

SOUTH PORTLAND CODE OF ORDINANCES

Chapter 16

NUISANCES GENERALLY*

 * **Cross reference(s)**--Dangerous dogs a nuisance, § 3-45; when erection, continuance, use of building a nuisance, § 5-7; bitches in heat running at large declared a public nuisance, § 8-44.
State law reference(s)--Nuisances, generally, 17 M.R.S.A. § 2701 et seq.

Sec. 16-1. Committing, creating or maintaining a nuisance prohibited.

No person shall commit, create or maintain any nuisance.

(Code 1966, § 6-5-1)

Sec. 16-2. Automobile dumps, graveyards.

All automobile dumps or automobile graveyards, so-called, where old, discarded, worn-out or junked automobiles 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 street, as to be unsightly, detracting from the natural scenery and injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

(Code 1966, § 6-5-3)

Sec. 16-3. Open, uncovered wells, cisterns, cellars, excavations.

The existence on any lot or parcel of land within the city of any open or uncovered well, cistern, cellar, dangerous hole or excavation injurious or prejudicial to the public safety, comfort, health and welfare is hereby declared a nuisance. Any person owning or having possession, charge or control of such lot or parcel of land neglecting or refusing to abate the same after having been given thirty (30) days' notice in writing to do so by the building inspector shall be in violation of law.

(Code 1966, § 6-5-5)

Sec. 16-4. Unsightly and offensive accumulations or conditions.

- (a) *Declaration of public nuisance.* Any machine, substance, unsightly accumulation or condition or situation upon lots, lands or property within the city, whether or not herein enumerated, which is physically annoying to persons of ordinary sensitiveness, or which may injure or injuriously affect property in the immediate vicinity thereof, or which may occasion physical discomfort to persons, may be declared to be a public nuisance by the council, and thereafter abated and removed as herein provided.
- (b) *Complaint and establishment of hearing.* Upon complaint to the council by any city official or department head of such accumulations of materials or such conditions, or upon receipt by the council of a petition signed by at least ten (10) real estate taxpayers of record within five hundred (500) feet thereof complaining of such condition, the council shall, by order, establish a date, time and place for a public hearing to determine whether or not such condition is in fact a public nuisance within the purview of this section.
- (c) *Notice of public hearing.* The city clerk shall, by certified or registered mail, return receipt requested, give notice to the owner of the premises as shown upon the last tax rolls of the city, and such mailing thereof shall be considered

sufficient notice to the owner of such hearing, and such notice shall be given not less than five (5) days next prior to the date of the hearing as established by council order.

- (d) *Hearing procedure.* At the time and place as designated by council order, the council shall hear and consider the complaints as rendered in subsection (b), and shall hear and consider the objections to the proposed findings, if any. At the conclusion of the hearing, the council shall, by council order, find or not find that there is in fact a prevailing nuisance or such conditions as complained of. The hearing may be continued from time to time at the discretion of the council.
- (e) *Abatement order.* Should the council find and pass such order that such condition complained of is a nuisance, then such order shall contain a directive and order to the owner thereof, as shown on the last tax roll of the city to abate the nuisance and condition within fifteen (15) days from the date of the order of abatement, and the order shall further order the city manager, through the proper agency of the city, to abate the nuisance or condition if same is not so abated by the owner thereof within the fifteen (15) days as ordered.
- (f) *Right of entry and removal.* The city manager, or his agents, is hereby expressly authorized to enter upon private property for the purpose of abating nuisances and conditions pursuant to the council order referred to in subsection (e), and the city manager, his agents or servants, shall abate such nuisances and conditions by having such materials and conditions removed from such premises and disposed of by the most practicable method.
- (g) *Recovery of cost to city.* The city manager shall keep an account of the cost of abatement in each given matter where the abatement was done by him or his agents. He shall submit to the council for confirmation an itemized written report showing such cost. A copy of this report shall be posted in the municipal building for a period of seven (7) days prior to its submission to the council, with a notice of the date and time of submission. At the date and time fixed for receiving and considering the report, the council shall hear it and shall hear any objections of the property owners liable to be assessed for the abatement. The council may modify the report if it is deemed necessary and shall then confirm the report by order.
- (h) *Special assessment; lien.* The cost of abatement constitutes a special assessment against that lot or parcel. After the assessment is made and confirmed, it is a lien on the lot or parcel.
- (i) *Cost assessment.* After confirmation of a report, a certified copy of the same shall be filed with the tax assessor and director of finance within seven (7) days after the report of the city manager is confirmed by the council. The descriptions of the parcels reported shall be those used for the same parcels, on the assessor's map book for the current year. The assessor shall enter each assessment on the tax roll opposite the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedures of foreclosure and sale provided for ordinary municipal taxes. As an alternative method, the director of finance, in his discretion, may collect the assessments without reference to the general taxes, by issuing separate bills and receipts for the assessments. Laws relating to the levy, collection and enforcement of taxes shall apply to such special assessment taxes.
- (j) *Violation and penalties.* Whenever the council, after the hearing, issues an order declaring that a nuisance exists, and after ordering the same to be abated by the owner of the property on which same is situated, no person shall refuse or fail to abate such nuisance within fifteen (15) days from the date of the notice to abate issued by the council.

(Code 1966, § 6-5-6)