

**CHAPTER 91****NUISANCES****SUBCHAPTER 1****GENERAL PROVISIONS****§2701. Action for damages caused by nuisance**

Any person injured in his comfort, property or the enjoyment of his estate by a common and public or a private nuisance may maintain against the offender a civil action for his damages, unless otherwise specially provided.

**§2701-A. Action against insect infestation**

**(REPEALED)**

**SECTION HISTORY**

PL 1977, c. 645 (NEW). PL 1981, c. 571, §§1,2 (AMD). PL 1987, c. 479 (RPR). PL 1993, c. 124, §1 (RP).

**§2701-B. Action against improper manure handling**

The Commissioner of Agriculture, Conservation and Forestry shall investigate complaints of improper manure handling, including, but not limited to, complaints of improper storage or spreading of manure. If the commissioner is able to identify the source or sources of the manure and has reason to believe that the manure is a nuisance and the nuisance is caused by the use of other than best management practices for manure handling, the commissioner shall: [PL 1993, c. 124, §2 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**1. Findings.** Determine the changes needed in manure handling to comply with best management practices for manure handling; [PL 1993, c. 124, §2 (AMD).]

**2. Conformance.** Require the person responsible to abide by the necessary changes determined in subsection 1 and determine if the changes have been made; and [PL 1993, c. 124, §2 (AMD).]

**3. Report.** Give the written findings of the initial investigation and any determination of compliance to the complainant and the person responsible. [PL 1993, c. 124, §2 (AMD).]

If the person responsible does not adopt best management practices for manure handling, the commissioner shall send a copy of the written report to the Department of Environmental Protection and refer the matter in writing to the Attorney General. The Attorney General may institute an action to abate a nuisance and the court may order the abatement with costs as provided under this chapter. If the commissioner, upon investigation, finds that the person responsible for the manure is following best management practices for manure handling, the commissioner shall advise the complainant and the person responsible in writing. [PL 1993, c. 124, §2 (AMD).]

Failure to apply best management practices in accordance with this section constitutes a separate civil violation for which a fine of up to \$1,000, together with an additional fine of up to \$250 per day for every day that the violation continues, may be adjudged. [PL 2003, c. 283, §5 (NEW).]

The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act for the interpretation and implementation of this section, including a definition of "best management practices for manure handling." [PL 1993, c. 124, §2 (AMD).]

If the commissioner finds that improper manure handling may have affected water quality and the person responsible does not adopt best management practices for manure handling, the commissioner shall advise the Commissioner of Environmental Protection that a potential water quality violation exists and the Commissioner of Environmental Protection may respond as appropriate. [PL 1993, c. 124, §2 (AMD).]

#### SECTION HISTORY

PL 1989, c. 836, §2 (NEW). PL 1991, c. 548, §§A6,7 (AMD). PL 1993, c. 124, §2 (AMD). PL 2003, c. 283, §5 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

#### §2702. Abatement of nuisance

When on indictment, complaint or action any person is adjudged guilty of a nuisance, the court, in addition to the fine imposed, if any, or to the judgment for damages and costs for which a separate execution shall issue, may order the nuisance abated or removed at the expense of the defendant. After inquiring into and estimating, as nearly as may be, the sum necessary to defray the expense thereof, the court may issue a warrant therefor substantially in the form following

#### "STATE OF MAINE

....., ss. To the sheriff of our county of ....., or either of his deputies, Greetings.

Whereas, by the consideration of our honorable ..... Court, at a term begun and held at ....., within and for said county, upon indictment," (or "complaint," or "action in favor of A. B.," as the case may be,) "C. D., of ....., &c., was adjudged guilty of erecting," ["causing," or "continuing,"] "a certain nuisance, being a building in ....., in said county," (or "fence," or other thing, describing particularly the nuisance and the place,) "which nuisance was ordered by said court to be abated and removed: We therefore command you forthwith to cause said nuisance to be abated and removed; also that you levy of the materials by you so removed, and of the goods, chattels and lands of said C. D., a sum sufficient to defray the expense of removing and abating the same, not to exceed ..... dollars," (the sum estimated by the court,) "together with your lawful fees, and thirty-three cents more for this writ. And, for want of such goods and estate to satisfy said sums, we command you to take the body of said C. D., and him commit unto our jail in ..... in said county, and there detain until he pays such sums or is legally discharged. And make return of this warrant, with your doings thereon, within thirty days. Witness, A. B., Esq., at ....., this ..... day of ....., in the year of our Lord 19....

J. S., Clerk."

#### §2703. Stay on security to discontinue

Instead of issuing the warrant required by section 2702, the court may order it to be stayed on motion of the defendant, and on his entering into recognizance in such sum and with such surety as the court directs, in case of an indictment, to the State, or in case of a complaint or action, to the plaintiff, conditioned that the defendant will either discontinue said nuisance, or that within a time limited by the court and not exceeding 6 months, he will cause it to be abated and removed, as may be directed by the court. On failing to perform such condition, the recognizance shall be deemed forfeited, and the court on being satisfied of such default, may forthwith issue the warrant and entertain an action to enforce the recognizance.

#### §2704. Expenses of abatement defrayed; poor debtor's oath

The expense of abating a nuisance by virtue of a warrant shall be collected by the officer as damages and costs are collected on execution; except that the materials of buildings, fences or other things removed as a nuisance may be first levied upon and sold by the officer, and the proceeds, if any remain after paying the expense of removal, shall be paid by him, on demand, to the defendant or the owner of such property. If said proceeds are not sufficient to satisfy the expenses, the officer shall collect the residue as aforesaid. A person committed to jail on such warrant may avail himself of the poor debtor's oath, as if he had been committed on execution. If said expense cannot be collected of the defendant, it shall be paid as costs in criminal prosecutions.

**§2705. Jurisdiction by injunction**

Any court of record before which an indictment, complaint or action for a nuisance is pending may, in any county, issue an injunction to stay or prevent such nuisance, and make such orders and decrees for enforcing or dissolving it as justice and equity require.

**§2706. Penalty and abatement of nuisance**

Whoever erects, causes or continues a public or common nuisance, as herein described or at common law, where no other punishment is specially provided, shall be punished by a fine of not more than \$100. The court with or without such fine may order such nuisance to be discontinued or abated, and issue a warrant therefor as provided.

## SUBCHAPTER 2

### COMMON NUISANCES

**§2741. Common nuisances; jurisdiction to abate**

**1. Common nuisances.** The following are common nuisances.

A. All places used as houses of ill fame or for the illegal sale or keeping of intoxicating liquors or scheduled drugs or resorted to for lewdness or gambling; [PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. All houses, shops or places where intoxicating liquors are sold for tipping purposes; and [PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. All places of resort where intoxicating liquors are kept, sold, given away, drunk or dispensed in any manner not provided for by law. [PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Superior Court jurisdiction.** The Superior Court has jurisdiction, upon information filed by the Attorney General or the district attorney or upon complaint filed by not fewer than 7 legal voters of that county setting forth any of the facts contained in this section, to restrain, enjoin or abate a common nuisance as set out in subsection 1 and an injunction for those purposes may be issued by the court. A dismissal of an information or complaint does not prevent action upon any information or complaint subsequently filed covering the same subject matter.

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3. Injunction or order.** The injunction or order to restrain, enjoin or abate the common nuisance forever runs against the building or other place or structure, except that, upon motion of an owner filed not sooner than 6 months from the date of the injunction or order, the Superior Court may remove or modify the injunction or order upon a showing by the owner, by a preponderance of evidence, that the nuisance has abated.

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Trafficking or furnishing scheduled drugs.** For purposes of this subchapter, proof by a preponderance of evidence that an owner or occupant of a building or other place or structure, or any part thereof, has trafficked in or furnished at the building, place or structure, or any part thereof, any scheduled drug as defined by Title 17-A, chapter 45 on 2 or more occasions within a 3-year period is sufficient to prove that the building, place or structure is a common nuisance.

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**5. Keeping, allowing or maintaining common nuisance.** A person who keeps, allows or maintains a building, place or structure declared by the Superior Court to be a common nuisance upon the filing of information commits a Class E crime.

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**6. Default in payment of fine.** A person who defaults in payment of a fine imposed under this section commits a separate Class E crime.

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**7. Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[PL 2003, c. 452, Pt. I, §45 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

#### SECTION HISTORY

PL 1981, c. 279, §9 (AMD). PL 1993, c. 98, §1 (AMD). PL 1995, c. 66, §2 (AMD). PL 2003, c. 452, §145 (RPR). PL 2003, c. 452, §X2 (AFF).

#### §2742. -- penalties

**(REPEALED)**

#### SECTION HISTORY

PL 1991, c. 797, §4 (AMD). PL 1995, c. 66, §3 (AMD). PL 2003, c. 452, §146 (RP). PL 2003, c. 452, §X2 (AFF).

#### §2743. Lease void; remedy of owner

If any tenant or occupant, under any lawful title, of any building or tenement not owned by the tenant or occupant uses the building or tenement or any part of the building or tenement for any purpose named in section 2741, the tenant or occupant forfeits all rights to the building or tenement, and the owner of the building or tenement upon the commencement of an action under Title 14, chapter 709 may seek any remedy provided by chapter 709 or upon a declaration of a common nuisance by the Superior Court upon the filing of information by the Attorney General, the district attorney or a prosecuting attorney assigned pursuant to Title 25, section 2955 may make immediate entry and take possession without further process of law or as otherwise ordered by the Superior Court. [PL 1995, c. 66, §4 (AMD).]

#### SECTION HISTORY

PL 1995, c. 66, §4 (AMD).

#### §2744. Liability of building owner

**(REPEALED)**

#### SECTION HISTORY

PL 1991, c. 797, §4 (AMD). PL 1995, c. 66, §5 (RP).

### SUBCHAPTER 3

### PARTICULAR NUISANCES

**§2791. Blasting; notice**

Persons engaged in blasting lime rock or other rocks shall before each explosion give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion. No such explosion shall be made after sunset.

Whoever violates any provision of this section forfeits to the prosecutor \$5 for each offense, to be recovered in a civil action, and is liable for all damages caused by any explosion. If the persons engaged in blasting rocks are unable to pay or, after judgment and execution, avoid payment of the fine, damages and costs by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same.

**§2792. Burning of bricks****(REPEALED)****SECTION HISTORY**

PL 1997, c. 623, §3 (RP).

**§2793. Certain lights prohibited along highways**

No person shall place or maintain upon or in view of any highway any light so that its beams or rays are directed at any portion of a public street or highway when the light is of such brilliance and so positioned as to blind, dazzle or otherwise impair the vision of the driver of any motor vehicle upon said street or highway; or any rotating or flashing light or signal which imitates or simulates the flashing or rotating lights used on school buses, police, fire or highway vehicles, except safety signaling devices required by law. Whoever violates this section shall be punished by a fine of not more than \$100.

**§2794. Dumping of oil**

Oil, and a petroleum base, or materials containing significant quantities of such oil shall not be intentionally placed or deposited directly into or on banks of any river or stream, permanent or temporary, lake, pond or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said watercourse or tidal waters, or shall such material be intentionally placed or deposited directly in pits, wells or on ground surfaces in such a manner that oil will percolate, seep or otherwise find access into ground waters or into wells used for the production of water.

**§2795. License for use of certain engines**

No stationary, internal combustion or steam engine shall be erected in a town until the municipal officers have granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provision as to height of chimney or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license shall be granted on written application, recorded in the town records and a certified copy of it furnished, without charge, to the applicant.

When application is made for such license, said officers shall assign a time and place for its consideration, and give at least 14 days' public notice thereof, in such manner as they think proper, at the expense of the applicant. Any person aggrieved by the decision of the select boards of towns in granting or refusing such license may appeal therefrom within 30 days to the Superior Court held in said county, which court may appoint a committee of 3 disinterested persons, as is provided in relation to appeals from location of highways. Said committee must be sworn and shall give 14 days' notice of the time and place of their hearing to the parties interested, view the premises, hear the parties and affirm, reverse or annul the decision of said select board, and their decision is final. Pending such appeal from granting such license, the Superior Court may enjoin the erection of such building and engine. [PL 2021, c. 275, §3 (AMD).]

Any such engine erected without a license shall be deemed a common nuisance without other proof than its use.

Said officers shall have the same authority to abate and remove an engine, erected without license, as is given to the local health officer in Title 22, chapter 153.

#### SECTION HISTORY

PL 2021, c. 275, §3 (AMD).

#### **§2796. Manufacture of powder**

If any person manufactures gunpowder, or mixes or grinds the composition therefor, in any building within 80 rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

#### **§2797. Mills and dams; fences and buildings on public ways**

The erection and maintenance of watermills and dams to raise water for working them upon or across streams not navigable as provided in Title 38, chapter 5, shall not be deemed a nuisance, unless they become offensive to the neighborhood, or injurious to the public health, or unless they occasion injuries or annoyances of a kind not authorized by said chapter. Fences and buildings fronting on public ways, commons or lands appropriated to public use shall not be deemed nuisances when erected for the times and in the manner provided in Title 23, section 2952, unless the owner of the same shall be estopped as therein provided from justifying his occupation within the limits of said way.

#### **§2798. Mufflers required on motorboats**

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 123, §1 (RP).

#### **§2799. Possession of poisonous snakes**

The possession of poisonous snakes shall be a public nuisance, except where poisonous snakes shall be continuously confined in such type of enclosure as may be determined to be escape proof.

#### **§2800. Removal of bushes, trees and stumps from flowed area**

Whoever hereafter erects a dam on any of the public waters of this State shall, within 3 years after a head of water is held and flowage created thereby, remove from the flowed area all trees, bushes and stumps that he can legally remove therefrom, to such an extent that the tops of all trees, bushes and stumps left thereon shall be at least 5 feet below the surface of the mean low-water level maintained during the period beginning June 1st and ending December 1st next following of each year and shall within said 3-year period remove such growth as he can legally remove from the edge of the flowed area to such an extent that no dry-ki and debris shall form to be carried away by the water. For the purpose of protecting the right of the public in the navigation of the waters over said flowed area the owner of such dam shall, after the creation of flowage thereby, have the right to cut and remove from the flowed area all trees, bushes and stumps remaining thereon, and the damage to the owner thereof caused by such removal shall be ascertained in the same manner as is provided for the ascertainment of the damages caused by the flowage.

Any dam erected hereafter which is maintained in violation of this section shall constitute a public nuisance, and be subject to section 2706.

This section shall not apply to dams which are created solely for log driving purposes where the water is stored for not exceeding 3 months of each year, nor shall the same be interpreted in any instance to require the removal of stumps below the swell of the roots.

**§2801. Spite fences**

Any fence or other structure in the nature of a fence, unnecessarily exceeding 6 feet in height, maliciously kept and maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a private nuisance.

**§2802. Miscellaneous nuisances**

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture that, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; imprudent operation of a watercraft as defined in Title 12, section 13068-A, subsection 8; unlawfully diverting the water of a river, stream, pond or aquifer from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn-out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are public nuisances. [PL 2005, c. 397, Pt. A, §11 (AMD).]

**SECTION HISTORY**

PL 1965, c. 78, §1 (AMD). PL 1971, c. 274 (AMD). PL 1979, c. 472, §3 (AMD). PL 1995, c. 65, §A53 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 540, §4 (AMD). PL 1997, c. 683, §A7 (AMD). RR 2003, c. 2, §24 (COR). PL 2005, c. 397, §A11 (AMD).

**§2803. -- assignment of place for**

The municipal officers of a town, when they judge it necessary, may assign places therein for the exercise of any trades, employments or manufactures described in section 2802, and may forbid their exercise in other places, under penalty of being deemed public or common nuisances and the liability to be dealt with as such. All such assignments shall be entered in the records of the town and may be revoked when said officers judge proper.

**§2804. -- complaints about**

When a place or building so assigned becomes a nuisance, offensive to the neighborhood or injurious to the public health, any person may complain thereof to the Superior Court and if, after notice to the party complained of, the truth of the complaint is admitted by default or made to appear to a jury on trial, the court may revoke such assignment and prohibit the further use of such place or building for such purposes, under a penalty of not more than \$100 for each month's continuance after such prohibition, to the use of said town; and may order it to be abated and issue a warrant therefor, or stay it as provided; but if the jury acquit the defendant, he shall recover costs of the complainant.

**§2805. Farm, farm operation or agricultural composting operation not nuisance; use of best management practices****(REPEALED)****SECTION HISTORY**

PL 1981, c. 472 (NEW). PL 1991, c. 395, §§1-3 (AMD). PL 1993, c. 87, §1 (AMD). PL 1993, c. 124, §§3,4 (AMD). PL 1997, c. 642, §§4,5 (AMD). PL 1999, c. 723, §2 (AMD). PL 2003, c. 283, §6 (AMD). PL 2005, c. 638, §1 (AMD). PL 2007, c. 649, §7 (RP).

### §2806. Sport shooting ranges

**1. Acquisition of property near existing range.** Except as provided in this subsection, a person may not maintain a nuisance action, including for noise, against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within 3 years from the beginning of the substantial change.

[PL 2015, c. 433, §1 (AMD).]

**2. Establishment of shooting range near existing property.** A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action, including for noise, against that shooting range only if the action is brought within 5 years after establishment of the range or 3 years after a substantial change in use of the range.

[PL 2015, c. 433, §1 (AMD).]

**3. Dormant shooting range.** If there has been no shooting activity at a range for a period of 3 years, resumption of shooting is considered establishment of a new shooting range for purposes of this section.

[PL 1995, c. 231, §1 (NEW).]

**4. Application.** This section does not limit nuisance actions against shooting ranges established on or after September 1, 2016.

[PL 2015, c. 433, §2 (AMD).]

### SECTION HISTORY

PL 1995, c. 231, §1 (NEW). PL 2015, c. 433, §§1, 2 (AMD).

### §2807. Commercial fishing activities and commercial fishing operations

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commercial fishing activity" means an activity directly related to commercial fishing or a commercial activity commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait, traps or nets or the manufacture, installation or repair of boats, engines or other equipment commonly used on boats or in facilities that involve the catching, transporting, buying, selling or processing of seafood for commercial purposes. [PL 2001, c. 99, §1 (NEW).]

B. "Commercial fishing operation" means a condition or activity that occurs in connection with the commercial harvesting, purchasing, selling or processing of seafood and includes noise, odors, operation of a vessel, operation of harvesting or processing equipment and transfer or storage of bait. [PL 2001, c. 99, §1 (NEW).]

[PL 2001, c. 99, §1 (NEW).]

**2. Private nuisance actions limited.** A private nuisance action may not be maintained against a person engaged in a commercial fishing activity or commercial fishing operation so long as the activity or operation is undertaken in compliance with applicable licensing and permitting requirements and other applicable statutes, rules and ordinances.

[PL 2001, c. 99, §1 (NEW).]

**3. Finfish aquaculture exemption.** For purposes of this section, activities and conditions associated with licensed finfish aquaculture are not commercial fishing activities or commercial fishing operations.

[PL 2001, c. 99, §1 (NEW).]

#### SECTION HISTORY

PL 2001, c. 99, §1 (NEW).

#### **§2808. Alteration of surface water flow**

Unreasonable use of land that results in altered flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land is a nuisance. [PL 2005, c. 564, §1 (NEW); PL 2005, c. 564, §3 (AFF).]

An action under this section must be commenced within 3 years after the cause of action accrues. [PL 2005, c. 564, §1 (NEW); PL 2005, c. 564, §3 (AFF).]

#### SECTION HISTORY

PL 2005, c. 564, §1 (NEW). PL 2005, c. 564, §3 (AFF).

### SUBCHAPTER 4

#### DANGEROUS BUILDINGS

#### **§2851. Dangerous buildings**

The municipal officers in the case of a municipality or the county commissioners in the case of the unorganized or deorganized areas in their county may after notice pursuant to section 2857 and hearing adjudge a building to be a nuisance or dangerous, in accordance with subsection 2-A, and may make and record an order, in accordance with subsection 3, prescribing what disposal must be made of that building. The order may allow for delay of disposal if the owner or party in interest has demonstrated the ability and willingness to satisfactorily rehabilitate the building. If an appeal pursuant to section 2852 is not filed or, if an appeal pursuant to section 2852 is filed and the Superior Court does not order, stay or overturn the order to dispose of the building, the municipal officers or the county commissioners shall cause the nuisance to be abated or removed in compliance with the order. After recording an attested copy of the notice required by section 2857 in the registry of deeds located within the county where the building is situated, the municipality or the county may seek a writ of attachment of the property on which the building is located in accordance with Title 14, chapter 507 and the Maine Rules of Civil Procedure. [PL 2019, c. 557, §1 (AMD).]

For the purposes of this subchapter, "building" means a building or structure or any portion of a building or structure or any wharf, pier, pilings or any portion of a wharf, pier or pilings thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, and "parties in interest" has the same meaning as in Title 14, section 6321. [PL 2017, c. 136, §1 (NEW).]

##### **1. Notice.**

[PL 2017, c. 136, §1 (RP).]

##### **2. Notice; how published.**

[PL 2017, c. 136, §1 (RP).]

**2-A. Standard.** To adjudge a building to be a nuisance or dangerous, the municipal officers or county commissioners must find that the building is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes

a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property.

[PL 2017, c. 136, §1 (NEW).]

**3. Recording of the order.** An order made by the municipal officers or county commissioners under this section must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in section 2857.

[PL 2017, c. 136, §1 (AMD).]

**4. Proceedings in Superior Court.** In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the building is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties in interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the building, it shall award costs as authorized by this subchapter to the municipality or the county. The municipality or the county may petition the court for a writ of attachment of the property on which the building is located in accordance with Title 14, chapter 507 and the Maine Rules of Civil Procedure. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

[PL 2019, c. 557, §2 (AMD).]

#### SECTION HISTORY

PL 1965, c. 284 (RPR). PL 1967, c. 401, §1 (AMD). PL 1973, c. 143, §1 (AMD). PL 1979, c. 27, §§1-3 (AMD). PL 1997, c. 6, §1 (AMD). PL 2017, c. 136, §1 (AMD). PL 2019, c. 557, §§1, 2 (AMD).

#### §2852. Appeal; hearing

An appeal from a decision of the municipal officers or county commissioners under section 2851 or section 2856 must be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B. [PL 2017, c. 136, §2 (AMD).]

#### SECTION HISTORY

PL 1965, c. 284 (RPR). PL 1979, c. 27, §4 (RPR). PL 1997, c. 6, §2 (AMD). PL 2017, c. 136, §2 (AMD).

#### §2853. Recovery of expenses

All expenses incurred by a municipality or county related to an order issued under section 2851, including, but not limited to, expenses relating to the abatement or removal of a building, must be repaid to the municipality or county by the owner within 30 days after demand, or a special tax may be assessed by the assessors against the land on which the building was located for the amount of the expenses and that amount must be included in the next annual warrant to the tax collector of the municipality or county for collection and must be collected in the same manner as other state, county and municipal taxes are collected. [PL 2017, c. 136, §3 (AMD).]

In the case of any claim for expenses incurred in the abatement or removal of any wharf, pier, pilings or any portion thereof that extends beyond the low water mark, the special tax authorized by this section must apply to the land from which the wharf, pier or pilings extended or to which they were adjacent, if the owner of the land is also the owner of the wharf, pier, pilings or portion thereof. [PL 2017, c. 136, §3 (AMD).]

Expenses include, but are not limited to, the costs of title searches, location reports, service or process, reasonable attorney's fees, costs of removal of the building, any costs incurred in securing the building pending its removal and all other costs incurred by the municipality or county that are reasonably related to the removal of the building. In addition to levying a special tax, the municipality or county may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner. [PL 2017, c. 136, §3 (AMD).]

#### SECTION HISTORY

PL 1965, c. 284 (RPR). PL 1967, c. 401, §2 (AMD). PL 1973, c. 143, §2 (AMD). PL 1977, c. 707, §§5-A (AMD). PL 1979, c. 27, §5 (AMD). PL 2017, c. 136, §3 (AMD).

#### **§2854. Costs**

##### **(REPEALED)**

#### SECTION HISTORY

PL 1965, c. 284 (RP).

#### **§2855. Entry into force by town vote**

##### **(REPEALED)**

#### SECTION HISTORY

PL 1965, c. 284 (RP).

#### **§2856. Securing dangerous buildings**

In addition to other proceedings authorized by this subchapter, a municipality has the right to secure buildings that pose a serious threat to the public health and safety and to recover its expenses in so doing as provided in section 2853. If a building is secured under this section, notice in accordance with section 2857 must be given. This notice need not be given before securing the building if the threat to the public health and safety requires prompt action. [PL 2017, c. 136, §4 (AMD).]

#### SECTION HISTORY

PL 1979, c. 27, §6 (NEW). PL 2017, c. 136, §4 (AMD).

#### **§2857. Notice; recording**

Notice required under section 2851 or section 2856 must be served on the owner and parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. When the name or address of an owner or party in interest is unknown or is not ascertainable with reasonable diligence, the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper. [PL 2017, c. 136, §5 (NEW).]

The municipal or county clerk shall cause an attested copy of the notice to be recorded in the Registry of Deeds located within the county where the building is situated. Recording of this notice puts any person claiming under the owner of a building subject to proceedings under this subchapter on notice of the pendency of the proceedings. [PL 2017, c. 136, §5 (AMD).]

#### SECTION HISTORY

PL 1979, c. 27, §6 (NEW). PL 2017, c. 136, §5 (AMD).

#### **§2858. Consent to removal**

The owner or a party in interest of a dangerous building may consent to its removal and to the recovery of the expenses incurred by a municipality or county by means of a special tax as set forth in

this subchapter. Notices of the consent must be recorded in the Registry of Deeds located in the county where the building is situated. [PL 2017, c. 136, §6 (AMD).]

## SECTION HISTORY

PL 1979, c. 27, §6 (NEW). PL 2017, c. 136, §6 (AMD).

### §2859. Summary process

In cases involving an immediate and serious threat to the public health, safety or welfare, in addition to any other remedies, a municipality or a county may obtain an order of demolition by summary process in Superior Court, in accordance with this section. [PL 2019, c. 557, §3 (AMD).]

**1. Commencement of action.** A municipality, acting through its building official, code enforcement officer, fire chief or municipal officers, or the county commissioners shall file a verified complaint setting forth such facts as would justify a conclusion that a building is dangerous, as described in section 2851, and shall state in the complaint that the public health, safety or welfare requires the immediate removal of that building. The municipality or the county may seek a writ of attachment of the property on which the building is located in accordance with Title 14, chapter 507 and the Maine Rules of Civil Procedure.

[PL 2019, c. 557, §4 (AMD).]

**2. Order of notice.** Whenever a complaint is filed under this section, the justice before whom it is brought, acting ex parte, shall promptly issue an order:

A. Requiring the owner and all parties in interest to appear and show cause why the building should not be ordered demolished; [PL 2017, c. 136, §8 (AMD).]

B. Specifying the method of service of the order and the complaint; [PL 1981, c. 43 (NEW).]

C. Setting a time and place for hearing the complaint, which shall be the earliest possible time but not be later than 10 days from the date of filing; and [PL 1981, c. 43 (NEW).]

D. Fixing the time for filing an answer to the complaint if the court determines that an answer is required. [PL 1981, c. 43 (NEW).]

[PL 2017, c. 136, §8 (AMD).]

**3. Enlargement of time; default.** The court may for good cause shown enlarge the time for the hearing. If the owner or parties-in-interest, or any of them, fail to answer, if an answer is required, or fail to appear as directed, or to attend the hearing at the time appointed or as enlarged, the court shall order a default judgment to be entered with respect to the owner or parties-in-interest.

[PL 1981, c. 43 (NEW).]

**4. Hearing.** After hearing, the court shall enter judgment. If the judgment requires removal of the building, the court shall award costs to the municipality or the county as authorized by this subchapter. The award of costs may be contested and damages sought in a separate action to the extent permitted by subsection 7.

[PL 2019, c. 557, §5 (AMD).]

**5. Appeal.** A judgment requiring demolition issued pursuant to this section may not be appealed. The owner of a building that is the subject of an order issued under this section or a party in interest may appeal the award of costs, if any, or seek damages for wrongful removal pursuant to subsection 7.

[PL 2017, c. 136, §9 (AMD).]

**6. Stay.** No judgment authorizing demolition may be stayed pending appeal, unless the court first determines that granting a stay would not pose a significant risk to the public health, safety or welfare.

[PL 1981, c. 43 (NEW).]

**7. Damages.** Any complaint that either seeks damages for the wrongful removal of a building or challenges the award of costs must be filed no later than 30 days from the date of the judgment or order

that is the subject of the appeal. The damages that may be awarded for wrongful demolition are limited to the actual value of the building at the time of its removal. The provisions of Title 14, section 7552 do not apply. If the municipality or the county prevails, the court may award it its costs in defending any appeal, which may include, but are not limited to, reasonable attorney's fees.

[PL 2019, c. 557, §6 (AMD).]

#### SECTION HISTORY

PL 1981, c. 43 (NEW). PL 1995, c. 450, §6 (AMD). RR 2007, c. 2, §5 (COR). PL 2017, c. 136, §§7-10 (AMD). PL 2019, c. 557, §§3-6 (AMD).

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