



Office of Education
and Data Management

Spring 2018
Special Offering

January 2018

**Connecticut Building Official
Enforcement Review**

*The Connecticut Division of Criminal Justice, Office of the Chief
State's Attorney; the Connecticut Department of Administrative
Services, Office of Education and Data Management; and the
University of New Haven, Henry C. Lee College, Department of Fire Science*

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Communications.

**2018 CONNECTICUT
BUILDING OFFICIAL
ENFORCEMENT REVIEW**



*Co-Sponsored by:
The CT Division of Criminal Justice, Office of the Chief State's Attorney,
the CT Department of Administrative Services, Office of Education and Data Management
and the University of New Haven, Henry C. Lee College, Department of Fire Science
University of New Haven – Buchnall Theater, January 11, 2018*



**2018 CT BUILDING OFFICIAL
ENFORCEMENT REVIEW**
PERFORMANCE OBJECTIVES

Students will be able to:

1. Recognize the goals of CT State Building Code law enforcement.
2. Recognize the CT statutes concerning the authority and duties given to a building official in the enforcement of the CT State Building Code.
3. Know and understand the CT statutes and regulations concerning legally compliant building code inspections.
4. Understand the limits of a CT building code official's right of entry onto private property to conduct required inspections and the application process for an administrative search warrant in cases where access is denied or unavailable.



2018 CT BUILDING OFFICIAL ENFORCEMENT REVIEW PERFORMANCE OBJECTIVES

5. Know and understand the CT statutes and regulations concerning procedures for correction of building code violations.
6. Understand the differences between civil and criminal court prosecution of violations of the CT State Building Code.
7. Know the procedures for referring a building code violation case to your state prosecuting attorney.

GOALS OF ENFORCEMENT

1. COMPLIANCE

Using the abatement process.



2. CORRECT HUMAN BEHAVIOR

Introduce the importance of building safety to landlords, tenants and the surrounding community.

3. IMPROVE COMMUNITY WELL BEING

Create safer and healthier communities by enforcement of required code standards.

WHERE DOES YOUR AUTHORITY COME FROM?

- U.S. and CT State Constitution
- Connecticut General Statutes (CGS)
 - Enables the Connecticut State Building Code and all its incorporated regulations.
- U.S. and State of CT Court Opinions
- Department of Administrative Services (DAS), Division of Construction Services (DCS), Office of the State Building Inspector (OSBI).

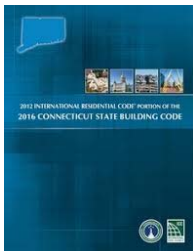
**CT BUILDING OFFICIAL
STATUTORY AUTHORITY –
CGS §29-260 and §29-261**

- The controlling statutes for all local building officials is CGS §29-260, which covers appointment, and CGS §29-261, which covers qualifications, powers, and duties.
 - [PLEASE REFER TO STATUTORY HANDOUT AT THIS TIME].

**CT BUILDING OFFICIAL
STATUTORY AUTHORITY**

- CGS §29-261 (Powers and Duties)
 - (b) [The BO or ABO] **shall** require compliance with the provisions of the State Building Code, of all rules lawfully adopted and promulgated thereunder and of laws relating to the construction, alteration, repair, removal, demolition and integral equipment and location, use, accessibility, occupancy and maintenance of buildings and structures, except as may be otherwise provided for.

**CT STATE BUILDING CODE:
Inspections**



**CT BUILDING OFFICIAL
STATUTORY AUTHORITY- Inspections**

- **CGS §29-261** (Powers and Duties)
 - (d) The BO or his assistant **shall have the right of entry** to such buildings or structures, except single family residences, for the proper performance of his duties between 9 am and 5 pm, except that in case of an emergency he **shall** have the right of entry at any time, if such entry is necessary in the interest of public safety.
 - This power is repeated in **SBC 104.6**.

**CT BUILDING OFFICIAL
STATUTORY AUTHORITY- Inspections**

- **CGS §29-393**
 - On receipt of information from the local fire marshal or from any other authentic source that any building in his jurisdiction, due to lack of exit facilities, fire, deterioration, catastrophe or other cause, is in such condition as to be a hazard to any person or persons, the building inspector **shall** immediately make an inspection by himself or by his assistant,...

**CT BUILDING OFFICIAL
STATUTORY AUTHORITY- Inspections**

- **CGS §29-393, cont.** ...and may make orders for additional exit facilities or the repair or alteration of the building if the same is susceptible to repair or both or for the removal of such building or any portion thereof if any such order is necessary in the interests of public safety. Any building inspector **shall** have the right of entry into all buildings for the performance of his duties between the hours of nine o'clock a.m. and five o'clock p.m., in the interests of public safety.
- This power is repeated in **SBC 116.7**.

**IS THERE LIABILITY FOR
FAILURE TO INSPECT?**

- Consider the result for fire marshal failure to inspect in the CT SUPREME COURT CASE **WILLIAMS v. HOUSING AUTHORITY OF BRIDGEPORT**, 327 C 338 (2017).
 - See the Court’s official opinion (a final judgment) at: <http://www.jud.ct.gov/external/supapp/Cases/AR0cr/CR327/327CR108.pdf>
 - See the dissenting opinion at: <http://www.jud.ct.gov/external/supapp/Cases/AR0cr/CR327/327CR108E.pdf>

**Right of Entry
and
Administrative Search
Warrants**

**The Federal And
Connecticut Constitutions
Protect Individuals From
Unreasonable Use Of
Your Authority**

It's Not Just For This...

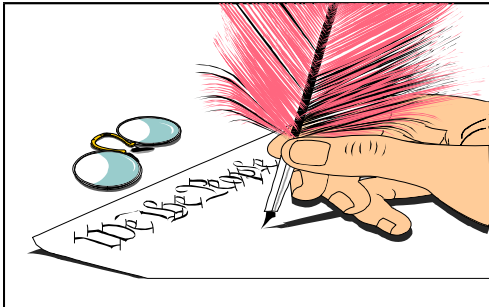


**For Federal and Connecticut
Constitutional Purposes...**



There is No Difference!!!

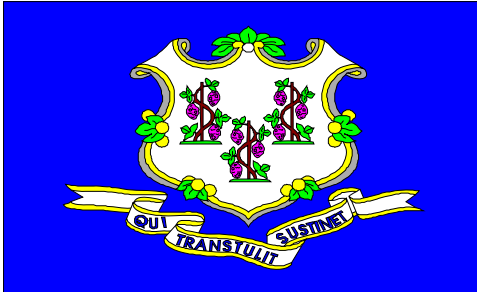
**Constitution of the
United States of America**



Constitution of the United States - Fourth Amendment

- “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Constitution of the State of Connecticut



Connecticut Constitution

- Article First, Section Seven
“The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; And no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.”

Warrantless Searches Are Presumed



Unreasonable
(*Unless An Exception Applies*)

WHY DO YOU CARE?



Illegal entry onto private property *may* result in:

- Exclusion in court of any evidence obtained from an illegal search – *the Exclusionary Rule*
- Municipal and department civil liability
- Personal civil liability
- Personal criminal liability (for intentional acts)
- Administrative sanctions

**So How Do We
Do It Right?**



**Know The Warrant Requirement
And Its Important Exceptions
For The Building Official:**

- Consent ✓
- Plain View ✓
- Exigency/Emergency ✓
- Special Need Searches:
Regulatory Scheme - Permits ✓

Consent



Consent



- Consent must be given freely and voluntarily
- Consent must be by an authorized person of suitable age and discretion
- Consent may not be by duress or coercion
- Burden of proof is on the State, so your actions *must* be proper to prevail on claim of good consent.

Consent

- An inference that refusal is futile, or that a search warrant will be issued automatically, has been held to be coercive.

Consent Considerations

- Consent can be withdrawn at any time



- Consent can be limited





Factors Showing Consent

- Knowledge of constitutional rights in general
- Knowledge of the right to refuse consent
- Sufficient age and maturity to make an independent decision
- Intelligence to understand the significance of consent



More Factors Showing Consent

- Education in or experience with the workings of the criminal justice system
- Cooperation with inspectors
- Length of detention and nature of questioning regarding consent
- Coercive governmental behavior surrounding the incident

Third Party Consent...a.k.a. “The Roommate Scenario”

- A person may consent to a search of areas over which he has common authority with another person.
- One person cannot consent to a search of the exclusive possessions or private space of another person.

Third Party Consent

Exception:

- The consent of one occupant is **insufficient** when another occupant
 - is present, and
 - objects to the search

Third Party Consent: “Apparent Authority”

- Conduct a **reasonable inquiry** of the person giving consent.



Third Party Consent: “Apparent Authority”

- A search without a warrant is valid when it is based on consent given by someone who the government official *reasonably believes* has common authority over the premises, but who actually does not.
- Based on objectively reasonable belief.
- Each case judged on its own facts.

Third Party Consent

- Not valid from Landlord (even with a right of entry clause in the lease) except in cases of a true **emergency**.



Third Party Consent

Not valid from a
hotel clerk



Written Consent Is Good!


State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Consent To Search And Examine Evidence

Case No. _____ Date _____ Time _____ City/Town _____
Name _____ DOB _____
Address _____
I, _____, after having been informed of my Constitutional right not
to have a search performed without a search warrant and of my Constitutional right to refuse to consent to a search,
DO CONSENT _____ to have _____ and _____
who are members of the Division of Criminal Justice, and _____ and _____
conduct a complete search of my _____ and any contents of the _____ (check all that apply)
☐ Residence ☐ Place of business ☐ Vehicle ☐ Other property
(describe vehicle or property to be searched)
_____ where property is located at _____
(check all that apply) _____
I authorize members of the Division of Criminal Justice and the _____ Police Department to have
the residence or location specified above, such residence and other property as they may desire and to perform
examinations and tests, including forensic examinations and tests, on any item seized.
Permission for this search and examination of evidence is granted to me, knowingly, willingly and voluntarily, to the above
named police officer or police officers and to subsequently, friends or persons who have been asked to be in order to give my
consent.
Signature _____ Witness _____
(Please do not sign if you do not agree and please do not sign if you are not a member of the Division of Criminal Justice.)

Plain View

Plain View



- It is not a search within the Fourth Amendment to observe what is in plain view from a location where you have the right to be.



Plain View



- Requires a “lawful initial entry” =
 - Entry onto private property was lawful, or condition is visible either from a public area or a place you are authorized to be.
 - Must be detectable with one of the five senses, although a commonly used enhancement device may also be used.

To Bar Your Inspection, The Individual Must Have A Reasonable Expectation of Privacy In The Area To Be Searched

- There is no reasonable expectation of privacy in common hallways of an apartment building
 - Mutual use and control by tenants and owner
 - Used by visitors, delivery people, trades people
 - Can be used by you, too



Reasonable Expectation of Privacy



- No reasonable expectation of privacy in a common porch area
- Even tenants wouldn't have a reasonable expectation of privacy on the porch
- Non-tenant can't claim reasonable expectation of privacy on the porch

Fourth Amendment Doesn't Protect

- **Open Fields**
- **Abandoned Property –**

Buildings which are not occupied and for which a building owner cannot be identified or located by reasonable efforts



Curtilage or Open Field?

- "*Curtilage*" is the area immediately surrounding the house
- "*Curtilage*" is considered to be part of the house for Fourth Amendment privacy and warrant requirement purposes
- Generally applies to one and two family dwellings, not to three family dwellings or larger (apartment occupancies)



Curtilage or Open Field?

- Factors that help decide:
 - Distance from the house?
 - Fenced in area around the house?
 - Use to which the area is put?
 - Steps taken to protect the area from observation by passers by?
 - 6 foot fence with "keep out"
 - Fence shut: no view from street



Trespass

- An implicit license exists for visitors to:
 - Approach by the front path
 - Knock promptly
 - Wait to be received
 - Absent invitation to remain longer, leave
- Government official may do what any other private citizen may do without trespassing
 - Salesman, trick or treater, Girl Scout

Trespass, cont.

- Scope of the implied license is limited to specific purpose.
- No one "is impliedly invited to enter the protected premises of the home in order to do nothing but conduct a search."

No Trespass

OK:

- Walk up the driveway
- Walk up porch steps to front door
- Knock on door
- Observe anything in plain view on your way to and from the door
- Observe anything in plain view from the front porch if resident opens the door
- Ask permission to enter and inspect

Trespass

NOT OK:

- Open a gate marked “No trespassing”
- Explore path or yard with specialized devices (metal detector, thermal imager)
- Go into back yard (absent invitation to do so)
- Go around house looking into windows (curtilage)

Exigent Circumstances & Emergency



Exigency/Emergency Circumstances



- *Imminent* and *substantial* threat to life safety or property
- No time to get a warrant
- No other reasonable options
- Mere inconvenience of seeking a warrant is not sufficient



Special Needs Searches: Regulatory Scheme



SPECIAL NEEDS: Permit Inspection

Palmieri v. Lynch, 392 F.3rd 73 (U.S. 2nd Circuit, 2004)

- Warrantless inspection of private dwelling by municipal administrative officer without consent of owner is generally unreasonable absent specifically delineated circumstances; however, searches pursuant to **regulatory scheme** need not adhere to usual requirements of warrant and probable cause, where special governmental needs are present.

**SPECIAL NEEDS:
Permit Inspection, cont.**

- **Palmieri v. Lynch**, 392 F.3rd 73 (U.S. 2nd Circuit, 2004), cont.
- **Factors** in applying special needs doctrine, to determine whether special governmental needs outweigh particular privacy interest and thus justify warrantless administrative inspection, are: **(1)** nature of privacy interest allegedly compromised by challenged governmental conduct; **(2)** character of intrusion imposed by challenged conduct; and **(3)** nature and immediacy of state's concerns and efficacy of governmental conduct in meeting them.

**SPECIAL NEEDS:
Permit Inspection, cont.**

- **Palmieri v. Lynch**, 392 F.3rd 73 (U.S. 2nd Circuit, 2004), cont.
- In response to wetland **permit** application, owner had a diminished expectation of privacy
- Owner chose to apply to construct on state-regulated land, in an area freely visible from navigable water, from public-access beach and from neighbor's property, and owner was on notice that application process would involve some form of site inspection.

**Administrative
Search Warrants**

INSPECTION WHERE ENTRY REFUSED

*When cooperation ceases
and access to the property is denied, an
ADMINISTRATIVE SEARCH WARRANT
is required before entry and
inspection can be accomplished.*



ADMINISTRATIVE SEARCH WARRANT PROCESS UPHELD

State v. Saturno (2016, CT Supreme Court), *State v. Burke* (1990, CT App. Court), *Camara v. Municipal Court* (1967, U.S. Supreme Court), *See v. Seattle* (1967, U.S. Supreme Court) :

"Probable cause to issue a warrant to inspect for safety code violation exists if reasonable legislative or administrative standards for conducting an area inspection are satisfied."

INSPECTION ENFORCEMENT

An administrative search warrant is similar to a search and seizure warrant except:

- It permits a search, but no seizure takes place
- Requires probable cause demonstrated to a judge that
 - Either the official knows or reasonably believes that a violation exists
 - Or the official has a lawful right to inspect and that the premises is within your jurisdiction

INSPECTION ENFORCEMENT

- The administrative warrant affidavit and application is a simple form to complete.*
- It must be signed by two co-affiants and sworn to or affirmed in the presence of a judge of the superior court.
- Preparation of the affidavit is not complex, nor should it be.
- *See handouts for blank form.

INSPECTION ENFORCEMENT

- The following elements are to be written into every affidavit:
 1. The two affiants' credentials and credibility.
 2. The authority to inspect.
 3. The locations to be inspected.
 4. What the inspection is intended to determine.
 5. Why you are requesting the warrant.

REVIEW OF WARRANT

- A state prosecutor must review all administrative search warrant applications before submittal to a judge.



DRAFT THE APPLICATION

- A prosecutor may *reject* the application or request revisions and a resubmittal
- If the application is *approved* by a prosecutor, it must then be taken to a superior court judge for review
 - Remember, both affiants must go together to apply for the warrant and to swear or affirm before the reviewing judge. Do not sign it in advance of seeing the judge.

AFTER THE WARRANT IS SIGNED

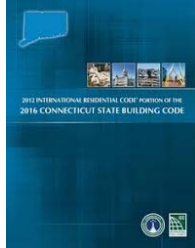
- Right of entry for inspection purposes overrides objection of owner/occupant.
- Warrant must be served in 10 days or less unless Judge specifies shorter time.
- Police officer should accompany inspector for safety.
- Entry limited to those agencies on affidavit.
- Return should be sent to clerk within reasonable time of search.

PHOTOS/VIDEOS



- May be taken if part of a consented search or a search warrant.
- Remember to take notes of who took the photo or video, what it depicts and the location you are recording along with the date/time of the picture.
- Maintain your records well!

CT STATE BUILDING CODE: Abatement of Violations



ABATEMENT:



- **CITE THE RESPONSIBLE PERSON(S) UNDER LAW**
- **WHEN CITING THE OWNER:**
 - The current identity of the owner is as indicated on the municipal land records; **NOT** always the assessor's card.
 - Get a certified copy of the current deed for you file as proof ownership.
 - Owner(s) should be listed with full name(s) on the order.
 - Please be aware that if the owner is a business, estate, corporation or partnership different information is required.

ABATEMENT:

COMMON TYPES OF OWNERS OF PROPERTY:

- **Persons** – cite all of record.
 - DBAs ("doing business as") – check Town Clerk Trade Name Certificate Book.
- **Estates** – check Probate Court
- **Corporations, LLCs and General Partnerships** – check CT Secretary of State (SOS).
- **Condominium associations** – you must cite the entire Board of Directors (common areas only)

ADDRESSING THE ORDER

Mirror the deed...

- PERSONS: Cite all owners in full name, i.e. If deed states the grantees (owners) are John Owner and Lilly Owner, order should have both full names.

John Owner
Lilly Owner
123 Owner's Court
No Name, CT 06000*

*One order with multiple names is generally sufficient for multiple owners only if owners live at same address.

ADDRESSING THE ORDER

Mirror the deed...

- ESTATES:
 - The deed may contain the name of a person who is deceased, or their estate.
 - Check with the Probate Court to determine the person responsible for the estate of the deceased owner. (i.e. Executor or an heir).
 - Get certified copy of appointment document.
 - Cite responsible person for the estate as agent for the owner.

CORPORATE AND PARTNERSHIP OWNERS

- CORPORATIONS (Name ends with Corp. or Inc.)
- LIMITED LIABILITY CORPORATIONS (LLCs)
- GENERAL PARTNERSHIPS
- LIMITED LIABILITY PARTNERSHIPS (LLPs)
 - DOMESTIC (Registered in CT)
 - FOREIGN (Registered outside of CT)

ALL FOREIGN ENTITIES DOING BUSINESS IN CT
MUST BE REGISTERED WITH THE STATE OF
CT SECRETARY OF STATE (SOS).

PROSECUTION OF CORPORATIONS AND LIMITED LIABILITY CORPORATIONS

- **CGS § 53a-11. Criminal liability of individual for conduct in name of or on behalf of corporation or limited liability company.** A person shall be criminally liable for conduct constituting an offense which such person performs or causes to be performed in the name of or on behalf of a corporation or limited liability company to the same extent as if such conduct were performed in such person's own name or on such person's behalf.

ADDRESSING THE ORDER

Mirror the deed...

- First obtain the name of the owner from the current deed for the property.
- If owner is a corporation, LLC or general partnership, check the exact name with the CT Secretary of State – CONCORD.
<https://www.concord-sots.ct.gov/CONCORD/online?sn=PublicInquiry&eid=9740>

ADDRESSING THE ORDER

Mirror the deed...

- **CORPORATE OWNER (Ex.)**
 - Deed says XYZ, Inc. is the owner.
 - Enter XYZ, Inc. in CONCORD search.
 - Identify the **principal** of the corporation = the **PRESIDENT** of the corporation. (NOT AGENT FOR SERVICE!)
 - Obtain residence address for service.
 - Print copy of CONCORD page for your file.

ADDRESSING THE ORDER

Mirror the deed...

- LIMITED LIABILITY CORPORATIONS
 - Deed says XYZ, LLC.
 - Enter XYZ, LLC in CONCORD search.
 - Identify the **principal(s)** of the LLC = the Member(s) or Managing Member of the LLC (NOT AGENT FOR SERVICE!)
 - Obtain residence address(es) for service.
 - Print copy of CONCORD page for your file.

ADDRESSING THE ORDER

Mirror the deed...

• **CORPORATION** (ex.)

I. V. League, Pres.
XYZ, Corp.
123 Home Road
No Name, CT 06000

• **LLC** (ex.)

I.V. League, Member
XYZ, LLC
123 Home Road
No Name, CT 06000

PROOF OF SERVICE

- Service is an *essential element* that we must prove in a criminal prosecution. It must be proved with documentation.
- Service can be proven through certified mail return receipt requested or other provable methods.
- Service can also be completed by hiring a CT state marshal to serve the owner or occupant either in hand or at the person's abode (home). Be sure to get the marshal's return of service, as that is written proof of who and when the marshal made service.
- Pick a service method which gets the order to the responsible party as quickly as you deem necessary and reasonable to abate the fire hazards.

CT SBC BUILDING ORDER SET

<http://portal.ct.gov/DAS/Office-of-State-Building-Inspector/Connecticut-State-Building-Code/Related-Resources>

- 114 Notice of Violation and Order to Abate
- 115 Stop Work Order
- 116 Notice of Unsafe Structure
- 117 Notice of Imminent Harm, Order to Vacate and Posting of Unsafe Structure
- 118 Vacant Structures
- Notice of Referral for Criminal Prosecution

SBC 114 Violations

- **SBC 114.1** states it **shall** be unlawful for any person firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of the SBC.

SBC 114.2 Notice of Violation

- Authorizes the BO to serve notice of violation or order on the person responsible for violation of the code, or of a permit or certificate issued under the code.
- Such order **shall** direct the discontinuance of the illegal action or condition and the abatement of the violation.



SBC 114.2.1 Written notice

- The notice of violation **shall be in writing and shall be given** to the owner of the property involved, or to the owner's agent or to the person doing the work.



SBC 114.3 Prosecution of Violation



- If the notice is not complied with promptly, the BO may request the legal counsel of the jurisdiction to institute the appropriate proceeding at law as well as the appropriate proceeding in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful occupancy or of the order or direction made pursuant thereto.

SBC 114.4 Violation Penalties



- Any person who violates any provision of this code **shall** be fined [upon conviction in a court of law] not less than \$200 nor more than \$1000 or imprisoned not more than 6 months or both, pursuant to CGS § 29-254a.





SBC 115 Stop Work Order

- The BO is authorized to issue a **stop work order** whenever the BO finds any work regulated this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe.

SBC 115.2 Issuance Of Stop Work Order



- The order **shall** be in writing and **shall** be given to the owner, owner's agent or the person doing the work.
- Upon issuance of a stop work order, the cited work **shall** immediately cease.
- The order **shall** state the reason for the order and the conditions under which the cited work will be permitted to resume.

SBC 115.3 Unlawful Continuance

- Any person who shall continue any work in or about the structure after having been served with a stop work order, except as directed to perform to remove a violation or unsafe condition, **shall** be liable or penalties in accordance with **SBC 114.4**.



SBC 116.1: Unsafe Structures And Equipment

- The BO **shall** deem structures or equipment an unsafe condition which are or become:
 - Unsafe
 - Insanitary
 - Deficient because of inadequate means of egress facilities, inadequate light and ventilation
 - Which constitute a fire hazard



SBC 116.1: Unsafe Structures And Equipment, cont.

- Or are otherwise dangerous to human life or public welfare
- Or that involve illegal or improper occupancy
- Or inadequate maintenance.

The BO **shall** cause a report to be filed on an unsafe condition. **SBC 116.2**

SBC 116.1: Unsafe Structures And Equipment, cont.

- The unsafe structure **shall** be taken down and removed or made safe, as the BO deems necessary and provided for in this section.
- A vacant structure that is not secured against entry **shall** be deemed unsafe. Enforcement of this provision can be a tremendous help to community safety.



**SBC 116.3: Unsafe Structures
And Equipment - Notice**

- If an unsafe condition is found, the **BO shall serve** on the owner, agent or person in control of the structure a written notice that describes the condition and specifies the abatement required, or demolition within a stipulated time.
- Requires the person notified declare immediately to the BO acceptance or rejection of the terms of the order.





**SBC 116.4: Unsafe Structures
And Equipment – Method of Service**

- The order is deemed properly served if delivered to owner personally, sent certified or registered mail at last known address return receipt requested, or delivered any other manner prescribed by law.
- If certified or registered mail is returned undelivered, a copy of the order **shall** be posted in a conspicuous place in or about the structure.
- Service on owner's agent or person responsible for the structure **shall** constitute service upon the owner.

Delivery:

- Although proof of delivery is not specifically required by the SBC, criminal prosecution of a violation requires that the state prove *beyond a reasonable doubt* that the individual knowingly violated the code after due process.
- Therefore, documented evidence of delivery is required to prove the individual knowingly violated the order.



**SBC 116.5: Unsafe Structures
And Equipment – Restoration**

- The structure or equipment deemed unsafe is permitted to be restored to a safe condition.
- Any repairs, alterations or additions, or changes of occupancy **shall** comply with the permit requirements of **SBC 105.2.2** and **Chapter 34**.

**SBC 116.6:
Unsafe Equipment**

- Equipment deemed unsafe by the BO or his authorized representative **shall not** be operated after the date in the notice unless required repairs or changes have been made *and* approved, or unless a *written* extension of time has been granted by the BO or his authorized representative.



**SBC 116.6.1 and 116.6.2:
Authority to Seal Equipment**

- **SBC 116.1.1:** The BO or his authorized representative **shall** in case of emergency have the authority to seal out of service immediately any unsafe device or equipment regulated by the SBC.
- **SBC 116.1.2:** The BO or his representative **shall** plainly identify it as out of service and indicate the reason.
- The seal **shall not** be tampered with, defaced or removed except by the BO or his authorized representative.

**SBC 116.7 and 116.7.1:
Hazardous Conditions and Penalty**

- **SBC 116.7-** Mirrors and incorporates the language in **CGS §29-393**
- **SBC 116.7.1** – Mirrors and incorporates the penalty in **CGS §29-394**

SBC 117.1: Emergency Measures



- **Imminent danger of failure or collapse** of a building or structure or any part thereof which endangers human life, or
- **Has fallen and human life is endangered** by the occupation.
- BO is authorized and empowered to order and require the occupants **vacate** forthwith.

**SBC 117.1:
Emergency Measures, cont.**

- The notice **shall** read: "This structure is unsafe and its occupancy has been prohibited by the building official."
- The notice **shall** be posted at each entrance of the building or structure.
- Entry after posting is unlawful without BO permission which may be granted for purposes of required repair or demolition.

SBC 117.2: Emergency Measures



- **SBC 117.2 Temporary safeguards.**

When in the opinion of the BO there is imminent danger to human life due to an unsafe condition, the BO **shall** cause the necessary work to be done to render such building or structure temporarily safe, whether or not the legal procedure described in **Section 114** has been instituted.

SBC 117.3: Emergency Measures



- **SBC 117.3 Temporary Closings.**

When necessary for public safety, the BO shall temporarily close buildings, structures or order the authority having jurisdiction to close sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from use.

SBC 117.4: Emergency Work

- When imminent danger or an unsafe condition requiring immediate action exists and the owner cannot be located or refuses or is unable to expeditiously render the premises safe, the BO **shall** order the employment of necessary labor and materials as expeditiously as possible to make the premises temporarily safe up to and including demolition.

CONDEMNATION:

- When it has been determined the building is no longer safe to occupy a condemnation order is issued, the Uniform Relocation Act applies. Contact your URA officer immediately!
- The occupants relocation costs **MAY** recouped but as permitted under state law.
- May be ordered where necessary to protect life safety in cases of emergency



**SBC 117.5:
Costs Of Emergency Work**

- The costs incurred in performance of emergency repairs of demolition under the order of the BO **shall** be paid by the treasury of the town, city or borough.
- The legal counsel for the town, city or borough **shall** institute appropriate action against the owner to recover.



SBC 118: Vacant Buildings

- Section 118 Vacant Buildings
 - – 118.1 Temporarily unoccupied buildings
 - • Buildings awaiting future reuse must be maintained
 - – 118.1.1 Abandoned premises
 - • Owner cannot be located
 - • Unprotected
 - • Unsecured
 - • Occupied by unauthorized persons
 - • Present danger of collapse
 - • Fire hazard to adjacent properties

SBC 118: Vacant Buildings, cont.

- Section 118 Vacant Buildings
- – 118.2 Safeguarding vacant premises
- • Temporarily unoccupied
- – 118.2.1 Security
- • Boarded, locked, or fenced to prevent entry
- – 118.2.2 Fire Protection
- • Maintained operable
- – Exceptions
- » buildings free of combustibles
- » Building which do not pose a hazard
- • FMO opinion
- » Fire protection rendered 'dry'

SBC 118: Vacant Buildings, cont.

- Section 118 Vacant Buildings
- – 118.2.3 Fire Separation
- • Separation of vacant spaces by construction
- – 118.3 Removal of combustibles
- • Trash & hazmat must leave vacant areas
- • Exceptions
- – Alterations, repairs, change of occupancy
- – Seasonal closings
- – 118.4 Removal of Hazardous Materials
- • To be removed

CIVIL AND CRIMINAL COURT

*WHAT IS THE
DIFFERENCE?*

CIVIL:

- Cases handled by counsel for local jurisdiction.
- Purpose is to obtain a court order for required compliance, with costs and penalties for any violation.
- May also seek an order to close or restrict use.
- Burden of proof is *preponderance of the evidence*.

CRIMINAL:

- Cases handled by state prosecutors.
- Penalties on *conviction* include jail, fines, probation and other special conditions.
- Court may order compliance as a special sentencing condition.
- Burden of proof is *beyond a reasonable doubt*.

What is Civil Enforcement?

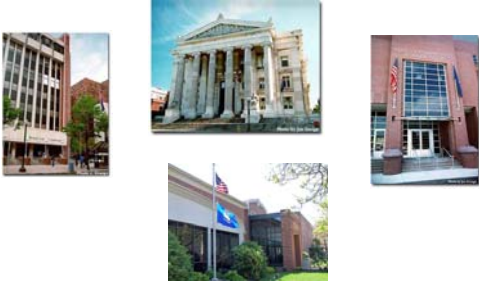
- RELOCATION
- INJUNCTIONS
- LIENS
- CONDEMNATION

What is Criminal Enforcement?

CT State Building Code and Statutory Penalties - CGS §29-254a and §29-394

- Each violation not corrected *after* a lawful order may be charged as a separate offense.
- Convictions under CGS §29-254a and §29-394 are **crimes**, categorized as B Misdemeanors.
- If convicted in the CT Superior Court, each violation is punishable by not less than \$200 and not more than \$1000 or imprisonment of not more than 6 months or both.

WORKING WITH YOUR STATE PROSECUTOR





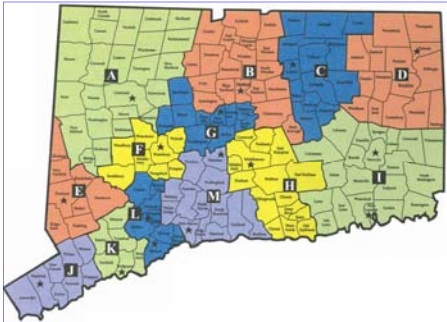
- **The Connecticut Division of Criminal Justice** is responsible for the investigation and prosecution of all criminal matters in the State of Connecticut.
- It is an independent agency of the executive branch of state government, established under the Constitution of the State of Connecticut.
- The Division of Criminal Justice is composed of the Office of the Chief State's Attorney, located in Rocky Hill, Connecticut, and the Offices of the State's Attorneys for each of the thirteen Judicial Districts in the State of Connecticut.

CT Chief State's Attorney Kevin T. Kane



CT Deputy Chief State's Attorney
for Operations Leonard C. Boyle

CT'S 13 JUDICIAL DISTRICTS



A: Litchfield
B: Hartford
C: Tolland
D: Windham
E: Danbury
F: Waterbury
G: New Britain
H: Middlesex
I: New London
J: Stamford-Norwalk
K: Fairfield
L: Ansonia-Milford
M: New Haven



**13 JUDICIAL DISTRICT
STATE'S ATTORNEYS**

Ansonia/Milford Judicial District (L) Kevin Lawlor, State's Attorney	203-874-3361
Danbury Judicial District (E) Stephen Sedensky III, State's Attorney	203-207-8670
Fairfield Judicial District (K) John Smriga, State's Attorney	203-579-6506
Hartford Judicial District (B) Gail Hardy, State's Attorney	860-566-3190
New London Judicial District (I) Michael Regan, State's Attorney	860-443-2835
Stamford/Norwalk Judicial District (J) Richard Colangelo, State's Attorney	203-965-5215
Litchfield Judicial District (A) David Shepack, State's Attorney	860-567-0871



**13 JUDICIAL DISTRICT
STATE'S ATTORNEYS, cont.**

Middlesex Judicial District (H) Peter McShane, State's Attorney	860-343-6425
New Britain Judicial District (G) Brian Preleski, State's Attorney	860-515-5270
New Haven Judicial District (M) Patrick Griffin, State's Attorney	203-503-6823
Tolland Judicial District (C) Matthew Gedansky, State's Attorney	860-870-3270
Waterbury Judicial District (F) Maureen Platt, State's Attorney	203-236-8130
Windham Judicial District (D) Anne Mahoney, State's Attorney	860-779-8520

DCJ-OCSA HOUSING PROSECUTOR ASSIGNMENTS AS OF 1/2018



Judith R. Dicine, Supervisory Assistant State's Attorney, Housing Matters
Ansonia/Milford (Derby GA), Litchfield, Tolland and Windham JDs (A,C, L,D)
(judith.dicine@ct.gov) 203-773-6755

Patrice K. Palombo, Senior Assistant State's Attorney
Ansonia/Milford (Milford GA), New Haven and Waterbury JDs (F,L,M)
(patrice.palombo@ct.gov) 203-773-6755

Donna Parker, Senior Assistant State's Attorney
Fairfield, Stamford/Norwalk and Danbury JDs (K,J,E)
(donna.parker@ct.gov) 203-579-7237

Steven M. Lesko, Assistant State's Attorney
Middlesex JD (H)
(steven.lesko@ct.gov) 860-344-2986

Open Position (Covered temporarily by Donna Parker, SASA)
Hartford, New Britain and New London JD's 860-756-7810

ARREST AND CRIMINAL PROSECUTION

Referral should be made promptly following:

- Lack of abatement after notice (most common).
- Code violation contributes to a fire, explosion or other incident resulting in injury or fatality.
- Violations cause a delay in emergency response.
- Reckless conduct code violation.

Arrest

- Submitting an application for the arrest of an individual is very serious. Make sure this is the appropriate action to take.
- You are asking for the initiation of a criminal case that may result in the deprivation of the liberty or property rights of another individual.
- Your **entire** file must be provided to the state prosecutor, including both incriminating and exonerating information!
- Contact your local housing prosecuting attorney for assistance when you seek an arrest.

About Your Files:



- General rule: If you write it, be prepared to have it reviewed. State laws must be consulted for applicable disclosure laws.
- Freedom of Information laws generally require disclosure of your files, however some items may be closed as confidential. Prior to disclosure, seek the opinion of the local prosecutor on disclosure of records or documents in or subject to a criminal investigation or pending case.

And, also seek the opinion of municipal or local counsel on all other disclosure concerns.

Remember...

- Code issues do not arise just between 9:00 – 5:00, when everyone who could help you are in their offices.
- You need to have a plan for **when** this circumstance happens, who to contact, their emergency numbers, what the chain of supervision shall be and who makes the final determination.
- **WHY? BECAUSE IT WILL HAPPEN!!!!**



Referrals:

Everyone is busy, become familiar with and utilize the other agencies in your town to accomplish the goal.

- Building
- Police
- Health
- Housing
- Planning and Zoning
- Animal control
- Legal



Other concerns:

- Always be mindful of where you are.
- Various conditions/violations that you find may not be a result of purposeful disregard of your order. For example, there are mental health conditions that are a factor in some of the conditions you will find. For example, collapsing house with excessive combustibles which may be a result of hoarding, a mental health disorder.



UNLESS AUTHORIZED BY LAW, NEVER, NEVER, NEVER...

- Tell anyone you will have them arrested.
- Tell anyone you will get an arrest warrant.
- Tell anyone you will get a search warrant.
- Tell anyone that you must be allowed on the property.
- Tell anyone what the prosecutor may or may not do with the case.
- Excuse someone from a court date.
- Tell them that you will get their case dropped.



CONTACT INFORMATION:

Judith R. Dicine, Supervisory Asst.
State's Attorney, Housing Matters
121 Elm Street
New Haven, CT 06510
203-773-6755
Fax 203 789-6459
judith.dicine@ct.gov



Thank You



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