

Chapter 6 Health and Sanitation

ARTICLE I WASTE DISPOSAL

Section

- 6-101 Permission to Deposit Fill Material
- 6-102 Within the Compact Area
- 6-103 On Public Property
- 6-104 Municipal Dump
- 6-105 Industrial Waste
- 6-106 Additional Penalty

ARTICLE II HAULING OF GARBAGE, REFUSE AND WASTE

- 6-201 Garbage, Refuse, Waste to be Covered When Hauled
- 6-202 License Necessary When Hauling for Hire
- 6-203 Designated Areas of Disposal
- 6-204 Separation of Materials
- 6-205 Suspension and License Revocation
- 6-206 Penalty
- 6-207 Severability

ARTICLE III OUTDOOR WOOD FIRED BOILERS

- 6-301 Statement of Purpose
- 6-302 Permit Required
- 6-303 Existing Outdoor Wood Fired Boilers
- 6-304 Specific Requirements
- 6-305 Penalty
- 6-306 Severability

ARTICLE IV PUBLIC INDECENCY ORDINANCE

- 6-401 Purpose and Authority
- 6-402 Definitions
- 6-403 Public Indecency Prohibited
- 6-404 Nursing Women
- 6-405 Certificate of Occupancy and License Required for Nude Entertainment
- 6-406 Penalties
- 6-407 Severability

Chapter 6 Health and Sanitation

ARTICLE I WASTE DISPOSAL

Sec. 6-101 Permission to Deposit Fill Material

Any person wishing to deposit or cause to be deposited, waste material for the purpose of filling, must first obtain permission from the health officer to maintain a dump and be required at all times to keep the surface in a clean condition. The applicant shall also secure all necessary State permits.

Sec. 6-102 Within the Compact Area

It is unlawful to burn paper, garbage, leaves, clothing material and rubber material within the State Highway Compact Area and within the City of Caribou Compact Area, as designated on the urban zoning map, at any time of day or night.

Sec. 6-103 On Public Property

No person shall place, or cause to be placed, wood ashes, boxes or rubbish in any such street, land, public square, or other public place in said City (except that any such material is intended for removal, may stay thereon not over 24 hours, providing said rubbish or trash is properly contained so as not to cause litter.)

Sec. 6-104 Municipal Dump

1. *Designated areas.* Refuse shall be deposited at the Tri-Community Sanitary Landfill only.

Sec. 6-105 Industrial Waste

No depositing of industrial wastes shall be allowed without a permit being obtained from the Code Enforcement Officer. No dumping of industrial wastes shall be made in any area except at a dumping place or places designated as such by the Caribou City Council, after review and recommendations by the Caribou Planning Board.

Any person or firm after notification by the Code Enforcement Officer of any illegal dumping must cease all or any dumping immediately. Any person or firm found in violation of the above shall be subject to a fine of not more than \$1,000 and not less than \$300.00 for each offense. Each day during which a violation occurs shall constitute a separate offense.

Sec. 6-106 Additional Penalty

In addition to any other penalties provided in this Article, any person who shall violate any of the provisions of this Article shall be liable to a penalty of from one dollar to one hundred dollars for each offense, to be recovered for the use of the City, by complaint before the Caribou District Court.

Historical Note: Sections 6-101 and 6-106 were formerly Chapter 3 of the 1956 Caribou Code. Section 6-103 was formerly Chapter 8, Article I of the 1956 Code. Section 6-102 was originally adopted as an emergency ordinance on June 21, 1971 (effective July 1, 1971), adding section 111 to Chapter 3; it was amended June 18, 1980. Sections 6-101, 6-104, and 6-105 were adopted or amended June 4, 1980.

State Law References: 38 MRSA § 1304 et seq;30 MRSA § 4102.

Cross References: Chapter 13, Article I, Section 13-104(14); Chapter 5, Article XII.

ARTICLE II HAULING OF GARBAGE, REFUSE, AND WASTE

Sec. 6-201 Garbage, Refuse, Waste to be Covered When Hauled

No person shall transport waste paper, ashes or other refuse material, except when the material is covered in such a manner that the refuse shall not be strewn along public ways. All persons hauling or transporting waste paper, ashes and other refuse material for pay or hire shall, at all times when hauling such waste paper, ashes or other refuse material, have such waste or refuse material in a completely enclosed vehicle. Such vehicle shall have a box having a front, top, sides and tailgate, which, when closed, shall render the waste or refuse material completely enclosed.

Sec. 6-202 License Necessary When Hauling For Hire

All persons hauling waste paper, ashes, or other refuse material for hire or pay in the City of Caribou shall secure a license from the Municipal Officers for the ability to haul said refuse for which they shall pay to the City Treasurer the sum of \$25.00 per truck used to haul said refuse. Said license holder shall make each vehicle, used to haul such refuse, available for inspection upon request to any police officer of the City of Caribou for adherence to State vehicle inspections laws as amended from time to time.

Sec. 6-203 Designated Areas of Disposal

When such a license is issued, such Solid Waste collected within the Township of Caribou shall be deposited at the Tri-Community Landfill in accordance with the rules and regulations as set forth at the time of deposit by the authority of said landfill. Any necessary deposit of materials not accepted by the Tri-Community Landfill shall be as authorized by and in accordance with all State and Federal Laws.

Sec. 6-204 Separation of Materials

Any licensed Solid Waste Collector as condition of it's license shall perform all necessary separation of material as mandated by the terms and conditions set forth in the Tri-Community Recycling & Sanitary Landfill General Rules as amended from time to time.

Sec. 6-205 Suspension and License Revocation

Any licensed Solid Waste Collector who violates any provisions of Chapter 6 of the Caribou Municipal Code may be subject to temporary suspension subject to the opinion of the Code Enforcement Officer. If the Code Enforcement Officer determines the violation(s) to be a serious breach of this Chapter, revocations shall occur.

The Solid Waste Collector shall have the right to appeal the ruling of the Code Enforcement Officer to the City Council. Such appeal must be filed within two business days after the date of the CEO's ruling. This meeting shall be public and may be subject to a notice of public hearing with a minimum of seven days notice.

The City Council may affirm the Code Enforcement Officer's ruling and/or penalty, or issue a new ruling, which may include temporary suspension or permanent revocation of the license.

The City Council may refuse to grant or renew a Solid Waste Collectors License to an applicant based upon past practices or violations of said Collector.

Sec. 6-206 Penalty

Any person, whether owner or agent of any vehicle, who shall violate any of the applicable provisions of this Article, shall be liable to a penalty of up to \$50.00 for each offense, to be recovered for the use of the City upon complaint. Such a levy of monetary fines may be in conjunction with the consideration of ruling of a temporary or permanent revocation of said license.

Sec. 6-207 Severability

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

Historical Note: 1956 Code, Chapter 3, Article 2; as amended June 4, 1980; Chapter 6, Article 2 as amended April 8, 2002; Section 6-202 as amended April 8, 2013.

State Law Reference: 17 MRSA §2261 et seq; 38 MRSA §1301 et seq.; Sec 6-203 Reference: 38 MRSA §1304-B et seq.; Sec 6-206 Reference: 17 MRSA §2261 et seq.

ARTICLE III OUTDOOR WOOD FIRED BOILERS

Sec. 6-301 Statement of Purpose

The purpose of this ordinance is to ensure that outdoor wood fired boilers are operated in a manner that limit particulate discharges, do not create a nuisance to neighbors, and protect members of the community from harmful levels of smoke and other emissions.

Definition: Any equipment, device or apparatus, or any part thereof, which is installed, or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or exterior use.

Sec. 6-302 Permit Required

No person shall install, use, or maintain an outdoor wood fired boiler within the R-1, R-2, R2A, RC-2, C1, C2 or H-1 Zones as defined by the Caribou Zoning Map. The installation of outdoor wood fired boilers shall only be allowed in the R-3, R-4, I-1 & I-2 Zones as defined on the Caribou Zoning map.

No outdoor wood fired boiler shall be installed within 150 feet of a property line.

No outdoor wood fired boiler shall be installed within 50 feet of any structure.

No installation shall be allowed without first obtaining a permit from the Code Enforcement Officer. Application for such permit shall be made to the Code Enforcement Officer on forms provided. All installations must comply with state, federal regulations and manufacturer's installation instructions. All permit applications must include a copy of the manufacturer's installation instructions. The permit fee shall be \$100.00

Sec. 6-303 Existing Outdoor Wood Fired Boilers

Any outdoor wood fired boiler in existence, installed, and operating or operable on the effective date of this ordinance shall be allowed to remain provided that the owner registers the outdoor wood fired boiler within 60 days of the effective date of this ordinance with the Code Enforcement Officer. There is no fee to register an existing outdoor wood fired boiler.

Any outdoor wood fired boiler found to be located within Caribou after the 60 day registration period that is not registered may be ordered to be removed from Caribou by the City Council.

Any outdoor wood fired boiler not located in the R-3, R-4, I-1 or I-2 zones may not be replaced when found to be unsafe or beyond repair by the Code Enforcement Officer or a Maine licensed mechanical engineer.

6-304 Specific Requirements

Only dry seasoned firewood and untreated lumber are permitted to be burned in an outdoor wood fired boiler. Burning of any and all other materials in an outdoor wood fired boiler is prohibited.

Particulate discharges shall be no greater than 27.4 grams per 100,000 British Thermal Units per hour (BTU/h) as rated by a certified testing laboratory for outdoor wood fired boilers. Should the U.S. Environmental Protection Agency (EPA) or the Maine Department of Environmental Protection (DEP) adopt a stricter emissions standard, that stricter standard shall be automatically considered as adopted by this Code. The outdoor wood fired boiler shall be required to display a listing plate on the unit that certifies that the unit is in compliance with the appropriate emissions standard, as determined by a qualified testing facility using appropriate and applicable Underwriter Laboratories standards.

6-305 Penalty

Any person, owner or operator of an outdoor wood fired boiler found to be in violation of this ordinance may be charged and a civil action may be brought against them. Anyone violating this ordinance may be prosecuted pursuant to MRSA, Title 30-A, §4452. A minimum fine of \$100.00 up to \$2,500.00 for each offense per day plus legal fees and court costs will be requested by the City of Caribou.

6-306 Severability

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.

Historical Note: Chapter 6, Article III was adopted on February 26, 2007.

Chapter 6 Health and Sanitation

Article IV

PUBLIC INDECENCY ORDINANCE

Sec. 6-401 Purpose and Authority

To prohibit certain acts of commercial exploitation of human sexuality within the City of Caribou in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases, and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional enforcement power to protect societal order, morality, and physical and emotional health in public places without infringing on protected First Amendment rights.

This ordinance is enacted pursuant to municipal home rule authority, Title 30-A.M.R.S.A. 3001.

Sec. 6-402 Definitions

For the purpose of this Ordinance, the following definitions apply:

“Adult Entertainment Facility” means a public or private establishment, with or without a liquor license, featuring nudity, strippers or similar entertainers for observation of by patrons.

“Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a full opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

“Public Indecency” means the knowing or intentional commission of a “Sexual Act”, “Sexual Contact”, “Sexual Touching” or “Nudity” in a public place.

“Public Place” means all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including but not limited to commercial or business establishments, taverns, restaurants, clubs, theaters, dance halls, public ways, schools, government owned facilities, and the lobbies, hallways, and basement portions of apartment houses, hotels, motels, public buildings and transportation terminals.

“Sexual Act” means: (1) Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; (2) Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or (3) Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. A sexual act may be proved without allegation or proof of penetration.

“Sexual Contact” means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

“Sexual Touching” means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.

Sec. 6-403 Public Indecency Prohibited

Engaging in public indecency is prohibited.

Engaging in or encouraging or permitting another person to engage in an act or acts of public indecency by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occurs is also prohibited.

Sec. 6-404 Nursing Women

Notwithstanding any City ordinance to the contrary, this ordinance shall not prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast-feeding a child under two (2) years of age in public or private.

Sec. 6-405 Certificate of Occupancy and License Required for Nude Entertainment

1. No commercial or private establishment within the City of Caribou shall operate an *Adult Entertainment Facility* without first obtaining a license from the City Clerk and a Certificate of Occupancy from the Code Enforcement Officer. The procedural requirements to obtain a License and Certificate of Occupancy shall be as required in this section and in Sections 13-300 through 13-307 for Site Design Review by the Planning Board. Applications for Site design Review may be obtained from the Code Enforcement Office at City Hall.
2. No License or Certificate of Occupancy shall be granted for an Adult Entertainment Facility unless the premises concerned is located in a commercial C-1 or C-2, industrial I-1 or I-2, residential-commercial RC-2, or the rural R-3 zone.
3. Set Back: No License or Certificate of Occupancy shall be granted for an Adult Entertainment Facility if the premise concerned is located within 1000 feet of a public or private school, day care facility, public playground, public park, place of worship or residential dwelling unit.
4. No License or Certificate of Occupancy shall be granted for an Adult Entertainment Facility unless the premises concerned is equipped with changing rooms and toilet facilities for the performers separate from any area accessible by the public.
5. Neither nudity nor nude dancing shall be permitted in any Adult Entertainment Facility. Any exotic dancers or strippers or similar performers shall at a minimum wear a G-string and pasties covering all of the nipple area. No dancers, performers, employees of an Adult Entertainment Facility shall fondle, caress any patron or client. No patrons or clients shall fondle or caress any dancers, performers or employees of an Adult Entertainment Facility.
6. No License or Certificate of Occupancy shall be granted for an Adult Entertainment Facility unless the premises concerned is in complete compliance with the current Life Safety, Plumbing, Electrical, Building and Zoning Codes.
7. The License and Certificate of Occupancy shall expire one (1) year after the date of issuance thereof, unless terminated, suspended, or revoked prior thereto by the City Council for violation of any part of this ordinance, after hearing by the city Council with reasonable written notice to the applicant, given ten (10) days prior to the hearing date.

8. The license fee for each year issued under this ordinance shall be \$500.00.

Sec. 6-406 Penalties

The violation of this ordinance shall be punishable by a fine of One Thousand dollars (\$1,000.00) for each offense upon conviction by District Court regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalties, the City may enjoin or abate a violation of this ordinance by appropriate action, and, if the court finds for the city, the city shall recover its costs of suit, including reasonable experts' fees, reasonable attorney's fees, and reasonable investigative costs.

Sec. 6-407 Severability

If any section, phrase, sentence, or portion of this ordinance is for any reason, held invalid or unconstitutional by any court or competent jurisdiction, such holding shall not affect the validity of any other section, phrase, sentence, or portion thereof.

Historical Note: Article IV was adopted on May 14, 2007.