

Chapter 183: Odor Nuisance Control and Abatement

§ 183-1 Interpretation, Amendment and Legal Provisions

183-1.1 **Authorization.** This Ordinance is adopted pursuant to 30-A M.R.S. § 3001 and the City's Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A M.R.S. §§ 2101-2109 and in accordance with the authority of the City to seek judicial remedies in order to protect the inhabitants of the City, the City as a municipal corporation, and individual residents of the City as provided for by the laws of the State of Maine, including, but not limited to 17 M.R.S. §§ 2702, 2705 and 2706; 30-A M.R.S. § 2002 and at common law.

183-1.2 **Administration and Enforcement.** The Code Enforcement Officer of the City of Sanford shall administer and enforce this Ordinance.

183-1.3 Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

§ 183-2 Purpose. The City finds that because most odorous pollutants have a complex chemical composition and may elicit a broad spectrum of responses by the receptors, special methods must be employed in their measurement and characterization. Although analytical data are more precise and may be useful in identifying a source, it is the human response or the sensory data that is most critical in determining the necessary degree of odor control. Analytical data may be used to specify permissible emission levels from a source, but sensory data must be employed to assess the impact in the surrounding community. The latter is the City's primary concern.

§ 183-3 Objectionable Odor Determination. An odor will be deemed objectionable and is a public nuisance when any of the following occurs:

183-3.1 Creates a public nuisance at common law; or

183-3.2 The erection, continuance or use of any building or place for the exercise of trade, employment or manufacture which, by noxious exhalations or offensive smells, become injurious and dangerous to the health, comfort or property of individuals or the public; or

183-3.3 All members of a panel consisting of the Code Enforcement Department and four (4) residents of the City, appointed by the Mayor to assist the Code Enforcement Department in investigating complaints and who are not aggrieved by the source, determine following concurrent, personal observation, that the odor at the property line of the source based on City Tax Maps or elsewhere in the City is objectionable, taking into account its nature, concentration, location, and duration and are able to identify the source.

§ 183-4 Compliance. No odor source, land use, facility, or activity shall be exempt from complying with the odor management standards contained in this chapter, Chapter 149: Licensing, and Chapter 280: Zoning, because of grandfathering or because of being an existing use, facility, or activity at the time the

standards were enacted. The odor standards apply to all existing and future odor sources, land uses, facilities, and activities in the City, except as otherwise provided herein.

§ 183-5 Observation Procedures. Odor observation shall be undertaken to arrive at a determination that an objectionable odor exists shall be at or beyond the property line or at or near places where people live or work.

§ 183-6 Enforcement. In the event that the Code Enforcement Department receives complaints that smells or odors are detectable beyond the property line, the following process shall be used to correct the odor problem:

183-6.1 Within seven (7) days of receiving a complaint, the Code Enforcement Department shall investigate the property to assess the situation and discuss odor compliance with the business operator, including but not limited to asking the business operator what is being done to mitigate odors. If the Code Enforcement Department detects odor beyond the property lines and/or the operator indicates that odor management provisions described in its Operations Manual and Safety Plan described in Chapter 280: Zoning are not being followed, the Code Enforcement Department shall provide verbal notice of violation to the operator and instructions to comply with odor management provisions and require the operator to notify the Code Enforcement Department of conformance within ten (10) days.

183-6.2 If complaints persist and/or the Code Enforcement Department continues to observe an odor issue, the Code Enforcement Department shall assemble the panel authorized as described above to investigate the complaints. If the Code Enforcement Department and the panel observe odor issues after the ten (10) day period as described above, the Code Enforcement Department shall notify the operator of violation in writing and require notification of conformance within ten (10) days.

183-6.3 If complaints persist and/or the Code Enforcement Department and the panel continue to observe odor issues after the ten (10) day period described above, the Code Enforcement Department shall provide a second written notice of violation, assess a fine for a first violation, as specified under Chapter 149, and require the operator to submit a written report from a mechanical engineer with recommendations for modification/improvement of the ventilation system within forty-five (45) days and installation of recommendations and notice of compliance within sixty (60) days.

183-6.4 If the operator has not submitted the required report within forty-five (45) days, or if the operator has not submitted evidence of compliance within sixty (60) days described above, the Code Enforcement Department shall provide a third written notice of violation and assess a fine for a second violation, as specified under Chapter 149.

183-6.5 If the operator has not submitted required report within sixty (60) days described above or if the operator has not submitted evidence of compliance within seventy-five (75) days, the City Manager shall assess a fine for a third violation, as specified under the Chapter 149, and temporarily suspend the business license.

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183-6.6 If the operator has not submitted the required report within seventy-five (75) days described above or if the operator has not submitted evidence of compliance within ninety (90) days, the City Manager shall ask the City Council to permanently revoke the business license.

183-6.7 Upon request of the City Manager, and as directed by Chapter 149, the City Council shall undertake the required process to consider revocation of the business license.

July 13, 2016

This Chapter was adopted by the Sanford City Council Order #: 16-101.06
On August 2, 2016