



§ 2851. Dangerous buildings.

Maine Revised Statutes

Title 17. CRIMES

Chapter 91. NUISANCES

Subchapter 4. DANGEROUS BUILDINGS

Current through 2019-2020 Chapter 678

§ 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.

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.

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.

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.
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.

Cite as 17 M.R.S. § 2851

History. Amended by 2020, c. 557, §2, eff. 2/14/2020.

Amended by 2020, c. 557, §1, eff. 2/14/2020.

Amended by 2017, c. 136, §1, eff. 11/1/2017.

1965, c. 284, (RPR) . 1967, c. 401, § 1 (AMD) . 1973, c. 143, § 1 (AMD) . 1979, c. 27, §§1-3 (AMD) . 1997, c. 6, § 1 (AMD) .

§ 2852. Appeal; hearing.

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§ 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.

Cite as 17 M.R.S. § 2852

History. Amended by 2017, c. 136, §2, eff. 11/1/2017.

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

§ 2853. Recovery of expenses.

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§ 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.

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.

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.

Cite as 17 M.R.S. § 2853

History. Amended by 2017, c. 136, §3, eff. 11/1/2017.

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

§ 2854. Costs (REPEALED).

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§ 2854. Costs (REPEALED)

Cite as 17 M.R.S. § 2854

History. 1965, c. 284, (RP) .

§ 2855. Entry into force by town vote (REPEALED).

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§ 2855. Entry into force by town vote (REPEALED)

Cite as 17 M.R.S. § 2855

History. 1965, c. 284, (RP).

§ 2856. Securing dangerous buildings.

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§ 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.

Cite as 17 M.R.S. § 2856

History. Amended by 2017, c. 136, §4, eff. 11/1/2017.
1979, c. 27, § 6 (NEW).

§ 2857. Notice; recording.

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§ 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.

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.

Cite as 17 M.R.S. § 2857

History. Amended by 2017, c. 136, §5, eff. 11/1/2017.
1979, c. 27, § 6 (NEW) .

§ 2858. Consent to removal.

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§ 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.

Cite as 17 M.R.S. § 2858

History. Amended by 2017, c. 136, §6, eff. 11/1/2017.
1979, c. 27, § 6 (NEW) .

§ 2859. Summary process.

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§ 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.

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.
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;
 - 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, 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.
 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.
 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 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.

Cite as 17 M.R.S. § 2859

History. Amended by 2020, c. 557, §6, eff. 2/14/2020.

Amended by 2020, c. 557, §5, eff. 2/14/2020.

Amended by 2020, c. 557, §4, eff. 2/14/2020.

Amended by 2020, c. 557, §3, eff. 2/14/2020.

Amended by 2017, c. 136, §7 to §10, eff. 11/1/2017.

1981, c. 43, (NEW) . 1995, c. 450, § 6 (AMD) . RR 2007, c. 2, § 5 (COR) .