

City Council Minutes
Tuesday, April 11, 2023

Regular Meeting
City Hall Council Chambers

Tuesday, April 11, 2023
6:00 p.m.

Councilor Ferris-present
Councilor Daniels-present
Mayor Phanthay-present

Councilor Goss-absent
Councilor Morin-present

Mayor Phanthay declared that a quorum was present. City Manager Stephen Bost and City Solicitor Johnathan Pottle were also present.

Mayor Phanthay led members of the council and others present in reciting the pledge of allegiance to the flag of the United States of America.

Mayor Phanthay read the notice for the regular meeting.

TO: Joseph Ferris, Jerry Goss, Michele Daniels, Jenn Morin, and Soubanh Phanthay; MEMBERS OF THE BREWER CITY COUNCIL. You are hereby notified that a regular meeting of the City Council of the City of Brewer will be held on Tuesday, April 11, 2023 at 6:00 p.m., at 80 North Main Street, to consider and act on the items on the attached agenda.

s/ Soubanh Phanthay
Mayor and Chairman of the City Council
Or _____
Majority of the City Council

a true copy, attest: s/Vincent P. Migliore
City Clerk

OFFICER'S RETURN

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 L. Ferris	T. Favreau	Off.	04/07/2023	17:22
Jerry Goss	Migliore	CC.	04/07/2023	14:17
Michele Daniels	T. Favreau	Off.	04/07/2023	17:14
Jenn Morin	T. Favreau	Off.	04/07/2023	17:03
Soubanh Phanthay	T. Favreau	Off.	04/07/2023	17:07

CITY COUNCIL REGULAR MEETING
Tuesday, April 11, 2023 6:00 P.M.
Brewer City Hall Council Chambers

I. Call to Order (Mayor Phanthay)

II. Roll Call (City Clerk)

III. Pledge of Allegiance to the Flag of the United States of America (Mayor Phanthay)

A. Minutes of the March 22, 2023 Regular Meeting (Councilor Ferris)

B. Awards, Petitions and Public Comments

1. Presentation: Municipal Review Committee Update on the Hampden Recycling and Waste Processing Facility, City of Brewer Finance Director Karen Fussell and Municipal Review Committee Executive Director Mike Carroll.

2. Presentation: Brief presentation by MDOT on VPI Center Street Project.

3. Public Comments

IV. Recess for Public Hearing

Applications for Renewal of City Amusement Licenses

1. Between Friends/Next Generation Theatre, 39 Center Street

2. Brewster's Fine Food & Drink, 359 Wilson Street

3. Cap's Tavern, 494 ½ South Main Street

4. Fraternal Order of Eagles #3177, 22 Atlantic Ave.

5. High Tide Restaurant, 5 South Main Street

6. Jeff's Catering + Event Center, 15 Event Center Way

7. Kosta's Restaurant & Bar, 429 Wilson Street

8. Mad Kat & Company Bar & Grill, 393 North Main Street

9. Mason's Brewing Company, 15 Hardy Street

10. Penny Lane Bar & Grill, 534 Wilson Street

V. Adjourn Public Hearing

C. Consent Calendar

1. (2023-A027) ORDER Issue amusement license to Between Friends/Next Generation Theatre, 39 Center Street. (Councilor Morin)

2. (2023-A028) ORDER Issue amusement license to R.M.B.&G., Inc. d/b/a Brewster's Fine Food & Drink, 359 Wilson Street. (Councilor Ferris)

3. (2023-A029) ORDER Issue amusement license to Delano G. Merritt d/b/a Cap's Tavern, 494 ½ South Main Street. (Councilor Daniels)

4. (2023-A030) ORDER Issue amusement license to Fraternal Order of Eagles #3177, 22 Atlantic Avenue. (Councilor Morin)

5. (2023-A031) ORDER Issue amusement license to High Tide Restaurant, LLC. d/b/a High Tide Restaurant, 5 South Main Street. (Councilor Ferris)

6. (2023-A032) ORDER Issue amusement license to Jeff's Catering & Bakeshop, Inc. d/b/a Jeff's Catering & Event Center, 15 Event Center Way. (Councilor Daniels)

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7. (2023-A033) ORDER Issue amusement license to Rock Lobster Entertainment, LLC. d/b/a Kosta's Restaurant & Bar, 429 Wilson Street. (Councilor Morin)
8. (2023-A034) ORDER Issue amusement license to Mad Kat & Company Bar & Grill, 393 North Main Street. (Councilor Ferris)
9. (2023-A035) ORDER Issue amusement license to Mason's Brewing Company, LLC. d/b/a Mason's Brewing Company, 15 Hardy Street. (Councilor Daniels)
10. (2023-A036) ORDER Issue amusement license to Penny Lane Bar and Grill, 534 Wilson Street. (Councilor Morin)
11. (2023-A037) ORDER Accept donation from Brewster's Fine Food & Drink to the Brewer Parks and Recreation Department for Spring Program. (Councilor Ferris)
12. (2023-A038) ORDER Accept donation from Harvest Moon Deli to the Brewer Parks and Recreation Department for Spring Program. (Councilor Daniels)
13. (2023-A039) ORDER Accept donation from Mad Kat & Company Bar & Grill to the Brewer Parks and Recreation Department for Spring Program. (Councilor Morin)
14. (2023-A040) ORDER Accept donation from Twin City Tire to the Brewer Parks and Recreation Department for Spring Program. (Councilor Ferris)
15. (2023-A041) ORDER Accept donation from Walker's Garage to the Brewer Parks and Recreation Department for Spring Program. (Councilor Daniels)
16. (2023-A042) ORDER Accept donation from Walker's Garage to the Brewer Parks and Recreation Department for special event. (Councilor Morin)
17. (2023-A043) ORDER Award Contract for Parker Street Storm Drain Replacement and Resurfacing Project. (Councilor Ferris)
18. (2023-A044) ORDER Authorize Municipal Partnership Initiative agreement with Maine Department of Transportation for resurfacing a portion of Elm Street. (Councilor Daniels)
19. (2023-A045) ORDER Authorize Cooperative Agreement with Maine Department of Transportation for resurfacing of Pierce Road. (Councilor Morin)
20. (2023-A046) ORDER Certify affordable housing information. (Councilor Ferris)
21. (2023-A047) ORDER Provide interest in proceeding to Maine Department of Transportation to continue to develop a Village Partnership Initiative Agreement for the Center Street Revitalization project. (Councilor Daniels)
22. (2023-A048) ORDER Authorize purchase of replacement lawn mower for Parks & Recreation. (Councilor Morin)
23. (2023-A049) ORDER Authorize purchase of replacement pickup truck for Parks & Recreation. (Councilor Ferris)

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24. (2023-A050) ORDER Accept donation from Brewer Kiwanis Club to Brewer Parks & Recreation Department for Special Event.
(Councilor Daniels)

D. Monthly Reports (Councilor Morin)

E. Nominations, Appointments, Elections

Consent Calendar

1. (2023-A051) ORDER Appoint member to the Board of Appeals of the City of Brewer. (Councilor Ferris)
2. (2023-A052) ORDER Appoint member to the Cemetery Board of the City of Brewer. (Councilor Daniels)
3. (2023-A053) ORDER Appoint members to the Conservation Commission of the City of Brewer. (Councilor Morin)
4. (2023-A054) ORDER Appoint member to the Board of Commissioners of the Housing Authority of the City of Brewer.
(Councilor Ferris)
5. (2023-A055) ORDER Appoint member to the Brewer Planning Board.
(Councilor Daniels)

F. Unfinished Business (None)

G. New Business

Consent Calendar

1. (2023-C005) ORDER Amend Chapter 34 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Board of Appeals of the City of Brewer", Article 2, "Procedure", Section 200.1.
(Councilor Daniels)
2. (2023-C006) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", Article 8 "Floodplain Management", and Article 14 "Definitions".
(Councilor Morin)
3. (2023-C007) ORDER Amend Chapter 22 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Solid Waste Ordinance", Article 4. (Councilor Ferris and Councilor Daniels)

H. New Items with Leave of Council

I. ADJOURN

A. Minutes of the March 22, 2023 Regular Meeting

ACTION: Councilor Ferris moved that the minutes to the March 22, 2023 regular meeting be accepted and placed on file. Councilor Morin seconded the motion. The motion passed with a vote of 4-0.

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B. Awards, Petitions and Public Comments

1. Presentation: Municipal Review Committee Update on the Hampden Recycling and Waste Processing Facility, City of Brewer Finance Director Karen Fussell and Municipal Review Committee Executive Director Mike Carroll.

City of Brewer Finance Director Karen Fussell spoke in her capacity as the President of the Board of the Municipal Review Committee (MRC) regarding the Hampden Recycling and Waste Processing Facility. The President first gave a background on MRC, a non-profit representing 115 Maine communities. When Penobscot Energy Recovery Company (PERC)'s Orrington waste facility experienced a start-up crisis in 1991, partner communities formed MRC to ensure affordable long-term environmentally sound waste disposal. Considering waste disposal options beyond PERC contracts ending in 2018, MRC entered a development agreement with Fiberight to construct a waste processing facility in Hampden. The facility began accepting waste from MRC members in 2019 and operated at a commercial level for seven months before shutting down in May 2020. During that time the plant demonstrated the concept could work. Four primary factors that led to closure of the Fiberight plant were: construction cost overruns; a collapse in recycling markets; lack of a Maine Department of Environmental Protection permit to sell pulp the facility produced, turning an income source into a liability; and inability to close on a \$10 million loan to implement a targeted profit improvement plan. The circumstances that lead to the plant's closure have changed significantly, and MRC has been doing everything in its power to try to get the plant reopened. MRC has focused on a private investment solution rather than government support and has undergone five solicitation processes since 2020, including two since MRC bought the facility out of receivership in 2022. The President said that MRC was currently in talks with Innovative Resource Recovery, and that the two parties were in a sixty-day window to conduct due diligence and negotiations with a deadline to close in early June. The President also said that MRC is simultaneously working with the State to access a loan for the \$20 million to restart the facility in case finding a new partner takes longer than expected.

Municipal Review Committee Executive Director Mike Carroll said that the Hampden waste facility was an eighty-million-dollar facility that he had seen work during its seven months of commercial operation, and that most of the bottlenecks and bugs had been worked out. The Executive Director said that he was impressed by Innovative Resource Recovery, and that he was hopeful a deal would go through.

Councilor Morin asked the amount of the outstanding liens on the facility. The Executive Director said that the liens had been negotiated down and that MRC had been making payments with about \$800,000 outstanding. Councilor Morin asked how MRC would acquire 10% ownership in a proposed partnership with Innovative Resource Recovery. The Executive Director said that MRC owns the facility and that Innovative would be purchasing a 90% share. Councilor Morin asked how much cash reserves would be needed for this new proposed partnership to avoid the circumstances that lead to the facility's previous closure. The President broke down the potential \$20 million loan into \$8-12 million for start-up costs with \$7-8 million for cash-flow and contingency, and said they expected that amount to be sufficient to get through the eighteen months to two years before the facility could operate in the black.

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Councilor Ferris asked whose money the MRC had been spending. The President said that MRC funds had come from member municipalities through dues and paying tip fees to dispose of waste. The President said that MRC had had substantial reserves due to the profitability of PERC and a windfall from acquiring shares of Bangor Hydro which were bought out.

Councilor Daniels said that her and Mayor Phanthay had toured the plant while it was operational in 2020, and that many residents that would like to see the return of recycling. The President said that with the Hampden facility there is opportunity for much of the waste stream to be diverted and converted into productive use.

The City Manager praised the President of the Board of the Municipal Review Committee and said that her role in the process had been remarkable.

2. Presentation: Brief presentation by MDOT on VPI Center Street Project.

Mayor Phanthay said that the presenter on this matter had been struck with unexpected illness, and that the presentation would be postponed indefinitely.

Public Comments

There were no public comments.

IV. Recess for Public Hearing

Mayor Phanthay said the City Council would recess for a public hearing and after the public hearing would return to the regular meeting and take up the rest of the items on the agenda.

The public hearing was called to order by Mayor Phanthay.

The city clerk called the roll:

Councilor Ferris-present

Councilor Daniels-present

Mayor Phanthay-present

Councilor Goss-absent

Councilor Morin-present

Mayor Phanthay declared that a quorum was present. City Manager Stephen Bost and City Solicitor Johnathan Pottle were also present.

Mayor Phanthay read the public notice:

CITY OF BREWER PUBLIC NOTICE

Notice is hereby given that the Brewer City Council will hold a public hearing on **Tuesday, April 11, 2023 at 6:00 p.m. in the Council Chambers at Brewer City Hall located at 80 North Main Street, Brewer, Maine** to consider applications from the following businesses for issuance of city amusement licenses to permit them to have dancing and live entertainment on their premises, non-alcoholic as well as those which are licensed by the State of Maine for the sale of alcohol:

1. Between Friends/Next Generation Theatre, 39 Center Street
2. Brewster's Fine Food & Drink, 359 Wilson Street
3. Cap's Tavern, 494 ½ South Main Street
4. Fraternal Order of Eagles – Penobscot Aerie #3177, 22 Atlantic Ave.
5. High Tide Restaurant, 5 South Main Street
6. Jeff's Catering + Event Center, 15 Event Center Way
7. Kosta's Restaurant & Bar, 429 Wilson Street
8. Mad Kat & Company Bar & Grill, 393 North Main Street
9. Mason's Brewing Company, 15 Hardy Street
10. Penny Lane Bar & Grill, 534 Wilson Street

Any person may present written or oral comments at this public hearing on these applications.

Vincent P. Migliore
City Clerk

published in the BDN
April 4, 2023

Mayor Phanthay asked if there were any comments from the public present at the hearing. There were none.

Mayor Phanthay asked if there had been any written comments received from the public. The City Clerk said there were none.

Mayor Phanthay asked if there had been any comments the City Inspectors. The City Clerk said there were no objections from the City Inspectors.

Mayor Phanthay asked if there were any comments from the Councilors. There were none.

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V. Adjourn Public Hearing

Mayor Phanthay adjourned the public hearing.

The regular meeting was called back to order by Mayor Phanthay. The city clerk called the roll:

Councilor Ferris-present

Councilor Goss-absent

Councilor Daniels-present

Councilor Morin-present

Mayor Phanthay-present

Mayor Phanthay declared that a quorum was present. City Manager Stephen Bost and City Solicitor Johnathan Pottle were also present.

C. Consent Calendar

2023-A027

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO BETWEEN FRIENDS/NEXT
GENERATION THEATRE, 39 CENTER STREET.

Filed April 4, 2023

By Jenn M. Morin

WHEREAS, an application for a City of Brewer Amusement License for Between Friends/Next Generation Theatre, 39 Center Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Between Friends/Next Generation Theatre, 39 Center Street, for the City's

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licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A028

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO R.M.B.&G., INC. D/B/A
BREWSTER'S FINE FOOD & DRINK, 359 WILSON STREET.

Filed March 16, 2023

By Joseph L. Ferris

WHEREAS, R.M.B.&G., Inc.'s application for a City of Brewer Amusement License for Brewster's Fine Food & Drink, 359 Wilson Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to R.M.B.&G., Inc. d/b/a Brewster's Fine Food & Drink, 359 Wilson Street, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

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2023-A029

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO DELANO G. MERRITT D/B/A
CAP'S TAVERN, 494 ½ SOUTH MAIN STREET.

Filed March 21, 2023
By Michele Daniels

WHEREAS, Delano G. Merritt's application for a City of Brewer Amusement License for Cap's Tavern, 494 ½ South Main Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Delano G. Merritt d/b/a Cap's Tavern, 494 ½ South Main Street, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A030

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO FRATERNAL ORDER OF
EAGLES #3177, 22 ATLANTIC AVENUE.

Filed April 5, 2023
By Jenn M. Morin

WHEREAS, an application for a City of Brewer Amusement License for Fraternal Order of Eagles #3177, 22 Atlantic Avenue, has been received by the City Clerk and;

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WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Fraternal Order of Eagles #3177, 22 Atlantic Avenue, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A032

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO JEFF'S CATERING & BAKESHOP, INC. D/B/A JEFF'S CATERING & EVENT CENTER, 15 EVENT CENTER WAY.

Filed April 3, 2023

By Michele Daniels

WHEREAS, Jeff's Catering & Bakeshop, Inc.'s application for a City of Brewer Amusement License for Jeff's Catering & Event Center, 15 Event Center Way, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

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WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Jeff's Catering & Bakeshop, Inc. d/b/a Jeff's Catering & Event Center, 15 Event Center Way, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A033

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO ROCK LOBSTER ENTERTAINMENT, LLC. D/B/A KOSTA'S RESTAURANT & BAR, 429 WILSON STREET.

Filed April 3, 2023
By Jenn M. Morin

WHEREAS, Rock Lobster Entertainment, LLC.'s application for a City of Brewer Amusement License for Kosta's Restaurant & Bar, 429 Wilson Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

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WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Rock Lobster Entertainment, LLC. d/b/a Kosta's Restaurant & Bar, 429 Wilson Street, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A034

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO MAD KAT & COMPANY BAR & GRILL, 393 NORTH MAIN STREET.

Filed March 24, 2023
By Joseph L. Ferris

WHEREAS, an application for a City of Brewer Amusement License for Mad Kat & Company Bar & Grill, 393 North Main Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Mad Kat & Company Bar & Grill, 393 North Main Street, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

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2023-A035

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TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO MASON'S BREWING COMPANY, LLC. D/B/A MASON'S BREWING COMPANY, 15 HARDY STREET.

Filed March 21, 2023
By Michele Daniels

WHEREAS, Mason's Brewing Company, LLC.'s application for a City of Brewer Amusement License for Mason's Brewing Company, 15 Hardy Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Mason's Brewing Company, LLC. d/b/a Mason's Brewing Company, 15 Hardy Street, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A036

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TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO PENNY LANE BAR AND GRILL, 534 WILSON STREET.

Filed April 4, 2023
By Jenn M. Morin

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WHEREAS, an application for a City of Brewer Amusement License for Penny Lane Bar and Grill, 534 Wilson Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to Penny Lane Bar and Grill d/b/a Penny Lane Bar and Grill, 534 Wilson Street, for the City's licensing year commencing May 1, 2023 and expiring May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

2023-A037

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM BREWSTER'S FINE FOOD AND DRINK TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR SPRING PROGRAM.

Filed March 15, 2023
By Joseph L. Ferris

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$300 from Brewster's Find Food & Drink for support of the Spring Program; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donor that this donation be appropriated and expended to supplement the Spring Program.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and is receipted to the Spring Program/League revenue account (0107123-300326); and

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BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Spring Program/League expense account (0117121-506110).

Statement of Fact: This order accepts a contribution of \$300 from Brewster’s Fine Food & Drink to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Spring Program/T-Ball.

2023-A038

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM HARVEST MOON DELI TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR SPRING PROGRAM.

Filed March 15, 2023

By Michele Daniels

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$150 from Harvest Moon Holdings, LLC. d/b/a Harvest Moon Deli for support of the Spring Program; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donor that this donation be appropriated and expended to supplement the Spring Program.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and is receipted to the Spring Program/League revenue account (0107123-300326); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Spring Program/League expense account (0117121-506110).

Statement of Fact: This order accepts a contribution of \$150 from Harvest Moon Deli to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Spring Program/T-Ball.

2023-A039

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM MAD KAT & COMPANY BAR & GRILL TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR SPRING PROGRAM.

Filed March 15, 2023

By Jenn M. Morin

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WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$150 from Mad Kat & Company Bar & Grill for support of the Spring Program; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donor that this donation be appropriated and expended to supplement the Spring Program.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and is receipted to the Spring Program/League revenue account (0107123-300326); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Spring Program/League expense account (0117121-506110).

Statement of Fact: This order accepts a contribution of \$150 from Mad Kat & Company Bar & Grill to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Spring Program/T-Ball.

2023-A040

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM TWIN CITY TIRE TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR SPRING PROGRAM.

Filed March 15, 2023
By Joseph L. Ferris

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$550 from Twin City Tire for support of the Spring Program; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donor that this donation be appropriated and expended to supplement the Spring Program.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and is receipted to the Spring Program/League revenue account (0107123-300326); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Spring Program/League expense account (0117121-506110).

Statement of Fact: This order accepts a contribution of \$550 from Twin City Tire to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Spring Program/T-Ball.

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2023-A041

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM WALKER'S GARAGE TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR SPRING PROGRAM.

Filed March 15, 2023
By Michele Daniels

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$150 from Walker's Garage, LLC. d/b/a Walker's Garage for support of the Spring Program; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donor that this donation be appropriated and expended to supplement the Spring Program.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council herewith accepts this donation and is receipted to the Spring Program/League revenue account (0107123-300326); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Spring Program/League expense account (0117121-506110).

Statement of Fact: This order accepts a contribution of \$150 from Walker's Garage to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Spring Program/T-Ball.

2023-A042

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM WALKER'S GARAGE TO THE BREWER PARKS & RECREATION DEPARTMENT FOR SPECIAL EVENT.

Filed March 23, 2023
By Jenn M. Morin

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$75 from Walker's Garage, LLC. d/b/a Walker's Garage for support of the Egg Hunt; and

WHEREAS, it is the request of the donor and the recommendation of the Parks & Recreation Director that this donation be appropriated and expended to supplement the Egg Hunt.

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 the Special Events Revenue account (0107123-300325); and

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BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Special Events Expense account (0117121-506150).

Statement of Fact: This order accepts a \$75 contribution from Walker's Garage to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Egg Hunt.

2023-A043

April 11, 2023

TITLE: ORDER, AWARD CONTRACT FOR PARKER STREET STORM DRAIN REPLACEMENT AND RESURFACING PROJECT.

Filed April 3, 2023
By Joseph L. Ferris

WHEREAS, a 12" storm drain line running under Parker Street in Brewer is failing; and

WHEREAS, the Parker Street section of roadway from East Summer Street to the railroad tracks is in need of being repaved and the sidewalk is in need of being reconstructed; and

WHEREAS, the City of Brewer has taken a phased approach to complete work on longer streets that require a significant amount of infrastructure work, such as Parker Street; and

WHEREAS, funding in the amount of \$200,000 was approved in the Fiscal Year 2023 (FY23) Capital Improvement Program (CIP) for the next phase of Parker Street work; and

WHEREAS, the Brewer Engineering Department has prepared specifications and bid documents for the replacement of this section of storm drain and resurfacing work; and

WHEREAS, the Brewer Engineering Department requested bids for this work and the bids have been received and reviewed; and

WHEREAS, the unallocated CIP account has the funds available to cover the additional amount needed for this contract.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to execute a contract with Lou Silver, Inc. of Veazie, Maine in the amount of \$220,000 (bid amount plus contingency) for the Parker Street Storm Drain Replacement and Resurfacing Project; and

BE IT FURTHER ORDERED, that the cost of this project shall be charged to CIP account 0510113-551645 (Upper Parker St Reconstruction); and

BE IT FURTHER ORDERED, that the Brewer City Council hereby authorizes the appropriation and expenditure of up to \$20,000 in available unallocated CIP fund balance from account 0510140-

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551090 (CIP Unallocated Reserve) to 0510113-551645 (Upper Parker St Reconstruction) to supplement the \$200,000 appropriated in the FY2023 CIP for this project.

Statement of Fact: This order authorizes the construction contract with Lou Silver, Inc. for the Parker Street Storm Drain Replacement and Resurfacing Project for \$220,000 (the bid amount plus contingency).

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Parker Street Resurfacing and Storm Drain Replacement									
Bid Tabulation									
Bids Opened on 3/10/2023									
City of Brewer									
Bidding Vendor:		Gardner Concrete			Lou Silver, Inc.			C & C Lynch Excavation LLC	
Bid Items:	Quantity	Unit	Bid Price	Total	Bid Price	Total	Bid Price	Total	
1. Milling	2200	SY	\$6.50	\$14,300.00	\$6.50	\$14,300.00	\$7.80	\$17,160.00	
2. Bit. Pavement (9.5 mm)	65	Tons	\$250.00	\$16,250.00	\$200.00	\$13,000.00	\$250.00	\$16,250.00	
3. Bit Pavement (19.0 mm)	45	Tons	\$500.00	\$22,500.00	\$200.00	\$9,000.00	\$320.00	\$14,400.00	
4. Bit Pavement (12.0 mm (FINE))	180	Tons	\$150.00	\$27,000.00	\$150.00	\$27,000.00	\$200.00	\$36,000.00	
5. Trench Gravel	220	CY	\$100.00	\$22,000.00	\$30.00	\$6,600.00	\$50.00	\$11,000.00	
6. Slipform Concrete Curbing	700	LF	\$11.50	\$8,050.00	\$20.00	\$14,000.00	\$16.50	\$11,550.00	
7. 8" HDPE storm drain	30	LF	\$200.00	\$6,000.00	\$200.00	\$6,000.00	\$178.00	\$5,340.00	
8. 15" HDPE storm drain	530	LF	\$255.00	\$135,150.00	\$140.00	\$74,200.00	\$135.00	\$71,550.00	
9. 4' Diameter Drain manhole	1	EA	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	\$5,500.00	\$5,500.00	
10. Rock/Ledge Excavation	15	CY	\$100.00	\$1,500.00	\$300.00	\$4,500.00	\$750.00	\$11,250.00	
11. Striping	1	LS	\$3,000.00	\$3,000.00	\$1,700.00	\$1,700.00	\$2,500.00	\$2,500.00	
12. Mobilization	1	LS	\$10,000.00	\$10,000.00	\$4,500.00	\$4,500.00	\$2,500.00	\$2,500.00	
13. Traffic Control	1	LS	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$2,500.00	\$2,500.00	
14. Erosion Control	1	LS	\$7,000.00	\$7,000.00	\$4,500.00	\$4,500.00	\$2,500.00	\$2,500.00	
23. Common Borrow	1	CY	\$16.00	\$16.00	\$25.00	\$25.00	\$35.00	\$35.00	
				\$297,750.00			\$202,300.00	\$210,000.00	

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2023-A044

April 11, 2023

TITLE: ORDER, AUTHORIZE MUNICIPAL PARTNERSHIP INITIATIVE AGREEMENT WITH MAINE DEPARTMENT OF TRANSPORTATION FOR RESURFACING OF A PORTION OF ELM STREET.

Filed April 3, 2023
By Michele Daniels

WHEREAS, a portion of Elm Street in Brewer between South Main Street and railroad tracks will require resurfacing in the next one to two years; and

WHEREAS, the sidewalk on this portion of Elm Street is due to be reconstructed; and

WHEREAS, this road is eligible for State and Federal funding participation through the Bangor Area Comprehensive Transportation System (BACTS); and

WHEREAS, the Brewer Engineering Department, on behalf of the City of Brewer, applied for and was awarded \$180,000 in funding on a 50/50 basis for Construction Year 2024 through the Maine Department of Transportation (MDOT)'s Municipal Partnership Initiative for the purpose of resurfacing this portion of Elm Street and reconstructing the existing sidewalk in this area.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to execute a Municipal Partnership Initiative Agreement with the MDOT in the amount of \$180,000 (to be shared on a 50/50 basis) for the resurfacing of Elm Street from South Main Street to the railroad tracks during the summer of 2024; and

BE IT FURTHER ORDERED, that the Brewer Finance Director shall include \$180,000 in the Fiscal Year 2024 or Fiscal Year 2025 Capital Improvement Program for the resurfacing of Elm Street with \$90,000 coming from the City and \$90,000 from the State of Maine under the terms of the MDOT's Municipal Partnership Initiative agreement.

Statement of Fact: This order authorizes a Municipal Partnership Initiative agreement with the Maine Department of Transportation for resurfacing a portion of Elm Street and reconstructing the adjacent sidewalks in 2024 on a 50/50 cost sharing basis (\$90,000 each).

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2023-A045

April 11, 2023

TITLE: ORDER, AUTHORIZE A COOPERATIVE AGREEMENT WITH MAINE DEPARTMENT OF TRANSPORTATION FOR RESURFACING OF PIERCE ROAD.

Filed April 3, 2023
By Jenn M. Morin

WHEREAS, the Pierce Road in Brewer, in its entirety, will require resurfacing in the next one to two years and sections of base repair will be required prior to paving; and

WHEREAS, storm water improvements have been identified in separate areas along Pierce Road that will extend the life and performance of the roadway; and

WHEREAS, citizens have long requested a sidewalk on the Wilson Street side of Pierce Road; and

WHEREAS, Pierce Road is eligible for State and Federal funding participation through the Bangor Area Comprehensive Transportation System (BACTS); and

WHEREAS, the Brewer Engineering Department, on behalf of the City of Brewer, applied for and was awarded \$970,000 in funding on a 70/30 (State share/City share) basis for Construction Year 2024 through the Maine Department of Transportation (MDOT)'s Cooperative Agreement Program for the purpose of reconstructing Pierce Road, adding drainage where needed, and evaluating the possibility of constructing a sidewalk on the Wilson Street side for a portion of the roadway.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to execute a Cooperative Agreement with the MDOT in the amount of \$970,000 (to be shared on a 70/30 basis) for the reconstructing of Pierce Road during the summer of 2024; and

BE IT FURTHER ORDERED, that the Brewer Finance Director shall include \$970,000 in the Fiscal Year 2024 or Fiscal Year 2025 Capital Improvement Program for the Resurfacing of Pierce Road with \$291,000 coming from the City and \$679,000 from the State of Maine under the terms of the MDOT's Cooperative agreement.

Statement of Fact: This order authorizes a Cooperative Agreement with the Maine Department of Transportation for reconstructing Pierce Road, adding drainage where needed, and evaluating the possibility of adding a sidewalk to a portion of the roadway in 2024 on a 70/30 cost sharing basis (\$291,000 coming from the City and \$679,000 coming from the Maine DOT).

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2023-A046

April 11, 2023

TITLE: ORDER, CERTIFY AFFORDABLE HOUSING INFORMATION.

Filed April 3, 2023
By Joseph L. Ferris

WHEREAS, as required by the City of Brewer's Certificate of Approval for the Highland Community Affordable Housing Development District (District) issued by the Maine State Housing Authority and the provisions of 30-A M.R.S.A., Chapter 206, Section 5250-E, the Brewer City Council must certify that the City continues to meet the public purpose of the District and that the rental units within the District have remained affordable as well as account for any sale of property within the District; and

WHEREAS, both affordable housing facilities within the District—Somerset Place Senior Housing and Village Centre Apartments—have attested to the City that their rental units remain affordable and no sale of property has occurred; and

WHEREAS, the District continues to serve its public purpose by having expanded affordable housing within the City of Brewer.

NOW THEREFORE BE IT ORDERED, that the Brewer City Council herewith certifies the public purpose of the Highland Community Affordable Housing Development District and the affordability of the rental units within it and authorizes the City Manager or his designee to submit the required report to the Maine State Housing Authority.

Statement of Fact: This order fulfills a requirement of the City's affordable housing district approval and certifies that the district (consisting of Somerset Place and Village Centre) continues to meet its affordability requirements and to serve a public purpose.

2023-A047

April 11, 2023

TITLE: ORDER, PROVIDE INTEREST IN PROCEEDING TO MAINE DEPARTMENT OF TRANSPORTATION TO CONTINUE TO DEVELOP A VILLAGE PARTNERSHIP INITIATIVE AGREEMENT FOR THE CENTER STREET REVITALIZATION PROJECT.

Filed April 4, 2023
By Michele Daniels

WHEREAS, a portion of Center Street in Brewer from North Main Street to its southeastern terminus will require resurfacing in the next one to two years and will require significant storm drain replacement, sidewalk, and curb reconstruction; and

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WHEREAS, an opportunity exists to connect the downtown area, the Riverwalk, and Doyle Field by providing a more pedestrian-friendly route along Center Street; and

WHEREAS, Maine Department of Transportation (MDOT) has begun a program that seeks to revitalize village areas around the State and make them more walkable for citizens; and

WHEREAS, this program begins with a planning phase that is done by MDOT with a 50/50 split of costs between the State and the City of Brewer; and

WHEREAS, upon completion of the planning phase, MDOT will submit the project for a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant application to the United States Department of Transportation (USDOT) where, if successful, the cost share would be 10% cost to the City; and

WHEREAS, the Brewer Public Works Department has identified an issue on Wilson Street with the sidewalk being too narrow and the Engineering Department has identified a need for crosswalk improvements at the intersection of Parker Street and Wilson Street; and

WHEREAS, MDOT has notified the City that the Center Street project and the Wilson Street project can be combined into a single project; and

WHEREAS, the Brewer Engineering Department, on behalf of the City, completed the initial scoping with MDOT for this transformative project; and

WHEREAS, the next step would be to work with MDOT to create a Request for Proposals (RFP) to select a consultant to complete the planning phase in the next year; and

WHEREAS, once a consultant is selected through the RFP process, the budget can be finalized and a formal agreement made between MDOT and the City of Brewer for the planning phase.

NOW, THEREFORE, BE IT ORDERED, that the City Council of the City of Brewer provides public support of the continuation of the process that will next lead to an RFP being solicited from approved consultants.

Statement of Fact: This order provides formal interest of support by the Brewer City Council for the continuation of Maine Department of Transportation to solicit a Request for Proposals to approved consultants for the further development of the Center Street Revitalization Project. This project aims to complete much needed storm water work and reconstructing the roadway and sidewalk to make a pedestrian-friendly connection between the Riverwalk and Doyle Field. Work will also be done in conjunction with this project on Wilson Street to widen the existing sidewalk on one side of the roadway and provide needed storm drain infrastructure repairs. After bids to conduct the planning phase are received, a budget and formal agreement will be developed and presented in a future order for the Council's review and consideration. The planning phase will occur over the next year and then the City will apply for a RAISE grant application through MDOT to fund the construction portion of the project at a later time at a 10% cost to the City.

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Brewer VPI – Planning Phase

Route 1A – Route 9 – Main Street – Downtown Brewer - Village Partnership Initiative DRAFT - Scope of Services - DRAFT

Introduction & Scope of Work

The City of Brewer (the City), along with Maine Department of Transportation (MaineDOT) DOT and Bangor Area Comprehensive Transportation System (BACTS) are undertaking a feasibility study in downtown Brewer and along US Route 1A – Wilson Street, State Route 9 – North Main Street, and State Street. This study will evaluate safety and accessibility improvements, drainage, ADA compliance, some traffic modeling and intersection analysis is anticipated. Specifically, this study will:

- (1) Identify safety and mobility improvements for all existing and reasonably foreseeable future transportation system users on the transportation system within the study area;
- (2) Assess traffic calming along State Route 9 – North Main Street (within study area)
- (3) Evaluate expanded pedestrian connectivity between Brewer Rec Facilities, Center Street, and the Brewer Riverwalk.
- (4) Identify bicycle and pedestrian deficiencies within the study area and recommended improvements;
- (5) Assess any needed utility and drainage improvements, specifically along Center Street and Wilson Streets; and
- (6) Address the aesthetics and compliment the traditional historic look, feel and character of the village center of Brewer’s Downtown.

This study will identify transportation improvements that reduce congestion, improve pedestrian and traffic safety, compliment long-range land use planning goals, and align with economic goals for Brewer. This study will not only consider roadway safety and mobility issues, but also improvements to active transportation. Other important factors include in-fill development and potential future mixed-use land use programs with higher residential density in the downtown. It will also consider the alternatives that complement the look feel and character of the historic village of downtown Brewer and supporting accessibility for all modalities.

Study Area

The study area extends on US Route 1A – Wilson Street, beginning at Vista Way and to intersection of State Route 9 – South Main Street, and includes Center Streets, Jordan Streets, Washington Street, Somerset Street, and State Street from the intersection of State Route 9 to Highland Street. Also included is the intersection of Parker Street.

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Brewer VPI – Planning Phase

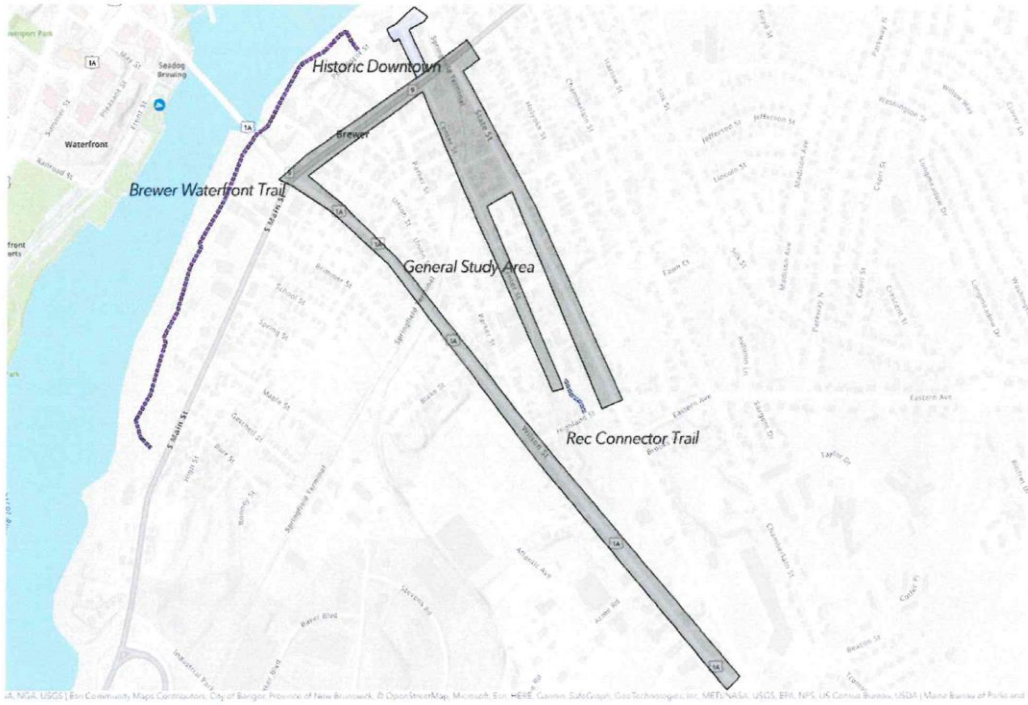


Figure 1 – Brewer VP – Planning Phase Study Area

Scope of Work

US Route 1A – Wilson Street – Parker Street

The consultant should consider the following alternatives:

- Improvements to existing sidewalks/ ADA compliance
- Improvements to stormwater drainage
- Location of pedestrian crossing at Parker Street intersection
- Wayfinding



Image: 1 Parker – Wilson Intersection facilities along Wilson Street.



Figure 2: Wilson Street Study Area Subsection



Image: 2 Utility Poles in pedestrian

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Brewer VPI – Planning Phase

State Route 9 – North Main and Historic Downtown– Center Street

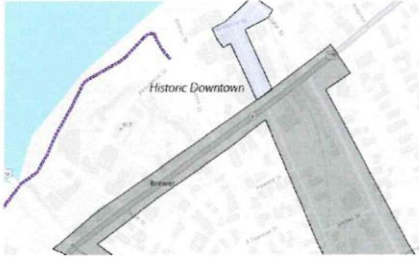


Figure 3 South Main Study Area Subsection

The consultant should consider the following alternatives:

- Improvements to existing sidewalks/ ADA compliance
- Traffic calming
- Assessment of pedestrian crossings with recommendations for safety/ accessibility enhancements
- Parking needs assessment and recommendations
- Intersection analysis at intersection of US Route 1A and State Route 9.
- Aesthetics and streetscape improvements
- Wayfinding

Center Street – Brewer Rec Facilities

The consultant should consider the following alternatives:

- Improvements to existing sidewalks/ ADA compliance
- Pedestrian crossings
- Wayfinding
- Stormwater drainage issues

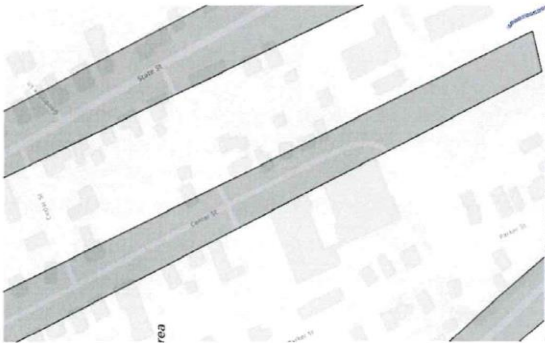


Figure 4: Map inset for Center Street Study Area Subsection

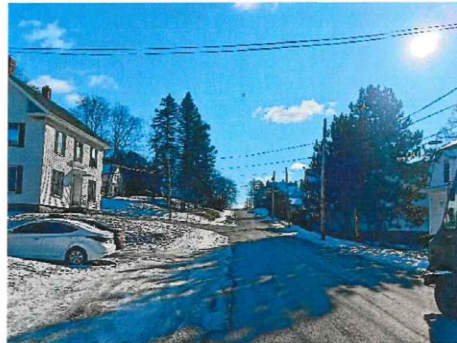
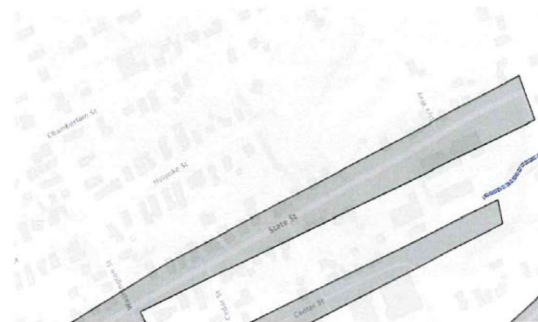


Image 3: View of Center Street

State Route 9 – State Street

The consultant should consider the following alternatives:

- Improvements to existing sidewalks/ ADA compliance
- Assessment of pedestrian crossings with recommendations for safety/ accessibility enhancements
- Wayfinding



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Brewer VPI – Planning Phase

- Traffic Calming
- Intersection analysis of State Route 9 – North Main and State Street
- Pedestrian and bicycle facilities

Task 1 – Project Kick-Off Meeting

The consultant team will meet with the study team including representatives from the City of Brewer, BACTS, and MaineDOT under a collaborative planning process as follows:

- Identify and understand local issues
- Identify and understand relevant state and federal regulatory requirements
- Finalize scope of work
- Identify previous related study efforts and available data
- Identify traffic data that will need to be collected
- Identify baseline environmental data that will need to be collected
- Identify existing and future Active Transportation uses and concerns
- Prepare preliminary study purpose and need

Deliverables: Meeting agendas, minutes, presentation materials at all study team and public or elected official meetings.

Task 2 – Review Available Data

The consultant team will review available information provided by the City, BACTS, MaineDOT, and other partners. These will include, but not be limited to, the following:

- Most recent Brewer Comprehensive Plan
- Brewer Revitalization Plan
- Brewer Zoning and Land Use Ordinances
- Recent MaineDOT traffic counts, including counts at least at the signalized intersection of Route 9
- Available land use and economic development information that could affect transportation in the study area provided by the City
- Available Crash History Data and Information
- Other relevant reports, studies, and policies
- Collect additional traffic data as required

Deliverables: Summary of available data and documentation of site conditions as needed.

Task 3 – Assessment of Current Conditions

The consultant team will evaluate the existing and recent historic performance of traffic in the study area based on traditional forecasting and growth models. The assessment will include but not be limited to:

- Analysis of current traffic conditions of the study area. The analysis will include traffic patterns, capacity, speeds, and crash experience
- Identification of bicycle and pedestrian deficiencies in the study area.
- Identification of transportation vulnerable users and equity concerns.

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- Analysis of existing land-use patterns and potential changes based upon land-use goals and development projections.
- Review analyses with team members and discuss possible recommendations and additional alternatives to be considered.
- Desktop screening of environmental and historical conditions to identify known resources in the study area, such as:
 - Registered historic properties, or eligible properties and historic districts
 - Public Parks and recreation areas
 - Wetlands
 - Endangered species, etc.
- Site-visit and safety audit with multiple partners anticipated to include but not limited to (City Manager, public works, economic development director, consultant and MaineDOT, BACTS planner, local police, representative from the school department, etc.) within study area.

Deliverables: Technical memorandum on existing conditions including the following:

- Identification of concerns and opportunities
- Safety audit summary and results

Task 4 Assessment of Future Scenarios

The consultant team will evaluate future traffic volume based on traditional growth forecasts and considering known development and land use changes underway and readily available data. No comprehensive traffic modeling or intersection alternative analysis is anticipated. It will include:

- A 2045 forecast of traffic volumes in the study area, based on historical traffic data and available MaineDOT traffic forecasts.
- Evaluation of reasonable alternatives to improve accessibility for all transportation modes to include but not limited to:
 - Safety and speed-limit compliance while supporting economic growth
 - Improved sidewalks and ADA compliance improvements
 - Bump outs and curb extensions
 - Crosswalks with or without warning devices and signal timing alternatives
 - Adjusting lane widths
 - Refuge islands
 - Wayfinding and other signage, to include gateway signage
 - Landscaping
 - Decorative street lighting
 - Speed limit evaluations on approaches as appropriate

Deliverables: Matrix depicting alternatives for the two intersections, parking needs and projections based upon forecasts and trends and a list of other recommendations for the rest of the study area (non-intersection, non-parking) not dependent on intersection movements and parking.

Task 5 Develop Preliminary Recommendations & Public Engagement

Based on the analysis of alternatives determined in Task 4, the consultants will develop

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recommendations based on the effectiveness of meeting the study area transportation needs. The consultant will develop an effective approach to educate and solicit meaningful feedback from the public. This can include a series of in-person, hybrid, or social media outreach. These recommendations may include low-cost improvements, a recommended roadway cross-section section(s) to improve the consistency of the study area corridor for its users, and other roadside or off-road improvement recommendations. MaineDOT assumes a minimum of two public meetings, one of which could be standalone project meetings or portions of City Council meetings. Recommendations should include planning level cost estimates and narratives that discuss potential implementation issues and challenges related to local, state, and federal regulations. Recommended conceptual alternatives should be presented in plan, section, and perspectival views.

Task five will consist of the following and is not limited to:

- Develop recommendations for all transportation modes based on effectiveness and viability from a regulatory perspective. Measurements for effectiveness will include benefits to mobility and safety, cost and practicality of implementation, and ability to meet the purpose and need.
- The recommendations will include a discussion of the potential and degree of effort associated with environmental analysis, secondary, cumulative impacts, etc., including anticipated future costs of remaining planning, design, and construction phases.
- Develop cost estimates for recommendations (including construction and potential right-of-way costs).
- Develop a recommendation for prioritizing and phasing of implementation.
- Develop a technical memorandum to be included in a final report that contains the analysis of existing and future conditions, alternatives analysis, and recommendations, including a matrix summarizing recommendations along with an appendix of traffic and crash data.
- Develop basic conceptual renderings which will include a collection of plan, section, and perspectival views of recommended alternatives at specific places along the corridor.
- Presentation of preliminary recommendations and alternatives at public meetings for feedback and input to develop Draft Report.

Deliverables: Matrix of proposed alternatives, technical memorandum, and concept level renderings. Summary of public feedback and engagement.

Task 6 – Draft Report

The Tasks discussed above will be combined into a draft narrative report documenting the project. At a minimum the report will include an executive summary, narrative of the study process, a description of the various alternatives considered, documentation of the evaluation criteria, and illustrations of conceptual designs (in plan and perspectival view) and cross sections for the preferred alternative. The final report will incorporate all applicable technical memorandums.

Deliverables: Draft Report with detailed cost estimating for any further environmental analysis, preliminary engineering, right-of-way, construction, and construction engineering. The report will include the required renderings.

Task 7 – Final Report

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Brewer VPI – Planning Phase

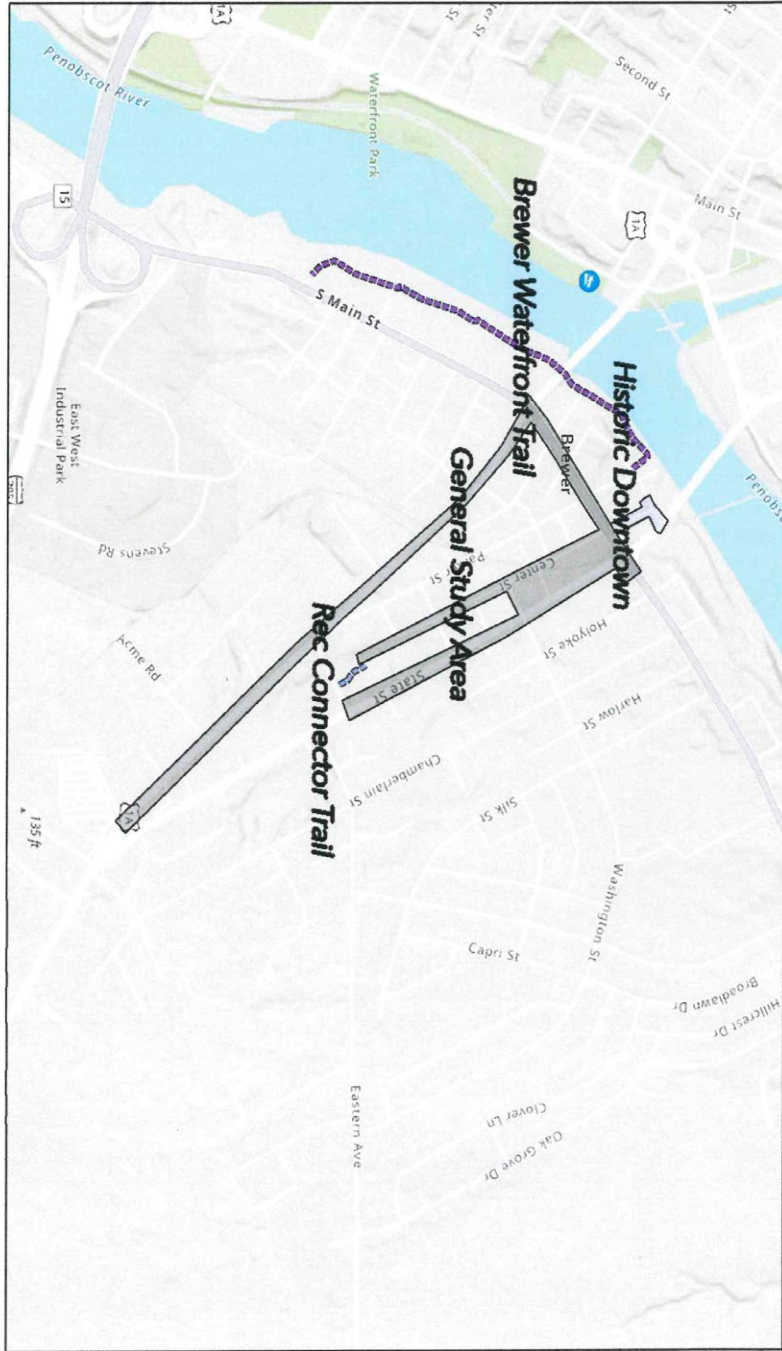
The consultant will create a final narrative report documenting the project and includes conceptual plans and renderings, and cost estimates.

Deliverables: Final Report

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Brewer VPI – Planning Phase

Brewer PPI Draft Scope Area



- 2/15/2023
- ➡ Maine Boat Launches GeoLibrary - Maine Boat Launches GeoLibrary
- World Hillshade

1:18,750
0 0.1 0.2 0.4 mi
0 0.17 0.35 0.7 km
East: FASMA, FGA, UFGS, City of Bangor, Province of New Brunswick, Esri
HERE, Garmin, Satelligence, GeoReferences, Inc, METRAC, USGS
MaineDOT
MaineDOT, Brewer City of

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2023-A048

April 11, 2023

TITLE: ORDER, AUTHORIZE PURCHASE OF REPLACEMENT LAWN MOWER FOR PARKS & RECREATION.

Filed April 5, 2023
By Jenn M. Morin

WHEREAS, bids were solicited, received and evaluated for the purchase of a 60” diesel lawn mower to replace Brewer Parks & Recreation Unit # 622, a 2015 60” Kubota lawn mower with bagger; and

WHEREAS, Dorr’s Equipment Company of Bangor, Maine provided the lowest bid of the two bids received in the amount of \$12,099.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign a purchase order to Dorr’s Equipment Company in the amount of \$12,099 for the purchase of a 2023, Kubota ZD1211 60” zero-turn diesel lawn mower with bagger; and

BE IT FURTHER ORDERED that the funds for this purchase be charged to the Fiscal Year 2023 (FY23) Capital Improvement Program (CIP) account # 0510134 – 551405, approved in the FY23 CIP budget; and

BE IT FURTHER ORDERED that the City Manager, or his designee, has authorized the 2015 Kubota ZD326 Mower, Unit #622 to be used as a trade-in towards the purchase of the 2023, Kubota ZD1211 Zero-Turn Mower.

<u>Bid Results</u>			
<u>Vendor</u>	<u>Model</u>	<u>Mower Only</u>	<u>Mower w/ Bagger</u>
Dorr’s Equipment Company	Kubota ZD1211	\$7,893.00	\$12,099.00
Greenway Equipment Sales	John Deere Z994R	\$11,797.64	\$17,229.29

Statement of Fact: The replacement of riding mower #622 was approved in the FY23 CIP budget. This order authorizes the purchase of the replacement mower.

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2023-A049

April 11, 2023

TITLE: ORDER, AUTHORIZE PURCHASE OF REPLACEMENT PICKUP TRUCK FOR
PARKS & RECREATION.

Filed April 5, 2023
By Joseph L. Ferris

WHEREAS, bids were solicited, received and evaluated for the purchase of a pickup truck to replace Brewer Parks & Recreation Unit # 602, a 2011 Ford F150; and

WHEREAS, Varney GMC Buick of Bangor, Maine provided the only bid received in the amount of \$36,387.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign a purchase order to Varney GMC Buick in the amount of \$36,387 for the purchase of a 2023 GMC Sierra 1500 2-Wheel Drive Extended Cab Pick-up Truck; and

BE IT FURTHER ORDERED, that the funds for this purchase be charged to the Fiscal Year 2023 (FY23) Capital Improvement Program (CIP) account # 0510134 – 551438, approved in the FY23 CIP budget; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, has authorized the 2011 Ford 150 Unit #602 to be used as a trade towards the purchase of the 2023 GMC Sierra 1500 2-Wheel Drive Extended Cab Pick-up Truck.

Statement of Fact: The replacement of Truck #602 was approved in the FY23 CIP budget. This order authorizes the purchase of the replacement truck.

Bid results:

Varney GMC Buick \$36,387

2023-A050

April 11, 2023

TITLE: ORDER, ACCEPT DONATION FROM BREWER KIWANIS CLUB TO
BREWER PARKS & RECREATION DEPARTMENT FOR SPECIAL
EVENT.

Filed March 31, 2023
By Michele Daniels

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$250 from Kiwanis Club of Brewer for support of the Egg Hunt; and

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WHEREAS, it is the request of the donor and the recommendation of the Parks & Recreation Director that this donation be appropriated and expended to supplement the Egg Hunt.

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 the Special Events Revenue account (0107123-300325); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of this money from the Special Events Expense account (0117121-506150).

Statement of Fact: This order accepts a \$250 contribution from Brewer Kiwanis Club to the City of Brewer Parks & Recreation Department and authorizes the expenditure of this contribution to support the Egg Hunt.

ACTION: Councilor Ferris asked that Order 2023-A031 be removed from the Consent Calendar. Councilor Morin moved that the remaining orders on the consent calendar have passage. Councilor Ferris seconded the motion. The motion passed with a vote of 4-0.

2023-A031

April 11, 2023

TITLE: ORDER, ISSUE AMUSEMENT LICENSE TO HIGH TIDE RESTAURANT, LLC. D/B/A HIGH TIDE RESTAURANT, 5 SOUTH MAIN STREET.

Filed March 28, 2023

By Joseph L. Ferris

WHEREAS, High Tide Restaurant, LLC.'s application for a City of Brewer Amusement License for High Tide Restaurant, 5 South Main Street, has been received by the City Clerk and;

WHEREAS, the Brewer City Council held a public hearing on this application on April 11, 2023 in accordance with Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer; and

WHEREAS, in issuing or denying a new or renewed license, the City Council shall give consideration to: (a) the character of any applicant, (b) the location of the place of business, (c) the manner in which it has been operated, and (d) whether the operation has endangered the health or safety of persons in or on areas surrounding the place of business; and

WHEREAS, a license may be denied on one (1) or more of the grounds listed in Chapter 20, Article 2, Section 217.5 of the Charter, Codes and Ordinances of the City of Brewer: and

WHEREAS, after reviewing the application and hearing testimony at the public hearing the City

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Council finds no grounds to deny this license request.

NOW, THEREFORE, BE IT ORDERED, that the City Clerk, as agent to the Licensing Authority, to wit, the City Council, is herewith authorized and directed to issue a City of Brewer Amusement License to High Tide Restaurant, LLC. d/b/a High Tide Restaurant, 5 South Main Street, for the City's licensing year commencing ~~May 2, 2022~~ May 1, 2023 and expiring ~~May 1, 2023~~ May 6, 2024.

Statement of Fact: This is a yearly order for the renewal of amusement licenses requiring a public hearing and approval by Council.

ACTION: Councilor Morin moved that the Order 2023-A031, substituted with the correct licensing dates (previously listed erroneously as 2022-2023), have passage. Councilor Ferris seconded the motion. The motion passed with a vote of 4-0.

D. Monthly Reports

ACTION: Councilor Morin moved that the monthly reports from department heads be accepted and placed on file. Councilor Ferris seconded the motion. The motion passed with a vote of 4-0.

**E. Nominations, Appointments, Elections
Consent Calendar**

2023-A051

April 11, 2023

TITLE: ORDER, APPOINT MEMBER TO THE BOARD OF APPEALS OF THE
CITY OF BREWER.

Filed April 5, 2023
By Joseph L. Ferris

BE IT ORDERED, that Leslie Ohmart of 73 Sunset Strip is herewith appointed to the Board of Appeals of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Mr. Ohmart's term will commence April 16, 2023 and expire March 31, 2026.

Statement of Fact: This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council.

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2023-A052

April 11, 2023

TITLE: ORDER, APPOINT MEMBER TO THE CEMETERY BOARD OF THE CITY OF BREWER.

Filed March 24, 2023
By Michele Daniels

BE IT ORDERED, that Betsy Migliore of 7 Highland Street is herewith appointed to the Brewer Cemetery Board for a three-year term; and

BE IT FURTHER ORDERED, that Ms. Migliore's term will commence April 16, 2023 and expire March 31, 2026.

Statement of Fact: This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council. Ms. Migliore's appointment will fill the vacated seat of Robert Russell whose term expired on March 31.

2023-A053

April 11, 2023

TITLE: ORDER, APPOINT MEMBERS TO THE CONSERVATION COMMISSION OF THE CITY OF BREWER.

Filed April 5, 2023
By Jenn M. Morin

BE IT ORDERED, that Paul Mills of 179 Day Road and Leslie Ohmart of 73 Sunset Strip are herewith appointed to the Brewer Conservation Commission for three-year terms; and

BE IT FURTHER ORDERED, that Mr. Mills' and Mr. Ohmart's terms will commence April 16, 2023 and expire March 31, 2026.

Statement of Fact: This is a yearly order for appointment or reappointment of persons to City boards and commissions with approval by the City Council.

2023-A054

April 11, 2023

TITLE: ORDER, APPOINT MEMBER TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF BREWER.

Filed March 24, 2023
By Joseph L. Ferris

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BE IT ORDERED, that Jean Goss of 41 Cove Street is herewith appointed to the Board of Commissioners of the Housing Authority of the City of Brewer for a five-year term; and

BE IT FURTHER ORDERED, that Ms. Goss' term will commence April 16, 2023 and expire on March 31, 2028.

Statement of Fact: This is a yearly order for appointment or reappointment of persons to the city boards and commissions with approval by Council. Ms. Goss' appointment will fill the vacated seat of Alan Wilcox whose term expired on March 31.

2023-A055

April 11, 2023

TITLE: ORDER, APPOINT MEMBER TO THE BREWER PLANNING BOARD.

Filed April 5, 2023
By Michele Daniels

BE IT ORDERED, that Paul Mills of 179 Day Road is herewith appointed to the Planning Board of the City of Brewer as an associate member for a three-year term; and

BE IT FURTHER ORDERED, that Mr. Mills' term will commence April 16, 2023 and expire on March 31, 2026.

Statement of Fact: This is a yearly order for appointment or reappointment of persons to the city boards and commissions with approval by Council. Mr. Mill's appointment will fill the associate seat vacated by Loriann Hall when she was promoted to full-time member on April 1.

ACTION: Councilor Ferris moved that the orders on the consent calendar have passage. Councilor Morin seconded the motion. The motion passed with a vote of 4-0.

F. Unfinished Business

There was no unfinished business.

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**G. New Business
Consent Calendar**

2023-C005

April 11, 2023

TITLE: ORDER, AMEND CHAPTER 34 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "BOARD OF APPEALS OF THE CITY OF BREWER", ARTICLE 2, "PROCEDURE", SECTION 200.1.

Filed April 3, 2023
By Michele Daniels

BE IT ORDAINED, by the Brewer City Council that Chapter 34 of the Charter, Codes and Ordinances of the City of Brewer entitled "Board of Appeals of the City of Brewer", Article 2, "Procedure", Section 200.1 shall be amended as follows:

SECTION 200.1

The Chairman shall call meetings of the Board as required. The Chairman shall also call meetings of the Board when requested to do so by majority of the members or by the municipal officers. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least ~~four (4)~~ three (3) members. The Chairman shall preside at all meetings of the Board and be the official spokesman of the Board. In the absence of the Chairman, the Vice Chairman shall preside.

Statement of Fact: Amendment 2023-B004 enacted on March 22 reduced the number of seats on the Board of Appeals from seven (7) to five (5). This amendment reduces the number of members required for quorum from four (4) to three (3).

2023-C006

April 11, 2023

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "LAND USE CODE", ARTICLE 8 "FLOODPLAIN MANAGEMENT", AND ARTICLE 14 "DEFINITIONS".

Filed April 5, 2023
By Jenn M. Morin

WHEREAS, the Federal Emergency Management Agency (FEMA) has recently updated their floodplain management information which will go into effect on July 19, 2023; and

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WHEREAS, in order for Brewer residents and landowners to continue to participate in the National Flood Insurance Program (NFIP), local ordinances must also be updated to correspond with the new FEMA regulations and in effect by the July 19, 2023 date.

NOW, THEREFORE, BE IT ORDAINED, by the City of Brewer in City Council assembled that Chapter 24, of the Charter, Codes and Ordinances of the City of Brewer, entitled “Land Use Code” shall be amended by revising the following subsections to Article 8, and Article 14; and

BE IT FUTHER ORDAINED, that these ordinance amendments shall go into effect on July 19, 2023 to correspond with the new FEMA regulations:

ARTICLE 8 – FLOODPLAIN MANAGEMENT

801 FLOOD HAZARD DEVELOPMENT PERMIT

801.1 PURPOSE AND ESTABLISHMENT (#4)

Certain areas of the City of Brewer, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the City of Brewer, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Article of the Land Use Code.

It is the intent of the City of Brewer, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Brewer has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Brewer having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Article establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Brewer, Maine.

The areas of special flood hazard, Zones A and AE, for the City of Brewer, Penobscot County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Penobscot County, Maine,” dated July 19, 2023, with accompanying “Flood Insurance Rate Maps, Penobscot County, Maine” dated July 19, 2023, are hereby adopted by reference and declared to be a part of this Article.

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~~The City of Brewer, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P. L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Article establishes a Flood Hazard Development Permit system and review procedure for development, activities in the designated flood hazard area of the City of Brewer, Maine.~~

~~The areas of special flood hazard, Zones A, and A1-A30 identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study—City of Brewer, Maine, Penobscot County," dated December 1977 with accompanying "Flood Insurance Rate Map" and "Flood Boundary and Floodway Map" dated June 1978, is hereby adopted by reference and declared to be a part of this Article. [Any and all references made to sections 801-810 herein refer to this Article.]~~

801.2 PERMIT REQUIRED

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in 809), including the placement of manufactured homes, begins within any areas of special flood hazard established in 801.1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the City of Brewer, Maine.

801.3 APPLICATION FOR PERMIT (#4)

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and/or filled, and the dimensions of the lot;)
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor:

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- F. ~~E.~~ A statement as to the type of sewage system proposed;
- G. ~~F.~~ Specification of dimensions of the proposed structure and/or development; ~~(items G—K.5 apply only to new construction and substantial improvement).~~

[Items H – K.2 apply only to new construction and substantial improvements.]

- H. ~~G.~~ The elevation in relation to National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zone ~~AE~~ AI-30, from data contained in the “Flood Insurance Study – Penobscot County City of Brewer, Maine,” as described in 801.1; or
 - b. in Zone A
 - 1) from any base flood elevation data from federal, state, or other technical courses (such as FEMA Quick-2 model, FEMA 265/~~July 1995~~), including information contained pursuant to 802.~~K~~ M and 804.D.
 - 2) ~~in the absence of all data described in 801.3.H.1.b.1, information to demonstrate that the structure shall meet the elevation requirement in 802.H.2.b, 802.I.2.a or b, 802.J.2.b,—from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlain onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s), or in the absence of all other data:~~
 - 3) ~~to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.~~
2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; ~~and,~~
4. lowest machinery and equipment servicing the building, and,

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5. ~~4.~~ level, in the case of non-residential structures only, to which the structure will be flood proofed.

- I. ~~H.~~ A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in 802;

- J. ~~I.~~ A written certification by a Professional Land Surveyor, registered professional Maine engineer, ~~professional land surveyor~~ or architect that the base flood elevation and grade elevations shown on the application are accurate;

- K. ~~J.~~ The following certifications as required in 802 by a registered professional engineer or architect:
 1. A flood proofing certificate (FEMA Form 81-65, ~~08/99~~ as amended) to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of 801.3.G.4, 802.I G and other applicable standards in 802~~L~~.

 2. A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of 802.N.2.a.

 3. A certified statement that bridges will meet the standards of 802.O M.

 4. A certificate that containment walls will meet the standards of 802.P N.

- L. ~~K.~~ A description of the extent to which any water course will be altered or relocated as a result of the proposed development;

- M. ~~L.~~ A statement of construction plans describing in detail how each applicable development standard in 802 will be met.

801.4 APPLICATION FEE AND EXPERT'S FEE (#4)

A non-refundable application fee, as set forth by the City Council and amended from time to time, shall be paid to the City Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the City submits a bill to the applicant. Failure to pay the bill shall

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constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

801.5 REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT

APPLICATIONS (#4)

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of 802 (Development Standards) have been or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications;
 1. the base flood data contained in the “Flood Insurance Study – Penobscot County City of Brewer, Maine,” as described in 801.1.
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state or other technical sources, including information obtained pursuant to 801.3.H.1.b.1, paragraph G.1.b.; 802.M, paragraph K; and 804.paragraph D, in order to administer 802 of this Article; and
 3. ~~(3)~~ when the community establishes a base flood elevation in Zone A by methods outlined in 801.3.H.1.b.1 ~~G.1.b.~~, the community will submit the data to the Maine Floodplain Management Program ~~e/o State Planning Office~~.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in 801.1 of this Article;
- D. In the review of Flood Hazard Development Permit application, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program ~~State Planning Office~~ prior to any alteration or

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- relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
- 1) A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a surveyor registered Maine Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction for verifying compliance with the elevation requirements of 802, paragraphs H, I, or J F, G, or H. Following review of the Elevation Certificate data application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit, if elevation requirements are met. Part II shall authorize the applicant to complete the construction project; or,
 - 2) A Flood Hazard Development Permit for Flood proofing of Non Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the Flood proofing standards of 802.I. G.1.a.b. and e. Their application for this permit shall include a flood proofing certificate signed by a registered professional engineer or architect; or,
 - 3) A Flood Hazard Development Permit for minor development for all development that is not new construction of substantial improvement, such as repairs maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in 802.L J., mining dredging, filling, grading paving, excavation, drilling operations, storage of equipment or materials, disposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and any structural, non-habitational projects including but not limited to: bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of 805 of this Article, and copies of Elevation Certificates, Certificates of Compliance, Flood proofing

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Certificates and certification of design standards required under the provisions of 801.3, 802 and 803 of this Article.

802 DEVELOPMENT STANDARDS (#4)

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All developments** - All developments shall:
1. be designed or modified and adequately anchored to prevent flotation, (excluding docks and piers) collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters.
- D. **On Site Waste Disposal Systems** - On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods flooding.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the water course.
- F. **Utilities** - New construction or substantial improvement of any residential structure (including manufactured homes) located within Zones A and AE, shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment,

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facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation. located within:

- ~~1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.~~
- ~~2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to 801.3 paragraph G.1.b.; 801.5, paragraph B; or 804 paragraph D.~~

G. **Physical Changes to the Natural Landscape.** Certain development projects, including but not limited to, retaining walls, sea wall, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazared boundary line.
 - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. **Residential.** New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor including basement) elevated:

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- a. To at least one foot above the base flood elevation utilizing information obtained pursuant to 801.3.H.1.b.1, 801.5.B, or 804.D: or,
- b. In the absence of all data described in 802.H.2.a, to at least two feet above the highest adjacent grade to the structure.

I. ~~G.~~ Non-Residential. New construction or substantial improvement of any non-residential structure located within:

1. ~~Zone AE-Zones A1-30~~ shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be flood proofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. be certified by a registered professional engineer or architect that the flood proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by 801.3.~~K~~ paragraph J, and shall include a record of the elevation above mean sea level to which the structure is flood proofed.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to 801.3.~~H.1.b.1~~ paragraph G.1.b.; 801.5.~~B,~~ paragraph B; or 804.~~D,~~ paragraph D.
 - b. In the absence of all data described in 802.I.2.a, to at least two feet above the highest adjacent grade to the structure; or,
 - c. Together with attendant utility and sanitary facilities meet the flood proofing standards of 802.I.1.a,b, and c.

J.-~~H.~~ Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zones ~~A1-30~~ AE shall:

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- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation; ~~and~~
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles, and;
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 1. ~~d.~~ over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 2. ~~e.~~ frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 3. ~~f.~~ all components of the anchoring system described in 802, paragraph ~~JH~~.I.c. (1) (2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
 - a. ~~have to~~ be ~~erected~~ ~~elevated~~ on a permanent foundation as described in 802.~~J.1.b~~ ~~H.b~~ such that the lowest floor (including basement) ~~of the manufactured home elevated to~~ is at least one foot above the base flood elevation utilizing information obtained pursuant to 801.3.~~H.1.b.1~~ ~~, paragraph G.1.b.~~; 801.5.B, ~~paragraph B~~; or 804.~~D~~, ~~paragraph D~~.
 - b. in the absence of all data as described in 802.J.2.a, to at least two feet above the highest adjacent grade to the structure; and,
 - c. meet the anchoring requirements of 802.J.1.c.

~~K.-I. Recreational Vehicles~~ – Recreational Ree. Vehicles located within Zones A and AE A1-A30 shall either:

1. Be on the site less than 180 consecutive days ~~in any calendar year; and~~
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

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3. Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in 802.~~J H~~.1.

~~L.-J.~~ **Accessory Structures.** New construction or substantial improvement of Accessory structures as defined in 809, ~~located within Zones A1-A30 and A~~ shall be exempt from the elevation criteria required in 802 ~~H F~~ and ~~I G~~ above if all other requirements of 802 and the following requirements are met. Accessory structures located in Zones A and AE shall:

1. ~~Meet the requirements of 802.A.1 through 4 , as applicable. Be 500 square feet or less and have a value of less than \$3000.~~
2. Have unfinished interiors and not be used for human habitation.
3. Have hydraulic openings, as specified in 802.~~N L~~.2. in at least two different walls of the structure.
4. Be located outside the floodway.
5. When possible, located and placed on the site so as to offer the minimum resistance to the flow of floodwaters and be placed no further from the source of flooding than is the primary structure.
6. Have only ground fault interrupt outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
7. Be limited in size to a one-story two car garage.

~~M.-K.~~ Floodways.÷

1. In Zone AE Zones A1-30, riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designed on the community's Flood Insurance Rate Map, "Flood Boundary" and "Floodway Map" unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones ~~A1-A30 and A~~ A and AE, riverine areas for which no regulatory floodway is designated, encroachments including fill, new construction substantial improvement and

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other development shall not be permitted in the floodway as determined in 802.~~M K~~.3 unless a technical evaluation by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping Chapter 5 entitled "Hydraulic Analyses" (sic) Flood Insurance Study—Guidelines for Study Contractors (FEMA 37/Jan 1995, as amended).
3. In Zone ~~A1-A30 and A A and AE~~ riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. L. Hydraulic Openings/Flood Vents. New construction or substantial improvement of any structure in Zones ~~A1-30 and A A and AE~~ that meets the development standards of 802, including the elevation requirements of 802, paragraphs ~~H, I, or J F, G or H~~ and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in 809; and,
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either:
 - a. be certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - 1) a minimum of two openings ~~of approximately equal size~~ having a total net area of not less than one square inch for every square foot of the enclosed area;
 - 2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - 3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically

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without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,

3. The enclosed area shall not be used for human habitation; and,
4. The enclosed area may only be used for building access, parking vehicles, or storage.

~~O.-M.~~ Bridges -- new construction or substantial alteration of any bridge in ~~Zone A1-A30 and A~~ Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding pilings or columns) is elevated at least one foot above the base flood elevation, and
2. a registered professional engineer shall certify that:
 - a. ~~3.~~ the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of 802 ~~M K~~ and
 - b. ~~4.~~ the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structure components. Water loading values shall be those associated with the base flood.

~~P.-N.~~ Containment Walls – new construction or substantial improvement of any containment wall located within Zones ~~A1-A30 and A~~ and AE shall:

- a. have containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit as required by 801.3.~~K J.~~

~~Q.-O.~~ Wharves, Piers, and Dock – new construction or substantial alteration of wharves, piers and docks are permitted in Zones A and ~~A1-A30~~ AE in and over water and shall comply with all applicable local, state, and federal regulations. ~~-seaward of mean high tide if the following requirements are met:~~

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- ~~1. wharves, piers and docks shall comply with all applicable local, state and federal regulations; and~~
- ~~2. for commercial wharves, piers and docks, a registered professional engineer shall develop or review the structural design, specifications and plans for the construction.~~

803 CERTIFICATION OF COMPLIANCE (#4)

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For new construction or substantial improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer: ~~B.~~ an Elevation Certificate completed by a Professional Land Surveyor, registered engineer or architect for compliance with 802 ~~H, I, or J F., G, or H.~~

~~B.-C.~~ The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

~~C.-D.~~ The Code Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Article and other pertinent provisions of the City of Brewer Ordinances.

804 REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation, flood boundaries, and in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

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- E. Any proposed development plan must include a condition that structures on any lots in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with 802 of this Article. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a time share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed on any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

805 APPEALS AND VARIANCES (#4)

The Board of Appeals of the City of Brewer may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer or the Planning Board in the administration of the provision of this Article. The Board of Appeals may grant a variance from the requirements of this Article consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
 2. a determination that should be a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances; and,
 3. a showing that the existence of the variance will not cause a conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in “undue hardship,” which in this subsection means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

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- c. that the granting of a variance will not alter the essential character or the locality; and
- d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

- 1. other criteria of 805 a through c and 802. ~~M K~~ are met; and,
- 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

- 1. the development meets the criteria of 805 a through c, ~~paragraphs A. thru D.~~ above; and,
- 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:

- 1. the development meets the criteria of 805 A. through C; and,
- 2. the development meets the criteria of 802.M and 802.N.

G. ~~F.~~ Any applicant who meets the criteria of 805 ~~paragraphs A through C E~~ and 805 D, E, or F shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

- 1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
- 2. Such construction below the base flood level increase risks to life and property; and,

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3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

- H. ~~G. Appeal Procedure for Administrative and Variance Appeals. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.~~
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
 3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
 4. The person filing the appeal shall have the burden of proof.
 5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
 6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
 7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

806 ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Article pursuant to 30-A MRSA sec. 4452. (#4)
- B. The penalties contained in 30-A MRSA sec. 4452 shall apply to any violation of this Article.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. the valid declaration shall consist of:

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1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

807 VALIDITY AND SEVERABILITY

If any section or provision of this Article is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Article.

808 CONFLICT WITH OTHER ORDINANCES

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. Where this Article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Article shall control.

809 DEFINITIONS (#4)

Unless specifically defined below, words and phrases used in this Article shall have the same meaning as they have at common law and to give this Article its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

[Note: Amendment will renumber current numbering of definitions.]

1. "Accessory Structure" – means a small detached structure that is incidental and subordinate to the principal structure.
2. "Adjacent Grade" - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
3. "Agricultural Structure" – means structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural

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commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

4. "Area of Special Flood Hazard" - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in 801 of this Article.
5. "Base Flood" - means the flood having a one percent ~~chance~~ ~~change~~ of being equaled or exceeded in any given year, commonly called the 100-year flood.
6. "Basement" - means any area of the building having its floor subgrade (below ground level) on all sides.
7. "Building" - see "structure."
8. "Certificate of Compliance" - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Article.
9. "Code Enforcement Officer" - is the person who is appointed as an Executive Officer of the Department of Inspections pursuant to the Brewer, ME, Building Code, Article 16, Section 109.
10. "Containment Wall" – means a wall surrounding all sides of an above ground tank to contain any spills or leaks.
11. "Development" - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to ~~the construction of~~ buildings or other structures; ~~the construction of additions or substantial improvements to buildings or other structures;~~ mining, dredging, filling, grading, paving, excavation, ~~or~~ drilling operations or the storage of equipment or materials; and the storage, deposition, or extraction of materials, ~~public or private sewage disposal systems or water supply facilities.~~
12. Digital Flood Insurance Rate Map (DFIRM). An official digital map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
13. "Elevated Building" - means a non-basement building (i) built, in the case of a building in Zones A or AE A1-A30, and A, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or shear walls "~~stilts;~~" and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the

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magnitude of the base flood. In the case of Zones A or AE A1-A30, or A, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters as required in 802.N L.

14. "Elevation Certificate" - An official form (FEMA Form 81-31, ~~08/99~~, as amended) that (i) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and, (ii) is required for purchasing flood insurance.

15. Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

16. "Flood" or "Flooding" - means:
 - a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1) The overflow of inland or tidal waters.
 - 2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

17. "Flood Elevation Study" - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

18. "Flood Insurance Rate Map" (FIRM) - means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

19. "Flood Insurance Study" see "Flood Elevation Study."

20. "Floodplain" or "Flood-prone Area" - means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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21. "Floodplain Management" - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
22. "Floodplain Management Regulations" - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
23. "Flood Proofing" - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
24. "Floodway" - "see Regulatory Floodway."
25. "Floodway Encroachment Lines" - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.
26. "Freeboard" - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.
27. "Functionally Dependent Use" - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
28. "Historic Structure" – means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

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- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in states without approved programs.
29. "Locally Established Datum" - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), [North American Vertical Datum \(NAVD\)](#), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
30. "Lowest Floor" - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements 802.[N](#) of this ordinance.
31. "Manufactured Home" - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
32. "Manufactured Home Park or Subdivision" - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
33. "Mean Sea Level" - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum NGVD) of 1929, [North American Vertical Datum \(NAVD\)](#), other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

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34. Minor Development – means all development that is not new construction or substantial improvements such as repairs, maintenance renovations or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in 802.1 J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
35. National Geodetic Vertical Datum (NGVD) – means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.
36. "New Construction" - means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures. (1978)
37. North American Vertical Datum (NAVD) – means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth’s crust, glacial rebound and subsidence, and the increasing use of satellite technology.
38. "100-year flood" see "Base Flood."
39. Recreational Vehicle – means a vehicle which is:
- built on a single chassis
 - 400 square feet or less when measured at the largest horizontal projection not including slide outs
 - designed to be self-propelled or permanently towable by a vehicle
 - designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
40. "Regulatory Floodway" - (i) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height ~~one foot~~, and (ii) when not designated on the community’s Flood Insurance Rate Map, it ~~is Zone A~~ is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the

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width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

41. "Riverine" - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

42. Special Flood Hazard Area – see Area of Special Flood Hazard

43. "Start of Construction" - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

44. "Structure" - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

45. Substantial Damage – means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

46. "Substantial Improvement" - means any ~~repair~~, reconstruction, rehabilitation, addition, or improvement of a structure, the cost value of which equals, or exceeds 50% of the market value of the structure ~~either before the start of construction of the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur at the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The~~ This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. This term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to

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assure safe living conditions or (2) any alteration of a ~~Historic Structure, structure listed on the National Register of Historic Places or a State Inventory of Historic Places~~ provided that such alteration would not preclude the structure's continued designation as a historic structure and a variance is obtained by the community's Board of Appeals.

47. "Variance" - means a grant of relief by a community from the terms of a floodplain management regulation.
48. "Violation" - means the failure of a structure or other development to fully comply with a community's floodplain management regulations or ordinance.

810 ABROGATION

This article repeals and replaces any municipal Article previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

811 DISCLAIMER OF LIABILITY

The degree of flood protection required by this Article is considered reasonable but does not imply total flood protection.

ARTICLE 14 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their definitions shall have the meaning given herein. When non-inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not discretionary in sense.

Further, any terms, phrases, words and their derivation not defined herein shall be given that definition which is promulgated in Webster's New World College Dictionary, Fifth Edition, Copyright 2014, on file in the City Clerk's Office. (#39)

Floodplain Definitions – see Article 8 Floodplain Management, section 809 Definitions

~~**Adjacent Grade:**~~ ~~The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.~~

~~**Area of Shallow Flooding:**~~ ~~A designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to~~

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~~three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~**Area of Special Flood Hazard:** The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article 8 of this Land Use Code.~~

~~**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.~~

~~**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.~~

~~**Breakaway Wall:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

~~**Building:** See "Structure."~~

~~**Certificate of Compliance:** A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Article.~~

~~**Development:** Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.~~

~~**Elevated Building:** A non-basement building (i) built, in the case of a building in Zones A2, A5 and/or A8, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A2, A5 and/or A8, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.~~

~~**Elevation Certificate:** An official form (FEMA Form 81-31, May, 1993, as amended) that (i) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and, (ii) is required as a condition for purchasing flood insurance.~~

Flood or Flooding:

(a) — A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) — The overflow of inland or tidal waters.

(2) — The unusual and rapid accumulation or runoff of surface waters from any source.

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~~b) — The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.~~

~~—— **Flood Elevation Study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.~~

~~—— **Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.~~

~~—— **Flood Insurance Study:** see "Flood Elevation Study."~~

~~—— **Floodplain or Flood-prone Area:** Any land area susceptible to being inundated by water from any source (see definition of "flooding").~~

~~—— **Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.~~

~~**Floodplain Management Regulations:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.~~

~~—— **Flood Proofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.~~

~~**Floodway:** See "Regulatory Floodway."~~

~~—— **Floodway Encroachment Lines:** The lines marking the limits of floodways on federal, state, and local floodplain maps.~~

~~—— **Freeboard:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.~~

~~**Functionally Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are~~

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necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long term storage or related manufacturing facilities.

~~**Locally Established Datum:** For purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.~~

~~———— **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements 20A-VI of this ordinance.~~

~~———— **Mean Sea Level:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.~~

~~———— **New Construction:** Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community. (1978)~~

~~———— **100-year flood:** See "Base Flood."~~

~~———— **Regulatory Floodway:** (i) The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and (ii) in Zone A is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.~~

~~———— **Riverine:** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.~~

~~———— **Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.~~

~~———— **Structure:** For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.~~

~~———— **Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the value of which equals, or exceeds 50% of the market value of the structure either before the improvement or~~

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~~repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur at the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places provided that such alteration would not preclude the structure's continued designation as a historic structure.~~

~~———— **Variance:** A grant of relief by a community from the terms of a floodplain management regulation.~~

~~———— **Violation:** The failure of a structure or other development to fully comply with a community's floodplain management regulations or ordinance.~~

Statement of Fact: These ordinance amendments are proposed to correspond with new FEMA regulations and clarify the Land Use Code by removing duplicate definitions within the ordinance. The Brewer Planning Board held a public hearing on April 3, 2023 and voted unanimously to recommend adopting these amendments to Chapter 24 "Land Use Code" as written.

2023-C007

April 11, 2023

TITLE: ORDER, AMEND CHAPTER 22 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "SOLID WASTE ORDINANCE", ARTICLE 4.

Filed April 6, 2023
By Joseph L. Ferris and
Michele Daniels

BE IT ORDAINED, by the Brewer City Council that Chapter 22 of the Charter, Codes and Ordinances of the City of Brewer entitled "Solid Waste Ordinance", Article 4, shall be amended as follows:

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 4.4.1 Collection Time

No commercial collections shall be done at a time of day between 7:00 pm and 7:00 am, if such collections create a disturbance for residential properties.

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

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(\$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.

Section 4.7.1 Commercial Penalties

Any person, firm, corporation, or other legal entity found to be in violation of any of the provisions of Article 4, Section 4.4 & 4.4.1 after having been duly notified by the Code Enforcement Officer who continues act in violation of these sections shall be subject to a civil penalty of One-Thousand Dollars (\$1,000.00) for each initial violation. Additional violations of this Article of this Chapter within a one (1) year period from the initial violation shall be subject to an additional civil penalty of Five-Hundred Dollars (\$500.00) for each additional violation thereafter.

Statement of Fact: This amendment is being offered due to ongoing residential complaints regarding commercial trash haulers creating noise disturbances as early as 4:00 am while picking up trash for a commercial property that abuts a residential neighborhood. City staff spoke with the hauler and commercial property owner to request a change in the pickup schedule and they refused to make any accommodations since the ordinance was silent on this issue.

ACTION: Councilor Daniels moved that the amendments on the consent calendar be certified and filed with the city clerk for posting. Councilor Morin seconded the motion. The motion passed with a vote of 4-0.

H. New Items with Leave of Council

There were no new items with leave of council.

I. ADJOURN

ACTION: Councilor Ferris moved that the meeting be adjourned. Councilor Daniels seconded the motion. The motion passed with a 4-0 vote. The meeting was adjourned at 6:41 P.M.

ADJOURNED, ATTEST: _____ Vincent P. Migliore
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine