

To add new subsection C-1 to Section 138-30 of the Code of the City of Schenectady

Section 138-30

C-1. Unsafe Structures or Unsafe Equipment. In cases where the Building Inspector or a Code Enforcement Officer determines that a building, structure, equipment or a portion thereof is unsafe due to a violation or violations of the Uniform Fire Code (“Uniform Code”), Fire Code of New York State (“FCNYS”), the Property Maintenance Code of New York State (“PMCNYS”), any other State law, or the Schenectady City Code, the Building Inspector or Code Enforcement Officer may, as the case necessitates, condemn part of or all of said building, structure and/or equipment to protect the life, health, property or safety of the public or the occupants of the structure, require that such building, structure and/or equipment be vacated, and, in the event of condemnation, shall provide notice of such condemnation as described hereinbelow.

(1) The notice of condemnation shall:

- a. Be in writing;*
- b. Be dated and signed by the Building Inspector or Code Enforcement Officer;*
- c. Specify the condition or activity that serves as the basis for the notice of condemnation and violates the Uniform Code, FCNYS, PMCNYS, or Schenectady City Code;*
- d. Specify the provision or provisions of the Uniform Code, FCNYS, PMCNYS, or Schenectady City Code which is/are violated by the specified condition or activity and serves as the basis for the notice of condemnation;*
- e. Specify the period of time which the Building Inspector or Code Enforcement Officer deems to be reasonably necessary for achieving compliance;*
- f. Direct that compliance be achieved within the specified period of time; and*
- g. State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.*

(2) The Building Inspector or Code Enforcement Officer shall cause the notice of condemnation, or a copy thereof, to be served on the owner of the affected property personally or by first-class mail. The Building Inspector or Code Enforcement Officer shall be permitted, but not required, to cause the notice of condemnation, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by first-class

mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the notice of condemnation.

(3) Posting of notices of condemnation. Whenever the Building Inspector or Code Enforcement Officer makes a determination pursuant to the provisions of this article, as may be prescribed by law, or the Schenectady City Code that a structure and/or equipment is unsafe, unfit for occupancy or must be vacated (the “determination”), the Building Inspector or Code Enforcement Officer shall place a notice or placard on such structure and/or equipment stating that the structure and/or equipment is unsafe, unfit for occupancy or must be vacated (the “notice”), and that notice shall:

- i. Identify with specificity each immediate hazard to life or health that is the basis for the determination or the posting of the notice;*
- ii. Identify the date on which the notice was posted on the structure (the “posting date”);*
- iii. Identify all conditions that must be repaired, remedied or corrected, the date by which each condition must be repaired, remedied or corrected, and each and every penalty for failure to repair, remedy or correct each condition;*
- iv. State that any owner, tenant or occupant of the structure may challenge the determination by requesting a hearing before the Mayor’s Designee (the “hearing”), so long as the hearing is requested no later than 3:00 p.m. on the third day after the notice is posted and dated if served in person on the Schenectady City Clerk; or 4:00 p.m. on the third day after the notice is posted and dated if served by facsimile or email on the Schenectady City Clerk; state that the written request for the hearing may be delivered by hand, facsimile or email to the Schenectady City Clerk; identify the address, facsimile number and email address for service of such request; and shall state that a request for hearing shall identify the address, telephone number(s) and email address, if any, of the person requesting the hearing and the reasons or grounds for the appeal.*

In addition to posting the notice on the structure, the Code Enforcement Officer shall provide the notice to all tenants or occupants of the structure by either affixing the notice to the door of each unit in the structure in which any tenant or occupant may reside or placing the notice under the door of each such unit; make an attempt to hand-deliver a copy of the notice to any person who is present in or at the structure at the time of posting; and mail the notice to the owner(s) of the structure on the same business day as the notice is posted at the address listed on the tax roll for the City of Schenectady.

(4) *Mandated procedures upon posting of a notice.*

- (i) *The hearing will be held at the Schenectady City Hall, 105 Jay Street, Schenectady, New York, within five business days of the City Clerk's receipt of the request for the hearing, unless adjourned for good cause or the person requesting the hearing and the Mayor's Designee agree otherwise. Persons requesting the hearing shall be notified of the date and time of the hearing at least 24 hours in advance of the hearing date by a notice sent to the person requesting the hearing at the address provided by said person pursuant to Subsection C-1(3)(iv) above.*
- (ii) *If the Building Inspector or Code Enforcement Officers explains the circumstances requiring posting at the hearing, he/she shall provide any person requesting the hearing with all available documentation or information concerning the determination. The person requesting the hearing will be afforded an adequate opportunity to present statements and other evidence regarding the need for the posting and to suggest alternatives. Persons attending the hearing may be represented by counsel.*
- (iii) *No determination that the structure is unsafe, unfit for occupancy or must be vacated will be confirmed unless the Mayor's Designee determines that it has been demonstrated that the determination is necessary to protect owners, tenants or occupants from an immediate threat to health or safety. Absent confirmation by the Mayor's Designee who is present for the duration of the hearing, the determination shall be vacated. Upon a confirmation of the determination, the Mayor's Designee shall also issue written findings and conclusions confirming, modifying, or otherwise setting forth all conditions that must be repaired, remedied or corrected, and the date by which each condition must be repaired, remedied or corrected, which findings and conclusions shall be mailed to the owner of the structure at the address provided to the City taxing authority and to the person requesting the hearing at the address provided in the request for a hearing.*
- (iv) *Neither the City of Schenectady nor any of its Building Inspector or Code Enforcement Officers shall order or direct the removal of any personal property from a structure to which a notice has been posted unless the Building Inspector or Code Enforcement Officer makes a determination that such personal property constitutes a hazard to any owner, tenant or occupant of the structure. The City is not responsible for any property remaining in the structure.*
- (v) *Notwithstanding the provisions of this Subsection C-1, all occupants, tenants, landlords or their agents shall comply with any and all federal and State laws*

and local municipal laws or regulations, including but not limited to the Uniform Code and the Schenectady City Code.

- (vi) The procedures set forth in this Chapter, shall apply to any action of the Code Enforcement Officer under §137-3 of the Code of the City of Schenectady requiring a structure to be vacated as being unsafe or unfit for occupancy, pursuant to §138-30.*