

Title 17 § 2851. Dangerous buildings

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or de-organized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or de-organized area, as measured from low water mark, is structurally unsafe; unstable; 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, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure.

1. **Notice.** The notice must be served on the owner and all parties in interest, as defined in Title 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.
2. **Notice; how published.** When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then 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.
3. **Order.** The order made by the municipal officers or county commissioners 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 subsection 2.
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 structure 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 structure, it shall award costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

Title 17 §2852. Appeal; hearing

An appeal from a decision of the municipal officers or county commissioners must be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B.

Title 17 §2853. Municipal officers may order nuisance abated.

If no appeal is filed, the municipal officers of such municipality shall cause said nuisance to be abated or removed in compliance with their order, and all expenses thereof shall be repaid to the municipality by the owner or co-owner within 30 days after demand or a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected.

In the case of any claim for expenses incurred in the abatement or removal of any wharf, pier, pilings or any portion thereof which extends beyond the low water mark, the special tax authorized by this section shall apply to the land from which such wharf, pier or pilings extended or to which they were adjacent, provided the owner of the land is also the owner of the said wharf, pier, pilings or portion thereof.

Expenses shall include, but not by way of limitation, the costs of title searches, location reports, service or process, costs of removal of the structure, any costs incurred in securing the structure, pending its removal, and all other costs incurred by the municipality which are reasonably related to the removal of the structure. In addition to levying a special tax, the municipality may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner.

Title 17 §2856. Securing dangerous structures

In addition to other proceedings authorized by this subchapter, a municipality shall have the right to secure structures which pose a serious threat to the public health and safety and to recover its expenses in so doing as provided in this subchapter. If a building is secured under this section, notice, in accordance with section 2851, subsection 1, shall be given. This notice need not be given before securing the structure if the threat to the public health and safety requires prompt action.

Title 17 § 2857. Recording of notice

The municipal clerk shall cause an attested copy of the notice to be recorded in the Registry of Deeds located within the county where the structure is situated. Recording of this notice shall be deemed to

put any person claiming under the owner of a structure subject to proceedings under this subchapter on notice of the pendency of the proceedings.

Title 17 § 2858. Consent to removal

The owner and parties-in-interest of a dangerous structure may consent to its removal and to the recovery of the expenses incurred by a municipality by means of a special tax as set forth in this subchapter. Notices of the consent shall be recorded in the Registry of Deeds located in the county where the structure is situated.

Title 17 § 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 may obtain an order of demolition by summary process in Superior Court, in accordance with this section.

1. **Commencement of action.** A municipality, acting through its building inspector, code enforcement officer, fire chief or municipal officers, shall file a verified complaint setting forth such facts as would justify a conclusion that a building or structure is "dangerous," as that term is defined in section 2851; and shall state therein that the public health, safety or welfare requires the immediate removal of that building or structure.

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, as that term is defined in the statutes governing foreclosure by civil action, to appear and show cause why the building or structure should not be ordered demolished;

B. Specifying the method of service of the order and the complaint;

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

D. Fixing the time for filing an answer to the complaint if the court determines that an answer is required.

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.

4. Hearing. After hearing, the court shall enter judgment. If the judgment requires removal of the building or structure, the court shall award costs to the municipality 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.

5. Appeal. No judgment requiring demolition issued pursuant to this section may be appealed. The owner of a building or structure which 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.

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.

7. Damages. Any complaint that either seeks damages for the wrongful removal of a building or structure 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 structure at the time of its removal. The provisions of Title 14, section 7552 do not apply. If the municipality should prevail, the court may award it its costs in defending any appeal which may include, but are not limited to, reasonable attorney's fees.

NOTICE OF HEARING

Pursuant to Title 17 M.R.S.A. §§ 2851-2859

DANGEROUS BUILDINGS

TO: _____ (Owner's Name)

_____ (Owner's Address)

You are hereby notified that the Municipal Officers of the City/Town of Madawaska, Maine will

hold a hearing on _____ (date) at _____ (time) at

_____ (place) to determine whether the building/structure owned by you and located on land owned by _____, described as _____ (type of premises) and shown on Map _____, Lot _____ of the current Tax Maps of the City/Town of Madawaska, Maine on file at _____ (place), is dangerous or a nuisance within the meaning of Title 17 M.R.S.A. §§ 2851. If the Municipal Officers so determine, they may order abatement of said nuisance including but not limited to demolition and removal of said building/structure. If their order is not timely complied with and no appeal is taken, the Municipal Officers may undertake said abatement at municipal expense and recover all such expenses, including reasonable attorney's fees, by means of a special tax or civil action.

Dated: _____ Municipal Officers City / Town of Madawaska, Maine

/s/ _____ /s/ _____

/s/ _____

STATE OF MAINE

Aroostook County, ss

Date: _____.

Personally appeared before me the above-named _____
, _____

and _____ and each acknowledged the foregoing instrument to be
his/her free act and deed.

Notary Public/Attorney at Law

FINDINGS AND ORDER

Pursuant to Title 17 M.R.S.A. §§ 2851-2859

(Dangerous Buildings)

TO: _____ (Owner's Name)

_____ (Owner's Address)

On _____ (date) at _____ (time) at _____ (place), the Municipal Officers of

the City/Town of Madawaska, Maine held a hearing to determine whether the building/structure owned by you and located on land owned by _____, described as

_____ (type of premises) and shown on Map

_____, Lot _____ of the current Tax Maps of the City/Town of Madawaska, Maine on file at _____ (place), is dangerous or a nuisance within the meaning of Title 17 M.R.S.A. § 2851. Notice of said hearing was duly served on said owner(s) and all parties in interest. The following persons were present and testified.

_____.

Based on their testimony and other evidence presented and made part of the record, the Municipal Officers find the facts:

Based on the foregoing findings, the Municipal Officers conclude that said building/structure is dangerous or a nuisance because (specify applicable conditions as described in Title 17 M.R.S.A. § 2851):

Therefore, pursuant to Title 17 M.R.S.A. § 2851, you are hereby ORDERED to (specify action):

Said abatement to be completed within _____ days of service of this order. This decision may be appealed to Superior Court under the Maine Rules of Civil Procedure, Rule 80B. If this order is not timely complied with and no timely appeal is taken, the Municipal Officers may undertake said abatement at municipal expense and recover all such expenses, including reasonable attorney's fees, by means of special tax or civil action.

Dated: _____ Municipal Officers City/Town of Madawaska, Maine

/s/ _____ /s/ _____

/s/ _____

STATE OF MAINE

Aroostook County, ss

Date: _____.

Personally appeared before me the above-named _____
, _____

and _____ and each acknowledged the foregoing instrument to be
hi/her free act and deed.

Notary Public/Attorney at Law

CONSENT TO REMOVAL

Pursuant to Title 17 M.R.S.A. §§ 2851-2859

(Dangerous Buildings)

I _____, of _____, for
(owner's name) (address)

myself, my successors and assigns, hereby consent to the removal by the City/Town of Madawaska, Maine, or its agents, of the building/structure owned by me and located on land owned by _____, described as _____ (type

of premises) and shown on Map _____, Lot _____ of the current Tax Maps of the City/Town of Madawaska, Maine on file at _____ (place) I further admit liability to the

City/Town of Madawaska, Maine for all expenses reasonably related to said removal not to exceed \$_____, and consent to recovery of said expenses by means of a special tax as set forth in Title 17 M.R.S.A. §§ 2851-2859 or civil action. I further waive any claim whatsoever arising out of said removal of relating to recovery of the expenses thereof.

Dated: _____ /s/ _____ (owner)

Agreed: _____
(party in interest)

Dated: _____

Municipal Officers, City/Town of Madawaska, Maine

/s/ _____ /s/ _____

/s/ _____

STATE OF MAINE

Aroostook County, ss

Date: _____.

Personally appeared before me the above-named _____
, _____ and _____ and each
acknowledged the foregoing instrument to be hi/her free act and deed.

Notary Public/Attorney at Law

SAMPLE ACKNOWLEDGEMENT

STATE OF MAINE

Aroostook County, ss.

Personally appeared the above-named _____ and
acknowledged the foregoing instrument to be his/her free act and deed (in his/her sad capacity).

/s/ _____

RETURN OF SERVICE

STATE OF MAINE

Aroostook County, ss.

On the _____ day of _____, 20____, I made service of the within
notice/order upon

_____ (name) by delivering a copy thereof to

_____ (address.

/s/ _____

Sheriff/Deputy Sheriff

Service \$ _____

Acknowledgement _____

Travel _____ miles one way _____

Postage _____

Amount \$ _____

DANGEROUS BUILDINGS ORDINANCE

FOR THE

TOWN OF MADAWASKA, MAINE

ENACTED: 4-14-2016
Date

EFFECTIVE: 4-14-2016
Date

CERTIFIED BY: Amy Ouellette
Name

Town Clerk
Title

Affix Seal

