

THE ENFORCER

NEWSLETTER OF THE MAINE BUILDING OFFICIALS
AND INSPECTORS ASSOCIATION. www.mboia.org

BY CODES ENFORCEMENT PROFESSIONALS.
FOR CODES ENFORCEMENT PROFESSIONALS

January
2016



MUBEC REBOOTED

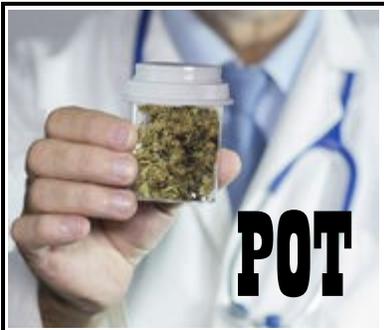
**Coming soon to a jurisdiction
near you. (maybe yours)**

The Codes Bureau is reviewing the 2015 editions of the I-Codes in preparation for adopting them, so we won't be more than two code cycles out of date, as required by the law that created the MUBEC. They're making a list and checking it twice for amendments they'll want to include. They hope to have the new codes in place by July 1, 2016. If you'd like to participate in reviewing the codes, let Rich McCarthy or Kathy Robitaille at the Codes Bureau (624-7007) know.



MBOIA and the Maine Fire Chiefs Association put on an excellent training seminar about the differences between the 2009 codes and the 2015 codes in December, taught by codes consultant Steve Thomas, from Colorado. Steve is an experienced codes professional that does a nice job keeping a dull subject interesting. Some of the changes are just formatative, some are minor, some are less so, but nothing jumped out and caused any collective groans or panic in the room.

MBOIA is working on trying to arrange a discounted price for code books from ICC. Members will be solicited to see how much interest there is, which may have a bearing on how big a discount they can finagle. So when you get the email, don't just assume it's spam from Paul and delete it. If you want discounted books, make your voice heard.



POSSIBLY ALSO COMING TO YOUR TOWN

Cures headaches for some.
Causes headaches for others....

Medical marijuana creates some interesting codes issues, primarily in the areas of growing it and selling it. People can get State approval to

grow marijuana to sell. Sometimes the grower is also an authorized user. The growing often takes place in a residential setting, with people growing it in their houses, apartments, or outbuildings. The people do-

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ing it enjoy some legal protections as to their privacy and rights to grow it. You may have licensed growers operating in your community already, and may not even know it. Where do local zoning and neighbors' rights come into play, if at all? Grow sites can create some negative impacts for nearby residents, particularly in a multi family building. The smell can be quite pungent, and the operation can use amounts of water and electricity the building is not designed or equipped to provide. Under the normal rules of engagement, growing pot to sell is probably agriculture, or a home occupation, and should only be taking place where those uses are allowed. Some growers are users, with a doctor's prescription to use it for a qualified ailment or disability. Is them growing dope protected by the ADA? People get cranked up when a dispensary is proposed in their town, but is a dispensary anything other than a retail store, just like Walgreens, CVS, or other store that sells controlled substances? Growing, selling, administering, and using marijuana is treacherous legal territory. Growing and using pot is a federal crime, but the State says it's OK. Where the town stands is a slippery slope indeed. Give thought to how you'll deal with this if it lands in your office (if it hasn't already). The best tool in your box for dealing with it is likely your town attorney (and maybe a bag of weed for the headaches it's gonna give you.....).

MUBEC Amendments Available On The Codes Bureau Website



The TAG (Technical Advisory Group) and Codes Board recommend amendments to the MUBEC, which are then adopted through the rulemaking process, generally to resolve conflicts between the MUBEC and other codes that are in effect in Maine. The amendments are listed on the Codes Bureau website (www.maine.gov/dps/bbs) right on the front page. If you're wondering if a piece of MUBEC code has been changed, that's the place to learn it.

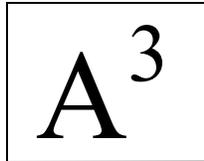
WELCOME to the 2016 edition of The Enforcer. This newsletter exists for the purpose of getting useful information out to people who can use it. State laws, certification stuff, code interps, tips and tricks, advice from the old dogs, a few laughs - it's all here - for you! Whether you're a codes greenhorn or a codeasaurus, you'll find something useful in these pages. I try to be as accurate as possible, but I'm human, some of the information is secondhand (some used with permission, some without...), and I'm at the mercy of my sources. This newsletter will be posted on the MBOIA website, where you can print it in color (which is way better than the black and white one you may be reading.) So put down the administrative warrants and Stop Work Orders, grab a coffee, and enjoy the ride.

Scott Davis Editor, Publisher, Janitor, Whatever..... sdavis@cityofbath.com

Where Can I See Them Codes?

While the codes are copyrighted materials you usually have to pay a lot of money for, anyone with access to a computer can view the I-codes, and the NFPA codes on line, for free! This is a great tool for contractors, design professionals, and codes officials. You can access the NFPA codes on the NFPA website (nfpa.org). You can see the I-codes on line, here: www.publicecodes.cyberregs.com. This is on the ICC website, which is www.iccsafe.org. You can't print or copy all of these, but they're a great way to see what a particular code text says, which sometimes is all you need. Information is power. Know where to get it!





ASSORTED ASSOCIATION ACTIVITIES



The 2015 Codes Conference was again excellent. Good instructors, good venue, timely, topical, interesting training, for a very reasonable price, just like always. Many thanks to Mark Stambaugh and his minions for putting the thing together. Well done. See the dates below for this year's event.

Our officers and directors meet monthly, to conducting the business of running the organization. There's a lot that goes on behind the scenes to make the Association function, and they do a nice job. This year's meeting schedule, which is on the MBOIA website (www.mboia.org) is:

Thursday January 22nd Membership and Board meeting Merry Manor, South Portland
 Thursday February 12th 9 AM Board meeting MMA-Augusta
 Thursday March 19th Membership and Board meeting Fireside Inn Portland
 Thursday April 23rd 9 AM Board meeting MMA Augusta
 Monday and Tuesday, May 18th and 19th Codes Conference Sebasco Resort Phippsburg
 Wednesday June 24th 9 AM Board meeting MMA Augusta
 Thursday July 23rd Membership and Board meeting MMA Augusta
 Thursday September 24th Membership and Board meeting Spring Meadows Golf Club Gray
 Thursday October 15th 9 AM Board meeting MMA Augusta
 Week of November 2nd Training workshops TBD
 Thursday December 10th Membership and Board meeting Green Ladle Lewiston

Check the website for changes.

Many thanks to our officers and directors for all you do for us!

SAVE MONEY ON TRAINING BY JOINING MBOIA!

If you are not a member of MBOIA and take training classes that The Association puts on, know that the training is usually free for MBOIA members, and the cost of a membership is usually less than the non member cost of the training. Do the math, and join up. Along with cheaper training, you get to stay on the cutting edge of Maine codes stuff, participate in the Moosechat listserv, and receive this fine fish-wraper you're reading now without even asking for it. As they say down at the wharf, or upta deer-camp, it's a no brainah.

"I never met a dollar I didn't like." Ed.

Habitat for Humanity is always looking for volunteers to help build houses. They've got a project going in Scarborough. If you'd like to help out, contact Laura Duplissis at the Portland Habitat office (772-2151). You can see more about it at their website at www.habitatportlandme.org.



ICC INTERPS



As you know, ICC members can get written interpretations of code text from ICC. This is one of the most useful benefits of ICC membership. If you receive any interps you're willing to share, post them on Moosechat, if you're an MBOIA member, and/or send them to me and I'll include them in the newsletter. If you had a question about something, others probably do too, and could benefit from ICC's opinion. The only new interp I have currently is below, dealing with people renting rooms in their homes to transients, a la Air BnB. The 2015 IRC and IBC have different, more lenient text about this occupancy than our codes today, but for the ICC take on our current code, read on.

Code Edition: 2009 IRC & IBC

Code Section: multiple

Questions: We have people in town who want to rent rooms in their single family houses to tourists in the summer. By the night, by the week, or whatever. The homeowners would live in the building while the renters are renting their rooms. The renters would share the bathrooms, kitchen, living space, etc. Some would serve breakfast to the guests, others would not. What IRC and/or IBC occupancy is this? The primary use of the house is a single family dwelling unit, which may be governed by the IRC, but the IRC doesn't define family and doesn't contain text dealing with transient occupants renting rooms. If renting rooms kicks the use into the IBC, the primary use of the house is a single family dwelling unit, which is R-3. Do the rented rooms constitute an R-1 use, triggering the requirement for sprinklers? Is this occupancy a Congregate Living Facility per IBC 310.2? While not what people normally consider a congregate living facility to be, it seems to fit the definition in the IBC. The IBC says that congregate living facilities with fewer than 11 occupants can use the construction requirements of R-3. To me, that means everything else (fire protection, etc.) has to meet the R-1 rules. Are the rented rooms a non-residential use, possibly making the place a Live-Work Unit? The code doesn't define "residential" or "non-residential". I need to figure out what occupancy these things are, and the associated code requirements to create them. Thanks for your input.



In response to your questions, per your e-mail of February 21, 2014, we offer the following opinion of the meaning and intent of the code on this subject. It is my understanding that your e-mail poses the following questions:

A: The IRC does not address occupancy classifications. In accordance with Section R101.2 of the IRC this is a single family dwelling. Converting a single family dwelling to a boarding house (transient) or congregate living facility (transient) is a change in use. In accordance with Section R110.2 of the IRC when an existing building's character or use is modified, the provisions of Sections 3408 and 3409 of the IBC dealing with change of occupancy and historic buildings must be met. Because the IRC is limited in scope to specific residential uses, any change in use beyond the scope of Section R101.2 will be governed by the IBC. For this change in use, the IBC occupancy classification is Residential Group R-1. In accordance with Section 310.1 of the IBC transient congregate living facilities with 10 or fewer occupants can be constructed to the requirements of Group R-3. The primary intent of this provision (new to the 2009 IBC) is to permit bed and breakfast type facilities to be established in existing single family structures. The building does not have to comply with the Group R-1 requirements only the Group R-3 requirements. Section 903.2.8 of the IBC requires an automatic sprinkler system to be installed in all Group R fire areas. Section 903.3.1.3 permits an NFPA 13D system to be installed in Group R-3. If there will be more than 10 occupants, then the building must comply with all Group R-1 requirements.

**Larry D. Franks, PE,
Senior Staff Engineer
CBO Codes and Standards Development**

Below are some follow-up questions to Mr. Franks' answer. His answers to the questions are in italics.

Good morning Mr. Franks:

I hope this finds you well. I write with some follow up question to your email below.

1. In the second sentence of the second paragraph, you write "this is a single family dwelling". Does that refer to the building with the owners living in it, or the building with the owners living in it and transient boarders renting rooms?

The intent is the building is occupied by a single family. Ownership is not addressed. The use of the building is for a single family. The use of a single family dwelling for transient boarders is not within the scope of the 2009 IRC. However, the 2012 IRC added Exception 2 to Section R101.2 that does permit owner-occupied lodging houses with five or fewer guestrooms when equipped with a fire sprinkler system in accordance with Section P2904.

2. If the building is a single family dwelling with the owners occupying it and transient boarders renting rooms, is the building governed by the IRC or the IBC?

Use of a single family dwelling for transient boarder renting rooms is a change in use. In accordance with Section R110.2 the change of use is governed by Section 3408 of the IBC.

3. If the answer to question 2 is the IRC, is there a limit to how many transient boarders the building can house and still be governed by the IRC?

NA

4. If the answer to question 2 is that taking in transient boarders makes the building subject to the IBC, what occupancy is it? Is it a Boarding House? A congregate living facility? Other?

The occupancy must be determined in accordance with Section 310.1 of the IBC. It is either Group R-1 or Group R-3. Where the use is congregate living facilities (transient) with 10 or fewer occupants it is permitted to be constructed to the requirements of Group R-3. The primary intent of this provision (new to the 2009 IBC) is to permit bed and breakfast type facilities to be established in existing single family structures. Where the use is congregate living facilities (transient) with more than 10 occupants then the building must comply with all Group R-1 requirements.

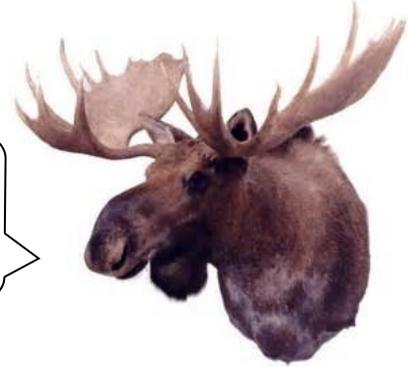
Airbnb (It's not a Bed and Breakfast on an airplane.....)

In case you're not familiar with it, Air BnB is a website on which people list residential rentals. Rooms, apartments, houses—the whole gamut. Some of these rentals operate in violation of applicable building, fire, zoning, lodging licensing, and food service laws. As detailed above, in MUBEC towns, renting rooms in a single family house causes the building to be governed by the IBC, and requires sprinklers, among other things. If you're wondering if or where this is going on in your town, check it out. The site doesn't list the address of the rental, but there's a map that shows where it is, some of the photos are of the outside of the building or recognizable scenery, and there's usually a picture and bio of the host/owner, and with a little local knowledge, Google Maps, and detective work, you can usually figure it out. The licensed B&B owners/operators will love you for it. If you've got your detective shoes on and are bored, Craigslist is another place people list rentals. Some legal—some not. Good luck, Sherlock.



"I'd rather fail trying to do the right thing than succeed at doing the wrong thing." Ed.

And now, put your antlers on, it's **Moosechat**



I'm glad I'm not a codes officer.

Lots of good Moosechatter bouncing around this year, on a variety of topics. Some highlights are below, in case you missed 'em, with some names and places deleted to protect the innocent (and not so innocent). I've tossed a couple questions in there that people asked me outside of the Moosechat, that are topical and hopefully useful or at least food for thought. Keep in mind that most of the answers are from CEOs, just like you, and their opinions mean nothing in your jurisdiction. They're just trying to help. Some of the responses are from State inspectors, and I've credited them. Some of the responses are edited for space reasons, consolidated if the answer was in more than one email, and/or expounded on, such as by adding a code reference if it's useful. Some of the responses contain text that's just too funny and/or fantastic not to credit to the authors. Thanks to those asking and answering the questions. This is a great, educational forum.

The Question, re: Restaurant bathroom(s)

I have a restaurant owner that wants to convert two bathrooms into one bath for both male and female patrons, to make the bathroom bigger Also, when and if he can do this it will have to be ADA I believe?



An answer:

MRSA 22 section 1686-A may have a bearing on the number of bathrooms the place has to have. It seems to allow restaurants with 40 or fewer seats that serve alcohol to have only one bathroom. How that interfaces (or doesn't) with the plumbing code is a mystery to me. Maybe Dana Tuttle knows. The project may require a permit from the State Fire Marshal's office (626-3880), and they can advise the owner on the ADA aspect of it all. The Federal ADA Center in Boston 1-800-949-4232) is another good resource for the owner about the ADA.

The Question, re: Solid fuel fired appliance in a garage

Hi All...we recently had a chimney fire in a wood fired boiler located in the attached garage. The homeowner's insurance company came out and is asking that the owners build a mechanical room within the garage. My question for all of you is if the code requires a separate mechanical/boiler room isolated from a garage that has been constructed to IRC 2009 standards? The garage has the required 1/2" sheet rock on the common wall, 5/8" type X on the ceiling and a 20 Min fire rated door leading into the residence. I have scoured the IRC and have not found a requirement for a mechanical/boiler room. Am I missing something here? Thanks for any help on the matter.



An answer:
From the Maine Fuel Board rules:

"If you're not at the table, you'll end up as part of the menu."
Carl Chretien 4-19-15

9.9 Solid Fuel in Garages

Except as described below, solid fuel burning appliances shall not be installed in any garage unless installed in a separate room, either in or attached to the garage, that is accessible only from the outside. For a major repair garage, the required fire wall

separation is 2 hours. For a minor repair or parking garage, the required fire wall separation is one hour. All combustion air must be taken from outside the building.

Exception: Solid fuel burning appliances using sealed combustion systems for which the air for combustion is taken from the outside may be installed in garages of one- and two-family dwellings.

The Question, re: Shipping container houses

OK Moores - so I have a property owner that wants to build a home out of steel shipping containers (8'x40'), stacked maybe three high and two or three wide. I would appreciate some words of advice on what I may want to require for any engineering drawings, energy efficiency requirements, roofing, etc...

If anyone has a structure like this in their towns, let me know. I may just take a ride and look at it!



An answer:

I believe that Section R106.1 permits you to require engineering. The applicable sections reads as follows: *Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.*

It would be interesting to hear from other CEOs on this language.

Another answer:

These containers are designed and built to withstand loading far in excess of those specified in the IRC for a house, but who knows what kind of condition the ones the applicant plans to use are in, and converting the things to a house will involve cutting holes in them for doors, windows, mechanicals, etc. that they are not designed to have. I'd want an engineer or architect's stamp for the project, specific to the containers to be used in the configuration in which they'll be used.

A related response, from the Maine Manufactured Housing Board:

To all authorities having jurisdiction:

This office has recently issued a cease and desist letter to SnapSpace Solutions, Inc. based in Brewer. The firm converts 30' shipping containers into construction site trailers, oil field offices, and utility rooms for cell towers, etc. The Manufactured Housing Board ("Board") also believes this firm may be manufacturing one and two family dwellings without a license to so manufacture in Maine.

If you know of a one or two family residence sited previously, or in the process of being sited by this firm, please let this office or the Board know.

Thank you.

Bob LeClair
The Maine Manufactured Housing Board

The Question, re: Flue sharing

Hi everyone-

I have a questions about shared flues. I know what the state statute (MRSA section 18107) talks about; and in summary that sharing flues is allowed as long as the standards are followed. My question is that I have heard that there are certain towns/cities that may not be allowing shared flues at all. If this is so, what towns are they?



An answer:

If you are in a MUBEC town, section M1801.12 of the IRC does not allow a solid fuel burning appliance to be connected to a flue of another appliance. Hence I would not allow a wood or pellet stove to be connected to the flue of another appliance in a MUBEC town.

Another answer:

If Title 32, § 18107 is followed, even though the town is under the MUBEC umbrella, it is my understanding that the statute must be followed even though the code requires something else. It all goes back to governing hierarchy where the code is promulgated by rule but a statute is created by the Legislature. The Legislation takes priority. That has been the premise the MUBEC Board has operated under since we started.

Another answer, from a municipal attorney

If two laws or codes conflict regarding a codes issue, the more stringent/one that provides the greatest safety governs. If a court proves that not to be the case, so be it, but I'd rather defend a case where we didn't allow a shared flue than a wrongful death suit because we did.

The Question, re: Setback measurement

Does anyone require the below grade footing(s) to meet the setback? We're having a setback issue with a new home where the contractor had to cut 1' 6" off one corner of a home including the portion of the frost wall and basement floor that is/was above ground. The neighbor is taking the owner to court over deed covenants, we are heading for the third appeals hearing, and the neighbor has a council member working for him pushing the town manager to decide things in the neighbor's favor.



An answer:

We do not require footings to meet property line setbacks. The only time I have seen footings become a legal issue is when there is an underground easement for utilities or something.

Another answer:

All portions of buildings, including foundations and eaves on the house must meet the setbacks as outlined in the town ordinances. I tell contractors that they can dig holes all day....but beware of placing anything nearer the property or road setback limits. It will be required to be removed if the structure is too close.

Another answer:

The definition of "setback" in your zoning ordinance, if you have a definition, will specify where the setback is measured to. Ours says "nearest point on the structure", which includes the footings. Absent a definition, or other text specifying where the setback is measured to, good luck to you, the ZBA, a judge, or anyone trying to figure out what the ordinance requires. Unless your ordinance is different than most, the Town Manager has no role in adjudicating a zoning matter. That falls to the CEO, ZBA, or a judge. Good luck.

When applying our ordinance, I keep in mind that I might have to explain why I applied it the way I did to a judge. A rule of thumb for me is that the meaning of an ordinance must be clear enough so that persons who are subject to its provisions can determine what acts will violate it. If an ordinance is vague, ambiguous or indefinite to the requirement or intent and there is a penalty involved, lean in favor of the landowner. Tom Lister 9-10-15

The Question, re: Reroofing

We are getting questioned on requirement to remove existing shingles before installing new ones. The city has had many policies over time. I'm not one for policies unless it's in the code. Then it's a code requirement. Section R905.1 of the IRC states the following: "Roof coverings shall be applied in accordance with the applicable provisions of this section and the manufacturer's installation instructions. Unless otherwise specified in this section, roof coverings, shall be installed to resist the component and cladding loads specified in table R301.2(2)



Any thoughts would be appreciated.

An answer:

If the building is an IRC building, see R907. If it's an IBC building, see section 1510. Those specify when you have to strip and when you can apply new roofing over old. Generally, you can't have more than two layers of roofing on a roof. Also, the roofing product has to be installed per the manufacturer's instructions, which may have a bearing on the matter.

The Question, re: Wharves and docks

We do a lot of wharfs and floats here. As I look at the process, I don't see any standard by which they are inspected. We look at the structure and weight distribution, and match it up to plans. But do you know of any standard by which we should be inspecting?



I suppose we could call them accessory structures to a dwelling, but then you've almost got to consider them a deck or ramp, complete with all the railing and safety structure that will go along with that. While I'm not afraid to move the yard stick a little, I don't want to get run out of town at the end of a pitchfork 'cause I moved it too far. We're concerned about the town's liability with this.

An answer:

It had to happen sooner or later. You've asked a question to which this is no answer.

If you consider a private dock to be an accessory structure to a single/two family dwelling, it arguably needs to meet all the specs, including railings, etc in the IRC, if you're an IRC community.. Nobody builds them that way. There are no design load specs for docks in the IRC. Many have railings, but few private dock railings meet the 4" sphere rule, and are over 30" above the ground below, at low tide. Many private docks have to be open all around by necessity to load and unload traps, etc.. Arguably, a dock is not "customarily accessory" to a single family house, and is hence not covered by the IRC.

By default, if a structure is not governed by the IRC, it defaults to the IBC. The IBC also does not contain any live load specs for docks. Neither docks nor wharves are listed in the index, or mentioned in Chapter 4. Nor are they listed as exempt in section 101.2, which means that they IBC is applicable, but has no standards. I feel that a commercial dock is a structure that has to be engineered. Many of them have to support vehicles, forklifts, etc.. They're usually built out of timbers or member larger than covered in any of the tables in the code, and you hence have no way of knowing if the thing meets a specific live load. Your floodplain ordinance requires commercial wharves to be designed by an engineer. Arguably, a lobsterman's wharf at his house is a commercial wharf. (Get on your pitchforkproof vest).

If you want some legal/liability guidance (careful what you wish for...) I'd ask the town attorney how he or she feels you ought to handle this. On the flip side, private wharves are built all the time, probably often without any engineering, (or railings) and they work fine. If the thing is built by Prock, or Tibbetts, or any of the other commercial wharf builders, they're usually built like forts, They have to be to do their job.

If you asked a room of 100 CEOs how they handle private docks, 87% of them would probably say, "we don't".

The Question re: Non subdivision subdivision review

Hello all, I have a question for the group. We have a piece of land with a confusing fractional ownership situation resulting from different deeds granting pieces of interest to different people from 2 families. This group of people have split off one lot just over five years ago. They are ready to do another division and WANT to be reviewed as a subdivision to solidify the ownership. By my interpretation, subdivision review is not required due to the previous split occurring 5 years and 2 months ago. It looks like we are going to review it because they want it. Are we opening ourselves up to anything?



An answer: I would check with your town's attorney but if the proposed development does not meet your definition of a subdivision they you have no jurisdiction under your ordinance and cannot apply your subdivision standards to the project. If you have no authority nor standards of review than what is accomplished? It seems to be putting you in a bad legal place and wastes your time and resources.

The question re: Software

Everyone,
I'm curious to know what kind of apps everyone uses on your phone or tablet to help with code enforcement. I'm mostly looking for an app that allows me to draw and add text on photos. I also would like to know of any other apps that you may have found to be useful for either Android or Apple for code enforcement. Thanks for your responses.



An answer:

I use Skitch to mark up photos, Dropbox to keep files available in the field and at the office. Turbo GPS 2015 to record data points and locate areas of interest to import to GIS. I have loaded the Word, Excel, Outlook, and power point so I may take files into the field for reference and stay up to date with my calendar, tasks and emails. Calculator Plus and Handyman Calculator are useful apps. I also like Rd Client so I can access office data remotely. I have shared my calendar with the front office staff so they can add or change appointments if I am out and I get updates in the field.

Another answer:

I have a Samsung Note 4 and use the writing ability daily. It will allow you to take a screen shot of anything on the phone and write on it. It also has the ability to make "sticky notes" that you can pin to a home screen. There is also S-note which allows you to create multiple notebooks that you can write in. I have used this feature many times at trainings so I don't have to carry a pad and pen with me. The phone also has the ability to recognize handwriting and convert it to text which is especially useful for text messages or short e-mails. I also enjoy the camscanner app from the Android store, I take a picture and can turn it into a pdf for emailing or uploading to Google drive, Dropbox etc. I run Google Earth on my phone and have my town's parcels as an overlay, very helpful for illustrative purposes in the field. I am a phone geek.

The Question, re: tax acquired property

I've got a dilemma. I have a piece of acquired property from taxation with a mobile home on it that is not part of the ownership. They are squatters. At this time the home is vacant because the water system is frozen and broken throughout the home. Being that it is vacant now is this the time to condemn the building because they plan to move back in as soon as the weather warms up. They haven't been cooperative in the past. I would appreciate any help.



An answer:

You need to get the Town Attorney to start eviction proceedings against the squatters. Since it is town-owned property, the town needs to proceed just as landlords do when trying to evict a tenant who is not paying rent and/or doesn't belong there. Do you have first-hand knowledge of the conditions within the mobile home? If so, you could also concurrently start condemnation proceedings against the owners of the mobile home as well. If you don't have first-hand knowledge, you will need to do that. You may have to get an Administrative Search Warrant if the mobile home owners do not allow you to go in and inspect. You will need to have an affidavit from someone that has firsthand knowledge of the conditions in the home in order to secure the warrant. Before doing all of that, I would check with the Selectpersons to make sure they are on board with all of this since it will cost a few dollars in legal expenses. Good luck.

The Question re; Fish ladders

Has any of you had application for a fish ladder at a power generating dam? Under SLZ did you refer it to the Planning Board as a "similar use" requiring their approval or is it an accessory structure?

An answer:

It falls under piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high water line of a water body. The shoreland guidelines indicates that it requires Planning Board approval if it's permanent but it would depend what your Ordinance indicates.

The Question: re: Rats

Hello Mooses:

I have a rat infestation on a private road where 5 families are living. The suspected origin is at the end of the road on an off the grid occupancy/farm consisting of 2 pigs a few chickens and 4 goats. The resident brings home food from the various soup kitchens and feeds to the animals. The stench is unbearable and the rats are now abundant. They are now looking for warmer places to be, hence the complaints. There are a dozen children of elementary age on the street.



I have contacted and the ACO, LHO, and have visited the property. DHS and Department of Agriculture have also been notified. I am trying to set up an appointment with everyone to visit the property so we can get this under control. But up until now there has been no conclusive response from anyone other than the ACO who says things have been cleaned up. That does not answer the rat problem.

Anyone have suggestions?

An answer:

Does anyone have a cat hoarder that needs to be cleaned up? Michael needs them.....

It sounds like you have Matt Randall 's number (287-7708 Dept. of Agriculture). He will help with the farmer. By now the neighborhood all needs to get together and really clean up all of the places that they (the rats) can hide. Then do some controlled baiting so that pets and kids do not get into it. A bait station can be made with a 5 gallon pail with a lid. Just drill a 1-1/2 inch hole in the pail down low and put a little peanut butter (for scent) and D- Con or other commercial rat poison in the pail with a heavy weight on or in it, so pets can't get the pail tipped over. Place them near walls, wood piles, sheds or anyplace that they can sneak to the pail. Also remind them to not feed birds or have any standing water available for 4-6 weeks. It is not the quickest way but is relatively safe for kids and pets.

An old rat hunter from Portland days.

The Question re: Bathroom ventilation

What can I use to convince a landlord to put in a bathroom fan?

I have an older, existing, four unit 2-story apartment building that has one bathroom with no fan, they have always used the window for ventilation. Now after all these years and new tenant there is steam runs down the inside corner of the outer bathroom wall causing a mildew problem.



Another answer:

As a Local Health Officer...I get asked to test mold, mildew or black mystery stains all the time. It is not a liability the Town will or wants to take on. I do not test. I will explain to tenants that clearly have never cleaned their tub or bathroom how to clean the area and that it needs to be done weekly at a minimum. (I use my Mom voice). I typically hand out the Pine Tree Legal packet, State laws talking about habitability and then talk to the landlord about air quality, building finishes that can be damaged, and lastly use the monetary costs of having to repair the area.

Another answer:

Probably nothing. It's likely that a fan was not required when the bathroom was built, and hence is not now. Sounds like a possible tenant-landlord/Implied Warranty of Habitability matter. Make the tenant aware of Pine Tree Legal (www.ptla.org) and their Tenants Rights in Maine handout, and the State Attorney General's Office (www.maine.gov) and their Consumer Rights in Maine handout, a chapter of which deals with rental housing. I suspect the town doesn't have a dog in that fight.

The Final Answer: (This one they don't teach you at codes or Health Officer seminars)

Tell the tenant to call the TV station (8 or 13), and let the landlord explain it to the TV crew. If the tenant is being wronged the TV will help them. If the tenant is the problem, you won't hear from them again.



Dumpsters Anonymous

From the Make Something Pretty Out Of Something Ugly file, check out this cool pool made from a dumpster!

Takes some of the stigma out of dumpster diving, no?

State Code Officials

A valuable resource!



Most of we codes officers are general practitioners. We do it all. Building, plumbing, electrical, mechanical, fire, zoning, signs, health, environmental — whatever. When you wear that many hats, none of them fit perfectly. If you're grappling with a state code or law question you can call an expert. The inspectors at the Department of Professional and Financial Regulation, the folks at DEP, DOT, CDC, Liquor Licensing, or whatever are usually glad to answer questions. From training classes, to answering questions, to coming to your town and looking at an issue with you - they do a lot for us. Below are some state codes/laws questions that maybe you've run into, and the answers to them. Many thanks to associates at the State agencies. They're the government, and they ARE here to help!

Burying Construction Debris On Site

Dear DEP:

A gentleman in town has a house to demolish. He's asking if he can dig a hole and bury the demolition debris on his site. He'd like to do so without removing/sorting any of it, so the fill will contain metal, glass, wiring, etc.. If sorting the non biodegradable stuff out makes it allowable, he's willing to do that. Do DEP rules allow him to do this? Our refuse ordinance does not, but I'm curious if State law allows it.

Thanks for any info.

Curious in Codesland

The Answer: (Yes Virginia, you can bury demo debris on site, and the town can't stop you.)

Below is a link to the state law and the Solid Waste rule on the on-site disposal of construction and demolition materials. I'm not sure how your town gets around this, but read on.

§1310-U. Municipal ordinances

Municipalities are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility. Except as provided in section 2173, municipalities are further prohibited from enacting or applying ordinances that regulate solid waste disposal facilities owned by the State or a state agency or a regional association. [2011, c. 655, Pt. GG, §15 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

Under the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, municipalities, except as provided in this section, may enact ordinances with respect to solid waste facilities that contain standards the municipality finds reasonable, including, without limitation, conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; distance from existing residential, commercial or institutional uses; ground water protection; surface water protection; erosion and sedimentation control; and compatibility of the solid waste facility with local zoning and land use controls, provided that the standards are not more strict than those contained in this chapter and in chapter 3, subchapter I, articles 5-A and 6 and the rules adopted under these articles. Municipal ordinances must use definitions consistent with those

adopted by the board. [1995, c. 126, §2 (AMD).]

A municipality adopting an ordinance under this section shall forward a copy of the ordinance to the commissioner within 30 days of its adoption. [1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §251 (AMD).]

Anyway, here is the statute link we spoke of...

<http://legislature.maine.gov/statutes/38/title38sec1310-n.html>



8. Exemption. The disposal of construction and demolition debris, land clearing debris and wood wastes is exempt from the requirements of this chapter when:

A. The disposal facility is less than one acre in size; [1993, c. 680, Pt. A, §37 (RPR).]

B. The disposal facility is located on the same parcel of property where the waste is generated; and [1993, c. 680, Pt. A, §37 (RPR).]

C. Only one exempt disposal facility is located on a single parcel of property, except that additional disposal facilities on the same parcel that are less than one acre in size and that were in existence prior to the effective date of this subsection do not require a license under this chapter if no additional waste is disposed of in those additional facilities after the effective date of this subsection. [1993, c. 680, Pt. A, §37 (RPR).]

And the link to the Solid Waste Rule 06-096 CMR 401.7.B.

<http://www.maine.gov/sos/cec/rules/06/096/096c401.doc>

Over on about page 58 you will find our “mirror to the statute”. Also, if you can talk someone into allowing you to use their “1 acre exemption” to get rid of your landclearing debris, you might be able to if you follow everything else in part #2.

- B. **Exemptions.** In addition to the facilities listed in 06-096 CMR ch. 400, section 2, the following solid waste disposal activities are exempt from the requirements of this Chapter.
- (1) Disposal of construction/demolition debris, land clearing debris or wood wastes when:
 - (a) The solid waste boundary(ies) encloses an area of less than one acre;
 - (b) The disposal facility is located on the same parcel of land where the waste was generated;
 - (c) Only one exempt disposal facility is located on a single parcel of property, except that additional disposal facilities on the same parcel that are less than one acre size and that were in existence prior to May 6, 1991 do not require a license under this Chapter if no additional waste is disposed in those additional facilities after May 6, 1991; and
 - (2) The disposal of unprocessed, unburned land clearing debris when:
 - (a) The solid waste boundary encloses an area of less than one acre;
 - (b) Written permission of the owner of the property has been obtained;
 - (c) The disposal location is not on a significant sand and gravel aquifer; and
 - (d) Only one exempt disposal facility is located on a single parcel of property and each exempt facility is used for disposal only one time.

Here is what is required for the Fire Department to burn down a building for training.....

http://www.maine.gov/dep/waste/solidwaste/documents/live_fire_training08-12.pdf

And here is a thing that is sort of interesting on the disposal of hard to get rid of stuff.....it is sort of interesting reading.

<http://www.maine.gov/dep/waste/solidwaste/documents/guidance.pdf>

Good talking with you!

Give me a call if you have any questions.

Randy McMullin, Environmental Specialist
Maine Department of Environmental Protection
312 Canco Road
Portland, Maine 04103

Generator Wiring

Dear State Electrical Inspector:

I looked at a generator setup on Monday I have a question about. It has a propane fired automatic generator. The CMP power and the line from the generator feed into an automatic transfer switch. That switch has no disconnecting means on the outside of it. Should the house electrical panel be wired as a sub-panel, with a 4 wire conductor from the transfer switch to the panel, isolated neutral, and separated grounding and neutral conductors in the panel? I suspect that is should be, but want to be sure before I ding them. Thanks as always for your help.



Curious in Codesland

The Answer:

It sounds like the transfer switch has a main breaker in it. If it does then you are correct: grounds and neutrals must be separated in old service panel which is now a sub panel. Something often missed in this scenario: the grounding electrode conductor and any water pipe bonding wires must be moved to the transfer switch which is now the service disconnect. Hope this helps, Ray

Raymond Stanford
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State of Maine
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Billy got a 100 on the test about keeping water out of buildings, but nodded off during the lecture about controlling moisture from within the building.....

Photo by Mark Mitchell



The Kennebunk Codes Office's new stress relief program.

Limited electrical licensees working in buildings beyond their license

Dear State Electrical Inspector:

Occasionally, a master electrician will take a permit for a job in a multi family or commercial building, and have a limited master (1&2 family) licensed electrician help him. Does the limited master licensee have to have a helper or journeyman license to do this? Can the LM licensee work on these projects alone?



Thanks for your input.

Curious in Codesland

The Answer:

A limited to House wiring licensee (LM) can work in 1 and 2 family homes and mobile and modular homes. That's it. The LM license doesn't transfer to or equal a journeyman license. It is correct that if an LM wants to work on a commercial site (or any site other than listed above) he/she must have a journeyman or helper license and falls under the same supervision qualifications as those.

Here's the scope of work rule:

E. Limited to House Wiring

A Limited Electrician in House Wiring is restricted to electrical work on one-family and two-family dwellings, including modular and mobile homes.

Ray

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Combination toilet/sink

Dear State Plumbing Inspector:

You and I spoke yesterday about toilet-sink combo units. We agreed that something like this would have to be listed to be acceptable. What constitutes an acceptable third party approval? Section 301.1 of the Plumbing Code requires plumbing stuff to be listed by a listing agency that is an "accredited conformity assessment body", but doesn't define that term. Obviously, IAPMO would be OK – who else? The agencies whose logos are on the front of the plumbing code?



As a follow up thought on these, IRC R307.1 lists required space around plumbing fixtures, and includes 21" of space in front of a sink. Obviously, the space in front of the sink is the toilet, so you can't stand there unless you straddle the toilet. I wonder if the unit's listing would negate the building code requirement for 21" in front of the sink, as long as it's installed per the manufacturer's instructions. I've asked some other CEOs if they've run into this. Relatedly – does the plumbing code require a toilet room to have a sink in it? I believe the old plumbing code had that in it. I don't see it in the current code (or the IRC). The fixture table tells you that a house has to have a toilet, lav, tub shower, or tub/shower, kitchen sink and laundry tub or clothes washer drain, but it doesn't seem to say how those have to be located. Is it legal to have a toilet room without a sink in

it?

Thanks for any input.

Curious in Codesland

"If you get to thinkin' you're a person of some influence, try orderin' somebody else's dog around."

Will Rogers

The answer:

If the combo lavatory/water closet unit is listed I believe it would be listed by ASME, CSA or IAPMO. These are the only agencies that I can find that lists water closet and or lavatories. The unit needs to be labeled to the standard and listing agency. I know we always try to be consumer friendly but if it is not listed then I would not allow the unit to be installed. Do we even know if this unit has an anti-siphon ball-cock? You never know what some people would put down the drain of the lavatory and then it could be a direct connection to the water supply if the water supply is not properly protected from backflow. Convenience is not always the answer!

The space in front of the lavatory part of the unit is not referenced in the 2009 UPC but it would be enforceable through the building code.

A water closet room does not have to have a lavatory in it. I see a lot of places that have a separate water closet in a bathroom with a door and then the rest of the fixtures are in the other part of the bathroom. I see this in a lot of hotels.

Hope this helps.

Dana C. Tuttle
dana.c.tuttle@maine.gov

"Writing law or code is like weaving a net. The holes are all the same size, but the fish you want to catch aren't, so you always end up losing fish you want and catching fish you don't." Ed.

Archival Septic Codes

Codes Officers sometimes get pulled into matters involving a septic system that was designed or constructed under a previous septic code. Prior septic codes are listed on the Subsurface Wastewater Disposal System program (that's a mouthful) website. Once there, click "online rules". Thanks to the SSWD folks for posting these!



[Pre-1974 Rules Synopses \(new page\)](#)

[1920 Maine State Plumbing Code](#)

[1926 Maine State Plumbing Code](#)

[1944 Changes to Maine State Plumbing Code](#)

[1946 Maine State Plumbing Code](#)

[1970 Maine State Plumbing Code](#)

[1974 Subsurface Wastewater Disposal Rules](#)

[1983 Subsurface Wastewater Disposal Rules](#)

[1995 Subsurface Wastewater Disposal Rules](#)

[2005 Subsurface Wastewater Disposal Rules](#)

[2009 Subsurface Wastewater Disposal Rules](#)

The Game of Thrones

From the Just When You Thought You'd Seen It All file, check out the codesfun going on in Harpswell. A gent has a building in which the town won't let him put a bathroom, so he brought his own, on wheels! Complete with beautiful architecture and craftsmanship, a composting toilet, hot water, and a license plate, the trailer rests comfortably beside the building. After the usual violation notices, Appeals Board hearings, etc., the thing has been removed from the site. Time will tell if it comes back next summer.



In Codes Work, The Details Are Important

Paul Demers was in church one Sunday. The minister said, "Anyone who wants to go to Heaven, come on down front!" Everybody in the place herded down to the front of the church, except Paul, who was sitting the back row. The minister said to Paul, louder, "Sir - I said, anyone who wants to go to Heaven, come on down front!". Paul said, "I heard you". The minister asked, "You don't want to go to Heaven when you die?", to which Paul replied, "Oh, I want to go to Heaven when I die. It thought you were getting up a crowd for today...."

Codes GONE WILD

Nitpicky town ordinances become instruments of oppression in Pagedale Missouri.

If you think codes are tough in Kennebunk, check out what's going on in Pagedale, Missouri. Pagedale is a 1.19 square mile, 3300 resident town outside St. Louis. With a recent state imposed limit on traffic ticket revenue (12.5% of the municipal budget), Pagedale and other area communities ramped up codes enforcement to fill the void, alleges a lawsuit by The Institute for Justice (www.ij.org), which has filed a class action lawsuit against Pagedale, on behalf its citizenry. Along with the usual property maintenance code type stuff (junk, trash, tall grass, peeling paint, etc.), people are fined for things like grilling on the front lawn, (which is only allowed on national holidays), mismatched curtains, loose window screens, and a host of other non building related things. Some residents have to borrow money to pay their fines, and can't afford the needed repairs, which then generate more fines. Sam Alton, the City Attorney, told the New York time "It's got nothing to do with driving up revenues. It's got everything to do with making the properties code compliant and safe." There are two good articles about it in the New York Times (www.nytimes.com) and The Kansas City Star (www.kansascity.com). Made sure your glasses are on tight if you read them, because you'll be shaking your head.

Grilling on the front lawn is allowed only on national holidays.

And from the Grinches in Ogden, Utah..... (One man's trash is another man's treasure)

Jeremy Trentelman constructed a cardboard fort with his 3-year-old son in the front yard of his Ogden, Utah home, but he soon found out the playplace risks violating municipal litter laws and a \$125 fine. Trentelman discovered a notice from a city code enforcement officer about the fort on his door in the town near Salt Lake City on April 1, according to the newspaper. Responding to an anonymous tip (we all love those), the Codes Enforcement Officer issued a warning. Mr. Trentelman said, "We take no issue with Ogden's policy on waste materials, junk, or badly kept lawns or homes, but this is preposterous on so many levels." While several neighbors were ready to take up the fight, the Trentelmans said they would dismantle the fort by the deadline. Hopefully all ended well in Whoville.



ous on so many levels." While several neighbors were ready to take up the fight, the Trentelmans said they would dismantle the fort by the deadline. Hopefully all ended well in Whoville.

WHO KNEW?

Assorted tidbits from
The Codesland Café.

All foam plastic in Maine must have a thermal barrier.

Whether you're a MUBEC town or not, MRSA 25 section 2447-B requires foam plastic building materials to be protected with a thermal barrier.

“The foam plastic shall be separated from habitable or occupiable spaces by an approved thermal barrier of 1/2 inch gypsum wallboard or equivalent thermal barrier material which will limit the average temperature rise of the unexposed surface to not more than 250` F. after 15 minutes of fire exposure complying with the ASTM E-119 standard time-temperature curve.”
There are plastics that are listed/approved for us without a thermal barrier, and there are coatings that are approved for us as the thermal barrier. Both of these are detailed on the State Fire Marshal’s website.



Electrical switches for gas appliances now need to be like those for oil fired equipment.

New Fuel Board rules now require shutoff and safety switches for gas fired equipment to be like those for oil fired appliances. From the Chapter 13 (the gas chapter) of The Fuel Board Laws and Rules, which are available on the Fuel Board’s website:

13.8.2 Emergency Switch

13.8.2.1 For central heating equipment and water heating appliances where the interruption of an electrical circuit will arrest the combustion process, an identified emergency shutdown switch must be placed outside of and adjacent to the entrance of the room where the appliance is located.



13.8.2.2 An emergency switch shall not be placed outside of any building.

13.8.2.3 If the entrance to the boiler room is only accessible from the outside, the emergency switch may be placed at the inside not more than one foot beyond the door opening.

13.8.2.4 On multi-unit installations of commercial and industrial equipment, the emergency switch must be installed in accordance with Figure 13-1.

13.8.2.5 On multi-unit installations in other than one- and two-family residences, the emergency shut-off switch must be placed at the outside entrance of the room containing the appliances. The emergency switches and the thermal cut-off switches must be wired in series through individual unit relays so that, if the emergency switch is opened, all heating equipment in the room and any electrically operated gas valves will be rendered inoperable. This application also applies if there are two or more appliance rooms in the same building that are connected to a common fuel supply system.

13.8.3 Service Switch

For central heating equipment and water heating appliances where the interruption of an electrical circuit will arrest the combustion process, a service disconnect switch for control of the burner while observing the flame must be placed at the unit, within 3' of the burner.

13.8.4 Thermal Cut-Off Switches

13.8.4.1 For central heating equipment and water heating appliances where the interruption of an electrical circuit will arrest the combustion process, a thermal cut-off switch must be wired into the burner circuit to shut off the burner in the event of a fire at the unit. The switch must be placed at the highest point directly above the unit to be fired with the thermal element pointed downwards, and must be placed on the bottom of the floor joist or stringer at the front of the unit. In no case shall it be lower than the point where the flue connector enters the chimney. The switch must be wired to shut off the burner, circulating fan, forced or induced draft fan and any electrically-operated gas valves. A thermal electric switch is required for each electrically-powered unit in a multi-appliance installation.



13.8.4.2 On multi-unit installations other than one- and two-family residences the emergency and thermal electrical switches must be wired in series through individual unit relays so that, if one switch is opened, all equipment will be rendered inoperable whenever the "EMERGENCY" switch is opened.

Egress Window Requirements in Existing Buildings

Most of us at some time get asked if a window in an existing building has to be an egress window. The answer to the question depends on when the building was built, what codes were applicable to it, and maybe if the window has been replaced. Locally, figure out what, if any, building code was applicable when it was built or when the window was replaced. At the state level, NFPA 101 would likely be the applicable code. The State Fire Marshal's Office has issued a policy on this, dated October 17, 2013. From that policy:

Buildings constructed after 1976 shall be required to comply with the requirement to provide 5.7 sq. ft. of net opening with a minimum width of 20" and height of 24". The window shall meet all other requirements of NFPA 101. Replacement windows shall meet the 5.7 square foot requirement, measured with the window in it's natural open position.

In buildings constructed before 1976, egress windows must have a net clear opening that's at least 20" wide and 24" high, and at least 3.3 square feet in area, and a total sash area of at least 5 square feet if the window is wood or vinyl. Replacement windows shall meet the specs of the existing window and not reduce the existing net clear opening below the minimum requirements.

I hope that helps. Good luck.

THANKS FOR READING

I hope you've gotten something interesting and/or useful out of this edition. If you did, great. If not, there'll be another one next year. I hope you've enjoyed The Enforcer.

Scott



"It's one small step for man, one giant leap for codeskind"

Paul "Neil Armstrong" Demers