

City Council Minutes
September 10, 2019

Regular Meeting
City Hall Council Chambers

Tuesday, September 10, 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, September 10, 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	E. Willey	Sgt.	09/06/19	17:30
Thomas Morelli	E. Willey	Sgt.	09/06/19	17:15
Beverly Uhlenhake	E. Willey	Sgt.	09/06/19	17:40
Jerry Goss	E. Willey	Sgt.	09/06/19	17:05
Kevin O’Connell	E. Willey	Sgt.	09/06/19	17:46

CITY COUNCIL REGULAR MEETING
Tuesday, September 10, 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 August 13, 2019 Regular Meeting** (Councilor Morelli)
- B. Awards, Petitions and Public Comments**
 - 1. (2019-B024) RESOLVE Recognize William “Bill” Leithiser for 30 years of service to the Brewer School System (Councilor Goss)
- C. Consent Calendar**
 - 1. (2019-A121) ORDER Accept Homeland Security AFG Grant to Purchase Fire Hose (Councilor Ferris)
 - 2. (2019-A122) ORDER Tax Release Deed, Map 30, Lot 51, 245 Center Street (Councilor Morelli)
 - 3. (2019-A123) ORDER Authorize Brewer Water to make no new investments in water main extensions or service lines (Councilor O’Connell)
 - 4. (2019-A124) ORDER Authorize purchase of a replacement pickup truck for Public Works (Councilor Goss)
 - 5. (2019-A125) ORDER Authorize purchase of rock salt (Councilor Ferris)
 - 6. (2019-A126) ORDER Declare City property surplus and authorize disposal of said property (Councilor Morelli)
 - 7. (2019-A127) ORDER Accept donations to the Brewer Parks & Recreation Department for Brewer Days (Councilor O’Connell)
 - 8. (2019-A128) ORDER Accept donations to the Brewer Parks & Recreation Department for the Fall Programs (Councilor Goss)
 - 9. (2019-A129) ORDER Accept donation to the Brewer Parks & Recreation Department for Winter Youth Dodgeball Program (Councilor Ferris)
 - 10. (2019-A130) ORDER Commit water assessment to Treasurer for collection (Councilor Morelli)
 - 11. (2019-A131) ORDER Commit sewer assessment to Treasurer for collection (Councilor O’Connell)
 - 12. (2019-A133) ORDER Authorize purchase of a replacement skidsteer for the Public Works Department (Councilor Ferris)
 - 13. (2019-A134) ORDER Accept donation to the Brewer Fire Department from JR Redemption Center (Councilor Morelli)
 - 14. (2019-A135) ORDER Accept funds from Brewer Centennial Committee (Councilor O’Connell)
 - 15. (2019-A136) ORDER Rename computer replacement reserve and expand use (Councilor Goss)
 - 16. (2019-A137) ORDER Establish street light replacement reserve (Councilor Ferris)
 - 17. (2019-A138) ORDER Approve the carry forward encumbrance of appropriated,

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but not expended, FY2019 funds for approved projects
(Councilor Morelli)

D. Monthly Reports (Councilor O'Connell)

E. Nominations, Appointments, Elections

1. (2019-A139) ORDER Issue Warrants for November 5, 2019 City of Brewer Annual Municipal Election and set polling hours for November 5, 2019 City of Brewer Annual Election and State of Maine Referendum Election (Councilor Goss)
2. (2019-B029) RESOLVE Prescribe Registrar of Voters hourly schedule for the November 5, 2019 City of Brewer Annual Election and State of Maine Referendum Election (Councilor Ferris)

F. Unfinished 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)

G. New Business

1. (2019-C007) Amend Chapter 28 of the Brewer City Ordinances entitled "Signs" (Councilor Ferris)
2. (2019-C008) Amend Chapter 22 of the Brewer City Ordinances entitled "Solid Waste & Recycling" (Councilor Morelli)
3. (2019-C009) Amend Chapter 15 of the Brewer City Ordinances entitled "Parks, Conservation & Recreation" (Councilor O'Connell & Councilor Goss)

H. New Items with Leave of Council

I. ADJOURN

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A. Minutes of August 13, 2019 Regular Meeting

ACTION: Councilor Morelli moved that the minutes be accepted and placed on file. The motion was seconded and passed unanimously.

B. Awards, Petitions and Public Comments

2019-B024

September 10, 2019

TITLE: RESOLVE, RECOGNIZE WILLIAM “BILL” LEITHISER FOR 30 YEARS OF SERVICE TO THE BREWER SCHOOL DEPARTMENT

Filed June 30, 2019
By Jerry Goss

WHEREAS, William “Bill” Leithiser officially retired as Principal of the Brewer Community School as of June 30, 2019; and

WHEREAS, as of June 27, 2019 Bill Leithiser reached the milestone of 30 years of dedicated service to the City of Brewer as an employee and leader of the Brewer School Department; and

WHEREAS, in 1989, Bill began his career as the Assistant Principal/Athletic Director at Brewer High School and in 1992 he was appointed Middle School Principal until 2011 when the Brewer Community School opened, and he became Pre-K to Grade 8 Principal; and

WHEREAS, he was a highly valued and respected member of the Brewer administrative team also known as the ATeam; and

WHEREAS, his contributions were always kid oriented, Bill always focused on the big picture, not just his school and his sense of humor allowed for positive results even in the toughest of times; and

WHEREAS, his admirable coaching skills helped him to develop his staff into a remarkable team and his leadership helped make Brewer one of the leading educational programs in the State of Maine.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of Brewer, herewith recognizes and commends William “Bill” Leithiser for 30 years of outstanding dedicated service to the citizens of the City of Brewer as a trusted and valued employee of the Brewer School Department; and

BE IT FURTHER, RESOLVED, that this resolution be spread upon the permanent records of the City of Brewer in testimony of the appreciation held for Bill Leithiser by the citizens and officials of the City of Brewer, Maine.

ACTION: Councilor Goss moved that the resolve be adopted. The motion was seconded. Councilor Goss stated that William Leithiser was not able to make it to the meeting due to a schedule conflict.

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Councilor Goss read the resolve into the record.
The resolve passed unanimously.

Public Comments

Steve Wong, owner of the Creative Arts Center 54 Wilson Street, presented the Council and the City with an aerial picture of the newly completed Riverwalk Trail.

Councilor O'Connell presented a University of Maine coin to Councilor Ferris for his induction into the University of Maine Hall of Fame. Councilor O'Connell had wanted to present the coin when the Council recognized Councilor Ferris but had a difficult time finding the coin; eventually he attained the coin from a "friend of a friend who knew someone".

Councilor O'Connell stated that he is looking for City employees or their family members to participate in the Race for the Cure in an old war canoe; they need 8 to 10 people to fill the canoe.

Chairman Uhlenhake read a thank you note from Councilor Ferris for the Council's part in the dedication ceremony of the Joseph L Ferris Community Center.

Chairman Uhlenhake thanked the Brewer Parks & Recreation Department and all the City Departments that were involved in the very successful Brewer Days that just took place.

Michele Labree Daniels, 28 School Street, spoke in favor of the VPRO.

Ashley Bloomer, 217 Center Street, stated her concern about the difficulty of finding information online about what is going on in the City. She also asked for her neighbor who was unable to attend the meeting about the paving schedule, especially the Center Street timeline; and she questioned the half painted cross walks. David Cote, Public Works Director, answered Ashley's questions about Center Street and said he had already noticed what she was concerned about and has plans to repair it; as far as the painting, the crew had been rained out but it is also on the schedule to fix. City Manager Stephen Bost explained the City's e-list to Ms. Bloomer and told her it is easy to sign up and then she would receive electronic information about what is going on in the City.

C. Consent Calendar

2019-A121

September 10, 2019

TITLE: ORDER, ACCEPT HOMELAND SECURITY AFG GRANT TO PURCHASE
FIRE HOSE

Filed September 3, 2019
By Joseph L. Ferris

WHEREAS, the City received a grant from the fiscal year 2018 Homeland Security Assistance for Firefighter Grant Program totaling \$17,371.42; and

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WHEREAS, the funds are earmarked for the purchase of new fire hose; and

WHEREAS, the City is required to provide 5% of the federal funds awarded in matching funds, or a total of \$868.58.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts these grant funds and directs the funds be deposited in account 0600059-360000-59028 (2019 AFG Grant Revenue); and

BE IT FURTHER ORDERED, the City Council hereby authorizes the appropriation and expenditure of these funds from account 0600059-560000-59028 (2019 AFG Grant Expense) to purchase fire hose; and

BE IT FURTHER ORDERED, that the City's required match be drawn from account 0115911-550200 (Fire City Share/Match).

Statement of Fact

The City of Brewer Fire Department was awarded a total of \$18,240 from the FY 2018 Homeland Security Assistance to Firefighters Grant (AFG) Program--\$17,371 in grant plus \$869 in required local match from the City. These funds will be used to purchase new fire hose, which is needed to comply with current MFPA standards.

2019-A122

September 10, 2019

TITLE: ORDER, Tax Release Deed, Map 30, Lot 51, 245 Center Street, Brewer, ME

Filed August 30, 2019

By Thomas Morelli

BE IT ORDERED, that a municipal Release Deed be issued to **The Estate of Robert E. Peterson to whom taxes were assessed**, City of Brewer, County of PENOBSCOT, State of Maine, the land in Brewer, County of **Penobscot** releasing to them all interest that the City of Brewer may have acquired by virtue of tax liens on their property; and

BE IT FURTHER ORDERED that the City Manager be herewith authorized to execute this Release Deed on behalf of the City of Brewer.

Statement of Fact

The City of Brewer provided a first right of refusal for the purchase of this property from the Brewer Housing Authority. After the BHA declined to purchase this property from the City, we proceeded to settle the outstanding costs with the bank and heirs of the previous owner(s).

A total of \$30,497.88 was collected: \$14,228.00 in principal, \$3012.65 in interest, \$785.53 in costs, and \$12,471.70 in Legal and staff time.

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2019-A123

September 10, 2019

TITLE: ORDER, AUTHORIZE BREWER WATER TO MAKE NO NEW INVESTMENTS IN WATER MAIN EXTENSIONS OR SERVICE LINES

Filed August 30, 2019
By Kevin O'Connell

WHEREAS, Brewer Water and its governing body desire to make no new investments in water main extensions or services; and

WHEREAS, a customer may still be allowed to extend a main line or install a new service if approved by Brewer Water and with the new customer(s) assuming the full cost of the project; and

WHEREAS, 65-407 Public Utilities Commission, Chapter 65: Water Main Extension and Service Line Rule & Title 35-A: Public Utilities Part 6: Water Chapter 61: General Provisions and Rates, § 6106 Apportionment of costs for water main extensions or service lines, allows the governing body of a water department to choose to make no new investments in water main extensions or services.

NOW, THEREFORE, BE IT ORDERED, Brewer Water and its governing body hereby choose to make no investment in a water main extension or service line and may require persons requesting a water main extension or service line to advance to the utility the full cost of construction, including associated appurtenances required solely as a result of the construction of the water main extension or service line and used solely for the operation of the main extension or service line; and

BE IT FURTHER ORDERED, that the governing body may assess the full cost of water main extensions on all property that abuts the water main in accordance with rules promulgated by the governing body. The owner of any property which is not hooked up to the water system may defer payment of the assessment until it is hooked up. The governing body by rule may exempt appropriate classes of property from the assessment and may provide for payment of an assessment over a period of time.

Statement of Fact

Brewer Water has sufficient capacity to supply water to new customers and at this time does not wish to take on the debt or costs associated with main line extensions and service installations. This order and vote by the Council allows Brewer Water to officially record this desire with the PUC and to place the cost of installations on the developer or owner of the property.

The governing body can change this at any time in the future if it desires to grow the system or if the need arises.

2019-A124

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TITLE: ORDER, AUTHORIZE PURCHASE OF A REPLACEMENT PICKUP
TRUCK FOR PUBLIC WORKS

Filed August 27, 2019
By Jerry Goss

WHEREAS, Bids were solicited, received and evaluated for the purchase of a new pickup truck to replace Public Works unit #405, a 2009 Ford F150 extra cab, as included in the approved FY2020 CIP; and

WHEREAS, O'Connor Auto Park, of Augusta, Maine provided the City with the lowest of the six (6) bids received in the amount of \$29,681.00, which includes a truck price of \$27,686.00 plus \$1,995.00 for an extended warranty; and

WHEREAS, the approved FY2020 CIP included only \$26,000 for this purchase but there are sufficient funds available in the Unallocated Fund Balance account to cover any overage remaining after the proceeds of the sale of the 2009 unit are applied.

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to O'Connor Auto in the amount of \$29,681.00 for the purchase of a 2020, 1500 Chevrolet Silverado pickup truck, \$27,686.00 for the truck and \$1,995.00 for the extended warranty; and

BE IT FURTHER ORDERED, that the funds for this purchase be charged to the FY20 CIP account #0510133-551367 titled "PW F150 Pickup #405", approved in the FY20 CIP budget; and

BE IF FURTHER ORDERED, that the current Public Works unit #405, vin number ending 2024 be deemed surplus City equipment; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to sell and finalize the sale of said surplus property by means that would be in the best interest of the City of Brewer; and

BE IF FURTHER ORDERED, that any funds acquired through the sale of unit #405 be deposited into account 0500100-300410 (CIP Sale of Assets) and be authorized for appropriation and expenditure from 0510133-551367 to help offset the overage of this purchase. Additional funds needed to cover the cost of this purchase, if any, shall come CIP Unallocated fund balance.

Statement of Fact

This order authorizes the expenditure of \$29,681 to purchase a replacement pickup for unit #405, which is in poor condition and due for replacement. The FY2020 CIP budgeted \$26,000 for this purchase. The remaining funds will come from sale of the 2009 vehicle and CIP unallocated fund balance.

2019-A125

September 10, 2019

TITLE: ORDER, AUTHORIZE PURCHASE OF ROCK SALT

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Filed August 27, 2019
By Joseph L. Ferris

WHEREAS, a joint bid was solicited, received and evaluated for the purchase and delivery of rock salt to the Cities of Brewer, Bangor and the Town of Hampden, for the upcoming winter season; and

WHEREAS, New England Salt Company of Bangor, Maine has provided the lowest price per ton on acceptable material to the City of Brewer of the five bids received.

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to New England Salt Company in the amount of \$114,000.00 for supplying and delivering rock salt at \$46.24 per ton; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to the Public Works account 0116671-502530, titled, Rock Salt.

Statement of Fact

After careful consideration whether or not to extend our current salt contract for an additional year or rebid, I suggested to Bangor and Hamden that we take the chance and rebid the contract. Although it was a risk to rebid the contract, I felt it was the right time and it paid off, reducing our price by \$9.95 per ton.

2019-A126

September 10, 2019

TITLE: ORDER, DECLARE CITY PROPERTY SURPLUS AND AUTHORIZE
DISPOSAL OF SAID PROPERTY

Filed August 23, 2019
By Thomas Morelli

WHEREAS, the City currently owns a 2001 Tenco, 10' dump/spreader body; and

WHEREAS, the Tenco body has been used for spare parts and will likely never be of use to the City again.

NOW, THEREFORE, BE IT ORDERED, that the 2001 Tenco dump/spreader body be deemed surplus City property; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to dispose of said surplus property by means that would be in the best interest of the City of Brewer; and

BE IT FURTHER ORDERED, Be It Further ordered that the any funds received from the sale of the above-mentioned property be receipted to the City's CIP Sale of Assets Revenue Account (0500100-300410) and be used to support current or future capital equipment purchases.

Statement of Fact

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This is now the only Tenco dump body the City owns, which has been stripped for useful spare parts but is no longer of value and we would like to remove it from the Green Point facility yard.

2019-A127

September 10, 2019

TITLE: ORDER, ACCEPT DONATIONS TO THE BREWER PARKS
AND RECREATION DEPARTMENT FOR BREWER DAYS

Filed August 19, 2019
By Kevin O'Connell

WHEREAS, the Brewer Parks & Recreation Department has received donations of \$500.00 from Machias Savings Bank, \$500.00 from Marden's, Inc., \$500.00 from Sun Tan City, \$500.00 from Brewer Center for Health & Rehabilitation and \$1,500.00 from Brewer Federal Credit Union for support of Brewer Days; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donors that these donations be appropriated and expended to supplement the Brewer Days.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and directs that the donation be receipted to account 0200000-320000-71002; and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from account 0200000-520000-71002 (Brewer Days Expense).

Statement of Fact

This order accepts contributions to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Brewer Days event.

2019-A128

September 10, 2019

TITLE: ORDER, ACCEPT DONATION TO THE BREWER PARKS
AND RECREATION DEPARTMENT FOR THE FALL
PROGRAMS

Filed August 19, 2019
By Jerry Goss

WHEREAS, the Brewer Parks & Recreation Department has received donations of \$100.00 from Twin City Tire and \$100.00 from Bangor Tire Company for support of the Fall Soccer Program; and

WHEREAS, the Brewer Parks & Recreation Department has received donations of \$100.00 from Bangor Tire Company for support of the Fall Youth Dodgeball Program; and

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WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donors that these donations be appropriated and expended to supplement the Fall Programs.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and directs that the donation be receipted to account 0107123-300328; and

BE IT 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 this contribution to support the Fall Programs.

2019-A129

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TITLE: ORDER, ACCEPT DONATION TO THE BREWER PARKS
AND RECREATION DEPARTMENT FOR THE
WINTER YOUTH DODGEBALL PROGRAM

Filed August 19, 2019

By Joseph L. Ferris

WHEREAS, the Brewer Parks & Recreation Department has received donations of \$100.00 from Bangor Tire Company for support of the Winter Youth Dodgeball Program; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donors that these donations be appropriated and expended to supplement the Winter Programs.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and directs that the donation be receipted to account 0107123-300329; and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from account 0117121-506140 (Winter/Program League).

Statement of Fact

This order accepts contributions to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Winter Programs.

2019-A130

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TITLE: ORDER, COMMIT WATER ASSESSMENT TO TREASURER
FOR COLLECTION

Filed September 4, 2019
By Thomas Morelli

WHEREAS, under Chapter 40 of the Water Department of the City of Brewer, a water charge is assessed to water users.

NOW, THEREFORE BE IT ORDERED, that the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$653,407.56** at the established rate, as provided by Title 30-A M.R.S. §3406 and Title 38 M.R.S. §1208 and as such sections may be amended from time to time; and

BE IT FURTHER ORDERED, that said charges are due and payable on the date of this commitment.

EVENT	COMMITMENT	COMMENTS
September 2019	\$643,919.17	
June 2019	\$2,083.10	
July 2019	\$4,133.20	
August 2019	\$3,272.09	
TOTAL	\$653,407.56	

2019-A131

September 10, 2019

TITLE: ORDER, COMMIT SEWER ASSESSMENT TO TREASURER
FOR COLLECTION

Filed September 4, 2019
By Kevin O'Connell

WHEREAS, under Chapter 31 of the Sewer and Pre-treatment Ordinance of the City of Brewer, a sewer charge is assessed to users.

NOW, THEREFORE BE IT ORDERED, that the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$618,898.24** at the established rate, as provided by Title 30-A M.R.S.A. § 3406 and Title 38 M.R.S.A. § 1208 and as such sections may be amended from time to time; and

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BE IT FURTHER ORDERED, that said charges are due and payable on the date of this commitment.

EVENT	COMMITMENT	COMMENTS
September 2019	\$609,543.76	
June 2019	\$1,949.19	
July 2019	\$4,133.20	
August 2019	\$3,272.09	
TOTAL	\$618,898.24	

2019-A133

September 10, 2019

TITLE: ORDER, AUTHORIZE THE PURCHASE OF A REPLACEMENT
SKIDSTEER FOR THE PUBLIC WORKS DEPARTMENT

Filed September 4, 2019
By Joseph L. Ferris

WHEREAS, Bids were solicited, received and evaluated for the purchase of a new skid steer track mini-loader to replace 2 – 2009 S160 Bobcat skid steers, units numbered 440 and 441; and

WHEREAS, Jordan Equipment Company, Inc. of Hermon, Maine provided the City with the lowest of the three (3) bids received.

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order to Jordan Equipment Company, Inc. in the amount of \$62,082.26 for the purchase of a 2019 Bobcat T595 tracked skid steer with attachments; and

BE IT FURTHER ORDERED, that the funds for this purchase be charged to the FY20 CIP account #0510133-551628 titled “Skidsteer loader – track model”, approved in the FY20 CIP budget; and

BE IT FURTHER ORDERED, that the current Public Works unit #440, vin number ending 30009 and unit #441 vin number ending 30007 be deemed surplus City equipment; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to sell and finalize the sale of said surplus property by means that would be in the best interest of the City of Brewer; and

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BE IT FURTHER ORDERED, that funds acquired through the sale of units #440 and #441 be deposited into account #0500100-300410 (CIP Sale of Assets) and that \$2,082 be authorized for appropriation and expenditure from 0510133-551628 to offset the overage of this purchase and that the remainder of the funds be used to support future capital purchases.

Statement of Fact

The new track skid steer is the first of a plan purchase of different style equipment that will offer better capabilities to the department without increasing the maintenance or capital burden on the City. In the 2020 CIP budget \$60,000 was allocated for this purchase, but we are confident the sale of units #440 and #441 will cover the slight overage of \$2,082.26.

2019-A134

September 10, 2019

TITLE: ORDER, ACCEPT DONATION TO THE BREWER FIRE DEPARTMENT
FROM JR REDEMPTION CENTER

Filed September 4, 2019
By Thomas Morelli

WHEREAS, the City of Brewer Fire Department has received a donation of \$95.00 from JR Redemption Center; and

WHEREAS, the Fire Department will use these funds to purchase particulate hoods.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this generous donation, from JR Redemption and directs that the donated funds be received to account 0105904 300490 (Fire Miscellaneous Revenue); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0115911 503000 (Minor Equipment) to purchase particulate hoods.

Statement of Fact

The City of Brewer Fire Department received a donation of \$95.00 from JR Redemption Center. These funds will be used to purchase particulate hoods.

2019-A135

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TITLE: ORDER, ACCEPT FUNDS FROM BREWER CENTENNIAL COMMITTEE

Filed September 4, 2019
By Kevin O'Connell

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WHEREAS, in 1989 the Brewer Centennial Committee was established to organize and fundraise for events to celebrate the centennial of Brewer's incorporation as a city; and

WHEREAS, the Brewer Centennial Committee continued its efforts to celebrate Brewer history in 2012 through coordination and support of events commemorating the bicentennial of Brewer's incorporation as a town after its break away from Orrington in 1812; and

WHEREAS, the Centennial Committee has \$381.63 that it wishes to turn over to the City to safekeep and use on a future endeavor that promotes and celebrates Brewer history; and

WHEREAS, the City Council recognizes the importance and value of celebrating Brewer's history and heritage and supports this action.

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby accepts \$381.63 from the Brewer Centennial Committee and authorizes its receipt to Fund 3001 (Brewer Centennial Fund); and

BE IT FURTHER ORDERED, that the City Council authorizes the appropriation and expenditure of these funds exclusively on an endeavor that promotes and celebrates Brewer history.

2019-A136

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TITLE: ORDER, RENAME COMPUTER REPLACEMENT RESERVE AND EXPAND USE

Filed September 4, 2019
By Jerry Goss

WHEREAS, in 2013 the City established a reserve account intended to fund replacement of computers not covered by the Technology Department's annual computer replacement budget; and

WHEREAS, funding for the reserve came from the occasional transfer of funds that had been budgeted for computer replacement but in the end were not used or needed in that fiscal year; and

WHEREAS, the City wishes to expand use of the reserve to include broader computer and technology related initiatives that might be unanticipated or lumpy in cost.

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby approves renaming the Computer Replacement Reserve as the Technology Reserve and authorizes its expansion to include other unanticipated and/or irregular technology related expenses such as revamping the City's webpage; and

BE IT FURTHER ORDERED, that the City Council authorizes the Finance Director or her designee to move such unexpended computer related funds as appropriate into the reserve at the end of each fiscal year.

Statement of Fact

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This order renames the Computer Replacement Reserve as the Technology Reserve and expands it to include unanticipated and/or irregular technology related expenses such as webpage updates.

2019-A137

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TITLE: ORDER, ESTABLISH STREET LIGHT REPLACEMENT RESERVE

Filed September 4, 2019
By Joseph L. Ferris

WHEREAS, in 2018 the City purchased 881 street lights in Brewer from Emera Maine and replaced all of them, plus a few others, with LED fixtures at a cost of approximately \$353,000; and

WHEREAS, the City wishes to begin setting aside funds when able to provide a source of funding when replacement of lights is needed in approximately 15 to 20 years.

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby authorizes the establishment of a street light replacement reserve to accrue funding for this expense; and

BE IT FURTHER ORDERED, that the City Council authorizes the Finance Director or her designee to move unexpended street light related funds into the reserve at the end of each fiscal year.

Statement of Fact

This order establishes a Street Light Replacement Reserve to be funded by unexpended street light related funds, if any, at the end of each fiscal year.

2019-A138

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TITLE: ORDER, APPROVE THE CARRY FORWARD ENCUMBRANCE OF
APPROPRIATED, BUT NOT EXPENDED, FY2019 FUNDS
FOR APPROVED PROJECTS

Filed September 4, 2019
By Thomas Morelli

BE IT ORDERED, that the City Council herewith authorizes and approves the carry forward of funds in the following accounts from the end of Fiscal Year 2019 to Fiscal Year 2020 as follows:

Account #	Description	Carry Forward
0115201-501160	Assessor – GIS Costs	\$3,000.00
0115201-502300	Assessor – Computer Software	\$5,000.00
0115400-501000	Legal Services	\$3,090.50
0115400-501005	Legal Services - Assessing	\$1,148.50
0115501-501070	Finance – Misc Professional Services	\$640.00

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0115601-500860	Technology – Training, Conferences & Mtgs	\$673.79
0115601-502300	Technology – Computer Supplies & Expenses	\$3,864.00
0115701-501545	Economic Dev – Beautification	\$1,245.00
0115811-500860	Police Patrol – Training, Conferences & Mtgs	\$229.50
0115811-504100	Police Patrol – Minor Equipment	\$3,690.00
0116100-504100	General Protections – Equip Maint & Repair	\$27,199.26
0116500-501110	Transit Operating Expense- The Bus	\$44,170.00
0116601-502800	Public Works – Safety Supplies	\$687.44
0116611-502700	Public Works – Materials & Supplies	\$713.50
0116641-504200	Public Works – Vehicle Maint & Repair	\$193.60
0116711-501430	Public Works – Recycling Fees	\$15,616.00
0117201-502200	Library – Office Supplies	\$38.00
0117201-502750	Library – Books	\$381.78
0117201-504100	Library – Equipment Maint & Repair	\$580.00
	General Fund Total	\$112,160.87
0717502-502310	Water Admin – Computer Supplies & Expenses	\$288.00
0717703-504100	Water Plant – Equipment Maint and Repair	\$971.03
0718300-501065	Water Hatcase Pond – Other Services	\$1,012.50
0718301-504400	Water Hatcase Pond – Pump Maint and Repair	\$2,716.00
0817502-502310	Sewer Admin – Computer Supplies & Expenses	\$288.00
	Water & Sewer Fund Total	\$5,275.53

Statement of Fact

This annual order authorizes funds appropriated for specific uses in the prior fiscal year but not expended to be carried forward to the current fiscal year.

ACTION: Councilor O’Connell moved that the orders on the consent calendar have passage. The motion was seconded and passed unanimously.

D. Monthly Reports

ACTION: Councilor O’Connell moved that the monthly reports be accepted and placed on file. The motion was seconded and passed unanimously.

E. Nominations, Appointments, Elections

2019-A139

September 10, 2019

TITLE: ORDER, ISSUE WARRANTS FOR NOVEMBER 5, 2019 CITY OF BREWER

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ANNUAL MUNICIPAL ELECTION AND SET POLLING HOURS FOR
NOVEMBER 5, 2019 CITY OF BREWER ANNUAL MUNICIPAL
ELECTION AND STATE OF MAINE REFERENDUM ELECTION.

Filed September 4, 2019
By Jerry Goss

WHEREAS, the City of Brewer Annual Municipal Election, and State of Maine Referendum Election will be held on Tuesday, November 5, 2019; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) provides that the polls must be opened no earlier than 6:00 a.m. and no later than 8:00 a.m. on election day; and

WHEREAS, Title 21-A, M.R.S.A., Section 626(1) further provides that the municipal officers shall determine the time of opening the polls within the time limits of 6:00 a.m. to 8:00 a.m.; and

WHEREAS, a poll opening time of 7:00 a.m. will, in the judgment of the municipal officers, meet the needs of the municipality for the November 5, 2019 election.

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith set the time of 7:00 a.m. for opening the polls and a time of 8:00 p.m. for closing the polls for the November 5, 2019 City of Brewer Annual Municipal Election, and State of Maine Referendum Election; and

BE IT FURTHER ORDERED, that the municipal officers issue warrants for the City of Brewer Annual Municipal Election to be held on November 5, 2019 with the polls to open at 7:00 a.m. and close at 8:00 p.m.

CITY OF BREWER
ANNUAL MUNICIPAL ELECTION

Penobscot ss.

State of Maine

To: _____, a Constable in the City of Brewer.

You are hereby required in the name of the State of Maine to notify the voters of the City of Brewer of the election described in this warrant.

TO THE VOTERS OF THE CITY OF BREWER
WARD 1, PRECINCTS 1 AND 2

You are hereby notified that the annual municipal election in the municipality will be held at the Brewer Auditorium on Tuesday, the fifth day of November, 2019 for the purpose of affecting the election of:

TWO MEMBERS OF THE CITY COUNCIL FOR THREE YEAR TERMS
ONE MEMBER OF THE SUPERINTENDING SCHOOL COMMITTEE FOR THREE YEAR TERM
ONE TRUSTEE OF THE BREWER HIGH SCHOOL DISTRICT FOR A FIVE-YEAR TERM

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The polls shall be opened at 7:00 A.M. and close at 8:00 P.M.

The Registrar of Voters shall hold office hours while the polls are open to correct any error in or change a name or address on the voting list, to accept the registration of any person eligible to vote and to accept new registrations.

A person who is not registered as a voter may not vote in any election.

Dated at Brewer, Maine this 10th day of September in the year of Our Lord, Two Thousand Nineteen.

Majority of the Municipal Officers of Brewer

Beverly Uhlenhake, Mayor

Jerry Goss, Deputy Mayor

Joseph L. Ferris

Kevin J.M. O'Connell

Thomas Morelli

ACTION: Councilor Goss moved that the order have passage. The motion was seconded and passed unanimously.

2019-B029

September 10, 2019

TITLE: RESOLVE, PRESCRIBE REGISTRAR OF VOTERS HOURLY SCHEDULE FOR THE NOVEMBER 5, 2019 CITY OF BREWER ANNUAL MUNICIPAL ELECTION, AND STATE OF MAINE REFERENDUM ELECTION.

Filed September 4, 2019
By Joseph L. Ferris

WHEREAS, the City of Brewer Annual Municipal Election, and State of Maine Referendum Election will be held on Tuesday, November 5, 2019; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (6)(A)(2) provides in part, that in a municipality with a population of more than 2,500, the Registrar of Voters shall accept registrations on the last 5

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business days before election day, during the hours that the city clerk's office is open (8:00 a.m. – 4:00 p.m.) and for 2 hours in the evening between 5:00 p.m. and 9:00 p.m. on at least 3 of these days; and

WHEREAS, the City of Brewer has a population greater than 2,500 according to the 2010 federal census; and

WHEREAS, Title 21-A M.R.S.A., Section 122 (8) provides that the hourly schedule may be changed by the municipal officers according to the needs of the municipality; and

WHEREAS, the Registrar of Voters suggests that the needs of the municipality are sufficiently met with the 8:00 a.m. to 4:00 p.m. daily schedule and with election day voter registration so that it is not necessary for the Registrar of Voters to hold office hours and accept registrations during evening hours between 5:00 p.m. and 9:00 p.m. on at least 3 of the days during the last 5 business day period prior to the election; and

WHEREAS, the municipal officers concur with this assessment by the Registrar of Voters.

NOW, THEREFORE, BE IT RESOLVED, that the municipal officers herewith prescribe the hours of registration as 8:00 a.m. to 4:00 p.m. on the five business days next prior to the City and State Elections to be held on November 5, 2019.

ACTION: Councilor Ferris moved that the resolve be adopted. The motion was seconded and passed unanimously.

F. Unfinished Business

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, 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 ensure minimum safety standards are met.

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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.

SECTION 4. DEFINITIONS.

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

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“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.

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.

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Existing Vacant Buildings as of the Effective Date of this Ordinance [see below for Effective Date].

Within 90 days of the Effective Date of this ordinance, 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 the Effective Date of this Ordinance [see below for Effective Date]. After the Effective Date of this ordinance, any building that becomes a vacant building in the area described above 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 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 for commercial or industrial properties or a period of at least 6 months for residential properties, beginning 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, or is offered for lease at a market rate. The owner or owner's representative submits proof to the

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Code Enforcement Office of such listing and for sale or lease 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. Any Exemption Certificate based on this sale/listing/lease exemption must be conditioned upon and be in compliance with the Secured Building/Property provisions stated below in Section 8.6.b.

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.

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:

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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 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.

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- 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.

Effective Date:

Statement of Fact

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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 ensure minimum safety standards are met.

ACTION: Councilor Ferris moved that the ordinance have passage. The motion was seconded. City Solicitor Jonathan Pottle noted that there was an amendment to the ordinance concerning the exemptions section. Councilor O’Connell moved that the amendment be included in the ordinance. The motion was seconded and passed unanimously. Councilor Ferris questioned the Public Safety Director Jason Moffitt about how vacant properties have a negative impact on the City and asked for any research if any that backs up the claim. Public Safety Director Jason Moffitt explained how vacant properties attract vandalism and become safety issues for the City. Councilor Ferris voiced his concern for the section of the ordinance that requires the sellers of the property to get an appraisal, due to the cost of the appraisals. Economic Development Director D’arcy Main-Boyington explained to Councilor Ferris that the City does have funds to help defray the cost of the appraisals for commercial buildings in the waterfront area. Councilor Ferris relayed that his concern was for residential properties. Councilor Ferris moved to amend the ordinance to include brokers opinion of value or comparative market analysis for residential properties. The motion was seconded and passed unanimously. The ordinance with two amendments passed unanimously.

2019-C005

August 13, 2019

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

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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

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

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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 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 O'Connell moved that the ordinance have passage. 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:

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CHAPTER 16 BUILDING CODE

ARTICLE 1 BUILDING & ENERGY CODE

SECTION 16.1.1 ADOPTION

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

ARTICLE 2 BUILDING OFFICIAL

SECTION 16.2.1 Department of Building Inspections

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

ARTICLE 3 EMERGENCY PROVISIONS

SECTION 16.3.1 EMERGENCY CERTIFICATE OF OCCUPANCY

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

SECTION 16.3.2 AUTHORITY GRANTED

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

SECTION 16.3.3 HEALTH, SAFETY, & WELFARE

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

SECTION 16.3.4 WRITTEN AGREEMENT REQUIRED

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

1. The owners agree to comply with the terms of this Ordinance by the end of the date approved by the City Council for temporary occupancy or immediately vacate the structure; and
2. If the owners, their immediate family, or third parties fail to vacate the structure at the end of the approved temporary occupancy approved or upon the lapse and/or cancellation of the liability insurance policy hereinafter provided for, the owners agree to pay for all attorney fees, costs, and expenses incurred by the City to remove the owners, their immediate family, and third parties from the structure until the terms of this Ordinance have been met; and
3. The owners sign an agreement on behalf of themselves, their immediate family and third parties to hold the City of Brewer, its officers and agents harmless from any and all liability which may result from their use and occupancy of the structure and agree to indemnify the City of Brewer, its officers and agents, from any claims, judgments, attorney fees, costs, and expenses relating to the defending and/or paying of said claim; and
4. Any temporary occupancy shall only apply to the owners requesting the same and may not be transferred to any third party. Conveyance in whole or part of the structure or the land upon which the structure is located shall cause the authority to occupy the structure to terminate.

SECTION 16.3.5 INSURANCE REQUIRED

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

SECTION 16.3.6 LIMITED ISSUANCE

Owners shall not be permitted to apply for the temporary occupancy from the Brewer Code Enforcement Officer, or designee more than once. Once temporary occupancy has been granted by the Code Enforcement Officer, or designee, it may not be granted again for the same structure unless it is

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destroyed in whole or part by a new Act of God and/or other new act beyond the apparent control of the owners and their immediate family.

SECTION 16.3.7 NO APPEAL

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

ARTICLE 4 PERMITS

SECTION 16.4.1 PERMIT REQUIRED

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

SECTION 16.4.2 PERMIT ISSUED

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

SECTION 16.4.3 FEES

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

SECTION 16.4.4 APPROVAL IN PART

Nothing in this section shall be construed to require or prevent the Inspector of Buildings and/or Code Enforcement Officer, or designee, from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of said building or structure have been

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submitted or approved, if adequate information and detailed statements have been presented for the same and have been found to comply with this Chapter.

SECTION 16.4.5 FAILURE TO OBTAIN PERMIT

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

SECTION 16.4.5.1 EMERGENCY SITUATION

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

SECTION 16.4.5.2 WAIVER OF PENALTY

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

SECTION 16.4.6 LIMITATIONS ON ISSUANCE

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

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

SECTION 16.4.7 SUSPENSION OF PERMIT

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

SECTION 16.4.8 DEFINED

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

SECTION 16.4.10 DEMOLITION PERMITS

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

SECTION 16.4.11 PERMIT TO MOVE A BUILDING/STRUCTURE

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

SECTION 16.4.12 PENALTIES

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

ARTICLE 5 LIFE SAFETY CODE

SECTION 16.5.1 ADOPTION BY REFERENCE

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

SECTION 16.5.2 ENFORCEMENT

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

ARTICLE 6 AMERICANS WITH DISABILITY ACT

SECTION 16.6.1 AUTHORITY GRANTED

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

SECTION 16.6.2 DISCRIMINATION PROHIBITED

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

SECTION 16.6.3 COMPLIANCE WITH FEDERAL LAW

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

SECTION 16.6.4 PRESERVATION OF SAFETY

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

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ARTICLE 7 REASONABLE ACCOMODATIONS AND MODIFICATIONS

SECTION 16.7.1 PURPOSE

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

SECTION 16.7.2 APPLICABILITY

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

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

SECTION 16.7.3 REVIEW AUTHORITY

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

SECTION 16.7.4 APPLICATION REQUIRED

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

SECTION 16.7.5 APPLICATION FEE

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

SECTION 16.7.6 APPLICATION REVIEW PROCEDURES

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

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SECTION 16.7.6.1 TIMELINESS OF REVIEW AND DETERMINATION

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

SECTION 16.7.6.2 FINDINGS OF FACT

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

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

SECTION 16.7.6.3 CONDITIONS OF APPROVAL

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

ARTICLE 8 APPEAL

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

ARTICLE 9 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

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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 housing keeping of our local ordinances by ensuring a codification of current practices and procedures within the Code Enforcement Department.

ACTION: Councilor Goss moved that the ordinance amendment be tabled until the 30-day posting period was complete on the amendment. The motion was seconded and passed unanimously.

G. New Business

2019-C007

September 10, 2019

TITLE: AMEND CHAPTER 28 (SIGNS), ARTICLE 6, SECTION 6.6

Filed September 4, 2019
By Joseph L. Ferris

BE IT ORDAINED by the City of Brewer in City Council assembled that Chapter 28, of the Charter, Codes and Ordinances of the City of Brewer, entitled "Signs" shall be amended by adding the following subsections to Article 6:

6.6 Temporary Non-Permanent Signs:

Business may have the use of temporary non-permanent signs as defined in the below categories, so long as the business seeking the sign meets all standards and requirements for regulation. Failure to comply with the requirements governing the use of temporary non-permanent signs will result in the following:

First Violation – Written warning to business

Second Violation – Revocation of sign for 1 year

Third Violation – Revocation of sign for 3 years

6.6.1 Sandwich Board Signs: (#5)

Businesses located in the Downtown Development, Professional Business, Commercial Business and General Business Zones may be authorized the use of one (1) sandwich board sign with the following regulations:

1. Must be placed outside during business hours only and must be brought inside during all times the business is closed; and

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2. Must be anchored or ballasted to prevent movement due to wind; and
3. Must not be placed in such a way as to interfere with the free movement of pedestrians or vehicles; and
4. Must be professionally manufactured; and
5. Must not exceed 12 square feet per side, and must not exceed 4 feet in height; and
6. In multi-tenanted buildings, sandwich boards must be located in front of their business premise; and
7. All sandwich board signs must be well maintained and not weather worn, damaged or broken.

6.6.2 Banners:

Banners may be permitted for use for, up to two (2), special events annually. Banners used for special events may not to exceed four (4) consecutive days of use and no more than two (2) special events banners are permitted for any special event. A banner may also be used ~~permitted~~ one (1) time for an initial grand opening ceremony.

Grand opening ceremonies must meet with the following regulations:

1. Must not be placed outside for a period of more than 30 days; and
2. Must be securely fastened to property owned by the business; and
3. Must never be fastened to a utility pole, public structure or other such devices;
4. All banners, at all times, must be well maintained, securely fastened, and not weather-worn, torn or faded.

6.6.3 Open Flags:

Flags advertising the business is open may be permitted so long as they are brought in each night.

6.6.4 Permit Required:

Application for a permit shall be made by the owner or lessee of the building, structure, land; or agent of either. 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.

6.6.5 Permit Issued:

Upon receipt of a completed application and payment of the permit fee, The Code Enforcement Officer shall determine if the application is complete and the proposed sign conforms to the provisions of law as well as all other 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.

6.6.6 Permit Fee:

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.

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

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2019-C008

September 10, 2019

ORDER AMEND CHAPTER 22, ENTITLED "SOLID WASTE & RECYCLING ORDINANCE"
OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES.

Filed September 4, 2019

By Thomas Morelli

Be it ordained by the City of Brewer in City Council assembled that Chapter 22, of the Charter, Codes and Ordinances of the City of Brewer, entitled "Solid Waste & Recycling Ordinance" shall be amended as follows:

CHAPTER 22 SOLID WASTE & RECYCLING ORDINANCE

ARTICLE 1 GENERAL

Section 1.1 Establishment:

Pursuant to the Constitution of the State of Maine, Title 30-A M.R.S.A. § 3001, and the Brewer City Charter, a Solid Waste and Recycling Ordinance is established.

Section 1.2 Purpose:

The purpose of this Chapter is to promote the general health and welfare of the citizenry of the City of Brewer by providing for the orderly disposal of solid waste, to upgrade the quality of human life and the environment, to control pollution and to ensure an adequate capacity for disposal of waste into the future.

Section 1.3 Conformity:

This Chapter shall conform to all applicable Federal and State laws.

Section 1.4 Conflicts:

In the event of a conflict with the provisions of this Chapter with other Codes and Ordinances of the City of Brewer, the more stringent provisions shall apply.

Section 1.5 Severability:

In the event any portion of this Chapter or Article herein is held to be invalid, the balance of this Chapter or said Article shall remain unaffected thereby.

Section 1.6 Amendments:

This Chapter may be amended by the Brewer City Council from time to time, as deemed appropriate.

Section 1.7 Liens:

Charges assessed pursuant to this Chapter shall be enforceable by lien for the benefit of the City.

Section 1.8 Violations and Penalties:

A violation of this Chapter shall be enforced in accordance with the provisions of 30-A M.R.S.A. §

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4452, or the same that may be amended from time to time, as a land use violation. The penalties set forth in 30-A M.R.S.A. § 4452 shall apply to violations of this Chapter, except where expressly provided herein. The City of Brewer shall be entitled to its attorney fees and costs for successfully prosecuting any violation of this Chapter.

Theft, misappropriation, defacement, and/or counterfeiting of an official City of Brewer Pay As You Throw tag shall be punishable by a penalty of Two-Hundred Fifty-Dollars (\$250.00) for each occurrence.

ARTICLE 2 GARBAGE AND TRASH COLLECTION

Section 2.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 2.2 Scope:

This Article applies to all residential properties in the City of Brewer.

Section 2.3 Services:

The City of Brewer or its contractor shall provide weekly curbside trash collection services for all residential properties in the City. ~~Through August 31, 2019, all residential waste must be placed in City-approved plastic bags acquired from an approved vendor. The price of the bags shall be established by the City Council.~~

Effective September 1, 2019, all residential waste must be placed in bags, each affixed with a City of Brewer tag, with the exception of cardboard as long as it is neatly stacked. Bags cannot exceed 40 pounds. The price of the tags shall be established by the City Council.

Section 2.4 Prohibited Materials:

The following rubbish, by way of example and not limitation, shall be considered unacceptable for curbside collection. These materials will not be picked up curbside:

- ~~1. Through August 31, 2019, materials not in a City-approved plastic bag, with the exception of not more than two personal passenger vehicle tires per household per week. Effective September 1, 2019, materials not in a bag affixed with an official City of Brewer tag (with the exception of neatly stacked cardboard) or not meeting the size and weight limitations.~~
2. White goods such as stoves, refrigerators, washers and other large appliances,
3. Material from the major repair of, excavation for, construction, or destruction of buildings or structures, such as piping, earth, plaster, mortar, bricks, building blocks, septic tanks, trees or tree stumps over six inches in diameter, and any other similar materials, commonly called demolition debris,
4. Grass clippings, weeds, plants, shrubs, leaves, brush or branches unless they are in a ~~City-~~approved plastic bag prior to August 31, 2019 or, after September 1, 2019, in a bag affixed with an official City of Brewer tag,
5. Bulky items such as mattresses and box springs, couches, chairs, and carpets
6. Abandoned or junk vehicles and car parts
7. Hazardous waste: All hazardous waste as defined by federal and state regulatory agencies,

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8. Hospital waste: All contaminated hospital waste as defined by federal and state laws, i.e., “red bag” pathological anatomical waste,
9. Biological Waste, including dead animals or portions thereof or other pathological wastes
10. Infectious waste: Wastes which are hazardous by reason of their contamination with infection materials i.e., “red bag” waste body parts, pathology lab waste, etc.,
11. Human fecal waste;
12. Animal fecal waste which is not contained in a plastic bag;
13. Flammable waste; liquid waste; sludge
14. Waste oil, lubricants or fuels, including gasoline and propane;
15. Powder and liquid pesticides, herbicides and fungicides;
16. Paint waste and pigments;
17. Construction and demolition debris,
18. Electrical capacitors: Contain oils that may contain P.C.B.'s;
19. Special waste as defined by state law, including but not limited to,
20. Asbestos,
21. Laboratory chemicals;
22. Biohazard materials;
23. Plated metal parts;
24. Electrical transformers or parts;
25. Stove and fire ash
26. Tree stumps and logs.
27. Tires.

ARTICLE 3 RECYCLING – (REPEALED)

Section 3.0—Term:

~~This article shall remain in effect through August 31, 2019.~~

Section 3.1—Authority:

~~It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.~~

Section 3.2—Scope:

~~This Article applies to all residential properties in the City of Brewer.~~

Section 3.3—Services:

~~The City of Brewer or its contractor shall provide curbside collection of acceptable recyclable materials for all residential properties in the City. Collection shall be done biweekly (every other week) on the same day and route that municipal waste is collected.~~

Section 3.4—Disposal of Recyclables:

~~The City's Contractor shall take all recyclables to a location of their choosing.~~

Section 3.5—Public Awareness:

~~The Contractor and the City will work together to prepare a flyer twice per year for Public Awareness. The City and the Contractor will share equally the cost of developing, publishing and distributing the flyer.—~~

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Section 3.6—Monthly Reports:

The Contractor shall provide monthly reports by the 15th of the following month and will include:

- (a) Discussion of Problems, successful experiences in the program and complaints.
- (b) Number of stops collected on each day of the week.
- (c) Weights of material collected each day of the week. Weights of materials can be determined by utilizing the “weight to volume ration method” currently used by many contractors.

Section 3.7—Prohibited Items:

The following materials are considered Not Acceptable:

- No plastic bags/film, plastic grocery bags, or stretch wrap
- No food waste
- No foam packaging or Styrofoam
- No ceramics, window glass, mirrors, light bulbs, dishes, Pyrex
- No recyclables containing food waste, paint, oils
- No hazardous materials or universal wastes

Section 3.8—Acceptable Material:

The following recycle materials may be mixed together and placed in one or more containers or clear plastic bags:

- Newspaper, Magazines, Catalogs
- Telephone Books; Soft and Hard cover books
- Direct Mail Envelopes (all types)
- Paper (all colors staples and paperclips are okay)
- Paperboard (cereal/shoeboxes)
- Cardboard, Brown Paper Bags
- Milk/Juice Containers, Milk Jugs
- Food Containers (cottage cheese/margarine/yogurt)
- Landscape Trays, Plastic Plant Pots
- Laundry Baskets, Small Plastic Trash Bins (up to 5 gallons)
- Plastic Containers and bottles #1 through #7
- Plastic Clamshell containers (produce, take-out)
- Soda/Juice/Water Bottles (glass and plastic)
- Bleach/Detergent and Shampoo Bottles
- Glass Bottles/Jars (any color)
- Aluminum (pie plates/trays/foil)
- Metal cans (tin/steel/aluminum)
- 1 and 5 gallon buckets (handle attached OK)
- Kitty Litter Buckets
- Milk/Soda crates
- Plastic Toys, Children Size Rigid Pools

ARTICLE 4 CITIZEN RESPONSIBILITIES

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Section 4.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 4.2 Scope:

It shall be the individual responsibility of each citizen to ensure compliance with the following:

Section 4.3 Municipal Collections:

Subsection 4.3.1 Placement of waste:

Residential materials shall be placed at a designated site on the curb or on the esplanade between the sidewalk and gutter and in accordance with the rules and regulations established by the Director of Director of Environmental Services or his designee and approved by the City Council.

Subsection 4.3.2 Day of Collection:

Residential materials shall not be placed out at the designated pick-up site until the night before the day designated for collection along the designated collection route and shall not be placed out after 7:00 a.m. of the same day. Residential materials placed out after this time will not be picked up.

Subsection 4.3.3 Collection Restricted:

No person, partnership, corporation, association or other legal entity, not licensed or contracted to do so by the City of Brewer, shall take any solid waste or recyclable item placed by any resident for pick-up and removal by the City of Brewer, its licensee and/or contractors. Each removal or taking of such items from each separate collection pile shall constitute a separate and distinct violation.

Subsection 4.3.4 Dumpsters Prohibited:

The placement of dumpsters at residential properties for other than temporary use is prohibited.

Subsection 4.3.5 Styrofoam Collection:

Due to the bulky nature of Styrofoam, Brewer residents shall be allowed to place Styrofoam curbside for municipal collection in clear plastic bags during the first two weeks on the month of January for free disposal.

Section 4.4 Non-Municipal Collections:

The owners or authorized agents of every property that has more than four (4) units and every commercial property shall place such suitable containers in a place convenient for the removal of the contents by the persons authorized to collect the same. Such owners or authorized agents shall place such containers only on the premises occupied or owned by them. No other person except the owner or authorized agent of the premises or an authorized collector shall remove, take or otherwise disturb the waste matter, or any waste matter, or any portion thereof so placed for the removal.

Section 4.5 Adequate Storage:

It shall be the duty of every resident, tenant, lessee or occupant of every single family residential

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property; or the owner or owner's agent of every multi-family property; or the occupant and/or owner or owner's agent of every commercial property to provide and keep within the building or upon the lot where the building is situated suitable and sufficient storage to receive the accumulation of solid waste, as applicable, on the premises during the interval between collections. Suitable and sufficient storage shall:

- Be rodent proof, leak proof and essentially air tight.
- Be kept clean.
- Not consist of metal 55 gallon drums.

Section 4.6 Responsibilities not Transferable:

No contract or agreement between the owner or operator and occupant relating to compliance with the terms of this Chapter shall be effective in relieving any person of the responsibility for compliance with the provisions of this Chapter as set forth herein.

Section 4.7 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Subsection 4.3.3 or 4.3.4 of this Chapter shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each initial violation. Additional violations of Subsection 4.3.3 or 4.3.4 of this Chapter within a one (1) year period from the initial violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

ARTICLE 5 CONTRACTED SERVICES FOR THE CITY OF BREWER

Section 5.1 Authority:

It shall be the general responsibility of the Director of Environmental Services or his designee to enforce the provisions of this Article.

Section 5.2 Scope:

This Article applies to the contractor or contractors the City hires to provide curbside collection of residential materials.

Section 5.3 Services:

The work to be performed shall consist of the complete curbside collection of all acceptable waste materials in the City of Brewer, the operation and maintenance, and disposal thereof. The Contractor shall provide curbside collection services to all residential properties within the City of Brewer.

Subsection 5.3.1 Hours of Collection:

The hours of collection shall be Monday thru Saturday 7:00 a.m. to 5:00 p.m. Collections will be allowed on Saturday when a holiday falls within the preceding week.

Subsection 5.3.2 Holidays:

When a holiday occurs on a scheduled collection day, that day's collection shall be performed the following day.

Subsection 5.3.3 Public Notice:

The Contractor, after notifying the City, shall be responsible for placing a newspaper

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advertisement which shall notify the general public of the holiday collection schedule.

Section 5.4 Commercial Collection:

Commercial establishments shall be responsible for providing for the proper collection and disposal of commercial trash and/or recycling materials from their respective properties.

Section 5.5 Mixing of Collectable Materials:

All materials collected pursuant to these specifications shall be collected by vehicles, which shall be emptied and void of all materials prior to the commencement of a day's collection route. No non-residential or commercial materials shall be mixed with city materials by the Contractor unless prior approval has been granted by the Brewer City Council.

Section 5.6 Disposal of Materials:

All materials collected by the Contractor, shall be transported the same day it is collected by the Contractor, unless permission is received from the Director Environmental Services. Permission shall only be granted under extreme and rare circumstances. The Contractor shall comply with applicable Federal and State laws, rules and regulations and all applicable City Ordinances.

Section 5.7 Public Bid Required:

The City of Brewer shall require a public bid issued through a Request for Proposal (RFP) process a minimum of every 6 years. The City shall use a variety of means to advertise the bid.

Section 5.8 Written Contracts Required:

It shall be the responsibility of the City of Brewer to enter into a written contract with the bidder most qualified and offering the greatest benefit of services to the City of Brewer.

Section 5.9 Reporting of Violations:

It shall be the Contractors duty to report, in writing, any violations of the City's Ordinances in respect to the condition and location of collection containers, detachable containers and garbage units to the Director of Environmental Services or his designee. The Director of Environmental Services or his designee shall be the final judge as to such conditions and locations.

Section 5.10 Damage to Property:

The Contractor shall be responsible for any damaged collection containers. The Contractor shall replace any collection container if, in the opinion of the Director of Environmental Services or his designee, the collectors did not exercise sufficient care.

ARTICLE 7 HEALTH NUISANCES

Section 7.1 Authority:

The Code Enforcement Officer, Public Safety Director, Health Officer or an authorized designee shall be empowered to enforce the provisions of this Article as a Health Enforcement Officer.

Section 7.2 Trash in Public Places Prohibited:

No person, partnership, corporation, association, or other legal entity from inside or outside the

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boundaries of the City of Brewer shall throw, deposit or leave any garbage, yard waste, waste matter, bulky waste, construction demolition debris, universal waste, hazardous waste, dead animals, biological waste, rubbish or any other related solid waste or cause the same to be thrown, deposited or left upon any street, alley, gutter, park, or other public space, or throw or deposit the same in or upon any private premise or vacant lot or in any water, or to store or keep the same except in suitable containers as required by this Article.

Section 7.3 Polluting of Bodies of Water Prohibited:

No person, partnership, corporation, association, or other legal entity from inside or outside the boundaries of the City of Brewer shall throw, deposit or leave any dead animal or any could or offensive matter in any waters in the City of Brewer. Nor shall any person throw, cast or place any living animal with the intent to drown or harm the same in any waters in the boundaries of the City of Brewer.

Section 7.4 Illegal Dumping:

Any person, partnership, corporation, association or other legal entity who with or without authority from the owner of a premises who shall throw, dump, or deposit any refuse, rubbish, bulky waste, construction demolition debris, universal waste, hazardous waste, dead animal(s), biological waste or waste matter of a similar nature upon any premises, after notice by an authorized Health Enforcement Officer to remove such refuse, rubbish, waste matter and material so thrown, dumped or deposited on such premises to a designated dumping ground within forty–eight (48) hours after receiving such notice, and upon failure to do so the offender shall be guilty of an offense.

Section 7.5 Incineration is Prohibited:

It shall be unlawful for any person to burn or incinerate any solid waste within the City of Brewer.

Section 7.6 Compliance is Mandatory:

If, in the opinion of an authorized Health Enforcement Officer it shall be for the health or comfort of the inhabitants of the City of Brewer that any particular substance should be removed forthwith and without delay, it shall be his or her duty to cause the same to be removed accordingly. Whenever any person shall have been duly notified to remove any of the substances mentioned in this Article, or to perform any other act or thing which it may be their duty to perform for the preservation of the public health and safety of the residents of the City of Brewer and the time limit for the performance of such duty shall have elapsed without compliance with such notice, by an authorized Health Enforcement Officer shall forthwith cause such substance to be removed at the expense of the person so notified. The Code Enforcement Officer or their designee shall cause all persons who shall violate or disobey any provision of the Article to be prosecuted and punished to the greatest extent possible by law.

Section 7.7 Emptying of Collection Vehicle:

No waste shall be emptied or partially emptied or load transferred from any vehicle or trailer in or on any street in the City or in any other place within the City boundary unless prior approval is granted by the Director of Environmental Services, or his designee.

Section 7.8 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Article 7 of this Chapter shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each initial violation. Additional violations of Article 7 of this Chapter within a one (1) year period from the

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initial violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

ARTICLE 8 COASTAL RESOURCES OF MAINE, LLC

Section 8.0 Term:

The effective date of this Article shall be April 1, 2018.

Section 8.1 Authority:

The Director of the Environmental Services shall establish rules and regulations governing the availability and use of the waste processing facility located in Hamden, Maine owned by Coastal Resources of Maine, LLC and/or its assignees (the "Coastal Facility") relative to inconsistent materials from solid waste which may be deposited at the Coastal Facility and any other rules or regulations that the Director determines are needed to implement this Article. These excluded materials may include junk auto bodies, tires, and such other bulky waste as may require special processing prior to disposal; trees and tree trunks and limbs; burning materials or materials containing hot or live coals; hazardous waste, and other materials which the Director of Environmental Services or his designee deems necessary to exclude. Hazardous waste shall be handled in accordance with Title 38 M.R.S.A., as amended.

Section 8.2 Scope:

The provisions of this Article shall apply to any contractor operating within the geographic boundaries of the City of Brewer and the same is engaged in the collection and disposal of solid waste.

Section 8.3 Purpose:

The purpose of this Article is to promote the public health, safety and welfare; promote consistency with State of Maine Legislative Findings; to gain management control over solid waste and enable the reclamation of resources, including energy therefrom; to provide for the orderly operation of a solid waste processing facility pursuant to Title 38 M.R.S.A. § 1305 (1), to allow the City to contract with the Municipal Review Committee, Inc. under an executed Joinder Agreement to make a long term commitment beginning April 1, 2018 for delivery of MSW to the Coastal Facility; and to control commercial haulers, non-commercial haulers and users that generate and/or collect solid waste within the limits of the City of Brewer.

Section 8.4 Disposal Required:

The accumulation, collection, transportation and disposal of acceptable solid waste generated by users within the City of Brewer that is disposed of within the State of Maine shall be regulated by this Article. All acceptable solid waste generated within the City of Brewer shall be deposited at the Coastal Facility in Hampden, Maine, by licensed commercial and non-commercial haulers in accordance with the provisions of this Article. Nothing in this provision shall be deemed to regulate or prohibit the disposal of any waste generated within Brewer that is to be disposed of outside of the State of Maine.

Section 8.5 Facility Designated:

In accordance with the provisions of Title 38 M.R.S.A. § 1304-B, the City hereby designates the Coastal Facility located in Hampden, Maine, as the solid waste processing facility for acceptable waste.

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Section 8.6 Alternate Designation:

Should circumstances require it, consistent with City of Brewer contractual obligations, the City reserves the right to designate an alternate disposal facility for a specified time period for acceptable waste and only upon a majority vote of the Brewer City Council.

Section 8.7 Regulated Activities:

The accumulation, collection, transportation, delivery and disposal of acceptable waste and unacceptable waste generated within the City of Brewer shall be regulated in the following manner:

- (c) All acceptable wastes generated within the municipality that is to be disposed of within the State of Maine shall be deposited at the Coastal Facility.
- (d) All unacceptable waste generated within the municipality shall be deposited only at a suitable disposal facility, which is designed for the express purpose of handling such unacceptable waste.

Section 8.8 Annual License Required for All Haulers:

January 1 of each year, all commercial haulers must obtain an annual license from the office of the Brewer City Clerk. The license shall end on the thirty-first (31st) day of December of each year.

Section 8.9 License Notifications:

A copy of each commercial hauler license issued and of each application therefore shall be sent by the City to Coastal.

Section 8.10 Hauler License Required:

Coastal is authorized and directed to admit waste generated in the City for processing in its facilities only from Brewer commercial haulers who are licensed.

Section 8.11 Transferability:

All licenses are non-transferable.

Section 8.12 Fees:

Commercial haulers shall pay One-Hundred Dollars (\$100.00) plus an additional Ten Dollars (\$10.00) for each vehicle licensed for an annual non-refundable vehicle fees to the City of Brewer for their licenses.

All fees must be paid to the City Clerk when the application is made for the annual license and shall not be prorated.

Section 8.13 Records:

All commercial haulers shall provide a current and accurate record of all vehicles used by them, including make, model, serial number, vehicle identification number and vehicle license plate number.

The City of Brewer may require all commercial haulers to provide the City Clerk the following information on an accurate basis:

- (a) Name, address and telephone number of the commercial hauler or commercial hauler filing the report;

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- (b) Name and address of all users serviced by the hauler;
- (c) Frequency of pick up;
- (d) Size of container, if a container is used;
- (e) List of new users or users deleted from prior report;
- (f) Location of disposal of the solid waste;
- (g) Such other information as the Director of Environmental Services or his designee may require relating to users and amount of solid waste picked up.
- (h) The amount of solid waste tonnage collected and transported per haul during the preceding twelve (12) months.

Section 8.14 Inspection of Records:

The Director of Environmental Services or his designee shall have the right, upon reasonable notice, to inspect the records of any commercial hauler and non – commercial hauler as to solid waste generated and collected within the limits of the City of Brewer as it may relate to users and the quantities generated by them.

Section 8.15 Credit for Tonnage:

It shall be the responsibility of the commercial hauler, non-commercial hauler and users to see the City of Brewer is provided complete and accurate records and is given credit, by Coastal, for all acceptable waste generated within the limits of the City of Brewer by the user and collected therein and delivered to the Coastal facility by the commercial hauler and/or non-commercial hauler.

Section 8.16 Comingling Prohibited:

Acceptable solid waste collected by a commercial hauler and/or non-commercial hauler in the City of Brewer shall not be comingled in a vehicle with any other solid waste collected in any other municipality provided however, the City Council by Council order may authorize the Director of Environmental Services or his designee to enter into a reciprocal arrangement, as the same is permitted by law, with other municipalities, which allows the comingling of acceptable solid waste collected by licensed commercial haulers if there is a means recommended by the Director of Environmental Services or his designee and approved by the City Council to allocate the relative share of each load to the municipality where the original solid waste was generated.

Section 8.17 Failure to Comply:

Users who fail to use a licensed hauler or fail to see that acceptable solid waste generated by them and to be disposed of within the State of Maine is delivered to the Coastal Facility in Hampden, Maine, shall be subject to the penalties set forth in this Article.

Section 8.18 Delivery Required:

The operation of any disposal facility shall conform to all pertinent provisions of this Article and applicable regulations or directives of all state of federal agencies, which may have jurisdiction.

Section 8.19 Misrepresentation:

It shall be a violation of this Article for a person disposing of solid waste at a public disposal facility to misrepresent to Coastal that the solid waste is chargeable to the city.

Section 8.20 Conformity:

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The operation of any disposal facility shall conform to all pertinent provisions of this Article and applicable regulations or directives of all state or federal agencies, which may have jurisdiction.

Section 8.21 Ratification:

Any rules and regulations promulgated by the Director of Environmental Services, or his designee, prior to the enactment of this section are hereby ratified and given the full effect of law.

Section 8.22 Prohibition of Operation:

No commercial hauler or non-commercial hauler shall operate within the limits of the City of Brewer without a license as herein before provided. Any commercial hauler found operating shall be subject to a temporary restraining order, preliminary injunction and permanent injunction issued by a court of competent jurisdiction at the request of the City and the penalties set forth under this Article.

Section 8.23 Payment of Tipping Fee and Administration Fees:

In the event that Coastal requires the City of Brewer to pay directly for all acceptable solid wastes delivered to the Coastal Facility by commercial and non-commercial haulers, the City of Brewer shall bill the commercial and non-commercial haulers for the acceptable solid waste at the City's agreed upon tipping fee, any administrative fees charged to support multi-jurisdictional solid waste activities and a City of Brewer administration fee.

Section 8.24 Automatic Adjustment:

The fee shall be automatically adjusted annually on January 1 to reflect annual increases consistent with the Joinder Agreement to which the City of Brewer is a party.

Section 8.25 Authority to Adjust Fees:

The Brewer City Council shall also have the authority to establish by City Council Order additional fees on a quarterly basis, if it deems it necessary.

Section 8.26 Failure to Pay:

Failure to pay the City within thirty (30) days shall result in an interest penalty being applied to the outstanding balance at the same maximum rate as specified by the State of Maine for unpaid real estate taxes. Failure to pay any bill within ninety (90) days shall result in an automatic revocation of any license.

Section 8.27 Responsibility of Haulers:

As part of the application for a license, commercial and noncommercial haulers shall agree to assume liability for and reimburse the City for any expenses incurred, and/or remove immediately any unacceptable solid waste delivered to the Coastal Facility in violation of the Joinder Agreement between the Municipal Review Committee and the City of Brewer. Repeated deliveries of unacceptable solid waste may result in forfeiture of the hauler's license by the Brewer City Council, after notice and hearing.

Section 8.28 Penalties & License Revocation:

Any commercial hauler who fails to obtain a license as provided by this Article and picks up solid waste within the limits of the City of Brewer shall be subject to a fine of Two Hundred Fifty Dollars (\$250.00) per day, with each date of collection being considered a separate offense.

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Section 8.29 Failure to Correct:

In the event a commercial hauler shall have violated the licensing provision of this Article for five (5) days or more, the City Council shall, after notice and hearing, have the right to revoke any existing license and refuse to grant a license in the future.

Section 8.30 Other Violations:

Users who violate any other provisions of this Article shall be subject to a penalty of One Hundred Fifty Dollars (\$150.00) per day, with each day being a separate violation.

Section 8.31 Failure to Provide Credit for City:

In addition to any penalty, injunction and/or license violation any commercial hauler, non-commercial hauler or user who has failed to insure that the City of Brewer has been given credit by Coastal for all acceptable solid waste generated within the limits of the City of Brewer and delivered by such hauler or user to the Coastal Facility shall be jointly and severally liable to the City for any penalties, fees or expenses incurred by the City in failing to meet the minimum annual solid waste tonnage requirements under the City's contract with Municipal Review Committee. The percentage of penalties, fees and expenses to be paid by the commercial hauler, non-commercial, hauler or user shall be calculated by multiplying the penalty, fees and expenses incurred by the percentage of tonnage the commercial hauler, non-commercial hauler and user failed to report to Coastal in relation to all other non-reported tonnage known by the City.

ARTICLE 9 JUNKED VEHICLES

Section 9.1 Authority:

The Code Enforcement Officer, Public Safety Director, Health Officer or an authorized designee shall be empowered to enforce the provisions of this Article.

Section 9.2 Scope:

This Article shall apply to all properties public or private with the geographical boundaries of the City of Brewer.

Section 9.3 Purpose:

The purpose of the Article is to protect the health, safety and general well-being of the citizens of Brewer; to enhance and maintain the quality of the environment through the removal of junked motor vehicles from the public way and/or private property; and the recovery of the costs of removal of such vehicles from the owners of the vehicles or the owners of private property, whose property values are improved by the removal of the junked motor vehicles.

Section 9.4 Streets and Public Places:

It shall be unlawful for any person to deposit, place, and leave or abandon any old, discarded worn out or junked motor vehicle, or parts thereof, on any public street or any public place in the city.

Section 9.5 Removal:

The City shall have the right to remove or cause to be removed any vehicle or part thereof in violation of this section from any public street or public place and dispose of it as it sees fit without any liability

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whatsoever and the city shall be entitled to recover all costs associated with the removal.

Section 9.6 Private Property:

It shall be unlawful for any person to deposit, place, leave or abandon any old, discarded, worn out or junked motor vehicle, or parts thereof, on any private property in the City, except in duly authorized locations.

Section 9.7 Notice to Remove from Private Property:

It shall be unlawful for any person owning or occupying private property in the City to keep or allow to accumulate any old, discarded, worn out or junked motor, vehicle, or parts thereof, on private property after having received written notice from the City, by the City Manager or by official designated by the City Manager, ordering the removal from the property upon not less than thirty (30) days from receipt of the order of the old, discarded, worn out or junked motor vehicle, or parts thereof.

Section 9.8 Delivery of Notice to Remove:

A copy of the order shall be hand delivered or sent by certified mail to the owner or occupant of the private property, or to the owner of the motor vehicle if the owner's identity is known.

Section 9.9 Appeals:

The order of removal may be appealed as provided for herein. Failure to appeal such order shall render the order final. In the event of an appeal, the time frames established for the removal of the vehicle shall be stayed during the pendency of the appeal.

Section 9.10 Appeals Procedure:

An appeal to the City Manager may be taken by a person in receipt of a notice to remove any old, discarded, worn out or junked motor vehicle, or parts thereof, by filing a notice of appeal within thirty (30) days of the mailing of notice of the order, or receipt of the order, whichever occurs first. The appeal shall be in writing and shall state the basis for appeal. The City Manager shall designate himself or any agent or employee to act as hearing officer in the appeal. The hearing officer shall provide such person with the opportunity to be heard and to demonstrate why the vehicle is not subject to removal within the terms of this article.

Section 9.11 Notice of Hearing:

Notice of the hearing shall be given by regular United States mail at least seven (7) days in advance of the hearing date.

Section 9.12 Action by Hearing Officer:

The hearing officer may affirm, modify or vacate the order of removal. The written decision of the hearing officer shall be issued to the appellant. Any person aggrieved by a decision of the hearing officer may obtain review available by law in the superior court in accordance with the Maine Rules of Civil Procedure 80-B.

Section 9.13 Final Determination:

If any person shall fail, within thirty (30) days after receipt of the order of removal or within thirty (30) days of receipt of the decision of the hearing officer affirming order of removal of the vehicle, to remove any vehicle or parts thereof in violation of this Article, the City shall have the right by its duly authorized agent to remove the vehicle or part thereof from any private property and dispose of it as it sees fit

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without any liability whatsoever.

Section 9.14 Liability:

In addition to the fine provided for violation of this Article, the person depositing or keeping such vehicle or parts thereof on the public highways, public places or private property shall be jointly and severally liable along with the owner of the private property to the City for the cost of removal thereof and shall pay the costs within thirty (30) days from the date of mailing of a bill assessing the costs of removal. For purposes of this Article, there shall be a rebuttable presumption that the last owner of the vehicle deposited or kept the vehicle on the public way, public place or private property.

Section 9.15 Attorney Fees and Costs:

The City shall be entitled to its attorney fees and costs for the successful prosecution of all violations under this Article.

Section 9.16 Lien:

Assessments for the costs of removal shall be enforceable by lien against the owner of private property upon which junked vehicle was deposited, in the manner prescribed by this Article.

ARTICLE 10 CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL

Section 10.1 Authority:

The Brewer Landfill shall be under the general direction and control of the Director of Environmental Services or his designee.

Section 10.2 Scope:

This Article shall apply to all persons, partnerships, corporations, associations or other legal entities using or desiring to use the City of Brewer construction and demolition debris landfill.

Section 10.3 Purpose:

The purpose of this Article is to provide for the orderly disposal of construction demolition debris, bulky waste and the recycling of brush, leaves and metal at the Brewer Landfill.

Section 10.4 Intent:

It is the intent of the City to control and limit deposit of waste at the Landfill and to only accept wastes that are generated within the municipality.

Section 10.5 Agents:

The Director of Environmental Services, or his designee, shall appoint such agents as he deems necessary to act in his stead in carrying out and enforcing this Article. All such appointments shall be ratified by a majority of the Brewer City Council at the time the Director of Environmental Services, or his designee, makes the appointment and annually thereafter.

Section 10.6 Rules & Regulations:

The Director of Environmental Services shall establish rules and regulations relating to the use of the Brewer Landfill and Street Collection. All rules and regulations must be approved by a majority of the City Council

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Section 10.7 Posting of Rules & Regulations:

All rules and regulations shall be posted at the entrance of the landfill and placed on file at the office of the City Clerk.

Section 10.8 Disposal Restricted:

The use of the Construction Demolition Debris Disposal Area is limited exclusively to Brewer Residents, Resident Businesses, and Commercial Haulers hauling Brewer waste, subject to this Article.

Section 10.9 Commercial Haulers:

Commercial haulers may use the Construction Demolition Debris landfill so long as they receive permission from the Brewer Administration and City Council prior to use.

Section 10.10 Permitted Users:

Permitted Users from Brewer are allowed to deposit Construction Demolition Debris related material at the Construction Demolition Debris landfill so long as the Construction Demolition Debris Material is derived from or associated with the occupancy of their dwellings exclusively within the City of Brewer.

Section 10.11 Permit Card Required:

Each applicant for a permit shall inform the Gate Attendant at the Landfill of the following:

- (a) Name of Applicant
- (b) Address of the Applicant
- (c) License # and/or
- (d) Vehicle registration number

Section 10.12 Display of Permit Card:

Each vehicle entering the Construction Demolition Debris Disposal Area shall have a permit card in their possession. Residents shall obtain their permit from the Brewer Gatehouse Attendant at the landfill gate house. Not more than one permit will be issued per resident household.

Section 10.13 Fee Schedule:

There shall be no waiver of construction or demolition debris fees for any disposal of material from any private property whether business or residential, or any publicly owned properties to be sold or transferred to private interests unless approved by formal vote of the City Council.

Subsection 10.13.1 Vehicle Permit

Resident Vehicles \$2.50 (One-Year)
Non-Resident Vehicle Not Permitted

**Commercial and businesses not permitted without permission.*

Subsection 10.13.2 Disposal of Tires

Three Dollars (\$3.00) for each passenger car or pick-up truck tire (no rims)

Seven Dollars (\$7.00) for each commercial truck tire (no rims)

**Tires shall be placed by the resident in the designated location for tire storage.*

**Each Brewer household shall be eligible to dispose of up to four passenger car or pick-up truck tires without rims per year for no fee.*

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Subsection 10.13.3 White Goods

Fifteen Dollars (\$15.00) per appliance.

*White goods shall be placed by the individual disposing of the item(s) in the designated location for white goods.

Subsection 10.13.4 Propane Tanks

Five Dollars (\$5.00) per 20lbs propane tank

Twenty Dollars (\$20.00) per tank for all propane tanks larger than 20lbs.

*Propane tanks smaller than 20lbs will not be accepted.

Subsection 10.13.5 Mattresses

Fifteen Dollars (\$15.00) per mattresses and boxspring set (or mattress only).

Subsection 10.13.6 Construction and Demolition Debris

The charge for dumping construction and demolition debris, and any additional acceptable materials, which the Maine Department of Environmental Protection would allow in a licensed demolition debris facility, shall be based on either of the following options except as provided for passenger vehicles and vans:

Residential Rates:

- Five Dollars (\$5.00) per passenger sedan.
- Seven Dollars (\$7.00) per station wagon or passenger van. (Excludes cargo vans)
- Twenty-five Dollars (\$25.00) per pick-up truck (1/2 or 3/4 ton).
- Twenty-five Dollars (\$25.00) per trailer. (not exceeding the size of a pickup body)
- Fifty dollars (\$50.00) per pick-up with sideboards.
- Fifty dollars (\$50.00) per trailers with sideboards.
- Fifty Dollars (\$50.00) per single axle dump trailer.
- Seventy Dollars (\$70.00) per dump truck.
- One-Hundred Five (\$105.00) per double axle dump truck.
- One-Hundred Fifty-five (\$155.00) per tri-axle dump truck.
- Two-Hundred Fifteen (\$215.00) per dump trailer.

Section 10.14 Hours of Operation:

Landfill hours, including the compost area, will be the first and third Saturday of each month from 7:30am to 2:00pm

The compost area only will be open every Tuesday from 7:00am to 11:30am for residents to drop off grass clippings and leaves.

Section 10.15 Prohibited Items:

The following materials will not be accepted at the disposal site.

- (a) Septage and sludge.
- (b) Industrial wastes.

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- (c) Hazardous wastes, as that term may now or in the future be defined by federal or state law whichever definition is more encompassing.
- (d) Five gallon or larger drums or containers unless one end is open and the drums or containers are cleaned.
- (e) Any wastes found to be generated outside of the municipal boundaries except for contracted municipalities.
- (f) Motor vehicles.
- (g) Tires with rims
- (h) Recyclables – All recyclables must be recycled.
- (i) Garbage (food waste, market waste, produce waste, cooking waste), trash, refuse, paint, unusual waste, animal parts, infectious waste, pesticides, herbicides, mercury containing products, fluorescent light bulbs, fuel containing items, oil, kerosene, gas, diesel, propane tanks, tires with rims, equipment tiers medical waste, chemicals, batteries, stumps, logs.
- (j) Universal waste- televisions, computers, fluorescent light bulbs, rechargeable batteries, mercury containing products, ballast.
- (k) Household hazardous Waste

Section 10.16 Enforcement:

The Director of Environmental Services or his designee shall have the right to stop and inspect any vehicle, and inquire of any person entering the Construction Demolition Debris landfill to determine whether the provisions of this Article, or any rules and regulations adopted pursuant hereto, are being complicated with.

Subsection 10.16.1 Compliance and Cooperation Mandatory:

Any occupant of any vehicle who refuses to allow the Director of Environmental Service, or his designee, to inspect the vehicle or the Solid Waste contained therein, or refuses to answer questions pertinent to determining whether this Article or rules and regulations adopted pursuant hereto have been violated, may be refused access to the Construction Demolition Debris landfill by the Director of Environmental Services or his designee and shall not be allowed to deposit his Construction Demolition Debris material.

Subsection 10.16.2 Refusal:

The Director of Environmental Services or his designee shall have the right to deny any Resident, Resident Business, Commercial hauler or permitted user the right to dispose Waste at the Construction Demolition Debris landfill for violating any provision of this Article or the rules and regulations adopted pursuant hereto.

Subsection 10.16.3 Liability:

In the event a person, partnership, corporation, association or other legal entity willfully disposes of unacceptable waste at the Construction Demolition Debris in violation of this Article or rules and regulations adopted pursuant hereto, he shall remove the unacceptable waste deposited. If after being requested to do so he refuses, he shall be liable for the cost of disposal said removal.

Subsection 10.16.4 Legal Recourse:

The Environmental Services Director or his designee may prosecute any violations of this Article

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and seek such other legal remedies as may be required.

Section 10.17 Salvaging Restricted:

Salvaging of waste – Salvaging of any wastes at the Construction Demolition Debris landfill will not be allowed unless written permission has been issued by the City Manager.

Section 10.18 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Article 10 of this Chapter shall be subject to a civil penalty of One Hundred Dollars (\$100.00) for each initial violation. Additional violations of Article 10 of this Chapter within a one (1) year period from the initial date of violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

ARTICLE 11 UNIVERSAL WASTE & HOUSEHOLD HAZARDOUS WASTE

Section 11.1 Authority:

The collection of Universal Waste and Household Hazardous Waste shall be under the general direction of the Director of Environmental Services or his designee.

Section 11.2 Scope:

This Article shall apply to all persons, partnerships, corporations, associations or other legal entities disposing of universal or household hazardous waste in the City of Brewer.

Section 11.3 Universal Waste:

Universal Waste shall only be disposed of in accordance with applicable Federal, State and Local laws and only at an authorized facility. The Brewer Universal Waste Facility accepts universal waste from Brewer residents and or their participating communities by agreement. All residents from participating communities must receive a permit from their Town Hall prior to delivering material to the Brewer Facility. Each community is billed monthly for the universal waste delivered and they pay a \$50/quarter fee to the City to cover administration and billing costs. Fees may be adjusted in the future to cover increases in disposal and administration costs.

Subsection 11.3.1 Facility:

The authorized facility shall be the City of Brewer; Universal Waste Building is located at 37 Oak Street, Brewer, ME 04412.

Subsection 11.3.2 Schedule

The Universal Waste schedule is developed each October for the upcoming year and can be obtained on the City of Brewer website or by calling the Brewer Environmental Services Department.

Subsection 11.3.3 Fees:

- *Brewer Residents* - Free to Brewer residents only.
- *Participating Communities* - Disposal Cost will be the Actual Disposal Rate for each individual item as set by the City's Contractor

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**Brewer residents must show identification (driver's license) to the building attendant prior to allowing disposal.*

**Residents from participating communities must present a permit to the building attendant prior to allowing disposal.*

Subsection 11.3.4 Salvaging Restricted:

Salvaging of waste – Salvaging of any wastes at the Universal Waste Facility will not be allowed unless written permission has been issued by the City Manager.

Section 11.4 Household Hazardous Waste:

Household Hazardous Waste shall only be disposed of in accordance with applicable Federal, State and Local laws and only at an authorized facility.

Subsection 11.4.1 Facility:

The location of the authorized facility can be obtained on the City of Brewer website or by calling the Brewer Public Works Department.

Subsection 11.4.2 Collection:

The collection of Household Hazardous Waste shall be offered to Brewer residents at least once per year.

Section 11.7 Illegal Disposal

Disposal of universal waste or household hazardous waste at the Universal Waste Building when it is not open is prohibited unless permission has been issued by the Director of Environmental Services or his designee.

Section 11.8 Penalties:

Any Person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Subsection 11.3.4 and Section 11.7 of this Chapter shall be subject to a civil penalty of Five Hundred Dollars (\$500.00) for each initial violation. Additional violations of Subsection 11.3.4 and Section 11.7 of this Chapter within a one (1) year period from the initial violation shall be subject to an additional civil penalty of Two-Hundred Fifty-Dollars (\$250.00) for each additional violation thereafter.

**ARTICLE 12 ADVISORY COMMITTEE (#2)
REPEALED**

ARTICLE 13 ENFORCEMENT

Section 13.1 Authority:

It shall be the duty of the Code Enforcement Officer, or the Public Safety Director, or their designee, to cause the enforcement of the provisions of this Chapter and to prosecute any and all person's violation of any such provisions.

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Section 13.2 Presumption:

In the absence of evidence to the contrary, the owner of and/or any person having responsibility for the property abutting the area of the street or sidewalk where waste material has been deposited shall be presumed to have deposited the same and shall be liable for the violations of this Chapter.

Section 13.3 Removal Required:

Notwithstanding 14.2, any owner of and/or any person having responsibility for property abutting the public space where any garbage or waste material has been deposited in violation of this Chapter shall cause it to be removed within four (4) hours of the issuance of an order of removal issued by either the Code Enforcement Officer or Public Safety Director or their duly authorized representatives. Failure to remove such waste within the time specified shall be a violation of this Chapter.

Section 13.4 Owner of Record:

In the event that the Code Enforcement Officer or Public Safety Director has received no registration of the ownership or management interest of the property abutting the area where the waste material has been deposited, the Code Enforcement Officer or Public Safety Director shall arrange to have the waste material removed and shall provide written notice of such removal to the owner of record. The owner of record shall be responsible for the fee for collection the waste material.

Section 13.5 Removal of Trash from Public Places Required:

If any of the substances mentioned in this Article shall be thrown or carried into any street, sidewalk, court, square, lane, alley or public place from any house building, cellar, yard or any other place, the occupant of such house or place and the person who actually threw and carried the same therefrom shall severally be liable for such violation of this Chapter. All such substances shall be removed at the expense of the occupant of the house or other place from where the same were thrown or carried within twenty-four (24) hours after personal notice in writing to that effect is provided by an authorized Health Enforcement Officer.

Section 13.6 Removal from Buildings or Property:

All garbage, refuse, bulky waste, construction demolition debris, universal waste, hazardous waste, dead animals, biological waste, rubbish or any other related solid waste or filth of any kind in any house, building, cellar, yard or any other place; which the health authority shall deem necessary for the health of the City to be removed, shall be carried therefrom by and at the expense of the owner or occupant of such house or other place where the same shall be found and removed to such place as directed within twenty-four (24) hours after notice in writing to that effect given by an authorized Health Enforcement Officer.

Section 13.7 Collection Fee

After the issuance of three (3) written order for removal during a twelve (12) month period starting on the date of the first written notice, a fee or charge for the removal of the material remaining after the expiration of the period of time provided for compliance with the order of removal shall be One Hundred Dollars (\$100.00) for up to one (1) cubic yard. In the event the material deposited exceeds one (1) cubic yard, the fee shall be One Hundred Dollars (\$100.00) plus the cubic yard cost to collect and dispose of the material at an approved facility. Such fees shall be charged for each subsequent time the

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City removes the material deposited in violation of this Chapter, whether additional notices have been provided or not.

DEFINITIONS

Specified Terms:

Acceptable Solid Waste shall mean all waste, which Coastal will accept at its facilities including ordinary household, municipal, institutional, commercial and industrial wastes.

Ashes shall mean that residue from the burning of wood, coal, coke or other combustible material.

Authorized collector shall mean employees of a private collector employed by the owner, occupant, agent or other person having custody of a building.

Biomedical waste shall mean waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

Brewer waste shall mean solid waste generated by any person, corporation, partnership, association, or other legal entity within the City of Brewer except waste generated by the City government or school system, that is hauled by a commercial refuse collector or a refuse transporter.

Building shall mean any structure or vessel, whether public or private, that is adapted to or used: for dwelling occupancy; for the transaction of business; for the rendering of professional services; amusement; the display, or sale or storage of goods waste, merchandise, articles or equipment; for the performance of work or labor; for office buildings, stores, theatres, markets, restaurants, warehouses, grain processing factories, abattoirs, worship, garages, bakeries; or structures where domestic or other animals or fowl are kept; for sheds, barns, outbuildings, or other structures or premises used as accessory to any such use.

Bulky waste shall mean any items whose large size and weight precludes or complicates their handling by normal collection processing or disposal method. Examples include, but are not limited to furniture, mattresses, chairs, and carpeting.

Commercial Hauler shall mean a corporation, partnership or other legal entity, which hauls the solid waste for someone else within the city limits of the City of Brewer for compensation. Commercial haulers shall not include the City of Brewer or a commercial hauler who has a contract with the City of Brewer for curbside pickup, which is being collected and disposed of pursuant to the terms of a Contract.

Commercial property shall mean any property upon which is situated a structure used for commercial or business purposes including, but not limited to, Apartment buildings containing more than four (4) dwelling units, Business offices, Condominiums, Hotels, Motels, Restaurants, Warehouses, Manufacturing, Industrial, Markets, Bakeries, Grocery stores, Fruit stands or Trailer Parks.

Construction Demolition Debris Landfill (CDD) shall mean the landfill at 403 Elm St. belonging to

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the City where CDD related acceptable material can be disposed of by Brewer residents.

Contracting Municipality shall mean any municipality which contracts with the city of Brewer for waste related services shall be referred to as a contracting Municipality.

Contractor shall mean any person corporation partnership association or other legal entity under contract with the City to provide curbside garbage collection services.

Disposal shall mean the discharge, deposit, dumping, incineration, spilling leaking or placing of any solid waste, sludge or septage into or on any land, air or water so that the solid waste, sludge or septage or any constituent thereof may enter the environment, be emitted into the air or be discharged into any waters.

Coastal shall mean Coastal Resources of Maine, LLC and its assignees.

Coastal Facility shall mean the waste processing facility owned by Coastal Resources of Maine, LLC and located 92 Harold Bouchard Way, Hampden, Maine 04444.

Fiscal year means July 1 to June 30 or any twelve – month period established as the city’s fiscal year by the city council.

Garbage shall mean all waste from the preparation, cooking and consumption of food, market refuse waste from the handling storage and sale of produce shall be referred as Garbage.

Hazardous waste shall mean a waste substance or material in any physical state, designated as hazardous by the terms of a certain waste handling agreement between the municipality.

Household shall mean an occupied dwelling place not used for commercial purposes.

Householder shall mean the head of a family unit or his or her agent living in the dwelling place.

Infectious waste shall include those wastes so defined by the solid waste management regulations promulgated by the Maine Department of Environmental Protection Pursuant to Title 38 M.R.S.A § 1304.

Joinder Agreement shall mean the agreement between the City of Brewer and the Municipal Review Committee, Inc. (MRC) made and executed on February 2, 2016.

State of Maine Legislative Findings.

(a) Municipalities, including the City of Brewer, have an obligation to protect the health, safety and general well being of their citizens, and to enhance and maintain the quality of the environment, conserve natural resources, and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the collection, transportation and disposal of solid waste.

(b) , The Maine legislature has established a “Solid Waste Management Hierarchy,”

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embodied in 38 M.R.S.A. Section 2101, pursuant to which it is the policy of the State to implement an integrated approach to solid waste management and to prioritize waste management in accordance with the following hierarchy: (i) reduction of waste; (ii) reuse of waste; (iii) recycling of waste; (iv) composting of biodegradable waste; (v) processing of waste including incineration; and (vi) land disposal. Energy recovery accomplished by Coastal constitutes a form of recycling, turning municipal solid waste into energy product commodities.

(c) The Coastal facility in Hampden is an energy recovery facility which accepts and processes MSW to capture recyclables and convert organic matter into commodities including energy products and feedstock for the manufacture of new goods.

(d) Of the available waste disposal options within the State of Maine identified in the hierarchy at 38 M.R.S.A. § 2101, disposal at the Coastal facility is the option that best satisfies the statutory priorities for disposal of non-recycled waste.

(e) Disposal at Coastal of solid waste generated in communities within range of the Coastal facility, such as the City of Brewer, is the preferred in-state disposal option and best serves the interests of these communities in maintaining public health, safety, scenic values, resource conservation goals, etc., in accordance with the disposal priorities established by the Legislature in 38 M.R.S.A. § 2101.

Municipal Solid Waste. "Municipal solid waste" or "MSW" means solid waste emanating from household and normal commercial sources.

Non- Resident shall mean any person who lives outside of the City of Brewer shall be referred to as a Non- Resident except for a Permitted User from contracting municipalities.

Non-Commercial Hauler shall mean an individual, corporation, partnership or other legal entity who hauls solid waste for herself, himself, itself or another from within the limits of the City without compensation.

Non-Resident Business shall mean any commercial, professional, retail, wholesale or other business conducted by a person corporation partnership, association or other legal entity existing outside the City of Brewer shall be referred to as a Non-Resident Business, except for Permitted User.

Occupant shall mean the person that has the use or occupancy of any building or a portion thereof, whether the actual owner or tenant. In the case of vacant buildings or any vacant portion of a building, the owner, agent or other person having the custody of the building shall have the responsibility of an occupant of the building or portion thereof.

Owner shall mean the actual owner of the building, whether individual, partnership or corporation, or the agent of the building, or other person having custody of the building or to whom the rent is paid.

Permitted User shall mean any Brewer Resident or Brewer Business and residents from municipalities, that have contracted with the City of Brewer for waste related services.

Pick-up truck body shall mean an area generally 8 feet long by 5 ½ feet wide and 1 ½ feet high

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Public works authority shall mean the City of Brewer Public Works Department.

Recyclable material shall mean paperboard, newspaper, glass, magazines, junk mail, cardboard, #2 natural plastic and aluminum cans and foil, and any additional material so designated by the Public Works Department. Recyclable material shall be considered waste material for purposes of this Chapter.

Resident Business shall mean any commercial, professional retail, wholesale or other business conducted by a person, corporation, partnership, association or other legal entity, existing within the City of Brewer.

Resident shall mean any person who lives within the City of Brewer.

Residential properties shall mean any property upon which is situated a residential structure containing at least one dwelling unit but not more than four (4) dwelling units.

Resource recovery shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purpose.

Rubbish shall mean all combustible materials such as, but not limited to, paper cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture and bedding and non-combustible material such as, but not limited to metals, tin cans, plastic containers, dirt, glass, crockery, and other mineral refuse.

Solid Waste shall mean discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge nor agricultural, biomedical or hazardous wastes; it shall also include acceptable waste, unacceptable waste and construction and demolition debris as defined herein. The fact that a solid waste or constituent of the waste may have value or other use, or may be recycled, or may be solid or exchanged does not exclude it from this definition.

Suitable container shall mean a plastic bag, maximum weight not exceeding forty (40) pounds. Bags may be placed in watertight containers with handles, covered by a tight fitting cover free of sharp edges.

Unacceptable Solid Waste shall mean all waste that is not Acceptable Solid Waste and will not be accepted by Coastal at its Hampden, Maine facility.

Unacceptable waste shall mean that portion of solid waste, which is not acceptable waste for disposal at a CDD landfill (garbage, trash, refuse, paints, appliances, metal, kerosene, gas, diesel, propane tanks, tires, medical waste, hazardous chemicals, batteries, vehicles, vehicle parts, stumps, logs, mercury containing products, universal waste, animal parts, infectious waste pesticides, herbicides, etc.)

User shall mean an individual, corporation, partnership or other legal entity, which either resides in the City of Brewer and/or has a business in the City of Brewer, which produces solid waste that is disposed

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of by a commercial or non-commercial hauler and may or may not deliver CDD related material to the City of Brewer CDD landfill for disposal.

Vehicle (in Article 8 only) shall mean only vehicles which are capable of discharging their loads on the Coastal Facility tipping floor by mechanical means shall be licensed by the City of Brewer. Included within the category of vehicles permitted to tip are: standard solid waste packer trucks, transfer trailers and hydraulic dump trucks. In addition, all solid waste vehicles entering the Coastal Facility in Hampden, Maine, shall have their loads enclosed with a container or covered securely by means of a tarp. No pickup trucks, or other vehicle, which requires manual unloading, either by design or by reason of malfunction, shall be permitted to haul solid waste to the Coastal Facility.

White Goods shall include only ordinary household appliances such as, but not limited to, refrigerators, air conditioners, freezers or hot water heaters.

Unspecified Terms:

Any terms, phrases and words not defined herein shall have the generally accepted meaning or definition promulgated in *WEBSTER'S NEW WORLD COLLEGE DICTIONARY*, Third Edition, Copyright 1997, a copy of which is on file in the Brewer City Clerk's office.

END OF CHAPTER NOTATIONS

- | | | | | | |
|----|---------|--------------------|-----------|--------------------|-------------|
| 1. | Enacted | Feb. 8, 2005 | Effective | Feb. 13, 2005 | (2005-C003) |
| 2. | Enacted | July 13, 2010 | Effective | July 18, 2010 | (2010-C010) |
| 3. | Enacted | September 14, 2010 | Effective | September 19, 2010 | (2010-C016) |

REPEALED

NEW ORDINANCE ENACTED

- | | | | | | |
|----|---------|-------------------|-----------|-------------------|-------------|
| 1. | Enacted | November 15, 2010 | Effective | November 20, 2010 | (2010-C018) |
| 2. | Enacted | June 7, 2011 | Effective | June 12, 2011 | (2011-C003) |
| 3. | Enacted | July 25, 2017 | Effective | July 30, 2017 | (2017-C010) |
| 4. | Enacted | July 9, 2019 | Effective | July 14, 2019 | (2019-C002) |

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

2019-C009

September 10, 2019

ORDER AMEND CHAPTER 15, ENTITLED "PARKS, CONSERVATION & RECREATION" OF THE CITY OF BREWER CHARTER, CODES AND ORDINANCES.

Filed September 6, 2019
By Kevin O'Connell &
Jerry Goss

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Be it ordained by the City of Brewer in City Council assembled that Chapter 15, of the Charter, Codes and Ordinances of the City of Brewer, entitled "Parks, Conservation & Recreation" shall be amended as follows:

ARTICLE 7. SAFE ZONES. (#4)(#7)

SECTION 701. ESTABLISHMENT. In order to promote the health and safety of the citizens of Brewer in general, and the minor children which frequent areas within the City of Brewer, there is hereby established Safe Zones within the City of Brewer in accordance with Title 30-A M.R.S.A. §3253.

SECTION 702. SAFE ZONES. The locations of the Safe Zones which are established under this Article are as follows:

- (a) Brewer Auditorium, athletic field, playground and swimming pool complex, which are generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 31, Lot 21, on file in the City Clerk's office and are more fully described in a deed and recorded in the Penobscot County Registry of Deeds in Volume 1087, Page 375.
- (b) Fling Street Park, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 29, Lot 31, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 2189, Page 207.
- (c) Maple Street Park, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 28, Lot 1, on file in the City Clerk's office and more fully described in a deed recorded in Penobscot County Registry of Deeds in Volume 4759 age 74, Volume 6151, Page 273, Volume 6151, Page 276 and Volume 6160, Page 239.
- (d) Eastern Park, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 26, Lot 27, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 2133, Page 839.
- (e) Sunset Memorial Park, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 42, Lot 155, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 1559, Page 67.
- (f) Indian Trail Park, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 37, Lot 1, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 287, Page 353.
- (g) Penobscot Landing Children's Garden, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 28, Lot 189, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 8444, Page 82.
- (h) School Street Playground, which is generally described on the Tax Assessor's maps, dated April 2003, as amended as Map 28, Lot 14, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 581, Page 499.
- (i) Housing Authority of the City of Brewer Family Projects (Me-21-5, Me-21-7, Me-21-8, and Me-21-9) located on Rinfret Drive and Lyford Drive, Map 14, Lot 21 and Map 14, Lot

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- 31, which is more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 5001, Page 152.
- (j) The Brewer Riverwalk Trail, and any improvements which lie within the following areas:
- (1) The property owned by the City of Brewer by virtue of the Deed from Hiram H. Fogg recorded in the Penobscot County Registry of Deeds in Volume 641, Page 275.
 - (2) The easements to the City of Brewer from Dead River Company, d/b/a Dead River Petroleum Company, recorded in the Penobscot County Registry of Deeds in Volume 8320, Page 205, and Volume 9558, Page 304.
 - (3) The easement to the City of Brewer from G. H. Doane recorded in the Penobscot County Registry of Deeds in Volume 10570, Page 4.
 - (4) The easement to the City of Brewer from Maxwood Services, Inc. recorded in the Penobscot County Registry of Deeds in Volume 10570, Page 10.
 - (5) The easement to the City of Brewer from Bruce R. Blackmer recorded in the Penobscot County Registry of Deeds in Volume 8544, Page 296.
 - (6) The easement to the City of Brewer from Dorks R Us recorded in the Penobscot County Registry of Deeds in Volume 8371, Page 236.
 - (7) The portion of the State of Maine property adjacent to the so-called Joshua Chamberlain Bridge.
- (k) The Dougherty Recreation Complex, which is generally described on the Tax Assessor's maps, dated April, 2016, as amended as Map 34, Lot 56, on file in the City Clerk's Office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Book 13905, Page 218. (#8)
- (l) The Capri Street Field, which is generally described on the Tax Assessor's maps, dated April, 2016, as amended as Map 44, Lot 13, on file in the City Clerk's office and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Book 13905, Page 215. (#8)

SECTION 703 SIGNAGE. Signs shall be posted designating the Safe Zones in accordance with Title 30-A M.R.S.A. §3253. The posting of the signage shall be the responsibility of the Brewer Chief of Police or the Chief of Police's designee.

SECTION 704 PROHIBITED ACTIVITIES

704.1 DEFINITIONS:

Smoking shall mean: lighting, inhaling, exhaling, burning, carrying or having in one's possession any lit cigar, cigarette, pipe, weed, plant, vaping, or other combustible substance in any form or similar product that relies on vaporization or aerosolization that is customarily used and intended for inhalation.

Camping shall mean: Presence of structures such as cabin(s), shelter(s), tent(s), hut(s), or any other structure designed or erected for the purpose of staying and/or sleeping; regardless of the materials used, length of time, or other intentions for use.

Fires shall mean: A rapid, persistent chemical change that releases heat and light and may be accompanied by flame, especially the exothermic oxidation of a combustible substance.

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Cooking shall mean: the use of devices, items, equipment, or other apparatus designed for, or used, in the preparation and cooking of food for personal consumption.

Swimming shall mean:
Swimming, wading, or floating.

704.2 The following activities are prohibited in all areas designated as “SAFE ZONES” Per Section 702 of Article 7, Chapter 15 of the Brewer Codes and Ordinances

704.2.1 No Smoking

704.2.2 No Fires

704.2.3 No Cooking

704.2.4 No Camping

704.2.5 No Swimming

704.3 PENALTY: Prior to issuing a citation for violation of this Ordinance, a law enforcement officer shall issue one verbal warning to an individual. If the individual fails to comply after the warning, the individual shall be issued a citation to appear in court. If the individual is found to be in violation of this Ordinance, the Court shall impose a fine of no less than \$100.00, which may not be suspended.

705 PERMISSION GRANTED:

705.1 SPECIAL USE PERMIT

The Parks & Recreation Director, may after consultation with the City Manager, issue a special use permit for an otherwise prohibited activity for any group and/or individual where there is a reasonable public interest in doing so.

705.2 FIRE PERMIT

The Fire Chief, may after consultation with the City Manager and the Parks & Recreation Director, issue a permit for a camp fire and/or cooking for any group and/or individual where there is a reasonable public interest in doing so, and there are reasonable precautions taking to ensure public safety and fire safety.

705.3 CONDITIONS OF PERMIT:

All special use permits issued shall have the following conditions:

- Date permit is issued.
- Duration of time permit is valid.

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.

H. New Items with Leave of Council

There were none.

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I. Adjourn

ACTION: Chairman Uhlenhake said she would accept a motion for adjournment. Councilor Ferris moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting was adjourned at 7:42 pm.

ADJOURNED, ATTEST: _____ Ronda J. Hogan
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine