

City Council Minutes
August 13, 2019

Regular Meeting
City Hall Council Chambers

Tuesday, August 13, 2019
6:00 p.m.

The regular meeting was called to order by Chairman Beverly Uhlenhake. The City Clerk called the roll:

Councilor Morelli-present
Councilor O’Connell-present
Councilor Ferris-present

Councilor Goss-present
Chairman Uhlenhake-present

Chairman Uhlenhake declared a quorum present. City Manager Stephen Bost and City Solicitor Jonathan Pottle were also present.

Chairman Uhlenhake led members of the Council and others present in reciting the pledge of allegiance to the flag of the United States of America.

Chairman Uhlenhake read the notice for the regular meeting.

TO: Joseph Ferris, Jerry Goss, Kevin O’Connell, Thomas Morelli and Beverly Uhlenhake
MEMBERS OF THE BREWER CITY COUNCIL you are hereby notified a regular meeting of the City Council will be held on Tuesday, August 13, 2019 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Beverly Uhlenhake
Mayor and Chairman of the City Council
Or _____
Majority of the City Council

a true copy, attest: s/Ronda J. Hogan
City Clerk

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand of by leaving at the usual dwelling place of the within named an attested copy of this notice of meeting:

Given/Delivered to:	by (person delivering)	Title	Date	Time
Joseph Ferris	Cummings	Off.	08/09/19	6:00p.m.
Thomas Morelli	Feero	Sgt.	08/09/19	5:30p.m.
Beverly Uhlenhake	Cummings	Off.	08/09/19	6:00p.m.
Jerry Goss	Feero	Sgt.	08/09/19	5:30p.m.
Kevin O’Connell	Hogan	C.C.	08/09/19	3:30 p.m.

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CITY COUNCIL REGULAR MEETING
Tuesday, August 13, 2019 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order** (Mayor Uhlenhake)
- II. Roll Call** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America** (Mayor Uhlenhake)
- A. Minutes of July 9, 2019 Regular Meeting** (Councilor Goss)
- B. Awards, Petitions and Public Comments**
 - 1. DOT Presentation
 - 2. Public Comments
- C. Consent Calendar**
 - 1. (2019-A114) ORDER Accept asset forfeiture for the City of Brewer Police Department (Councilor Morelli)
 - 2. (2019-A115) ORDER Authorize the purchase of staff vehicle for the Brewer Fire Department (Councilor O'Connell)
 - 3. (2019-A116) ORDER Award contract for the Public Works Heated Storage Building Expansion Project (Councilor Goss)
 - 4. (2019-A117) ORDER Accept donations to the Brewer Parks and Recreation Department for the Fall Soccer Program (Councilor Ferris)
- D. Monthly Reports** (Councilor O'Connell)
- E. Nominations, Appointments, Elections**
- F. Unfinished Business**
 - 1. (2019-C003) Amend Chapter 31, Entitled Sewer and Pre-treatment Ordinance, Article 12 "Schedule of Sewer Rates", Section 1200 of the Charter, Codes and Ordinances of the City of Brewer (Councilor Morelli & O'Connell)
- G. New Business**
 - 1. (2019-C004) Vacant Property Registration Ordinance (Councilor Ferris)
 - 2. (2019-C005) An ordinance to amend Chapter 12 of the Brewer City Ordinances entitled "Personnel" (Councilor O'Connell)
 - 3. (2019-C006) An ordinance to amend Chapter 16 of the Brewer City Ordinances entitled "Building Code" (Councilor Goss)
 - 4. (2019-A118) ORDER Convene in Executive Session Pursuant to Title 1, M.R.S.A. §405(6)(A) on a personnel matter (Councilor Morelli)
- H. New Items with Leave of Council**
- I. ADJOURN**

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BE IT FURTHER ORDERED, that the city Council hereby authorizes the appropriation and expenditure from CIP account 0510132-551208 the funding necessary to cover the cost of equipping the vehicle. Such expenditures shall not to exceed funding available as approved in the FY20 CIP; and

BE IT FURTHER ORDERED, the City Council hereby declares 2011 Chevy Tahoe (old police patrol unit) (VIN#1GNLC2EOXBR125683), and 2008 Chevy Impala staff vehicle (VIN#2G1WT55K989133987) surplus and authorizes the City Manager or his designee to dispose of the vehicles by allowing for trade in to offset the purchase price of the new staff vehicle; and

BE IT FURTHER ORDERED, that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City's Purchasing Ordinances, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of goods and supplies for this project.

Statement of Fact

The order authorizes the purchase of one fire staff vehicle as authorized in the FY20 CIP.

Two vehicles from the Fire Department fleet (Chevy Tahoe and Chevy Impala) are declared surplus, and the 1990 Pierce Arrow Pumper truck has been declared surplus in a previous Council order.

All three vehicles will be used for trade-in to offset the purchase price of the vehicle.

This pick-up truck will serve as a staff vehicle and will also have the capability to carry equipment, personnel, and respond to calls for service needed. This purchase greatly expands the use of the staff vehicle making it a good investment.

MSRP of 2019 Toyota Tundra 4X4 truck: \$44,687

Down East Toyota-Scion is a Brewer based business that has offered an excellent purchase price on a top-rated truck. The acquisition of this vehicle will provide the department with a truck that has proven durability throughout the life of its service.

2019-A116

August 13, 2019

TITLE: ORDER AWARD CONTRACT FOR THE PUBLIC WORKS HEATED STORAGE BUILDING EXPANSION PROJECT

Filed August 7, 2019
By Jerry Goss

WHEREAS, the FY2020 Sewer Department CIP approved by Council included \$25,000 for the expansion of the existing Public Works heated storage building in order to accommodate the new, larger flusher truck recently purchased by the Sewer Department; and

and WHEREAS, the Engineering Department has prepared plans and specifications for this project;

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FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from account 0117121-506130 (Fall/Program League).

Statement of Fact

This order accepts contributions to the City of Brewer Parks & Recreation Department and authorizes the expenditure of these contributions to support the Fall Soccer Program.

D. Monthly Reports

ACTION: Councilor O’Connell moved that the monthly reports received from the City Departments be accepted and placed on file. The motion was seconded and passed by a unanimous vote.

E. Nominations, Appointments, Elections

There were none.

F. Unfinished Business

ACTION: Councilor Morelli moved that the amendment be enacted. The motion was seconded and passed unanimously.

2019-C003

July 9, 2019

TITLE: AMEND CHAPTER 31, ENTITLED SEWER AND PRE-TREATMENT ORDINANCE, ARTICLE 12 “SCHEDULE OF SEWER RATES”, SECTION 1200 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

Filed July 8, 2019
By Thomas Morelli &
Kevin O’Connell

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer entitled “City of Brewer Sewer and Pre-Treatment Ordinance” be amended by changing Article 12, Section 1200 to read as follows:

ARTICLE 12 - SCHEDULE OF SEWER RATES

SECTION 1200. METER RATES

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Rates based on water meter readings for the use of and for the services furnished, or to be furnished by the municipal sewer facility on property having water metered service, not including meters used exclusively for water not draining into sewers:

QUARTERLY

Effective beginning with and retroactive, the period covered by the September, ~~2017~~ 2019 billing, the following rates shall apply:

For the first 1,000 cu. ft. per quarter: ~~\$86.80~~ \$90.50 minimum charge for Residential customers classified in the billing system as User Type 9.

For the first 1200 cu. ft. per quarter: ~~\$104.16~~ \$108.60 minimum charge for all other users not otherwise classified as a Residential customer.

Effective beginning with the period covered by the September, ~~2017~~ 2019 billing, the following rates shall apply:

For all in excess of 1,000 cu. ft. per quarter: ~~\$8.68~~ \$9.05 per 100 cu. ft.

Statement of Fact

The FY2020 budget the Brewer City Council approved at its June 4, 2019 meeting anticipated an increase in the sewer rate of \$0.37 per 100 cubic feet, or about \$5 per quarter for the average residential sewer user. This order amends City Ordinance to reflect this change.

G. New Business

ACTION: Councilor Ferris moved that the amendment be certified and filed with the City Clerk for posting. The motion was seconded. Councilor Ferris stated that he was not 100% happy with the notice we gave to people that could be affected by this amendment, he would like to hear from the other side of this issue. Councilor Ferris moved to amend his motion to include the amendment as amended by complete substitution, the motion was seconded and passed unanimously.

2019-C004

August 13, 2019

TITLE: VACANT PROPERTY REGISTRATION ORDINANCE

Filed August 5, 2019
By Joseph L. Ferris

WHEREAS, vacant buildings remaining unoccupied for any significant period of time present blight concerns, attract criminal activity, constitute a fire hazard, and constitute a hazard to the public health, safety, and welfare of the citizens of Brewer due to inadequate maintenance or dilapidation; and

WHEREAS, vacant and dilapidated buildings pose significant and costly problems to the City,

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detract from the quality of life in the City, and are in impediment to redevelopment activities; and

WHEREAS, adequate protection of the public health, safety and welfare therefore requires the establishment and enforcement of the means to address the aforementioned conditions; and

WHEREAS, the City has established a Vacant Property Registration Ordinance that ensures vacant buildings will be identified, licensed and inspected to insure minimum safety standards are met.

NOW THEREFORE, the Municipality hereby enacts the following ordinance:

CHAPTER 49 - VACANT PROPERTY REGISTRATION ORDINANCE

SECTION 1. AUTHORITY.

This Ordinance is adopted pursuant to the City's home rule authority under 30-A M.R.S. § 3001.

SECTION 2. FINDINGS.

Buildings which remain vacant and unoccupied for any significant period of time present blight concerns, attract criminal activity, constitute a fire hazard, and constitute a hazard to the public health, safety, and welfare due to inadequate maintenance or dilapidation, is a nuisance or is dangerous to life or property, and causes neighboring properties to suffer from stagnant or declining property values. The use and maintenance of property in such condition and manner endangers the public health, safety, and welfare and constitutes an unreasonable use and conditions to the annoyance, discomfort, and repose of a considerable number of the public insecure in the use and enjoyment of their property, and thus constitutes a nuisance condition.

Vacant buildings also create and pose significant and costly problems for the City. These properties become a drain on the City budget and detract from the quality of life of the neighborhood and the City as a whole. Vacant buildings are an impediment to redevelopment and rehabilitation of the specific areas in the City and the City overall.

Adequate protection of the public health, safety, and welfare therefore requires the establishment and enforcement of the means to address and abate the aforescribed conditions.

SECTION 3. PURPOSE.

The purpose of this ordinance is to protect the health, safety and welfare of the people of the City of Brewer by establishing a program to identify, license, inspect to minimum standards, and determine actions owners will take to return vacant buildings to suitable or proper use or occupancy, or securing or demolishing such vacant buildings. This article is intended to prevent or mitigate dangers to health, safety, and welfare, promote responsible management, provide a safe neighborhood for residents, safeguard property values, expedite building repairs, and provide for prompt contact with owners or managers by police, fire, and code enforcement when issues or emergencies develop.

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SECTION 4. DEFINITIONS.

The following words and terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

“Owner”. Any person, agent, holder of an unrecorded contract for deed, a mortgagee or vendee in possession, a mortgagor or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lessor state therein, or other legal entity having a legal or equitable interest in a vacant building, including but not limited to the beneficiary of a trust, and the holder of a life estate.

“Vacant Building”. A residential, commercial, or industrial building which is lacking habitual presence of natural persons who have a legal right to be on the premises, or at which substantially all lawful business operations or residential occupancy has ceased with the exception of garages or accessory buildings not intended for human occupancy.

For the purposes of this definition, lacking habitual presence of natural persons occurs when at least 50% of the building measured in terms of floor area lacks habitual presence of natural persons. In addition, for the purposes of this definition, substantially all lawful business operations or residential occupancy ceases when at least 50% of the building measured in terms of floor area lacks a lawful business operation or residential occupancy.

The term “vacant building” also includes any building in which more than one-half of the total exterior windows and doors are broken, boarded or not present or without functioning locks is to be deemed vacant regardless of habitual presence of natural persons who have a legal right to be on the premises, lawful business operations, or residential or any other occupancy.

The term “vacant building” also includes any building or portion of a building greater than 50% of the building’s floor area that is primarily used as storage of items not offered to the general public or that are not inventory for ongoing lawful business operations or for sale to lawful ongoing business operations. For the purposes of this definition, inventory is goods or materials intended for lawful business operations that must turnover in a periodic manner customary for the intended lawful business operation(s). In addition, for the purposes of this definition, by way of example and without limitation, a “vacant building” does not include self-storage or substantially similar businesses offering storage to the general public, or warehouses used as inventory for ongoing lawful business operations or for sale to lawful ongoing business operations.

Vacant building determinations shall be made by the Code Enforcement Officer, in consultation, as necessary, with other government officials.

**SECTION 5. APPLICABILITY; LICENSE REQUIRED; RENEWAL; EXPIRATION;
RENEWAL LICENSE; TRANSFERABILITY; EXEMPTIONS.**

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The provisions of this ordinance apply to all residential, commercial, or industrial vacant buildings located within the area bounded by; the east side of the Penobscot River, the west side of the Bucksport branch of the Pam Am railroad tracks and Interstate 395.

License Required. A vacant building license is required for any vacant buildings as defined in this ordinance. Any person carrying on without a vacant building license shall be deemed in violation of this ordinance.

Existing Vacant Buildings as of _____, 2019. Within 90 days of _____, 2019, all existing vacant buildings shall apply for a vacant building license. Any person that fails to apply for a vacant building license by this deadline shall pay a penalty of \$750. This is in addition to the license application fee and penalties for non-compliance with this ordinance.

Vacant Buildings after _____, 2019. After _____, 2019, any building that becomes a vacant building in the _____ District shall apply for a vacant building license. Any person that fails to apply for a vacant building license within 90 days of a building becoming vacant shall pay a penalty of \$750. This is in addition to the license application fee and penalties for non-compliance with this ordinance.

License Expiration. All licenses expire 12 months from the effective date of issuance.

Renewal License. Application for a renewal license shall be filed prior to the expiration date. A renewal license expires 12 months from the effective date of issuance.

License Non-Transferrable. A vacant building license may only be issued to the owner of a vacant building named on the approved license application. One license may be issued for a vacant building and shall be deemed to cover only such building under that single form of ownership. No transfer of a license is allowed between owners or between buildings. Prior to any purchase, transfer, assignment, or acquisition of a vacant building, a new vacant building license shall be applied for and obtained. The license fee for any new license obtained by virtue of purchase, transfer, assignment, or acquisition of a vacant building shall be computed according to Section 7 of this Ordinance, in which the applicable license fee continues to escalate at two times the prior year fee up to a maximum of \$6,000 per year for each additional year the building continues as vacant notwithstanding any change in ownership, property transfers or numbers thereof, or issuance of a new license(s) by virtue of purchase, transfer, assignment, or acquisition.

Exemptions; Exemption Certificate. Any owner of a vacant building may request an exemption from the provisions of this ordinance by filing a written application with the Code Enforcement Officer who shall timely consider same and, if approved, issue an Exemption Certificate. A residential, commercial, or industrial building is exempt from the requirements of this ordinance if:

1. It is being substantively demolished, constructed, or altered pursuant to a valid building permit issued by the City.
2. It has suffered fire damage or damage caused by extreme weather conditions for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Code Enforcement Office. This request shall include the names and

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- addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
3. It is for sale and listed with a licensed State of Maine realtor for a period of at least 12 months from the start of vacancy, provided the sale price is at or below 110% of the fair market value of the property according to a certified appraiser in the State of Maine. The owner or owner's representative submits proof to the Code Enforcement Office of such listing and for sale status. If the vacant building is no longer listed with a licensed State of Maine realtor, then it does not qualify for an exemption certificate under this subsection.
 4. It is a primary residence of members of the armed forces on active duty, it is a vacation or resort facility, or a residence of persons on extended vacations or alternative living arrangements with the intention to return to the property and live (e.g., "snowbirds"). Owners of vacant buildings qualifying under one of these are required to have the property maintained by a property manager and to provide the City with a valid emergency contact number for the owner and the property manager.

An Exemption Certificate is valid for 6 months from the effective date of issuance by the Code Enforcement Officer. Prior to expiration of an Exemption Certificate, an applicant must submit a renewal application to the Code Enforcement Office. A renewal application shall be processed and be subject to the same standards as a new application for exemption. Exemption Certificates are non-transferrable.

SECTION 6. LICENSE REVIEWING AUTHORITY.

The Code Enforcement Officer shall have the authority to issue all licenses and exemption certificates pursuant to this ordinance to applicants meeting the licensing or exemption certificate standards.

SECTION 7. LICENSE FEES.

A vacant building license may only be issued after an owner has paid the license fee. The fee is paid through the Code Enforcement Office. The license fee is \$750 for each 12-month license issued. This license fee escalates at two times the prior year fee for each additional year the building continues as vacant regardless of the owner or issuance of a new license (e.g., change of ownership), up to a maximum of \$6,000 per year.

For any vacant building that obtains an exemption certificate that expires, the fee to obtain a vacant building license will include the time period of the exemption certificate.

In the event the cost of all materials, staff time, and other expenses of the City is greater than the above license fee, then those costs shall become the license fee due and payable to obtain a license for the applicable 12-month period.

SECTION 8. LICENSE APPLICATION.

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A license application shall be made to the Code Enforcement Office on a form furnished by the Brewer Code Enforcement Office for such purpose and shall include the following information:

1. Name, business or residence address, cell phone and primary telephone numbers, e-mail address of the owner or owners of the building.
2. Name, business or residence address, cell phone and primary telephone numbers, e-mail address of the individual designated by the owner or owners of the building as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding in connection with the enforcement of this article or code regarding the vacant building.
3. Name, business or residence address, twenty-four-hour-a-day cell and primary telephone numbers, e-mail address of the property manager responsible for management and maintenance of the building which shall be the primary contact for the City to schedule inspections.
4. The name of any bank/lender/lien holder with an interest in the property and its contact information, including the mailing address of the bank/lender/lien holder.
5. Street address of the building, parcel identification code or map and lot for the property on which the building sits.
6. Statement of intent, including the expected period of vacancy, the plan for care, maintenance and security of the property during the vacancy, code compliance, and a plan and timeline for lawful occupancy, rehabilitation, or removal or demolition of the building to commence (the "Vacant Building Plan"). The Vacant Building Plan shall be selected from and include the minimum requirements from one of the three following categories:
 - a. Demolition. If the vacant residential, commercial, or industrial building is to be demolished, the Vacant Building Plan shall include a proposed time frame for demolition which shall include a commencement date within 30 days of approval of the demolition time frame and shall not exceed 1 year in duration.
 - b. Secured Building/Property. If the vacant residential, commercial, or industrial building is to remain vacant, the Vacant Building Plan shall contain all of the following:
 - i. A plan for fire alarm and for protection as required by the Fire Department
 - ii. A plan of action to remedy any code, nuisance, or dangerous conditions
 - iii. A regular maintenance plan for property maintenance and to maintain compliance with all applicable City ordinances and codes.
 - iv. A lighting plan for the exterior of the building and property, adjacent walkways, parking, or loading areas, and nighttime illumination of areas and walkways of the building and property which may be vulnerable to vandalism and vagrancy as determined by the Police Department.
 - v. A regular maintenance plan for all exterior lighting and illumination fixtures.
 - vi. A plan for the maintenance of all structural openings, such as windows, doors, areaways, and other openings to avoid the necessity of boarding up. Windows, doors, areaways, and other openings that are located on the first floor and facing a street or

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the Riverfront shall not be papered, soaped, blacked out, or boarded up, and, for commercial or industrial buildings, to avoid the appearance of vacancy, a form of display shall be set up that shall be approved by the Fire Department.

- c. Rehabilitation/Redevelopment. If the vacant residential, commercial, or industrial building is to be returned to lawful occupancy or use, the Vacant Building Plan shall include a rehabilitation/redevelopment time frame for the building and property. The rehabilitation time frame shall not exceed 12 months, unless extended by the City for good cause.
7. List of persons authorized to be present in the building, including a statement that any person not listed shall be considered trespassers.

If any contact information required in the application changes or becomes out-of-date, the owner must notify the Code Enforcement Office of the changes in writing within 30 days of such change. Failure to notify the Code Enforcement Office of changes is a violation of this article.

SECTION 9. STANDARDS AND CONDITIONS.

The following minimum standards and conditions shall be met for vacant buildings. Failure to comply with any of these standards and conditions shall be deemed a violation of this ordinance.

- 1. The licensee shall provide complete application information and have paid the required license fee and required renewal license fees.
- 2. The building shall be in compliance with all applicable codes and ordinances of the City of Brewer.
- 3. A vacant building shall be free of any property defects as defined in 30-A M.R.S.A § 3106-B.
- 4. A vacant building shall not be a nuisance or dangerous building pursuant to 17 M.R.S.A § 2851.
- 5. No vacant building shall be occupied or illegally occupied in violation of this Code.
- 6. A vacant building shall be protected from deterioration and property defects.
- 7. A vacant building shall display a hazardous identification placard that is readily visible from normal access points of the building.
- 8. A vacant building shall abide by and implement the applicable Vacant Building Plan.

SECTION 10. INSPECTIONS FOR LICENSE APPLICATIONS.

At the time of application, the owner of a vacant building shall arrange for an inspection of the property with the Code Enforcement Office. The purpose of the inspection is to determine and ensure compliance with this ordinance and all applicable standards and conditions, and shall include an inspection of the property including, but not limited to, an inspection of the premises, building exterior, and building interior areas including the basement. The Code Enforcement Office may bring on the inspection such other government officials as it deems prudent to ensure compliance with standards and the safety of the building and the Code Enforcement Office, including but not limited to Police and Fire Officials. A government official's entry to property under this section is not a trespass.

SECTION 11. AUTHORIZED ENTRY FOR INSPECTIONS, GENERALLY.

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To safeguard the health, safety, and welfare of the public, Code Enforcement Officers are authorized to enter any property at reasonable hours or enter any building with the consent of the owner or agent to inspect the property or building for compliance. Code Enforcement Officers may also be accompanied by other government officials he or she deems prudent for the purpose of administering this ordinance. A government official's entry onto property under this section is not a trespass.

If the Code Enforcement Officer has reason to believe that an emergency or imminent danger exists tending to create an immediate danger to the public's health, safety, and welfare, Code, Police, Fire, and other government officials have the authority to enter and inspect the vacant building and premises upon which it stands without notification or warrant being required.

SECTION 12. VIOLATIONS AND PENALTIES.

In addition to any other available remedies, including but not limited to the City's authority to enforce land use laws and ordinances pursuant to 30-A M.R.S. § 4452, any person who violates any provision of this ordinance or the terms or conditions of any license shall be subject to civil penalties. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500. Monetary penalties may be assessed on a per-day basis and are civil penalties.

The Code Enforcement Officer is authorized to immediately and temporarily suspend, revoke, or take other enforcement actions regarding a vacant building license to an entire property or portion thereof when the Code Enforcement Officer has been denied entry to inspect the property, the licensee has not corrected violations by a specified date, or when the Code Enforcement Officer determines the property is in non-compliance with any provisions of this ordinance.

SECTION 13. ADMINISTRATIVE APPEALS.

Any decision by the Code Enforcement Officer may be appealed within 30 days of its issuance to the Board of Appeals. Such appeals shall be de novo and the proceedings shall be consistent with 30-A M.R.S. § 2691 and applicable City ordinance provisions regarding proceedings before the Board of Appeals.

SECTION 14. SEVERABILITY.

If any clause, sentence, paragraph, section, article, or part of this article or of any ordinance included in this Code or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect impair or invalidate the remainder therefor but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part therefore directly involved in the controversy in which such judgement shall have been rendered.

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Statement of Fact

The City of Brewer has determined that vacant buildings remaining unoccupied for significant amounts of time present a risk to the health and safety of the citizens of Brewer. The City has established a Vacant Property Registration Ordinance that ensures vacant properties will be identified, licensed and inspected to insure minimum safety standards are met.

ACTION: Councilor O’Connell moved that the ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed unanimously.

2019-C005

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TITLE: AN ORDINANCE TO AMEND CHAPTER 12 OF THE BREWER CITY
ORDINANCES ENTITLED “PERSONNEL”

Filed August 7, 2019

By Kevin J.M. O’Connell

WHEREAS, the City of Brewer has adopted an ordinance regarding personnel, codified in Chapter 12 of the Brewer City Ordinances (the “Brewer Personnel Ordinance”); and

WHEREAS, Article 1, Section 101 of the Brewer Personnel Ordinance states the City Council shall adopt a Personnel Policy for employees of all departments of the City of Brewer, which shall incorporate all matters relating to employment in all City departments except as otherwise provided in the Brewer Personnel Ordinance; and

WHEREAS, the Brewer City Council has adopted a Personnel Policy pursuant to Section 101 of the Brewer Personnel Ordinance; and

WHEREAS, under the current Brewer Personnel Ordinance, the Personnel Policy may only be amended by resolve of the City Council, regardless of the scope and nature of proposed amendments; and

WHEREAS, pursuant Article V, Section 6 of the Brewer City Charter, the City Manager is the administrative head of the City of Brewer and is responsible to the City Council for the administration of all departments; and

WHEREAS, *inter alia*, Article V, Section 6 of the Brewer City Charter states the powers and duties of the City Manager include “to exercise control over all departments and divisions . . .” and “to perform such other duties as may be prescribed by this charter or required by ordinance of the City Council;” and

WHEREAS, the need arises, from time to time, to amend the City’s Personnel Policy on a range of issues involving routine updates to substantive revisions; and

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WHEREAS, the above-described need to amend the City's Personnel Policy periodically involves matters that have little or no fiscal impact on the City of Brewer; and

WHEREAS, after due consideration of the above and in the interests of administrative efficiency, the City Council desires to amend the Brewer Personnel Ordinance to authorize the City Manager to make amendments to the Personnel Policy that have little or no fiscal impact on the City of Brewer.

NOW THEREFORE, the Brewer City Council hereby enacts the following ordinance amendment to the Brewer Personnel Ordinance:

Section 101 of Chapter 12 "Personnel" of the Brewer City Ordinances is hereby amended as follows (added language is underlined; deleted language is strikethrough):

Section 101.

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

The Personnel Policy, one official copy of which shall be on file in the office of the City Clerk, be and hereby is adopted by reference as the personnel policy for the City of Brewer. ~~The Personnel Policy may be amended from time to time, by resolve of the City Council.~~

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

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

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

NOTE: In any instances where any provision of the Personnel Policy is in conflict with any collective bargaining agreement that may exist, the

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collective bargaining agreement shall take preference for employees covered under the agreement.

Statement of Fact

This ordinance amendment authorizes the City Manager to amend the City's Personnel Policy on matters with little or no fiscal impact on the City of Brewer.

ACTION: Councilor Goss moved that the ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed unanimously.

2019-C006

August 13, 2019

TITLE: AN ORDINANCE TO AMEND CHAPTER 16 OF THE BREWER CITY ORDINANCES ENTITLED "BUILDING CODE"

Filed August 7, 2019
By Jerry Goss

WHEREAS, the State of Maine has limited home rule authority and adopted a uniform building code, titled the "Maine Uniform Building and Energy Code"; and

WHEREAS, Chapter 16 of the Brewer Codes and Ordinances fails to fully recognize the statutory requirements for the State of Maine uniform building and energy code; and

WHEREAS, the City of Brewer currently has no formal procedure within our Codes and Ordinances for ensuring compliance with the Americans with Disability Act and the federal Housing and Urban Development rules and regulations; and

NOW THEREFORE, the Brewer City Council hereby enacts the following ordinance amendment to Chapter 16 of the Codes & Ordinances, entitled "Building Code" by complete substitution:

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,

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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

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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 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.

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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

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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

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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.

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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 16.2.3 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.X 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.X 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.X APPLICABILITY

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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.X 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.X APPLICATION REQUIRED

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

SECTION 16.7.X 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.X 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.X.X 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.X.X 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.

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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.X.X 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.

SECTION 16.8. APPEAL OF DETERMINATION

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 SEVERABILTIY

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.

Statement of Fact

This amendment is designed to reconcile local ordinances with both State and Federal regulations and requirements, it also cleans up language for the permitting process and provides general housingkeeping of our local ordinances by ensuring a codification of current practices and procedures within the Code Enforcement Department.

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H. New Items with Leave of Council

ACTION: The City Clerk called the role for a vote. The vote was unanimous to take up all three items with leave of Council. Councilor O’Connell moved that order 2019-A120 have passage. The order was seconded and passed unanimously. Councilor Ferris moved that resolve 2019-B028 be adopted. The motion was seconded and passed unanimously.

2019-A120

August 13, 2019

TITLE: ORDER, APPOINT NEW MEMBER TO THE BREWER HIGH SCHOOL BOARD OF TRUSTEES

Filed August 1, 2019
By Kevin J.M. O’Connell &
Jerry Goss

ORDERED, that Janet McIntosh, 81 Birchwood Blvd., is herewith appointed to the Brewer High School Board of District Trustees to fill a currently vacant unexpired term; and

ORDERED, that Ms. McIntosh’s term will commence August 19, 2019 and expire November 2021.

Statement of Fact

This is an appointment that has been made to fill an unexpired term on the Brewer High School Board of District Trustees.

2019-B028

August 13, 2019

TITLE: RESOLVE, DECLARE SUPPORT FOR THE NEW HEDDERICG FIELD AT BREWER HIGH SCHOOL

Filed August 12, 2019
By Joseph L. Ferris &
Jerry Goss

WHEREAS, Charles “Chatterbox” Heddericg was a Brewer teacher, coach and Good Samaritan within our community; and

WHEREAS, thirty-two years ago in 1987 the Brewer District Trustees named the new baseball field that was constructed behind Brewer High School after Coach Heddericg; and

WHEREAS, during the last thirty-two years of the field’s existence, it has provided a great setting for many different athletes and their sports, but it has also seen deterioration rendering the field unusable season after season; and

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WHEREAS, the Brewer District Trustees and School Committee have a plan to construct a new Heddericg field that will be a hub of the community and the surrounding towns in the region, allowing for hundreds of athletes to practice and compete safely within our City.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council declares their support for the rebuilding/restoration of Heddericg Field keeping our promise of being a Community of Caring to the new generation of children and youth in the City of Brewer and surrounding communities.

ACTION: The City Clerk called the role for a vote. The vote was unanimous to go into executive session.

2019-A118

August 13, 2019

TITLE: ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO
TITLE 1, M.R.S.A. §405(6)(A) ON A PERSONNEL MATTER

Filed August 2, 2019
By Thomas Morelli

ORDERED that the Brewer City Council convene in executive session pursuant to Title 1, Maine Revised Statutes Annotated, §405(6)(A) on a personnel matter.

ACTION: The City Clerk called the role. Councilor O’Connell moved that order 2019-A119 have passage. The motion was seconded and passed unanimously.

2019-A119

August 13, 2019

TITLE: ORDER, EXTEND THE CITY MANAGER’S EMPLOYMENT
CONTRACT.

Filed August 1, 2019
By Kevin J.M. O’Connell &
Jerry Goss

WHEREAS, the City Council has done a performance evaluation of the City Manager, Stephen M. Bost; and

WHEREAS, the City Council believes it is in the best interest of the citizens, businesses, employees and staff of the City of Brewer to extend the term of the City Manager’s employment contract;

NOW THEREFORE, BE IT ORDERED, that Section 2(A) of the Employment Contract of the City Manager, Stephen M. Bost, is amended to provide for an expiration date of June 30, 2022, and in all other respects the Employment Contract will remain in full force and effect.

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I. Adjourn

Chairman Uhlenhake said she would accept a motion for adjournment.

ACTION: Councilor Ferris moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting was adjourned at 7:35 pm.

ADJOURNED, ATTEST: _____ Ronda J. Hogan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine