



City of Caribou, Maine

AGENDA Caribou Planning Board Workshop Meeting Monday July 29, 2024, at 5:00 p.m.

*Municipal Building
25 High Street
Caribou, ME 04736
Telephone (207) 493-3324
Fax (207) 498-3954*

The meeting will be broadcast on Cable Channel 1301 and the City's YouTube Channel. Public Comments submitted prior to the meeting no later than 4:00 pm on Monday July 29, 2024, will be read during the meeting. Send comments to City Manager Penny Thompson at pthompson@cariboumaine.org.

1. Call Meeting to Order, Determine Quorum, disclosure of conflicts of interest
2. Workshop Topic
 - a. Neglectful Arts Ordinance
3. Adjournment

2024 Planning Board Members:

Amanada Jandreau, Chair
James E. Belanger, Secretary
David Corriveau
Maura Bishop

Frank McElwain, Vice Chair
Eric Hitchcock
Steve Wentworth

CARIBOU ADMINISTRATION
25 HIGH STREET
CARIBOU, ME. 04736



MEMO

To: Planning Board Chair and Members
From: Penny Thompson, City Manager
Date: July 29, 2024
Re: Neglectful Acts Ordinance

Members David Corriveau and Steve Wentworth have worked together on the Neglectful Acts Ordinance which was discussed at the last meeting.

A workshop has been scheduled for tonight.

One of the tasks was now to incorporate this ordinance into the city's code. Upon doing more research, much of what the ordinance is trying to do is already present in the existing code and ordinances:

	<u>Pages</u>
Notes on the Neglectful Acts Ordinance:	03
Chapter 4: Building & Housing	04-11
Adopts the Building Code & the Property Maintenance Code	
Chapter 8: Miscellaneous Offenses	12-17
Nuisance Property Ordinance	
The Property Maintenance Code contains many tools:	18-19
The Legal Issues Manual for Code Enforcement Officers has information too:	20-24

DRAFT

Neglectful Acts Ordinance

In an effort to mitigate ongoing blight issues in the City of Caribou the City has instituted a Neglectful Acts Ordinance.

THE CHAPTER 8 NUISANCE PROPERTY ORDINANCE IS ALSO A TOOL.

This allows the city to notify a homeowner or property owner that certain standards of maintenance or upkeep are at a point where they have become a problem or issue with neighbors and other tax paying citizens of Caribou.

THE PROPERTY MAINTENANCE CODE COVERS THIS.

In order to maintain civility in our community, the City will notify the property owner that a defined standard has been identified as sub-standard and the property owner has 7 (seven) days to respond to the complaint.

Two methods of compliance are listed.

- First method is a call to code enforcement officer to acknowledge the issue and possible guidance with a timetable not to exceed 30 days to satisfy the complaint.

- Second method is to address the issue immediately and rectify the problem.

THE LEGAL ISSUES MANUAL DIRECTS THE MANNER FOR NOTICES.

Examples of substandard issues are fallen trees, garbage, un-mowed lawns, unkept appearance, trash, etc. that would devalue the overall comfort of the neighborhood and community.

THE PROPERTY MAINTENANCE CODE COVERS THIS.

Failure to follow through with either option,

the city reserves the right to address the issue directly by contracting out the needed remedy to resolve the complaint. Any and all costs associated with the plan to remediate the issue will be sent to the owner. After 60 days should the cost continue to be unpaid, the city will add the cost to next tax bill or attach a lien whichever the city chooses.

THE PROPERTY MAINTENANCE CODE COVERS THIS.

This ordinance exists to ensure that the health, safety and well-being of our citizens is paramount to the continued attributes that recognizes Caribou as caring, tranquil and respected community.

Chapter 4 Building and Housing

ARTICLE 1 BUILDING CODE

Sections

4-101	Adoption of Building Code
4-101.1	Electrical Generating Windmills
4-102	Inconsistent Ordinances Repealed
4-103	Deletions, Additions, Insertions
4-103.1	Building Permit Fees
4-103.2	Building Demolition
4-104	Saving Clause
4-105	Date of Effect

ARTICLE II FAIR HOUSING ORDINANCE

4-201	Statement of Purpose
4-202	Decent Housing
4-203	Unlawful Housing Discrimination
4-204	Application
4-205	Reporting Violations
4-206	Penalty

ARTICLE III PROPERTY MAINTENANCE CODE

4-301	Property Maintenance Code
4-302	Amendments

Chapter 4 Building and Housing

ARTICLE 1 BUILDING CODE

Sec. 4-101 Administration and Enforcement of Maine Uniform Building and Energy Code

Effective December 1, 2010, the City of Caribou applies and enforces the Maine Uniform Building and Energy Code (M.U.B.E.C.), as required by 10 M.R.S.A. § 9724. The Code Enforcement Officer of the City of Caribou shall serve as the building official as defined in 25 M.R.S.A. § 2371 and shall be responsible for issuing building permits and certificates of occupancy. The Code Enforcement Officer shall be responsible for inspecting all permitted construction for compliance with all components of M.U.B.E.C., as such components may be revised from time to time by the Technical Building Codes and Standards Board. Administration and enforcement of M.U.B.E.C., including permits, fees, violations, penalties and appeals, shall be in accordance with the City of Caribou, Code of Ordinances.

Sec. 4-101.1 Electrical Generating Windmills

1. The purpose of this ordinance is to ensure that privately owned electrical generating windmills are operated in a manner that limits noise and does not create a nuisance to neighbors or the community. It is the purpose of this section to promote the safe, effective and efficient use of small wind-energy systems installed to reduce the on-site consumption of utility-supplied electricity.

2. Definition: Any equipment, device or apparatus, or any part thereof, which is installed or situated for the primary purpose of generating electricity from the use of wind power.

Sec. 4-101.1a Installation Standards and Limitations

Height: 1. No electrical generating windmill shall be installed within a lot line setback distance equal to the total height of the windmill. Nothing herein shall be construed to preempt any height limitations imposed by FAA regulations. Compliance with FAA regulations; Small wind-energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

Noise: 2. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any electrical generating windmill shall be limited by the time period and land use District listed in the following chart. Sound levels shall be measured at least 4 feet above ground at the property boundary.

Sound Pressure Level Limits (Measured in dB (a) scale)

	<u>7 AM - 10 PM</u>	<u>10 PM - 7 AM</u>
Residential Districts	55	45
Commercial Districts	60	50
Industrial Districts	65	50

3. The levels specified may be exceeded by 10 dBA for a single 15 minute period per day. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "*American Standard Specification for General Purpose Sound Level Meters*".

Shadow Flutter: 1. No installation of an electrical generating windmill shall be so positioned that the windmill rotor casts its shadow on neighboring residential structures or the curtilage area of a residential structure.

General Requirements: 1. All electrical generating windmills shall meet all federal, state, and local codes.

2. Compliance with the 2009 International Building Code. Building permit applications for small wind-energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted.

3. Compliance with the 2008 National Electric Code. Building permit applications for small wind-energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

4. No small wind-energy system shall be installed until evidence has been given that the local utility company (Maine Public Service Co.) has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Sec. 4-101.1b Permit required.

1. 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 and federal regulations and manufacturer's installation instructions. All permit applications must include a copy of the manufacturer's installation instructions.

2. The permit fee shall be based on the building permit fee schedule.

Sec. 4-101.1c Existing electrical generating windmills

1. Any electrical generating windmill 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 electrical generating windmill within 60 days of the effective date of this ordinance with the Code Enforcement Officer. There is no fee to register an existing electrical generating windmill.

2. Any electrical generating windmill 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.

Sec. 4-101.1d Penalty

1. Any person, owner, or operator of an electrical generating windmill 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.

Sec. 4-101.1e Severability

1. 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.

Sec. 4-102 Inconsistent Ordinance Repealed

The Building Code of the City of Caribou entitled National Building Code 1996 and all other ordinances or parts of ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 4-103 Additions, Insertions and Changes

The following sections are hereby revised as follows to the 1996 BOCA National Building Code:

Page 1, Section 101.1 & probably Caribou, Maine.

Page 6, Section 116.4 line 6, "As per 30-A, M.R.S.A. §4452, Fines from \$100.00-\$2,500.00 per violation per day for first time violators and higher penalties for subsequent violations".

Delete Sections 123.1 through 124.8

Delete Article 19.

Sec. 4-103.1 Building Permit Fees

Fee Schedule: The fee for each plan examination, building permit and inspection shall be \$50.

Failure to get a permit before building construction begins shall cause the permit fee to double.

Demolition Permits shall be free.

Historical Note: Sec. 4-103.1 as amended March 27, 2017.

Sec. 4-103.2 Building Demolition

a. Any building or structure to be demolished within the City of Caribou, (urban or suburban) requires a Demolition Permit issued by the Code Enforcement Office. Any property owner wishing to obtain a demolition permit must provide the CEO with proof of ownership or a copy of the deed, a completed Demolition Permit Application and schedule of demolition activity. All demolition, clean up and at least one foot of gravel cover with loam and mulch must be completed within one year from the date the permit is issued.

Any contractor applying for a Demolition Permit on behalf of the property owner must also provide a copy of a signed contract by the owner. Any person wishing to demolish a building must provide written proof that all utility providers have removed service from the building to be razed.

b. The Caribou Fire Department must be notified at least 5 business days in advance of the commencement of demolition. At the discretion of the Caribou Fire Chief or their designee, the Fire Department may choose to burn the building as a training exercise provided the property owner initially request such action for consideration.

c. Prior to the commencement of demolition, on the day the building is to be razed, the site must be inspected by the Caribou Building Inspector. The inspection must be scheduled with at least a 24 hour notice in advance.

d. No demolition debris may be buried on site within the Urban Compact Zone.

Demolition debris may be buried on site if located outside of the Urban Compact Zone with the following provisions:

- 1.) No debris may be buried within 100 feet of any property line.
- 2.) No debris may be buried within 100 feet of an existing water well.
- 3.) Biodegradable and inert demolition debris may be buried on site.
- 4.) Inert materials such as brick, concrete or stone may be buried on site, hauled to an off site gravel pit or delivered to a Licensed Disposal Facility.
- 5.) All non biodegradable debris such as asphalt shingles, asbestos, carpeting, sheetrock, vinyl or metal siding, painted materials or similar materials must be delivered to the Tri Community Landfill or another Licensed Disposal Facility. If materials are to be delivered to a Licensed Disposal Facility, a copy of the contract with the Disposal Facility must accompany the Demolition Permit Application.
- 6.) The burial site must be covered with sufficient loam and seeding to prevent erosion of the site unless established as impervious surface pursuant to the redevelopment of the site.

e. A final inspection is required. The owner or contractor must notify the Code Enforcement Officer at the completion of site recovery.

Note: Maine State Law requires demolition notification to the Department of Environmental Protection for certain buildings and buildings with asbestos to be made by the owner.

A record of any demolished building buried on site must be recorded at the Registry of Deeds for Aroostook County in Houlton.

Sec. 4-104 Saving Clause

Nothing in this Ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Sec. 4-105 Date of Effect

The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and the Ordinance shall take full force and effect September 1, 1997, adopted July 14, 1997.

Historical Note: adopted June 4, 1980, replacing Chapter 1 of the 1956 Caribou Code. Amended July 14, 1997; Section 4-103 as amended February 27, 2006; Section 4-103.1 & 4-103.2 was added February 27, 2006; Section 4-101.1 was added November 28, 2006; Section 4-103.1 was amended August 17, 2009; Section 4-103.3 was adopted August 17, 2009; Section 4-103.1 was amended March 22, 2010; Section 4-101.2 was adopted April 12, 2010; Section 4-101, the Maine Uniform Building and Energy Code (M.U.B.E.C.) was adopted by the City Council February 14, 2011; Sections 4-103.1 & 4-103.2 were amended February 14, 2011.

State Law Reference: 30 MRSA §2156; 5 MRSA §1742(6-A); 25 MRSA §§2351-2360; 30 MRSA §2151(4); District Court Civil Rule 80F.

Cross Reference: Chapter 13, Article 1, Section 13-106.

ARTICLE II FAIR HOUSING ORDINANCE

Sec 4-201 Statement of Purpose

To protect the public welfare, it is declared to be the policy of the City to keep continually in review all practices infringing on the basic human right to decent housing; and to prevent discrimination in housing on account of race, color, sex, physical or mental handicap, religion, ancestry or national origin; and to prevent discrimination in the extension of credit on account of age, race, color, sex, marital status, religion, ancestry or national origin.

Sec. 4-202 Decent Housing

The opportunity for an individual to secure decent housing in accordance with his or her ability to pay, and without discrimination because of race, color, sex, physical or mental handicap, religion, ancestry or national origin is hereby recognized as and declared to be a civil right.

Sec. 4-203 Unlawful Housing Discrimination

It shall be unlawful housing discrimination, in violation of this Article:

1. Owner, Lessee, Managing Agent. For any owner, lessee, sublessee, managing agent, or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry or national origin of any prospective purchaser, occupant, or tenant of such housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such individual; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, sex, physical or mental handicap, religion, ancestry or national origin; or to discriminate against any individual because of race or color, sex, physical or mental handicap, religion, ancestry or national origin in the price, terms, conditions or privileges of the sale, rental or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith, or to convict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such tenant;

2. Realtors. For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental, because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin or such applicant or of any intended occupant of such accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease, or rental; or for such a reason fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the race or color, sex, physical or mental handicap, religion, ancestry or nation origin of any such applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their race or color, sex, physical or mental handicap, religion, ancestry or national origin, or when he knows or has reason to know that the person having the right to sell or lease such housing accommodation has made a practice of such discrimination since July 1, 1972;

3. People Providing Financial Assistance. For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of such person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry or national origin of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodations; or to discriminate in the granting of such financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance against any applicant because of the race or color, sex, physical or mental handicap, religion, ancestry or national origin of such applicant or of the existing or prospective occupants or tenants.

4. Tenants Receiving Public Assistance. For any person furnishing rental premises to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies solely because of such individual's status as such recipient.

Sec. 4-204 Application

Nothing in this Article shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, the receipt of public assistance payments of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Article contained shall be construed in any manner to prohibit or limit the exercise or the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance or housing accommodations, to set standards and preferences, terms, conditions, imitations or specifications for the granting of such loans or financial assistance which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, the receipt of public assistance payments of the applicant for such loan or financial assistance or, of any existing or prospective owner, lessee, tenant, or occupant of such housing accommodation.

Sec. 4-205 Reporting Violations

Any person, who has been discriminated against, in violation of this Article, may call the City Office at 493-3324 between the hours of 8:00 am and 5:00 pm, Monday through Friday.

Sec 4-206 Penalty

Any person who shall violate any provision of this Article, shall be liable to a penalty of up to \$50.00.

Historical Note: Fair Housing Ordinance was adopted September 3, 1980;

State Law Reference: 5 M.R.S.A. §4581 et seq.

ARTICLE III PROPERTY MAINTENANCE CODE

Sec. 4-301 Property Maintenance Code

The City of Caribou adopted the 2015 edition of the *International Property Maintenance Code*, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Caribou; providing for the issuance of permits and collection of fees therefor.

Sec. 4-302 Amendments

The City Council of the City of Caribou, County of Aroostook, State of Maine, pursuant to the requirements of the City of Caribou Charter, Section 2.11(1) does ordain the following:

Section 1. The *International Property Maintenance Code*, 2012 edition, as adopted by the Caribou City Council in Ordinance 2013-12 is hereby repealed.

Section 2. That the *International Property Maintenance Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Caribou, in the State of Maine for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk City of Caribou are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 3. The following sections are hereby revised:

Section 101.1. Insert: City of Caribou

Section 103.5. Insert: The minimum penalty for a specific violation is \$50 payable to the City. The fees for activities and services performed to correct or abate a violation shall be at a cost plus a 10% administrative fee payable to the City.

Section 112.4. Insert: \$25 and \$2,500

Section 302.4. Insert: 7 inches within the Urban Compact Zone

Section 304.14. Insert: May 1 and October 1

Section 602.2. Strike 68° F (20° C) and insert 65° F (18.4° C)

Section 602.3. Insert: October 1 and May 1

Section 602.4. Insert: October 1 and May 1

Section 4. If another ordinance, or portion of ordinance, is found to conflict with the ordinances herewith that this ordinance shall supersede any other ordinance.

Section 5. That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6. That nothing in this legislation or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this law; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

Historical Note: Housing Code was deleted July 14, 1997; Property Maintenance Code was adopted October 15, 2013; Electrical Code was deleted June 9, 2014; International Property Maintenance Code 2015 edition was adopted January 23, 2017.

Chapter 8
Miscellaneous Offenses

ARTICLE 1 LOITERING

Section

8-101	Loitering Prohibited
8-101.1	Loitering or Trespassing on Public Parking Lots
8-101.2	Loitering or Trespassing in any City Park or Playground
8-102	Definitions
8-103	Police Order to Disperse
8-104	Penalty
8-105	Drug Free Safe Zones

ARTICLE II FIREARMS

ARTICLE III CURFEW

ARTICLE IV FALSE BANK AND BURGLAR ALARMS

ARTICLE V NUISANCE PROPERTY ORDINANCE

ARTICLE IV FALSE SECURITY ALARMS

The following fees shall be charged for response to false alarms for any business, private residence, commercial, or public facility whose alarm systems are connected directly, by second party notification, or automated systems to the Caribou Police or Fire and Ambulance Departments for response. If, upon responding, the Caribou Police Department determines the alarm was a false alarm, then the fees shall apply. Alarm systems may be tested with prior notification to the Police Department without cause for charge.

False Alarms (per Year)

3	No Charge
After 3	\$25.00 each

Historical Note: adopted May 8, 1989; Amended October 25, 2010

ARTICLE V NUISANCE PROPERTY ORDINANCE

501. Purpose; Legislative Findings.

The purpose of this Nuisance Property Ordinance is to protect the health, safety, and welfare of the residents of the City of Caribou by reducing the recurrence of nuisance conduct in dwellings that disturbs the peace and tranquility of others. The City has a substantial and compelling interest in protecting neighborhoods affected by conduct that unlawfully disturbs the peace and/or constitutes a nuisance, because such conduct adversely affects the health, safety, and welfare of residents, and diminishes the quality of life in neighborhoods where it occurs. Such nuisance conduct, and its impact, should be abated. This Nuisance Property Ordinance is required because other prohibitions and penalties under state law and the City Code have not adequately eliminated or controlled chronic, disorderly or nuisance activity in the City. The enactment of this ordinance is intended to alleviate the deleterious impact of chronic, unlawful or nuisance activity in dwelling places and neighborhoods by authorizing early and constructive intervention by the City's Police Department. The goal of the City of Caribou is to provide a framework for property owners and the City to work collaboratively to address nuisance issues in the community.

502. Definitions.

As used in this Ordinance, the following terms have the following meanings:

"Authorized agent" means the person or entity identified by the Owner as the Owner's authorized agent in the Caribou Property Management Designation Form on file with the City of Caribou.

"Chronic nuisance property" means any property at which five (5) or more nuisance activities have occurred in any sixty (60) day period, or ten (10) or more nuisance activities have occurred in any one (1) year period.

“Hotel”, “bed & breakfast”, “rooming house” and “apartment building” shall have the same meanings as set forth in the Caribou Code.

“Nuisance activity” or “Nuisance conduct” means-

- a) any activity which constitutes a crime or civil infraction under either federal, state or local law;
- b) illegal sale, distribution or consumption of alcoholic beverages;
- c) disorderly conduct as defined in Title 17-A MRSA §501;
- d) illegal sale, manufacture, storing, use, possession or distribution of narcotics or other controlled substances or drug paraphernalia;

For the purpose of this ordinance, calls related to domestic violence complaints shall not be considered a nuisance activity or nuisance conduct.

For the purpose of this ordinance, calls related to a chronically ill person who has repeated visits by emergency services shall not be considered a nuisance activity or nuisance conduct.

“Owner” means any person or entity with legal title to the property or the beneficial interest in a property as recorded in the tax records of the City of Caribou or Aroostook Registry of Deeds.

“Police Chief” means the acting Chief of Police of the City of Caribou or other official of the Police Department as may be designated by the Police Chief.

“Residential property” means (a) a parcel of land on which a residential building or a building of mixed occupancy in which there is at least one residential occupancy, including, single and multi-family dwellings, apartment buildings and multi-family housing developments.

503. Administration; Notice; Meeting with Property Owner(s).

- a. The Police Department shall document and monitor the occurrence of nuisance conduct at properties in the City of Caribou.
- b. When any occurrence of nuisance conduct has taken place, it will be recorded by the Police Chief or his/her designee who shall provide written notice of the occurrence to the property owner and the authorized agent in accordance with Section 509.
- c. Each written notice of nuisance conduct shall identify the property, describe the nuisance conduct and advise that subsequent nuisance conduct may result in the property being classified as a chronic nuisance property. The notice shall request that the property owner (or the owner’s duly authorized agent) contact the Police Chief within ten (10) days to discuss the nuisance incident and develop a plan to abate the nuisance and prevent a recurrence.

- d. An owner wishing to appoint an agent with the authority to act on the owner's behalf must complete the City of Caribou Property Management Designation Form. Only agents duly appointed through the approved Property Management Designation process shall be authorized to act on behalf of the Owner. If an owner has completed a Property Management Application Form with the City office, all written notices will be mailed to the authorized agent in addition to the owner.

504. Declaration of a Chronic Nuisance Property

- a. If there have been five (5) or more documented occurrences of nuisance conduct at any property in any sixty (60) day period, or ten (10) or more occurrences of nuisance conduct in the preceding year, the property shall be classified as a chronic nuisance property.
 - i. For purposes of calculating the number of occurrences of nuisance conduct which have occurred at a particular property, the following rules shall apply:
 - 1. All occurrences of nuisance conduct which occur at a single family residence, multi-family residence of 1-4 units, bed and breakfast, hotel, motel, or rooming house shall be counted against the property as a whole regardless of the number of units;
 - 2. With respect to apartment buildings with 5 or more units, a property will only be classified as chronic nuisance property if any individual apartment unit exceeds the specified limit. By way of example, a 30 unit apartment complex will only be classified as a chronic nuisance property if there are 5 or more occurrences of nuisance conduct at the same apartment unit in any 60 day period or 10 or more occurrences at the same unit in any one year period.
- b. Whenever a property is classified as a chronic nuisance property, the City shall cause the owner of the property to be notified, in writing, of such classification and of the events which form the basis for that designation. The notice shall require the owner or owner's agent to meet with the Police Chief or his designee(s) within ten (10) business days from the date of delivery of the written notification to identify ways to prevent additional nuisance conduct at the property.
- c. At the time of the nuisance property meeting required under section 504 (b), the owner or his/her designee shall be obligated to provide to the city the following documentation:
 - i. A copy of the names of all tenants or other persons authorized to reside or presently residing in the building(s) on the property` and the units they occupy;
 - ii. Copies of all leases with tenants residing in the building(s) on the property; and

- iii. Contracts with any property manager or other person responsible for the orderly operation of the property;

In addition, the owner or his/her designee must agree to take effective measures to abate the nuisance activity which measures shall be memorialized in a written remediation agreement at the conclusion of the meeting with the City. The written agreement shall be signed by both parties and be implemented by the owner within seven 7 days of said meeting unless another date is agreed upon.

505. Duration of Chronic Nuisance Property Classification.

The chronic nuisance property classification shall be removed from the property by the Chief of Police upon the Chief's determination that:

- a. The passage of 180 days without any nuisance conduct at the property;
- b. Payment of all civil penalties and costs arising from enforcement;
- c. Satisfactory implementation of the remediation agreement agreed upon between the City and owner.

506. Declaration of Public Nuisance

A chronic nuisance property is hereby declared to be a public nuisance.

The owner of residential property shall provide sufficient control, oversight, monitoring and management of the property to prevent the same from becoming a chronic nuisance property.

The owner of a chronic nuisance property shall be responsible for taking all necessary measures to abate or eliminate the public nuisance.

507. Violations

- a. No owner of property shall maintain or allow to be maintained a chronic nuisance property as defined in this Ordinance. Each and every day that a nuisance activity occurs on a property after it has been classified as a chronic nuisance property shall constitute a separate offense.
- b. It is a further violation of this Ordinance for any owner to:
 - i. refuse to meet with the Police Chief or other authorized City official as required by Section 504 (b), or to have the owner's duly authorized agent meet with the Chief; or
 - ii. refuse to enter into a written remediation agreement as required by Section 504 (c); or
 - iii. fails to fully implement the remediation agreement in compliance with the timetable specified in the agreement; or
 - iv. fails to abate or eliminate the public nuisance caused by a chronic nuisance property.

508. Civil Penalty

Any person who is found in violation of any provision of this Ordinance shall be subject to a civil penalty of not less than \$250.00 and not more than \$2,500.00. Each violation of a separate provision of this Ordinance and each day of violation shall constitute separate offenses.

In addition, if the City is the prevailing party in any enforcement action, said Owner shall also be liable for all reasonable expenses incurred by the City in enforcement, including City of Caribou staff time, attorney fees and costs. All civil penalties shall inure to the benefit of the City of Caribou.

509. Notices

Any notice authorized or required within this section shall be deemed delivered to the owner as follows:

- a. if notice is provided by certified mail, return receipt requested, the date the owner signs the receipt; or
- b. the date the owner is personally served by a Caribou police officer; or
- c. the date the owner is personally served by another person authorized to effect service of process.

510. Other Remedies

In addition to a civil penalty, the City may seek injunctive relief in any legal action to enforce this Ordinance and to abate the public nuisance.

Historical Note: Adopted by the City Council on February 23, 2015.

IPMC®

2015

CODE AND COMMENTARY

The complete IPMC with
commentary after each
section

TABLE OF CONTENTS

CHAPTER 1	SCOPE AND ADMINISTRATION.....	1-1 – 1-16
CHAPTER 2	DEFINITIONS.....	2-1 – 2-8
CHAPTER 3	GENERAL REQUIREMENTS.....	3-1 – 3-16
CHAPTER 4	LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.....	4-1 – 4-14
CHAPTER 5	PLUMBING FACILITIES AND FIXTURE REQUIREMENTS	5-1 – 5-10
CHAPTER 6	MECHANICAL AND ELECTRICAL REQUIREMENTS	6-1 – 6-10
CHAPTER 7	FIRE SAFETY REQUIREMENTS.....	7-1 – 7-6
CHAPTER 8	REFERENCED STANDARDS	8-1 – 8-4
APPENDIX A	BOARDING STANDARD	A-1 – A-2
INDEX	INDEX-1 – INDEX-12

**DEPARTMENT OF ECONOMIC
AND COMMUNITY DEVELOPMENT
OFFICE OF COMMUNITY DEVELOPMENT**



**CODE ENFORCEMENT OFFICER
TRAINING/CERTIFICATION PROGRAM**

LEGAL ISSUES

June 2017

Chapter 7 - Inspections and Enforcement Procedures

The discussion in this chapter refers to the "CEO" taking various enforcement steps, ordering a violator to take specific actions, and negotiating a consent agreement as a way to resolve a violation out of court. When reading this material, a CEO must keep in mind that:

- the specific ordinance or statute being enforced may contain additional or different steps or requirements governing or limiting the CEO's enforcement authority;
- no violator can be forced to take any action or pay any monetary penalty without a court order, regardless of whether it's the CEO or municipal officers making the request or whether the requested action or penalty is contained in a notice of violation a negotiated consent agreement; and
- since most ordinances name the municipal officers as the officials who ultimately decide whether to send a case to court, the CEO may want to work with the municipal officers to establish some general guidelines about the type of corrective action and penalty which they would support in various types of cases. Even though this may not be legally required by the ordinance being enforced, if the CEO acts independently and then finds that the municipal officers refuse to support the terms of a consent agreement which the CEO has negotiated or the request for corrective action and penalties which the CEO is proposing for a court complaint, the CEO will quickly become frustrated. Even where a CEO is certified to prosecute cases in court without an attorney using Rule 80K, and has been authorized by the municipal officers to go to court on behalf of the municipality, the municipal officers may revoke this authority if they don't like the way that the CEO is handling cases or the types of consent agreements the CEO is negotiating and signing. Constant communication between the CEO and municipal officers is a key to a CEO's success. See additional discussion of a CEO's authority and relation to the municipal officers appearing later in this Chapter and in Chapter 3.

A. Conducting Inspections

Conducting inspections is an important part of any effective code enforcement program. Inspections help prevent ordinance/code violations and costly construction errors. Before heading out to conduct inspections, the CEO should focus on his/her role here as part of a larger process. The purpose of the inspection is to ensure compliance with pre-established standards or codes, and also ensure that any conditions which became part of a permitted use are met. A building inspector is not expected to provide architectural or engineering services, nor is it the role of a CEO to secure the best possible work, raise the standard of construction, or establish the best practice. A CEO may not insist upon more than is required by the ordinance or statute involved. No code provides this authority. But, the CEO should be capable of judging alternative methods which do meet requirements of the permit which has been issued or which would be acceptable if the permit were

modified. When planning to inspect a particular site, the CEO should arrive with a good checklist, be familiar with the plans for the project, noting especially any changes required in approving the permit, be familiar with applicable code requirements, be familiar with approved materials and construction methods (including their limitations), and make accurate notes detailing observed conditions. Remember that any routine inspection could yield a violation and potential enforcement action. Be prepared for any outcome.

Unless a local ordinance or applicable code provides otherwise, the CEO should schedule inspections for typical residential construction as follows:

1. when excavation for the foundation is complete or the forms installed, but prior to pouring the concrete, in order to check such things as setback, soils, and locational dimensions;
2. at the time of "closing in," to check the plumbing and electrical wiring; and
3. at completion of the project, upon notification by the owner either by phone, letter, or application for a certificate of occupancy which must be issued pursuant to 25 M.R.S. §2357-A.

In addition, the CEO should periodically drive around the community in order to detect activities which might warrant closer inspection. The CEO should refer apparent violations of State statutes to the appropriate agency.

B. Preliminary Enforcement Action

Upon detecting a violation of an ordinance or a State law enforced locally, the CEO should notify the person responsible and attempt to obtain voluntary cooperation in correcting the violation. If the person who actually performed the illegal activity is not the landowner, the CEO should also notify the landowner, since some types of corrective action that the CEO might want to order could only be done by the owner or with the owner's permission (e.g., remove a building, reseed a clear-cut area). The CEO should follow the procedures outlined below, as well as any special procedures that may be spelled out in the ordinance or statute that the CEO is enforcing:

1. Oral Notice

Give oral notice to the person conducting the illegal activity, explaining the nature of the violation and the steps the person should take to correct it.

2. "Stop Work" Notice

If the person conducting the activity is unavailable, the CEO should post a "stop work" notice in a conspicuous place on the property on which the violation exists.

3. **Written Notice**

Follow up the oral notice or "stop work order" with a written notice. Whether the CEO uses the three notices process described below or sends only one or two written notices will depend on the CEO's personal preference, unless an ordinance or charter provision dictates the number and form of notices provided. A Maine Supreme Court decision, *Town of Freeport v. Greenlaw*, 602 A.2d 1156 (Me. 1992), outlines the essential elements of a written notice of violation. If the CEO's enforcement order may be appealed to the board of appeals, the enforcement order must expressly say this. The notice also must be worded in the form of an order rather than as a simple request or suggestion. Before using a sample violation notice, be sure to make any additions required by *Greenlaw* in light of the specific appeals, enforcement, and penalty sections of the ordinance being violated.

(a) **First Notice.** The CEO should mail or deliver a written notice to the violator and landowner, referencing the oral notice and describing the property in question, the nature of the violation and the specific ordinance section being violated, and including an order that the violation cease and that certain corrective measures be taken, a reasonable deadline for taking those measures, information about whether the ordinance provides a right to appeal the enforcement order, and a statement of the penalty that a court could assess against the violator for failure to comply with the CEO's order. The notice should also mention the possibility of negotiating a consent agreement with the CEO and municipal officers as a way to resolve a violation, where appropriate. (See discussion of consent agreements later in this chapter.)

(b) **Second Notice.** After the deadline for taking corrective action has passed, the CEO should inspect the property again. If the person still has not corrected the violation, the CEO should send a second letter. This letter should state: (1) that the CEO gave previous notice of the violation and the date of that notice, (2) the nature of the violation and the ordinance section, (3) that the CEO has inspected the property again and the violation still exists, (4) that certain corrective measures should be taken by a specific date, and (5) that if the violation continues after that date, the CEO will recommend that the municipal officers refer the violation to a municipal attorney for legal action, in which case the violator could be required to pay the municipality's legal fees if it prevails in court.

(c) **Third Notice.** If the second letter does not result in an abatement of the violation, the CEO should send a third letter informing the violator that: (1) the CEO has conducted another inspection, (2) the violation still exists even though the CEO has given the violator previous written notice, and (3) the CEO is recommending that the case be referred for legal action unless the violator is willing to negotiate a consent agreement.

If the CEO has the authority to file a complaint in District Court under Rule 80K, then the letter may state that the CEO is preparing to file a complaint. If the municipal officers make the final decision about whether to go to court, the letter should state that the CEO is recommending that the municipality prosecute the violation. The letter also should state the date, time and place when the municipal officers will be meeting to make their decision,

and should inform the violator that he or she has a right to attend. Once the municipal officers have made their decision, the CEO should send a letter to the violator to inform him of this fact.

4. **Maintain File**

The CEO should keep copies of all correspondence concerning the violation and should also be sure to retain the postal receipts from certified letters.

5. **Delivery of Notices**

If the person to whom they are addressed refuses the notices that the CEO sends by certified mail, the CEO may want to hand-deliver them or ask a local law enforcement officer or a sheriff's deputy to do it. If the notices are hand-delivered, then the CEO should keep on file a "return" prepared by the person making the delivery as proof that the notice was received. If delivered by regular mail, the CEO should keep a record of the date and time mailed, from what location, and to what name and address.

6. **Additional Inspections**

Once the case has been referred to court, the CEO should continue to monitor the property periodically until the day of the hearing. This will enable the CEO to testify from personal knowledge that the violation still exists or that it continued until a certain date.

7. **State or Federal Law Violations**

If the CEO becomes aware of a violation of a State or federal law which is not enforced at the local level, the CEO should report it to the appropriate State or federal agency.

8. **Violator's Right of Appeal**

Traditionally, notices of violation were not considered to be appealable on their own, until the municipality decided to take some sort of action to enforce the notice. *Paradis v. Town of Peru*, 2015 ME 54, 115 A.3d 610. However, since 2013, the recipient of a Notice of Violation has been entitled to appeal such notice to the municipality's board of appeals. 30-A M.R.S. § 2691(4). The only exception to this rule is if the municipality's ordinance *explicitly* states that a notice of violation is "merely advisory" and not appealable. *Paradis*, 2015 ME 54, ¶ 7, 115 A.3d 610. Because of this, it should be kept in mind that a violator's right to appeal likely depends on the *exact* language within the town's ordinance.

C. **Permit Revocation**

Situations may arise when a CEO believes that a permit should be revoked. Generally, the code enforcement officer may not revoke a permit on the grounds that the property owner is violating certain conditions of the permit, unless an ordinance