

**LEGAL NOTICE  
PUBLIC HEARING**

City of Oneida

**PLEASE TAKE NOTICE** that a **PUBLIC HEARING** will be held at 6:30 pm on Tuesday, October 3, 2023, in Common Council Chambers, 109 N. Main Street, Oneida, NY to hear public comments on the report of Unsafe Structures from the City's Fire Marshal, pursuant to Chapter 34, Article III of the Oneida City Code, on property located at 136 Madison Street.

**PLEASE TAKE FURTHER NOTICE** that the complete text of the report be viewed on the City's website [www.oneidacityny.gov](http://www.oneidacityny.gov) under Legal Notices and in the City Clerk's lobby.

**PLEASE TAKE FURTHER NOTICE** that any or all persons opposing said proposed Local Law may file a written notice thereto, with the City Clerk before such hearing or attend said hearing at the time and place specified.

**PLEASE TAKE FURTHER NOTICE** that any persons with special needs should contact the City Clerk one week prior to the hearing.

**SANDRA LAPERA**  
CITY CLERK  
September 7, 2023

# CITY OF ONEIDA FIRE DEPARTMENT

DEPARTMENT OF PUBLIC SAFETY  
BUREAU OF FIRE

**Fire Marshal's Office**

Brian B. Burkle Jr., Fire Marshal  
Andrew P. Bennett, Assistant Fire Marshal



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To: City of Oneida Common Council

From: Fire Marshal Brian B. Burkle Jr.

Date: August 20, 2023

Re: Unsafe Building

**Please take notice** that the building situated upon the real property located at 136 Madison Street in the City of Oneida, Tax Map No. 30.72-1-64 (the "Property") must be repaired or removed.

On January 3, 2023, an Order to Vacate was placed on 136 Madison Street by the City of Oneida Office of Code Enforcement due to the structure being unsafe.

On January 24, 2023, a notice from the Fire Marshal's Office was sent via U.S. Certified Mail service advising the structure was unsafe and a structural engineering report would be required.

On May 16, 2023, an Unsafe Structure notice was issued and sent to the address on file with the City of Oneida (116 Madison Street Apt. 1) via U.S. Certified Mail service, notifying Mr. Scribner the property's owner, that the building was in violation of the 2020 NYS Fire Code, Section 108.1.1, titled "Unsafe Structures".

On May 24, 2023, the U.S. Postal Service returned the notice to sender due to an updated address on file of 120 Madison Street Apt. 1.

On May 25, 2023, the Unsafe Structure notice was sent via U.S. Certified Mail to the updated address from the USPS. On June 16, 2023, the notice was returned to sender due to being unclaimed and unable to forward.

On July 17, 2023, a vacant building placard was placed on the building in accordance with section 311.5 of the 2020 NYS Fire Code.

On August 1, 2023, an Order to Vacate was placed on 136 Madison Street by the Fire Marshal's Division due to the structure being unsafe.

On August 1, 2023, a Stop Work Order was placed on 136 Madison Street by the City of Oneida Office of Code Enforcement due to the work being done prior to obtaining a building permit.

The Oneida Fire Marshal's Office has not received any written correspondences from property owner Fred Scribner to date.

Based upon my inspection of the property and my knowledge of the Oneida City Code, the 2020 Fire Code of New York State, and the 2020 Property Maintenance Code of New York State, I have determined that the property is an unsafe condition and is dangerous to the health, safety, and general welfare of the public.

The preceding are violations of the following;

- **2020 NYS Fire Code Section 108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or to the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire; or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, or structurally unsafe; or is of such faulty construction or unstable foundation that partial or complete collapse is possible. A vacant structure that is not secured against unauthorized entry as required by Section 311 of this code shall be deemed unsafe.
  - The Property is currently structurally unsafe and faulty construction on the West and South walls of the structure exists that partial or complete collapse is possible. Therefore, the Property does not comply with Section 108.1.1.
- **Code of the City of Oneida, Chapter 34, Article III "Unsafe Buildings and Collapsed Structures", Section 34-10. Determination of status; service of notice upon owner.**
  - A. Whenever any wall, building or other structure has in any manner become unfit for occupancy or shall be unsafe, detrimental or dangerous to the public health, safety or general welfare, upon inspection and report by the office of the Fire Marshal to the Common Council and hearing held thereon as hereinafter set forth, the Common Council may declare the premises a public nuisance and order the owner, or person or persons having an interest therein, to repair or remove the wall, building, structure or foundation and to clear away any and all debris caused thereby and to fill in the excavation to the lot level, requiring the same to be made safe and secure. After having received and placed on file the report from the Fire Marshal's office, the Common Council, if it appears that a nuisance exists, shall hold a hearing thereon and shall serve notice upon the owner, and all others having an interest therein, of the unsafe condition and the times and place of said hearing.

- B. The service of said notice shall be either by personal service or by certified mail, addressed to the last known address as shown by the records of the City Assessor's office. Said notice shall contain a description of the premises and a clear and concise statement of the particulars in which the building or structure is unsafe or dangerous, shall set forth the date, time and place for a hearing thereon before the Common Council and shall be served at least 10 days prior to said hearing. If such service is by certified mail, a copy of said notice shall also be posted by firmly affixing a copy thereof on said premises.
- The Property currently contains a wall that has been determined by the Fire Marshal's office upon inspection as unsafe, detrimental or dangerous to the public health, safety or general welfare. Therefore, the Property does not comply with Section 34-10.

#### **2020 NYS Property Maintenance Code**

- **Section 107.1 General.** If the *authority having jurisdiction* determines, during the inspection or otherwise, that a *premises, building or structure*, or any building system or equipment, in whole or part, constitutes a clear and immediate threat to human life, safety or health, the *authority having jurisdiction* shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of threat to human life, safety, or health.
- The Property's structure contains an immediate threat to human life, safety or health. Therefore, the Property does not comply with Section 107.1.
- **Section 107.1.1 Unsafe structures.** An unsafe *structure* is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- The Property's structure has been found to be dangerous to life, health, property or safety of the public due to being damaged, decayed, dilapidated, structurally unsafe, and is of such faulty construction or unstable foundation, that partial or complete collapse is possible. Therefore, the Property does not comply with Section 107.1.1.
- **Section 304.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

- The Property's exterior of the structure has not been maintained in good repair. It is not structurally sound or sanitary. It does pose a threat to the public's health, safety and welfare. Therefore, the Property does not comply with Section 304.1.
- **Section 304.1.1 Unsafe Conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *Building Code of New York State* or the *Existing Building Code of New York State* as required for existing buildings:
  1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
  2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
  3. Structures or components thereof that have reached their limit strength.
  4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors, and skylights are not maintained, weather resistant or water tight.
  5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
  6. Foundation systems that not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and load effects.
  7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
  8. Roofing or roofing components that have defects that emit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
  9. Flooring and flooring components with defects that effect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
- The Property contains conditions listed above that deem the building unsafe. Therefore, the Property does not comply with Section 304.1.1.
- **Section 304.4 Structural members.** Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.
- The Property's structural members are deteriorated and not capable of safely supporting the imposed dead and live loads. Therefore, the Property does not comply with Section 304.4.

- **Section 304.6 Exterior walls.** Exterior walls should be free from holes, breaks, and loose or rotting materials; and maintained waterproof and properly surface coated where required to prevent *deterioration*.
- The Property's exterior walls contain holes, breaks, and loose or rotting materials. The exterior walls are not waterproof and allow for deterioration. Therefore, the Property does not comply with Section 304.6.
- **Section 304.7 Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that emit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- The Property's roof is not sound or tight and contains defects. Therefore, the Property does not comply with Section 304.7.
- **Section 308.1 Accumulation of rubbish and garbage.** *Exterior property and premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.
- The Property's interior contains accumulations of rubbish and garbage. Therefore, the Property does not comply with Section 308.1.

In light of the foregoing, I hereby request that the Common Council hold a hearing pursuant to Section 34-10 of the Oneida City Code to determine and declare that the Property is a public nuisance, and to order the repair to or removal of the building.