

No. 173

PUBLIC NUISANCE—JUNK YARD AS PUBLIC NUISANCE—ORDINANCES—NUISANCES—CITIES—TOWNS

Held: Under Section 5039.32, Revised Codes of Montana, 1935, a city or town council is authorized and empowered to declare and define a public nuisance.

July 16, 1941.

Mr. H. O. Vralsted
County Attorney
Judith Basin County
Stanford, Montana

Dear Mr. Vralsted:

In your letter of recent date, requesting my opinion whether a junk yard in the town of Hobson, Montana, is a nuisance, you stated:

"The facts in the instant case are that a private individual is engaged in the business of wrecking machinery and assorting the metals therefrom. He has stored or placed on his private property old tractors and other kinds of machinery in large numbers, covering several lots of ground within the town of Hobson.

"A few years ago the town acquired a site and with his consent removed all his machinery and metals to the place acquired therefor, but since that time he has resumed the practice of storing junk on his property within the townsite. It is an eye-sore to the people of the town who object to it, although no ordinance has been in effect prohibiting it. It is now desired to pass an ordinance and also to compel the removal of the junk if that can be done."

Section 5039.32 of the Revised Codes of Montana, 1935, is pertinent to your query:

"Section 5039.32. Abatement of and regulation concerning nuisances. The city or town council has power: To define and abate nuisances, and to impose fines upon persons guilty of creating, continuing, or suffering a nuisance to exist on the premises which they occupy or control."

It is my opinion that, if the Town Council of Hobson, Montana, regularly passes an ordinance defining a nuisance, such ordinance can be broad enough to include the junk yard to which you referred.

Sincerely yours,

JOHN W. BONNER
Attorney General