

THE ENFORCER

NEWSLETTER OF THE MAINE BUILDING OFFICIALS AND INSPECTORS ASSOCIATION.

BY CODES ENFORCEMENT PROFESSIONALS.
FOR CODES ENFORCEMENT PROFESSIONALS

September
2013



MUBEC Still Standing

The MUBEC withstood a host of proposed changes in the last legislative session. Some people wanted to strengthen it, some wanted to do away with it, some wanted to burn the books and throw away the ashes, but when the dust settled, it stayed as it was - in effect automatically in municipalities over 4000 population, and in effect in smaller towns if they adopt it locally. Smaller towns can also adopt pieces of the MUBEC. They can adopt just the building code part, or just the energy code part if they choose to. The codes bureau website (www.maine.gov/dps/bbcs) has info and links to places to learn more about it.



CEO Certification and Training Program Finds A Home

After wandering the bureaucratic streets like a homeless person with a shopping cart full of expensive books, and its future nebulous, the CEO Training and Certification

Program has found a home at

The Department of Economic and Community Development. TerryAnn Holden is the CEO Training & Certification Program Manager. Drew Morris is the CEO Training and Certification Coordinator, and Brianne Hasty will be working with them two days a week. The office's website is www.maine.gov/decd, their phone number is 624-7484. You can email them at

ceo.decd@maine.gov, and that email goes to TerryAnn, Drew, and Brianne. Many thanks to DECD for taking us in. We hope we can stay. It was scary out there.

Also, many thanks to Brianne for all she's done for the program and us the years she ran it. We're glad she's still involved.

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In towns over 4000 or if you've adopted it locally, MUBEC is like gravity. It's not just a good idea - it's the law.

WELCOME!

to the 2013 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 - 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

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Janitor, Whatever.....
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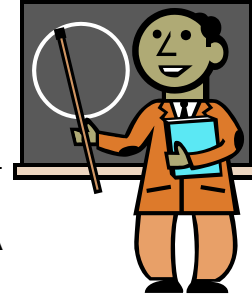
Where Can I See Them Codes?

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.publiccodes.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!



MBOIA CODES CONFERENCE

A HUGE SUCCESS (yet again)



As you know if you attended, this year's MBOIA Codes Conference, held in May at Sebasco Harbor Resort, in Phippsburg, was another good'un. A gorgeous venue, a good slate of speakers and topics, great staff support from MMA, and the usual camaraderie and networking all combined to make the conference interesting, topical, and useful. Most of us lack the funding or manpower to attend the codes conferences out of state, so this Maine conference, designed by Maine CEOs for Maine CEOs, is a great way to enjoy the benefits of attending a conference, for a fraction of the time and cost of the bigger "away" ones. Many thanks to Mark Stambaugh and Paul and their minions for making this happen. Planning is already underway for next year's conference. If there are topics you'd like to see training on, let Paul know.

THE HEADLINE TEST (from Durwood Parkinson's legal issues seminar): Never say or write anything you wouldn't be comfortable seeing on the front page of the local newspaper.



MUBEC Amendments -- Bueller? Bueller? Anyone?

The Codes Bureau Board has approved a bunch of amendments to the MUBEC. For those amendments to become effective, they must go through the rulemaking process. A batch that was launched into the process last year got deadended at the Governor's office. I was told that they'd be resubmitted this year, but don't know if that happened. As of this writing, no amendments had been received at the Attorney General's office, which is a required stop of their journey. Some of these amendment fix some problems with the code that affects things we deal with regularly. If you know anything about the status of these amendments, please share it, and we'll get it out to those who need to know. Hopefully all the amendments to the code will eventually be listed somewhere easy to access (the Codes Bureau website perhaps?), listing the amendments, when the Board approved them, and when they become/became effective. That will be a glorious day in Codesland.

ICC INTERPRETATIONS



There's nothing like a passage of code text to make you question your sanity. Five CEOs will come up with six interpretations of the same piece of text. You need to interpret the code the way you feel that a judge or jury would should your interpretation get challenged in court. Fortunately, you can get written interpretations from ICC– the code authors, which is a nice tool to have in the box should you need it. You can contact ICC at www.iccsafe.org, or 888-422-7233. Sometimes we pass the interps around on the Moosechat. Hopefully the MBOIA or Codes Bureau website will become a repository for these interpretations so anyone can access them easily. I only have access to one interp since the last Enforcer. Here she goes:

Code Reference: 2009 IRC R403.1.4.1 Frost Protection for foundations

Questions: The code text has some exceptions. Exceptions 1 and 2 exempt buildings of 600 square feet and 400 square feet, or less, respectively, from the frost protection requirements detailed in the text. Are those areas footprint/first floor areas, or total floor areas of the structure? It's not uncommon to have a detached, accessory, light-frame building, such as a 24' x 24' garage, with an eave height of less than 10', with a second floor/attic/ or floored loft, often accessed by a fixed stair, with a first floor area of less than 600 square feet, but a total floor area of over 600 square feet.

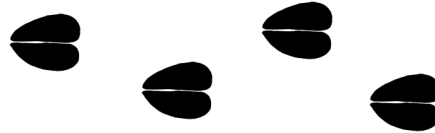
Questions

1. Does the floored area on the upper level of the building described above count toward the floor area referenced in exception 1 to section R403.1.4.1, to determine if the building has to have a frost protected foundation? If not, why? "Floor", and "Floor area" are not defined in the IRC. Section R 201.3 of the IRC says that definitions in other ICC codes shall be used for terms undefined in the IRC. Gross and net floor area are defined in the IBC (section 1002.1 – the 2009 edition is the one we use), and the floored upper level of the building described seems to me would be counted toward calculation of the gross floor area.
2. I see no text in either code that ties the definition of floor area to ceiling height (but maybe I'm not looking in the right places.) The floored storage space on the second level of the subject building is not habitable space, a hallway, a bathroom, a toilet room, or a laundry, and I feel it is not subject to the ceiling height requirement of section R 305. Do you concur?

ANSWER: First, the structure in question must conform to the definition of an "accessory structure" as defined in Section R202. Second, the area limitations described in Exceptions 1 and 2 to Section R403.1.4.1, in my opinion, should be considered the footprint of the structure, not the overall floor area. Third, if the accessory structure is one story, or one story with some storage up in the rafter space, Exceptions 1 or 2 to Section R403.1.4.1 can still be applied. However, if you have a structure where a truly second story is "tucked up" within the framing of a gambrel or mansard roof, then I feel that the 10'-0" eave height limitation should be measured to the break (or purlin framing) of such roofs.

John S. Gonzalez ICC Senior Technical Staff

MOOSETRACKS



Lots of good info bouncing around on the Moosechat listserve. Good questions, good answers—good topics we all deal with, MUBEC and otherwise. A great resource. Below is summarized some of the Chatter. I've condensed and edited some of the text, for space, context, and formatting reasons, and have for the most part left names out to protect the innocent (and the guilty in a few instances). If you recognize your work and are unhappy with an edit I made, let me know. I tried to not change any content. Boldfaced words in the answer section means that that is the beginning of a different answer from a different respondent. Thanks to all who participate. Whether you're asking a question others may have (but might be embarrassed to ask), or looking up an answer to help someone out, it makes us better at what we do. If you're not on the listserve but would like to be, go to the MBOIA website (www.mboia.org), to the "members" page. There's a link. The Directors of The Association are or were deliberating whether the listserve should be for MBOIA members only, or open to anyone who wants to participate. You may know the answer to that question by the time you read this. And although reading the instructions flies in the face of things many of us hold holy, remember:

1. When you "reply", you're sending out to everyone on the listserve.
2. If/when you want the answers to stop coming, send out an email saying so.
3. Most of the people answering the questions are plain ol' codes officers just like you, just trying to be helpful, and their opinions mean nothing in your jurisdiction or a court of law.
4. Practice the 3 Ps, and keep it Polite, Pleasant, and Professional.

And on to the chatter!

THE QUESTION: GARAGE SEPARATION REQUIREMENTS

My assistant and I are discussing walls perpendicular to dwelling units (in the section below) and how that language relates to table language in R302.6 specifically having to do with floor/ceiling assemblies (even further below) and we thought the two bits of language did not really state the same thing.

Section language: R302.6 Dwelling/garage separation.

The garage shall be separated as required by Table R302.6. Openings in garage walls shall comply with Section R302.5. **This provision does not apply to garage walls that are perpendicular to the adjacent dwelling unit wall.**

Table language:

Table R302.6 Dwelling/Garage Separation.

Separation

Structure(s) supporting floor/ceiling assemblies used for separation required by this section.

Material

Not less than ½-inch gypsum board or equivalent

"I told this guy he had to put a canopy over his oil tank since it was along the eave wall of his house. This is what he did...."

Mark Mitchell,
CEO



Typically if folks are required to fire rate the ceiling and dwelling wall they do the whole garage and I think the table language supports that. How are people enforcing the following language? All four walls to be fire rated or is that not necessary? Thanks for the input.

An answer:

A garage wall that's perpendicular to the wall that separates the garage from the house, with no habitable space above the garage, does not require sheetrock. The text (R302.6) requires the common wall separating the house from the garage to be rocked with ½" sheetrock on the garage side. If that perpendicular wall is a load bearing wall, supporting the floor system for habitable space above the garage, it has to be sheetrocked with a layer of ½" sheetrock, per Table R302.6.

A couple of notes/food for thought:

The text does not specify that the sheetrock has to be taped and mudded. This text is specifying a prescriptive feature/improvement - not a rated assembly.

While people who sheetrock garages usually do all the walls (wasting a lot of good storage space), walls that are not loadbearing (such as the gable end wall of a garage with habitable space over it) arguably do not have to be sheetrocked -but- they do provide lateral stability to the load bearing walls, and therefore are part of the "structure supporting floor/ceiling assemblies used for separation required by this section", and have to be rocked....

UPCOMING MUBEC AMENDMENT: ALTERNATE SPRINKLER SYSTEM TO BE ALLOWED

I want to thank Eric Ellis at the FM Office for spending considerable time with me yesterday regarding the following matter:

I feel this is perhaps the biggest amendment to MUBEC to date (passed by the Board, yet to go through rule making). Essentially it allows the FM Office to approve a Maine Life Safety Sprinkler if there is a financial burden (disproportionate expense) even in some cases where the IBC & NFPA require a full NFPA 13 Sprinkler and even in new construction of light hazard occupancies of 4 stories or less, as well as ordinary hazard with size limitations. At this point Eric Ellis makes that determination (until he retires) based on the criteria in the Maine Life Safety Rules Section 1.1.1 (1-12) found here: http://www.maine.gov/dps/fmo/sprinklers/laws/life_safety_standard.html . Not knowing about this, I was caught off guard when the FM Office offered the Maine Life Safety Sprinkler as an alternative in a 5B building where the assembly occupancy wanted to expand to the 2nd floor, which would have required a full NFPA 13 sprinkler for a story increase. Initially I told the architect they must be mistaken. I am sharing this so that those tasked with enforcing MUBEC are not surprised if this happens to them.

The amendment:

1. IBC 2009, Section 903.3.1 Standards. Sprinkler systems shall be designed and installed in accordance with Section 903.1.1, [NFPA 13], unless otherwise permitted by Sections 903.3.1.2 [NFPA 13R] and 903.3.1.3, [NFPA 13D] and any other adopted Standard of the Office of State Fire Marshal and in accordance with the fire sprinkler rules in the Office of State Fire Marshal Fire Sprinkler Technical Policy.

2. NFPA 101, 2009 edition, Section 9.7.1.1. Each automatic sprinkler system required by an-

other section of this Code shall be in accordance with one of the following:

- (1) NFPA 13, Standard for the Installation of Sprinkler Systems
- (2) NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
- (3) NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
- (4) Any other adopted Standard of the Office of State Fire Marshal and in accordance with the fire sprinkler rules in the Office of State Fire Marshal Fire Sprinkler Technical Policy

3. NFPA 1, 2009 edition, Section 13.3.1.2 Installations shall be in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems; NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height; or NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as appropriate, or any other adopted Standard of the Office of State Fire Marshal and in accordance with the fire sprinkler rules in the Office of State Fire Marshal Fire Sprinkler Technical Policy.

If anyone feels that I have been misled or if I am mistaken regarding this amendment to MUBEC, please let us all know.

THE QUESTION: DOES ASBESTOS HAVE TO BE REMOVED?

I have a single family home that is occupied (rented) by a tenant. In the basement is a piece of alleged asbestos pipe insulation hanging off a basement pipe. There are three other locations on the same piping with intact asbestos looking insulation.

I've searched Maine.gov and HUD housing for removal requirements but only found requirements for licensed professionals to do the removal...not a regulation or law stating why and how come in a rented single family house. I know it's dangerous and a health issue, but I need something to back me up when I tell a landlord to have it abated...it's a lot of money. Anyone have any experience with landlords/property owners and asbestos removal?

Some answers:

John Bucci with DEP is the guy to call on with asbestos questions. You can either call him at 557-1194 or email him at John.a.bucci@maine.gov

I called John and he answered! There is no law regarding removal of asbestos from a single unit (home) rental property. He suggests to property owners and managers that the asbestos be maintained in a satisfactory condition, not left to deteriorate or be left in a precarious state (hanging off pipes or chipping and scaling flooring or wall finishes). He provides asbestos and lead info, and a list of qualified testing laboratories to people who ask. Lastly, even though I have done numerous commercial construction projects including asbestos abatement, I am not 'trained' as a ceo to identify asbestos. So I have to use the appropriate language with landlords, tenants and property owners, ie. 'it appears to be' asbestos when I write a report.

THE QUESTION: IS WHOLE HOUSE VENTILATION REQUIRED BY CODE?

The Ashrae 62.2 standard speaks to "Whole-Building Ventilation" as "A mechanical exhaust system, supply system, or combination thereof shall be installed in each dwelling unit to provide whole-house ventilation with outdoor air each hour at no less than the rate specified...". Since there is no definition of Whole-Building Ventilation or Local Exhaust I am curious as to

how others are interpreting this.

It has been my interpretation that if a house can meet the air cycling requirement through exhaust fans such as kitchen hoods, bathroom fans, etc., a whole house HVAC system would not necessarily be required. I am certainly not claiming that it is the best option but I was under the impression that not every home under this code needed a separate whole house air exchange system.

In addition, section 4 provides guidance for “Whole-Building Ventilation” while section 5 provides guidance for “Local Exhaust”. If someone meets or exceeds the requirements of section 4, is section 5 still applicable?

Some answers:

Ventilation is not required (i.e. ventilation is only required for a bath with no window- 4% of the floor area). Any provided ventilation must meet code; however, building a home without whole house ventilation is folly in my humble opinion.

Where ASHRAE 62.2 is a standard and not a code, the ventilation required in a house is from the IRC – specifically R303. The only mechanical ventilation required is in a bathroom that doesn’t have an openable window of at least 3 square feet of total area, at least one half of which is openable. If someone chooses to equip a house with whole building ventilation, it must meet the specs in ASHRE 62.2, and I’m of the opinion that chapters 4 and 5 are both mandatory (I don’t see any exclusionary text saying otherwise). If you size the exhaust fans required by Chapter 5 properly (kitchen and bathrooms), you can make the building meet the ventilation required by Chapter 4. Depending on how tight the house is, and the fact that the kitchen and bath fans may or may not be used, you may want to install an automatic house ventilation system, with designed makeup air from outdoors, air quality sensors, etc. to keep the air quality where you want it.

THE QUESTION: INSULATION REQUIREMENT FOR AN UNHEATED COMMERCIAL SLAB
I received an application for an unheated commercial storage building 30 X 100 to be built on a slab with turned down walls extending to 16”. No frost protection of the slab is proposed. I think the code requires 2” foam under the whole slab but this will cost the builder an extra \$4000. He said other towns have approved storage buildings without the frost protection. Is there something in the commercial code that allows this? I’m interested in what other towns have been doing on issues similar to this.

An answer:

2009 IECC, table 502.2(1), zone 6, unheated slab on grade, R-10 for 24 in. below grade is what we have done in a similar situation and seems to apply. See also text section 502.2.6.

THE QUESTION: KNEEWALL PLATFORM ROOF FRAMING

I have a property owner that is building a free standing garage with full foundation The first floor walls are 10 ft tall with 2x6 construction. Then he built the floor (2x10) and wants to put a 3 ft knee wall, then a roof. The roof pitch is 12/12, width is 28 feet. The lumber yard is telling him he can’t do that. What am I missing?

An answer:

The lumberyard is right. The system he’s proposing is a recipe for trouble. The kneewalls will

act like hinges, and push out at the tops when the roof is loaded. If he wants to have the kneewalls, he'll need to use roof trusses, or stickbuild the roof with a structural ridge, with engineering (or at least an engineered ridgebeam). If the kneewalls are inboard of the exterior walls, the above comments apply and he'll need to make provisions for the carrying the roof loading through the floor system to ground, again, involving engineering, since the tables in the code don't account for that kind of loading.

THE QUESTION: IRC EGRESS WINDOW REQUIREMENTS

Does the current IRC restrict bedroom egress through another room? I have searched and can't find it!

An answer:

NFPA 101 allows a "Secondary Means of Escape" through another room. The IRC does not. IRC R310 requires an emergency escape and rescue opening in the bedroom, and the definition of emergency escape and rescue opening specifies that that opening has to be in an exterior wall.

THE QUESTION: RADON REMOVAL REQUIREMENTS FOR MANUFACTURED HOMES

How, if at all, does the MUBEC radon standard affect the installation of a manufactured home? The foundation is site built. If the owner wants to install an air radon mitigation system, does it have to meet ASTM E-1465? Are the homes coming with a radon stack pre-installed in them? Are they coming prewired for the fan? Is a radon test required before occupancy? Are the rules the same for mobile homes as modulars?

The answer:

The manufactured housing program only has jurisdiction on the envelope of the home for modular homes. The requirement for a radon mitigation system would be up to you folks (local CEOs and applicable codes). The manufactured housing program does require a radon stack pre-installed from the basement to the attic space. They are also required to have electrical power installed in the attic space where the future fan will be installed. I will attach a copy of the radon rules for modular homes. The foundation would be under the jurisdiction of the municipality where the home would be installed. HUD code manufactured homes do not require a radon mitigation system to be installed. We have jurisdiction on the foundation system for those as well. It is also a requirement that the foundation/cellar area for a HUD is required to be ventilated to the outside on all four corners.

Radon Mitigation Preparation Standard

Purpose and Scope

The purpose of this standard is to provide a reasonable code for manufacturer-installed vent piping and electrical supply boxes within the envelope of a state-certified modular home to facilitate future, on site completion of the radon mitigation system should such a system be required either by code or by the consumer. This standard is based on Appendix F: Radon Control Methods of the IRC, a nationally recognized code, that will apply to all state-certified modular homes that are installed in Maine. This standard sets forth design and construction requirements relating to preparation for radon mitigation in state-certified modular homes.

Compliance; Limited Waiver of Compliance

State-certified modular homes must comply with the provisions of this Section. The executive director may waive compliance with the radon standard contained in subsection 4 in the limited circumstances described in subsection 4(I).

Materials and Equipment

Materials and equipment must be identified in a manner that will allow a determination of their compliance with the provisions of this subsection. (2009 IRC, N1101.3) Materials and equipment used to conform to the applicable provisions of this chapter must be installed in accordance with the manufacturer's installation instructions.

Radon Standard

Entry routes

Potential radon entry routes such as openings around bathtubs, showers, water closets, pipes, wires or other objects that penetrate the floor assemblies must be filled with a suitable sealant applied in accordance with the manufacturer's recommendations. (2009 IRC, AF103.4.1)

Vent pipe

The manufacturer must install a 3-inch-minimum diameter vent pipe up through the building floors at least 2 feet into the attic space and capped below the roof. The vent pipe must be installed such that the pipe can be extended by others at a later date and located at least 12 inches above the roof in a location at least 10 feet away from any window or other opening into the conditioned spaces of the building that is less than 2 feet below the exhaust point and 10 feet from any window or other opening in adjoining or adjacent buildings. (2009 IRC, AF103.5.3 and AF103.6.1)

Vent pipe drainage

All components of the 3-inch-minimum diameter vent pipe installed by the manufacturer up through the building floors and capped below the roof must provide for positive drainage. (2009 IRC, AF103.7)

Vent pipe accessibility

Radon vent pipes must be accessible for future fan installation through an attic or other area outside the habitable space. (2009 IRC, AF103.8) Any accessible space reserved for the radon fan must occupy an imaginary cylinder, standing on end, which is 24 inches or more in diameter, centered on the axis of the vent pipe, and extending a minimum vertical distance of 3 feet.

Exception: The radon vent pipe need not be accessible in an attic space where an approved roof-top electrical supply is provided for future use (2009 IRC, AF103.8), and where it is possible to mount the future fan above the roof.

Vent pipe identification

All exposed and visible interior radon vent pipes must be identified with at least one label on each floor and in accessible attics. The label shall read: “Vent Piping for Future Radon Reduction System.” (2009 IRC, AF103.9)

Combination foundations

For homes designed to be placed on combination basement/crawl space foundations, the manufacturer may, but is not required to, install separate 3-inch-minimum diameter vent pipes for each type of foundation area up through the building floors and capped below the roof. (2009 IRC, AF103.10)

Power source

To provide for future installation of an active depressurization system, an electrical circuit terminated in an approved box must be installed by the manufacturer in the attic or other anticipated location of vent pipe fans. (2009 IRC, AF103.12) If the circuit is dedicated solely to vent pipe fans, the manufacturer must install in the living space of the home a visual indicator that the circuit is energized, or an alarm that the circuit is not energized. If the circuit is not dedicated solely to vent pipe fans, future installation of vent pipe fans must be taken into account when designing the circuit.

Testing

Vent pipes must be tested at the manufacturing facility for tightness. Fully-assembled vent pipes must be field-tested by the dealer or installer unless the vent pipes were tested in a fully-assembled state at the manufacturing facility.

Waiver of Compliance With the Radon Standard

A manufacturer may obtain a waiver of compliance with the radon standard contained in this subsection by demonstrating to the executive director of the board that the design or construction of a dwelling makes it infeasible, as set forth below, to install piping and/or electrical supply boxes within the envelope of a state-certified home to facilitate future, on site completion of the radon mitigation system should such a system be required by code or by the consumer. The waiver request must be made prior to acceptance of the plans by the manufacturer’s board approved third-party inspection agency.

In determining feasibility of compliance with the radon standard, the executive director shall consider as alternatives to a waiver the manufacturer’s ability to achieve compliance through alternative construction techniques, use of different materials, or design change. The executive director may also consider other relevant factors, including cost of compliance, although cost of compliance alone is not a ground for obtaining a waiver. It is the intent of the board that waivers be sparingly granted.

The executive director's denial of a waiver must be made in writing, must state the basis for the denial, and must inform the manufacturer of the time and manner in which an appeal to the board may be taken pursuant to Subchapter 6.

I hope this helps.

THE QUESTION: CODE REQUIREMENTS FOR PERSONAL OXYGEN TANKS

I just had a landlord call with questions about renting to a tenant who requires the use of a personal oxygen tank. The tenant would have several dozen tanks at a time and the owner is concerned with the potential danger of oxygen use and gas appliances as well as the tanks being stored haphazardly in a closet or laying around the apartment. Have any of you come across this situation or can anyone point me in the right direction as to how these tanks need to be stored and handled to prevent an incident?

Some answers:

I would refer to whichever company is supplying the oxygen tanks as to the best practices or procedures they recommend for storage. Similar to oxygen and acetylene tanks... The other concern is of course; is anyone he/she lives with a smoker???

I would talk with your Fire/Rescue Department for guidance.

All of the replies have been great, but he should also check with ADA to make sure he isn't violating anyone's rights.

I'm sure there's an NFPA code that covers medical oxygen (allowable quantities, safe handling and storage, etc.). They have one for everything else. As pointed out earlier, the landlord is obliged to comply with the ADA as well. The ADA tech center in Boston (www.newenglandada.org) will provide him with everything he needs to know and more, for free. Their number is 1-800-949-4232.

I did some further digging with the SFM and our local fire chief today. As somebody mentioned it is governed by NFPA 99. This is largely for commercial facilities, but does offer some info and guidance for residential applications. NFPA 99 allows for up to 13 "E" cylinders to be stored within the home in a proper storage rack (keeps them up right and prevents them from being knocked over and possibly breaking the valve off creating a rocket). The 13 cylinders can be comprised of full, empty or somewhere in between. In other words an empty still counts as one of the 13 allowed. Any additional cylinders must be stored in a properly constructed room designed for the keeping of cylinders. I have told the landlord that I would be OK with outside storage as long as the cylinders were secured from tampering by unauthorized people. My main concern was kids playing with them if they were left unattended outside. In addition the apartment must have a placard identifying the use of oxygen in the building. Placards and racks for storing the cylinders are available through the supplier of the oxygen.

THE QUESTION: (NORTH WOODS) TREE LAW

Can anyone tell me where I can find regulations regarding tree branches overhanging property lines, if there are any? I feel like this would be a purely civil matter, however I would like to know if there are any statutes governing this stuff.

The answers:

Several CEOs chimed in saying they'd like to know the answer too, get legal advice, every situation's different, it's great fodder for lawsuits, good luck finding out, hava nice day, etc., etc.,. The Bath City Arborist recommended we ask Ann Gibbs, the State Horticulturist. Below is her answer (drumroll.....):

Yes this is a difficult question and unfortunately we don't have anything written in statute or regulation that defines what can be done. I have been warned by our Asst. Attorney General not to make legal interpretation regarding border trees. Go to our website and you can click on the statute at the top of this page. You can also check out our arborist rules. Our law and rules focus on the requirements for being licensed and not really on the practice end of it. I do think your colleagues are correct that it does generally require legal advice. The best solution is to have a discussion with both property owners and come up with an agreement. I think Tom is correct that I think there is case law that indicates that property owners can prune overhanging branches, the portion that is on their property, but this is not included in our law and should be verified by a lawyer. I hope this helps, but let me know if you have any other questions.

Ann Gibbs State Horticulturist Maine Department of Agriculture, Conservation & Forestry
28 SHS Augusta, ME 04333
office 207-287-7602 cell 207-446-6386 ann.gibbs@maine.gov

THE QUESTION: ANYONE GOT A FREEDOM OF ACCESS (FOA) POLICY?

Do any of you have a Freedom of Access ordinance or policy? Who has one of these?
If so. On-line? Or how can I get a copy?

The answers:

MMA has good info on it on their website.

The MMA website may require you to be a member/have a password to access information on it. This link (www.maine.gov/foaa) to the state's website, has a lot of good info on the FOAA. Towns often get FOAA requests, usually from the media or an attorney, asking for copies of all documents regarding a particular topic. This includes emails, and unless you file/store them in an easy to retrieve format, it can be a big headache for your IT guy to go into the server backup system to try to find these emails, which sometimes aren't titled so that they're easy to indentify to a particular matter. I save all site specific emails, titled by the address they're involved with, their date, and a brief description of the topic, with paper copies in the map/lot file. It's a pain, but when someone asks for all the paperwork for something, it's easy to retrieve it and provide it to them. As a sidenote, keep in mind that most of the emails you write are public documents (I believe stuff about litigation and personnel matters may be protected-check with your manager or attorney), and be careful about what you put in them. Aside from the legal stuff, editorial comments such as someone being a loudmouth or a knowitall or pain the butt can come back to bite you and compromise your professionalism (and maybe your community's position in a lawsuit) should things get confrontational, even if the comments are accurate. Remember- polite, pleasant, and professional, even to those who don't deserve it. For extra bonus points, make sure all your written documents are composed well, with proper formatting, grammar, spelling, punctuation, etc.. Your name's on them.

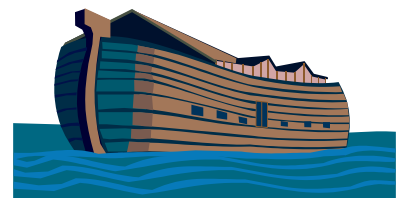
WE DON'T NEED NO STINKING EXPENSIVE CODES ENFORCEMENT SOFTWARE!

If you're like many codes officers, you sometimes (or often) receive marketing materials trying to sell you codes enforcement software. There are many systems, ranging from simple scheduling and recordkeeping, to programs that link to the assessing database, or town's GIS system, etc.. In some jurisdictions (mostly in other states), the inspectors all have laptops in the field with them that link to the mothership, in real time. If you're like most Maine codes officers, though, you don't have the need, desire, budget, or electronic infrastructure for anything that fancy, yet you need to log permits and monies, and schedule inspections, meetings, violation follow-ups, etc.. If you have a computer with Microsoft Office on it, you already have most of what you need, in Outlook and Excel. Outlook is a great, easy to use scheduling program, for scheduling inspections, meetings, violation corrections dates, days off :), your anniversary, your spouse's birthday (put a reminder in a month ahead), and anything else that's important. Microsoft Excel is a good, easy to use spreadsheet program. You can log permits, inspections, monies collected, or anything you want. Each line is numbered, and one of its handiest features is the summation tool (the Σ button at the upper right portion of the screen). This is great at annual report time. Need to know how many inspections of a particular flavor you did? It's E.Z. Need to tally the value of construction that was permitted? Fees collected? Block and tally. It couldn't be simpler, even if you're cyberchallenged like some of us old codesdogs. Anything that makes your job easier is good. You may have a very useful codes software tool right at your fingertips that you didn't spend much money for.



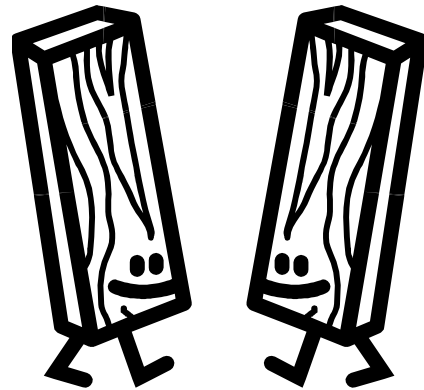
NEW FLOODMAPS COMING SOON!

As you may know, FEMA is redoing Maine's floodmaps. They'll do a project kickoff meeting for your region (those may be all done by now), and a year or so later you'll be contacted about a meeting to review the rough data and see a draft copy of the new maps for your community, reflecting new input data and improved topography mapping. They're adopting a new reference datum, which may be a bit confusing. (In Bath, the 100 year elevation flood elevation went from 9' to 8', which makes sense with rising sea level, etc., but they tell us that the 100 year flood elevation has not changed - that the difference is the new datum.. (Huh??)). The new/better topo may cause properties to enter or leave the floodplain. The neatest thing about the new maps is that they're done on aerial photos, with the buildings on them! No more transposing lot lines from the tax map onto the flood map and trying to figure out if the house is in the flood zone or not. You just find the house and look for the line! It couldn't be simpler. They're the government and they're here to help. Maybe FEMA isn't just how a Mainer pronounces the largest bone in his leg..... Time will tell.



Board Meetings

Ever wonder what the MBOIA Board does at their monthly meetings? Is there a secret handshake? Do they sacrifice animals? None of that takes place, but for those who are Interested, and don't attend the Association meetings (at which much of what they do is discussed), below are listed some of the things our Board did on our behalves this year, as well as things that the Association did at meetings you may have missed. (I've left out mundane stuff like approving reports, paying bills, committee appointments, approving new members, etc.– zzzzz). They:



- Booked technical speakers for the quarterly membership meetings
- Tracked and participated in legislation that affects us (a lot of MUBEC stuff this year)
- Organized the Existing Buildings Code training at the Fire Marshal's Office last spring
- Put together the spring conference
- Supported members participating in codes organizations beyond Maine (there is a world out there beyond the Kittery bridge. Who knew?)
- Worked with the technical college network on developing codes and codes enforcement training and networking opportunities for students

One thing that jumps out in reviewing the meeting minutes is the number of new members in the Association over the last year - 55! We now have 221 members. 174 active members (CEO/inspectors), 55 subscribing (builders, architects, etc.– they don't get to vote), and 5 honorary (people who have earned our undying appreciation and respect). We must be doing something right if people wanna hang with us. Many thanks to the officers and directors, for all they do to make the Association work!



With thanks to Melissa Carver at MMA, the Association meeting minutes (officers and directors, and general membership) are now available on the MBOIA website, so you can see what went on in your absence, see if you volunteered for a committee when you weren't looking, etc.....

Also on the MBOIA website

Is a great list of links to resources we codes folks use regularly. State licensing boards, ICC, NFPA, The State Fire Marshal's Office, The Codes Bureau, and many more. E-Z to find and use, for your codes enforcement convenience!

IN MEMORIUM

Alan Thomas, a longtime MBOIA member, and Veazie's Codes Officer and Assessor, passed away in March. Alan held various positions in the Association over the years, and often won the Came-The-Furthest award for attending meetings, driving down from Garland to attend Directors and membership meetings. He was a UMO grad, and a Viet Nam veteran, having served in the Navy. He was a volunteer firefighter, selectman, scoutmaster, and school board member. He was a past master of the Garland Grange and was instrumental in reviving the Dexter Grange which supports youth activities including the local scout groups. He was an active dog sledder for the last 30 years. He had done nearly every job possible in the sport. He was awarded lifetime membership in Downeast Sled Dog Club, and was President of The Maine Highlands Sled Dog Club. Alan gave a lot to any group he was involved with, including ours, and our appreciation and condolences go out to his family, friends, and all who miss him.

EARTHWORK CONTRACTORS IN THE SHORELAND ZONE MUST NOW BE CERTIFIED.

EROSION CONTROL EROSION CONTROL EROSION CONTROL



As you may know, earthwork contractors working in the shoreland zone are now required to have someone on the jobsite that is DEP certified in erosion control. The deadline for becoming certified was January 1, 2013, but because a number of contractors had taken the training but had not undergone the field inspection of a jobsite, the DEP extended the deadline to July 1, 2012. That date is behind us, and now every contractor working in the SLZ must have a certified person on site making sure the erosion control meets the requirements. You can learn more about it at MRSA 38 Section 439-B, and on the DEP's website. Bill LaFlamme at the DEP is the guy overseeing the training/certification program. There are still uncertified contractors that want to become so, and you may get email from Bill now and then soliciting space to hold training. Help him out if you can.

THEY MAY WANT OUR INPUT

The Manufactured Housing Board and/or the Attorney General's office may be contacting members of the codes community to solicit input in figuring out how to regulate modular homes built by vocational schools. Voc schools around the state build modular homes, and sell them. In some communities, these houses are very well inspected, by the local CEO where the homes are being built, to codes that are, or are similar to those applicable to modular homes built in factories. In other communities, not so much. While pretty much everyone involved is supportive of the voc programs, the State is trying to get things so that the consumers of these homes are protected to the same level as those who buy a factory built home, as far as codes, construction specs, quality of construction, warranty work, etc.. Give it some though in case you're asked.



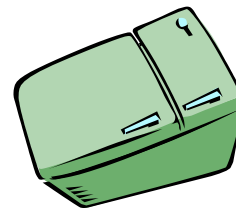
Buyer Beware.....

DIDJEW KNOW?

Assorted codes/law/good idea tidbits for your use and benefit.

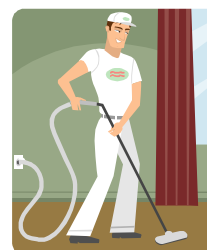
ABANDONING AN AIRTIGHT CONTAINER

Blessedly, it doesn't happen often, but we've all heard stories of a kid suffocating in an abandoned refrigerator or other container he or she got stuck in. Also, some towns have secluded places where people dump unwanted appliances (and other items) rather than pay to dispose of them properly. Per MRSA 17-1, Section 514, a person who abandons a container of 1.5 cubic feet or more, with a lid that's not easily openable from inside the container, is committing a Class E crime. The law also holds others responsible for the property responsible if they don't remove the item or at least remove the door. I keep a hammer, pliers, and an adjustable wrench in my toolkit, and sometimes remove the doors of an abandoned 'fridge so it's not dangerous while I figure out who to have remove it from the property.



CLEAN IT UP, BUB, OR WE WILL (at your expense)

If you have a dwelling that needs to be cleaned up to abate health/habitability problems, your Health Officer (which some of you happen to be) has a powerful tool in MRSA 22 Section 461, which allows him or her to order the place cleaned up or vacated, and have the place cleaned at the owner's expense or order it vacated if the responsible parties fail to comply. As Tim Taylor said, "You can never have too many tools".



RADON TESTING IN RENTAL PROPERTIES

Per MRSA 14, Section 6030-D, by March 1, 2014, and every 10 years thereafter, residential rental properties must be air tested for radon, and mitigation provided for levels above 4 picocuries per litre. The law contains some exceptions for short term rentals. Read all about it at www.maine.gov.



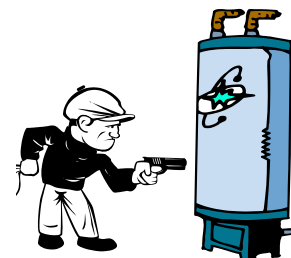
THE BASEMENT LIGHTS ARE ON MY METER!@&^%\$!!

Most of us have apartment buildings in town that originally contained fewer dwelling units, and get complaints from tenants when they learn that they are providing utilities for parts of the building outside their apartment. This arrangement is not illegal, however MRSA 14 Section 6024 requires that the tenant be notified that they are paying for services beyond their apartment at the beginning of their tenancy. This doesn't involve the CEO, but is a useful piece of information to be able to provide when the question comes up.



DROP IT, PAL

Remember when drop tubes on water heaters could only be copper? Nowadays, they can be galvanized steel, copper pipe (not tubing), CPVC, or a listed drop tube you buy at the store, some of which are plastic. They cannot be Pex. They still have to be at least as large as the relief valve discharge, cannot have threaded ends, and have to terminate between 6" and 22" from the floor. See section 608.5 of the Plumbing Code for the rules.



SILENT BUT DEADLY KILLER

(and this isn't about your buddies at deercamp after the bean supper)

MRSA 25 Section 2468 requires the installation of carbon monoxide detectors in bedrooms or in the area giving access to bedrooms in:

- each unit in a multifamily building
- single family houses if an addition adds at least one bedroom to the building or conversion of a building to a single family house
- fraternity and sorority houses and dorms at schools constructed after August 1, 2012, or the conversion of a building to these occupancies
- Hotels, motels, inns, and B&Bs licensed after August 1, 2012.



These detectors must be powered by the building's electrical system, and have battery backup. Detectors are made that plug into a wall outlet, as well as hardwired ones. **AND** If you're an IRC community, IRC R315 requires them in new buildings, and (here's the part you may be overlooking...) in any building for which a building permit is issued if the building has fuel fired equipment in it or an attached garage. (I have this requirement listed on a handout that I attach to all building permits for projects in single family houses.)

CAN'T WE KEEP HIM DADDY - PLEEEEEZE?

Section 7.13 of NFPA 31, in effect statewide, requires indoor fuel oil tanks that are taken out of service permanently to be emptied, purged of combustible vapors, removed from the premises, and disposed of properly. Tanks temporarily taken of service must be emptied, and purged of combustible vapors.



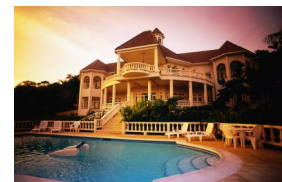
HE'S A BETTER HEATING TECHNICIAN THAN LANDSCAPER

Did you know that if you drain a boiler onto the customer's lawn, it kills the grass? This is bad customer service.



THE BIGGER THEY ARE THE MORE EXITS THEY NEED (DUH)

Section 26.2.1.3 of NFPA 101 (in effect statewide) requires two primary means of escape, remotely located, from stories of unsprinklered one and two family houses that are larger than 2000 square feet, or if the travel distance to the primary means of escape of over 75'.



RISERS SCHMIZERS

Section 24.2.5.1 of NFPA 101 requires a handrail on all stairs, including single family houses, regardless of the number of risers. IRC requires handrails on stairs of more than 3 risers. For extra brain exercise, ponder whether you consider an outside stair to be "within" a dwelling unit, in the context of the 101 exception (7.2.2.4.1.6) that allows handrails on only one side of a stairway.

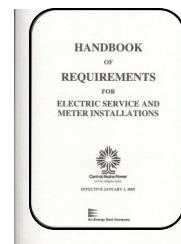


ELECTRICAL METERS MUST'VE GOTTEN HOTTER

Section 6.39 of NFPA 58, the propane code, (the 2011 edition is in effect statewide) requires that propane tanks that are refilled on site have to be at least 10' from sources of ignition, among other things. For many years, electrical meters were not considered to be a source of ignition, but I'm informed by Pete Holmes, one of the State Fuel Board



inspectors, that a few years ago, electrical meters became sources of ignition, and now have to be at least 10' from the fill and vent of propane tanks. Section 808 of CMP's Handbook of Requirements has more on this. That book is a handy little resource, and you can probably score one from CMP if you ask nice. NFPA 58 is moot on what to do with non conforming installations. The CMP book says that the distance is required for new and relocated meters. Who knew?



MORE UNLICENSED PRACTICE IN MORE PLACES

The licensing laws for plumbing, electrical, and heating work historically have contained exceptions that allowed a homeowner to do work in his/her own single family home without being licensed. Check out the relatively new exception to MRSA 32, 1201 (the electrical licensing law) that appears to allow property maintenance guys or other unlicensed individuals to replace switches and light fixtures.



“12. Incidental work. Regular employees of an owner or a lessee of real property doing incidental electrical work on that property or incidental electrical work by a person whose occupation involves miscellaneous jobs of manual labor. For purposes of this subsection, "incidental electrical work" means minor electrical work, limited to light fixtures and switches, that occurs by chance and that does not require electrical installation calculations.”

What's next– recreational use of fireworks? No– wait– we already got that.....

FROM THE DIRTY HANDS FILE

When you're climbing a ladder, hold it by the rails, not the rungs. The rungs are where the crud from people's shoes is. I learned this the hard way as a rookie inspector at a tar and gravel roof project many years ago (yuk).



IF THAT PILE OF OPEN PERMITS JUST KEEPS GROWING.....

Charge an inspection deposit along with the permit fee, that the permittee gets back when the project is completed and inspected. You pay them to call for inspections with their own money! It works great. In Bath it's \$100 or half the permit fee, up to \$5000. Money talks, and it speaks loudly. People will be calling you as they pound the last nail. Have your finance people in your corner before you pitch it to management. Learn more about it on the Codes Enforcement page at www.cityofbath.com. It's in the fee schedule in the notes at the bottom of the page.



THANKS FOR READING

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

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

Paul “Neil Armstrong” Demers



Scott Davis

Bath Codes Enforcement Officer

443-8334

www.cityofbath.com