

<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY and PROTECTIVE SERVICES COMMITTEE MEETING ON JULY 18, 2017</b>
<b>FROM:</b>	<b>FIRE CHIEF JOHN KOBARDA LONDON FIRE DEPARTMENT</b>
<b>SUBJECT:</b>	<b>COUNCIL POLICY FOR PUBLICLY RELEASING FIRE CONVICTION INFORMATION</b>

<b>RECOMMENDATION</b>
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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 July 25, 2017 **TO ADOPT** a policy with respect to the public reporting of information pertaining to fire code convictions.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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Council Policy for Publicly Releasing Fire Violation Information, CPSC May 24, 2017

Response/Update to Resolutions Concerning Public Safety Matters, CPSC July 19, 2016 (attached Appendix C).

<b>BACKGROUND</b>
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**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)*

Further, Municipal Council, at its meeting on May 30, 2017 resolved that *the proposed Council Policy for publicly releasing conviction information BE REFERRED back to receive further comment at a future Public Participation Meeting to be held before the Community and Protective Services Committee. (2017-S08)(AS AMENDED) (4/6/CPSC)*. Council requested that the policy be amended to include convictions only and to limit postings to the Property Inquiry System on the City of London web site. The amended policy, as presented to Council on May 30, 2017, is attached as Schedule A and presented for public comment.

The City of London is committed to the transparency of the municipality by providing information to the public about fire code convictions. 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 convictions.

**BACKGROUND**

There is no legislative requirement for a Municipality to make by-law or fire code enforcement or conviction activities available to the public. Currently, City of London property by-law violations are available to view on the City’s website, fire code convictions 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/permitsinquiry/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 Part I 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. In addition, Part III Information charges can also be laid. The Fire Department maintains their own records of violations, charges, 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 for information can be made through a freedom of information request 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 or convictions.

Further background information was provided in a Community and Protective Services Report in July 2016, this report is attached as Appendix C.

### **Development of a Policy to Publicly Release Conviction Information**

In order to deliver on Council's direction to publicly post conviction 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 conviction 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.

An Administrative Procedure is attached as Appendix B that provides further details on how the policy will be implemented.

### **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 convictions. 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 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 at one time was not in compliance with the *Building Code Act*, *Municipal Act*, *Fire Protection and Prevention Act, 1997*, or the *Fire Code*. It is proposed that convictions be posted for a maximum of 2 years, include no names and are searchable by address only. A disclaimer itemizing the limitations will be included with each conviction detail. Further details on these limitations is included in the attached Schedule A – Council Policy.

<b>FINANCIAL IMPACT</b>
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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 convictions can occur fairly easily with some additional training of existing staff within Fire Prevention. An ITS Project Request has been made and the committee reviewed this request in May 2017.

<b>SUMMARY</b>
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This report supports Council's desire to help London tenants and those seeking rental accommodations to easily find information on by-law violations and fire code convictions 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 convictions 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.

<b>PREPARED &amp; SUBMITTED BY:</b>	
<b>DONNA BAXTER MANAGER, POLICY &amp; PLANNING SUPPORT, NEIGHBOURHOOD, CHILDREN &amp; FIRE SERVICES</b>	
<b>REVIEWED BY:</b>	<b>CONCURRED BY:</b>
<b>JOHN KOBARDA FIRE CHIEF LONDON FIRE DEPARTMENT</b>	<b>LYNNE LIVINGSTONE, MANAGING DIRECTOR NEIGHBOURHOOD, CHILDREN &amp; FIRE SERVICES</b>

- 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  
Fire Conviction 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 Fire Conviction 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 Fire Conviction Information Via the Internet

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 via the internet about fire convictions.

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 available via 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 for each Service Area are granted the responsibility and authority to determine the conviction information that may be accessed by the public via the City's internet site, in accordance with this Policy.

##### (B) What Information Can Be Released

Any release of conviction information to the public via the internet 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). No personal names will be posted.
  - 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

Release of conviction information to the public via the City's internet site 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 making information publicly available via 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

Conviction information should be as current and up-to-date as possible (and it must only be posted for two years from the conviction date). Out-dated information should not be released.

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

##### (E) How the City Will Monitor, Audit, and Remove Information Made Publicly Available via the City's Internet Site

On a regularly scheduled basis, the Service Area Lead will monitor information it makes publicly available via the internet, and it will perform audits on such information.

As conviction information becomes out-dated, the Service Area Lead will remove it from public access, 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. Google 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 for review.

**IV. Implementation Practices and Procedures**

Each Service Area Lead having responsibility for conviction 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**

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

**"conviction"** means conviction of a defendant by a court of law for a regulatory offence, and includes paying a ticket out of court, being deemed not to dispute a charge, entering a guilty plea, or being found guilty after a trial.

**Revision History**

Reference	Description

## APPENDIX B

### ADMINISTRATIVE - PROCEDURE

#### Related to Council Policy “Publicly Releasing Fire Conviction Information”

**Service Area: Neighbourhood, Children and Fire Services**

**Service Area Lead: Managing Director, Neighbourhood, Children and Fire Services**

Approved by Service Area Lead: July [REDACTED], 2017  
Effective Date: July [REDACTED], 2017

#### Procedure Description

This procedure sets out in detail the actions Neighbourhood, Children and Fire Services intends to follow for web posting of fire convictions.

This procedure sets out details of: who determines what information can be released; when and how the information can be released; how the City will monitor, audit and remove information published to the City’s internet site; and how public requests to correct data errors are to be handled.

#### Procedure Details

##### (A) Who Determines What Information Can Be Released

With respect to enforcement of the *Fire Protection and Prevention Act, 1997* (FPPA) or by-laws that are enforced by Fire Services, the Service Area Lead will consult with the Fire Chief or the Fire Chief’s written designate to determine what information is to be posted. The Service Area Lead may authorize the Fire Chief to post information.

- Fire Chief will make all final decisions regarding procedures.

##### (B) What Information Can Be Released, When and How

###### (1) Convictions

-the Fire Chief may determine that it is important to post information publicly that a conviction has registered.

###### How:

- may be published to the City’s internet site, as follows:
  - a Dynamic Web Page will be used which limits the search to a specific address; a static web page will not be generated (i.e., you will not be able to perform a web search (Google search) and find information on fire convictions that are posted to the City’s web site)
  - the City’s internet site will contain a public notice in writing (as a term of use) that:
    - the information should not be relied upon to determine the current compliance status of any property;
    - the information may not be current;
    - where the Fire Chief decides to limit the type of information, what the information is limited to (e.g. types of occupancies, rentals only, types of offences, etc.).

###### What:

- the following information can be released: the address, the charge, the date of offence, the sentence or penalty, the general contents of the order. The name of the defendant may be released only where the defendant is a business.
- it must not name or provide information serving to identify a young person as defined in the *Provincial Offences Act* – POA.
- the Fire Chief may decide to release information pertaining only to certain occupancies (e.g. residential, or industrial, etc.). In this case only Type C occupancies will be posted – these include residential/lodging including, but not

- limited to apartments, college residences, hotels and motels
- the Fire Chief may decide to release information pertaining only to leased premises and not owner-occupied premises
- the Fire Chief may decide to release information pertaining only to certain types of offences

**When:**

- only convictions or orders that are dated within 2 years of posting date may be posted
- where an appeal of a conviction appears likely, information should not be posted until 15 days after all appeal periods have ended

**(C) How the City Will Monitor, Audit and Remove Information Published to the City's Internet Site**

-the Fire Chief will ensure that the City's internet site is monitored and reviewed monthly to ensure:

- it does not contain personal information contrary to applicable privacy legislation (e.g. MFIPPA)
- it does not contain information older than 2 years

- whenever new information is posted, the Fire Chief will establish a process in which the information is flagged to be removed within 2 years. The Fire Chief will assign a position to review the City's internet site and remove such information on a monthly basis.

**(D) How Public Requests to Correct Data Errors are to be Handled**

Where the Service Area Lead receives a request to correct data errors from the City Clerk, the Service Area Lead will forward such request to the Fire Chief for review. The Fire Chief will review the data to determine if there is an error, and where the Fire Chief determines there is an error in the data, the Fire Chief will remove the incorrect data from the City's internet site and make any adjustments as the Fire Chief determines will rectify the situation.

**(E) Definitions**

**"information"** for the purposes of this procedure, "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.

**"conviction"** means conviction of a defendant by a court of law for a regulatory offence, and includes paying a ticket out of court, being deemed not to dispute a charge, entering a guilty plea, or being found guilty after a trial.



## APPENDIX C

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

### 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

- 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.<sup>1</sup>

## 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](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).

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<sup>1</sup> 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.

<b>RECOMMENDED BY:</b>	<b>REVIEWED AND CONCURRED BY:</b>
	
<b>JOHN KOBARDA FIRE CHIEF</b>	<b>LYNNE LIVINGSTONE MANAGING DIRECTOR, NEIGHBOURHOOD, CHILDREN &amp; FIRE SERVICES</b>

- 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