



STATE OF CONNECTICUT
Department of Administrative Services
Division of Construction Services
Office of the State Fire Marshal

Policy Directive: #3

Replaces: Directive #3, dated 9/97, 7/01

Administered by: OSFM

Date: June 1, 2019

Duration: Until Revised

Authority: State Fire Marshal

Subject: ABATEMENT PROCEDURES

Purpose:

1. To provide local fire marshals with standardized forms for the notification of property owner/occupants of fire and life safety hazards.
2. To standardize abatement procedures and/or enforcement actions initiated under: CT General Statutes §29-291c, §29-306, and §29-315.
3. To establish a standard procedure for notification of the appropriate State's Attorney having jurisdiction when abatement notices are not complied with.
4. To establish a standard procedure for notification of the State Fire Marshal's Office when abatement notices are not complied with.

Discussion:

This policy develops the procedure to follow in abating fire/life safety hazards relative to the Statutes relating to fire prevention or safety, or any regulation made pursuant thereto. Although the abatement procedures are defined under §29-291c, §29-306 of the General Statutes, exactly how to apply those procedures has been left to each individual marshal's discretion.

In State of Connecticut vs. Richard Bucciarelli, CR20-10198, the court stated, "Because Chapter 541 and §29-306, in particular, grant such broad discretion to those administering the fire safety laws, the criminal enforcement provisions of §29-306, fail, in the court's opinion, to meet the due process standards of definitiveness and clarity required by both state and federal constitutions.



As a result of this view taken by the court of the “reasonable time” wording contained in §29-306, this standardized procedure has been developed to comply with the constitutional requirements of due process relative to criminal prosecutions.

As in the past, the Office maintains the division of abatement process into two (2) distinct phases.

Initial Phase: Discovery of violations, issuance of abatement order, development of a plan of correction, application for modification and requests for extension of time, with such orders being complied with in the prescribed period of time; and

Follow-up Phase: Applied when the initial phase is not successful or when the abatement order is ignored or otherwise not complied with.

Procedure:

Initial Phase

- I. Document discovery of violations/hazards:
 - a) Issue Abatement Order of Fire/Life Safety Hazards to owner/occupant:
 1. Attach initial inspection report.
 2. Send by certified, return receipt requested, United States Mail or other service having proof of delivery.
 3. Include a copy of the Modification Form and Extension of Time Form.
 - b) Advise owner/occupant of their responsibility:
 1. Contact local fire marshal; and
 2. Advise that all violations/hazards have been remedied (Policy Directive #3, Addendum #1);
 3. Request modification process (Policy Directive #5); or
 4. Request extension of time for completion (Policy Directive #3, Addendum #2); or
 5. Appeal of decision, method to accomplish (Policy Directive #6).



Follow-up Phase

- I. No response to Abatement Order of Fire/Life Safety Hazards:
 - a) Re-inspection
 - 1) To determine the progress of corrective action.
 - 2) Document that no corrective action has taken place; or
 - 3) Document that corrective action is improper or inadequate.
 - b) Issue Notice of Referral for Criminal Prosecution.
 1. Attach Abatement Order of Fire/Life Safety Hazards.
 2. Attach latest Inspection Report.
 3. Send by certified, return receipt requested, United States Mail or other service having proof of delivery.
 - c) Send a copy of the Notice of Referral for Criminal Prosecution Report to Corporation Counsel. (Town/City Attorney or Fire Attorney)
 - d) Send a copy of the Notice of Referral for Criminal Prosecution Report to the Office of State Fire Marshal (OSFM).
 - e) Submit an Arrest Warrant Application establishing probable cause to the appropriate State's Attorney having jurisdiction.
 - f) Upon the issuance/execution of an arrest warrant or the initiation of an injunction to close or restrict the use of the property, please notify the OSFM in writing. (C.G.S. §29-306)

Conclusion:

It is most important that abatement orders be filed and the local fire marshal's office monitor the structure or premises to insure violations are corrected within the prescribed time frame.

The local fire marshal, of course, may grant specific reasonable time extensions for the completion of corrections and/or utilize the modification process if progress towards correction is being achieved.

Note: There is NO reason to notify our Office during any of the preceding steps except when notifying the prosecuting attorney or seeking an injunction for closing or restricting the use of the facility pursuant to §29-291c(b) or §29-306(b) of the CT General Statutes. Up to this point, the matter is a "Local" one.



When violation are of such a magnitude or seriousness to be considered an immediate threat to life safety, every effort should be made at the local level to resolve the problem. This should include making the Fire Chief having jurisdiction aware of the situation. However, if after exhausting all available means, including contacting the State's Attorney having jurisdiction, the life threatening situation cannot be resolved, the building may be vacated in accordance with §29-306(c) of the CT General Statutes where applicable, or an injunction may be sought from the court for the purpose of closing or restricting usage of the facility to the public until the hazard is corrected. Since the latter is a civil action, the local fire marshal must request the corporation counsel or town attorney institute the action. Relocation may be required pursuant to law, therefore the local fire marshal should also promptly notify the local relocation officer for necessary actions.

Although this procedure at first might appear to be somewhat overwhelming, in reality its implementation in its entirety will be limited to those rare instances when a small percentage of the population refused to or otherwise does not comply.

If Connecticut General Statutes relating to fire prevention or safety, or any regulation made pursuant thereto are to be an effective instrument of insuring public safety, it will be through the efforts of the local fire official applying the codes within his/her jurisdiction and insuring violations are detected and abated.

Abatement of the violations of Statues relating to fire prevention or safety, or any regulation made pursuant thereto has been and will continue to remain a function of the local fire marshal. The foregoing will standardize procedures in accomplishing this task.