

**CHAPTER 16 - BUILDING CODE**

**SECTION 100. ADOPTION OF BASIC BUILDING CODE. (#1)**

Pursuant to the authority granted to the City under Title 30-A, M.R.S.A., Section 3003, as amended, the "International Residential Code®, 2003, Fourth Printing," as published by the International Code Council, Inc. (ICC), and the "International Building Code®, 2003, Fourth Printing," as published by the International Code Council, Inc. (ICC), of which one (1) copy of both are on file in the office of the Clerk of the City of Brewer, be and hereby are adopted by reference as the "Building Code" for the City of Brewer in every respect except with the following deletions:

Chapters 1, 27, 29, 32 and Appendices A-J of the International Building Code®, 2003, Fourth Printing.

Chapters 1, 10, 11, 18, 19, 20, 21, 22, Parts VII, VIII and Appendices A-L of the International Residential Code®, 2003, Fourth Printing and with the following section deletions and notated section amendments following:

Section R301.2.1.2 Internal pressure.

Section R310.1.1 Exception.

Section R314.2.3 Attics and crawlspaces.

Section R323 Flood-Resistant Construction. (Replace with City of Brewer Land Use Code Chapter 24, Article 8-Floodplain Management)

Section R403.11.6.1 Foundation anchorage in Seismic Design Categories C, D1, and D2.

Section R801.3 Roof Drainage.

(Amended) Section R310.1 Emergency escape and rescue required.

Amend first paragraph sentence to read, "Basements with sleeping room(s) shall have at least one openable emergency escape and rescue opening."

(Amended) Section R311.5.3.3 Profile. Amend last paragraph sentence to read, "Open risers are permitted, provided that the opening between treads does not permit the passage of a 6-inch diameter (152 mm sphere.)"

And further provided that the following articles and sections shall be incorporated in this Building Code in addition to those not specifically excluded above:

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International Residential Code®, Chapter 3  
Table R301.2 (1)  
Climatic and Geographic Design Criteria

Ground Snow Load	80 psf
Wind Speed	90 mph
Seismic Design Category	A-C
Weathering	Severe
Frost line depth	5 ft.
Termite	none
Decay	none
Winter Design Temp	-5°F
Ice Shield Underlayment Required	yes
Flood Hazards	yes
Air Freezing Index	yes
Mean Annual Temp	20°F

Reference to "International Residential Code®, 2003, Fourth Printing" Section R403.1.7.3 with changes as below.

Nothing withstanding any provisions to the contrary under the "International Residential Code®, 2003, Fourth Printing" and this Ordinance, the Brewer City Council 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 B"International Building Code®, 2003, Fourth Printing", when the structure has been damaged in whole or part by an Act of God or by acts beyond the apparent control of the owners and their immediate family and 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. 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.
- (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 removed the owners, their immediate

family, and third parties from the structure until the terms of this Ordinance have been met.

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- (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.
- (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.

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.

Owners shall not be permitted to apply for the temporary occupancy from the Brewer City Council more than once. Once temporary occupancy has been granted by the Brewer City Council, 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.

The authority to grant the temporary occupancy is left to the sound discretion of the Brewer City Council in accordance with the provisions hereinbefore provided. No automatic rights shall accrue to property owners in general to have temporary occupancy

**SECTION 109. BUILDING OFFICIAL.** 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 his duly appointed assistant.

**SECTION 112.2. 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 six (6) months after the time of commencing the work.

**SECTION 105.4 SUSPENSION OF DEMOLITION PERMIT.** Any permit to demolish or remove a building shall become invalid if said demolition or removal is not completed within a period of 75 working days as defined by the Maine Department of Transportation, from the date of issuance of the permit.

**SECTION 105.5. EXTENSION OF DEMOLITION PERMITS.** The Board of Appeals may grant an extension of a demolition permit for a period not to exceed 30 working days as defined by the Maine Department of Transportation. Such extensions shall be granted only after application in writing by the person or firm to whom the demolition permit was granted, and hearing on the same. Any extension shall be allowed only for one or more of the following reasons:

- (1) Death or prolonged illness of the permittee.
- (2) Destruction or prolonged breakdown of equipment necessary in demolition.
- (3) The building or structure is more than 3 stories in size.
- (4) The building or structure contains more than 3,000 square feet of floor area on the first floor.
- (5) The building or structure is so located that it must be taken down slowly to avoid possible danger to adjacent structures or buildings.

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**SECTION 111.3 BY WHOM APPLICATION IS MADE.** 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 an affidavit of the owner or the qualified applicant or a signed statement of the qualified applicant witnessed by the code official or his 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.

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. (#3)

**SECTION 114.0 FEES.** The Code Enforcement Officer shall immediately, upon receipt of an application and fee for permit, refer the same to the Inspector of Buildings, and if the same are found by him to conform to the provisions of law and the ordinances of the City, and the proposed construction or work will be safe, he may grant a permit as applied for, subject to the regulations hereinafter contained.

**SECTION 114.1 BUILDING PERMIT FEE SCHEDULES.** Applicable fees for this Chapter are found in the City Council's adopted Fee Schedule, as amended from time to time, on file in the City Clerk's Office or on the City of Brewer's website under the City Clerk's Department as Schedule of Fees. (#2)

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**114.1.1** 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, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Code Enforcement Officer, or his agent, that such work was urgently necessary and that it was not practical to apply for a permit therefore before the commencement of the work. following the effective date of this subsection, any person, firm, corporation or other legal entity who commences work before applying for a permit shall not be subject to paying double the permit fee for the first time that such failure to apply occurs but instead shall be issued a verbal or written warning by the Code Enforcement Officer, or his or her agent, that subsequent failures to apply for permits will result in the person, firm, corporation or other legal entity being subject to the payment of double the permit fee.

**SECTION 114.2. APPROVAL IN PART.** Nothing in this section shall be construed to prevent the Inspector of Buildings 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 114.3. PERMIT REQUIRED TO MOVE BUILDING.** 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 therefor from the Municipal Officers in accordance with Title 35, Revised Statutes annotated Section 2487 (1964).

**SECTION 114.4.** Upon receipt of such application, the Municipal Officers shall fix a time and place for hearing thereon and give reasonable notice thereof, including actual notice to any utility whose service may be interrupted or property interfered with.

**SECTION 114.5.** Upon hearing, the Municipal Officers may grant a permit on such terms and conditions and make such apportionment of the expenses as they deem best.

**SECTION 117. PENALTIES.** Each violation of this Chapter or any regulations, order or ruling promulgated hereunder, shall be

punishable in accordance with 30-A. M.R.S.A. Section 4452(2), as amended.

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Sec. 124.1, 309.3 - 309.3.11

**SECTION 124.1. EXEMPTION OF MEMBERS.** No member of the Board shall pass on any question in which he or she is engaged as contractor or material dealer, or in the preparation of plans or specifications, or in which he has any personal interest.

**SECTION 309.3. BASIC DESIGN CRITERIA.** Reference to accessory structures per "International Building Code®, 2003, Fourth Printing", Chapter 3. (#1)

**SECTION 309.3.9. LANDSCAPING.** Residential dwelling units shall be landscaped in keeping with neighborhood standards (structures within 400 feet of the proposed housing site) or planting(s) approved by the City Planner. At a minimum landscaping shall include at least six evergreen shrubs closely proximate to the foundation which are oriented toward the public way so as to provide a softened, natural complement to the housing unit. Such trees shall be a minimum of three feet tall at the time of planting and shall be maintained at a minimum of three feet thereafter. Establishment of permanent vegetative cover on exposed soils where perennial vegetation is needed for long term protection shall be provided. Landscape materials are specified as number 1 grade as determined by the American Association of Nurserymen. Landscape materials shall be maintained and dead plant material replaced within one year or by the next planting season, whatever occurs first. (#1)

**SECTION 309.3.11. ACCESSORY BUILDING.** Residential dwelling units which contain less than one thousand five hundred (1,500) sq. ft. shall have on the same lot an accessory building containing at least 96 sq. ft. (i.e. 8 ft. x 12 ft.) with like exterior siding. "International Building Code®, 2003, Fourth Printing" reference to accessory structures per Chapter 3. (#1)

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**SECTION R403.1.7.3 FOUNDATION ELEVATION.** Foundation walls shall be built to such elevation so that the bottom of all cellar windows, finish elevations of bulkhead foundations, or any other openings shall be a minimum of eighteen (18) inches above the finished centerline grade of the street. The finished floors of garages shall also be a minimum of eighteen (18) inches above said centerline grade. The elevations shall be determined by using the finish centerline elevation opposite the house on the uphill side. (#1)

**SECTION R403.1.7.3A EXCEPTION.** Exceptions to the above rule shall be granted only by written permission from the City Engineer. (#1)



**ARTICLE 1A. NFPA 101 LIFE SAFETY CODE.**

**SECTION 1A01. ADOPTION OF NFPA 101 LIFE SAFETY CODE.** Pursuant to the authority granted to the City under Title 30-1 MRSA Section 3003, as amended, the "Code" for Safety to Life from Fire in Buildings and Structure", hereinafter referred to as the NFPA 101 Life Safety Code", 2003 edition, adopted by the National Fire Protection Association, Inc. is hereby adopted by reference as the Life Safety Code for the City of Brewer. (#1)

**SECTION 1A02. RECORDING** One (1) copy of the NFPA 101 Life Safety Code shall be kept on file in the office of the Brewer City Clerk for public reference.

**SECTION 1A03. ENFORCEMENT** The NFPA 101 Life Safety Code shall be enforced by the Code Enforcement Officer of the City of Brewer or his or her duly authorized agent.

**SECTION 1A04. TEMPORARY OCCUPANCY** Notwithstanding any provisions to the contrary under the "NFPA 101 Life Safety Code" 2003 Edition, adopted by the National Fire Protection Association, Inc., and this Ordinance, the Brewer City Council 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 NFPA 101 Life Safety Code, when the structure has been damaged in whole or part by an Act of God or by acts beyond the apparent control of the owners and their immediate family and 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. 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)

(1) The owners agree to comply with the terms of this Chapter by the end of the date approved by the City Council for temporary occupancy or immediately vacate the structure.

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(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 removed the owners, their immediate family, and third parties from the structure until the terms of this Chapter have been met.

(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.

(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.

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sound discretion of the Brewer City Council in accordance with the provisions hereinbefore provided. No automatic rights shall accrue to property owners in general to have temporary occupancy.

#### **END OF CHAPTER NOTATIONS**

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)