

THE ENFORCER

NEWSLETTER OF THE MAINE BUILDING OFFICIALS
AND INSPECTORS ASSOCIATION.

BY CODES ENFORCEMENT PROFESSIONALS.
FOR CODES ENFORCEMENT PROFESSIONALS

January
2017



MUBEC REBOOT CONTINUES

The Codes Bureau is still working on getting the 2015 editions of the I-Codes, with Maine amendments, adopted, so we won't be more than two code cycles out of date, as required by the law that created the MUBEC. As of this writing, the code is at the Governor's office for review, after which it will go through rulemaking, which will contain opportunities for comments. They hoped to have the new codes in place by January 1, 2017, but at a recent training meeting, President Demers (he won the electoral college AND the popular vote) told us that they're now shooting for July 1, 2017. The proposed adoptions were posted on the Moosechat. Time will tell how closely the adopted codes resemble their current configuration. As submitted, the code will require sprinklering one and two family dwellings, and will allow people to rent rooms to up to three guests and still be an IRC building.



MBOIA is working on trying to arrange a discounted price for code books from ICC, and/or a way for towns to be able to get the code books at less than list price. The best bargain available on books is when a municipality that is not an ICC member joins ICC, for \$135. They get a free set of the code books, worth around \$500! Sadly, existing ICC members cannot let their membership expire and then rejoin and get the free books (darn it!).

The Codes Bureau will notify people when the update proposal gets to the public input portion of the rulemaking process.

Smoke If You Gottem Or Maybe Not (Yet).....

As you likely know, Maine voters approved the legalization of marijuana for recreational use during the last election. Towns across the state are passing moratoria on sales of marijuana and smoking clubs, where customers can smoke pot. Maybe yours is one of them. If not, be prepared to participate in the crafting of one if it's proposed. The State will likely be



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**20 pages chockablock
full of good stuff!!!!**

crafting some regulations about these facilities, which may dovetail with the towns' needs and desires. Stay tuned. Along similar lines, one of the Moosechats in this issue is about how various towns regulate marijuana growing and processing facilities. If you haven't fielded questions about this yet, you likely will.

PORTLAND LANDLORD GETS JAIL TIME FOR CODE VIOLATION

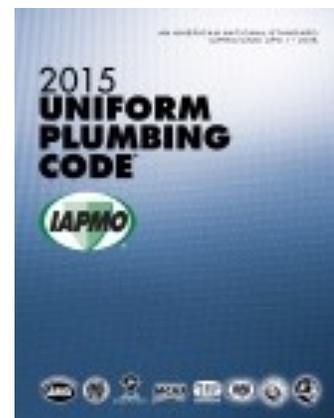
Portland landlord Gregory Nesbit was sentenced recently to 90 days in jail, and a \$1000 fine, for a code violation at his building on Noyes Street, in which six people died in a fire on Halloween, 2014. According to the Portland Press Herald, it was the first time a landlord has received jail time for a code violation. The violation Nesbit was convicted of was not having egress windows in rooms on the third floor of the building. The rooms had windows, but they were not large enough to use to escape the fire. The paper said (read) that the City received a complaint about the building but didn't investigate it thoroughly. The prosecution contended that the dwelling unit was being occupied as a rooming house, as opposed to a single family occupancy. Rooming houses have more stringent code requirements than a single family dwelling unit. It wasn't clear from the newspaper articles I read if the judge agreed with the prosecution or not. The State charged Mr. Nesbit with six counts of manslaughter, for which he was found innocent. The 90 day jail sentence was half of the maximum sentence for a misdemeanor code violation. The fine was the maximum fine. Landlords and codes officers all over Maine and beyond followed this trial with much interest. From the information in the papers, the codes enforcement take-aways are:

- The importance of good, code complying egress cant' be overstated. It's a fundamental of building fire safety.
- Investigate all life safety related housing complaints well and thoroughly, including following up on compliance directives.
- The definition of "family", a cornerstone of building code definitions and requirements, is a moving target nowadays. Caselaw has done away with using kinship and a specified number of unrelated people as part of the definition. It's a lot more complicated now, and the difference can be critical.

NEW PLUMBING CODE!

The 2015 edition of the Uniform Plumbing Code took effect October 1, 2016. The list of amendments is available on The Plumbers Examining Board website. Dana Tuttle did a series of seminars on the updates to the code at various locations around the state. I hope you caught one.

MBOIA is trying to arrange a way that towns can buy the book without paying full price for it (is there an echo in here?). We all hope they succeed. LPIs and MBOIA members can buy the code from IAPMO at the member price, even if you're not a member, by ordering it through Gordon MacEwan, IAPMO's Northeast regional rep! An order form is at the back of this rag. The book has to be delivered to a municipal address, not a private home. A big thank you to Gordon and IAPMO for this professional courtesy.



One of the most useful benefits of being an ICC member is their code interpretation service. You can call or write them with code questions, and they'll provide an answer, either from a staffer, or a committee, over the phone, or in writing. An opinion from a fellow MBOIA Moosechatter is good, but a written opinion from the outfit that writes the code is better, especially in court. From this year's crop:

The Question: An existing church in town allows homeless people to sleep in the church on cold winter nights. Does that make the church a residential occupancy, in addition to being a place of assembly? If so, which residential occupancy classification?

The Answer:

RE: Sections 302.1, 303.1, 310.1 and 3408.1 of the 2009 International Building Code and Section 102.3 of the 2009 International Fire Code

Obviously, the existing church was not initially designed for the overnight shelter of occupants. Since the code does not address a specific permitted time limit for use as an overnight shelter, any overnight use would technically be considered a residential use. Due to the transient nature of the occupants, the closest most appropriate occupancy classification, in our opinion, would be Group R-1 (boarding house) when utilized as an overnight shelter. Admittedly, however, while the occupants are transient in nature consistent with Group R-1 occupancies, there is no overnight rental agreement (compensation) assumed as typically associated with Group R-1 occupancies (hotels, motels, etc.)

Fortunately, for many, sleeping during the sermon is unregulated.

As such, with regards to either Section 3408.1 of the 2009 IBC or Section 102.3 of the IFC, the proposed use of the church as an overnight shelter would, in our opinion, constitute a change of occupancy. Therefore the church would literally need to comply with the applicable requirements of the 2009 IBC and IFC for the proposed change in use/occupancy to a residential occupancy due to its use as an overnight shelter.

With that being said, full compliance with the 2009 IBC/IFC provisions may be impractical or infeasible for the existing church providing this program. The type of construction (combustible vs. noncombustible) and existing level of fire protection (sprinklers, fire alarm systems, smoke detection, etc.), for example, could also be an issue for an existing church.

While ICC recognizes the humanitarian aspect of utilizing a church as an overnight shelter, the intent of the code is to still provide a reasonable level of life safety and property protection in all new and existing buildings. (Section 101.3-IFC) Therefore, in lieu of full compliance with the 2009 IBC/IFC, any alternatives, such as a fire watch, would have to be considered on a case-by-case basis with final approval subject to the authority having jurisdiction.

Phillip Grankowski
pgrankowski@iccsafe.org
November 30, 2016



A³ ASSORTED ASSOCIATION ACTIVITIES



The 2016 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 Stambach 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 conduct 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 12th Board of Directors meeting Merry Manor, South Portland
 Thursday February 2nd 7 AM Legislative Breakfast w/ Maine Fire Chiefs Association
 Senator Inn Augusta
 Thursday February 2nd 9 AM Board meeting MMA-Augusta
 Thursday March 9th Membership and Board meeting Waterville Elks
 March 29, 30, 31 Maine Fire Chiefs Joint Conference Sunday River Newry
 Thursday April 20th 9 AM Board of Directors meeting MMA Augusta
 Monday and Tuesday, May 22nd & 23rd Codes Conference Sebasco Resort Phippsburg
 Thursday June 22nd 9 AM Board meeting MMA Augusta
 Thursday July 20th Membership and Board meeting MMA Augusta (yummy)
 Thursday September 14th Membership and Board meeting Spring Meadows Golf Club Gray
 Tuesday, October 31st training with DECD & Fire Marshal's Office Fireside Inn Portland
 Wednesday, November 1st, training with DECD and Fire Marshal's Office Black Bear Inn
 Orono
 Thursday, November 2nd. Training with DECD and Fire Marshal's Office Augusta Elks Club
 Thursday November 16th 9 AM Board meeting MMA Augusta
 Thursday December 14th 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-wrapper you're reading now without even asking for it. As they say upta deercamp, or in the Portland Park N Jet radio ads, it's a no brainah.

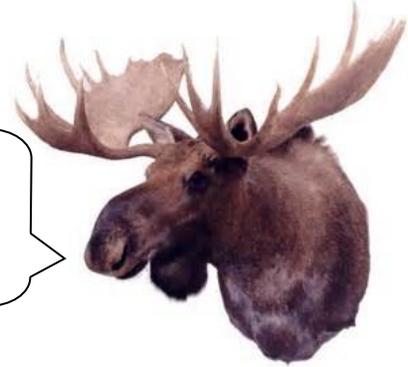
And now, put your antlers on, it's

Moosechat

Lots of good Moosechatter bouncing around on the listserv again 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).

There may be some questions and/or answers that were outside of the forum, that people would benefit from seeing. 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. If a response is from a State inspector, I credit 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 responses contain text that's just too funny and/or fantastic not to credit to the authors. When Chatting, please remember to include your name and email address in the body of your email, so people can easily reply to you privately if they choose to. Thanks to those asking and answering the questions. This is a great, educational forum.

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



The Question: Shoreland zone camp expansion on a holding tank

I just received an application for an addition on a camp where a bedroom is being added in the shoreland zone. It's a small camp with only one miniscule bedroom upstairs. Non-conforming structure subject to 30% expansion. Holding Tank. I didn't see anything in the Subsurface Rules that nixed expansions if you have a holding tank. It doesn't seem like a great idea. I called Brent on this. He lives in China. I thought that there used to be something in the state rules to implementing MUBEC that exempted seasonal structures but I thought it was removed. Am I wrong? If a camp has heat I think it is conditioned space subject to the IECC. Usually you cannot fit an R-49 in a camp ceiling. The frost protection is also challenging since the rest of the camp may not have it.

An Answer:

Seasonal camps were exempt from the energy code until the exemption expired July 1 in either 2011 or 2012. If they have no heat or air conditioning in the camp they are not usually required to insulate as they can usually meet the low energy building exemption, however until things change if they have even a wood stove etc. then insulation is required per code. I would check with Rich McCarthy and see if they are still proposing an exemption via rulemaking. He had one earlier but then the big issue was they were attempting to repeal the code so it was never put forward.

The Question: Spiral stairs for a tower

I have a local nature based non-profit that has rebuilt and installed a former Maine State Forest Service fire tower on their property to be used for public viewing. They want to install a spiral stair case to access the tower. Can anyone tell me where to find how codes apply to the stair case?

An Answer:

If you're a MUBEC community, see IBC 1009.9. If you're not a MUBEC town, see section 7.2.2.2.3 of NFPA 101/2009, in effect statewide. Good luck.

Remember, architects are friends, not food.....



The Question: After the fact Certificate of Occupancy

I have an interesting situation involving a home that was built in the mid 90's and never received a final inspection. To make matters much worse, the last notes on the inspection sheet from the inspector at the time were something to the affect of "structural issues, engineers letter is required before proceeding". Obviously there is no letter from an engineer in file and no specific notes as to what those concerns were. There were documented (although poorly) structural issues as of 20 years ago and based on what little paperwork is in our records the house was finished with those structural issues uncorrected and the house has been lived in since that time without further inspections. The house has gone through a number of owners and the only reason it was caught at this point was because a buyers broker came in to review the property file.

I will not be signing my name to any occupancy for the property. At the absolute most I would consider documenting that there do not "appear to be any issues after a visual inspection" but I hesitate to even do that since obviously the previously noted issues wouldn't be visible.

Anyone have advice on how to handle this kind of situation other than not touching it with a ten foot pole?

An Answer:

I agree that you have no responsibility to issue a CO especially in light of the notes in the file. I think the best thing for the seller or buyer to do at this point would be to hire a structural engineer to inspect the structure and issue a report. It then lies on the buyer or seller to make their decision on how to proceed. If a letter or report is done by a structural engineer I would ask for a copy to put in the map/lot file.

Another Answer:

It sound that the inaction by CEO's before you to enforce the CO (assuming one was required 20 years ago) is something you have to live with. I sometimes run into situations where rules, laws weren't properly enforced and would not even consider enforcing something 20 years distant. Maybe one or two years, yes. I wouldn't touch it with a 10 ft pole other than making the files available to anyone as is required with Right to Know law.

"I'll take COs for three hundred Alex."

The Question: Outdoor showers

Hello. Can someone please remind me where I find mention of outdoor showers in the plumbing code or Subsurface rules? I remember a discussion but can't recall what type of class I was in. Thank you, I'm having one of those days.

An Answer:

I believe it is in the UPC 411.5.

Another answer (from Dana Tuttle, Senior State Plumbing Inspector):

It is Chapter 3-303.0 Disposal of Liquid Waste and 304.0 Connection to Plumbing System Required.

Another Answer:

The downside is putting rainwater into the septic system. I saw one with a wooden lid on the shower pan, that they removed when they used the shower. I saw another that had one of those big flat rubber drain covers/plugs on the drain when it wasn't in use, which resulted in the thing being full of stagnant water, leaves, sticks, and needles, which is why most people just bootleg them in without a drain.

And a postscript (also from Dana):

Also remember Chapter 4-418.0418.0 Shower and Tub-Shower



Combination Control Valves.

Showers and tub-shower combinations in buildings shall be provided with individual control valves of the pressure balance, thermostatic, or combination pressure balance/thermostatic mixing valve type that provide scald and thermal shock protection. These valves shall conform to ASSE 1016 or ASME A112.18.1/CSA B125.1.

The Question: Treehouse bedrooms

Hello fellow code officers. We've got someone in town who wants to build a tree house and put power in it, and she said that she might want to build some more and rent them out . Just wondering what code we would use and if you had a few, would that count as a dwelling unit? If isn't small houses, it's tree houses. Would like some input, that's all.

An Answer:

Unless it is a permitted, rentable, residential "unit" under your ordinance you might be able to go at it as a commercial income in a residential district. Our ordinance doesn't address bunkhouses without kitchens but technically if someone is receiving financial gain from an unpermitted use it might be considered commercial income and might not be allowed in the district. It's a pretty dirty way to get to the same result but I think it has merit. I try not to approach these things necessarily trying to find a reason to deny them but it sure seems like it was not the intention of most ordinances to allow rentable tree house units.

Another Answer:

If they're dwelling units, they'll need to meet the codes for dwelling units. Zoning, MUBEC, sewerage disposal - the whole 9 yards. If they don't have kitchens or otherwise don't constitute dwelling units, I'd apply whatever codes I'd apply to them (zoning, MUBEC, etc) if they were on the ground. If they're not dwelling units and she wants to rent them out, that's probably a motel or B&B type occupancy, which may or may not be allowed by your zoning rules. I'd want an engineer's stamp on the structural drawings.

Give my best to Cheetah if he's there when you do the inspections.

The Question: Unvented gas heater in a mobile home

Hi Mooses!

I was told years ago (20ish) that ventless wall mounted, open flame heaters were not allowed in mobile homes by my ever knowledgeable Dad. (retired firefighter from Massachusetts, don't hold that against him. LOL). I discovered such a heater and an old woodstove in a very old (1971-2) mobile this morning. I know what to do about the woodstove (not approved for mobile home use). I can't find language prohibiting or allowing this ventless heater on the SFM or legislature website. Any references would be greatly appreciated.

Thanks all.

An Answer:

This rule incorporates by reference National Fire Protection Association Standard #101, *Life Safety Code*, 2009 edition. From that code:

Unvented fuel-fired heaters. Unvented fuel-fired heaters shall not be used in a bedroom or bathroom or in a manufactured home.

BONUS ENTRY! IRC Appendix G is part of the code now.

We now have some swimming pool security rules!!! Thank you Tom Lister for pointing this out.



The Question: Vacating a subdivision

Good morning all. What happens when an approved subdivision doesn't get built and the owners/ developers want to "erase" the subdivision? Title 30A doesn't discuss that specifically. Who would I contact to ask?

Thanks for your thoughts.

An Answer:

To vacate an approved subdivision, It is a normal change to the subdivision. The Planning Board approves the change/ amendment to subdivision. The change is to sunset or dissolve the subdivision. A mylar is made and registered to show the change. (Lot Lines back to original). If there is any site work needed to put soil disturbance to bed that could be a condition of approval. We have had a few subdivisions vacate in town.

The Question: Closet bends

Hello Mooses. Is anyone aware of any restriction on using a 1/4 bend under a toilet in the UPC? I don't see anything specifically prohibiting it but feel like I'm missing something.

Thanks for your brain power.

An Answer (the wrong one per Dana):

While not in the code, there's a table in the training manual (on page 7-18) that shows that a quarter bend cannot be used to transition from vertical to horizontal drainage piping. Check with King Tut(tle) to be sure. He's The Font Of All Plumbing Knowledge.

THE Answer (from Dana Tuttle):

Good morning all.

The 90 degree fitting that goes under a water closet and connects to the closet flange is a closet bend. A closet bend can be a long sweep 90, a regular 90, a street 90 or a wye and 1/8 bend.

**The Question: Accessibility requirements for a change of occupancy**

Are there any MUBEC B.O's out there using the IEBC for requiring accessibility improvements as part of a proposed change of occupancy?

An Answer:

The problem is the IEBC refers to the IBC chapter 11 which is not part of the MUBEC.

I still defer to the SFMO plans review per below, so depending on the renovations required to comply with the change in occupancy they may need barrier free review.

Barrier-Free Construction Permits

The Office of State Fire Marshal is authorized by the Maine Human Rights Act to conduct mandatory and voluntary plan reviews and issue **Barrier-Free permits for new construction and alterations.**

New Construction* projects. Regardless of cost or size, the following occupancies require a Barrier-Free permit:

- State, municipal or county
- Education
- Health care, residential care nursing homes or any facility licensed by the Department of Health and Human Services
- Public assembly
- Hotel, motel, inn or rooming or lodging house
- Restaurant

Being a member of MBOIA is kind of like having access to Human Google.

Jeff Warden

- Business occupancy of more than 3,000 square feet or more than one story
- Mercantile occupancy of more than 3,000 square feet or more than one story

* An alteration is considered to be new construction by the Maine Human Rights Act if the cost of the alteration is 75% or more of the replacement cost of the completed facility.

A Design Professional, licensed with the State of Maine, is required on projects over \$75,000 to certify compliance with state and federal accessibility laws. (This applies whether the project is new construction or an alteration.) The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built.

Alteration projects (A Barrier-Free permit may be obtained on a voluntary basis).

Another Answer:

And for changes that don't require a permit from the State Fire Marshal's Office, the ADA and the Maine Human Rights Commission rules are still applicable. For existing buildings, the ADA requires that they price out the improvements to become totally accessible, and then do the ones that are reasonable (as a court would determine, should they get sued). The Boston ADA Center (<http://newenglandada.org/> -1-800-949-4232) is a good resource for property/business owners to learn about the ADA. I think the MHRC rules require that money be spent on accessibility improvements based on the cost of the project. You can see their requirements here: <http://www.maine.gov/mhrc/laws/index.htm>.

The Question:

Hi all. Good way to start the week— I have the accessibility section of the 2009 IBC crossed out as not applicable to us, but have a citizens group telling me that there is a law that requires codes officers to verify accessibility for new construction, which I have always left up to the Fire Marshall's office, and for every tenant up grade, change of use, and/ or change of tenant. I issue permits where necessary, but never do a before the fact inspection of the property for ADA compliance. I always advise the owner to upgrade where possible because if not, they could be facing a lawsuit to make their property compliant. Does anyone have a copy of this law? Have I horribly missed something? I need any help I can get with this. Appreciate any and all comments, just be kind.

An Answer:

I use one of the three following ADA resources if ADA compliance questions come up:
<http://www.humancentereddesign.org/> Cathy or Stacey are the contacts
<http://www.newenglandada.org/> Kathy Gips is the contact
http://alphaonenow.com/Access_Design.htm Jill Johanning is the contact
 They are all extremely helpful and knowledgeable.



Another Answer:

In addition to MHRA and ADA:

- HUD has its own standard Uniform Federal Accessibility Standard (UFAS). UFAS only applies to public housing i.e. housing financed by HUD or Rural Development money. I believe HUD now accepts compliance with ADA as a UFAS safe harbor.
- Federal Fair Housing (yet another law) applies to buildings with four or more apartments.
- Public housing authorities need to comply with section 504 of the Tax Reform Act of 1976 (going by memory here).

As you probably know these "codes" are not consistent in scoping or technical requirements and therefore accessibility "codes" for buildings can get very complicated depending on who's money is involved. If the citizen's group represents tenants living in multifamily housing this might get messy.

Another Answer:

It's also important to note that the Maine Human Rights Act has specific requirements pertaining to housing constructed with public funding that incorporates yet a different Standard. The MHRA cites the 2009 ICC ANSI A.117 for Type A and Type B units within publicly funded housing. While that Standard is similar in many ways to the details found in ADAAG 2004, they also differ in many ways. So while it has been said that ADA is largely the governing accessibility code in Maine, that's not entirely accurate. Where publicly funded housing is involved, any one of four standards (and sometimes all 4) may be applicable. This is only intended as additional clarification... and not a suggestion that Code Officials are legally bound to be the enforcement authority in all cases where accessibility standards may be applicable. That one's a little more complicated.



The Question: Over occupying seasonal rentals

I work for several Towns, and recently I have been seeing rentals advertised on "Air BnB" and other similar websites to rent single family homes. Most of the rentals I am seeing are in my two smallest towns, specifically on the shore-front of the many lakes. My biggest concern is the septic design and these houses being rented with twice the permitted number of bedrooms. Has anyone else see this in their towns and if so, are you doing anything about it? I know I can use the subsurface waste rules as an enforcement technique ...anyone else doing anything creative about these occasional rentals? Thanks

An Answer:

Prepare for a trip down the rabbit hole, Your best chance for enforcement is to make sure the permitted number of bedrooms matches actual count. however I have had issues with an advertised dwelling listed as having 3 bedrooms being advertised as sleeping 8-10. This issue is hard to prove unless they are promoting a bunkhouse, sleeping in a finished basement (would become an unpermitted bedroom), etc.. This is not a easy subject as things can be hard to prove. I look at all the supplied photos to determine number of bedrooms if possible and if there appear to be more that permitted I ask to visit the site with the owner or caretaker. If I can prove violation I request that they correct the ad or face fines. Also Camden requires that dwelling units be rented for a minimum of 7 days. Single room or 2 room rentals in a owner occupied dwelling are allowed however they need a use permit and a lodging license for the single room and if 2 rooms are rented then they also need to be permitted as a B&B by the state while being a permitted as a "homestay" under local ordinance. Good luck.

“Prepare for a trip down the rabbithole....”

Stephen Wilson

Another Answer:

I'm with Steve on the Rabbithole aspect of the Air BnB stuff. I haven't had any issues with house and apartment rentals, since we don't have a short term rental ordinance, and don't have many summer rentals anyway. I've cited people renting rooms in single family houses. If you're a MUBEC town, doing so makes the house an R-1 IBC occupancy, requiring sprinklers, fire alarm system, vertical opening protection, etc.. If they're taking in more than three people, they become a Rooming House per NFPA 101, and require a permit from the State Fire Marshal's office, and sprinklers, vertical opening protection, fire alarms, etc., and locally are violating our zoning ordinance, as well as state rooming and lodging licensing requirements. (Some of them feed their guests breakfast). The 2015 MUBEC, as proposed, will allow people to rent to up to three guests, consistent with the State's version of NFPA 101. Taking in more than three guests will still trigger permits, sprinklers, etc. per 101.

The summer rental house thing is a codes hornet's nest. People rent the place, invite their extended family and all their friends, and have people sleeping on the floor, in the basement, in storage lofts, tents, campers, vans, all in a former "camp" with a one or two bedroom septic system (or a 55 gallon drum with holes in it buried in the yard...) . Never mind egress, smoke detectors, CO detectors, parking, etc.. Like Steve said, tracking who's doing what is difficult and time consuming, and in some

instances they aren't doing anything illegal from a septic code point of view. Maybe someone from around Sebago or the southern Maine coastal towns have some tools to share. I think Old Orchard Beach has a short term rental ordinance, and maybe Saco? Portland is grappling with crafting one currently. If memory serves, new septic designs in Portland Water District's jurisdiction treat any room that could be a sleeping room as a bedroom, so the septic systems are large, and a bootlegged outdoor shower is a hanging offense.....

The Question: EERO from a basement

I have an application on my desk for a single family house with a basement that has two means of egress - an interior stairway to the floor above, and a stairway that leads up into the garage. I questioned if the garage stairway meets the section R310.1 requirement that emergency escape and rescue openings to "open directly to into a public way, or to a yard or court that leads to a public way". The contractor replied that no other MUBEC town in the area has questioned this location of the second way out of the basement. Would this garage stairway pass inspection in other MUBEC towns?

Thank you for your assistance.

An Answer:

I agree with your interpretation of the code conditioned on the basement being either a single unfinished space or single finished room with an approved mechanical room. If there is intention is to finish other rooms, then each will need an egress window and a well (depending on grade) per the same section. Code requires 1/2 drywall (20 min) horizontal and 5/8" on vertical separations. There would need to be proper landing space and exterior exit. Any door from the space into the garage would need to be 20 min rated. If there is living space above the garage, there may need to be separation from the garage to that room also and egress window(s) in those room(s)

Another Answer:

The definition of Emergency Escape and Rescue Opening is "An operable exterior window, door or similar device...". A stairway and door leading from the basement into the garage is not an exterior door or window, and is not an EERO. The common fix for this is to enclose the stairway and have a door to outside at the top of the stairs, as well as one (appropriately constructed/ rated) into the garage.



The Question: Frostproof foundations

Okay, so I've read the code six ways to Sunday and I am more confused.

Do I need to require a garage of 624 sq feet have the haunched slab insulated, and where do I find something definitive stating this? Myself and a very frustrated (but understanding) citizen appreciate your assistance.

An Answer (from an engineer in Camden we all think highly of):

See IRC R403.1.4.1 for frost protection requirements; ASCE 32 is your shallow footing guide which allows the haunched and insulated slab on grade. If your citizen can reduce the square footage 24 SF, he/she may qualify for exception 1 under IRC R403.1.4.1.



 **FOOD FOR THOUGHT: If you put foam plastic insulation beneath an entire building, is that plastic listed/approved to be used as a load bearing structural component of the building?**

The Question: Railings (because no code conversation is complete without discourse on railings....)

Hello Guy and Gal Mooses:

I was wondering what people were requiring for residential homes when egress (outdoors) requires stairs that are more than 30 " in height. This is addressed in Sections 311 and 312 of the IRC and 7.2.2.4.1 of the Life Safety code. It appears to me that both the guards and handrails are required on stairs (and ramps) and the top of the guards would typically not meet the handgrip requirements illustrated in figure R311.7.7.3(1&2) . This would mean that handrails built to code would have to be installed within the guards on steps (or ramps) and attached with some type of hardware. The IRC requires the handrail only on one side but the life safety code on both sides. I thought in MUBEC the IRC prevailed over the LSC on guard height (36" IRC Vs 42" LSC) on a landing or deck but 34" to 38" on the actual stairs but I'm not sure on this issue (1 vs 2 handrails). The handrail grip requirements are similar for both codes. I have not been requiring the handrails on outdoor stairs and wondered if I am doing this wrong. I don't see them built that way anywhere too often.

An Answer:

I require code compliant handrails on stairs coming from decks and porches. If the stairs are not associated with the house, such as landscaping stairs, I do not apply the code.

Another Answer:

NFPA 101 requires a handrail or rails for all stairs, regardless of the number of risers, and unless you feel that an exterior stair is within a dwelling unit, (7.2.2.4.1.6) NFPA 101 requires handrails on both sides of exterior stairs. Section 7.2.2.4.5.2 of 101 is amended in Maine to allow a 36" guard in one and two family houses. (the amendments are on the SFM website.) MUBEC and 101 both require the handrail to meet the graspability standard (a 2X is not an acceptable handrail), and terminate at a wall or post so as not to snag clothing.

The Question: Number of bedrooms for septic design (when is a bedroom not a bedroom?)

Does anyone have a policy for de-rating rooms as bedrooms? A landowner, and currently sole occupant, in a legally existing 4-bedroom dwelling would like to reduce the number of rooms classified as bedrooms in the principal structure. This is part of a project that includes adding guest quarters (bedroom and bath only) in an accessory structure. The septic GPD capacity will be met for the project to proceed. We're a non-MUBEC town with land use zoning ordinances, no definition of "bedroom", and we do not issue Occupancy Certificates. The Maine Subsurface Disposal Rules definition of bedroom is: "Any room within a dwelling unit, or any room within an accessory structure to a dwelling unit, that serves primarily as sleeping quarters." Suggestions would be appreciated.

An Answer:

This is a subsurface requirement, E-mail Brent Lawson, ask him what he has seen.

Another Answer:

If you really want to cover yourself and the town solicitor deems it ok you could have him record that on his deed as part of the permit. I'm thinking along the lines of what you would do with shore land zoning. Just a thought, seek council first!

Yet Another Answer:

That septic code bedroom thing is a wobbly place to stand, since the septic code definition of bedroom is based on how the room is used, not how it's built or equipped. Someone can say the room that they used to use as a bedroom is now a den, craft room, office, mancave, storage, or whatever, and you can even go see it after they convert it, but there's no way to control how the room is used down the road. A family with 4 kids may buy the house in the future, and will use those rooms as bedrooms, no matter what the previous owner told you or how he used them. The septic system is going to fail some day, and the more people that occupy the building, the sooner it will happen.



I'd take the owner/applicant's assertion at face value, mark the permits accordingly, and write him a cover letter with the permit documenting the number of rooms on the property that can be used as bedrooms. That way if the issue comes up later, you've got a good paper trail documenting how many bedrooms the place is approved for, and the owner can't say he didn't know or understand.

The Question: Historic homes open to the public—or— when is a home no longer a home?

The famous poet, Edna St. Vincent Millay, was born in one half of a duplex in Rockland. The building has been neglected and is currently run down. A group is buying the duplex and intends to restore the Millay half and renovate and rent the second half. There will be limited (6-8 people) tours provided in the Millay half. The Millay half is only about 1000 sq. ft. total floor area. In accordance with the IRC, there will be a fire separation between the units.

Question 1: If the Millay half has limited tours and is not used for sleeping (or living), is this still a two-family dwelling. If not, what would you consider it?

Question 2: If limited tours are given, would exit signs and emergency lights be required? That would certainly detract from the historic restoration.

An Answer:

The first question I have is has the building applied for and been placed on the State or national Register of Historic Places? If it has I would follow Chapter 11 of the IEBC for the project as It does a good job is what is and is not required through the process.

Another Answer:

When they renovated the Winslow Homer House in Scarborough, I think we called it a historic residence, as the Museum category did not fit, so they do have the life safety alarm system so an artist can be in residence if they want. Portland Museum of Art is the new owner and it was quite an ordeal. They compromised with us on what we called it, they have limited access from the public as it is in a residential area. If you make a big donation you can visit. A little different than you describe but a similar codes issue. They spent 7.5 million and it looks exactly like it did when Homer lived and painted it" barren and plain" with brush cleaning strokes on the wall, but very high tech fire detection and suppression systems all out of sight.



Another Answer: (from the Maine Historic Preservation Commission)

If this were me I would start with the Maine Historic Preservation Commission as They would be a knowledgeable resource.

And yet another answer:

I feel that the building is still a two family dwelling, but one of the dwellings is being used as a museum, which is an A-3 use group, but since there won't be 50 people in it at once, it's a Business use, per IBC 303.1, and as Tom points out, IBC 3409 lets you waive code requirements for that half, as long as you feel the place is being operated safely.

The Question: Cable railings

Anyone had experience with cable railings? The horizontal cables are tensioned between posts and spaced 3 inches apart, but with deflection I'm wondering if the 4 inch maximum space allowed between the cables could be exceeded mid-span. There isn't much tension applied to these cables. Just enough to take out the sag. They're a pretty cool looking railing, but is safety compromised?

The Devil's in the definitions.....

An Answer:

We see a lot of those here in Portland. In the beginning I required closer intervals between the cables because they would open up. But after a conversation with ICC, I learned that the test for this is based on Table R301.5, Guardrail in-fill components (f). Basically that 50 lbs applied on an area equal to 1 square foot. And as long as the cables did not open up further than 4 inches, was sufficient for the code. Hope this helps.

Another Answer:

The cables can be tensioned enough to meet code. A month or two later they probably don't meet the 4" requirement. I allow them because they meet code when I inspect them. Would I recommend them from a safety perspective? No.

Another Answer:

Cables are supposed to be quite tight. Every one I see have turnbuckles to adjust tension. I personally don't like them as they make an attractive ladder for children to play on.



And yet another answer:

If anyone is testing these in the field to the 50 pounds acting on 1 square foot standard, chime in and let us know how. Most of the systems I've seen have turnbuckles so you can tighten them as they stretch over time. In occupancies other than one and two family houses, the system has to be designed and stamped by an architect or engineer, which can give some comfort and distribute the liability. Some designs have a tensioning specs in the design. (How the installer meets that, you got me....) The cables do provide a ladder effect and are a lot easier to climb on than vertical members. Doing away with the prohibition on ladder type railing members was a step backwards in building safety IMHO. I suspect most of us judge these visually, and by maybe plucking a cable to two to see that they're good and tight.

The Question:

Does anyone know of a Code requirement for the amount/thickness (2"?, 3"?) of under slab insulation for radiant tubing installation – beyond what IECC 2009 calls for slab at grade frost protection. It's probably a simple answer, but I can't readily put my finger on any Code language.

The Answer (summarizing several responses): There is no prescriptive requirement in the code. IRC Chapter 21 (Hydronic Piping) contains a spec, but that chapter is not adopted, and is not currently proposed to be adopted in the 2015 Code. Go with whatever the manufacturer specifies, if they specify anything. The IECC calls for 4' of R-15 insulation for heated slabs (R-10 for unheated).

The Question:

I have an interpretation question that I would like some feedback on. Can Marijuana cultivation by a licensed caregiver be classified as agriculture? I remember seeing a list of things that are considered agricultural products somewhere in the MRSA, does anyone know where I can find that?

An Answer:

My suggestion would be to sit back and let things play out. I assume there will be rulemaking (just like with all laws) to clarify what is legal and what is not. Regardless of your personal position on "pot" it does not seem to me to be in a high priority (sorry about the pun there) for codes enforcement.



Coming soon! No, wait—they're already here.

Another Answer: It depends on your ordinance. Growing crops to sell in most ordinances is agriculture. If they're processing the pot into other products (food, oils, etc.), that's probably manufacturing. The State will likely be making some laws to deal with this, that may affect how local ordinances can be crafted. Sit back, light up, and wait to see what happens (and pass the candy bars....).

The Question:

If a contractor was changing an existing room into a bathroom would they be required to change the windows to meet the glazing requirements of R308.4 Hazardous Locations? The owners had no intention to replace the windows at this time.

An Answer:

I would consider the bathroom to be a new room and yes it would need to meet code as a new bathroom. Also, instead of replacing the window there are glass companies that can come to your house and put a tempered film on the existing window to conform to code.

Another Answer:

The new bathroom is a change of use of the space, and needs to meet all applicable codes for a new bathroom. Building, plumbing, electrical, mechanical (ventilation), and certainly glazing.

The Question:

I have an app submitted that is requesting to put in a bedroom in a 36 x 60 residential garage. This garage is used for storage of vehicles. A couple of questions,

1. In the old days we use to have a 4" lip between living space and garage, now we don't. Instead of that we have a slope. Is there any particular amount of slope?
2. It doesn't seem right to put the bedroom in a garage, but can't find anything that prevents it. The bedroom door will open to a hallway, and that hall way will go directly outside. The other door of the hallway will go into the garage
3. The bedroom will have an egress window, and they intend to put up 5/8" sheetrock on the garage side

Does anyone know what section of the IRC or Life Safety that would apply? Or is this perfectly ok?

An Answer:

If you're a MUBEC town, see IRC R309, 302.5, and R302.6. There's no specified slope for the garage floor. It just says it has to be sloped toward the vehicle door or a floor drain. The exiting sounds OK per R311.

zzzzzzzzzzzz



Chapter 24 of NFPA 101 (in effect statewide) deals with single family houses. The egress sounds OK per that text. I don't see anything in Chapter 24 about required separation between the bedroom and the garage, but it's likely in the code somewhere. Someone else may know where to find it. If you don't get an answer on this listserv, ask someone at the State Fire Marshal's office (626-3880). They use 101 every day.

Consider whether the septic system will need to be upsized, or a replacement system designed, if you're adding a bedroom to a site served by a septic system. Good luck.

Another answer:

In addition to the above, IRC 302.5.1 prohibits openings from a private garage directly into a room used for sleeping purposes. That would apply if you are a MUBEC municipality. I'll do a quick check, but I would leave it up to the NFPA 101 experts to determine if that code has similar restrictions.

Alot of people think that government is their mother. We're not.

The Question:

My question is would MUBEC apply to an agricultural barn that is not timber framed construction? Title 10, Sect 9724(5) lists the exception to MUBEC and exception #3 is warehouses or silos used to store harvested crops. Maybe a barn used to store hay would qualify. What about a barn used for horses? Barns can be very large, and the cost for frost protection could be prohibitive. I was wondering what others are doing for barns. I have received applications for barns with slabs. You could also interpret that this is no different than a garage.

We
fixed
that.



An Answer (summarizing a bunch of answers):

The legislature in 2015 added item N to the list of tasks that the Codes Board has, as detailed below:

From MRSA 10, section 9722

6. Duties and powers. In addition to other duties set forth in this chapter, the [Technical Building Codes and Standards] board shall:

N. In the adoption and amendment of the Maine Uniform Building and Energy Code, ensure that buildings used to house livestock or harvested crops are not subject to the code. [2015, c. 126, §3 (NEW).]

Some respondents feel that this makes barns exempt from the MUBEC.

Others feel that barns are not exempt, since they are not listed in the exemptions in the law that creates the MUBEC:

No
ya
didn't.



From MRSA 10, section 9724

A. The requirements of the Maine Uniform Building and Energy Code do not apply to:

- (1) Log homes or manufactured housing as defined in chapter 951;
- (2) Post and beam or timber frame construction; or
- (3) Warehouses or silos used to store harvested crops.

The legislature wants barns to be exempt from MUBEC. Have them made them so? Depends on who you ask. Whether you want to apply the MUBEC to barns is up to you and your town attorney. (The 2015 IBC, as currently proposed to be adopted, does not contain text exempting barns from it.)

The Final Question:

Have you had one of those times when you feel overwhelmed by the knowledge that somewhere in your municipality someone is doing something they shouldn't be doing? Has that feeling been compounded by the thought that I'll never know everything in the 10+ codes we enforce? What's the pep talk I need to give myself?? Thanks Moores, I know that a lot of you are responsible for far more than I and are doing a great job.



An Answer:

Just take comfort that if you promote compliance fairly to all, the issues you address will make a difference to the current and any future property owners. We all understand we are not all seeing and things will be done not to code or ordinance but if we weren't on the job it could be a lot worse. People mostly want to follow the rules but there are the few that resist. Do your best and sleep well at night so you can continue the quest. Frustration and feeling you do not do enough or make a difference will cause burn-out. We can only effect what we know and see. Keep the faith.

The Final Answer:

Step away from the edge of the roof, Inspector, and don't beat yourself up. Every day, everywhere, in every municipality, there are people doing stuff without a required permit or in violation of some code. You can't know everything or be everywhere. It's impossible. No one knows everything in every code. That's also impossible. The best you can do is know how to find the answers you need when the questions come up. Do the best you can with the stuff you do become involved with, and know that you're going to make mistakes, because everyone does, and hope that your mistakes won't cause someone to get hurt or killed. (Welcome to codes enforcement....). On the feelgood side, know that your involvement in the stuff you do deal with makes the built environment and quality of life in your community safer and better. If it helps, keep the Serenity Prayer in mind: "God grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference." If you still feel like jumping, try not to land on anyone.....

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, Forestry, or whatever are usually glad to help. 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 our associates at the State agencies. They're the government, and they ARE here to help!

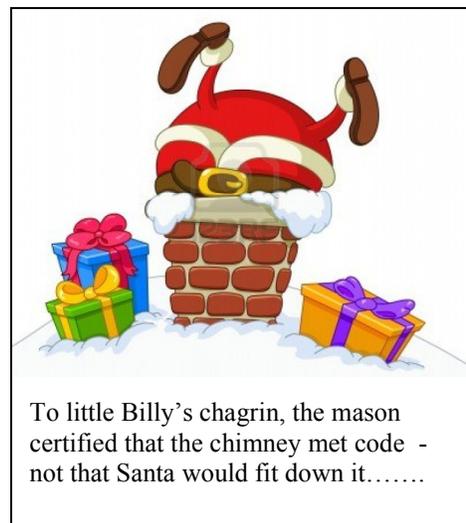
FROM OUR FRIENDS AT THE FUEL BOARD

MASONS MUST PROVIDE A COMPLIANCE CERTIFICATION TO CUSTOMERS

Good Moring All,
Just a reminder that in MRSA 32, Chapter 139, section 18108 of the Fuel Board laws, there is a requirement for anyone that installs a chimney or fireplace for compensation to provide a disclosure that it complies with NFPA 211. There is a copy of the required disclosure form in the annex pages of the Fuel Board rules. I would be happy to send one electronically so you can print it to anyone who would like one. Just drop me an email -

Peter.t.holmes@maine.gov.

Peter Holmes
Sr. Inspector
Maine Fuel Board



To little Billy's chagrin, the mason certified that the chimney met code - not that Santa would fit down it.....

FROM OUR FRIENDS AT ENVIRONMENTAL HEALTH

SAND FILTERS ARE NOT SSWDs AND THE SETBACKS ONLY APPLY TO SEPTIC SYSTEMS

Good morning Jim (Jacobsen):

Does the sand filter in an OBD constitute a “disposal area” for the purpose of applying setback distances for things like wells, buildings, etc.? I have a gent with an OBD who wants to grow the deck at his house, and I’m trying to figure out if the deck needs to stay 15’ from the sand filter. Are you of the opinion that the setback distances in the septic code only apply to the installation of a septic system, or do you feel that development on the site where a septic system is has to abide by the setback distances, such as expanding a deck toward a disposal area or septic tank? Thanks for your input.

The Answer:

The setbacks in the Subsurface Wastewater Disposal Rules apply only to the design and installation of septic systems, so they don’t apply to either structures or to overboard discharge systems. That being so, the sand filter in the OBD doesn’t come under the Subsurface Wastewater Disposal Rules. If the City has a building code, that is what I’d hang my hat upon.

Jim

James A. Jacobsen

Environmental Specialist IV
Drinking Water Program, Subsurface Wastewater
(207) 287-5695

FROM OUR FRIENDS AT THE PLUMBERS EXAMINING BOARD

A new restaurant in town wanted to use faucets made from a spigot and copper pipe, for a rustic, barn type look in their bathrooms. The plumbing code requires all parts of the plumbing system to be listed for their intended purposes. The faucets also had to meet ADA requirements. The faucets met neither of those requirements. The restaurant owner wouldn’t take my word for it. Dana rode his digital horse into the fracas and saved the day. From the email he sent the owner:



“Those handmade faucets are not allowed per the State of Maine's Plumbing Code. I have attached pertinent sections of code:

301.0 Materials - Standards and Alternates.

301.1 Minimum Standards.

301.1.1 Approvals. All pipe, pipe fittings, traps, fixtures, material, and devices used in a plumbing system shall be listed or labeled (third-party certified) by a listing agency (accredited conformity assessment body) and shall conform to approved applicable recognized standards referenced in this code, and shall be free from defects. Unless otherwise provided for in this code, all materials, fixtures, or devices used or entering into the construction of plumbing systems, or parts thereof, shall be submitted to the Authority Having Jurisdiction for approval.

301.1.2 Marking. Each length of pipe and each pipe fitting, trap, fixture, material, and device used in a plumbing system shall have cast, stamped, or indelibly marked on it the manufacturer's mark or name, which shall readily identify the manufacturer to the end user of the product.

When required by the approved standard that applies, the product shall be marked with the weight and the quality of the product. Materials and devices used or entering into the construction of plumbing and drainage systems, or

parts thereof, shall be marked and identified in a manner satisfactory to the Authority Having Jurisdiction. Such marking shall be done by the manufacturer. Field markings shall not be acceptable.

Sorry this has created a problem for you and your business.

Dana C. Tuttle
Senior Plumbing Inspector

THANK YOU DANA!!!!



The Gift of Laughter

A bagpiper gets hired to play at a funeral for an elderly gentleman that passed away. The family was burying Grandpa behind his house. The place is way out in the willywags, and on the way to the funeral, the piper gets lost. His cellphone doesn't work, his GPS doesn't work, there's no one to ask directions from. He finally arrives at the place two hours late. The family is gone, the minister is gone, the flowers are gone. The vault is in the hole and there are two workers just about to fill in the hole. The piper says, "I feel awful about being late. The family hired me to play, so if you don't mind waiting just a few minutes, I'd like to play a couple of tunes". The workers didn't mind, so the piper geared up, stood by the hole, and played a couple of hymns. One of the workers came over, stood beside him, took his hat off, and looked reverently into the hole as the piper closed with "Amazing Grace". As the piper finished, the worker wiped a couple of tears from his face. The piper thanked the workers and left. The other worker came over to his buddy and said, "I've never known you to be emotional like that, Merle". Merle said, "Well, that was kinda nice, and I couldn't help myself. That's the first time I've ever seen that done in 32 years of installing septic tanks."

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, citizens, 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!



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. This is or will be posted on the MBOIA website (where you can print it in color!). I hope you've enjoyed The Enforcer.

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

Paul "Neil Armstrong" Demers



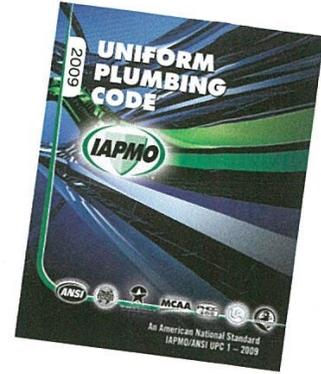
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