

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 1 of 8

PURPOSE: To ensure a consistent approach to the issuance of Province fire orders.

SCOPE: All Local Assistants to the Fire Commissioner.

POLICY: All orders shall be dealt with according to this guideline.

PROCEDURE:

Issues regarding an order:

1. Prior to issuing a Provincial fire order, the Local Assistant should try to address the deficiencies by, if available, a municipal inspection notice. The owner or occupier should be given an opportunity to correct the situation within a reasonable period of time. In establishing the time frame, the Local Assistant should try to reach a mutually acceptable period taking into account life safety concerns as well as the available resources such as trade labour or supplies.
2. Upon re-inspection, should the deficiencies still exist, the Local Assistant can decide if an order is warranted. The Local Assistant should keep in mind the order is issued on behalf of the Office of the Fire Commissioner. Once an OFC order is written, the only remedy is compliance with the terms of the order satisfactory to the Local Assistant, or the revocation of the order by the Fire Commissioner on an appeal.
3. If the owner is seeking a time extension to complete the work after an order is issued, the Local Assistant may extend the timeframe under reasonable circumstances such as lack of trades, weather, local conditions, etc. The Local Assistant can contact the Regional Fire Service Advisors or the Deputy Fire Commissioner for advice if a time extension is proposed. The Local Assistant must document the extension in writing to the owner to avoid later dispute.
4. If the Local Assistant requires assistance in formulating the order's wording, the Regional Fire Service Advisors are available as a resource to help with the details.

Process regarding an OFC order:

All documents are available on the FIRE reporting site so that they are accessible to Fire personnel only.

1. **Download the electronic copy of the order template.** Some instructions are included on a

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 2 of 8

front page on how to fill out the template.

2. **Download a copy of the applicable sections of the *Fire Services Act* and the “Information Bulletin to Owner”** to include in the order. If web access is not available to the Local Assistant, contact the OFC and request the appropriate copies to be sent.
3. If it is a Fire Code order, the Local Assistant must state the referenced Sentence or Clause. OFC recommends the Local Assistant attach a copy of the code reference with the order so that the owner is aware of the wording of the code clause and its application to the identified deficiencies.
4. Findings should be specific and concise. If possible, state a “cause and effect”. This will make the owner understand better why an order was written. E.g.:
 - The fire separation between the dwelling units on the 2nd floor contains holes. If a fire starts in either compartment, it can spread rapidly to endanger life or property.
 - This building only has 1 exit from the 2nd floor and two exits are required for its use.
 - This building contains 6 units sharing a public corridor and the building is not equipped with a fire alarm system. Should a fire occur the occupants would not have early warning in order to escape from a fire.
 - The premises are being used to store approximately 100 cases of fireworks without a proper magazine. This storage arrangement endangers life or property.
5. Elaborate on the repairs or changes necessary. The electronic form is set up automatically to renumber the pages. Again, give information to assist the owner in complying with the order. Eg.:
 - Repair the holes in the fire separation as stated above with fire rated drywall or equivalent. [OR if the fire separation is so destroyed that patches will not do: “Install a new layer of 5/8” Type X fire rated drywall over the existing.”].
 - Provide a second exit from the 2nd floor or cease the use of the floor.
 - Provide a new fire alarm system in this building meeting requirements in the BC Building Code. Please make an appointment with the undersigned to discuss this fire alarm upgrade.
 - Provide an appropriate magazine storage for the fireworks or cease the storage.
6. Some Local Assistants are encouraged by their own municipalities to include wording such as “For your information, permits are required for the work”. It is not necessary under the *Fire Services Act*, but the inclusion of such wording does not change the intent of the order.

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 3 of 8

The Local Assistant just has to make clear having a municipal permit is not part of the requirements in the Provincial order.

7. Once an order is correctly filled out, the Local Assistant must e-mail or fax a copy of the order to OFC's Victoria Office. OFC staff will assign a tracking number to each order and send a confirmation back to the LAFC when the file is set up. This should take **no more than 1 working day**. If the order needs to be served immediately, the OFC number can be obtained after and should not hold up the process.
8. Once a Local Assistant starts the Order process, it is important to keep a record of all pertinent information such as past inspection records, and the communications or transactions with the owner or occupier. These details can become useful should there be subsequent legal proceedings.

Distribution of Copies:

The LAFC should print two copies of the order and sign both.

- **First Original:** a signed copy of the order is given to the owner or occupier as applicable.
- **Second Original:** Local Assistant to the Fire Commissioner must retain a signed copy of the order with the acknowledgement from the owner. In the event the order is appealed or goes before the Courts, this copy will be required.

Serving a Provincial Order:

Personal Service: the Local Assistant must deliver a S.33 order to the owner. If possible, all orders should be served in person to the owner, the occupier (see *FSA*'s definition) or the person in charge. When delivering the Order, attempt to obtain the recipient's signature in the acknowledgment at the left bottom corner of the form. The Local Assistant should note the role of the recipient under the order. If the recipient refuses to sign, write "Recipient Refuses to Sign" in that space.

Registered Mail: except for S.33 orders, the Local Assistant may send the order by double registered mail or courier. This way, the Local Assistant will have a copy of the receipt with the owner's signature to show evidence that the owner actually receives the order.

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 4 of 8

To Strata Corporation: For S. 22 or 33 orders to a strata corporation with more than 6 strata lots, the Local Assistant may deliver the order in person, by mail, or fax to the strata corporation in accordance with S. 63 of the *Strata Corporation Act*. The order is deemed to be given 4 days after it is mailed, faxed or put through the mail slot or in the mail box.

Incorporated Company: corporations are required to have a registered office and records office and service can be affected by delivering the order to that address or by mailing it by registered mail to that address. The Local Assistant may try to conduct a corporate search under the Corporate Registry to obtain information of the registered office as the “Representative of Corporation”. This can be done through the municipality's legal counsel or the Local Assistant can contact the OFC’s Victoria Office to access the BC OnLine system. In this case, anyone working for the registered company can sign for the order and is deemed served.

Where the owner has filed an appeal:

For most orders, the owners have 10 days to file an appeal to the Fire Commissioner to dispute the orders. The Office of the Fire Commissioner has put in place a tracking system where the investigation of the file must be started within 21 days of the filing and maximum of 60 days to complete. Therefore there may be a delay of up to 3 months after an order is issued and the investigation is completed.

The Local Assistant should contact the OFC if the outstanding order poses an immediate fire hazard if not corrected by the original date on the order. The OFC will then work with the Local Assistant so find an intermediate solution to safeguard the fire safety issues during the appeal investigation.

The appeal process provides the appellant with an opportunity for the order to be reviewed by the Fire Commissioner or his delegate. It is not the intent of the appeal to delay the compliance and therefore prolong the fire risk exposure, nor is the intent of the appeal to request a new or separate inspection.

When the Order is completed

The Fire Commissioner is requesting all Local Assistants to inform OFC’s administration staff by e-mail or fax when an order has been complied with so that the compliance is noted against the order in the OFC’s tracking system. This will help the OFC in identifying the successes and challenges in the system.

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 5 of 8

IF NON COMPLIANCES CONTINUE:

Under existing fire legislation, if the owner does not remedy the non-compliances within the time limit of the order, the next steps are limited to taking legal action. The following suggestions are meant as alternate tools. Items 3, 4, 5 are included here for information only – the Local Assistant would have tried this route prior to issuing a Province fire order.

1) **Warning Letters**

Under *FSA* Section 45(1), an owner or occupier who fails to comply with an order made under the *Fire Services Act* commits an offence. For Crown Counsel to accept a case for prosecution, the Local Assistant must demonstrate that the owner has fair warning. This should always be done in writing that the matter is now preceding to the next legal steps. Some owners may act on the order at this stage to avoid costly legal procedures. The OFC can also send an additional letter informing the owner that the OFC has been advised that the Local Assistant is taking legal action to pursue the specific offence after the Local Assistant's warning letter.

The OFC recognizes that pursuing the matter as an offence is a cumbersome task. When the OFC updates the *Fire Services Act*, this section will be reviewed and revised.

2) **Escalate to a *FSA* Section 25 emergency**

In cases where if the deficiencies are not addressed, over time, the situation may escalate to a S.25 emergency where the Fire Commissioner may have to order an evacuation or close a building due to an imminent and serious danger to life or property.

The Fire Commissioner will review each case individually if the Local Assistant brings forth the situation to the attention of the Fire Commissioner or the Deputy Fire Commissioner. The Fire Commissioner will determine the severity of the fire hazard and whether a S. 25 order is supportable. The approach to each case will be different. A warning letter may be the first step. Once a warning letter is issued, the Fire Commissioner must be prepared to follow up with the S. 25 order.

3) **Municipal By-law Route**

This is a much more effective enforcement system using local by-laws, such as a compliance by-law or a business license by-law, where the owners may face a fine or risk losing a business license. It is important to note if the Local Assistant writes a Province order after a by-law notice, both are valid until the deficiencies are corrected. Also, the Local Assistant has to keep in mind they are acting as municipal employees when pursuing the deficiencies using municipal by-laws.

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 6 of 8

4) **Liquor License Route**

For some outstanding fire and life safety items that are not resolved in premises with liquor licenses, they may be contravening the liquor license regulations. These include overcrowding where safe exiting is a concern, or lack of early warning. The Local Assistant can coordinate these deficiencies with the local liquor inspector to see if the items are regulated also under the Liquor Control and Licensing Act. The owner can be advised of the consequences, which may include temporary suspension of the license or other actions. The OFC can provide the Local Assistant with contact information of the local Compliance and Enforcement Officer from the Liquor Control Branch.

5) **WorkSafeBC Jurisdiction Route**

For some outstanding fire safety issues that are not resolved in a workplace, there may be violations under the Workers Compensation Act or the Occupational Health and Safety Regulation, which are enforced by WorkSafeBC. The Local Assistant needs to think through on the consequences to determine if they are work-related. For example, a factory should have a working and audible fire alarm system, or an office should have safe means of egress. The Local Assistant should note the WorkSafe regulations cover all persons within a building, not just the workers.

The Local Assistant can report issues affecting worker health and safety to WorkSafeBC officers by calling the WorkSafeBC Prevention Call Centre at 604-276-3100 or toll free from anywhere in BC at 1-888-621-7233. The Call Centre will take information from the Local Assistant and pass it to the WorkSafeBC officer responsible for the location of concern. If the issue involves a high risk or immediate danger to a worker, the Local Assistant should advise the Prevention Call Centre so a WorkSafeBC officer will be assigned to respond promptly to look into the matter. Otherwise, it may take several business days for the WorkSafeBC officer to receive the information and follow up.

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 7 of 8

Appendix A - Selecting the Appropriate Reference: Fire Code, FSA S.22, or S.33 Orders

For some situations, the Local Assistant can use one or all of the following. However, there are some deficiencies that are more appropriate with one type. The owner's whereabouts may have an affect on the delivery depending on the type of order. All orders cannot exceed Building Code requirements. When in doubt, contact the Regional Fire Service Advisors. The following does not cover a FSA S. 25 order.

Section 22 orders:

- Not appropriate for general upgrade orders.
- Can apply to buildings other than public buildings and hotels.
- Use to require smoke alarms in dwelling units not in public buildings or hotels as a “proper precaution” to S.21(d) orders.
- Use for more immediate actions, such as repair or demolition of a derelict building or removal of chemicals from a premise.
- Use when a short 48 hour appeal period is useful for combustibles/explosives or flammable conditions as described in FSA Section 27(1).
- Use if the desired end result is to prohibit an occupancy that presents a life and fire safety danger, e.g. a single family dwelling not properly converted to “hotel” and poses danger if use is continued.

Section 33 orders:

- The building is a “hotel” (under FSA) or public building.
- For overall upgrade orders on fire and smoke detection, fire alarm, sprinklers, fire extinguishing, exit lights, emergency lights, means of exits.
- Usually for violations involving getting people out of a building in an emergency.
- Use if wanting to conduct the inspection without the owner - “at any time”.
- More general application for systematic upgrades.
- Use if the proposed solution may not meet exactly a prescribed code requirement but is deemed an “alteration” or “improvement” to the LAFC.
- Must be delivered in person by the Local Assistant to the owner.

Fire Code orders:

- In most situations, can apply to buildings other than public buildings and hotels.
- For upgrade orders on kitchen exhaust systems and for installation of spray booths.
- Must be able to reference an applicable sentence or clause in the Fire Code.
- Use where there are several code violations in a building.
- More appropriate if accepting “alternative solutions” or equivalencies.
- Can be cumbersome in the delivery if the owner is a Strata Corporation [Fire Code orders are not covered under FSA S.41.1].

OPERATIONAL GUIDELINE

Office of the Fire Commissioner	O.G.# 5.05.03 Revision #1
TITLE: ISSUING ORDERS	Page 8 of 8

REFERENCE:

Also see O.G.#5.05.01 Appeal Procedures

<u>original signed by D. Hodgins</u> Fire Commissioner Date of Issue: April 25, 2007	This O.G. Replaces: <u>OG#5.05.03</u> Issued on: April 19, 2006
--	--