

CHAPTER 12 PERSONNEL

ARTICLE 1 PERSONNEL POLICY

SECTION 101

The City Council shall adopt a Personnel Policy for employees of all departments of the City of Brewer. Said policy shall incorporate all matters relating to employment in all City departments except as provided in this ordinance. A copy of the current City Personnel Policy shall be given to all employees of the City upon their being hired.

The Personnel Policy, of which three (3) copies are on file in the office of the City Clerk, be and hereby is adopted by reference as the personnel policy for the City of Brewer.

For amendments that have little or no fiscal impact on the City of Brewer, the City Manager is authorized from time to time to adopt said amendments evidenced in writing by a certificate executed by the City Manager. Any such amendments shall include an official statement from the City's Finance Director or duly authorized designee that the amendment has little or no fiscal impact and can be implemented within the confines of the approved budget. The City Manager shall cause such amendments, including the official fiscal impact statement, to be filed with the City Clerk.

For amendments that do have a material fiscal impact on the City of Brewer, the Personnel Policy may only be amended from time to time by resolve of the City Council.

Neither this ordinance nor the Personnel Policy shall apply to employees of the Brewer School Department.

NOTE: In any instances where any provisions of the Personnel Policy is in conflict with any collective bargaining agreement that may exist, the collective bargaining agreement shall take preference for employees covered under the agreement.

ARTICLE 2 PENSION PLAN FOR EMPLOYEES HIRED PRIOR TO JANUARY 2, 1960

SECTION 200

There exists a pension plan that covers employees that were hired prior to January 2, 1960. The City Council shall annually

appropriate sufficient funds to pay the pension obligations as outlined in this Article.

SECTION 201 Pensions percentage shall be based on average earnings of employee during last ten (10) years of service.

SECTION 202 Pension shall be due and payable to any person covered by this ordinance provided the employee shall have reached the age of 65 and has been employed by the City of Brewer for ten (10) or more years, upon application to the municipal officers by the employee. Any employee paying two (2) percent of his or her earnings to the retirement fund for a period of six (6) months shall have his or her retirement based upon his or her average earnings during his or her last five (5) years of service.

SECTION 203 Any employees receiving benefits under this plan shall be free to accept employment from any source, without affecting the amount of pension received. At the option of the employee having 10 or more years of continuous employment with the City of Brewer, said employee may retire at the age of 62 or at any year thereafter at the reduced rate of retirement as follows:

62 years of age	80%
63 years of age	87%
64 years of age	94%

Should the employee choose to retire other than at anniversary, reduction of retirement shall be computed at 5/9 of 1% times the number of months before the 65th birthday equals the percentage reduction from the benefit of age 65.

SECTION 204 Any person who was an employee of the City of Brewer on or before February 23, 1946 and who will reach his or her 70th birthday before February 25, 1956 shall not be prevented from qualifying for a pension by the age of 70 but may be permitted by the municipal officers to continue in the employment of the City of Brewer until he or she has served ten years and is qualified for a pension.

SECTION 205 In the event of the death of any employee or retired employee who has been or was employed by the City for 10 or more years, the unremarried widow, unremarried widower or other dependents of said employee or retired employee shall be entitled to and receive an amount which totals 75% of the amount to which the employee or retired employee was entitled at the time of his or her death. Benefits under this section shall be

based on the same percentage of salary as would have applied if the employee or retired employee had reached the age of 65 on the day of his or her death. Payments of benefits to a widow as aforesaid or to dependents shall not in the aggregate exceed 75% of the pension for which the deceased employee or retired employee was eligible and payment made under this section to dependent children shall cease when said children reach the age of 18. (Dependents as used in this section shall mean son, daughter or parent only.)

SECTION 206 SCHEDULE OF PAYMENTS

YEARS OF SERVICE	PERCENTAGE OF SALARY
10.....	30.0
11.....	30.5
12.....	31.0
13.....	31.5
14.....	32.0
15.....	32.5
16.....	33.0
17.....	33.5
18.....	34.0
19.....	34.5
20.....	35.0
21.....	36.2
22.....	37.5
23.....	38.7
24.....	40.0
25.....	43.3
26.....	46.7
27.....	50.0
28.....	53.3
29.....	56.7
30 and over.....	60.0

SECTION 207 Notwithstanding the foregoing, recipients of the City pension plan shall be entitled to and receive annual cost-of-living increases in September of each year based on the same percentage rate used by the Maine State Retirement System when it grants cost-of-living increases to retired employees of the City of Brewer who have retired under the Maine State Retirement Plan.

SECTION 208 The provisions of Section 204 - 207 inclusive, of Article 2, will not apply to or cover any person who shall become an employee of the City of Brewer on or after January 2, 1960.

ARTICLE 3 PENSION PLAN FOR EMPLOYEES HIRED AFTER JANUARY 2, 1960

SECTION 301 RETIREMENT The City of Brewer is a participant in the Maine State Retirement System, and also maintains one or more IRC Section 401(a) qualified money purchase retirement plan(s) currently provided by ICMA (which coupled with a long term disability program is hereinafter called "the ICMA plan") for employees in certain job classifications, which job classifications will be set forth in Article 5, Section 5, paragraph e (ELIGIBLE EMPLOYEES). It is a condition of employment that all employees, except personnel deemed ineligible by the Maine State Retirement System such as city part-time firefighters, city election clerks, special duty police officers, part-time dispatchers and other employees classified as on-call or per diem, who shall become employees of the City of Brewer on or after July 1, 1999, shall enter whichever of these plans is appropriate to their job classification, as such plan applies to the City of Brewer. The plans provide various options for retirement, disability benefits, and survivor benefits. The details of these plans are contained in the plan documents.

Employees deemed ineligible by the Maine State Retirement System shall be subject to Social Security withholdings as required by law.

SECTION 302 Positions eligible for "the ICMA Plan," include but are not limited to the following: Assistant to the City Manager, Finance Director, Fire Chief, Economic Development Director, and Public Works Superintendent. The list of eligible employees may be increased or decreased at the option of and upon the recommendation of the City Manager.

SECTION 303 Each employee who participates in either the Maine State Retirement System or the ICMA plan shall make an annual contribution by means of salary reduction in accordance with the plan as long as such employee is employed by the City of Brewer.

SECTION 304 The City Council of the City of Brewer shall provide, by proper appropriation, the money necessary to cover its aggregate financial obligations as employer under the requirements of the Maine State Retirement System and the ICMA plan.

ARTICLE 4 PROTECTION OF EMPLOYEES

SECTION 400 As used in this ordinance, unless the context indicates otherwise, the following terms have the following meanings.

1. **Employee.** "Employee" means a person who performs work for wages for the City of Brewer.
2. **City.** "City" means the City of Brewer and its employees and appointed elected officials.
3. **Person.** "Person" means an individual, sole proprietorship, partnership, corporation, association or any other legal entity.
4. **Public Body.** "Public Body" means all of the following:
 - A. A State officer, employee, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State Government;
 - B. An agency, board, commission, council, member or employee of the legislative branch of State Government;
 - C. A Governing body, a board, department, or commission of the City;
 - D. Any other body which is created by State or City or which is primarily funded by or through State or City or any member or employee of that body;
 - E. A law enforcement agency or any member or employee of a law enforcement agency; and
 - F. The judiciary and any member or employee of the judiciary.

SECTION 401 DISCRIMINATION AGAINST CERTAIN EMPLOYEES PROHIBITED

SECTION 401.1 DISCRIMINATION PROHIBITED. The City may not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location of privileges of employment because:

- A. The employee, acting in good faith, reports orally or in writing to the City or a public body what the employee has reasonable cause to believe is a violation of a law or rule adopted under the laws or ordinances of the State, the City or the United States;
- B. The employee, acting in good faith, or a person acting on

behalf of the employee, reports to the City or a public body, orally or in writing, what the employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that employee or any other individual;

- C. The employee is requested to participate in an investigation, hearing or inquiry held by that public body, or in a court action; or
- D. The employee acting in good faith, has refused to carry out a directive that would expose the employee or any individual to a condition that would result in serious injury or death, after having sought and been unable to obtain a correction of the dangerous condition from the City.

SECTION 402 INITIAL REPORT TO THE CITY REQUIRED; EXCEPTION

Subsection 1 does not apply to an employee who has reported or caused to be reported a violation, or unsafe condition or practice to a public body, unless the employee has first brought the alleged violation, condition or practice to the attention of a person having supervisory authority with the City and has allowed the City a reasonable opportunity to correct that violation, condition or practice.

Prior notice to the City is not required if the employee has specific reason to believe that reports to the City will not result in promptly correcting the violation, condition or practice.