

CHAPTER 1 - THE CITY COUNCIL

ARTICLE 1. The City Seal.

SECTION 101. The design hereto annexed shall be the device of the City Seal, and the inscription shall be as follows, to wit:

(Graphic Attached)

SECTION 102. A person may not use or display an imitation, likeness, imprint, representation, facsimile or copy of the City Seal except by written permission of the City from the City Clerk. (#4)

ARTICLE 2. GENERAL.

SECTION 201. EFFECTIVE DATE OF LEGISLATION. No Ordinance, Ordinance Amendment, Order or Resolve shall take effect until five (5) days after its enactment, passage or adoption, except that the City Council may, by a 4/5 vote of its members present and voting, enact, pass or adopt Emergency Legislation to take effect at the time indicated therein. Such Emergency Legislation shall take effect at the time indicated therein. Such Emergency Legislation shall contain a section in which the emergency is set forth and defined.

For the purposes of this Chapter an emergency shall mean that 4/5 of the City Council members present and voting at any meeting believe that immediate governmental action is necessary in the form of an Ordinance, Amendment, Order and Resolve to promote the public good and to protect the public health, welfare and safety of the citizens of Brewer.

SECTION 202. COMPENSATION. The City Council shall fix the salaries of Officials elected or appointed by the City Council, including the salary of the City Manager for his or her services as City Manager and for all other services rendered by the City Manager. Salaries of the appointees of the City Manager shall be fixed by the City Manager subject to the approval of the City Council. Unless otherwise provided, all Members of Boards and Commissions shall serve as members thereof without compensation.

SECTION 203. BONDS. Every City Official and Employee who collects, has custody of or disburses any public monies, must annually, at the expense of the City, furnish to the City and maintain in full force and effect a corporate surety bond in such amount as the City Council may determine. The following named City Officials and Employees shall be bonded for at least the amounts hereinafter stated.

City Treasurer	\$250,000
Deputy Treasurer	\$250,000
Tax Collector	\$250,000

SECTION 204. EXECUTION OF LEGAL DOCUMENTS. All legal documents requiring the assent of the City shall be: (1) approved by the City Council; (2) signed on behalf of the City by the Chairman of the City Council or such other City Official as the City Council may designate by Order, Ordinance or Resolve; (3) attested to

thereon by the City Clerk; (4) approved thereon as to substance by the City Manager; and (5) approved therein as to form by the City Solicitor, unless otherwise provided by State Law, the City Charter or a City Ordinance.

SECTION 204.1 COOPERATION AGREEMENTS WITH THE HOUSING AUTHORITY OF THE CITY OF BREWER. All cooperation agreements between the City of Brewer and the Housing Authority of the City of Brewer must be authorized and signed by a majority of the City Council members. The intent of this provision is to ensure that cooperation agreements are made with the knowledge and support of a majority of the citizens of the City of Brewer, via their elected representatives.

SECTION 204.1.1. All cooperation agreements between the City of Brewer and the Housing Authority of the City of Brewer shall contain language indicating that the authority project is subject to all existing planning, zoning, sanitary and building laws, ordinances and regulations applicable to the area in which the project is proposed and that no special exceptions shall be made. The purpose of this section is to ensure that all authority projects conform to the existing long-range plans for the development of the area in which the project is to be located.

SECTION 205. CITY COUNCIL MEMBERS NOT TO ACT WHEN PECUNIARILY INTERESTED. As required by Section 2605, Title 30-A of the Revised Statutes of Maine (Supp. 1991), no member of the City Council shall vote on any question in which he or she is pecuniarily interested directly or indirectly, and in which his or her vote may be decisive, and no action of the City Council taken by means of such vote is legal.

SECTION 206. INTERESTS IN MUNICIPAL CONTRACTS PROHIBITED WITHOUT A COMPETITIVE BID PROCESS. As required by Section 2605, Title 30-A of the devised Statutes of Maine (Supp. 1995) no member of the City Council shall be interested, directly or indirectly, in any contract entered into by the City Council, other than a contract obtained through a properly advertised bid procedure after full disclosure of an interest by the member before the vote is taken, the member abstains from voting, and the member refrains from attempting to influence the decision. Any contract made in violation of this ordinance and Title 30-A M.R.S.A. Section 2605 (Supp. 1995), and as the same may be amended from time to time, is voidable.

SECTION 207. CHAIRMAN OF CITY COUNCIL TO COUNTERSIGN WARRANTS. The Chairman of the City Council is hereby designated and authorized to countersign such warrants, for the payment of money from the City Treasury, as may be issued by the City Treasurer, from time to time, until otherwise ordered.

In the event that the Chairman of the City Council is absent from the City, ill or otherwise incapacitated, and because of such disability or absence is not available to countersign such warrants, then in that event and during such absence, disability or incapacity, a Member of the Committee on Finance is hereby authorized to countersign such warrants during such period of absence, disability or incapacity of the Chairman.

SECTION 208. CHAIRMAN OF COUNCIL TO APPOINT COMMITTEE ON FINANCES AND A SUBCOMMITTEE ON APPOINTMENTS. The Chairman of the City Council is hereby authorized and instructed to appoint a Committee on Finance, to consist of the Chairman and such other members of the Council as the Chairman may select, to act as a Committee on Finances of the City, in connection with the City Manager.

The Chairman of the City Council is herewith authorized and instructed to appoint a subcommittee of the City Council consisting of at least two members of the City Council to review all applications received from citizens for appointment or reappointment to standing boards, committees, commissions and authorities of the City Council, hereinafter referred to as standing boards. The subcommittee shall conduct interviews of candidates for appointment or reappointment to all standing boards of the city Council except those boards that are designated as advisory boards, committees and commissions. The subcommittee may, at its discretion, conduct interviews of candidates for advisory boards, committees and commissions as well. It shall be the duty of the subcommittee to report its recommendations on appointments and reappointments to the full City Council prior to any City Council meeting when an order is to be considered for appointing or reappointing members to standing boards of the City Council. In the event that the two members or a majority of the subcommittee on appointments, if there are more than two members, do not agree on the appointment or reappointment of a member to a standing board of the City Council, the Chairman of the City Council shall determine what the recommendation to the full City Council shall be regarding such appointment or reappointment.
(#3)

SECTION 209. OATH OF OFFICE. Every City Officer shall be duly sworn to the faithful performances of the duties of his or her Office.

SECTION 210. OFFICERS AND EMPLOYEES RECEIVING MONEY FOR THE CITY. All Officers, Employees, or Agents of the City receiving money belonging to the City, or in connection with the business thereof, shall forthwith pay such moneys into the City Treasury.

SECTION 211. RESERVE (#12)

SECTION 212. RECORD PRESERVATION. Each City Department Head shall be responsible for the preservation of all public records under his or her jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files except in accordance with the "Rules for Disposition of Local Government Records" established by the Maine State Archives.

SECTION 213. REPEAL EFFECT. The repeal of any prior Ordinance of the City by any subsequent Ordinance shall not operate to revive the provisions of any Ordinance, which may have been repealed by such prior Ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and so far as they apply, to any office, trust, proceeding, right contract or event, already affected by them.

SECTION 214. REPORTS. Each City Department, except those appointed by the City Council, shall render to the City Manager, on or before the first day of October, a full report of the transactions of his or her department for the prior municipal year. City Department Heads and Boards and Committees appointed by the City Council, shall render to the City Council, on or before the first day of October, a full report of the transactions of his, her or their Departments, Boards or Committees for the prior municipal year.

SECTION 215. SEPARABILITY. If any portion of any Ordinance shall be held to be invalid, the intent of the City Council is that such decision does not affect the validity of the remaining portions thereof.

SECTION 216. STATE LAW. The laws of the State of Maine which are not inconsistent with the City Charter are hereby incorporated by reference. No person shall violate any law of the State of Maine; and no enumeration of particular state laws in Ordinances shall be held to be exclusive.

SECTION 217. The Fiscal Year of the City Government shall begin on January 1st and shall expire on December 31st until the year ending December 31, 1983. The Fiscal Year beginning January 1, 1984 shall expire on June 30, 1984. The Fiscal Year beginning on July 1, 1984 shall expire on June 30, 1985 and thereafter the Fiscal Year of the City Government shall commence on July 1st and shall expire on June 30th.

SECTION 218. It is the intent of this section that the City Council, as a body, shall deal with the administrative services solely through the City Manager and shall not give orders to any subordinates of the City Manager either publicly or privately. This section does not prevent the City Council from appointing Committees or Commissions of its own members or of citizens to conduct investigations into the conduct of any Official or Department, or any matter relating to the welfare of the City. This section shall not apply to the City Clerk, the City Assessor, and the City Solicitor.

ARTICLE 3. RULES OF ORDER

SECTION 300. CHAIRMAN.

SECTION 300.1. The Chairman of the City Council shall be elected in accordance with the City Charter.

SECTION 300.2. The Chairman shall conduct all meetings, except as provided herein.

SECTION 300.3. The Chairman shall preserve decorum and order.

SECTION 300.4. The Chairman shall decide all questions of parliamentary procedure.

SECTION 300.5. The Chairman shall have the right to speak and vote on any issue before the Council without vacating the Chair, except in the event he or she does have a conflict of interest.

SECTION 300.6. The Chairman shall not participate in the debate or vote on any matter before the Council in which he or she has either a direct or indirect conflict of interest. Further, the Chairman shall vacate the Chair only for the debate and vote on the matter in which he or she has a conflict, during that session. When the Chairman vacates the Chair, the Vice-Chairman shall take the Chair until such time as the Chairman shall retake the Chair. In the event that both the Chairman and the Vice-Chairman have either a direct or indirect conflict of interest, the Chairman shall appoint a Chairman pro-tempore only for the debate and vote on the matter in which the Chairman and Vice-Chairman have a conflict of interest during that session. The Chairman pro-tempore shall be sworn by the City Clerk to faithfully carry out his or her duty as Chairman pro-tempore.

SECTION 300.7. The Chairman, or in his or her absence the Vice-Chairman or the Chairman pro-tempore, shall vote on all matters which come before the Council unless he or she has a conflict of interest or is excused from voting by unanimous vote of the other members of the Council present and voting.

SECTION 300.8. The Chairman may state all questions, unless he directs the City Clerk or the Deputy City Clerk to do so, before they are put to a vote and declare the results. (#12)

SECTION 300.9. The Chairman may be removed by the other City Council members in accordance with the City Charter.

SECTION 300.10. The Chairman shall appoint such committees from the membership as he or she deems as appropriate and shall appoint members of ad hoc committees from the membership and the public at large as he or she deems as appropriate. He or she shall appoint the Chairman and the Secretary of the various committees. He or she shall outline the functions and goals of each committee. (#2)

SECTION 300.11. The Chairman may vacate the Chair at any time during the meeting and the Vice-Chairman shall preside over the meeting or any portion thereof as determined by the Chairman. In the event the Vice-Chairman is not present, the Chairman may appoint a Chairman pro-tempore to preside over the meeting or any portion thereof as determined by the Chairman. During any meeting that the Chairman is not present and the Vice-Chairman is presiding, the Vice-Chairman may vacate the Chair at any time during the meeting and appoint a Chairman pro-tempore to preside over the meeting or any portion thereof as determined by the Vice-Chairman.

SECTION 310. VICE-CHAIRMAN. At the Annual Meeting of the City Council, the Council shall elect a Vice-Chairman of the City Council who shall serve as Chairman in the event of the sickness, disability, continued absence from the City, or such other cause as may prevent the Chairman from performing the duties of the Office, and the Vice-Chairman shall have such power and authority as may be set forth in this Ordinance.

SECTION 311. CHAIRMAN Pro-Tempore

SECTION 311.1. The Chairman, or in his or her absence the Vice-Chairman, shall appoint a Chairman pro-tempore as provided in section 300.6 of this Ordinance.

SECTION 311.2. In the temporary absence or disability of the Chairman and the Vice-Chairman, a majority of the City Council members present and voting at any duly called meeting may elect a Chairman pro-tempore, from among its number, who shall exercise the powers and duties of Chairman, except to appoint Committees, until the temporary absence or disability is removed.

SECTION 311.3. A Chairman pro-tempore shall be sworn by the City Clerk, or in the absence of the City Clerk the Deputy City Clerk, to faithfully carry out his or her duties.

SECTION 320. VOTING.

SECTION 320.1. All Council Members present at a regular or special meeting shall vote on all matters, which come before the Council unless:

- (a) the member has a conflict of interest, as provided by law and explains to the other members present the nature and extent of the conflict before any vote is taken; (#6)
- (b) the member is disqualified by a majority of the other Council members present and voting for having a conflict of interest;
- (c) upon his or her request, a member is given unanimous consent to refrain from voting by the other Council members present and voting. However, no request is necessary if the member has a conflict of interest as provided above, or is disqualified for a conflict of interest by the other Council members present and voting.

SECTION 320.2. When a Council member has a conflict of interest, is disqualified, or is allowed to refrain from voting as provided under Sections 320.1 (a) (b) and (c) of this Ordinance, he or she shall not vote on any motion or action relating to the same matter resulting in the conflict, disqualifying or refraining during that Council meeting, without the need for a new motion under Section 320.1 (a) (b) or (c) on each motion or action on the same matter during that Council meeting.

SECTION 320.3. Voting on all issues shall be by the raising of hands unless a majority of the Council members present and voting shall requires the vote on the issue before them to be by either verbal roll call vote or a secret ballot.

SECTION 320.4. The Chairman shall declare the results of all voting.

SECTION 330. MEETINGS.

SECTION 330.1. The City Clerk shall maintain a record of all Council proceeding.

SECTION 330.2. The Chairman, or in the absence of the Chairman the Vice-Chairman, or in the absence of the Chairman and Vice-Chairman the Chairman pro-tempore, shall call the meeting to order, cause the roll to be called and declare if a quorum is present, except that at the annual meeting each year the City Clerk shall call the meeting to order, cause the roll to be called, declare if a quorum is present and, if so, proceed to the election of the Chairman as provided herein and by the City Charter. Once the Chairman is elected, the Clerk shall swear the Chairman in to faithfully carry out his or her duties; and the Chairman shall assume the Chair. The next order of business shall be the election of the Vice-Chairman. The Chairman shall preside over the election of the Vice-Chairman. The Clerk shall swear the Vice-Chairman to faithfully carry out his or her duties as Vice-Chairman. In the event a quorum is not present for the election of the Chairman or Vice-Chairman, those members present and voting shall set a day, time and place for the election of the Chairman and Vice-Chairman. Those members present and voting may compel the attendance of all members of the Council at a subsequent meeting. At said meeting, the Clerk shall conduct said meeting as hereinbefore provided until a Chairman is duly elected and sworn. (#12)

SECTION 330.3. The City Council may hold three types of meetings: Regular Monthly Meetings, Special Meetings, and Emergency Special Meetings.

The City Council shall establish the date, time, and place of the Regular Monthly Meetings as provided by the City Charter. Members of the City Council shall be given at least three (3) days prior written notice of the regular meeting.

The Chairman or, in the absence of the Chairman, the Vice-Chairman or three (3) members of the City Council may call a Special Meeting with at least three (3) days prior written notice of the Special Meeting.

The Chairman, or in the absence of the Chairman, the Vice-Chairman or three (3) members of the City Council may call an Emergency Special Meeting to deal with an issue or issues which are believed by the party or parties calling a meeting to require immediate attention by giving at least twenty-four (24) hours written notice of the Emergency Special Meeting.

In the event that neither the Chairman nor the Vice-Chairman is present at a Regular, Special Meeting, or Emergency Special

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Meeting during the year, the City Clerk shall call the meeting to order, call the roll, declare if a quorum is present, proceed to the election of a Chairman pro-tempore, declare the vote of said election, and swear in the Chairman pro-tempore, to faithfully carry out his or her duties. In the event a quorum is not present, the Council Members present shall adjourn the meeting to such date, time and place as a majority of the Council members present deem reasonable to secure a quorum, but no later than to the next regular monthly meeting of the City Council with the notice required in this Ordinance. In the event no members are present, the City Clerk shall call the meeting to order and shall adjourn the meeting to such date, time and place as the City Clerk deems reasonable to secure a quorum, but not later than the next Regular Monthly Meeting of the City Council.

SECTION 330.4. Each Council meeting shall have an agenda, which shall be prepared by the City Clerk and delivered to the members of the City Council at least three (3) days prior to a Regular Monthly Meeting or a Special Meeting and at least twenty-four (24) hours prior to an Emergency Special Meeting. All items on the agenda list shall be enclosed with the agenda. Any pertinent background information or reports relating to the agenda item shall be attached to such item. An agenda for any meeting shall be closed to the addition of Ordinances, Ordinance Amendments, Orders, and Resolves by any member of the City Council when it is published (printed) by the City Clerk for delivery to the City Council, except as otherwise provided in Article 3, Section 330.6. (#12)

The City Manager shall provide all members of the City Council with a summary detailing all changes or proposed changes in the provisions of any City Employee Union Contract at least three (3) days prior to any Council Meeting the agenda of which includes an Order or Resolve to ratify such Contract. (#1)

Any Ordinance, Ordinance Amendment, Order or Resolve providing for or authorizing the hiring of personnel or the expenditure of money shall contain a statement of the financial costs of the proposed action. Such financial information shall be included on all copies of the proposed Legislation.

SECTION 330.5. Any Council Member or Council Members wishing to sponsor or co-sponsor an Ordinance, Ordinance Amendment, Order, Resolve, or discussion matter at any Regular Monthly Council Meeting or a Special Meeting may have such item placed upon the agenda for that meeting if such item is filed with the City Clerk by 10:00 A.M. on the Wednesday preceding a Regular Meeting or

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Special Meeting to be held in the following week. After 10:00 a.m. on the Wednesday preceding a Regular Monthly Meeting or Special Meeting, no Ordinance, Ordinance Amendment, Order or Resolve, with the exception of purely ministerial matters and appointments, may be placed on the agenda for the Regular Meeting or Special Meeting unless co-sponsored by two members of the City Council. Purely ministerial matters and appointments may be placed on the agenda of a Regular Monthly or Special City Council meeting by the City Clerk or City Manager at any time prior to the agenda being published(printed)by the City Clerk. The City Clerk shall have authority to assign sponsorship of a ministerial matter or appointment to any member of the City Council. Any City Council Member can place an Ordinance, Ordinance Amendment, Order, or Resolve of an emergency nature on an Emergency Special Meeting agenda if filed with the City Clerk at least seventy-two (72) hours before the Emergency Special Meeting. Thereafter, Ordinances, Ordinance Amendments, Orders, or Resolves of an emergency nature can only be placed on the agenda of an Emergency Special Meeting if sponsored by two members of the City Council.

A ministerial matter, for the purposes of this Ordinance, shall mean actions in which nothing is left to discretion. Ministerial matters shall include but not be limited to:

- Licenses (amusement, liquor, junkyards)
- Tax Lien Release orders
- Reappointments to standing boards and committees
- Acceptance of resignations from committee members
- Orders and resolves relating to the conduct of elections
- Resolutions of respect for deceased citizens
- Commendations
- orders to accept low bids on equipment purchases
- Orders to declare machinery or equipment surplus and authorize sale thereof
- Authorize solicitation of bids for services and equipment
- Authorize agreements and contracts in relation to previously approved projects
- Accept advanced payments on taxes
- Payment of interest on abated taxes
- Abate uncollectible personal property taxes
- Conditional and final street acceptances
- Resolve to change date of Council Meeting
- Authorize City Manager to sign release deeds on behalf of the City
- Authorize transfer of funds in approved lines of the School Budget
- Accept drainage easement

Accept deed on behalf of the City to acquire property
Ratify Employee Union Contracts
Amend personnel manuals
Subdivision acceptance
Amend the fee schedule to increase the charges to commercial haulers to PERC
Authorize donation to some celebration or event
Ordinance or Ordinance Amendment that corrects language or references to State Statutes or regulations.

SECTION 330.5A. The City Clerk shall have the authority to place Ordinances, Ordinance Amendments, Orders, and Resolves within the sequences established under Section 330.8 of this Ordinance in such Order as he or she deems appropriate subject to change by the Council Chairman or in the absence of the Chairman, the Vice-Chairman. In the event of an objection by a member of the City Council, the item shall be placed in the sequence established under Section 330.8 of this Ordinance in the order received.

SECTION 330.5B. The City Manager may prepare an item for the City Council agenda and request that a member or members of the City Council sponsor or co-sponsor said item on the City Council agenda. If a Councilor or Councilors agree to sponsor or co-sponsor the City Manager's item, it shall be placed on the Council agenda in the manner prepared by the City Manager. No amendment to the item prepared by the City Manager shall be made by the sponsoring or co-sponsoring City Councilors prior to the item being placed on the agenda without the written consent of the City Manager. This section shall not preclude the City Manager from placing items purely of a ministerial nature or appointments on the agenda.

SECTION 330.5C. POSTING OF PROPOSED ORDINANCES OR ORDINANCE AMENDMENTS. (#7)

An attested copy of the proposed Ordinances or Ordinance Amendments must be filed with the City Clerk at least seven (7) days before the date of the Council meeting at which such proposed Ordinances or Ordinance Amendments are to be considered. An attested copy of any proposed Code to be adopted by reference or any amendment thereto, certified by the Municipal Officers, must be filed with and posted by the City Clerk in a conspicuous place in Brewer City Hall for at least Thirty (30) days before the date of the Council meeting at which such proposed Code is to be adopted by reference or any amendment thereto is to be enacted.

Notwithstanding the above, the City Clerk may prepare and post proposed Ordinances and/or Ordinance Amendments that deal with ministerial matters as listed in Section 330.5. Any such Ordinances and/or Ordinance Amendments dealing with ministerial matters, that are prepared and posted by the City Clerk at least seven (7) days before the date of a Council Meeting, may be acted upon by the City Council at such meeting.

For the purposes of this Section any revision to the Land Use Code of the City of Brewer, Maine, set forth under Chapter 24 of the City's Codes and Ordinances shall follow the posting requirements under Title 30-A M.R.S.A. § 3002, as it constitutes a series of Ordinances and not the adoption of amendment of a Code or Codes under Title 30-A M.R.S.A. § 3003.

(Reference to Maine Laws. Title 30-A Sections 3002 and 3003.)

SECTION 330.6. No items shall be placed upon the agenda after the agenda is published (printed) without the unanimous consent of the members of the City Council present at a meeting. Any item filed after the agenda is published (printed) for introduction under suspension of the rules with unanimous consent of the City Council present shall be filed with the City Clerk prior to the commencement of any meeting. The City Clerk shall advise the Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore, of any such items filed after the deadline and the Chairman, Vice-Chairman or Chairman pro-tempore shall inform the Council and the public present of the content of said items.

SECTION 330.6A. No Ordinance, Ordinance Amendment, Order or Resolve may be withdrawn once it is on an agenda without unanimous consent of the members of the City Council present at the meeting.

SECTION 330.7. A quorum to constitute a meeting shall be a simple majority of the total Council; however, the required majority to constitute the passage, adoption or enactment of an item shall be a simple majority of the Council Members present at a meeting and qualified to vote on said item.

SECTION 330.8. The Council shall consider the items on the agenda in the following sequence:

- A. Minutes (of the last Regular Meeting, Special Meetings and/or Public Hearing since the last Regular Meeting related only to Regularly Scheduled Council Meetings).

- B. Awards, Petitions and Public Comments.
- C. Consent Calendar
- D. Monthly Reports.
- E. Nominations, Appointments, Elections.
 - 1. Consent Calendar
 - 2. Other nominations, appointments, and elections.
- F. Unfinished Business.
 - 1. Consent Calendar. (#11)
- G. New Business.
 - 1. Consent Calendar. (#11)
- H. New Items with Leave of Council.
- I. ADJOURN.

SECTION 330.8.1. The format established under section 330.8 may be altered with unanimous consent of the Council Members present and voting at any meeting.

SECTION 330.8.2. A time for public comments shall be listed on all agendas. Prior to entertaining public comments, the Chairman or Vice-Chairman shall notify the public present at the meeting of the following:

- (1) No action will be taken at that meeting on any public comments;
- (2) A public comment will be referred to the City Staff to respond if appropriate.

SECTION 330.9. Items on the agenda shall be placed upon the floor in the exact written form in which they appear, with the exception of an item with portions left out. An item with a portion left out may be placed on the floor in the exact form, which it appears, or in the exact form with an insertion in that portion of the item left out.

SECTION 330.10. Once an item is on the floor, the Chairman or in the absence of the Chairman the Vice-Chairman, or the Chairman pro-tempore, shall permit reasonable debate including, but not limited to, discussion, statements and questions by the Council members, and may provide the public an opportunity to speak. It shall be the Chairman's discretion, or in the absence of the Chairman the discretion of the Vice-Chairman or the Chairman pro-tempore, to determine when reasonable debate has been had and when debate shall end. Further, the Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore, shall have the right to terminate the public's right to speak at any time if he

or she determines that such public speaking is not germane to the item at hand, or is repetitious, or is disruptive to the proceedings. In the event a Council Member present and voting does not agree with the Chairman's, or in the absence of the Chairman the Vice-Chairman's or the Chairman pro-tempore's, termination of the public's right to speak, or not permitting the public to speak, he or she may make a motion to allow the public to speak or to continue the public's right to speak, which motion must be seconded by another member of the Council present and voting. If the motion receives a simple majority vote of the Council Members present and voting, the public shall be allowed to speak or public participation shall continue until the Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore, terminates the public's right to speak, but in no event shall the public's right to speak be for less than five (5) minutes. Additional motions may be made to permit continued public participation as provided above. All debate shall be by the Councilors or person arising and addressing the Chair in a respectful manner. All debate shall be addressed to the Chair. No member shall speak more than once upon any one item until other members have had an opportunity to speak on the item.

SECTION 330.11. Any Amendment to the Item can be made by a motion duly made and seconded. The Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore, shall allow reasonable debate as provided in Section 330.10 and call for a vote on the motion to amend. If the Amendment is approved, the Item shall then be considered as amended.

SECTION 330.12. The Item may be further amended in the manner prescribed in Section 330.11.

SECTION 330.13. CONSENT CALENDAR. (other than for Nominations, Appointments and Elections). Any Ordinance, Ordinance Amendment, Order or Resolve, placed on any meeting agenda for action by the Council other than for nominations, appointments and elections may when, in the judgment of the sponsoring or co-sponsoring Council member, that item does not seem likely to encounter any opposition, be placed on the Consent Calendar of any meeting and may collectively be enacted, passed or adopted by one motion of the Council. The motion to collectively enact an Ordinance or Ordinance Amendment, pass or adopt items on the consent calendar shall be substantially as follows:

"I move that the (Ordinances be enacted) (Ordinance Amendments be enacted); (the Orders have passage and the Resolves be adopted)."

No item shall remain on the consent calendar if any member of the Council or the public requests that the Item be removed therefrom. In the event that any Item shall be removed from the consent calendar, the Item shall be taken up separately on the agenda as determined by the Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore.

SECTION 330.13.1. CONSENT CALENDAR (for Nominations, Appointments and Elections Only). An Order or Resolve placed on any meeting agenda for action by the Council on nominations, appointments and elections may, when the sponsoring city Councilor or Councilors determine that it does not seem likely to encounter any opposition, be placed on the consent calendar. All Appointment, Nomination, and Election Orders and Resolves placed on the consent calendar of a meeting may be collectively passed or adopted by the Council. The motion to collectively pass or adopt Nomination, Appointment and Election Orders or Resolves shall be substantially as follows:

"I move the Order(s) have passage" or, "I move the Resolve(s) be adopted."

No Nomination, Appointment or Election Order or Resolve shall remain on the consent calendar if any member of the Council or the public requests that it be removed therefrom. In the event that any item shall be removed from the consent calendar, that item shall be taken up separately on the agenda as determined by the Chairman or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore.

SECTION 330.14. The City Council shall act by Ordinance, Ordinance Amendment, Order or Resolve. Ordinances, Ordinance Amendments, Orders and Resolves, except Orders and Resolves making appropriations of money, shall be confined to one subject. The appropriation Order or Resolve shall be confined to the subject matter of appropriations only.

SECTION 330.15. The Land Use and Land Use Code Amendments shall receive a public hearing before the Planning Board before being considered by the Council. (#12)

SECTION 330.16. All motions to pass Orders or adopt Resolves shall be as follows:

"I move the Order have passage" or, "I move the Resolve be adopted."
All motions relating to the enactment of Ordinances and Ordinance Amendments shall be as follows:

"I move the _____ be enacted."

SECTION 330.17. The Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore, shall be satisfied that the item and the amendments thereto are properly worded before he or she allows the Council to vote thereon. He or she may read the Item, Amendment or Amended Item to the assembled members, unless the Chairman directs the City Clerk or Deputy City Clerk to do so, before a vote is taken. (#12)

SECTION 330.18. When an Item or Amendment is under debate, the Chairman, or in the absence of the Chairman the Vice-Chairman or the Chairman pro-tempore, shall receive no other motion but

- (a) to adjourn;
- (b) to recess;
- (c) to move the question;
- (d) to lay on the table;
- (e) to postpone to a day certain;
- (f) to commit or to refer;
- (g) to amend;
- (h) to postpone indefinitely.

The motions shall only be considered upon being properly made and seconded. Further, the Order or Priority of the Motion shall be as provided above and debate shall only be allowed in accordance with section 330.10. Once an Order, Ordinance Amendment, or Resolve is before the City Council on a motion duly made and seconded, the person making the motion may only withdraw the Order, Ordinance amendment, or resolve from further consideration with the unanimous consent of the other City Councilors present and voting.

SECTION 330.19. A motion to adjourn is always in order except on immediate repetition. Debate, as provided under section 330.10, shall be permitted on all motions, except the following, which shall be non-debatable.

- (a) to adjourn;
- (b) to recess;
- (c) to move the question;
- (d) to lay on the table.

SECTION 330.20. A motion to reconsider any Item or Item, as amended, may only be made by a Council Member who voted with the prevailing side at the same meeting it was passed, adopted or enacted or at the next Regular or Special Meeting, whichever comes first.

SECTION 330.21. Upon reconvening of a Public Meeting following a recess for Executive Session, as permitted by State Statute, the Council shall consider no item other than to adjourn unless the Chairman, or in the absence of the Chairman the Vice-Chairman or Chairman pro-tempore, shall state otherwise at the time of recess for the Executive Session.

SECTION 330.22. If a motion does not receive a simple supporting vote as provided herein, it shall be defeated.

SECTION 340. COMMITTEES.

SECTION 340.1. The Chairman shall appoint Subcommittees of the Council and Ad Hoc Committees as provided in this Ordinance.

SECTION 340.2. The Chairman may disband the Committee or remove any member thereon without cause.

SECTION 340.3. The Committee should function as outlined by the Chairman.

SECTION 340.4. The Committee shall submit a written report to the Chairman and Council of its activities.

SECTION 340.5. Any Actions, Decisions, Conclusions and Results reached by the Committee are only advisory to the Council. No Committee can bind the Council by its actions.

SECTION 350. OTHER.

SECTION 350.1. In all cases where the parliamentary proceedings are not determined herein or the City Charter, "The Modern Rules of Order" by Donald A. Tororice, shall control and decide the course of the proceedings. (#10)

ARTICLE 4. LEGAL ACTIONS AGAINST CITY COUNCILORS AND CITY EMPLOYEES.

SECTION 401. LEGAL COUNSEL AND INDEMNIFICATION TO BE PROVIDED. The City Council shall provide competent legal counsel, of its choosing, to defend any City Councilor, Officer or Employee of the City, or the member of any City Board, Committee, or Commission who is a party, or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that said person is or was a City Councilor, Officer or Employee of the City, and the City shall pay or indemnify such Councilor, Officer or Employee for all expenses, fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, subject to the following:

SECTION 401.1. EXCEPTIONS. Nothing herein shall be construed to require the City to provide legal counsel or such indemnification for any City Council, Officer or Employee, or the member of any City Board, Committee, or Commission, in the following situations:

- (1) In civil matters, where the Councilor, Officer or Employee, or Board, Committee or Commission Member:
 - a. is the Plaintiff or moving party; or
 - b. where it shall be finally adjudicated in any action, suit or proceeding that said Councilor, Officer or Employer, or Board, Committee, or Commission Member shall not have acted in good faith and in the reasonable belief that his or her action was in the best interest of the City.

- (2) In criminal matters, where the Councilor, Officer or Employee, or Board, Committee or Commission Member:
 - a. is the complaining party; or
 - b. had reasonable cause to believe that such conduct was unlawful.

Termination of any action, suit or proceeding by judgment, order or conviction adverse to such person, or by settlement, or by pleas of nolo contendere or its equivalent, shall not of itself create a presumption that such person did not act in good faith and in the reasonable belief that his action was in the best interests of the City, and with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

SECTION 401.2. OTHER LEGAL COUNSEL. Nothing herein shall be construed to prohibit any such Councilor, Officer or Employee, Board, Committee or Commission Member from seeking additional legal counsel other than provided by the City. However, nothing herein shall be construed as to require the City to pay any fees or other expenses incurred as a result of employment of such additional counsel.

SECTION 401.3. OTHER RIGHTS. The rights provided for in this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any other Statute, Ordinance, Agreement, Insurance or Policy of the City.

SECTION 401.4. CITY SOLICITOR RESPONSIBILITIES. In circumstances involving litigation or other legal proceeding between two persons qualifying for the privileges granted herein, the City Solicitor will not be required to represent or otherwise participate on behalf of either party.

ARTICLE 5. CITY BOARDS, COMMITTEES AND COMMISSIONS.

SECTION 501. ESTABLISHMENT. The City Council shall have the power, by Ordinance, Order or Resolve, to establish Boards, Commissions, Committees and Authorities, hereinafter referred to as Boards. Unless specified in the establishing legislation, all such Boards shall be in existence until terminated by vote of the City Council.

All Board appointments shall be for a specified term in office and terms shall expire on March 31st of the year of expiration unless otherwise provided for in the establishing Legislation. Appointed board members shall serve for terms specified in their appointment or until his or her successor has been appointed and qualified.

The City Council may appropriate funds for the expenses of the Boards, including the expenses of Board Members, directly related to their service on Boards. (#3)

SECTION 502. POLICY AND GUIDELINES. Any person who is a resident of the City of Brewer, except as provided below, shall be eligible to be appointed to any City Board. Resident, for the purpose of this article, shall be defined as a person who:

- (1) if a registered voter, is a registered voter of the City of Brewer, and
- (2) has a primary residence in a house, apartment or rooming house within the City of Brewer or stays with relatives or friends in the City of Brewer for a majority of each calendar year.

Exception: Any resident, who is an employee of the City of Brewer, other than a resident of a project owned or managed by the Housing Authority of the City of Brewer and where there is no direct conflict of interest or the Brewer School Department shall not be eligible for appointment to any standing board of the Brewer City Council unless otherwise provided under Maine Law. The appointment of any member of a standing board of the City Council shall be terminated by the City Council if such member becomes an employee of the City of Brewer and does not formally resign his or her position as a member of such standing board. It is the sense of the City Council that any employee of the City of Brewer shall have a conflict of interest and shall not be eligible to serve on any standing board of the City Council unless the same is permitted by Maine Law. (#3) (#5)

SECTION 502.1. Appointments to standing boards may be terminated for just cause by the City Council. Just cause is considered to be voting where there is a conflict of interest, having a conflict of interest as a result of being an employee of the City of Brewer or the Brewer school Department, unless otherwise provided by Maine Law, excessive absence, loss of residency, unruly or continual disruptive conduct or actions adverse to the health, benefit and welfare of the residents of Brewer. For cause other than excessive absence or loss of residency, a hearing between the City Council and the Appointee shall be held. (#3)

SECTION 502.2. Absence from more than three (3) consecutive Scheduled Regular or Special Meetings or more than 50% of the Scheduled Meetings in one (1) calendar year shall be considered excessive absence. Excessive absence shall be cause for the Council to review the appointment of the individual and to recall the appointment if determined in the best interest of the City of Brewer.

SECTION 502.3. Boards shall, each year, elect a Slate of Officers at the first regularly scheduled meeting of the year. As a minimum, the Slate of Officers shall consist of a Chairman, Vice-Chairman and Recording Secretary.

SECTION 502.4. All Boards, except the Planning Board, shall, by vote, schedule Regular Meeting Dates. Meetings of the Planning Board shall be scheduled in accordance with Chapter 13 of the Charter, Codes and Ordinances of the City of Brewer. Notice of these dates shall be filed with the City Clerk. Special Meetings may be called at the discretion of the Chairman, or Vice-Chairman acting in case of the disability or absence of the Chairman. Notice of Regularly Scheduled Meetings and Special Meetings shall be sent to the City Manager and to the City Clerk with an agenda of business to be conducted. The City Clerk shall, immediately upon receipt of such meeting notices and agendas, forward copies of the same to the City Council so that they will be received by them at least Twenty-four (24) hours prior to the scheduled starting time of the meetings. It shall be the responsibility of City Department Heads and the staff assigned to Boards to send notices and agendas of Board Meetings to the City Clerk in time for him or her to forward them to the City Council.

In the event that a Board, which consists of three (3) or more members, is meeting to deal with the expenditures of public funds or taxation or will be adopting policy, public notice shall be given in ample time to allow the public to attend.

In the event of an Emergency Meeting of a Board consisting of three (3) or more members, to discuss the expenditure of public funds or taxation or the adoption of policy, notice of the meeting, including the subject matter, time and place, shall be reasonably given to the public.

SECTION 502.5. No Board shall hold Executive Sessions except upon a motion stating the exact nature of the business and approved by a three-fifths vote of the members present and voting. Executive Sessions can be held only on the following matters:

- A. discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against persons subject to the following conditions:
 - (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated.
 - (2) Any person charged or investigated shall be permitted to be present at an executive session if he so desires.
 - (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him be conducted in open session. A request, if made to the agency, must be honored; and
 - (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.

- B. Discussion or consideration of the condition or acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.

- C. Negotiations between the representatives of a public employer and public employees may be open to the public provided both parties agree to conduct negotiations in open sessions.

Discussion of labor contracts and proposals and meetings between a public agency and its negotiators may be held in an executive session.

- D. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's counsel to his client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the state, municipality or other public agency or person at a substantial disadvantage.
- E. Discussions of information contained in records made,
- F. Maintained or received by a body or agency when access by the general public to those records is prohibited by statute.

No other matters except those stated in the motion shall be discussed in executive session.

All official votes shall be taken in open session.

SECTION 502.6. Boards shall use the 2007 edition of "The Modern Rules of Order" by Donald A. Tortorice, or they may adopt supplemental rules of order for the conduct of hearings and meetings and the reporting, taping, filming or recording of public hearings and meetings. The Board may adopt additional rules of order as long as the adopted rules are consistent with State Law. If there is conflict between The Modern Rules of Order and adopted rules of order and State Law, State Law prevails. A copy of these rules shall be filed in the City Clerk's Office. (#8) (#9)

SECTION 502.7. Meetings may be held without a majority of the members present. Unless established by the City Charter or other City Ordinances, the passage of any matter shall require a simple majority of members present and voting.

SECTION 502.8. All members present shall vote on all questions unless excused by the Chairman for a conflict of interest. Alternate or Associate Members shall be appointed by the Chairman to assume the privileges including voting for absent regular members. Telephone or proxie voting will not be considered valid or as a substitute for convening or attending a meeting to consider any matter. Members shall abstain from voting if a conflict of interest is declared by the Board Chairman and could cause a later challenge to the vote.

SECTION 502.9. Boards shall record the minutes of all meetings. The minutes shall include notation of members present, a record of all votes taken and a short summary of significant discussions. The original of the minutes shall be maintained in the City Clerk's Office. The City Clerk shall forward a copy of the minutes to the City Council and shall post a copy on the bulletin board at Brewer City Hall. Arrangements to employ the services of a stenographer to transmit verbatim the proceedings of public hearings shall be made by the City Clerk upon request of Board Chairman. The transcription made of public hearings shall be maintained in the City Clerk's Office for the retention period prescribed in the latest edition of the "Rules for Disposition of Local Government Records" issued by the Maine State Archives, and copies of the same shall be available to any person for a fee to be established by Order of the City Council. (#3)

SECTION 502.10. Any Amendments or Additional By-Laws enacted by a board shall become effective at the time of an affirmative vote by its members. The City Council shall be advised in writing of such Amendments or Additions.

SECTION 502.11. If any of the above provisions shall conflict with any requirements imposed by State Statute or City Charter, then such State Statute or Charter requirements shall prevail.

SECTION 502.12. Nothing in this Article shall apply to the following Boards, Commissions, Committees and Authorities:

- a. Superintending School Committee
- b. Brewer High School District Trustees
- ~~c. Water District Board of Trustees (#3)~~
- d. Registration Appeals Board
- ~~e. Housing Authority of the City of Brewer (#3)~~

END OF CHAPTER NOTATIONS

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|-----|-------------------|--------------------|-------------|
| 1. | enacted 02/10/04, | effective 02/15/04 | (2004-C001) |
| 2. | enacted 04/12/05, | effective 04/17/05 | (2005-C005) |
| 3. | enacted 06/07/05, | effective 06/12/05 | (2005-C010) |
| 4. | enacted 12/06/05, | effective 12/11/05 | (2005-C023) |
| 5. | enacted 12/11/07, | effective 12/16/07 | (2007-C008) |
| 6. | enacted 05/18/10, | effective 05/23/10 | (2010-C006) |
| 7. | enacted 01/10/12, | effective 01/15/12 | (2011-C019) |
| 8. | enacted 02/14/12, | effective 02/19/12 | (2012-C001) |
| 9. | enacted 05/01/12, | effective 05/06/12 | (2012-C005) |
| 10. | enacted 10/09/12, | effective 10/14/12 | (2012-C016) |
| 11. | enacted 07/08/14, | effective 07/13/14 | (2014-C010) |
| 12. | enacted 03/31/15, | effective 04/05/15 | (2015-C003) |