

CHAPTER 9 - FIRE PREVENTION

ARTICLE 1. THE FIRE DEPARTMENT.

SECTION 101. PUBLIC SAFETY DIRECTOR AND FIRE CHIEF APPOINTMENTS.

The City Manager shall appoint a Public Safety Director, who shall also be appointed the Chief of the Fire Department subject to the confirmation of the City Council. The number of firemen shall be determined by, and each fireman shall be appointed by, the City Manager except as he may delegate to the Fire Chief. (#8)

SECTION 101.1. DUTIES OF THE PUBLIC SAFETY DIRECTOR. The Public Safety Director shall have all of the duties of the Fire Chief set forth in this Ordinance and the laws of the State of Maine, along with such other Fire Department duties as may be assigned to the Public Safety Director by the City Manager. (#8)

SECTION 101.2. DEPUTY FIRE CHIEF. The City Manager shall appoint a Deputy Fire Chief, subject to the confirmation of the City Council, who shall have the same duties as the Fire Chief in the death, disability or absence of the Fire Chief and such other duties as may be assigned to the Deputy Fire Chief by the Director of Public Safety, subject to the approval of the City Manager. (#8)

SECTION 102. DUTIES OF THE FIRE CHIEF. The Chief of the Fire Department shall be responsible for its management and control, and he or she shall provide rules and regulations for the government and efficiency of the Department. The City Manager shall have final approve for all Department rules and regulations.

SECTION 102.1. The Chief of the Fire Department shall have the sole and entire control and command over all persons attached to the fire department when on duty, and he or she shall direct all proper measures for the extinguishment of fires and protection of property, preservation of order and observance of the fire laws, Ordinances, rules and regulations. It shall be his or her duty to examine the conditions of the apparatus and buildings used by the Department and to see that the apparatus is always kept clean and in order for immediate use, and that on the return from fires they are well washed, cleaned and oiled, and securely housed.

SECTION 102.2. He or she shall keep a record of all alarms of fire and report monthly the same to the City Manager. He or she shall keep a record of the number of buildings damaged by fire, with the names of the owners, if known, and incorporate the statistics in his annual report to the City Manager.

SECTION 103. FIRE WARD AND FIRE INSPECTOR. The Chief of the Fire Department shall be fire ward and fire inspector, and is hereby authorized and required to perform all the duties of said offices under and by virtue of the provisions of Title 25 M.R.S.A. §2391 and all acts additional thereto and amendatory thereof. The Fire Chief may delegate the daily duties of Fire Inspector to one or more Fire Department Officers under his command. Further, as the delegate or designate of the Fire Chief the Fire Department Officer having command of the Department from time to time is charged with enforcing any and all public fire safety codes and Ordinances on an immediate basis in cases where public safety is immediately involved.

SECTION 104. DUTIES OF THE FIRE INSPECTOR. It shall be the duty of the Fire Inspector to inspect or cause to be inspected by Fire Department Officers or members, as often as may be necessary, all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected, any conditions liable to cause fire, or any violations of the provisions or intent of the laws of the State, or of any Ordinance of the City affecting fire hazards or public safety involving the structural condition of buildings.

SECTION 105. EQUIPMENT. The City Council shall determine what equipment the City shall furnish for the use of members of the Fire Department.

SECTION 105.1. All equipment furnished by the City shall remain the property of the City. Equipment that has expired will be properly disposed and removed from the City's equipment inventory list.

SECTION 106. CALL MEN. Call men shall notify the Fire Chief whenever by virtue of sickness or absence from the City, they are not available for duty. Call men will provide the Fire Chief with an approximate length of time away from the Fire Department.

SECTION 106.1. Call men shall receive reasonable compensation, as determined by the Fire Chief, for reporting to alarms.

SECTION 107. SECOND ALARMS.

SECTION 108. AUTHORIZED USE OF A RED BLINKER OR FLASHING RED SIGNAL LIGHT BY MEMBERS OF the BREWER FIRE DEPARTMENT. The City Council, as the municipal officers of the City of Brewer, hereby authorizes an officer or firefighter of the Brewer Fire Department, who has been designated as such by the Fire Chief of the Brewer Fire Department, to use a red blinker or flashing red signal light as described in Maine State Motor Vehicle regulations and not more than Five (5") inches in diameter on his or her vehicle, under the terms and conditions specified. The light may only be mounted as near as practicable above the registration plate on the front of a motor vehicle or mounted on the dashboard so that the light will be shielded from the driver so as not to interfere with his or her vision while operating the vehicle. Such light may be displayed but shall not be in operation except while the vehicle is in use for fire or other emergency service. No officer or firefighter shall operate a red blinker or flashing red signal light upon such vehicle, except while actually en route to the scene of a fire or other emergency requiring his services and unless he shall be an active member of the Department.

Prior to the authority provided herein, taking effect, the Fire Chief must authorize and countersign, in writing, each officer's and firefighter's authority. The authority provided herein shall automatically terminate upon the verbal or written notice of termination of authority to the officer or firefighter by the Fire Chief.

Nothing in this section shall be construed to violate Title 29-A, M.R.S.A. § 2054, as amended.

ARTICLE 2. FIRE FIGHTING.

SECTION 201. Whenever any hostile fire shall break out in the City the Fire Chief, or Officer in Charge of said Department or person in charge of said Department for the time being, shall go to or near the place where the fire may be and cause the apparatus to be arranged and worked in such manner as to most effectively extinguish the fire, and may require and compel the assistance of all persons in extinguishing the fire and removing furniture, goods and merchandise, from any building on fire or in danger thereof and to guard and secure the same, and in pulling down or demolishing any house or building or suppressing tumults and disorder; and it shall be his or her duty to cause order to be preserved throughout the Department in going to, working at, and returning from fires and other alarms.

SECTION 202. PERSONS TO OBEY FIRE CHIEF. All persons who may be present at any fire or emergency shall obey the command and direction of any Department Officer, and render their services in mitigating the emergency in such a manner as they may be required to do; and it shall be the duty of the Fire Chief to report all City employees who neglect or refuse to comply with the provisions of this Section to the City Manager.

SECTION 203. REMOVING BUILDINGS. Whenever it shall be determined by the Fire Chief or Officer in Command at any fire to pull down or demolish any building which may be on fire, or which it may be deemed necessary to be removed to prevent the spread of fire, the same may be done by his or her order.

SECTION 204. DUTY OF POLICE OFFICERS. It shall be the duty of the Chief of Police, and such officers of the police department as may be assigned for such duty, on an alarm for fire, to go to the place where the fire may be and use their best efforts to preserve the public peace and to prevent the theft and destruction of property, and to cause the removal of all suspected persons.

SECTION 205. AID TO OTHER COMMUNITIES. The City Manager or Chief of the Fire Department or Officer in Charge of said Department for the time being, may permit the fire fighting and other emergency equipment to be sent to the assistance of other cities and towns in cases of fire or other emergency, but such apparatus shall not be taken more than Ten (10) miles outside the city for any other purpose except by authority of the City Manager or by written agreement with another municipality. The Fire Chief shall promptly, after such service, render a report to the City Manager of the time and number of pieces of apparatus and the number of men involved, and the City Manager shall arrange with the City Treasurer to promptly render bills for such services and collect the money due the City. No bill shall be rendered to any community with which the City maintains a reciprocal arrangement for fighting fires.

SECTION 206 ADDITIONAL DUTIES In addition to suppressing and preventing fires, the Fire Department shall respond to and mitigate hazardous materials incidents, terrorist acts, natural disasters and medical emergencies in the City of Brewer.

ARTICLE 3. INSPECTIONS AND PERMITS.

SECTION 301. RIGHT OF ENTRY. The Chief of the Fire Department or any member thereof designated by him as an Inspector, may at all reasonable hours, enter any building or premises for the purpose of making any inspection, which under the provisions of this Ordinance, the Fire Chief may deem necessary, as authorized by Title 25, M.R.S.A, §2352

SECTION 302. REMOVAL OF HAZARDOUS CONDITIONS. Whenever a Fire Department Officer finds in any building or upon any premises or other place, combustibile or explosive matter or dangerous accumulation of rubbish or unnecessary accumulation of waste paper, boxes, shavings, or any highly flammable materials, and so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operation of the Fire Department, or egress of occupants in case of fire, he shall order the same to be removed or remedied.

SECTION 303. APPEAL FROM ORDERS. Such order shall be forthwith complied with by the owner or occupant of said buildings or premises; provided, however, that if the said owner or occupant shall deem himself aggrieved by such order when made by the Fire Chief or Inspector, he or she may, within 24 hours, appeal to the City Council, and the cause of the complaint shall be at once investigated by the direction of the Council and, unless by their authority to order above named is revoked, such order shall remain in force and be forthwith complied with by the said owner or occupant. The Fire Chief, Inspector, or the City Council shall make, or cause to make, an immediate investigation as to the presence of combustibile material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in said buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, shall be punished by a fine of not less than Five (\$5.00) Dollars for each day's neglect.—Title 25, M.R.S.A., §2360

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Chapter 9 - Art. 3
Sec. 304

SECTION 304. PERMITS. Permits required by the provisions of this Ordinance, which are to be obtained from the Chief of the Fire Department, shall be obtained in writing. Permits shall be for such period as the Fire Chief may specify but not exceeding one year. They shall be kept on the premises designated therein and shall be subject to the inspection by any Officer of the Fire or Police Department.

ARTICLE 3A. FIRE LANE AND FIRE ZONE ESTABLISHMENT.

SECTION 100. PURPOSE. Fire lanes and fire zones are established for the purpose of promoting the public health, safety and welfare by recognizing that there exist buildings and other areas within the city to which the public will be invited, served or housed. These buildings or other areas must be provided prompt, adequate emergency services including access by firefighters and other emergency personnel and their equipment to accomplish said purposes and effect the saving of life and property in emergency situations.

SECTION 101. DEFINITIONS.

SECTION 101.1 "fire lane" is defined for the purpose of this section as a marked and designated, unobstructed passageway at least ten (10) feet in width, constructed and maintained in a manner to permit the free passage of fire apparatus and other emergency vehicles, equipment and personnel regardless of the season of the year, time of day or weather conditions.

SECTION 101.2 "parking area" is defined as lots, areas, or other accommodations, including any necessary access way serving such area, used for the parking of motor vehicles off the street, alley or other way, which said lots, areas or other accommodations are available for use by the public either with or without charge.

SECTION 101.3 "fire zone" is defined as a designated unobstructed passageway commencing at a means of public ingress and or egress to a building or area and terminating at a public way or fire lane. The width of such passageway shall not be less than the width of the means of ingress and or egress to which it serves.

SECTION 200. APPLICABILITY. The provisions of this article shall be applicable to the following:

SECTION 201

(a) Existing shopping centers, businesses and places of assembly with fire lanes and/or fire zones in place in their parking areas on the effective date of this section.

(b) All educational occupancies either public or private used for the gathering of groups of six or more students for the purpose of instruction.

(c) Hospitals, convalescent homes and/or nursing homes.

(d) All places of assembly used for the gathering together of fifty (50) or more persons in one room, area, or enclosure.

(e) Any purposed use, which requires site plan review under Article 6, Chapter 24, Brewer Zoning Ordinance.

SECTION 300. ESTABLISHMENT OF FIRE LANES. The Fire Chief or his or her agent shall review each development, area or use to which this article is applicable to determine the necessity for the designation of fire lanes and or fire zones. In the event that the Fire Chief or his or her agent determines the need for fire lanes and or fire zones, the Fire Chief or his or her agent shall designate the location(s) of such fire lanes and or fire zones by written order and shall notify in writing the owner(s) or agent of the premises of such designations and of any specific requirements for compliance with this article. Such written orders shall prescribe a ten (10) day time period for compliance with the provisions of this article.

Failure to comply within the prescribed time period shall render the owner(s) of the premises or their agent liable to a fine of one hundred (\$100.00) dollars. Each day following such specified time shall constitute a new and separate violation.

SECTION 400. MAINTENANCE AND IDENTIFICATION OF FIRE LANES AND OR FIRE ZONES.

Fire lanes and or fire zones established by this article shall be kept free of ice, snow and rubbish accumulation and containers or other obstructions. The owner(s) or their agent shall cause to be erected, installed and maintained at their expense permanent signs of minimum dimensions of eighteen (18) inches wide by twenty-four (24) inches high, bearing the words "FIRE LANE - NO PARKING - VEHICLE WILL BE TICKETED OR TOWED AT OWNERS EXPENSE" and placed at intervals not to exceed twenty-five (25) feet in or adjacent to said fire lane and or fire zone. Such owner(s) or their agents shall cause other and further designations such as pavement markings and or marked and designated movable barricades to warn persons to keep said fire lanes and or fire zones unobstructed. Failure to maintain a fire lane and or fire zone in accordance with this section shall render the owners of said premises liable to a fine of one hundred (\$100.00) dollars with each continuing day of such violation constituting a separate offense.

ARTICLE 3B. ENTRY SYSTEMS AND INFORMATIONAL SIGNAGE.

SECTION 100. PURPOSE.

The provisions of this section shall be applicable to both new construction and existing buildings as of the effective date of this section.

SECTION 101. E-911, ROAD NAMES, AND BUILDING IDENTIFICATION SIGNAGE.

101.1. All streets, roads, and ways shall be named and signed according to the requirements of Chapter 50, of the City of Brewer's Charter, Codes, and Ordinances.

101.2. All buildings, apartments, units, and all applicable doors numbering shall be identified and signed according to the requirements of Chapter 50, of the City of Brewer's Charter, Codes, and Ordinances.

SECTION 102. EMERGENCY ENTRY SYSTEMS. The owner or builder of any new or rehabilitated civic, commercial, institutional, or industrial occupancies and all residential occupancies of more than 10 units utilizing a common entry lobby, will provide, at their expense, one or more Knox Lock Boxes on the structure for the Fire Department's use. Said boxes will be located on the exterior of the building in location(s) designated by the Fire Chief.

SECTION 103. NOTICE OF LIGHTWEIGHT TRUSS CONSTRUCTION. All buildings and structures in Brewer that are constructed using lightweight trusses of any material as structural or load bearing members will be labeled to notify emergency responders of the existence of said truss construction. The owners and tenants of all such buildings and structures will allow the fire department to attach and maintain a notice or sign on the exterior of the building / structure, dimensions of which will be 4 inches by 4 inches or smaller. The signs / labels will be supplied by the Fire Department.

SECTION 104 FIRE DEPARTMENT SPRINKLER CONNECTIONS. All buildings with a fire department sprinkler connection shall have identifying signage reading "FDC". At minimum, said sign shall be six (6) inches in height, red and white reflective, and be located directly above the connection. The building owner is responsible for installing and maintaining the signage.

SECTION 105 SPRINKLER CONTROL ROOMS. All buildings with a sprinkler control room shall have identifying signage reading "SPRINKLER CONTROL ROOM". At minimum, said sign shall be six (6) inches in height, red and white reflective, and located on exterior doors that have direct access to a sprinkler room. The building owner is responsible for installing and maintaining the signage.

ARTICLE 4. MISCELLANEOUS PROVISIONS FOR FIRE PREVENTION.

SECTION 401. PROHIBITED OPEN BURNING. Except as provided in Section 402 of this chapter, the following types of burning are prohibited:

SECTION 401.1 open burning of tires, rubber products, asphalt shingles, industrial leather scraps and wire insulation is prohibited.

SECTION 401.2 open burning of rubbish, refuse, garbage, human or animal remains and by-product wastes such as tar, paints, solvents and sludge is prohibited. (#4)

SECTION 401.3 open burning of highly combustible domestic, household trash such as paper, cardboard cartons and wood boxes is prohibited. (#4)

SECTION 401.4 open burning of leaves, brush, deadwood, stumps, and tree cuttings is prohibited except by permit as in Section 402. (#4)

No person, firm, corporation or other legal entity shall engage in any open burning except in conformity with the provisions of Section 402.

SECTION 402. PERMISSIBLE OPEN BURNING. The following types of burning are permissible if a permit has been obtained from the Fire Chief or his or her agent so long as the burning is conducted according to the terms and conditions of such permit, and that no nuisance is created. If in the judgment of the Fire Chief or his or her designee the burning is creating a public nuisance or danger then the permit will be revoked and the fire extinguished.

SECTION 402.1 recreational campfires kindled whether the ground is or is not covered by snow;

SECTION 402.2 fires in conjunction with holiday and festive celebrations;

SECTION 402.3 burning of solid or liquid fuels and structures for the purpose of research or bona fide instruction and training of municipal, volunteer and industrial firefighters in methods of fighting fires when conducted under the direct control and supervision of qualified instructors as designated by the Fire Chief;

SECTION 402.4 burning for agricultural purposes which includes but is not limited to open prescribed burning for timberland management, hay fields, crop fields or berry lands on an active farm;

SECTION 402.5 residential open burning of leaves, brush, deadwood stumps and tree cuttings accrued from normal property maintenance by the individual land or homeowner or lessees. Subject to the Nuisance and danger provisions in Section 402;

SECTION 402.6 burning for the disposal of materials generally from the clearing of land, or erection, modification, maintenance, demolition or construction of any highway, railroad, power line, communication line, airport or pipeline, either on site or at the City's solid waste disposal area;

SECTION 402.6.1 burning for the disposal of materials generally from the clearing of building or building developments, either on site or at the City's solid waste disposal area subject to the nuisance and danger provisions of Section 402;

SECTION 402.7 burning for hazardous abatement purposes such as, but not limited to, the burning of grass fields, or structures which could constitute a danger to the public.

SECTION 402.8 burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum or flammable liquid products;

SECTION 402.9 open burning of the demolition debris of structures damaged Fifty (50%) percent or greater by fire or condemned by the City Council.

SECTION 402.10.1. The following types of burning are permissible without a permit:

SECTION 402.10.2. residential use of outdoor grills and fireplaces for recreational purposes such as preparing food. Camp fires in organized camp grounds and parks as permitted by the authority controlling that park or camp ground within designated prepared sites for such fires;

SECTION 402.10.3. the burning of brush, stumps, tree cuttings, grass, deadwood, leaves and demolition debris at the City's solid waste disposal area.

SECTION 403. DEFECTIVE WIRING. If the Fire Chief or Officer in Charge discovers defective wiring during inspections or at alarm scenes he or she shall notify the Code Enforcement Officer. If defective wiring has caused or will cause immediate danger to persons or property, the Fire Chief or the Officer in Charge can order the energy supply to said wiring be shut off or discontinued until the Code Enforcement Officer arrives. This order extends to all public or private wiring in the City of Brewer.

SECTION 404. CLEANING CHIMNEYS. Whenever the Fire Chief shall issue orders or directions relative to the cleaning of chimneys and flues, the same shall be complied with within the time limit specified in such order or direction.

SECTION 405. STORAGE OF FLAMMABLES. Gasoline or other flammable liquids shall not be stored in quantities over ten (10) gallons wherever the Fire Chief shall deem such storage a fire hazard.

SECTION 406. BRUSH AND GRASS HAZARDS. The Fire Chief shall give notice to the owners or occupants of land covered with brush or grass that constitutes a fire hazard. Said hazard may be abated in accordance with a permit issued therefore by the Fire Chief. The Fire Chief on request of the owners or occupants shall cause the said hazard to be abated. If such abatement is carried out by the

Fire Department, it is at the expense, and responsibility for any damage therefrom, of said owners or occupants.

SECTION 407. ENFORCEMENT. The Fire Chief, Police Chief or persons appointed by either will enforce this Ordinance.

SECTION 408. PENALTY. Whoever shall violate any provisions of this Article shall be liable for a fine of no less than One Hundred (\$100.00) dollars nor more than One Thousand (\$1,000.00) dollars for each offense. An offense shall mean each fire in violation of this Article or a violation each twenty-four (24) hour period, whichever occurs more often.

A person or entity accused of violating this Article may waive their right to appear on the alleged violation in Maine District Court and defend the charge, provided that:

(a) The alleged violator has not paid a penalty under this Ordinance more than twice, either by waiver or by a court finding, and

(b) The alleged violator pays to the Brewer Fire Department one hundred dollars (\$100.00) for violating this Article as charged within ten (10) days after being summoned.

Any person or entity who does not wish to waive the right to appear in the Maine District Court shall appear on the date, time and place set forth in the summons to answer the charge. All proceedings in the Maine District Court shall be in accordance with the laws of the State of Maine and this Article.

Upon a conviction for violating this Article, the Court shall consider the following factors in addition to such other factors as the Court may deem appropriate:

- (1) Threat to human life and or property created by the violation.
- (2) Property damage sustained as a result of the violation.
- (3) Physical damage sustained by any human or domestic animal as the result of the violation.
- (4) Prior violations of this Article by the violator.
- (5) The City shall also be entitled to its reasonable attorney fees and costs to prosecute any action.

ARTICLE 5. VALIDITY.

SECTION 501. VALIDITY. If any section or part of a section or paragraph of this Article is declared invalid or unconstitutional it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this Article.

ARTICLE 6. FIREWORKS.

SECTION 601. PROHIBIT USE AND SALE. No person shall at any time within the limits of the City of Brewer, sell, keep with the intention of selling, discharge or set off or have in his possession for any of the foregoing purposes, any toy gun, toy pistol, toy can or cannon that can be used to fire blank cartridges; any fire balloon, so called, parachute or similar article carrying a lighted substance; any fireworks, firecrackers, red or other colored fire, bombs, spin wheels, salutes, torpedoes, rockets, squibs, Roman candles or other things containing any substance of any explosive nature designed or intended to be used as fireworks, provided however, public pyrotechnical displays may be given as provided by law

SECTION 602. EXCEPTIONS. The provisions of this Ordinance shall not apply to the use or possession of signal torpedoes or other signaling devices by railroads in the operation of their trains; or to the sale, use or possession of normal stocks of flash light compositions for photographers or dealers in photographic supplies or flares used to mark disabled vehicles or dangerous spots on the highways or toy pistols, toy canes, toy guns or cannons in which paper caps containing 25/100ths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or to the sale, possession or use of sparklers that do not contain magnesium chlorinates or per chlorates. Additionally, beginning January 1, 2012, the provisions of this Ordinance shall not apply to the sale, possession or use of consumer fireworks as defined under Title 8 M.R.S.A. § 221-A(1-A), within the City of Brewer, so long as the sale, possession and use of the consumer fireworks are consistent with Title 8 M.R.S.A. § 221-A through and including Section 237, the rules adopted by the Commissioner of the Maine Department of Public Safety and federal law. The use of consumer fireworks shall be restricted to those areas of the City of Brewer that permit the discharge of shotguns, muzzle loaders, black powder guns, revolvers and pistols pursuant to Chapter 35 of the Codes and Ordinances of the City of Brewer. (#7) (#9)

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Sec. 603 - 604

SECTION 603. DEFINITIONS. The word "person" as used in this Ordinance, shall mean and include one or more persons, individuals, firms, corporations, partnerships, associations, and all other entities capable of being sued. Words of the singular number may include the plural; and words of the plural may include the singular.

SECTION 604. PENALTY FOR VIOLATION. Whoever violates any of this Article of the Ordinance shall be punished by a fine of not more than One Hundred (\$100.00) Dollars for each offense. The City shall also be entitled to its reasonable attorney fees and costs for prosecution of any violation.

ARTICLE 7. EXPLOSIVES OR FLAMMABLE.

SECTION 701. No person, partnership, corporation or other legal entity shall keep, possess, store, handle, dispense or transport within the City of Brewer any gunpowder, petroleum, coal oils, burning fluids, naphtha, benzene or other explosives or illuminating substances dangerous to the lives or safety of citizens except in accordance with the most recent rules and regulations issued by the State Commissioner of Public Safety. This Article shall not apply to the purchase, sale, transportation or storage of smokeless powder in amounts not in excess of fifteen (15) pounds or primers not in excess of One Thousand (1,000) in number.

SECTION 702. No person, partnership, corporation or other legal entity shall keep, possess, store, handle, dispense or transport within the City of Brewer any explosives without a permit from the State Commissioner of Public Safety, as applicable.

SECTION 703. No person, partnership, corporation or other legal entity shall blast within the limits of the City of Brewer without providing the City Clerk at his or her office, during normal business hours, written proof of a license to blast issued by the State of Maine and proof of liability insurance covering the blasting at least forty-eight (48) hours before the blasting is to take place. The City Clerk shall provide the Fire Chief with copies of the license and proof of liability insurance filed with the City Clerk's office prior to blasting, detonation or display. The Fire Chief or Officer in Charge can order a temporary halt to any blasting, detonation or display for the purpose of securing the safety of persons or property.

SECTION 704. Upon discovering defective or dangerous flammable gas services, flammable gas utilities, or flammable or fuel gas appliances or equipment, the Fire Chief or his or her designate, which may include the Fire Inspector or Officer in Charge, may order the owner or operator of that defective or dangerous service, utility, appliance or equipment to immediately stop the use and or operation thereof. All owners and operators of such flammable or fuel gas equipment, utilities, services and appliances or equipment will follow the instructions of the Fire Chief or his or her designate regarding such equipment until the equipment can be certified as safe. Certification must be made by the Fire Chief or his or her designate or by either the Code Enforcement Officer or a Maine Licensed Inspector or Licensed Gas Service repairman as licensed by the Maine Department of Professional and Financial Regulation- Oil and Solid Fuel Board.

SECTION 704.1 Shut off valves for flammable and fuel gas services and devices. (#2)

All gas services and supplies for fuel gas, flammable gas or compressed gas must be equipped with a shut of valve. To comply with this ordinance one shut of valve must be installed and operational for each separate gas service and/or device.

For fuel gasses supplied from outside tanks or public utilities the main shut off valve must be provided at the gas service entrance to each building or occupancy where gas is being used. These valves must be on the exterior of the building. In cases where gas service is being provided to separate businesses or occupancies that share space in a building, such as business or shopping malls, each business shall be equipped with a separate, approved, exterior shut off.

Main gas valves to buildings or occupancies must all operate through the use of a standard rectangular shut off wrench or key. The gas shut off must be approved by the Authority Having Jurisdiction as to location and shape of operating mechanism. For purposes of this ordinance the Brewer Fire Chief shall be the Authority Having Jurisdiction. No shape or configuration of gas shut off will be accepted as meeting this ordinance except those approved by the Fire Chief.

SECTION 704.2 Gas tanks, shut off and metering equipment to be protected. (#2)

Tanks and equipment or facilities for shutting off fuel or compressed gas supplies and metering gas services to buildings from outside tanks or public utilities must be protected from damage by motor vehicles, snow removal operations, falling ice or other causes. The protective measures must be approved by the Fire Chief.

In cases where the Fire Chief, Code Enforcement Officer or the Fire Inspector find gas meters or shut off equipment that are not properly protected from damage they may order the gas supply or service shut off at the source until protection for the equipment, approved by the Authority Having Jurisdiction, is provided.

SECTION 706. LICENSES REQUIRED. No person, partnership, corporation or other legal entity shall keep any petroleum, coal oil, kerosene or other flammable liquid in the city in quantities exceeding five hundred fifty (550) gallons at one time in any one place, without a license therefore from the City Council. No such license shall be issued except after approval of the Fire Chief or his agent.

706.1. All persons, partnerships, corporations or other legal entities keeping for sale gunpowder, dynamite, blasting caps and other explosives, including naphtha, benzene, gasoline or other flammable liquids shall annually obtain a license therefore from the City Council which license may set forth the way and manner in which they may be sold and shall set forth the quantities which may be kept on hand at any one time. No license shall be issued except on approval of the Fire Chief or his or her agent.

SECTION 707. In all locations wherever explosives are stored, said explosives shall be stored in state approved magazines clearly labeled as to content.

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Sec. 708 - 708.1

SECTION 708. VIOLATIONS AND PENALTIES. Any person, partnership, corporation, or other legal entity that violates Article 7 shall be subject to a penalty of no less than One Hundred (\$100.00) dollars nor more than Five Hundred (\$500.00) Dollars for each violation, with each day being considered a separate violation. The City shall be entitled to any and all rights it has at law and equity against a violator(s) and shall be entitled to its reasonable attorney fees, expert fees and costs to prosecute any violation of Article 7. (#6)

708.1 Persons, partnerships, corporations, or other legal entities violating the Rules and Regulations of the Commissioner of Public Safety, Bureau of State Fire Marshal, in regard to explosives and flammable liquids shall be liable to the penalties prescribed by law.

ARTICLE 8. GARAGES.

SECTION 801. GARAGES. No person shall use any building shed or enclosure for the purpose of servicing or repairing any motor vehicle therein nor use any room or space having a floor area exceeding Twelve hundred (1200) square feet in any building, shed or enclosure for storing, housing or keeping any motor vehicles containing flammable liquid in fuel tanks thereof, without a permit. The Code Enforcement Officer shall issue said permit after inspection of the building or premises.

SECTION 802. CLEANING WITH FLAMMABLE LIQUIDS. No flammable liquid with a flash point below One Hundred (100) degrees F. shall be used in any garage for washing parts or removing grease or dirt.

SECTION 803. FUELING VEHICLES. The reservoirs of motor vehicles shall be filled only through hose from pumps attached to approved portable tanks or drawing from underground storage tanks. There shall be no facilities for gasoline handling or filling in any basement or sub-basement garage. Before installing underground storage tanks, the person, firms, corporation or other legal entity installing such underground storage tanks shall obtain a permit from the State Fire Marshal's office and shall comply with the provisions of the following publications:

- A. Rules and Regulations Relating to Gasoline and Other Flammable Liquids - Title 32, M.R.S.A.
- B. Special Regulations for Attended Self-service Gasoline Dispensing Stations.

SECTION 804. DRAINS. No garage floor drain shall connect to any sewer unless provided with an oil separator or trap.

**ARTICLE 9. OIL AND SOLID FUEL BURNER STANDARDS FOR CENTRAL HEATING
EQUIPMENT.**

**SECTION 901. INSTALLATION AND USE OF OIL BURNING AND SOLID FUEL
EQUIPMENT.** No solid fuel or oil burning equipment and no fuel storage tanks to be used in connection therewith, shall be installed, maintained or used in the City unless it shall conform to the standards adopted by the Oil Burner Technician Licensing Board, pursuant to the provisions of Title 32, M.R.S.A. Such installations must comply with the regulations issued by the Board and the National Fire Protection Association (NFPA) bulletin #31 Installation of Oil burning Equipment new date 1987 Edition, as amended.

SECTION 902. NO INSTALLATION TO BE MADE BEFORE PERMIT. No person firm or corporation shall install any such equipment or tank without application for a permit therefore, having first been made to and a permit received from the Code Enforcement Officer. Said application shall be made on forms furnished by the Code Enforcement Officer. Such application shall describe the installation to the home or building owner, and such other matter as may be required by the Code Enforcement Officer, and by the Oil Burner Technician Board. Application for such permit shall be in writing, signed by the owner of the premises, upon which such equipment or tank is to be installed, or by the person who shall make such installation. The fee for such a permit shall be Twenty (\$20.00) Dollars to cover the cost of the inspection required.

902.1. Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this Article without first having applied for a permit shall pay double the permit fee fixed by this Article for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Code Enforcement Officer, or his agent, that such work was urgently necessary and that it was not practical to apply for a permit therefore before the commencement of the work. Any person, firm, corporation or other legal entity who commences work before applying for a permit shall not be subject to paying double the permit fee for the first time that such failure to apply occurs but instead shall be issued a verbal or written warning by the Code Enforcement Officer, or his or her agent, that subsequent failures to apply for permits will result in the person, firm, corporation or other legal entity being subject to the payment of double the permit fee.

SECTION 903. NOT TO BE USED BEFORE INSPECTION. Within five (5) days after such equipment or tank has been installed, notice thereof shall be sent from the applicant for the permit, to the Code Enforcement Officer or a designated agent, who shall inspect the same; and the Code Enforcement Officer shall issue an inspection report, upon being satisfied that such equipment and tank and the installation thereof, complies with the requirements of this ordinance and the State laws. No person, firm or corporation shall use any such equipment or tank, or maintain the same for more than four (4) days after installation of the same shall have been completed unless an approved inspection report for such equipment or tank, shall be in effect.

SECTION 904. NO PERMIT REQUIRED FOR EXISTING INSTALLATION. No permits shall be required for the maintenance or use of any such equipment or tank where such equipment or tank was installed prior to the effective date of this ordinance. All such equipment and tanks shall conform to the said standards adopted by the said Board at all times and comply with the regulations issued by said Board.

SECTION 905. ENFORCEMENT. If any equipment or tank should not comply with the said standards, the Code Enforcement Officer or state oil burner inspector shall notify the installer and set forth wherein the installation fails to meet the requirements of the said standards. The installer shall have ten (10) days after the date of notification to comply with said standards. If at the end of the specified time limit, the Code Enforcement Officer shall determine that the installation is still in violation, he shall give written notice that the installation of such equipment or tank does not conform to said standards to the Oil Burner Technician Licensing Board for the appropriate action.

SECTION 906. INVESTIGATION PROCEDURE. The Code Enforcement Officer or his or her designated agent, duly authorized, or state oil burner inspector shall have access at all reasonable hours for the purpose of examination and inspection of such installations to enter into and upon all buildings or premises within their jurisdiction and inspect the same. They may enter any building only with the permission of the person having control thereof or after hearing, upon order of Court. Upon finding any oil burning, solid fueled or other heating device which is in imminent danger of causing a fire or injuring persons or property, the Fire Chief, Fire Inspector or Officer in Charge can temporarily order said equipment out of operation. Said order will stand until the Code Enforcement Officer has inspected. The Fire Chief or his or her designate will, within a reasonable time, notify the Code Enforcement Officer of such order.

SECTION 907. MINIMUM FLASH POINT. No person, firm or corporation shall use oil in any oil burning equipment in this city unless its flashpoint is not less than One Hundred (100) degrees Fahrenheit, closed cup test.

SECTION 908. PENALTY. Violation of this Article shall be punished by a fine of not more than One Hundred (\$100.00) dollars. Each day of violation shall be a separate offense. The City shall be entitled to its reasonable attorney fees and costs for prosecuting a violation.

**ARTICLE 9A. INSTALLATION AND USE OF VENTS AND SOLID FUEL BURNING
EQUIPMENT OTHER THAN CENTRAL HEATING EQUIPMENT.**

SECTION 9A01. SOLID FUEL BURNING APPLIANCES, FIREPLACES AND CHIMNEY STANDARDS. No solid fuel burning equipment including vents, solid fuel burning appliances, fireplaces and chimneys shall be installed, maintained or used in the City unless it shall conform with the standards of the National Fire Protection Association (NFPA) bulletin No. 211 (1988 edition). Three copies of which bulletin are on file in the office of the Brewer City Clerk.

SECTION 9A02. NO INSTALLATION TO BE MADE BEFORE PERMIT. No person, partnership, corporation or other legal entity shall install any system or venting system for solid fuel or liquid fuel fired equipment without first obtaining a permit from the Code Enforcement Officer or his or her agent. The fee for such permit shall be as follows:

<u>APPLICATION</u>	<u>FEE</u>
New woodstove or vented space heaters	\$20.00
New add-on solid fuel boiler/furnace	\$20.00
new masonry or factory metal, chimney or vents and fireplaces	\$20.00

*Permit is not required for venting systems/fireplaces involving new construction where a building permit has been issued for said building.

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9A02.1. Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this Ordinance without first having applied for a permit therefore shall pay double the permit fee fixed by this Ordinance for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Code Enforcement Officer, or his or her agent, that such work was urgently necessary and that it was not practical to apply for a permit therefore before the commencement of the work. Following the effective date of this subsection, any person, firm, corporation or the entity who commences work before applying for a permit shall not be subject to paying double the permit fee shall be issued a verbal or written warning by the Code Enforcement officer, or his or her agent, that subsequent failures to apply for permits will result in the person, firm, corporation or other legal entity being subject to the payment of double the permit fee.

SECTION 9A03. USE BEFORE INSPECTION PROHIBITED. No new solid fuel burning equipment shall be operated in any dwelling, business or other structure until the same has been inspected and approved by the Code Enforcement Officer or his designated agent.

SECTION 9A04. Pursuant to Title 25 M.R.S.A. § 2465, the Fire Chief and or Officers in Charge shall have authority to make inspections and undertake investigations to determine whether the standards of the NFPA Code No. 211 have been complied with. In the event of a violation, the information obtained by the Fire Chief and or Officer in Charge shall be turned over to the Code Enforcement Officer or his or her designated agent for the purpose of prosecuting the violation of the standards of NFPA Code No. 211, as the same have been adopted under this Article.

ARTICLE 9B RESIDENTIAL OUTDOOR BOILERS

SECTION 9B01. GENERAL

Section 101. TITLE. This Ordinance shall be known as the Residential Outdoor Boilers Ordinance.

Section 102. STATEMENT OF PURPOSE. The purposes of this Ordinance are to ensure that small residential outdoor boilers located outside residential structures are operated in a manner that limits particulate discharges, creates no nuisance to neighbors, and protects members of the community from harmful levels of smoke and other emissions.

Section 103. LEGISLATIVE INTENT AND FINDINGS.

- A. Residential outdoor boilers are alternative sources for heat and hot water production. Many burn inefficiently and create significant amounts of particulate and smoke discharges that threaten public health, welfare, and safety.
- B. It is the intent of this Ordinance to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of Brewer by regulating residential outdoor boilers within its borders.
- C. Authority for this Ordinance is found in Article VIII, Part 2, §1 of the State of Maine Constitution, and the "Home Rule" provisions of Title 30-a MRSA, §3001 et. seq. and the City of Brewer City Charter, Codes and Ordinances.

Section 104. VALIDITY AND SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstances is held to be invalid by any court of competent jurisdiction, such validity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Ordinance are declared to be severable.

Section 105. CONFLICTS WITH OTHER CODES OR ORDINANCES. The provisions of this Ordinance shall not be construed to abrogate or annul the provisions of other Ordinances, codes or regulations, or to impair the provisions of private restrictions placed on property. Where this Ordinance imposes a greater restriction upon land, buildings or structures than is imposed by any such provision, the restrictions of this Ordinance shall prevail.

SECTION 9B02. PERMITS

Section 201. PERMIT REQUIRED. No person shall install, use, or maintain a residential outdoor boiler within the City of Brewer without first having obtained a permit from the Code Enforcement Officer. Application for such permit shall be made to the Code Enforcement Officer on forms devised and provided by the Code Enforcement Officer. Fees collected with regard to these permits shall be set by the City Council and shall be amended from time to time.

Section 202. EXISTING RESIDENTIAL OUTDOOR BOILERS. Any residential outdoor boiler in existence, installed, and operating/operable on the effective date of this Ordinance shall be allowed to remain provided that the owner applies for and receives a permit from the Code Enforcement Officer within sixty (60) days of such effective date, and further provided, however, that upon the effective date of this Ordinance all the provisions hereof, except for those found in Section 301 (B) below, shall immediately apply to existing residential outdoor boilers. All of the provisions of this Ordinance shall continue to apply to existing residential outdoor boilers which received a permit, except in Section 301 (B) below. If the owner of a residential outdoor boiler does not received a permit within sixty (60) days of the effective date of this Ordinance, the residential outdoor boiler shall be removed or made inoperable by the owner at the owner's expense. "Existing" or "in existence" means that the residential outdoor boiler is in place on site and able to operate.

Section 203. SUSPENSION AND REVOCATION OF A PERMIT. A permit issued pursuant to this Ordinance may be suspended or revoked by the Code Enforcement Officer. Also any permit can be temporarily suspended by the Fire Chief or his or her designee and then referred to the Code Enforcement Officer for further action. Such suspensions or revocation can be enforced to protect the public health, safety, and welfare of the residents of the City of Brewer if or when any of the following conditions occur:

- A. Malodorous air contaminants from the residential outdoor boiler are detectable inside any property abutting that of the person whose land the boiler is located.
- B. The emissions of the residential outdoor boiler interfere with the reasonable enjoyment of life or property.
- C. The emissions from the residential outdoor boiler cause damage to vegetation or property.
- D. The emissions from the residential outdoor boiler are, or may be, harmful to human or animal health.
- E. It is found that improper fuels are being burned as found in Section 301 (A) below. A suspended or revoked permit may be reinstated once the condition that caused the suspension or revocation is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which as previously resulted in suspension or revocation of a permit, shall be considered a violation of this Ordinance and be subject to the penalties provided in Section 601 below.

SECTION 9B03. SPECIFIC REQUIREMENTS

Section 301. SPECIFIC REQUIREMENTS.

- A. Permitted Fuel. Only firewood and untreated lumber and biomass fuels for burning, including but not limited to, pellet fuel, coal, corn cobs and fruit pits are permitted to be burned in a residential outdoor boiler as specified by the manufacturer. Burning of any and all other materials, including but not limited to, trash, cardboard, demolition debris and waste oil in a residential outdoor boiler is expressly prohibited.
- B. Distance Requirement. No residential outdoor boiler shall be installed less than 100 feet from a property line.
- C. Emissions Maximum. Particulate discharges shall be less than 24 grams per 100,000 British Thermal Units (BTU) per hour, as rated by a certified testing laboratory for the residential outdoor boiler manufacturer at the time of installation and at all times thereafter.
- D. Certification. Any residential outdoor boiler located in Brewer shall be certified to meet Standard 391 of Underwriters Laboratories (UL) by its manufacturer at the time of installation and at all times thereafter.
- E. Stack Height. The stack height of a residential outdoor boiler must be at least two (2) feet above the highest point of any structure within 100 feet of the boiler.
- F. Replacements. If a residential outdoor boiler is replaced or upgraded, a permit shall be required pursuant to Section 201 above and must comply with all Sections of this Ordinance.

SECTION 9B04. APPEALS and WAIVERS.

Section 401. APPEALS AND WAIVERS.

- A. Appeals. A residential outdoor boiler owner may appeal, in writing, the Code Enforcement Officer's denial or suspension or revocation of a permit to the Brewer Zoning Board of Appeals in accordance with Chapter 34. The Board will consider such appeals in open session and may include, at its discretion, testimony by the property owner, testimony by the Code Enforcement Officer, witnesses, and members of the general public. Any appeals upheld by the Board must find, at a minimum, that the Code Enforcement Officer substantially deviated from the conditions detailed in this Ordinance and state specifically what those deviations were as part of its decision. If the decision of the Code Enforcement Officer is upheld, the suspension or revocation of the permit will continue until such time as the boiler is brought into compliance with this Ordinance or discontinued from use. During the appeal process, however, the residential outdoor boiler shall not be used in order to protect the health, safety, and welfare of the City.
- B. Waivers. The Brewer Zoning Board of Appeals, in accordance with Chapter 34, shall retain the authority to grant waivers under this Ordinance due to extraordinary and undue hardship, upon written request of an affected property owner to the Board. The Board shall consider the waiver request in open session and may include, at its discretion, testimony of the property owner, the Code Enforcement Officer, and members of the general public. Any waiver granted shall not have the effect of nullifying the intent and purposes of this Ordinance and the Board may impose such conditions and requirements as it deems reasonable and prudent. If the Board denies the waiver request, the residential outdoor boiler in question must be brought into full compliance with this Ordinance or its use be discontinued immediately.

SECTION 9B05. DEFINITIONS

Section 501. DEFINITIONS. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them hereunder, except where the context clearly indicates a different meaning:

BIOMASS FUELS: Biomass is the organic matter in trees, agricultural crops and other living plant material. It is made up of carbohydrates-organic compounds that are formed in growing plant life.

BOILER: A firebox and tank for heating water and storing it until utilized for the purpose of supplying heat or hot water.

FIREWOOD: Trunks and branches of trees and bushes, but does not include leaves, needles, vines, or brush smaller than one (1") inch in diameter.

RESIDENTIAL OUTDOOR BOILER: Any equipment, device, or apparatus, or any part thereof, that is installed, affixed, or situated outdoors for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any swimming pool, Jacuzzi, spa, hot tub, or interior living or storage space.

UNTREATED LUMBER: Dry wood that has or has not been milled and dried, but has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance. It may not contain nails, screws, or other similar attachments that, when burned, could create a threat to public health, safety, or welfare.

SECTION 9B06. PENALTIES

Section 601. PENALTIES, ATTORNEYS FEES AND COSTS. Violations of this Ordinance shall be deemed a civil infraction and violators may be summonsed by the Code Enforcement Officer to Maine District Court or other court of competent jurisdiction. Owners of an offending residential outdoor boiler shall be assessed a penalty of \$100.00 to \$2,500.00 per violation with each day being considered a separate violation. Violators will also be responsible for any and all court fees, fines, and reasonable attorney's fees incurred by the City in prosecuting any violators or violations. Any future violations found by the Code Enforcement Officer will result in the property owner's permit being revoked permanently. The owner shall not be eligible for another permit.

ARTICLE 10. PUBLIC DISPLAY OF GREENS AND TREES WITHIN AN OCCUPANCY.

SECTION 1001. PUBLIC DISPLAY OF GREENS AND TREES

The public display of greens and trees in occupancies such as mercantile, assembly, education, and business or like facilities must comply in one of the following ways:

1. A living tree, with its roots protected by a ball of earth and wrapped in burlap or similar material placed in a sturdy container and watered daily.
2. An artificial tree or greens, labeled or certified by the manufacturer as flame retardant or flame resistive.
3. A natural cut tree or greens located in an area protected by an approved automatic sprinkler system.
4. A natural cut tree or greens, sprayed or dipped by a commercial applicator using a tested and listed fire retardant formula.

Natural cut trees or greens shall have a certificate attached, stating the name of the formula, name of the applicator, and date of treatment. Treated trees must be watered on a daily basis. Natural cut trees or greens are not allowed in patient care facilities under any circumstances.

SECTION 1002. PENALTY Violation of this Article shall be punishable by a fine of no more than One Hundred (\$100.00) Dollars with each day being a separate violation. The City shall also be entitled to its reasonable attorney fees and costs for prosecuting a violation.

SECTION 1003. PROSECUTION The Fire Chief and or Code Enforcement Officer shall prosecute all violations under this Article.

ARTICLE 11. TEMPORARY OR SEASONAL STRUCTURES, PLATFORMS, STAGES, SCAFFOLDS, CANOPIES AND TENTS. (#1)

SECTION 1101. No person, firm, company, corporation, school, municipal department, religious organization or other entity may occupy, use or maintain any temporary or seasonal structure, as defined herein, for any included purpose without first having such structure inspected and approved by the Fire Chief or his or her designate. The Fire Chief or his or her designate may require emergency lighting, fire extinguishers, fire exits, flame retardant fabric(s), materials or construction similar to that of permanent structures before allowing any included use of any temporary structure. When required safety measures have not been provided for or are discontinued the Fire Chief or his or her designate may order the structure immediately closed to public use/occupancy.

SECTION 1102. Such approval shall be required for all temporary structures including those used as or for any of the following uses: gathering places, public assemblage, circuses, concert venues, arenas, exhibitions, traveling shows, educational occupancies, performances, displays or sleeping areas when any of these uses are intended for use by or actually used by fifty (50) or more persons at one (1) time. Tents with side-walls to be used for any of the aforementioned uses/occupancies intended for use by or actually used by fifty (50) or more persons at any one (1) time are also included.

SECTION 1103. Included are enclosed temporary retail areas, wholesale facilities, shelters or display areas over six hundred (600) square feet. Temporary or moveable performance, exhibition or display stages, seating facilities, bleachers or construction scaffolding(s) or temporary structures built or erected over streets, ways, driveways or sidewalks, public or private, so long as the way is open or susceptible to use by the public.

SECTION 1104. Included bleachers, elevated or raised seating and access/egress stairways/ramps must have sufficient signs, railings and lighting to help persons on such structures avoid falling and direct emergency egress.

SECTION 1105. Air supported structures, piers, temporary stadiums, greenhouses, garages, barns, structures surrounded on two (2) or more sides by water or limited access highways and watercraft moored temporarily being or intended to be used for public, group or mass assemblage or occupancy by fifty (50) or more persons are hereby included in this Article. The number of persons referred to in this Article includes all persons/souls in/on the structure at any time regardless of their status as a ticket-holder, employee or otherwise.

SECTION 1106. Included are canopies or tents without sidewalls over twelve hundred (1200) square feet. Canopies or tents without sidewalls but which have fences, barricades or other obstructions around them or are erected between other structures such that open egress is blocked shall be subject to inspection and approval if over six hundred (600) square feet in area.

SECTION 1107. Where any group of temporary structures, smaller than those covered by this Article, are erected or assembled in proximity to each other such that less than ten (10) feet of open space exists between them on all sides, and their aggregate area or capacity exceeds the size of structures controlled by this Article, they shall then be viewed as one structure. Ten (10) foot spacing between tents and other obstructions to passage must be outside of any tent stake lines. This Article also applies to temporary structures, as herein defined, within other temporary structures or within permanent structures.

SECTION 1108. Included as temporary use structures are trailers, and other mobile or transportation devices, open to the public that are over three hundred (300) square feet or designed for occupancy by or actually occupied by twenty-five (25) or more persons at one (1) time, wherein the users enter the structure/device. These temporary structures/devices include those used for performances, exhibits, retail spaces, temporary lodging, dining or displays that are enclosed. Enclosed means to have sidewalls or other effective barriers to open egress including lacking stairways or ramps to provide easy egress when or where needed.

SECTION 1109. Outdoor seating areas with a capacity of or planned for more than three hundred (300) persons using furniture, folding chairs, bleachers, benches or festival seating where the seating area is fenced or egress is effectively blocked shall be subject to this Chapter.

SECTION 1110. Said inspections and approval may include, among other things; safety aspects involving flammable ratings of materials and fabrics; safety of temporary, short term or permanent systems for heating, cooking, electric, gas and utility services; emergency lighting; exiting facilities; tripping hazards; fire alarms and fire extinguishers, use of fireworks or open flames, ventilation, control of animals and structural strength and or stability.

SECTION 1111. Approval for use of a temporary or seasonal structure or use will not be granted if the erection or use of that structure will block required access or egress to a permitted occupancy unless that occupancy/use is suspended for the term of the temporary use. Also temporary or seasonal uses may only block access to a fire hydrant, fire lane, sprinkler system or other fire protection system if specifically approved by the Fire Chief or his or her designate. All temporary occupancies must provide access to the temporary use site by fire, emergency medical and law enforcement personnel and equipment subject to the Authority Having Jurisdiction.

SECTION 1112. This Article references and incorporates, but is not limited by, the National Fire Protection Association's code NFPA 102, 1995 edition, with the Brewer Fire Chief and the Brewer Code Enforcement Officer each being the Authority Having Jurisdiction as defined by NFPA.

SECTION 1113. PENALTY. In the event there is a violation of this Article, the City shall be entitled to injunctive relief and a penalty of not less than One Hundred (\$100.00) Dollars nor more than Two Thousand Five Hundred (\$2,500.00) Dollars, each day being a separate violation. The City shall also be entitled to its reasonable attorney fees and costs for successfully prosecuting an injunction and/or violation of this Article.

ARTICLE 12. NFPA 101 LIFE SAFETY CODE (#3)

SECTION 1201. SECTION 1A01. ADOPTION OF NFPA 101 LIFE SAFETY CODE.

Pursuant to the authority granted to the City under Title 30-1 MRSA Section 3003, as amended, the "Code" for Safety to Life from Fire in Buildings and Structure", hereinafter referred to as the NFPA 101 Life Safety Code" 2003 edition, adopted by the National Fire Protection Association, Inc., is hereby adopted by reference as the Life Safety Code for the City of Brewer. In addition to the above the NFPA 80, 1999 edition "Standard for Fire Doors and Fire Windows" is also herewith adopted by reference.

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

SECTION 1A03. ENFORCEMENT. The NFPA 101 Safety Code shall be enforced by the Fire Chief and the Code Enforcement Officer of the City of Brewer or their duly authorized agents acting as the authority having jurisdiction under the code.

Article 13. COST RECOVERY FOR SERVICES (#10)

Section 1301. **Purpose.** The City is engaged in providing fire suppression, fire and public safety, and other emergency response services, and in consideration of services rendered, desires to establish the restitution policy for fire and public safety services as set forth in this Article.

Section 1302. **Authority.** This Article is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1, of the Constitution of the State of Maine, and Title 30-A M.R.S.A. § 3001.

Section 1303. **Applicability**

Section 1303.1. The provisions of this Article shall govern all emergency and non-emergency incident scenes to which the Brewer Fire and/or Police Departments are dispatched or requested by the Penobscot County Communication Center, written mutual aid agreement, or any State or local agency including, but not limited to: control or confine hazardous materials; extinguish fire; respond to motor vehicle/traffic incident; remove or mitigate safety hazards; or provide overall scene safety.

Section 1303.2. This Article shall be applicable to all individuals or entities who receive emergency or non-emergency services provided by the Brewer Fire and/or Police Departments, as specified in this Article.

Section 1304. **Responsibility.** Parties to any incident to which this Article is applicable (i.e., "Responsible Party") shall provide the Brewer Public Safety Director and/or Incident Commander with sufficient personal and insurance information, including, but not limited to policy numbers and contact information for their underwriters and agents, to enable the City of Brewer to file claims with the Responsible Party's insurance carrier(s) or a third-party agency to recover the costs incurred during the incident.

Section 1305. Establishment of Fees. The Brewer Public Safety Director shall establish and update as needed a schedule of fees for the delivery of emergency and non-emergency services by the Brewer Fire and Police Departments for personnel, supplies, and equipment to the scene of emergency and non-emergency incidents. The schedule of fees shall be based on actual costs of the services and that which is usual, customary, and reasonable, which may include any services, personnel, supplies, and equipment and may also include costs incurred by other City departments participating in the incident response.

Section 1306. Restitution and Billing Procedure.

Section 1306.1 . The City may seek restitution for costs of City services by filing claims with the Responsible Party's insurance company. The City is authorized to enter into a cost recovery agreement with a third-party billing company for the billing and collection of fees for Fire Department services through the filing of insurance claims. All such claims shall be submitted in the name of the City. The City shall only seek restitution for services from insured individuals or companies.

Section 1306.2. The Finance Director is authorized to institute legal action to collect insurance claims that remain outstanding for more than 60 days. Any legal and late fees associated with the attempt to collect outstanding payments incurred by the City shall be added to and in addition to the original claim. The Finance Director is authorized to write off claims, when a claim is not paid with a valid reason (e.g., insured but not at fault, not covered) or if all attempts to contact the insurance company fail by any common method available.

Section 1307. Administration and Enforcement. It shall be the duty of any third-party billing company with a valid cost recovery agreement with the City to effectively pursue the requirements of this Article for payment of services rendered by the City as specifically outlined herein.

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Section 1309. Insurance Requirements. The third-party billing company shall at all times have valid General Liability insurance policy, a Cyber Liability policy, an Errors and Omissions Policy, and the City shall be named as an additional insured on such policies.

Section 1310. Severability. Sections of this Article shall be deemed severable. In the event any section, clause, or provision of this Article is declared invalid, the same shall not affect the validity of this Article as a whole or any part thereof other than the part so declared to be invalid.

Section 1311. Conflict with Other Sections. This Article shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law.

END OF CHAPTER NOTATIONS – CHAPTER 9

1. enacted 12/10/02, effective 12/15/02 (2002-C062)
2. enacted 07/15/03, effective 07/20/03 (2003-C011)
3. enacted 02/10/04, effective 02/15/04 (2003-C024)
4. enacted 12/06/05, effective 12/11/05 (2005-C024)
5. enacted 12/19/06, effective 12/24/06 (2006-C013)
6. enacted 03/02/10, effective 03/07/10 (2010-C001)
7. enacted 11/14/11, effective 11/19/11 (2011-C013)
8. enacted 09/11/12, effective 09/11/12 (2012-C014)
9. enacted 01/14/13, effective 01/19/13 (2012-C020)
10. enacted 03/09/21, effective 03/14/21 (2021-C001)
11. enacted 05/10/22, effective 05/15/22 (2022-C007)