

CHAPTER 22 SOLID WASTE & RECYCLING ORDINANCE

ARTICLE 1 GENERAL

Section 1.1 Establishment:

Pursuant to the Constitution of the State of Maine, Title 30-A M.R.S.A. § 3001, and the Brewer City Charter, a Solid Waste and Recycling Ordinance is established.

Section 1.2 Purpose:

The purpose of this Chapter is to promote the general health and welfare of the citizenry of the City of Brewer by providing for the orderly disposal of solid waste, to upgrade the quality of human life and the environment, to control pollution and to ensure an adequate capacity for disposal of waste into the future.

Section 1.3 Conformity:

This Chapter shall conform to all applicable Federal and State laws.

Section 1.4 Conflicts:

In the event of a conflict with the provisions of this Chapter with other Codes and Ordinances of the City of Brewer, the more stringent provisions shall apply.

Section 1.5 Severability:

In the event any portion of this Chapter or Article herein is held to be invalid, the balance of this Chapter or said Article shall remain unaffected thereby.

Section 1.6 Amendments:

This Chapter may be amended by the Brewer City Council from time to time, as deemed appropriate.

Section 1.7 Liens:

Charges assessed pursuant to this Chapter shall be enforceable by lien for the benefit of the City.

Section 1.8 Violations and Penalties:

A violation of this Chapter shall be enforced in accordance with the provisions of 30-A M.R.S.A. § 4452, or the same that may be amended from time to time, as a land use violation. The penalties set forth in 30-A M.R.S.A. § 4452 shall apply to violations of this Chapter, except where expressly provided herein. The City of Brewer shall be entitled to its attorney fees and costs for successfully prosecuting any violation of this Chapter.

ARTICLE 2 GARBAGE AND TRASH COLLECTION

Section 2.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 2.2 Scope:

This Article applies to all residential properties in the City of Brewer.

Section 2.3 Services:

The City of Brewer or its contractor shall provide weekly curbside trash collection services for all residential properties in the City. All residential waste must be placed in City-approved plastic bags acquired from an approved vendor. The price of the bags shall be established by the City Council.

Section 2.4 Prohibited Materials:

The following rubbish, by way of example and not limitation, shall be considered unacceptable for curbside collection. These materials will not be picked up curbside:

1. Materials not in a City-approved plastic bag, with the exception of not more than two personal passenger vehicle tires per household per week,
2. White goods such as stoves, refrigerators, washers and other large appliances,
3. Material from the major repair of, excavation for, construction, or destruction of buildings or structures, such as piping, earth, plaster, mortar, bricks, building blocks, septic tanks, trees or tree stumps over six inches in diameter, and any other similar materials, commonly called demolition debris,
4. Grass clippings, weeds, plants, shrubs, leaves, brush or branches unless they are in a City-approved plastic bag,
5. Mattresses and box springs,
6. Hazardous waste: All hazardous waste as defined by federal and state regulatory agencies,
7. Hospital waste: All contaminated hospital waste as defined by federal and state laws, i.e., "red bag" pathological anatomical waste,
8. Infectious waste: Wastes which are hazardous by reason of their contamination with infection materials i.e., "red bag" waste body parts, pathology lab waste, etc.,
9. Human fecal waste;
10. Animal fecal waste which is not contained in a plastic bag;
11. Flammable liquids;
12. Powder and liquid pesticides, herbicides and fungicides;
13. Paint waste and pigments;
14. Construction and demolition debris,
15. Electrical capacitors: Contain oils that may contain P.C.B.'s;
16. Special waste as defined by state law, including but not limited to,
17. Asbestos,
18. Laboratory chemicals;
19. Biohazard materials;

20. Plated metal parts;
21. Electrical transformers or parts;
22. Hot ashes,
23. Tree stumps and logs.

ARTICLE 3 RECYCLING

Section 3.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 3.2 Scope:

This Article applies to all residential properties in the City of Brewer.

Section 3.3 Services:

The City of Brewer or its contractor shall provide curbside collection of acceptable recyclable materials for all residential properties in the City. Collection shall be done biweekly (every other week) on the same day and route that municipal waste is collected.

Section 3.4 Disposal of Recyclables:

The City's Contractor shall take all recyclables to a location of their choosing.

Section 3.5 Public Awareness:

The Contractor and the City will work together to prepare a flyer twice per year for Public Awareness. The City and the Contractor will share equally the cost of developing, publishing and distributing the flyer.

Section 3.6 Monthly Reports:

The Contractor shall provide monthly reports by the 15th of the following month and will include:

- (a) Discussion of Problems, successful experiences in the program and complaints.
- (b) Number of stops collected on each day of the week.
- (c) Weights of material collected each day of the week. Weights of materials can be determined by utilizing the "weight to volume ration method" currently used by many contractors.

Section 3.7 Prohibited Items:

The following materials are considered *Not Acceptable*:

- No plastic bags/film, plastic grocery bags, or stretch wrap
- No food waste
- No foam packaging or Styrofoam
- No ceramics, window glass, mirrors, light bulbs, dishes, Pyrex
- No recyclables containing food waste, paint, oils
- No hazardous materials or universal wastes

Section 3.8 Acceptable Material:

The following recycle materials may be mixed together and placed in one or more containers or clear plastic bags:

- Newspaper, Magazines, Catalogs
- Telephone Books; Soft and Hard cover books
- Direct Mail Envelopes (all types)
- Paper (all colors-staples and paperclips are okay)
- Paperboard (cereal/shoeboxes)
- Cardboard, Brown Paper Bags
- Milk/Juice Containers, Milk Jugs
- Food Containers (cottage cheese/margarine/yogurt)
- Landscape Trays, Plastic Plant Pots
- Laundry Baskets, Small Plastic Trash Bins (up to 5 gallons)
- Plastic Containers and bottles #1 through #7
- Plastic Clamshell containers (produce, take-out)
- Soda/Juice/Water Bottles (glass and plastic)
- Bleach/Detergent and Shampoo Bottles
- Glass Bottles/Jars (any color)
- Aluminum (pie plates/trays/foil)
- Metal cans (tin/steel/aluminum)
- 1 and 5 gallon buckets (handle attached OK)
- Kitty Litter Buckets
- Milk/Soda crates
- Plastic Toys, Children Size Rigid Pools

ARTICLE 4 CITIZEN RESPONSIBILITIES

Section 4.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 4.2 Scope:

It shall be the individual responsibility of each citizen to ensure compliance with the following:

Section 4.3 Municipal Collections:

Subsection 4.3.1 Placement of waste:

Residential trash and recycling shall be placed at a designated site on the curb or on the esplanade between the sidewalk and gutter and in accordance with the rules and regulations established by the Director of Director of Environmental Services or his designee and approved by the City Council.

Subsection 4.3.2 Day of Collection:

Residential trash and recycling shall not be placed out at the designated pick-up site until the night before the day designated for collection along the designated collection route and shall not be placed out after 7:00 a.m. of the same day.

Residential trash and recycling placed out after this time will not be picked up.

Subsection 4.3.3 Collection Restricted:

No person, partnership, corporation, association or other legal entity, not licensed or contracted to do so by the City of Brewer, shall take any solid waste or recyclable item placed by any resident for pick-up and removal by the City of Brewer, its licensee and/or contractors. Each removal or taking of such items from each separate collection pile shall constitute a separate and distinct violation.

Subsection 4.3.4 Dumpsters Prohibited:

The placement of dumpsters at residential properties for other than temporary use is prohibited.

Subsection 4.3.5 Styrofoam Collection:

Due to the bulky nature of Styrofoam, Brewer residents shall be allowed to place Styrofoam curbside for municipal collection in clear plastic bags during the first two weeks on the month of January for free disposal.

Section 4.4 Non-Municipal Collections:

The owners or authorized agents of every property that has more than four (4) units and every commercial property shall place such suitable containers in a place convenient for the removal of the contents by the persons authorized to collect the same. Such owners or authorized agents shall place such containers only on the premises occupied or owned by them. No other person except the owner or authorized agent of the premises or an authorized collector shall remove, take or otherwise disturb the waste matter, or any waste matter, or any portion thereof so placed for the removal.

Section 4.5 Adequate Storage:

It shall be the duty of every resident, tenant, lessee or occupant of every single family residential property; or the owner or owner's agent of every multi-family property; or the occupant and/or owner or owner's agent of every commercial property to provide and keep within the building or upon the lot where the building is situated suitable and sufficient storage to receive the accumulation of solid waste and recycling, as applicable, on the premises during the interval between collections. Suitable and sufficient storage shall:

- Be rodent proof, leak proof and essentially air tight.
- Be kept clean.
- Not consist of metal 55 gallon drums.

Section 4.6 Responsibilities not Transferable:

No contract or agreement between the owner or operator and occupant relating to compliance with the terms of this Chapter shall be effective in relieving any person of the responsibility for compliance with the provisions of this Chapter as set forth herein.

Section 4.7 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Subsection 4.3.3 or 4.3.4 of this Chapter shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each initial violation. Additional violations of Subsection 4.3.3 or 4.3.4 of this Chapter within a one (1) year period from the initial violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

ARTICLE 5 CONTRACTED SERVICES FOR THE CITY OF BREWER

Section 5.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 5.2 Scope:

This Article applies to the contractor or contractors the City hires to provide curbside collection of residential trash and recyclables.

Section 5.3 Services:

The work to be performed shall consist of the complete curbside collection of all acceptable garbage, refuse and recyclables in the City of Brewer, the operation and maintenance, and disposal thereof. The Contractor shall provide refuse and recycling collection services to all residential properties within the City of Brewer.

Subsection 5.3.1 Hours of Collection:

The hours of collection shall be Monday thru Saturday 7:00 a.m. to 5:00 p.m. Collections will be allowed on Saturday when a holiday falls within the preceding week.

Subsection 5.3.2 Holidays:

When a holiday occurs on a scheduled collection day, that day's collection shall be performed the following day.

Subsection 5.3.3 Public Notice:

The Contractor, after notifying the City, shall be responsible for placing a newspaper advertisement which shall notify the general public of the holiday collection schedule.

Section 5.4 Commercial Collection:

Commercial establishments shall be responsible for providing for the proper collection and disposal of commercial trash and/or recycling materials from their respective properties.

Section 5.5 Mixing of Collectable Materials:

All materials collected pursuant to these specifications shall be collected by vehicles, which shall be emptied and void of all materials prior to the commencement of a day's collection route. No non-residential or commercial materials shall be mixed with city materials by the Contractor unless prior approval has been granted by the Brewer City Council.

Section 5.6 Disposal of Materials:

All materials collected by the Contractor, shall be transported the same day it is collected by the Contractor, unless permission is received from the Director Environmental Services. Permission shall only be granted under extreme and rare circumstances. The Contractor shall comply with applicable Federal and State laws, rules and regulations and all applicable City Ordinances.

Section 5.7 Public Bid Required:

The City of Brewer shall require a public bid issued through a Request for Proposal (RFP) process a minimum of every 6 years. The City shall use a variety of means to advertise the bid.

Section 5.8 Written Contracts Required:

It shall be the responsibility of the City of Brewer to enter into a written contract with the bidder most qualified and offering the greatest benefit of services to the City of Brewer.

Section 5.9 Reporting of Violations:

It shall be the Contractors duty to report, in writing, any violations of the City's Ordinances in respect to the condition and location of collection containers, detachable containers and garbage units to the Director of Environmental Services or his designee. The Director of Environmental Services or his designee shall be the final judge as to such conditions and locations.

Section 5.10 Damage to Property:

The Contractor shall be responsible for any damaged collection containers. The Contractor shall replace any collection container if, in the opinion of the Director of Environmental Services or his designee, the collectors did not exercise sufficient care.

ARTICLE 7 HEALTH NUISANCES

Section 7.1 Authority:

The Code Enforcement Officer, Public Safety Director, Health Officer or an authorized designee shall be empowered to enforce the provisions of this Article as a Health Enforcement Officer.

Section 7.2 Trash in Public Places Prohibited:

No person, partnership, corporation, association, or other legal entity from inside or outside the boundaries of the City of Brewer shall throw, deposit or leave any garbage, yard waste, waste matter, bulky waste, construction demolition debris, universal waste, hazardous waste, dead animals, biological waste, rubbish or any other related solid waste or cause the same to be thrown, deposited or left upon any street, alley, gutter, park, or other public space, or throw or deposit the same in or upon any private premise or vacant lot or in any water, or to store or keep the same except in suitable containers as required by this Article.

Section 7.3 Polluting of Bodies of Water Prohibited:

No person, partnership, corporation, association, or other legal entity from inside or outside the boundaries of the City of Brewer shall throw, deposit or leave any dead animal or any foul or offensive matter in any waters in the City of Brewer. Nor shall any person throw, cast or place any living animal with the intent to drown or harm the same in any waters in the boundaries of the City of Brewer.

Section 7.4 Illegal Dumping:

Any person, partnership, corporation, association or other legal entity who with or without authority from the owner of a premises who shall throw, dump, or deposit any refuse, rubbish, bulky waste, construction demolition debris, universal waste, hazardous waste, dead animal(s), biological waste or waste matter of a similar nature upon any premises, after notice by an authorized Health Enforcement Officer to remove such refuse, rubbish, waste matter and material so thrown, dumped or deposited on such premises to a designated dumping ground within forty-eight (48) hours after receiving such notice, and upon failure to do so the offender shall be guilty of an offense.

Section 7.5 Incineration is Prohibited:

It shall be unlawful for any person to burn or incinerate any solid waste within the City of Brewer.

Section 7.6 Compliance is Mandatory:

If, in the opinion of an authorized Health Enforcement Officer it shall be for the health or comfort of the inhabitants of the City of Brewer that any particular substance should be removed forthwith and without delay, it shall be his or her duty to cause the same to be removed accordingly. Whenever any person shall have been duly notified to remove any of the substances mentioned in this Article, or to perform any other act or thing which it may be their duty to perform for the preservation of the public health and safety of the residents of the City of Brewer and the time limit for the performance of such duty shall have elapsed without compliance with such notice, by an authorized Health Enforcement Officer shall forthwith cause such substance to be removed at the expense of the person so notified. The Code Enforcement Officer or their designee shall cause all persons who shall violate or disobey any provision of the Article to be prosecuted and punished to the greatest extent possible by law.

Section 7.7 Emptying of Collection Vehicle:

No waste shall be emptied or partially emptied or load transferred from any vehicle or trailer in or on any street in the City or in any other place within the City boundary unless prior approval is granted by the Director of Environmental Services, or his designee.

Section 7.8 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Article 7 of this Chapter shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each initial violation. Additional violations of Article 7 of this Chapter within a one (1) year period from the initial violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

ARTICLE 8 PERC

Section 8.0 Term:

The provisions of this article shall remain in effect until the expiration of the City's waste disposal contract with PERC.

Section 8.1 Authority:

The Director of the Environmental Services shall establish rules and regulations governing the availability and use of PERC inconsistent materials from solid waste which may be deposited at PERC and any other rules or regulations that the Director determines are needed to implement this Article. These excluded materials may include junk auto bodies and such other bulky waste as may require special processing prior to disposal; trees and tree trunks and limbs; burning materials or materials containing hot or live coals; hazardous waste, and other materials which the Director of Environmental Services or his designee deems necessary to exclude. Hazardous waste shall be handled in accordance with Title 38 M.R.S.A., as amended.

Section 8.2 Scope:

The provisions of this Article shall apply to any contractor operating within the geographic boundaries of the City of Brewer and the same is engaged in the collection and disposal of solid waste.

Section 8.3 Purpose:

The purpose of this Article is to promote the public health, safety and welfare; to gain management control over solid waste and enable the reclamation of resources, including energy therefrom; to provide for the orderly operation of a solid waste disposal facility pursuant to Title 38 M.R.S.A. § 1305 (1), to allow the City to contract with the Penobscot Energy Recovery Company hereinafter referred to as PERC, and to control commercial haulers, non-commercial haulers and users which generate and/or collect solid waste within the limits of the City of Brewer.

Section 8.4 Disposal Required:

The accumulation, collection, transportation and disposal of acceptable solid waste generated by users within the City of Brewer shall be regulated by this Article. All acceptable solid waste generated within the City of Brewer shall be deposited at the PERC facilities in Orrington, Maine, by licenses commercial and non-commercial haulers in accordance with the provisions of this Article.

Section 8.5 Facility Designated:

In accordance with the provisions of Title 38 M.R.S.A. § 1304-B, the City hereby designates the Penobscot Energy Recovery Company facility located in Orrington, Maine, (PERC) as the energy recovery facility and disposal facility for acceptable waste.

Section 8.6 Alternate Designation:

Should circumstances require it, the City reserves the right to designate an alternate disposal facility for a specified time period for acceptable waste and only upon a majority vote of the Brewer City Council.

Section 8.7 Regulated Activities:

The accumulation, collection, transportation, delivery and disposal of acceptable waste and unacceptable waste generated within the City of Brewer shall be regulated in the following manner:

- (a) All acceptable wastes generated within the municipality shall be deposited at the energy recovery facility (PERC).
- (b) All unacceptable waste generated within the municipality shall be deposited only at a suitable disposal facility, which is designed for the express purpose of handling such unacceptable waste.

Section 8.8 Annual License:

January 1 of each year, all commercial haulers must obtain an annual license from the office of the Brewer City Clerk. The license shall end on the thirty-first (31st) day of December of each year.

Section 8.9 License Notifications:

A copy of each commercial haulers license issued and of each application therefore shall be sent by the City to PERC.

Section 8.10 Licensed Required:

PERC is authorized and directed to admit waste generated in the City for processing in its facilities only from Brewer commercial haulers who are licensed.

Section 8.11 Transferability:

All licenses are non-transferable.

Section 8.12 Fees:

Commercial haulers shall pay One-Hundred Dollars (\$100.00) plus an additional Ten Dollars (\$10.00) for each vehicle licensed for an annual non-refundable vehicle fees to the City of Brewer for their licenses.

All fees must be paid to the City Clerk when the application is made for the annual license and shall not be prorated.

Section 8.13 Records:

All commercial haulers shall provide a current and accurate record of all vehicles used by them, including make, model, serial number, vehicle identification number and vehicle license plate number.

The City of Brewer may require all commercial haulers to provide the City Clerk the following information on an accurate basis:

- (a) Name, address and telephone number of the commercial hauler or commercial hauler filing the report;
- (b) Name and address of all users serviced by the hauler;
- (c) Frequency of pick up;
- (d) Size of container, if a container is used;
- (e) List of new users or users deleted from prior report;
- (f) Location of disposal of the solid waste;
- (g) Such other information as the Director of Environmental Services or his designee may require relating to users and amount of solid waste picked up.
- (h) The amount of solid waste tonnage collected and transported per haul during the preceding twelve (12) months.

Section 8.14 Inspection of Records:

The Director of Environmental Services or his designee shall have the right, upon reasonable notice, to inspect the records of any commercial hauler and non – commercial hauler as to solid waste generated and collected within the limits of the City of Brewer as it may relate to users and the quantities generated by them.

Section 8.15 Credit for Tonnage:

It shall be the responsibility of the commercial hauler, non-commercial hauler and users to see the City of Brewer is provided complete and accurate records and is given credit, by PERC, for all acceptable waste generated within the limits of the City of Brewer by the user and collected therein and delivered to the PERC facility by the commercial hauler and/or non-commercial hauler.

Section 8.16 Comingling Prohibited:

Acceptable solid waste collected by a commercial hauler and/or non-commercial hauler in the City of Brewer shall not be comingled in a vehicle with any other solid waste collected in any other municipality provided however, the City Council by Council order may authorize the Director of Environmental Services or his designee to enter into a reciprocal arrangement, as the same is permitted by law, with other municipalities, which allows the comingling of acceptable solid waste collected by licensed commercial haulers if there is a means recommended by the Director of Environmental Services or his designee and approved by the City Council to allocate the relative share of each load to the municipality where the original solid waste was generated.

Section 8.17 Failure to Comply:

Users who fail to use a licensed hauler or fail to see that acceptable solid waste generated by them is delivered to the PERC facilities in Orrington, Maine, shall be subject to the penalties set forth in this Article.

Section 8.18 Delivery Required:

Within the city, the dumping or disposal by any person including, but not limited to, any commercial or non-commercial hauler at any place other than at PERC of any acceptable waste is prohibited.

Section 8.19 Misrepresentation:

It shall be a violation of this Article for a person disposing of solid waste at a public disposal facility to misrepresent to PERC that the solid waste is chargeable to the city.

Section 8.20 Conformity:

The operation of any disposal facility shall conform to all pertinent provisions of this Article and applicable regulations or directives of all state or federal agencies, which may have jurisdiction.

Section 8.21 Ratification:

Any rules and regulations promulgated by the Director of Environmental Services, or his designee, prior to the enactment of this section are hereby ratified and given the full effect of law.

Section 8.22 Prohibition of Operation:

No commercial hauler or non-commercial hauler shall operate within the limits of the City of Brewer without a license as herein before provided. Any commercial hauler found operating shall be subject to a temporary restraining order, preliminary injunction

and permanent injunction issued by a court of competent jurisdiction at the request of the City and the penalties set forth under this Article.

Section 8.23 Payment of Tipping Fee and Administration Fees:

In the event that PERC requires the City of Brewer to pay directly for all acceptable solid wastes delivered to the PERC facilities by commercial and non-commercial haulers the City of Brewer shall bill the commercial and non-commercial haulers for the acceptable solid waste at the City's agreed upon tipping fee, any administrative fees charged to support multi-jurisdictional solid waste activities and a City of Brewer administration fee.

Section 8.24 Automatic Adjustment:

The fee shall be automatically adjusted on the first day of each quarter thereafter (September 1, January 1, April 1, and June 1) to reflect the fees charged and/or assessed to the City on the first day of each quarter by PERC, or its successor, the Municipal Review Committee and the Penobscot Valley Regional Disposal District.

Section 8.25 Authority to Adjust Fees:

The Brewer City Council shall also have the authority to establish by City Council Order additional fees on a quarterly basis, if it deems it necessary.

Section 8.26 Failure to Pay:

Failure to pay the City within thirty (30) days shall result in an interest penalty being applied to the outstanding balance at the same maximum rate as specified by the State of Maine for unpaid real estate taxes. Failure to pay any bill within ninety (90) days shall result in an automatic revocation of any license.

Section 8.27 Responsibility of Haulers:

As part of the application for a license, commercial and noncommercial haulers shall agree to assume liability for and reimburse the City for any expenses incurred, and/or remove immediately any unacceptable solid waste delivered to the PERC facilities in violation of the contract between PERC and the City of Brewer. Repeated deliveries of unacceptable solid waste may result in forfeiture of the hauler's license by the Brewer City Council, after notice and hearing.

Section 8.28 Penalties & License Revocation:

Any Commercial hauler who fails to obtain a license as provided by this Article and picks up solid waste within the limits of the City of Brewer shall be subject to a fine of Two Hundred Fifty Dollars (\$250.00) per day, with each date of collection being considered a separate offense.

Section 8.29 Failure to Correct:

In the event a commercial hauler shall have violated the licensing provision of this Article for five (5) days or more, the City Council shall, after notice and hearing, have the right to revoke any existing license and refuse to grant a license in the future.

Section 8.30 Other Violations:

Users who violate any other provisions of this Article shall be subject to a penalty of One Hundred Fifty Dollars (\$150.00) per day, with each day being a separate violation.

Section 8.31 Failure to Provide Credit for City:

In addition to any penalty, injunction and/or license violation any commercial hauler, non-commercial hauler and user who has failed to insure that the City of Brewer has been given credit by PERC for all acceptable solid waste generated within the limits of the City of Brewer shall be jointly and severally liable to the City for any penalties, fees or expenses incurred by the City in failing to meet the City's minimum annual solid waste tonnage requirements under the City's contract with PERC. The percentage of penalties, fees and expenses to be paid by the commercial hauler, non-commercial, hauler and user shall be calculated by multiplying the penalty, fees and expenses incurred by the percentage of tonnage the commercial hauler, non-commercial hauler and user failed to report to PERC in relation to all other non-reported tonnage known by the City.

ARTICLE 8-A FIBERIGHT

Section 8.0 Term:

The effective date of this Article shall be the Commercial Operation Date as defined in the Master Waste Supply Agreement between the Municipal Review Committee and Fiberight.

Section 8.1 Authority:

The Director of the Environmental Services shall establish rules and regulations governing the availability and use of the waste processing facility located in Hamden, Maine owned by Fiberight, LLC and/or its assignees (the "Fiberight Facility") relative to inconsistent materials from solid waste which may be deposited at the Fiberight Facility and any other rules or regulations that the Director determines are needed to implement this Article. These excluded materials may include junk auto bodies and such other bulky waste as may require special processing prior to disposal; trees and tree trunks and limbs; burning materials or materials containing hot or live coals; hazardous waste, and other materials which the Director of Environmental Services or his designee deems necessary to exclude. Hazardous waste shall be handled in accordance with Title 38 M.R.S.A., as amended.

Section 8.2 Scope:

The provisions of this Article shall apply to any contractor operating within the geographic boundaries of the City of Brewer and the same is engaged in the collection and disposal of solid waste.

Section 8.3 Purpose:

The purpose of this Article is to promote the public health, safety and welfare; promote consistency with State of Maine Legislative Findings; to gain management control over solid waste and enable the reclamation of resources, including energy therefrom; to

provide for the orderly operation of a solid waste processing facility pursuant to Title 38 M.R.S.A. § 1305 (1), to allow the City to contract with the Municipal Review Committee, Inc. under an executed Joinder Agreement to make a long term commitment beginning April 1, 2018 for delivery of MSW to the Fiberright Facility; and to control commercial haulers, non-commercial haulers and users that generate and/or collect solid waste within the limits of the City of Brewer.

Section 8.4 Disposal Required:

The accumulation, collection, transportation and disposal of acceptable solid waste generated by users within the City of Brewer that is disposed of within the State of Maine shall be regulated by this Article. All acceptable solid waste generated within the City of Brewer shall be deposited at the Fiberright Facility in Hampden, Maine, by licensed commercial and non-commercial haulers in accordance with the provisions of this Article. Nothing in this provision shall be deemed to regulate or prohibit the disposal of any waste generated within Brewer that is to be disposed of outside of the State of Maine.

Section 8.5 Facility Designated:

In accordance with the provisions of Title 38 M.R.S.A. § 1304-B, the City hereby designates the Fiberright Facility located in Hampden, Maine, as the solid waste processing facility for acceptable waste.

Section 8.6 Alternate Designation:

Should circumstances require it, consistent with City of Brewer contractual obligations, the City reserves the right to designate an alternate disposal facility for a specified time period for acceptable waste and only upon a majority vote of the Brewer City Council.

Section 8.7 Regulated Activities:

The accumulation, collection, transportation, delivery and disposal of acceptable waste and unacceptable waste generated within the City of Brewer shall be regulated in the following manner:

- (c) All acceptable wastes generated within the municipality that is to be disposed of within the State of Maine shall be deposited at the Fiberright Facility.
- (d) All unacceptable waste generated within the municipality shall be deposited only at a suitable disposal facility, which is designed for the express purpose of handling such unacceptable waste.

Section 8.8 Annual License:

January 1 of each year, all commercial haulers must obtain an annual license from the office of the Brewer City Clerk. The license shall end on the thirty-first (31st) day of December of each year.

Section 8.9 License Notifications:

A copy of each commercial haulers license issued and of each application therefore shall be sent by the City to Fiberright.

Section 8.10 Licensed Required:

Fiberight is authorized and directed to admit waste generated in the City for processing in its facilities only from Brewer commercial haulers who are licensed.

Section 8.11 Transferability:

All licenses are non-transferable.

Section 8.12 Fees:

Commercial haulers shall pay One-Hundred Dollars (\$100.00) plus an additional Ten Dollars (\$10.00) for each vehicle licensed for an annual non-refundable vehicle fees to the City of Brewer for their licenses.

All fees must be paid to the City Clerk when the application is made for the annual license and shall not be prorated.

Section 8.13 Records:

All commercial haulers shall provide a current and accurate record of all vehicles used by them, including make, model, serial number, vehicle identification number and vehicle license plate number.

The City of Brewer may require all commercial haulers to provide the City Clerk the following information on an accurate basis:

- (i) Name, address and telephone number of the commercial hauler or commercial hauler filing the report;
- (j) Name and address of all users serviced by the hauler;
- (k) Frequency of pick up;
- (l) Size of container, if a container is used;
- (m) List of new users or users deleted from prior report;
- (n) Location of disposal of the solid waste;
- (o) Such other information as the Director of Environmental Services or his designee may require relating to users and amount of solid waste picked up.
- (p) The amount of solid waste tonnage collected and transported per haul during the preceding twelve (12) months.

Section 8.14 Inspection of Records:

The Director of Environmental Services or his designee shall have the right, upon reasonable notice, to inspect the records of any commercial hauler and non – commercial hauler as to solid waste generated and collected within the limits of the City of Brewer as it may relate to users and the quantities generated by them.

Section 8.15 Credit for Tonnage:

It shall be the responsibility of the commercial hauler, non-commercial hauler and users to see the City of Brewer is provided complete and accurate records and is given credit, by Fiberight, for all acceptable waste generated within the limits of the City of Brewer by

the user and collected therein and delivered to the Fiberight facility by the commercial hauler and/or non-commercial hauler.

Section 8.16 Comingling Prohibited:

Acceptable solid waste collected by a commercial hauler and/or non-commercial hauler in the City of Brewer shall not be comingled in a vehicle with any other solid waste collected in any other municipality provided however, the City Council by Council order may authorize the Director of Environmental Services or his designee to enter into a reciprocal arrangement, as the same is permitted by law, with other municipalities, which allows the comingling of acceptable solid waste collected by licensed commercial haulers if there is a means recommended by the Director of Environmental Services or his designee and approved by the City Council to allocate the relative share of each load to the municipality where the original solid waste was generated.

Section 8.17 Failure to Comply:

Users who fail to use a licensed hauler or fail to see that acceptable solid waste generated by them and to be disposed of within the State of Maine is delivered to the Fiberight Facility in Hampden, Maine, shall be subject to the penalties set forth in this Article.

Section 8.18 Delivery Required:

The operation of any disposal facility shall conform to all pertinent provisions of this Article and applicable regulations or directives of all state or federal agencies, which may have jurisdiction.

Section 8.19 Misrepresentation:

It shall be a violation of this Article for a person disposing of solid waste at a public disposal facility to misrepresent to PERC that the solid waste is chargeable to the city.

Section 8.20 Conformity:

The operation of any disposal facility shall conform to all pertinent provisions of this Article and applicable regulations or directives of all state or federal agencies, which may have jurisdiction.

Section 8.21 Ratification:

Any rules and regulations promulgated by the Director of Environmental Services, or his designee, prior to the enactment of this section are hereby ratified and given the full effect of law.

Section 8.22 Prohibition of Operation:

No commercial hauler or non-commercial hauler shall operate within the limits of the City of Brewer without a license as herein before provided. Any commercial hauler found operating shall be subject to a temporary restraining order, preliminary injunction and permanent injunction issued by a court of competent jurisdiction at the request of the City and the penalties set forth under this Article.

Section 8.23 Payment of Tipping Fee and Administration Fees:

In the event that Fiberight requires the City of Brewer to pay directly for all acceptable solid wastes delivered to the Fiberight Facility by commercial and non-commercial haulers the City of Brewer shall bill the commercial and non-commercial haulers for the acceptable solid waste at the City's agreed upon tipping fee, any administrative fees charged to support multi-jurisdictional solid waste activities and a City of Brewer administration fee.

Section 8.24 Automatic Adjustment:

The fee shall be automatically adjusted annually on to reflect annual increases consistent with the Joinder Agreement to which the City of Brewer is a party.

Section 8.25 Authority to Adjust Fees:

The Brewer City Council shall also have the authority to establish by City Council Order additional fees on a quarterly basis, if it deems it necessary.

Section 8.26 Failure to Pay:

Failure to pay the City within thirty (30) days shall result in an interest penalty being applied to the outstanding balance at the same maximum rate as specified by the State of Maine for unpaid real estate taxes. Failure to pay any bill within ninety (90) days shall result in an automatic revocation of any license.

Section 8.27 Responsibility of Haulers:

As part of the application for a license, commercial and noncommercial haulers shall agree to assume liability for and reimburse the City for any expenses incurred, and/or remove immediately any unacceptable solid waste delivered to the Fiberight Facility in violation of the Joinder Agreement between the Municipal Review Committee and the City of Brewer. Repeated deliveries of unacceptable solid waste may result in forfeiture of the hauler's license by the Brewer City Council, after notice and hearing.

Section 8.28 Penalties & License Revocation:

Any commercial hauler who fails to obtain a license as provided by this Article and picks up solid waste within the limits of the City of Brewer shall be subject to a fine of Two Hundred Fifty Dollars (\$250.00) per day, with each date of collection being considered a separate offense.

Section 8.29 Failure to Correct:

In the event a commercial hauler shall have violated the licensing provision of this Article for five (5) days or more, the City Council shall, after notice and hearing, have the right to revoke any existing license and refuse to grant a license in the future.

Section 8.30 Other Violations:

Users who violate any other provisions of this Article shall be subject to a penalty of One Hundred Fifty Dollars (\$150.00) per day, with each day being a separate violation.

Section 8.31 Failure to Provide Credit for City:

In addition to any penalty, injunction and/or license violation any commercial hauler, non-commercial hauler or user who has failed to insure that the City of Brewer has been given credit by Fiberight for all acceptable solid waste generated within the limits of the City of Brewer and delivered by such hauler or user to the Fiberight Facility shall be jointly and severally liable to the City for any penalties, fees or expenses incurred by the City in failing to meet the minimum annual solid waste tonnage requirements under the City's contract with Municipal Review Committee. The percentage of penalties, fees and expenses to be paid by the commercial hauler, non-commercial, hauler or user shall be calculated by multiplying the penalty, fees and expenses incurred by the percentage of tonnage the commercial hauler, non-commercial hauler and user failed to report to Fiberight in relation to all other non-reported tonnage known by the City.

ARTICLE 9 JUNKED VEHICLES

Section 9.1 Authority:

The Code Enforcement Officer, Public Safety Director, Health Officer or an authorized designee shall be empowered to enforce the provisions of this Article.

Section 9.2 Scope:

This Article shall apply to all properties public or private with the geographical boundaries of the City of Brewer.

Section 9.3 Purpose:

The purpose of the Article is to protect the health, safety and general well-being of the citizens of Brewer; to enhance and maintain the quality of the environment through the removal of junked motor vehicles from the public way and/or private property; and the recovery of the costs of removal of such vehicles from the owners of the vehicles or the owners of private property, whose property values are improved by the removal of the junked motor vehicles.

Section 9.4 Streets and Public Places:

It shall be unlawful for any person to deposit, place, and leave or abandon any old, discarded worn out or junked motor vehicle, or parts thereof, on any public street or any public place in the city.

Section 9.5 Removal:

The City shall have the right to remove or cause to be removed any vehicle or part thereof in violation of this section from any public street or public place and dispose of it as it sees fit without any liability whatsoever and the city shall be entitled to recover all costs associated with the removal.

Section 9.6 Private Property:

It shall be unlawful for any person to deposit, place, leave or abandon any old, discarded, worn out or junked motor vehicle, or parts thereof, on any private property in the City,

except in duly authorized locations.

Section 9.7 Notice to Remove from Private Property:

It shall be unlawful for any person owning or occupying private property in the City to keep or allow to accumulate any old, discarded, worn out or junked motor, vehicle, or parts thereof, on private property after having received written notice from the City, by the City Manager or by official designated by the City Manager, ordering the removal from the property upon not less than thirty (30) days from receipt of the order of the old, discarded, worn out or junked motor vehicle, or parts thereof.

Section 9.8 Delivery of Notice to Remove:

A copy of the order shall be hand delivered or sent by certified mail to the owner or occupant of the private property, or to the owner of the motor vehicle if the owner's identity is known.

Section 9.9 Appeals:

The order of removal may be appealed as provided for herein. Failure to appeal such order shall render the order final. In the event of an appeal, the time frames established for the removal of the vehicle shall be stayed during the pendency of the appeal.

Section 9.10 Appeals Procedure:

An appeal to the City Manager may be taken by a person in receipt of a notice to remove any old, discarded, worn out or junked motor vehicle, or parts thereof, by filing a notice of appeal within thirty (30) days of the mailing of notice of the order, or receipt of the order, whichever occurs first. The appeal shall be in writing and shall state the basis for appeal. The City Manager shall designate himself or any agent or employee to act as hearing officer in the appeal. The hearing officer shall provide such person with the opportunity to be heard and to demonstrate why the vehicle is not subject to removal within the terms of this article.

Section 9.11 Notice of Hearing:

Notice of the hearing shall be given by regular United States mail at least seven (7) days in advance of the hearing data.

Section 9.12 Action by Hearing Officer:

The hearing officer may affirm, modify or vacate the order of removal. The written decision of the hearing officer shall be issued to the appellant. Any person aggrieved by a decision of the hearing officer may obtain review available by law in the superior court in accordance with the Maine Rules of Civil Procedure 80-B.

Section 9.13 Final Determination:

If any person shall fail, within thirty (30) days after receipt of the order of within thirty (30) days of receipt of the decision of the hearing officer affirming order of removal of the vehicle, to remove any vehicle or parts thereof in violation of this Article, the City shall have the right by its duly authorized agent to remove the vehicle or part thereof from any private property and dispose of it as it sees fit without any liability whatsoever.

Section 9.14 Liability:

In addition to the fine provided for violation of this Article, the person depositing or keeping such vehicle or parts thereof on the public highways, public places or private property shall be jointly and severally liable along with the owner of the private property to the City for the cost of removal thereof and shall pay the costs within thirty (30) days from the date of mailing of a bill assessing the costs of removal. For purposes of this Article, there shall be a rebuttable presumption that the last owner of the vehicle deposited or kept the vehicle on the public way, public place or private property.

Section 9.15 Attorney Fees and Costs:

The City shall be entitled to its attorney fees and costs for the successful prosecution of all violations under this Article.

Section 9.16 Lien:

Assessments for the costs of removal shall be enforceable by lien against the owner of private property upon which junked vehicle was deposited, in the manner prescribed by this Article.

ARTICLE 10 CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL

Section 10.1 Authority:

The Brewer Landfill shall be under the general direction and control of the Director of Environmental Services or his designee.

Section 10.2 Scope:

This Article shall apply to all persons, partnerships, corporations, associations or other legal entities using or desiring to use the City of Brewer construction and demolition debris landfill.

Section 10.3 Purpose:

The purpose of this Article is to provide for the orderly disposal of construction demolition debris, bulky waste and the recycling of brush, leaves and metal at the Brewer Landfill.

Section 10.4 Intent:

It is the intent of the City to control and limit deposit of waste at the Landfill and to only accept wastes that are generated within the municipality.

Section 10.5 Agents:

The Director of Environmental Services, or his designee, shall appoint such agents as he deems necessary to act in his stead in carrying out and enforcing this Article. All such appointments shall be ratified by a majority of the Brewer City Council at the time the Director of Environmental Services, or his designee, makes the appointment and annually thereafter.

Section 10.6 Rules & Regulations:

The Director of Environmental Services shall establish rules and regulations relating to the use of the Brewer Landfill and Street Collection. All rules and regulations must be approved by a majority of the City Council

Section 10.7 Posting of Rules & Regulations:

All rules and regulations shall be posted at the entrance of the landfill and placed on file at the office of the City Clerk.

Section 10.8 Disposal Restricted:

The use of the Construction Demolition Debris Disposal Area is limited exclusively to Brewer Residents, Resident Businesses, and Commercial Haulers hauling Brewer waste, subject to this Article.

Section 10.9 Commercial Haulers:

Commercial haulers may use the Construction Demolition Debris landfill so long as they receive permission from the Brewer Administration and City Council prior to use.

Section 10.10 Permitted Users:

Permitted Users from Brewer are allowed to deposit Construction Demolition Debris related material at the Construction Demolition Debris landfill so long as the Construction Demolition Debris Material is derived from or associated with the occupancy of their dwellings exclusively within the City of Brewer.

Section 10.11 Permit Card Required:

Each applicant for a permit shall inform the Gate Attendant at the Landfill of the following:

- (a) Name of Applicant
- (b) Address of the Applicant
- (c) License # and/or
- (d) Vehicle registration number

Section 10.12 Display of Permit Card:

Each vehicle entering the Construction Demolition Debris Disposal Area shall have a permit card in their possession. Residents shall obtain their permit from the Brewer Gatehouse Attendant at the landfill gate house. Not more than one permit will be issued per resident household.

Section 10.13 Fee Schedule:

There shall be no waiver of construction or demolition debris fees for any disposal of material from any private property whether business or residential, or any publicly owned properties to be sold or transferred to private interests unless approved by formal vote of the City Council.

Subsection 10.13.1 Vehicle Permit

Resident Vehicles \$2.50 (One-Year)

Non-Resident Vehicle Not Permitted

**Commercial and businesses not permitted without permission.*

Subsection 10.13.2 Disposal of Tires

Three Dollars (\$3.00) for each passenger car or pick-up truck tire (no rims)

Seven Dollars (\$7.00) for each commercial truck tire (no rims)

**Tires shall be placed by the resident in the designated location for tire storage.*

Subsection 10.13.3 White Goods

Fifteen Dollars (\$15.00) per appliance.

**White goods shall be placed by the individual disposing of the item(s) in the designated location for white goods.*

Subsection 10.13.4 Propane Tanks

Five Dollars (\$5.00) per 20lbs propane tank

Twenty Dollars (\$20.00) per tank for all propane tanks larger than 20lbs.

**Propane tanks smaller than 20lbs will not be accepted.*

Subsection 10.13.5 Mattresses

Fifteen Dollars (\$15.00) per mattresses and boxspring set (or mattress only).

Subsection 10.13.6 Construction and Demolition Debris

The charge for dumping construction and demolition debris, and any additional acceptable materials, which the Maine Department of Environmental Protection would allow in a licensed demolition debris facility, shall be based on either of the following options except as provided for passenger vehicles and vans:

Residential Rates:

- Five Dollars (\$5.00) per passenger sedan.
- Seven Dollars (\$7.00) per station wagon or passenger van. (Excludes cargo vans)
- Twenty-five Dollars (\$25.00) per pick-up truck (1/2 or 3/4 ton).
- Twenty-five Dollars (\$25.00) per trailer. (not exceeding the size of a pickup body)
- Fifty dollars (\$50.00) per pick-up with sideboards.
- Fifty dollars (\$50.00) per trailers with sideboards.
- Fifty Dollars (\$50.00) per single axle dump trailer.
- Seventy Dollars (\$70.00) per dump truck.
- One-Hundred Five (\$105.00) per double axle dump truck.
- One-Hundred Fifty-five (\$155.00) per tri-axle dump truck.
- Two-Hundred Fifteen (\$215.00) per dump trailer.

Section 10.14 Hours of Operation:

Landfill hours, including the compost area, will be the first and third Saturday of each month from 7:30am to 2:00pm

The compost area only will be open every Tuesday from 7:00am to 11:30am for residents to drop off grass clippings and leaves.

Section 10.15 Prohibited Items:

The following materials will not be accepted at the disposal site.

- (a) Septage and sludge.
- (b) Industrial wastes.
- (c) Hazardous wastes, as that term may now or in the future be defined by federal or state law whichever definition is more encompassing.
- (d) Five gallon or larger drums or containers unless one end is open and the drums or containers are cleaned.
- (e) Any wastes found to be generated outside of the municipal boundaries except for contracted municipalities.
- (f) Motor vehicles.
- (g) Tires with rims
- (h) Recyclables – All recyclables must be recycled.
- (i) Garbage (food waste, market waste, produce waste, cooking waste), trash, refuse, paint, unusual waste, animal parts, infectious waste, pesticides, herbicides, mercury containing products, fluorescent light bulbs, fuel containing items, oil, kerosene, gas, diesel, propane tanks, tires with rims, equipment tiers medical waste, chemicals, batteries, stumps, logs.
- (j) Universal waste- televisions, computers, fluorescent light bulbs, rechargeable batteries, mercury containing products, ballast.
- (k) Household hazardous Waste

Section 10.16 Enforcement:

The Director of Environmental Services or his designee shall have the right to stop and inspect any vehicle, and inquire of any person entering the Construction Demolition Debris landfill to determine whether the provisions of this Article, or any rules and regulations adopted pursuant hereto, are being complicated with.

Subsection 10.16.1 Compliance and Cooperation Mandatory:

Any occupant of any vehicle who refuses to allow the Director of Environmental Service, or his designee, to inspect the vehicle or the Solid Waste contained therein, or refuses to answer questions pertinent to determining whether this Article or rules and regulations adopted pursuant hereto have been violated, may be refused access to the Construction Demolition Debris landfill by the Director of Environmental Services or his designee and shall not be allowed to deposit his Construction Demolition Debris material.

Subsection 10.16.2 Refusal:

The Director of Environmental Services or his designee shall have the right to deny any Resident, Resident Business, Commercial hauler or permitted user the right to dispose Waste at the Construction Demolition Debris landfill for violating any provision of this Article or the rules and regulations adopted pursuant hereto.

Subsection 10.16.3 Liability:

In the event a person, partnership, corporation, association or other legal entity willfully disposes of unacceptable waste at the Construction Demolition Debris in violation of this Article or rules and regulations adopted pursuant hereto, he shall remove the unacceptable waste deposited. If after being requested to do so he refuses, he shall be liable for the cost of disposal said removal.

Subsection 10.16.4 Legal Recourse:

The Environmental Services Director or his designee may prosecute any violations of this Article and seek such other legal remedies as may be required.

Section 10.17 Salvaging Restricted:

Salvaging of waste – Salvaging of any wastes at the Construction Demolition Debris landfill will not be allowed unless written permission has been issued by the City Manager.

Section 10.18 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Article 10 of this Chapter shall be subject to a civil penalty of One Hundred Dollars (\$100.00) for each initial violation. Additional violations of Article 10 of this Chapter within a one (1) year period from the initial date of violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

ARTICLE 11 UNIVERSAL WASTE & HOUSEHOLD HAZARDOUS WASTE

Section 11.1 Authority:

The collection of Universal Waste and Household Hazardous Waste shall be under the general direction of the Director of Environmental Services or his designee.

Section 11.2 Scope:

This Article shall apply to all persons, partnerships, corporations, associations or other legal entities disposing of universal or household hazardous waste in the City of Brewer.

Section 11.3 Universal Waste:

Universal Waste shall only be disposed of in accordance with applicable Federal, State

and Local laws and only at an authorized facility. The Brewer Universal Waste Facility accepts universal waste from Brewer residents and or their participating communities by agreement. All residents from participating communities must receive a permit from their Town Hall prior to delivering material to the Brewer Facility. Each community is billed monthly for the universal waste delivered and they pay a \$50/quarter fee to the City to cover administration and billing costs. Fees may be adjusted in the future to cover increases in disposal and administration costs.

Subsection 11.3.1 Facility:

The authorized facility shall be the City of Brewer; Universal Waste Building is located at 37 Oak Street, Brewer, ME 04412.

Subsection 11.3.2 Schedule

The Universal Waste schedule is developed each October for the upcoming year and can be obtained on the City of Brewer website or by calling the Brewer Environmental Services Department.

Subsection 11.3.3 Fees:

- *Brewer Residents* - Free to Brewer residents only.
- *Participating Communities* - Disposal Cost will be the Actual Disposal Rate for each individual item as set by the City's Contractor

**Brewer residents must show identification (driver's license) to the building attendant prior to allowing disposal.*

**Residents from participating communities must present a permit to the building attendant prior to allowing disposal.*

Subsection 11.3.4 Salvaging Restricted:

Salvaging of waste – Salvaging of any wastes at the Universal Waste Facility will not be allowed unless written permission has been issued by the City Manager.

Section 11.4 Household Hazardous Waste:

Household Hazardous Waste shall only be disposed of in accordance with applicable Federal, State and Local laws and only at an authorized facility.

Subsection 11.4.1 Facility:

The location of the authorized facility can be obtained on the City of Brewer website or by calling the Brewer Public Works Department.

Subsection 11.4.2 Collection:

The collection of Household Hazardous Waste shall be offered to Brewer residents at least once per year.

Section 11.7 Illegal Disposal

Disposal of universal waste or household hazardous waste at the Universal Waste Building when it is not open is prohibited unless permission has been issued by the Director of Environmental Services or his designee.

Section 11.8 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Subsection 11.3.4 and Section 11.7 of this Chapter shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each initial violation. Additional violations of Subsection 11.3.4 and Section 11.7 of this Chapter within a one (1) year period from the initial violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

**ARTICLE 12 ADVISORY COMMITTEE (#2)
REPEALED**

ARTICLE 13 ENFORCEMENT

Section 13.1 Authority:

It shall be the duty of the Code Enforcement Officer, or the Public Safety Director, or their designee, to cause the enforcement of the provisions of this Chapter and to prosecute any and all person's violation of any such provisions.

Section 13.2 Presumption:

In the absence of evidence to the contrary, the owner of and/or any person having responsibility for the property abutting the area of the street or sidewalk where waste material has been deposited shall be presumed to have deposited the same and shall be liable for the violations of this Chapter.

Section 13.3 Removal Required:

Notwithstanding 14.2, any owner of and/or any person having responsibility for property abutting the public space where any garbage or waste material has been deposited in violation of this Chapter shall cause it to be removed within four (4) hours of the issuance of an order of removal issued by either the Code Enforcement Officer or Public Safety Director or their duly authorized representatives. Failure to remove such waste within the time specified shall be a violation of this Chapter.

Section 13.4 Owner of Record:

In the event that the Code Enforcement Officer or Public Safety Director has received no registration of the ownership or management interest of the property abutting the area where the waste material has been deposited, the Code Enforcement Officer or Public Safety Director shall arrange to have the waste material removed and shall provide written notice of such removal to the owner of record. The owner of record shall be responsible for the fee for collection the waste material.

Section 13.5 Removal of Trash from Public Places Required:

If any of the substances mentioned in this Article shall be thrown or carried into any street, sidewalk, court, square, lane, alley or public place from any house building, cellar, yard or any other place, the occupant of such house or place and the person who actually threw and carried the same therefrom shall severally be liable for such violation of this Chapter. All such substances shall be removed at the expense of the occupant of the house or other place from where the same were thrown or carried within twenty-four (24) hours after personal notice in writing to that effect is provided by an authorized Health Enforcement Officer.

Section 13.6 Removal from Buildings or Property:

All garbage, refuse, bulky waste, construction demolition debris, universal waste, hazardous waste, dead animals, biological waste, rubbish or any other related solid waste or filth of any kind in any house, building, cellar, yard or any other place; which the health authority shall deem necessary for the health of the City to be removed, shall be carried therefrom by and at the expense of the owner or occupant of such house or other place where the same shall be found and removed to such place as directed within twenty-four (24) hours after notice in writing to that effect given by an authorized Health Enforcement Officer.

Section 13.7 Collection Fee

After the issuance of three (3) written order for removal during a twelve (12) month period starting on the date of the first written notice, a fee or charge for the removal of the material remaining after the expiration of the period of time provided for compliance with the order of removal shall be One Hundred Dollars (\$100.00) for up to one (1) cubic yard.

In the event the material deposited exceeds one (1) cubic yard, the fee shall be One Hundred Dollars (\$100.00) plus the cubic yard cost to collect and dispose of the material at an approved facility. Such fees shall be charged for each subsequent time the City removes the material deposited in violation of this Chapter, whether additional notices have been provided or not.

DEFINITIONS

Specified Terms:

Acceptable Solid Waste shall mean all waste, which Fiberight will accept at its facilities including ordinary household, municipal, institutional, commercial and industrial wastes.

Ashes shall mean that residue from the burning of wood, coal, coke or other combustible material.

Authorized collector shall mean employees of a private collector employed by the owner, occupant, agent or other person having custody of a building.

Biomedical waste shall mean waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

Brewer waste shall mean solid waste generated by any person, corporation, partnership, association, or other legal entity within the City of Brewer except waste generated by the City government or school system, that is hauled by a commercial refuse collector or a refuse transporter.

Building shall mean any structure or vessel, whether public or private, that is adapted to or used: for dwelling occupancy; for the transaction of business; for the rendering of professional services; amusement; the display, or sale or storage of goods waste, merchandise, articles or equipment; for the performance of work or labor; for office buildings, stores, theatres, markets, restaurants, warehouses, grain processing factories, abattoirs, worship, garages, bakeries; or structures where domestic or other animals or fowl are kept; for sheds, barns, outbuildings, or other structures or premises used as accessory to any such use.

Bulky waste shall mean any items whose large size and weight precludes or complicates their handling by normal collection processing or disposal method. Examples include, but are not limited to furniture, mattresses, and carpeting.

Commercial Hauler shall mean a corporation, partnership or other legal entity, which hauls the solid waste for someone else within the city limits of the City of Brewer for compensation. Commercial haulers shall not include the City of Brewer or a commercial hauler who has a contract with the City of Brewer for curbside pickup, which is being collected and disposed of pursuant to the terms of a Contract.

Commercial property shall mean any property upon which is situated a structure used for commercial or business purposes including, but not limited to, Apartment buildings containing more than four (4) dwelling units, Business offices, Condominiums, Hotels, Motels, Restaurants, Warehouses, Manufacturing, Industrial, Markets, Bakeries, Grocery stores, Fruit stands or Trailer Parks.

Construction Demolition Debris Landfill (CDD) shall mean the landfill at 403 Elm St. belonging to the City where CDD related acceptable material can be disposed of by Brewer residents.

Contracting Municipality shall mean any municipality which contracts with the city of Brewer for waste related services shall be referred to as a contracting Municipality.

Contractor shall mean any person corporation partnership association or other legal entity under contract with the City to provide curbside garbage collection services.

Disposal shall mean the discharge, deposit, dumping, incineration, spilling leaking or placing of any solid waste, sludge or septage into or on any land, air or water so that the

solid waste, sludge or septage or any constituent thereof may enter the environment, be emitted into the air or be discharged into any waters.

Fiberight shall mean Fiberight, LLC and its assignees.

Fiberight Facility shall mean the waste processing facility owned by Fiberight and located off the Coldbrook Road in Hampden, Maine.

Fiscal year means July 1 to June 30 or any twelve – month period established as the city’s fiscal year by the city council.

Garbage shall mean all waste from the preparation, cooking and consumption of food, market refuse waste from the handling storage and sale of produce shall be referred as Garbage.

Hazardous waste shall mean a waste substance or material in any physical state, designated as hazardous by the terms of a certain waste handling agreement between the municipality.

Household shall mean an occupied dwelling place not used for commercial purposes.

Householder shall mean the head of a family unit or his or her agent living in the dwelling place.

Infectious waste shall include those wastes so defined by the solid waste management regulations promulgated by the Maine Department of Environmental Protection Pursuant to Title 38 M.R.S.A § 1304.

Joinder Agreement shall mean the agreement between the City of Brewer and the Municipal Review Committee, Inc. (MRC) made and executed on February 2, 2016.

State of Maine Legislative Findings.

(a) Municipalities, including the City of Brewer, have an obligation to protect the health, safety and general well being of their citizens, and to enhance and maintain the quality of the environment, conserve natural resources, and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the collection, transportation and disposal of solid waste.

(b) , The Maine legislature has established a “Solid Waste Management Hierarchy,” embodied in 38 M.R.S.A. Section 2101, pursuant to which it is the policy of the State to implement an integrated approach to solid waste management and to prioritize waste management in accordance with the following hierarchy: (i) reduction of waste; (ii) reuse of waste; (iii) recycling of waste; (iv) composting of biodegradable waste; (v) processing of waste including incineration; and (vi) land disposal. Energy recovery accomplished by

Fiberight constitutes a form of recycling, turning municipal solid waste into energy product commodities.

(c) The Fiberight facility in Hampden is an energy recovery facility which accepts and processes MSW to capture recyclables and convert organic matter into commodities including energy products and feedstock for the manufacture of new goods.

(d) Of the available waste disposal options within the State of Maine identified in the hierarchy at 38 M.R.S.A. § 2101, disposal at the Fiberight facility is the option that best satisfies the statutory priorities for disposal of non-recycled waste.

(e) Disposal at Fiberight of solid waste generated in communities within range of the Fiberight facility, such as the City of Brewer, is the preferred in-state disposal option and best serves the interests of these communities in maintaining public health, safety, scenic values, resource conservation goals, etc., in accordance with the disposal priorities established by the Legislature in 38 MRSA § 2101.

Municipal Solid Waste. "Municipal solid waste" or "MSW" means solid waste emanating from household and normal commercial sources.

Non- Resident shall mean any person who lives outside of the City of Brewer shall be referred to as a Non- Resident except for a Permitted User from contracting municipalities.

Non-Commercial Hauler shall mean an individual, corporation, partnership or other legal entity who hauls solid waste for herself, himself, itself or another from within the limits of the City without compensation.

Non-Resident Business shall mean any commercial, professional, retail, wholesale or other business conducted by a person corporation partnership, association or other legal entity existing outside the City of Brewer shall be referred to as a Non-Resident Business, except for Permitted User.

Occupant shall mean the person that has the use or occupancy of any building or a portion thereof, whether the actual owner or tenant. In the case of vacant buildings or any vacant portion of a building, the owner, agent or other person having the custody of the building shall have the responsibility of an occupant of the building or portion thereof.

Owner shall mean the actual owner of the building, whether individual, partnership or corporation, or the agent of the building, or other person having custody of the building or to whom the rent is paid.

Permitted User shall mean any Brewer Resident or Brewer Business and residents from municipalities, that have contracted with the City of Brewer for waste related services.

Pick-up truck body shall mean an area generally 8 feet long by 5 ½ feet wide and 1 ½

feet high

Public works authority shall mean the City of Brewer Public Works Department.

Recyclable material shall mean paperboard, newspaper, glass, magazines, junk mail, cardboard, #2 natural plastic and aluminum cans and foil, and any additional material so designated by the Public Works Department. Recyclable material shall be considered waste material for purposes of this Chapter.

Resident Business shall mean any commercial, professional retail, wholesale or other business conducted by a person, corporation, partnership, association or other legal entity, existing within the City of Brewer.

Resident shall mean any person who lives within the City of Brewer.

Residential properties shall mean any property upon which is situated a residential structure containing at least one dwelling unit but not more than four (4) dwelling units.

Resource recovery shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purpose.

Rubbish shall mean all combustible materials such as, but not limited to, paper cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture and bedding and non-combustible material such as, but not limited to metals, tin cans, plastic containers, dirt, glass, crockery, and other mineral refuse.

Solid Waste shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge nor agricultural, biomedical or hazardous wastes; it shall also include acceptable waste, unacceptable waste and construction and demolition debris as defined herein. The fact that a solid waste or constituent of the waste may have value or other use, or may be recycled, or may be solid or exchanged does not exclude it from this definition.

Suitable container for material other than recyclable material and yard waste shall mean a plastic bag of fifteen (15) gallon or thirty (30) gallon size. The maximum weight of any container shall not exceed thirty (30) pounds. Bags may be placed in watertight containers with handles, covered by a tight fitting cover free of sharp edges.

Unacceptable Solid Waste shall mean all waste that is not Acceptable Solid Waste and will not be accepted by Fiberight at its Hampden, Maine facility.

Unacceptable waste shall mean that portion of solid waste, which is not acceptable

waste for disposal at a CDD landfill (garbage, trash, refuse, paints, appliances, metal, kerosene, gas, diesel, propane tanks, tires, medical waste, hazardous chemicals, batteries, vehicles, vehicle parts, stumps, logs, mercury containing products, universal waste, animal parts, infectious waste pesticides, herbicides, etc.)

User shall mean an individual, corporation, partnership or other legal entity, which either resides in the City of Brewer and/or has a business in the City of Brewer, which produces solid waste that is disposed of by a commercial or non-commercial hauler and may or may not deliver CDD related material to the City of Brewer CDD landfill for disposal.

Vehicle (in Article 8 only) shall mean only vehicles which are capable of discharging their loads on the Fiberight Facility tipping floor by mechanical means shall be licensed by the City of Brewer. Included within the category of vehicles permitted to tip are: standard solid waste packer trucks, transfer trailers and hydraulic dump trucks. In addition, all solid waste vehicles entering the Fiberight Facility in Hampden, Maine, shall have their loads enclosed with a container or covered securely by means of a tarp. No pickup trucks, or other vehicle, which requires manual unloading, either by design or by reason of malfunction, shall be permitted to haul solid waste to the Fiberight Facility.

White Goods shall include only ordinary household appliances such as, but not limited to, refrigerators, air conditioners, freezers or hot water heaters.

Zero Sort Recycle shall mean a “collection efficiency” strategy where all recycled materials are Collected and combined in a single container, truck, compactor or trailer to be transported to a large centralized facility for separation and processing for marketing.

Unspecified Terms:

Any terms, phrases and words not defined herein shall have the generally accepted meaning or definition promulgated in *WEBSTER’S NEW WORLD COLLEGE DICTIONARY*, Third Edition, Copyright 1997, a copy of which is on file in the Brewer City Clerk’s office.

END OF CHAPTER NOTATIONS

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|----|---------|--------------------|------------------------------|-------------|
| 1. | Enacted | Feb. 8, 2005 | Effective Feb. 13, 2005 | (2005-C003) |
| 2. | Enacted | July 13, 2010 | Effective July 18, 2010 | (2010-C010) |
| 3. | Enacted | September 14, 2010 | Effective September 19, 2010 | (2010-C016) |

REPEALED

NEW ORDINANCE ENACTED

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|----|---------|-------------------|-----------------------------|-------------|
| 1. | Enacted | November 15, 2010 | Effective November 20, 2010 | (2010-C018) |
| 2. | Enacted | June 7, 2011 | Effective June 12, 2011 | (2011-C003) |
| 3. | Enacted | July 25, 2017 | Effective July 30, 2017 | (2017-C010) |