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TO:	CHAIR AND MEMBERS COMMUNITY & PROTECTIVE SERVICES COMMITTEE MEETING ON April 22, 2013
FROM:	JOHN KOBARDA FIRE CHIEF, LONDON FIRE DEPARTMENT
SUBJECT:	FIRE SAFETY INSPECTIONS

RECOMMENDATION

That on the recommendation of the Fire Chief, and the concurrence of the Managing Director of Neighbourhood, Children and Fire Services, that the following report **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None

BACKGROUND

In fire services there are three lines of defence: public education; code enforcement; and, emergency response. The traditional response model has generally put the emphasis on emergency response with public education and code enforcement playing secondary roles. Over the last decade, the Ontario Fire Marshal has been working to re-prioritize the three lines of defence with his primary focus and that of the Fire Service focus now being public education and code enforcement. Further, the current Fire Marshal over the last two years has placed a heavy emphasis on the first two lines of defence – public education and code enforcement – and directed all Ontario Fire Chiefs to strictly enforce the provisions of the *Ontario Fire Code*.

This re-prioritization is resulting in all municipal fire departments to transition from a reactive to a proactive response model. A key aspect of a proactive response model that addresses both public education and code enforcement is fire inspections.

The purpose of this report is to outline the role that the London Fire Department (LFD) has with respect to fire inspections, what past practice looked like and why it has changed, and current practice.

Role of London Fire Department re: Fire Inspections

In 1997, the Province of Ontario enacted the *Fire Protection and Prevention Act* for the purposes of consolidating several other Acts related to fire services, but also to reinforce the importance of municipalities to take proactive actions with respect to fire safety. The *Fire Protection and Prevention Act, 1997 (FPPA)* and its companion regulation, the *Ontario Fire Code*, through fire inspections ensures that compliance not only protects the occupants of structures but in the event of a fire, protects fire service first responders. The FPPA requires all municipalities to conduct fire safety inspections within their respective jurisdictions.

The *FPPA* establishes the authority for Assistants to the Fire Marshal, for the purposes of this report those employees of the London Fire Department classified as Fire Prevention Inspectors, to enter and inspect properties. There is a variety of compliance and/or enforcement options available to Fire Prevention Inspectors when encountering fire safety hazards or *Fire Code* violations. The efficient and effective use of these options as provided by the *FPPA, 1997* ensures the fire department is protecting the citizens of London and the City's Fire Fighters.

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Past Practice

Like many municipalities, the past practice of the LFD, as recommended by the Office of the Ontario Fire Marshal (OFM), upon the discovery of violations of the *Fire Code* was to issue “Inspection Reports” and “Notices of Violation”. A review of civil judgements, coroner’s inquests, judicial decisions and the Canadian Charter of Rights and Freedoms resulted in the OFM rescinding all previous guidelines respecting fire safety inspections and enforcement. The Fire Marshal of Ontario, subsequent to the release of their new technical guideline on fire safety inspections and enforcement, recently stated at the Ontario Association of Fire Chiefs annual educational seminar that the OFM will no longer support municipalities that select options to achieve compliance with the *Fire Code* that are not supported by law. On learning of the Fire Marshal’s new direction, the LFD transitioned into the new process, for, as noted, neither of these practices were supported nor recognized by legislation.

The transition of the fire service from a reactive to a proactive response model also found its roots in the recommendations of numerous coroners’ juries, a provincial public inquiry, civil tort judgements and provincial fire fatality statistics.

The *Coroner’s Inquest into the Rupert Hotel Fire* that claimed 10 lives in 1989, for example, noted “some landlords used the city inspectors as a maintenance tool and would wait to fix whatever was found on inspection rather than do preventative maintenance”. The volume of evidence and number of witnesses that testified regarding the topic of enforcement resulted in an entire section dedicated to enforcement in the final report. The primary recommendation being, “that there must be a greater enforcement of fines for non-compliance with the *Fire Code*”. Similarly, Justice Weber, in the *Report of the Public Inquiry into Fire Safety in High Rise Buildings*, recommended that “the Ontario Fire Code should be more actively enforced, and the courts should impose substantially increased penalties for reaches of the Ontario Fire Code”.

Municipalities have been found negligent and subsequently liable for damages in a number of civil torts involving the failure to enforce the provisions of the Ontario Fire Code over the last number of years. For example, the Ontario Court of Appeal, in apportioning the City of North York 35% of the liability in a multi-million dollar civil tort, held that “by not enforcing the law, North York caused or contributed significantly to the deaths and injuries, including the injuries to the plaintiffs, which occurred in the fire”. Similarly, the Town of Parry Sound was apportioned 25% of the liability in a civil tort involving injuries to a tenant in a rooming house fire. The Ontario Court of Justice noted that “the defendant municipality owed a duty to those roomers including the plaintiff, to enforce the provisions of the Ontario Fire Code as did the owner himself. Such failure contributed to the plaintiff’s injuries and the municipality is therefore liable to some degree.”

The OFM has provided the results of several studies relating to fire fatalities at recent Coroners’ Inquests and presentations to the Ontario Association of Fire Chiefs and other fire service stakeholders. The statistics further support the realignment of fire department priorities to public education and code enforcement as having the greatest impact on public safety. The OFM reports that from 1995 – 2004, 56% of fire fatalities had a fire department response time of 5 minutes or less. In addition, from 2006 – 2011, a study revealed that in 60% of the 31 fires that resulted in the deaths of 42 children and 16 adults there were no operating smoke alarms. Statistics such as these demonstrate that reliance upon strictly upon emergency response will not create the change needed to make Ontarians fire safe and is one of the reasons why the current Fire Marshal has placed a heavy emphasis on the first two lines of defence and directed all Ontario Fire Chiefs to strictly enforce the provisions of the *Ontario Fire Code*.

Current Practice

Following the direction of the Fire Marshal, the LFD amended its inspection process late last year to align with the provincial direction. This includes selecting and using the legal instruments, which may include provincial Inspection Orders and, where appropriate, charges, to ensure compliance with the Ontario Fire Code in a consistent and equitable manner across the municipality. In an effort to educate all owners of the new provincial process, the London Fire Department has been working closely with the Director of Business Liaison, to disseminate information through a variety of mediums, including, but not limited to presentations to the Chamber of Commerce, meetings with different BIAs and stakeholders and links to the legislation on the department’s web site. The London Fire Department will continue to search

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out all mediums and opportunities to provide all owners the information necessary to fulfil their obligations to comply with provincial fire legislation.

SUMMARY

The London Fire Department has changed its practice with respect to fire inspections to align with the direction from the Ontario Fire Marshal. It is anticipated that there will be further direction from the Ontario Fire Marshal.

Recognizing the importance of preventing a fire from occurring in the first place, as well as ensuring those buildings covered by the *Ontario Fire Code* perform as intended should a fire occur, the Fire Marshal's Office recently announced the imminent release of a new integrated risk management (IRM) tool that will assist municipalities in determining their fire risk. The IRM tool is unique in the fact that it no longer focusses exclusively on resource intensive fire suppression crews required to respond to fires, but rather how a municipality can reduce the probability and consequence of fire by focussing on the first two lines of defence, public education and code enforcement. Fire departments will be able to re-evaluate their resource requirements using the IRM tool, noting that the consequence of those failing to do so may be a need to increase the size of the fire suppression divisions.

PREPARED BY:	RECOMMENDED BY:
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REVIEWED & CONCURRED BY:	
LYNNE LIVINGSTONE MANAGING DIRECTOR, NEIGHBOURHOOD, CHILDREN & FIRE SERVICES	