

# **CHAPTER 16 BUILDING CODE**

## **ARTICLE 1 BUILDING & ENERGY CODE**

### **SECTION 16.1.1 ADOPTION**

In accordance with 30-A M.R.S.A. § 3003, as the same may be amended from time to time, the Maine Uniform Building and Energy Code is hereby adopted and incorporated by reference as the minimum standard for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures and their service equipment, both existing and proposed, located within the City of Brewer.

## **ARTICLE 2 BUILDING OFFICIAL**

### **SECTION 16.2.1 DEPARTMENT OF BUILDING INSPECTIONS**

The Department of Building Inspections of the City of Brewer is hereby created and the executive official in charge thereof shall be known as the Code Enforcement Officer. Wherever this code refers to the Building Official, such term shall mean the Code Enforcement Officer of the City of Brewer or a duly appointed Assistant and/or Deputy Code Enforcement Officer.

## **ARTICLE 3 EMERGENCY PROVISIONS**

### **SECTION 16.3.1 EMERGENCY CERTIFICATE OF OCCUPANCY**

Nothing withstanding any provisions to the contrary under the State of Maine Uniform Building Code, or the Ordinances of the City of Brewer, the Code Enforcement Officer may permit a building and/or structure, both being hereinafter referred to as a structure, to be occupied by its owners and their immediate family on a temporary basis, not to exceed one (1) year, when the structure does not meet the terms of the Uniform Building Code due to damage, in whole or part, by an Act of God or by acts beyond the apparent control of the owners or their immediate family.

### **SECTION 16.3.2 AUTHORITY GRANTED**

The authority to grant the temporary occupancy is left to the sole discretion of the Code Enforcement Officer, or designee, in accordance with the provisions herein provided. No automatic rights shall accrue to property owners in general to have temporary occupancy.

### **SECTION 16.3.3 HEALTH, SAFETY, & WELFARE**

Such temporary occupancy shall not constitute an apparent threat to the health, safety, and welfare of the owners, their immediate family and other third parties.

### **SECTION 16.3.4 WRITTEN AGREEMENT REQUIRED**

Such occupancy shall only take place when the owners have signed a contract with the City, approved by the City Solicitor, agreeing to the following terms and conditions:

1. The owners agree to comply with the terms of this Ordinance by the end of the date approved by the City Council for temporary occupancy or immediately vacate the structure; and
2. If the owners, their immediate family, or third parties fail to vacate the structure at the end of the approved temporary occupancy approved or upon the lapse and/or cancellation of the liability insurance policy hereinafter provided for, the owners agree to pay for all attorney

- fees, costs, and expenses incurred by the City to remove the owners, their immediate family, and third parties from the structure until the terms of this Ordinance have been met; and
3. The owners sign an agreement on behalf of themselves, their immediate family and third parties to hold the City of Brewer, its officers and agents harmless from any and all liability which may result from their use and occupancy of the structure and agree to indemnify the City of Brewer, its officers and agents, from any claims, judgments, attorney fees, costs, and expenses relating to the defending and/or paying of said claim; and
  4. Any temporary occupancy shall only apply to the owners requesting the same and may not be transferred to any third party. Conveyance in whole or part of the structure or the land upon which the structure is located shall cause the authority to occupy the structure to terminate.

### **SECTION 16.3.5 INSURANCE REQUIRED**

Prior to the owners or their immediate family occupying the structure, the owners shall file a general liability insurance policy, written by an insurance company licensed to do business in the State of Maine, with the City, which covers the use and occupancy of the structure by the owners, their immediate family and third parties. The owners must keep the policy in full force and effect during the temporary occupancy. said insurance policy must be non-cancelable until ten (10) day notice has been sent to the City of Brewer, c/o City Manager, 80 North Main Street, Brewer, Maine 04412, prior to the lapsing and/or cancellation of the policy. If the policy covering the structure lapses or is terminated, the temporary occupancy granted hereunder shall automatically terminate and there shall be no further right to occupy the structure.

### **SECTION 16.3.6 LIMITED ISSUANCE**

Owners shall not be permitted to apply for the temporary occupancy from the Brewer Code Enforcement Officer, or designee more than once. Once temporary occupancy has been granted by the Code Enforcement Officer, or designee, it may not be granted again for the same structure unless it is destroyed in whole or part by a new Act of God and/or other new act beyond the apparent control of the owners and their immediate family.

### **SECTION 16.3.7 NO APPEAL**

Decisions of the Code Enforcement Officer for the issuance of temporary certificates of occupancy under this Section of the Brewer Codes and Ordinances are not appealable to the Board of Appeals for the City of Brewer.

## **ARTICLE 4 PERMITS**

### **SECTION 16.4.1 PERMIT REQUIRED**

Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a notarized affidavit of the owner or the qualified applicant or a signed statement of the qualified applicant witnessed by the code official, or designee, to the effect that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

### **SECTION 16.4.2 PERMIT ISSUED**

Upon receipt of a completed application and payment of the permit fee, The Inspector of Buildings and/or the Code Enforcement Officer shall determine if the application is complete and the proposed work conforms to the provisions of law as well as all Codes and Ordinances for the City of Brewer and shall upon successful determination of the same grant a permit as applied for, subject to the regulations herein contained.

**SECTION 16.4.3 FEES**

All applicable fees for this Chapter are found in the City Council’s adopted Fee Schedule, as amended from time to time, and kept on file in the City Clerk’s Office.

**SECTION 16.4.4 APPROVAL IN PART**

Nothing in this section shall be construed to require or prevent the Inspector of Buildings and/or Code Enforcement Officer, or designee, from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of said building or structure have been submitted or approved, if adequate information and detailed statements have been presented for the same and have been found to comply with this Chapter.

**SECTION 16.4.5 FAILURE TO OBTAIN PERMIT**

Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this ordinance without first having applied for a permit therefore shall pay double the permit fee fixed by this ordinance for such work.

**SECTION 16.4.5.1 Emergency Situation**

This provision shall not apply to emergency work when it shall be proved to the satisfaction of the Code Enforcement Officer, or designee, that such work was urgently necessary and that it was not practical to apply for a permit therefore before the commencement of the work.

**SECTION 16.4.5.2 Waiver of Penalty**

Any person, firm, corporation or other legal entity who commences work before applying for a permit may not be subject to paying double the permit fee if such failure is a first offense and in the sole discretion and determination of the Code Enforcement Officer, or designee, that such issuance of a waiver will result in future compliance and conformance the Codes and Ordinances of the City of Brewer. In such circumstances a written warning and shall be issued by the Code Enforcement Officer, or designee, and placed in the Street File for the property.

**SECTION 16.4.6 LIMITATIONS ON ISSUANCE**

No license or permit shall be issued pursuant to this Chapter under the following circumstances:

- All real estate and personal property taxes, sewer user fees and other charges owed to the City by the applicant have not been paid in full, if any of them are two (2) years or more years overdue.
- All assessments for real estate taxes, sewer user fees and other charges owed to the City against the property on which the licensed or permitted activity is to take place have not been paid in full, if any of them are two (2) years or more years overdue.

**SECTION 16.4.7 SUSPENSION OF PERMIT**

Any permit, except a permit to demolish or remove a building, issued, shall become invalid if the authorized work is suspended or abandoned for a period of three (3) months after the time of commencing the work.

**SECTION 16.4.8                      DEFINED**

For the purposes of this Article suspended or abandoned shall be defined as work that involves a minimum of 2 employees and has not transacted on site of the property for which the permit was issued for a minimum of 4 days in a single week period, as measured from a Sunday to a Saturday, for a period of 3 consecutive months.

**SECTION 16.4.9                      WEATHER PERMITTING**

Any person, corporation, of legal entity may request a waiver for this work requirement due to weather in order to avoid having a valid permit suspended. The Code Enforcement Officer shall authorize the temporary suspension of work for a period of no greater than 3-months' time. However, no person, corporation, or legal entity shall receive more than one waiver for the work requirement for any one property for which a valid permit has been issued.

**SECTION 16.4.10      DEMOLITION PERMITS**

Any permit to demolish or remove a building shall become invalid if said demolition or removal has not been completed within a period of 75 calendar days from the date of issuance of the permit. Nothing in this Section shall limit the Code Enforcement Officer, or designee, from re-issuing a new demolition permit, or restrict the Code Enforcement Officer, or designee, from establishing a written agreement with an applicant to ensure the completion of the demolition of an unsafe structure or dangerous building. Subject only to any guarantees or promises from the City for such agreements may require approval by the City Council.

**SECTION 16.4.11      PERMIT TO MOVE A BUILDING/STRUCTURE**

No person, partnership, corporation or legal entity shall move a building or structure within the City or make alterations of wires or poles unless he has received a permit first from the Code Enforcement Officer, or designee.

**SECTION 16.4.12      PENALTIES**

Each violation of this Chapter or any regulations, orders, or rulings promulgated hereunder, shall be punishable in accordance with 30-A. M.R.S.A. Section 4452(2), as amended from time to time.

**ARTICLE 5   LIFE SAFETY CODE**

**SECTION 16.5.1                      ADOPTION BY REFERENCE**

In accordance with 30-A M.R.S.A. § 3003, the Life Safety Code, designated as "NFPA 101" and adopted by the National Fire Protection Association is hereby adopted and incorporated by reference as the minimum standards of construction, protection and occupancy of structures and buildings located within the City of Brewer for the purposes of life safety from fire and like emergencies, with the following amendments:

**SECTION 16.5.2                      ENFORCEMENT**

The NFPA 101 Life Safety Code shall be enforced by the City of Brewer Code Enforcement Officer, Fire Chief, or a designee for either; as well as the State of Maine Fire Marshal, or a designee.

## **ARTICLE 6 AMERICANS WITH DISABILITY ACT**

### **SECTION 16.6.1 AUTHORITY GRANTED**

The City of Brewer Code Enforcement Officer, or designee, shall make reasonable modifications to policies, practices, or procedures, including but not limited to Codes, Ordinances, Zoning and any and all other regulatory matters for the purpose of avoiding discrimination on the basis of a disability, unless those modifications would fundamentally alter the nature of the service, program, or activity or cause an undue financial burden or fundamentally alter a zoning scheme for the City of Brewer.

### **SECTION 16.6.2 DISCRIMINATION PROHIBITED**

No qualified individual with a disability shall, on the basis of disability be excluded from participation in or be denied the benefits of the services, programs, or activities of the City of Brewer, or be subjected to discrimination by the City of Brewer.

### **SECTION 16.6.3 COMPLIANCE WITH FEDERAL LAW**

It is the purpose and intent of the Article to ensure full and complete compliance with all provisions of CFR 28, CHAPTER I, PART 35 NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES, and the same as may be amended from time to time.

### **SECTION 16.6.4 PRESERVATION OF SAFETY**

The City Manager, or designee, may impose legitimate safety requirements, necessary for the safe operation and ownership of any property.

## **ARTICLE 7 REASONABLE ACCOMODATIONS AND MODIFICATIONS**

### **SECTION 16.7.1 PURPOSE**

It is the policy of the City of Brewer, pursuant to the federal Fair Housing Amendments Act of 1988 and the laws of the State of Maine, to provide individuals with disabilities reasonable accommodation to rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This chapter establishes a procedure for making requests for reasonable accommodations in the Landuse Code, Zoning, building regulations, policies, practices and procedures in order to comply with the intent and purpose of fair housing laws.

### **SECTION 16.7.2 APPLICABILITY**

A request for reasonable accommodation may be made by any person with a disability, a personal representative of a person with a disability, or an incorporated entity whose sole or primary purpose is to provide support for persons with disabilities, when the application of a zoning law, land use regulation, policy, or practice is perceived to act as a barrier to fair housing opportunities.

A request for reasonable accommodation may include a modification, or exception to rules, standards, or practices for siting, development, or use of housing, or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing.

### **SECTION 16.7.3 REVIEW AUTHORITY**

The Code Enforcement Officer, or designee, shall have the authority to review and approve or deny any application requesting a reasonable accommodation.

### **SECTION 16.7.4 APPLICATION REQUIRED**

Requests for reasonable accommodation shall be submitted on an application approved by the Code Enforcement Officer, or designee.

**SECTION 16.7.5 APPLICATION FEE**

The applicant shall pay any processing fee to the City of Brewer, as determined the Fee Schedule of the City of Brewer, as amended from time to time, and kept on file in the City Clerk’s Office

**SECTION 16.7.6 APPLICATION REVIEW PROCEDURES**

The Code Enforcement Officer, or designee, may request additional or supplemental information subsequent to receiving the initial application in order to fully understand the situation and circumstances surrounding the applicant and the need for a reasonable accommodation. If such additional or supplemental information is requested by the Code Enforcement Officer, then the application for reasonable accommodation shall not be considered complete until all requested information is returned and processing fees paid by the applicant.

**SECTION 16.7.6.1 TIMELINESS OF REVIEW AND DETERMINATION**

The Code Enforcement Officer shall make a written determination on the request within 45 days from receiving the complete application and may grant, grant conditions, or grant with modifications a request for reasonable accommodations.

**SECTION 16.7.6.2 FINDINGS OF FACT**

The written decision to grant, grant conditions, grant with modifications, or deny must be based upon the following writing findings of fact, but not necessarily limited to these:

1. Whether the housing, which is the subject of the request, will be used by a disabled individual.
2. Whether the accommodation requested is necessary to make housing available to a disabled individual.
3. Whether the requested accommodation would impose an undo financial or administrative burden on the City (in which instance it would not be deemed to be reasonable).
4. Whether the requested accommodation would require a fundamental alteration in the nature of the City program or law, including by not limited to land use and zoning (in which instance it would not be deemed to be reasonable).
5. Potential impact on surrounding uses.
6. Physical attributes of the property and structures.
7. Alternative accommodations which may provide an equivalent level of benefit.

**SECTION 16.7.6.3 CONDITIONS OF APPROVAL**

In granting a request for reasonable accommodation, the Code Enforcement Officer, or designee, may impose any conditions of approval deemed reasonable and necessary to ensure that the accommodation complies with the findings. If factors in addition to those listed in Section 16.7.x.x are used in consideration of the approval or denial, then those factors must be included in the determination notice.

**ARTICLE 8 APPEAL**

A determination by the Code Enforcement Officer to grant, grant conditions, grant with modifications, or deny a request for reasonable accommodation may be appealed to the Brewer Board of Appeals pursuant to Chapter 34 of the Brewer Codes and Ordinances.

**ARTICLE 9 SEVERABILITY**

Should any section, subsection, clause, or provision of this chapter for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. This chapter shall be prospective in application from its effective date.

**END OF CHAPTER NOTATIONS**

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|----|---------------------|----------------------|-------------|
| 1. | Enacted 02/13/2007, | Effective 02/13/2007 | (2006-C015) |
| 2. | Enacted 06/03/2014, | Effective 06/08/2014 | (2014-C003) |
| 3. | Enacted 11/17/2014, | Effective 11/22/2014 | (2014-C020) |
| 4. | Enacted 10/08/2019, | Effective 10/13/2019 | (2019-C006) |