



# GARDINER CITY COUNCIL AGENDA ITEM INFORMATION SHEET



<b>Meeting Date</b>		<b>Department</b>	
<b>Agenda Item</b>			
<b>Est. Cost</b>			

Background Information

<b>Requested Action</b>	
<b>City Manager and/or Finance Review</b>	
<b>Council Vote/ Action Taken</b>	
<b>Departmental Follow-Up</b>	

<i>City Clerk Use Only</i>	1 <sup>st</sup> Reading _____	Advertised _____	<b>EFFECTIVE DATE</b> _____
	2 <sup>nd</sup> Reading _____	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

## **Dangerous Buildings Proceeding Under 17 M.R.S.A. § 2851 et seq: Procedural Summary for Gardiner City Council**

**Step 1 — Pre-Proceeding: Inspection and Preliminary Efforts.** Before formally initiating a process, the Code Enforcement Officer (CEO) should conduct at least one inspection, deliver a notice of violation, and attempt to reach a consensual resolution with the property owner [*Note: the Gardiner CEO has already done this*].

**Step 2 — Threshold Finding: What Qualifies as a Dangerous Building.** The City Council must have a basis to find that the building meets the statutory standard. Under state law, a building may be found dangerous if it is structurally unsafe; is 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. Following a discussion with the CEO, if the City believes there is a threshold showing that a building is dangerous, the next step is to schedule a hearing.

**Step 3 — Issue Notice of Hearing (§ 2857).** Before conducting a hearing, the City Council must provide proper notice. This is the most critical procedural step.

**A. Service on Known Parties:** Notice required under section 2851 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. Parties in interest" has the same meaning as under Title 14, section 6321 (the civil foreclosure statute), and includes mortgagees and lienholders of record.

**B. Publication When Owner/Address Unknown:** 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.

**C. Recording of Notice in Registry of Deeds:** 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 building is situated. Recording of this notice puts any person claiming ownership on notice of the pendency of the proceedings.

**Step 4 — Conduct the Hearing (§ 2851).** The City Council, after notice pursuant to section 2857 and hearing, may adjudge a building to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building. At the hearing, the owner and all parties in interest have the opportunity to appear and be heard. The City Council sits as the adjudicatory body.

**Step 5 — Issue and Record the Order (§ 2851, sub-§ 3).** If the City Council makes a finding that the building is dangerous, it must issue and record a formal order. An order made by the municipal officers under this section must be recorded by the municipal

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. 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.

**Step 6 — Appeal Period (§ 2852).** An appeal from a decision of the City Council under section 2851 must be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B. The municipality should not proceed with abatement or demolition during any applicable appeal period unless it has separately obtained emergency authority. If an appeal pursuant to section 2852 is not filed, the City Council shall cause the nuisance to be abated or removed in compliance with the order.

**Step 7 — Abatement / Corrective Action.** Typically, the order provides the owner with at least 30 days to demolish or repair the building to the municipality's satisfaction. If the necessary corrective action is not taken by the owner, the order will give the City the authority to abate the property.

**Step 8 — Recovery of Expenses (§ 2853).** The City must itemize all costs related to the dangerous building proceeding and issue a written demand to the owner. After recording an attested copy of the § 2857 notice in the Registry of Deeds, the City 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. Costs may ultimately be recovered as a special tax lien against the property.