enforcement Information

WHEREAS section 224 of the *Municipal Act, 2001* provides that it is the role of council to develop and evaluate the policies and programs of the municipality;

AND WHEREAS section 224 of the *Municipal Act, 2001* provides that it is the role of council to ensure the accountability and transparency of the operations of the municipality;

AND WHEREAS section 224 of the *Municipal Act, 2001* provides that it is the role of council to ensure that administrative policies, practices and procedures...are in place to implement the decisions of council;

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law unless specifically authorized to do otherwise;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Council Policy for Publicly Releasing Enforcement Information, attached as Schedule A to this By-law, is adopted.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council

, 2017

Mayor

City Clerk

First reading -
Second reading -
Third reading -

SCHEDULE A

Council Policy

I. Policy Title: Publicly Releasing Enforcement Information

Approved by Council: _____, 2017

Effective Date: _____, 2017

II. Purpose

The municipal purpose for this policy is to increase the transparency of the municipality by providing information to the public about enforcement measures taken by the municipality.

This policy describes (A) who determines what information can be released, (B) what information can be released, (C) how the information can be released, (D) when the information can be released publicly, (E) how the City will monitor, audit and remove information published to the City's internet site, and (F) how the public can make requests to correct data errors.

III. Detailed Policy Statement

(A) Who Determines What Information Can Be Released

The Service Area Leads (or written designate) for each Service Area are granted the responsibility and authority to determine the enforcement information that may be released publicly, in accordance with this Policy.

(B) What Information Can Be Released

Any release of enforcement information must comply with the following:

- it must not compromise enforcement or prosecution matters;
- it must comply with all applicable legislation, including:
 - privacy legislation (e.g. *Municipal Freedom of Information and Protection of Privacy Act* - MFIPPA, *Personal Health Information Protection Act* - PHIPA)
 - it must not name or provide information serving to identify a young person as defined in the *Provincial Offences Act* – POA.

(C) How Information Can Be Released

There are many means of releasing information publicly, including:

- press release;
- social media;
- publishing on the City's internet site;

The nature of the information will dictate whether any or all of the above methods are suitable.

Release of enforcement information should comply with recommendations, guidance documents and best practices of entities that have expertise in this area, including:

- The Information and Privacy Commissioner of Ontario;
- The Privacy Commissioner of Canada;

In particular, where the Service Area Lead is considering publishing information on the City's internet site, it should be done in such a way that it prevents the unauthorized or large-scale harvesting of information, in view of protection of privacy legislation.

Any limitations of the information should be stated (e.g. the data does not reflect the status of current compliance, the currency of the data, etc.).

(D) When Can Information Be Released

Information should be as current and up-to-date as possible. Out-dated information should not be released.

The nature of the information will dictate when information is suitable for release.

Enforcement information must not be released publicly prior to the issuance and service of a summons on a defendant.

(E) How the City Will Monitor, Audit, and Remove Information Published to the City’s Internet Site

On a regularly scheduled basis, the Service Area Lead (or written designate) will monitor information it publishes to the internet, and it will perform audits on such information.

As enforcement information becomes out-dated, the Service Area Lead (or written designate) will remove it from the City’s internet site, where possible. It is to be recognized that, even where information is removed from the City’s internet site, such information may have been captured (e.g. cached) and stored elsewhere on the internet (e.g. search engine cache; archive.org) and may therefore be persistent. For this reason, information on static pages on City internet sites is to be avoided.

(F) How the Public Can Make Requests to Correct Data Errors.

A member of the public to whom the information relates may contact the City Clerk to request that data contained on the City’s internet site be reviewed for accuracy. The City Clerk shall forward the request to the applicable Service Area Lead (or written designate) for review.

IV. Implementation Practices and Procedures

Each Service Area Lead (or written designate) having responsibility for enforcement information should establish written practices and procedures to carry out the intent of this policy with respect to his or her own Service Area.

Implementation of this policy is subject to the availability of resources.

V. Definitions

“**information**” for the purposes of this policy, “information” relates to enforcement information and includes information about charges, convictions and orders;

“**Service Area Lead**” and “**Service Area**” have the meanings as set out in the Civic Administration By-law.

Revision History

Reference	Description