

City Council Minutes  
Tuesday, December 12, 2023

Regular Meeting  
City Hall Council Chambers

Tuesday, December 12, 2023  
6:00 p.m.

The regular meeting was called to order by Mayor Jenn Morin. Mayor Morin observed a moment of silence in remembrance of Council Member and Deputy Mayor Jerry Goss who had passed away unexpectedly the previous week. The city clerk called the roll:

Councilor Phanthay-present  
Councilor O’Halloran-present  
Mayor Morin-present

Councilor Daniels-present  
Councilor Goss-absent

Mayor Morin declared that a quorum was present. City Solicitor Johnathan Pottle was also present.

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

Mayor Morin read the notice for the regular meeting.

TO: Soubanh Phanthay, Michele Daniels, Dani O’Halloran, Jerry Goss, and Jenn Morin; 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, December 12, 2023 beginning at 6:00 p.m.**, at 80 North Main Street, to consider and act on the items on the attached agenda.

s/ Jenn M. Morin  
Mayor and Chairman of the City Council  
Or \_\_\_\_\_  
Majority of the City Council

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

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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
Soubanh Phanthay	Nickerson	Sgt.	12/08/2023	19:30
Michele Daniels	Nickerson	Sgt.	12/08/2023	19:40
Dani O’Halloran	Nickerson	Sgt.	12/08/2023	19:50
Jerry Goss				
Jenn Morin	Nickerson	Sgt.	12/08/2023	20:00

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**CITY COUNCIL REGULAR MEETING**  
**Tuesday, December 12, 2023 6:00 P.M.**  
**Brewer City Hall Council Chambers**

- I. Call to Order** (Mayor Morin)
- II. Roll Call** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America** (Mayor Morin)
- A. Minutes of the November 21, 2023 Regular Meeting and 2023 Annual Meeting** (Councilor O'Halloran)
- B. Awards, Petitions and Public Comments**
  - 1. (2023-B039) RESOLVE Resolution of Respect for Gary Briggs.  
(Councilor Daniels)
  - 2. Public Comments
- C. Consent Calendar**
  - 1. (2023-A160) ORDER Accept Bureau of Highway Safety grant.  
(Councilor Phanthay)
  - 2. (2023-A161) ORDER Authorize purchase of video detection cards for intersection  
of State Street and Washington Street. (Councilor Daniels)
  - 3. (2023-A162) ORDER Accept grants from the Harold Alford Center for the  
Advancement of Maine's Workforce.  
(Councilor O'Halloran)
  - 4. (2023-A163) ORDER Authorize Village Partnership Agreement with Maine  
Department of Transportation and Stantec for the Center  
Street Revitalization Project – Planning Phase.  
(Councilor Phanthay)
  - 5. (2023-B040) RESOLVE Amend schedule of City Council regular meetings to  
change October 2024 meeting date. (Councilor Daniels)
  - 6. (2023-A164) ORDER Accept donations in memory of Malanie Brochu to the  
Brewer Parks & Recreation Department to benefit the after-  
school and summer camp programs.  
(Councilor O'Halloran)
  - 7. (2023-A165) ORDER Accept asset forfeiture funds.  
(Councilor Phanthay)
  - 8. (2023-A166) ORDER Authorize purchase of musical instruments for a harmony  
park along the Riverwalk. (Councilor Daniels)
  - 9. (2023-A167) ORDER Accept grant from Penobscot County and authorize  
purchase of TruNarc handheld analyzer for Brewer Police  
Department. (Councilor O'Halloran)
  - 10. (2023-A168) ORDER Establish Water Ozone Capital Reserve Account.  
(Councilor Phanthay)
  - 11. (2023-A169) ORDER Accept donations to Brewer programs from the Fisher  
Family Fund. (Councilor Daniels)
  - 12. (2023-A170) ORDER Waive foreclosure of lien on 400 South Main Street,

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Map 026, Lot 118 located in Brewer, Maine.  
(Councilor O'Halloran)

13. (2023-A171) ORDER Commit water assessment to Treasurer for collection.  
(Councilor Phanthay)
14. (2023-A172) ORDER Commit sewer assessment to Treasurer for collection.  
(Councilor Daniels)

**D. Monthly Reports** (Councilor O'Halloran)

**E. Nominations, Appointments, Elections**

**Consent Calendar**

1. (2023-B041) RESOLVE Declare vacancy for unexpired term of Jerry Goss.  
(Councilor Phanthay and Councilor Daniels)
2. (2023-A173) ORDER Issue warrant for March 5, 2024 City of Brewer Special  
Municipal Election.  
(Councilor Daniels and Councilor O'Halloran)

**F. Unfinished Business**

**Consent Calendar**

1. (2023-C020) ORDER Amend Chapter 22 of the Charter, Codes and Ordinances of  
the City of Brewer, entitled "Solid Waste Ordinance",  
Article 8, Section 8.12 "Fees", Article 10, Section 10.13  
"Fee Schedule", and Article 11, Section 11.3 "Universal  
Waste". (Councilor Goss)
2. (2023-C021) ORDER Amend Chapter 31 of the Charter, Codes and Ordinances of  
the City of Brewer, entitled "Sewer and Pretreatment  
Ordinance". (Councilor Daniels)
3. (2023-C022) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of  
the City of Brewer, entitled "Land Use Code", Article 3  
"Zoning Districts", Section 306.5, and Article 4  
"Performance Standards", Section 444. (Councilor Morin)

**G. New Business**

1. (2023-C023) ORDER Amend Chapter 10 of the Charter, Codes and Ordinances of  
the City of Brewer, entitled "The Police Department", to  
establish Article 2 "Disruptive Property", and Article 3  
"Sex Offender Residency Restrictions."  
(Councilor Phanthay)

**H. New Items with Leave of Council**

**I. ADJOURN**

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**A. Minutes of the November 21, 2023 Regular Meeting and 2023 Annual Meeting**

**ACTION:** Councilor O'Halloran moved that the minutes to the November 21, 2023 Regular Meeting and 2023 Annual Meeting be accepted and placed on file. Councilor Daniels seconded the motion. The motion passed with a vote of 4 to 0.

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**B. Awards, Petitions and Public Comments**

2023-B039

December 12, 2023

TITLE: RESOLVE, RESOLUTION OF RESPECT FOR GARY BRIGGS.

Filed October 16, 2023

By Michele Daniels

WHEREAS, on the twelfth day of October 2023, death brought to a close the full and active life of Gary Ralph Briggs; and

WHEREAS, Gary was born in Bangor in 1963; and

WHEREAS, Gary graduated from Brewer High School in 1981; and

WHEREAS, Gary received his Bachelor of Science in Business Administration from the University of Maine in 1985; and

WHEREAS, after graduating, Gary joined the family business, Briggs, Inc. and its affiliate beverage distribution companies, starting in the warehouse, Gary worked his way up, and became Vice President of Sales and Marketing; and

WHEREAS, Gary was active in his community; and

WHEREAS, Gary was a Mason, a member of Anah Shrine, served in a number of positions at All Souls Church, and served as Vice President/Conductor of the Down East Scenic Railway; and

WHEREAS, Gary served on the City of Brewer Planning Board and was a Trustee for the Brewer Water District; and

WHEREAS, Gary's greatest joy was family, and he was blessed with three children, two step-children, and five grandchildren.

NOW, THEREFORE BE IT RESOLVED, that the Brewer City Council does by this resolution and public pronouncement, recognize the positive influence of Gary Briggs to the well-being and development of his community and he earned the respect of all who knew him; and

BE IT FURTHER RESOLVED, that this resolution be spread upon the permanent records of the City of Brewer and that copies thereof be distributed to members of his family in testimony to the high esteem held for Gary Briggs by the citizens and officials of the City of Brewer, Maine.

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**ACTION:** Councilor Daniels moved that the resolve be adopted. Councilor Phanthay seconded the motion. Councilor Daniels read the resolve and issued challenge coins to members of Gary’s family. Councilor Daniels praised Gary and said that he was always there to lend a hand no matter what. Councilor Phanthay praised Gary’s love of family, and complimented Gary’s family in attendance. The motion passed with a vote of 4 to 0.

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**Public Comments**

Councilor Daniels recognized Councilor Phanthay and City of Brewer Parks and Recreation Director Micheal Martin for their efforts to organize a Community Holiday Tree-Lighting event. Councilor Phanthay thanked the Parks and Recreation Director for keeping him informed about weather conditions, and for accommodating changes. Councilor Phanthay said that his goal for the event had been to bring the community together and that he hoped it would serve as a hint of things to come for next year. Councilor O’Halloran thanked Councilor Phanthay and the Parks and Recreation Director for “going above and beyond” in their efforts. Mayor Morin said that she had received many positive comments about the event and praised Councilor Phanthay and the Parks and Recreation Director.

Mayor Morin shared her thoughts as the incoming Mayor.

Mayor Morin: My goal in the next eleven months is to continue to be a big advocate and a cheerleader for the City. I love Brewer. I love working with all the amazing people that work here with the City of Brewer. I always feel, just such a sense of pride, and... I love giving back in this capacity, and I love working with such an organization where people do things with heart. And so, the last several, I would say probably five or six months, one of the things that I really wanted to focus on was just... increasing communication, whether it’s communication with those of us on City Council together... communication-flow with the community at large, and so, some of the things that... those of us on City Council have been working toward is really increasing communication with the constituency... For me, that means finding ways to let the community know when we have things that are going on, whether they’re events, whether we end up doing it through social media, through our website platform, but really just increasing the communication.

An example would be, last year about this time, we had a constituent who was not as happy with the fact that we had sent the plow trucks out when there was only two inches of snow, and [the Public Works Director] sent a wonderful email to the constituent and said... we really do our best to make sure that we’re not wasting tax-payer dollars and he gave a really great example and reasoning behind the plowing that I believe that once she understood that and read his thoughtful response, I thought, those are the exact types of things, if other people know these things it’s just going to really give a lot more “feelgoods” in the community and understanding. And so, I hope to continue to... find opportunities for us to increase communication... specifically with constituency, [and] overall [as well] ...

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An example would be that [the Interim City Manager] is working on putting together a Town Crier, which is going to allow constituents in Brewer to go to the website and sign-up, whether you're putting in your email address or your cell phone number, so that you can receive communications that are going on. So, if there's a water main break in an area and traffic needs to be detoured, we can send that communication out to the constituency who... have signed up for it... We're also going to be, from time to time... [having] workshops... And the workshops will not require all department heads to be here. An example would be, it may be in February, where I've talked to [the Interim City Manager] and... [the IT Director], [they] have been working on putting together some potential updates that we might be able to do to improve our website. And so, there will be a workshop that will likely be held at some point, maybe in February, where we can kind of talk about what does that mean: what does that mean for us as a City? What are the improvements going to allow us to do? How are we going to be able to better communicate?...

The goal will be as we're working on something that requires additional communication from the Councilors... to get education around it, that we will call those [workshops]... as appropriate and ask certain key people to come as needed.

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**C. Consent Calendar**

2023-A160

December 12, 2023

TITLE: ORDER, ACCEPT BUREAU OF HIGHWAY SAFETY GRANT.

Filed November 16, 2023  
By Soubanh Phanthay

WHEREAS, the Brewer Police Department has received a grant for \$3,157 for Drug Recognition Expert (DRE) Training; and

WHEREAS, the funds will be used to pay for travel and tuition for an officer to attend this training in February as well as the overtime required to backfill the officer's position while at training; and

WHEREAS, the grant requires a local match of at least \$790, which will be met through in-kind payroll expense for the officer while attending training and for staff administration of the grant.

NOW, THEREFORE, BE IT ORDERED, that the Brewr City Council herewith authorizes the appropriation and deposit of these funds into account 0600058-360000-58064 Bureau of Hwy Safety Grant Revenue; and

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BE IT FURTHER ORDERED, that the City Council herewith authorizes the expenditure of these funds from account 0600058-560000-58064 Bureau of Hwy Safety Grant Expense.

**Statement of Fact:** The City of Brewer Police Departments received a \$3,157 grant for Drug Recognition Expert (DRE) training. These funds will be used to cover travel and tuition expenses to send an officer to the DRE School and cover the overtime required to backfill the officer's position while at training.

2023-A161

December 12, 2023

TITLE:           ORDER,           AUTHORIZE PURCHASE OF VIDEO DETECTION CARDS FOR  
INTERSECTION OF STATE STREET AND WASHINGTON STREET.

Filed November 16, 2023

By Michele Daniels

WHEREAS, the video detection cards for the traffic lights at the intersection of State Street and Washington Street recently failed; and

WHEREAS, the intersection is currently running on recall, which negatively affects the efficient flow of traffic at the intersection; and

WHEREAS, the purchase and install of a new camera system is estimated to cost up to \$40,000.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign a purchase order up to the amount of \$40,000 for purchase and installation of video cards in the traffic signals at the intersection of State Street and Washington Street; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of \$40,000 in Unassigned Fund Balance (0109800-300901) for this purpose; and

BE IT FURTHER ORDERED, that costs associated with this project shall be charged to the State and Washington Intersection CIP account (0510113-551314-00482); and

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

**Statement of Fact:** The Brewer Engineering Department recently discovered that the video cards for the traffic lights at the intersection of State Street and Washington Street had failed. This failure has caused an inefficient traffic flow at the intersection. The City's traffic signal contractor estimates that new cameras may be purchased and installed for approximately \$30,000. This order includes a \$10,000 allowance for contingencies.

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2023-A162

December 12, 2023

TITLE: ORDER, ACCEPT GRANTS FROM THE HAROLD ALFOND CENTER FOR THE ADVANCEMENT OF MAINE'S WORKFORCE.

Filed November 28, 2023

By Dani O'Halloran

WHEREAS, the City of Brewer has joined the Harold Alfond Center for the Advancement of Maine's Workforce as a Compact Member to provide its employees with expanded workforce training opportunities and scholarships; and

WHEREAS, Compact Members have streamlined access to the Center's services, which include grants of up to \$1,200 per employee to help with the cost of training frontline workers.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith accepts all Alfond grant funds received in Fiscal Year 2024 and authorizes their deposit into the appropriate departmental revenue account; and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from the corresponding departmental expense account to support staff training.

**Statement of Fact:** The City of Brewer expects to receive grant funds from the Harold Alfond Center for the Advancement of Maine's Workforce to help pay for Brewer employees to attend training. This order accepts the funds and authorizes their expenditure.

2023-A163

December 12, 2023

TITLE: ORDER, AUTHORIZE VILLAGE PARTNERSHIP INITIATIVE AGREEMENT WITH MAINE DEPARTMENT OF TRANSPORTATION AND STANTEC FOR CENTER STREET REVITALIZATION PROJECT – PLANNING PHASE.

Filed November 28, 2023

By Soubanh Phanthay

WHEREAS, on April 11, 2023 the Brewer City Council approved Order 2023-A047 providing formal support for City of Brewer staff to solicit Requests for Proposals for the Center Street Revitalization Project; and

WHEREAS, proposals were received in September and reviewed by City staff, Bangor Area Comprehensive Transportation System (BACTS) staff, and Maine Department of Transportation (MDOT) staff, and the proposal submitted by Stantec was selected; and



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WHEREAS, the scope of the consultant’s proposal was reviewed and finalized and a final price proposal was submitted for approximately \$150,000, of which MDOT will reimburse the City 50%; and

WHEREAS, upon execution of all necessary agreements, the consultant will begin data collection and plans to meet with City staff in January to begin the project; and

WHEREAS, funding for the City’s portion of this project was included in the Fiscal Year 2024 Capital Improvement Program budget.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to execute a Village Partnership Initiative Agreement with the Maine Department of Transportation in the amount of \$150,000 (to be shared on a 50/50 basis) for the Center Street Revitalization Project – Planning Phase; and

BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to execute a Professional Services Agreement with Stantec and any other necessary documents that may be needed to complete this phase of the project; and

BE IT FURTHER ORDERED, that charges to this contract shall be to the approved CIP account (0510120-551122) CENTER ST REVITALIZATION - PED IMPRVMENTS – VPI.

**Statement of Fact:** This order authorizes a Village Partnership Agreement with the MDOT and a separate agreement with Stantec, the selected consultant, for the Center Street Revitalization Project-Planning Phase. MDOT will reimburse the City on a 50/50 basis up to \$75,000. 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 also provide needed storm drain infrastructure repairs in this area. This phase will include public outreach and conceptual planning. Upon completion of this phase, MDOT on behalf of the City will submit the project for a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant that will fund design and construction at a 10% cost to the City.

2023-B040

December 12, 2023

TITLE: RESOLVE, AMEND SCHEDULE OF CITY COUNCIL REGULAR MEETINGS TO CHANGE OCTOBER 2024 MEETING DATE.

Filed December 1, 2023  
By Michele Daniels

WHEREAS, the Brewer City Council, at its annual meeting held on November 21, 2023, adopted Resolve 2023-B036 establishing dates of its regular monthly meetings for the 2023-2024 term; and

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WHEREAS, Tuesday, October 15, 2024 was established as the date for the October 2024 regular Council meeting; and

WHEREAS, regular Council meetings are typically held on the second Tuesday of each month; and

WHEREAS, October 15, 2024 will be the third Tuesday of October 2024; and

WHEREAS, the City Council wishes to keep the regular meeting schedule consistent, with regular Council meetings scheduled for the second Tuesday of each month when possible.

NOW, THEREFORE, BE IT RESOLVED, that Brewer City Council Resolve 2023-B036, be amended by changing the date of the regular meeting for the month of October from Tuesday, October 15, 2024 to Tuesday, October 8, 2024.

**Statement of Fact:** At the 2023 Annual Meeting, the Brewer City Council adopted Resolve 2023-B036 “Establish Time and Dates of Regular Meetings”. Regular Council meetings are typically held on the second Tuesday of each month; however, the approved resolve scheduled the October 2024 meeting for October 15, 2024, the third Tuesday of the month. This resolve amends the regular meeting schedule to change the date of the October 2024 meeting to October 8, 2024 to keep the meeting schedule consistent.

2023-A164

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TITLE:       ORDER,       ACCEPT DONATIONS IN MEMORY OF MELANIE BROCHU TO  
                                  THE BREWER PARKS & RECREATION DEPARTMENT TO  
                                  BENEFIT THE AFTER-SCHOOL AND SUMMER CAMP  
                                  PROGRAMS.

Filed December 1, 2023

By Dani O’Halloran

WHEREAS, the Brewer Parks & Recreation Department has received donations in the memory of Melanie Brochu at her family’s request after her recent passing; and

WHEREAS, the Brewer Parks & Recreation Department has received \$3,060 to date from area residents, businesses and organizations in Melanie’s memory; and

WHEREAS, it is the recommendation and request of Melanie’s family and the Parks & Recreation Director that these donations be appropriated and expended to supplement the After-School Program and the Summer Camp programs.

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NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by a vote of its City Council, herewith accepts these donations and any future donations received in Melanie Brochu’s memory and directs that they be deposited to the Recreation Gifts revenue account (0600071-360000-71006); and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these monies from the Recreation Gifts expense account (0600071-560000-71006) to support the Brewer Parks & Recreation Department’s After School and Summer Programs.

**Statement of Fact:** This order accepts contributions to the City of Brewer Parks & Recreation Department in the memory of Melanie Brochu and authorizes their expenditure to support the After-School Program and the Summer Programs.

2023-A165

December 12, 2023

TITLE: ORDER, ACCEPT ASSET FORFEITURE FUNDS.

Filed December 5, 2023  
By Soubanh Phanthay

WHEREAS, the Brewer Police Department has conducted an investigation where a sum of money was seized and forfeited by a defendant involved in the investigation; and

WHEREAS, this sum of money was offered to the City of Brewer in recognition of the Brewer Police Department’s valuable assistance in the successful completion of the investigation; and

WHEREAS, under Maine Law, Title 15 M.R.S.A., §5824(3) the City Council must take a public vote before any forfeited assets or money can be transferred to the City.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, Maine, by vote of its City Council, does herewith approve the transfer of the following sum of money and assets forfeited as a result of the recent criminal investigation cited:

**Penobscot Unified Court Docket Number**  
21-2841

**Assets**  
\$851.70 US Currency

; and

BE IT FURTHER ORDERED, that these funds be deposited into the State Asset Forfeiture Receipt Account 0200101-320000 and that expenditures be hereby authorized from the appropriate State Asset Forfeiture Expense Account within this Org (0200101).

**Statement of Fact:** The Brewer Police Department was awarded \$851.70 in asset forfeiture funds as a result of a successful criminal drug prosecution. These assets have been ordered by the court to be turned over to the Brewer Police Department.

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2023-A166

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TITLE: ORDER, AUTHORIZE PURCHASE OF MUSICAL INSTRUMENTS FOR A  
HARMONY PARK ALONG THE RIVERWALK.

Filed December 5, 2023

By Michele Daniels

WHEREAS, the Brewer Riverwalk attracts visitors of all ages, and music is another element that can bring enjoyment to multiple users; and

WHEREAS, the City of Brewer wishes to install musical equipment for a harmony park along the Riverwalk for the community to play and enjoy; and

WHEREAS, the creation of a music park using Tax Increment Financing (TIF) funding was included in the Fiscal Year 2024 Capital Improvement Program approved by the Brewer City Council in June; and

WHEREAS, the City has received a quote of \$26,796 from Percussion Play, Ltd. of the United Kingdom to purchase the equipment needed to create a harmony park; and

WHEREAS, the price of the musical equipment is expected to increase in January 2024, and the City of Brewer has space to store the equipment until the outdoor music park can be installed; and

WHEREAS, the City expects the cost of the ground work, installation, signage, etc. can be accomplished with the remaining \$23,204 in budgeted TIF funds.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith authorizes the City Manager, or his designee, to sign a purchase order for \$26,796 to Percussion Play, Ltd for music equipment; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of up to \$50,000 in TIF funds from the Riverwalk Harmony Park expense account (0510121-551102-57028) to purchase and install the musical equipment along the Riverwalk; and

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

**Statement of Fact:** This order authorizes the purchase of \$26,796 in musical equipment from Percussion Play, Ltd. and the expenditure of up to an additional \$23,204 in TIF funding to install the musical instruments and create a harmony park on the Riverwalk to provide musical instruments for all to enjoy.

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2023-A167

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TITLE: ORDER, ACCEPT GRANT FROM PENOBSCOT COUNTY AND  
AUTHORIZE PURCHASE OF TRUNARC HANDHELD ANALYZER  
FOR BREWER POLICE DEPARTMENT.

Filed December 5, 2023  
By Dani O'Halloran

WHEREAS, the Brewer Police Department applied for a Commissioner's Fund grant for district one represented by Commissioner Peter Baldacci for \$25,000 to be applied towards the purchase of a TruNarc handheld analyzer; and

WHEREAS, the City of Brewer was awarded this grant on Tuesday, December 5, 2023 at the regular meeting of the Penobscot County Commissioners with a check presented by Commissioner Baldacci; and

WHEREAS, the TruNarc Handheld Narcotics Analyzer allows for the sampling of illicit dangerous drugs by scanning directly through glass or plastic for most test samples to reduce exposure, minimize contamination, and preserve evidence; and

WHEREAS, currently Brewer officers have to physically handle illicit street drugs to obtain a sample for chemical field testing which increases the risk of incidental exposure to dangerous drug particulates such as fentanyl, often times having to repeat this process utilizing a variety of chemical tests to accurately identify the type of drugs; and

WHEREAS, the acquisition of a TruNarc handheld analyzer will allow officers to identify more than five-hundred-and-thirty illicit and abused narcotics with a single test, saving time and money, and significantly reducing the chance of hazardous exposure to officers; and

WHEREAS, the purchase price for a TruNarc Handheld Narcotics Analyzer is \$39,204 and in the awarded grant application the City of Brewer must provide a matching contribution of \$14,204.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby accepts the \$25,000 Commissioner's Fund grant from Penobscot County and authorizes its receipt into the TruNarc Grant Revenue account (0600058-360000-58067); and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of \$14,204 in Unassigned Fund Balance (0109800-300901) to supplement the grant funds from the County; and

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BE IT FURTHER ORDERED that the City Council directs the City Manager, or his designee, to sign a purchase order with Thermo Scientific Portable Analytical Instruments Inc. for the amount of \$39,204 and authorizes the appropriation and expenditure of this amount from the TruNarc Grant Expense account (0600058-560000-58067) to purchase this important piece of safety equipment; and

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

**Statement of Fact:** Each Penobscot County Commissioner is allotted \$300,000 to distribute to organizations that are tackling issues in their specific district. This funding is part of the \$29 million in federal ARPA (American Rescue Plan Act of 2021) monies distributed to Penobscot County. The TruNarc Unlimited Model quoted comes with 5 years of warranty and includes factory repair, loaner units when available, and 24/7 technical support. It comes with companion PC TruNarc admin software, unlimited access to TruNarc eLearning course, and free basic software updates to the core narcotics library are provided for the life of the instrument. This purchase also includes a TruNarc on-site instructor led training for up to 12 students in the Continental United States.

2023-A168

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TITLE: ORDER, ESTABLISH WATER OZONE PLANT CAPITAL RESERVE ACCOUNT.

Filed December 5, 2023  
By Soubanh Phanthy

WHEREAS, in support of the Brewer Water Department's Hayes Treatment Plant ozone upgrade project, a loan of \$2,959,000 was taken out in 2020; and

WHEREAS, the Hayes Treatment Plant ozone upgrade project came in under budget by \$376,377.67; and

WHEREAS, to maintain the best possible rate for customers, the Brewer Water Department requested surplus funds be used to reduce the principal owed to \$2,582,622.33, which was approved by the Maine Bond Bank on December 1, 2023; and

WHEREAS, the revised debt service schedule approved by the Maine Bond Bank eliminates the debt service payment of \$169,328 originally scheduled for January 2024; and

WHEREAS, there are still many projects to be completed to keep the plant in its best possible condition, and the Water Department would like to move the \$169,328 that had been budgeted to pay this debt service into a reserve fund dedicated to support improvement projects at the plant.

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NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith authorizes the establishment of a dedicated account Reserve - Ozone Plant (0700000-110806) and directs that \$169,328 be transferred from the Water debt service accounts into this new reserve to be available to fund upcoming plant projects.

**Statement of Fact:** This order establishes a Capital Reserve Fund for the Water Department's Hayes Treatment Plant and funds it with \$169,328 in debt service savings realized from the ozone upgrade project coming in almost 13% under budget. A reserve fund will help fund other necessary projects at the plant such as generator replacement, fiber optic placement to the pump station, I/O upgrade at the plant, etc. Paying for smaller projects without loans allows better control of cost and time line.

2023-A169

December 12, 2023

TITLE: ORDER, ACCEPT DONATIONS TO BREWER PROGRAMS FROM THE FISHER FAMILY FUND.

Filed December 5, 2023  
By Michele Daniels

WHEREAS, the City of Brewer has received donations of \$200 to each of the Parks and Recreation, Library, Fire, and Police Departments to support their programs; and

WHEREAS, the donations come via the Maine Community Foundation from the Fisher Family Fund at the recommendation of Dusty and Ellen Fisher.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby accepts these funds and authorizes their receipt to and appropriation and expenditure from the following accounts in support of community outreach and recreation programs:

	<u>Dept.</u>	<u>Receipt To:</u>	<u>Expend From:</u>
\$200	Rec	0600071-360000-71006	0600071-560000-71006
\$200	Library	0107204-300420	0117201-506150
\$200	Police	0105804-300490	0115801-501550
\$200	Fire	0105904-300490	0115921 -502900

BE IT FURTHER ORDERED, that the Brewer City Council thanks the Fishers and the Fisher Family Fund for their generous donations in support of youth and community safety programs in Brewer and directs the city clerk to send a letter of appreciation to the Fishers for their contribution to the City.

**Statement of Fact:** This order accepts a total of \$800 in donations from the Fisher Family Fund to support programs at the City's Parks and Recreation, Library, Police, and Fire Departments and appropriates these funds for expenditure.

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2023-A170

December 12, 2023

TITLE: ORDER, WAIVE FORECLOSURE OF LIEN ON 400 SOUTH MAIN STREET,  
MAP 026, LOT 118 LOCATED IN BREWER, MAINE.

Filed December 5, 2023

By Dani O'Halloran

WHEREAS, on June 28, 2022, after notice was provided in accordance with state law, the City of Brewer filed at the Penobscot Registry of Deeds a lien against the property located at 400 South Main Street (Map 026, Lot 118) for failure to pay September and December 2021 water bills in full; and

WHEREAS, a balance on these water bills assessed to this property remains unpaid and the statutory foreclosure will take place on December 28, 2023; and

WHEREAS, it is not in the best interest of the City of Brewer to allow the foreclosure of said property because it is a former gas station, ownership of which could create undue assessment and remediation work and liability for the City.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith agrees to waive foreclosure on the property located at 400 South Street (Map 026, Lot 118) in Brewer, Maine, for its unpaid 2021 water fees and authorizes the City Treasurer or her designee to sign statutory waiver of foreclosure and record it in Penobscot County Registry of Deeds; and

BE IT FURTHER ORDERED, that the Treasurer, or her designee, is authorized to take any and all other actions that may be necessary to carry out the terms and conditions of this order.

**Statement of Fact:** This order waives the automatic foreclosure on the property located at 400 South Street (Map 026, Lot 118) that still owes on its September and December 2021 water bills, because it is a former gas station, ownership of which could create undue remediation work and liability for the City. Waiving foreclosure does not preclude the City from seeking foreclosure on the property at some point in the future.

2023-A171

December 12, 2023

TITLE: ORDER, COMMIT WATER ASSESSMENT TO TREASURER FOR  
COLLECTION.

Filed December 6, 2023

By Soubanh Phanthay

WHEREAS, under Chapter 40 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Water Department", a water charge is assessed to water users.





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EVENT	COMMITMENT	COMMENTS
December 2023	\$715,730.00	
September 2023	\$552.96	
October 2023	\$587.52	
November 2023	\$2165.76	
<b>TOTAL</b>	<b>\$719,036.24</b>	

**Statement of Fact:** This is a quarterly order.

**ACTION:** Councilor Phanthay moved that the orders on the consent calendar have passage and that the resolve be adopted. Councilor Daniels seconded the motion. The motion passed with a vote of 4 to 0.  
\*\*\*

**D. Monthly Reports**

**ACTION:** Councilor O’Halloran moved that the monthly reports from department heads be accepted and placed on file. Councilor Daniels seconded the motion. The motion passed with a vote of 4 to 0.  
\*\*\*

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

2023-B041

December 12, 2023

TITLE: ORDER, DECLARE VACANCY FOR UNEXPIRED TERM OF JERRY GOSS.

Filed December 8, 2023  
By Soubanh Phanthay and  
Michele Daniels

WHEREAS, Brewer City Council Member Jerry Goss passed away unexpectedly on December 7, 2023; and

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WHEREAS, Councilor Goss' term of office was not set to expire until November 19, 2024; and

WHEREAS, there is a need for the City Council to declare a vacancy for the remainder of the unexpired term.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council declares a vacancy on the City Council for the unexpired term of Jerry Goss.

2023-A173

December 12, 2023

TITLE: ORDER, ISSUE WARRANT FOR MARCH 5, 2024 CITY OF BREWER  
SPECIAL MUNICIPAL ELECTION.

Filed December 6, 2023  
By Michele Daniels and  
Dani O'Halloran

WHEREAS, under Article II, Section 4 of the Brewer City Charter, "Whenever a vacancy on the City council occurs due to death, resignation or removal from office of any member of the City Council, the vacancy shall be filled at the next regular municipal election or the City Council may call for a special election..."; and

WHEREAS, it is the sense of the Brewer City Council that the option to hold a special municipal election to fill the vacancy would be in the best interests of the City of Brewer; and

WHEREAS, it is the wish of the City Council to hold this special election alongside the Presidential Primary Election on March 5, 2024 for the highest possible voter turnout and to avoid the cost of holding a separate election; and

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

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

WHEREAS, a poll opening time of 7:00 a.m. will, in the judgment of the municipal officers, meet the needs of the municipality for the March 5, 2024 election.

NOW, THEREFORE, BE IT ORDERED, that the municipal officers herewith set the time of 7:00 a.m. for opening the polls and a time of 8:00 p.m. for closing the polls for the March 5, 2024 City of Brewer Special Municipal Election and State of Maine Presidential Primary Election; and

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BE IT FURTHER ORDERED, that the municipal officers issue the warrant for the City of Brewer Special Municipal Election to be held on March 5, 2024 with the polls to open at 7:00 a.m. and close at 8:00 p.m.

**CITY OF BREWER  
ANNUAL MUNICIPAL ELECTION**

Penobscot ss.

State of Maine

To: \_\_\_\_\_, a Constable in the City of Brewer.

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

**TO THE VOTERS OF THE CITY OF BREWER  
WARD 1, PRECINCT 1**

You are hereby notified that a special municipal election in the municipality will be held at the Joseph L. Ferris Community Center on Tuesday, the fifth day of March 2024 for the purpose of affecting the election of:

- ONE MEMBER OF THE CITY COUNCIL FOR A ONE-YEAR TERM EXPIRING NOVEMBER 19, 2024

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

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

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

Dated at Brewer, Maine this 12th day of December in the year of Our Lord, Two-Thousand-and-Twenty-Three.

Majority of the Municipal Officers of Brewer

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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**ACTION:** Councilor Phanthay moved that the order on the consent calendar have passage and that the resolve be adopted. Councilor Daniels seconded the motion. The motion passed with a vote of 4 to 0.  
\*\*\*

**F. Unfinished Business  
Consent Calendar**

2023-C020

November 21, 2023

**TITLE:** ORDER, AMEND CHAPTER 22 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “SOLID WASTE ORDINANCE”, ARTICLE 8, SECTION 8.12 “FEES”, ARTICLE 10, SECTION 10.13 “FEE SCHEDULE”, AND ARTICLE 11, SECTION 11.3 “UNIVERSAL WASTE”.

Filed November 14, 2023  
By Jerry Goss

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”, shall be amended by revising the following subsections to, Article 4, Article 7, and Article 14:

**SECTION 8.12 FEES**

Commercial haulers shall pay an annual, non-refundable license fee, per vehicle to the City of Brewer per the City of Brewer Schedule of Fees.

All fees must be paid to the Brewer City Clerk with an accompanying annual application. These licenses shall not prorated.  
~~Commercial haulers shall pay One-Hundred Dollars (\$100.00) plus an additional Ten Dollars (\$10.00) for each vehicle licensed for an annual non-refundable vehicle fees to the City of Brewer for their licenses.~~

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

**SUBSECTION 10.13.1 VEHICLE PERMIT**

Resident vehicle permits shall be obtained from the Brewer Landfill and the permit shall be set by the City of Brewer Schedule of Fees.  
~~Resident Vehicles \$2.50 (One-Year)  
Non-Resident Vehicle Not Permitted~~

*\*Commercial and businesses not permitted without permission.*

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**SUBSECTION 10.13.2 DISPOSAL OF TIRES (#5)**

Disposal of passenger car, pick-up trucks, and commercial truck tires shall be charged a fee, in accordance with the City of Brewer Schedule of Fees.

All tires must first be removed from the rim.

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

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

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

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

**SUBSECTION 10.13.3 WHITE GOODS**

Non-Freon white goods may be disposed of at the Brewer Landfill. The fee of such disposal shall be set in the City of Brewer Schedule of Fees.

~~Fifteen Dollars (\$15.00) per appliance.~~

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

**SUBSECTION 10.13.4 PROPANE TANKS**

Disposal of propane tanks are authorized; the cost shall be set by the City of Brewer Schedule of Fees.

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

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

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

**SUBSECTION 10.13.5 MATTRESSES**

Disposal of mattresses and box spring are authorized, the cost shall be set by the City of Brewer Schedule of Fees.

~~Fifteen Dollars (\$15.00) per mattresses and box spring set (or mattress only).~~

**SUBSECTION 10.13.6 CONSTRUCTION AND DEMOLITION DEBRIS**

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

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~~Residential Rates:~~

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

**SECTION 11.3 UNIVERSAL WASTE**

Universal Waste shall only be disposed of in accordance with applicable Federal, State and Local laws and only at an authorized facility. The Brewer Universal Waste Facility accepts universal waste from Brewer residents and ~~or their~~ participating communities by agreement.

All residents from participating communities must receive a permit from their Town Hall prior to delivering material to the Brewer Facility.

~~Each participating community shall be billed monthly for the universal waste received and the cost of this service shall be set by the City of Brewer Schedule of Fees.~~

~~Each community is billed monthly for the universal waste delivered and they pay a \$50/quarter fee to the City to cover administration and billing costs. Fees may be adjusted in the future to cover increases in disposal and administration costs.~~

**Statement of Fact:** This amendment to Chapter 22 corresponds with a proposed amendment to the Schedule of Fees. These amendments will move fee amounts from the ordinance to the Schedule of Fees where they can be more easily referenced.

2023-C021

November 21, 2023

TITLE: ORDER, AMEND CHAPTER 31 OF THE CHARTER, CODES AND



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ORDINANCES OF THE CITY OF BREWER, ENTITLED “SEWER  
AND PRETREATMENT ORDINANCE”.

Filed November 15, 2023  
By Michele Daniels

BE IT ORDAINED, by the Brewer City Council that Chapter 31, of the Charter, Codes and Ordinances of the City of Brewer, entitled “Sewer and Pretreatment Ordinance”, shall be amended as follows:

**CITY OF BREWER**  
**CHAPTER 31 - ~~SEWER AND PRE-TREATMENT~~ ENVIRONMENTAL ORDINANCE**  
**(SEWER, STORMWATER, SEPTIC, HAULED WASTEWATER, PUMP STATIONS)**  
**PREAMBLE**

**ARTICLE 1**

**Purpose & Policy**

This Ordinance sets forth uniform requirements for users of the publicly owned treatment works (POTW) for the City of Brewer and enables Brewer to comply with all applicable state and federal laws and future amendments, including the Clean Water Act (33 United States Code § Sect. 1251 et seq.) ~~and the General Pre-treatment Regulations (40 CFR Part 403)~~. The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with operations;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- D. To promote reuse and recycling of industrial household and commercial wastewater and sludge from the POTW;
- E. To provide fees for equitable distribution of cost of operation, maintenance and improvement to POTW; and
- F. To enable Brewer to comply with its MEPDES permit conditions, sludge use and disposal requirements, and any other federal or state law to which the POTW is subject. (#13)

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**SECTION 100.3 DEFINITIONS (#18)**

2. "ADMINISTRATIVE ORDER" shall empower the Superintendent that finds any ~~industrial~~ user who continues to violate the Ordinance, permit or orders issued thereunder. Such orders will include specific action to be taken by the ~~industrial~~ user to correct the noncompliance within a time period also specified by the order.
3. "APPLICANT" shall mean any person requesting approval to discharge ~~industrial~~ commercial or domestic wastewaters into facilities of the City.
5. "AUTHORIZED REPRESENTATIVE OF THE USER" shall mean:
  1. If the user is a corporation:
    - b. The manager of one or more ~~manufacturing, commercial production or operation~~ facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit[or general permit{optional}] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 6A. "BMP" (Best Management Practices or BMPs) shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 505 and 506 ~~[40 CFR 403.5(a)(1) and (b)]~~. BMPs include treatment requirements, operating procedures, and practices to control plant runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established ~~categorical Pretreatment~~ Standards and effluent limits.]
- ~~7. "BMR" (Base Line Monitoring Report) shall mean a report submitted by a categorical industrial users within 180 days after the effective date of applicable categorical standard which indicates the compliance status of the user with the categorical standard under 40~~

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~~CFR403.12(b).~~

~~11. "CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) or The Act (33 USC Sect. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.~~

~~12. "CATEGORICAL USER" shall mean any user of the City's sewer system whose dischargers are regulated under 40 CFR 403 and 40 CFR 405-469, or who is otherwise subject to the U.S. EPA pretreatment requirements as a categorical user.~~

15. "CIVIL LITIGATION" shall mean civil litigation against a the industrial user seeking equitable relief, monetary penalties and actual damages.

16. "CODE ENFORCEMENT OFFICER" ~~except as otherwise provided in this Ordinance,~~ the Code Enforcement Officer or a duly appointed Assistant Code Enforcement Officer shall ~~administer and enforce this ordinance, including the receiving of~~ receive applications and ~~the issuing of~~ issue building permits. See also Chapter 29, Article 1 of the City's Ordinances.

21. "DISCHARGER" ~~shall mean all industrial users, including "Categorical Users" and "Significant Industrial Users" as defined in this section.~~ "Discharger" ~~also~~ refers to any ~~non-industrial~~ user of the City's sewer system who may be subject to regulation under this Ordinance.

25. "FINE" As used in Article 10 of this Ordinance the ~~Industrial Wastewater Pretreatment~~ Enforcement Response Guide is a Monetary Penalty assessed by Control Authority Officials. Fines should be assessed by the ~~Pretreatment Coordinator or the~~ BWTP Superintendent, or his/her designee.

28. "HAZARDOUS WASTE" shall mean a hazardous waste as that term is defined in ~~40 CFR Part 261 or~~ Maine Department of Environmental Protection Regulations Chapter 850.

34. "INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT" shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from analysis of and grab or composite sample collected, independent of the ~~industrial~~ flow rate and duration of the sampling event.

~~35B. "LOCAL LIMITS" shall mean technically based limits established by~~

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~~the POTW for certain pollutants to protect against pass-through or interference. (#18)~~

37. "MEETING" as used in Article 9 of this Ordinance the ~~Industrial~~ Wastewater ~~Pretreatment~~ Enforcement Response Guide shall mean an informal compliance meeting with ~~a n IU to commercial business to~~ resolve recurring noncompliance.
43. "NOV" (Notice of Violation) shall mean a written letter of Notice of Violation when ~~a and industrial~~ user has violated this ordinance, permit or order issued. Within 10 (ten) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention, with specific required actions taken. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.
50. "POLLUTANT" shall mean the dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, ~~pretreatment by products~~, munitions, wastewater, medical wastes, chemical wastes, biological materials, metals, oil and grease, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and other waste or material that alters or adversely affects the characteristics of the wastewater (ie., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, TTO, TOC, or odor).
- ~~53. "PRETREATMENT" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.~~
- ~~54. "PRETREATMENT COORDINATOR or PC" shall mean the City's Water Pollution Control Facility's Superintendent or a designated employee responsible for the supervision of the City's Industrial Pretreatment Program.~~
56. "PRETREATMENT STANDARDS OR STANDARDS" shall mean prohibited discharge standards, categorical pretreatment standards and local limits.

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70. "SHOW CAUSE MEETING" as used in Article 9 of this Ordinance, the ~~Industrial Wastewater Pretreatment~~ Enforcement Response Guide is a formal meeting requiring the ~~IU~~ user to appear and demonstrate why the City should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

71. "SIGNIFICANT INDUSTRIAL USER or SIU" shall mean:

1. ~~All discharges subject to categorical pretreatment standards, All businesses and residences that discharge to the City sewer.~~
4. All discharges that have the potential to violate any of the ~~pretreatment standards or~~ prohibitions.

72. "SIGNIFICANT NONCOMPLIANCE or SNC" shall mean when one or more of the following criteria is met:

~~Chronic violations of wastewater discharge limits in which sixty six percent (66%) or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.~~

~~Technical Review Criteria (TRC) violations are those in which thirty three percent (33%) or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the appropriate TRC (TRC = 1.4 for BOD, TSS, fats, oils, grease and 1.2 for all other parameters except pH).~~

Any ~~other~~ violation of the ~~pretreatment~~ effluent limit (daily maximum, or longer-term average) that the Superintendent of the Brewer Water Pollution Control Facility determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of the Brewer Water Pollution Control Facility personnel or the general public).

Any discharge of a pollutant that is harmful health and welfare or the environment or has resulted in the Brewer Water Pollution Control Facility exercising its emergency authority ~~(under 40 CFR 403.8 (F) (2) (VI) (B))~~ to halt or prevent such a discharge.

Failure to meet, within 90 days after a schedule date, a

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compliance schedule milestone contained in the ~~pretreatment~~ permit or enforcement order for starting or completing construction or attaining full and final compliance.

~~Failure to provide, within 30 days of the due date, required reports such as Baseline Monitoring Reports (BMR), 90 day compliance progress reports, periodic self-monitoring reports, monthly reports, and compliance schedule reports.~~

~~Failure to report noncompliance accurately.~~

Any other violation or group of violations which the Superintendent of the Brewer Water Pollution Control Facility determines will adversely affect the ~~perations or implementation of Brewer's Pretreatment Program.~~ effluent discharge.

- ~~74. "STANDARD INDUSTRIAL CLASSIFICATION CODE" shall mean a classification pursuant to the "Standard Industrial Classification Manual" issued from time to time by the United States Office of Management and Budget.~~
75. "STANDARD METHODS" shall mean the testing methods and techniques ~~prescribed in 40 CFR Part 136, or if not found therein, other appropriate procedures~~ approved by the EPA.
76. "STORM SEWER" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and commercial industrial wastes, other than unpolluted cooling water.
- ~~79. "TOTAL TOXIC ORGANICS" TTO shall mean the summation of all quantitative values greater than 0.01 mg/l for the toxic organics listed in 40 CFR Sect. 413.02 (i).~~
81. "UPSET" shall mean an exceptional incident in which a discharger is in a state of non-compliance with the Sewer Use Ordinance ~~Categorical Pretreatment Standards~~ due to factors beyond the reasonable control of the discharger, and excluding non-compliance due to the extent cause by operations error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.
82. "WASTEWATER" shall mean liquid and water-carried ~~industrial~~ wastes and domestic sewage from residential dwellings, commercial buildings, ~~industrial~~ and manufacturing facilities and institutions, ~~weather whether~~ treated or untreated, which are contributed to the POTW.

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**ARTICLE 2 - USE OF PUBLIC SEWERS REQUIRED**

**SECTION 204. SEWER USE REQUIRED**

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose for which toilet facilities may be required, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his/her expense to install suitable toilet facilities. To connect such facilities directly with the proper public sewer in accordance with Article 3, Section 304 the provisions of this Ordinance within (ninety days) after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the buildings to be connected to the public sewer line, unless otherwise exempted by the Board of Appeals in accordance with Chapter 34 - Board of Appeals of the City of Brewer, Section 100, et seq., as amended.

**ARTICLE 3 - PRIVATE SEWAGE DISPOSAL (#7)**

**SECTION 302.1**

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

**ARTICLE 4 - BUILDING SEWERS, CONNECTIONS AND EXTENSIONS**

**SECTION 402. APPLICATION FEE REQUIRED (#24)**

There shall be two (2) classes of building sewer permits: (1) one for residential and (2) the other for service for establishments producing retail, commercial, or institutional sewerage wastes.

In either case, the owner or his agent or the occupant of the property,

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shall make application on a special form furnished by the City's Plumbing inspector. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Plumbing Inspector and/or Superintendent. A permit and the inspection fee ~~of Twenty-five dollars (\$25.00)~~ ~~Fifty dollars (\$50.00)~~ shall be paid to the Plumbing Inspector at the time of application is filed for anything other than a new or expanded use of the sewer system (a fee schedule may be obtained from the City Clerk or Code Enforcement).

In the case of new or additional residential units, a permit shall be applied for with a permit fee ~~of Two Hundred Fifty (\$250.00)~~ ~~Five Hundred dollars (\$500.00)~~ for each new or additional residential unit (a fee schedule may be obtained from the City Clerk or Code Enforcement).

In the case of any new construction, renovation, or expansion of retail, commercial, ~~industrial~~, or institutional use(s), a permit shall be applied for from the City's Plumbing Inspector ~~and carry an initial fee of \$50.00~~ plus the City staff's estimate of the expected increase in daily sewerage flow resulting from the new construction, renovation or expansion of the retail, commercial, ~~industrial~~ or institutional use ~~multiplied by One dollars (\$1.00)~~ ~~Two dollars (\$2.00) per gallon.~~ (A fee schedule may be obtained from the City Clerk or Code Enforcement). The City shall separately average the daily gallonage of sewage flow for each of the four (4) full billing quarters after the completion of the new construction, renovation or expansion or the issuance of a Certificate of Occupancy, whichever occurs first. The average daily sewer gallonage for the last full billing quarter prior to the beginning of the new construction, renovation, or expansion shall be subtracted from the highest average daily gallonage for the four (4) billing quarters after the completion of the new construction, renovation, or expansion or the issuance of the Certificate of Occupancy, whichever occurs first.

~~The net total gallonage shall be multiplied by One dollars (\$1.00)~~ ~~Two dollars (\$2.00) per gallon and the product of the multiplication shall constitute the permit fee.~~ The permit fee shall be compared with the initial fee paid at the time the permit was obtained. If the initial fee is higher, the difference between it and the permit shall be repaid to the party making the same within thirty (30) days after the calculation is made and paid. If the initial payment is lower, the difference between it and the permit fee shall be added to and become part of the next quarter sewer billing on the property.

Upon the payment of the initial fee for the sewer permit for new construction, renovation or expansion of retail, commercial, ~~industrial~~ or institutional uses, the City of Brewer shall file any affidavit in



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the Registry of Deeds providing notice to the public that an initial permit fee has been paid, but it will be reviewing the sewer gallonge in the future to determine the actual sewer permit fee. Further, any additional fee based upon the review will become a charge on the property. The cost of recording the affidavit in the Penobscot County Registry of Deeds will be paid by the applicant for the permit.

**SECTION 410. CONSTRUCTION MATERIALS SPECIFIED**

The building sewer shall be gasketed SDR-35 PVC pipe.~~cast iron soil pipe, vitrified clay sewer pipe, or other suitable material approved by the City Engineer. The quality and weight should conform to the specifications of the State Plumbing Code.~~ All joints shall be tight and waterproof. ~~Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints or other approved materials may be required by the City Engineer where the building sewer is exposed to damage by tree roots. If installed in fill or unstable ground, the building sewer shall be of cast iron soil pipe, vitrified clay, asbestos cement sewer pipe, or other material approved by the State Plumbing Code.~~

**SECTION 411. CONSTRUCTION METHODS SPECIFIED**

All joints and connections shall be made gastight and watertight. ~~Cast iron joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specification (QQ-C-40), not less than one (1) inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.~~

~~All joints in vitrified clay pipe or between such pipe and metals shall be made with approved jointing material as specified below or by the manufacturer.~~

~~Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of one hundred sixty (160 F.) degrees Fahrenheit nor be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp or similar approved material.~~

~~Other jointing materials and methods may be used only by approval of the Superintendent.~~

**ARTICLE 5 - USE OF THE PUBLIC SEWERS**

**SECTION 501. DISPOSED OF UNPOLLUTED WATERS PROHIBITED**

No person shall discharge or cause to be discharged any storm water,

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surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted ~~industrial~~ process waters into any sanitary sewer.

**SECTION 503. DISCHARGE METHOD SPECIFIED**

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved in writing by the Superintendent. ~~Industrial~~Cooling water or unpolluted process waters may be discharge, upon written approval of the Superintendent to a storm sewer, combined sewer or natural outlet.

**SECTION 504. DISCHARGE RESTRICTED**

No person or corporation shall cause or allow any sewage, ~~(including industrial waste)~~ containing any substance which by the City Superintendent is deemed deleterious by reason of its composition, consistency, temperature or in any other respect, in the operation of the sewer system, to enter the system. No person shall discharge or cause or allow to be discharge into any sewer under the control of the City, the following described substances, materials, waters or wastes if in the opinion of the Superintendent, such substances, materials, water or wastes are in excessive amounts or concentrations. ~~Persons who desire to discharge industrial wastewater into facilities of the POTW shall make their formal application to the Superintendent.~~

In forming an opinion as to the limitations on acceptability of any wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the Water Pollution Control Facility, degree of treatability of wastes in the Water Pollution Control Facility, the facilities discharge permit, and other pertinent factors.

**SECTION 505. GENERAL PROHIBITIONS**

No discharger or user shall introduce or cause to be introduced into the POTW and pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to ~~categorical pretreatment standards or~~ any ~~other~~ federal, state, or local ~~pretreatment~~ standards or requirements. The provisions of this Ordinance shall apply to wastewater originating in the City of Brewer, as well as wastewater originating in the Town of Orrington which is introduced to the City's WPCF. The Town of Orrington will also abide with the Interlocal and Interjurisdictional Agreements, that both the City of Brewer and the

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Town of Orrington agreed upon. (#7)

**SECTION 506. SPECIFIC PROHIBITIONS (#18)**

The person wishing to discharge ~~industrial~~ commercial waste shall only do so after he has entered in a permit with the POTW to discharge the ~~industrial~~ commercial waste. Said permit shall contain adequate provisions to insure compliance with and prevent violations of any of the following at the time of the permit and in the future:

- (a) Codes and Ordinances of the City of Brewer;
- (b) State and Federal laws;
- (c) Rules and regulations issued pursuant to State and Federal laws;
- (d) Discharge and emission licenses held by the City of Brewer, its subdivisions, districts or agencies.

Any person discharging ~~industrial~~ wastewater directly or indirectly into facilities of the City that do not comply with this Ordinance may be subject to action by the City. ~~which~~ Action shall include, but not be limited to, the withdrawal of permission to discharge waste waters into facilities of the City.

- (b) Any incompatible pollutant controlled by any user ~~n industry~~ in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306 and/or 307 of the Act.
- (g) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to, waste streams with a closed-cup flash point of less than one hundred forty (140°)F. ~~using the test methods specified in 40 CFR 261.21.~~
- (h) Any solid or viscous substances in such quantities or of such size to be capable or causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, disposable wipes, rags, kitty litter, diapers, paper towels, feathers, tar, plastics, wood, unground garbage, whole blood, paunch, manure, hair, fleshing, entrails, paper dishes, cups, mild container, etc., either whole or ground by garbage grinders.
- (n) Any wastewater containing:

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~~(5) Septic tank solids that are not diluted sufficiently to assure that all particles will be carried freely under all flow conditions in facilities of the City.~~

**SECTION 507. DILUTION**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable ~~pretreatment~~ standards or requirements.

The Superintendent may impose ~~mass~~ limitations on users who are using dilution to meet applicable ~~pretreatment~~ standards or requirements, ~~or in other cases when imposition of mass limitations is appropriate.~~

**SECTION 508. INTERCEPTORS REQUIRED**

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place, shall be gastight and watertight.

**SECTION 511. CONTROL OF DISCHARGE REQUIRED**

If any wastewaters are discharged, or are proposed to be discharged to the public sewers, containing excessive substances or possessing excessive characteristics the City may:

- (a) Reject the wastewater or the wastes.
- (b) Require that ~~pre~~treatment of wastewater or wastes be provided to modify them to an acceptable condition for discharge to the public sewer, and/or
- (c) Require control over the quantities and rates of discharge of the wastewater of the wastes, and/or
- (d) Require payment to cover the added costs of handling and treating the wastes (excess BOD, COD, TSS, pH) not covered by existing taxes or sewer charges under the provisions of Article 4, Section 403 of this Ordinance.
- (e) Take any appropriate enforcement action against ~~an-any industrial~~ user ~~or-user~~ which violates the prohibitions of this Section.

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**SECTION 512. PRELIMINARY TREATMENT FACILITY MAINTENANCE REQUIRED**

If the Superintendent permits the ~~pre~~treatment or flow equalization of waste flows, the design and installation of the plant and equipment for such ~~pre~~treatment or flow equalization shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable City, State and federal codes, ordinances and laws. The Superintendent's approval, if granted, shall not be deemed to relieve the discharger of its responsibility to comply with its wastewater discharge permit requirements and shall not constitute an acceptance of the adequacy of the ~~pre~~treatment process equipment selected. Where preliminary treatment of flow equalizing facilities are provided for any wastewater or other wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**SECTION 513. CONTROL MANHOLE REQUIRED**

When required by the Superintendent, the owner of any property served by a building sewer carrying ~~industrial~~ excess wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement and monitoring of wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all time.

**SECTION 515. APPLICANT AGREEMENT REQUIRED**

All applications to discharge any ~~industrial~~ wastewater, drainage, substances or wastes directly into any sewer under the control of the City, or tributary thereto, shall be accompanied by an agreement stating that the applicant agrees to abide by all ordinances and rules and regulations of the City, that the applicant will provide such works for the preliminary treatment of the wastewater, drainage, substances or wastes as may be required by the City, and that the applicant will permit duly authorized representative of the City to enter the premises of the industry to sample and measure wastewaters, as needed, to check characteristics of the wastewaters, when so directed by the City. Applications are to be accompanied by a plan showing essential characteristics of all wastewater outlets, analyses of existing wastewater, and statements as to existing and expected average and maximum wastewater flows, and must be submitted to and approved by the City prior to initiating discharge into facilities of the City. Required wastewater analyses is listed in Article 6 of this

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Ordinance.

**SECTION 516. ANNUAL REPORT REQUIRED**

Each ~~industrial~~ user may be required to submit an annual report on the first of July each year, or such other time as designated by the City, to the City containing information as to the minimum, average, and peak flows of ~~industrial~~ wastewater discharges during the previous year and at times designated by the City accompanied by designated analyses of wastewater samples taken in an acceptable manner at approved times during the flow measuring periods.

**SECTION 517. SPECIAL AGREEMENTS ALLOWED**

No statement contained in this Article shall be construed as preventing any special agreement or agreement between the City and any ~~industrial user, concern~~ whereby a ~~industrial~~ waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the ~~industrial user concern~~.

**SECTION 518. MONITORING STATION**

Each ~~industrial~~ discharger may be required to provide and operate, at the discharger's expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the Water Pollution Control Facility.

**SECTION 519. LOCAL LIMITS**

- A. Limits for certain pollutants will be established to protect against pass-through or interference. No person shall discharge wastewater containing in excess of ~~the instantaneous maximum allowable discharge~~ limits as identified on the user's wastewater discharge permit. All discharge ~~local~~ limits shall be ~~technically based and~~ approved by the ~~EPA Superintendent~~.
- B. ~~Local limits may be set for the following pollutants: arsenic, barium, cadmium, chromium, copper, cyanide, lead, mercury, molybdenum, nickel, oil and grease and other petroleum or mineral oil products, selenium, silver, TPO and zinc.~~ This list may be amended or ~~local~~ limits may be developed for any other pollutants deemed appropriate, including pollutants that can cause pass through, interference, worker health and safety problems, fume toxicity, etc. conventional Pollutants are Classified as: Biochemical Oxygen Demand (BOD), Total Suspended Solids (Nonfilterable) (TSS), ph, Fecal Coliform, and Oil and Grease. The City will provide advanced written notice of new ~~local~~ limits to users prior to initiating enforcement actions. (#13)

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- C. The discharge ~~local~~ limits must be met at the point where the user's wastewater is discharged to the POTW. ~~All concentrations for metallic substances are for "total" metal unless otherwise indicated on the wastewater discharge permit. The Superintendent may impose mass limitations in addition to or in place of concentration-based limitations.~~

**SECTION 521. SPECIAL AGREEMENT**

The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW.

In no case will a special agreement waive compliance with any pretreatment standard or requirement. ~~However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR Part 403.15. The user may also request a variance from the categorical pretreatment standard from the Approval Authority. Such a request will be approved only if the user can prove the factors relating to its discharge are fundamentally different from the factors considered by the Superintendent when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR Part 403.13. by the City.~~ The City is authorized to set appropriate fees or other charges for such agreements.

**SECTION 522. PRETREATMENT FACILITIES**

Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all ~~categorical pretreatment standards, local limits,~~ and the prohibitions set out in this Ordinance within the time limitations specified by the ~~EPA, the State, or the Superintendent. , whichever is more stringent.~~ Any facilities required to ~~pre~~treat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the ~~pre~~treatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the Superintendent before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City's POTW under the provisions of this Ordinance.

**SECTION 523. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS**

The Superintendent may require any user to develop and implement an accidental discharge/slug control plan. At least once every two (2)

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years the Superintendent shall evaluate whether each ~~significant industrial~~ user needs such a plan. Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

**ARTICLE 6 - ~~INDUSTRIAL DISCHARGES~~**

**SECTION 601**

It shall be unlawful to discharge ~~industrial~~ wastes to any sewer within the City or any sewer connecting to the City's treatment facility without having first ~~compiled~~ complied with the terms of this Ordinance.

**SECTION 601.1 (#18)**

~~Industrial~~ Dischargers shall complete and file with the POTW, Fire Department, and Code Enforcement, a ~~an Industrial~~ Survey Form prescribed by the POTW. Existing ~~industrial~~ dischargers shall file a survey form within thirty (30) days after being notified by the City, and proposed new dischargers shall file a survey form at least ninety (90) days prior to connecting to the sewage works. The disclosure to be made by the discharger shall be made on written forms provided by the City and shall cover:

- (3) Disclosure of known or suspected to be present wastewater constituents and characteristics including, but not limited to, those mentioned in this Ordinance. Any sampling or analysis that is required by the City shall be performed in accordance with procedures established by the City. U.S. EPA ~~and contained in 40 CFR Part 136, as amended.~~ The costs of all such sampling shall be fully borne by the ~~industrial~~ discharger.
- (5) Disclosure of ~~average~~ daily ~~and instantaneous peak wastewater~~ flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the Superintendent due to cost or nonfeasibility.
- (7) Description of activities, facilities, and ~~plant process~~ processes on the premises including all material which are or may be discharged to the sewage works of the City.
- (8) Disclosure of the nature and concentration of any known or suspected pollutants or materials prohibited by this Ordinance in compliance is being achieved with this Ordinance on a consistent basis and, if not, whether additional operations and maintenance activities and/or additional



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~~pre~~treatment is required for the discharger to comply with this Ordinance.

- (10) Disclosure of the type and amount of raw materials utilized ~~(average and maximum~~ per day).
- (11) Application Signatories and Certifications.

A. Certification of Permit Applications. User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 506. ~~Users submitting baseline monitoring reports under Section 604 [Note: See 40 CFR 403.12 (1)]; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 601.1 [Note: See 40 CFR 403.12 (d)]; Users submitting periodic compliance reports required by Section 604.3 [Note; see 40 CFR 403.12 (e) and (h)], and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 604.9 [Note: See 40 CFR 403.12 (e) (2) (iii)].~~ The following certification statement must be signed by an Authorized Representative as defined in Section 100.3(5):

**SECTION 602. ~~INDUSTRIAL DISCHARGES~~ - WASTEWATER DISCHARGE PERMITS**

Every new or existing user of the City's sewer system or treatment plant who is determined to be a ~~"categorical user" or "significant industrial user"~~ as defined in Article 1, Section 100.3, Definitions ~~"12" and "71"~~ of this Ordinance, ~~is~~ may be required to obtain a wastewater discharge permit from the Superintendent. ~~Failure to obtain a permit required under this section shall be a civil offense, and shall be punished by a fine not to exceed \$2,500 per day from the date the discharger receives notice or becomes aware of the permit requirement, to be recovered by the City upon complaint. Provided that any repeat offense by the same user, shall be punished by a fine not to exceed \$25,000 per day.~~

**SECTION 602.3**

Wastewater discharge permits may impose effluent restrictions or limits on the discharger if the Superintendent determines that such limits are necessary to protect the quality of the treatment plant influent, effluent, or sludge, or to maintain compliance with any applicable Federal or State law including requirements under the City's MEPDES permit and national ~~categorical pretreatment~~ standards for new and existing sources. ~~currently set out in 40 CFR Subpart N Section 401-471.~~

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**SECTION 602.6 (#18)**

- A. Wastewater discharge permits shall contain the following conditions:
- (3) ~~Pretreatment~~ standards and effluent limits based on the general and specific prohibited City discharge standards, ~~local limits~~, and all applicable law.
  - (5) A statement of applicable penalties for violation of permit limits ~~pretreatment standards~~ and requirements, and any required compliance schedule. Such schedule may not extend the time for compliance beyond that required by Federal, State or local law; and
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (3) Requirements for the installation of ~~pretreatment~~ technology, pollution control, or construction of appropriate containment devices, any of which would be designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.
  - (7) Requirements for the installation and maintenance of inspection and sampling facilities and equipment, if required by the Superintendent.
  - (8) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal, ~~and~~ State, pretreatment and City standards, including those which become effective during the term of the wastewater discharge permit;

**SECTION 602.8**

The Superintendent may modify at any time the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local ~~pre~~treatment standards or requirements;
- G. Revision of, or a grant of a variance from, ~~categorical pre Municipal~~ treatment standards, ~~pursuant to 40 CFR Part 403.1;~~ and

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**SECTION 603. COMPLIANCE SCHEDULES**

Where additional ~~pre~~treatment and/or operation and maintenance activities will be required to comply with this Ordinance, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional ~~pre~~treatment and/or implementation of additional operational and maintenance activities.

**SECTION 604. REPORTING REQUIREMENTS**

Baseline Monitoring Reports

- A. Within either one hundred and eighty (180) days after the effective date of a ~~categorical-pre~~ POTW treatment standard, or the final administrative decision on a POTW ~~category~~ determination ~~under 40 CFR Part 403.6 (a) (4)~~, whichever is later, existing ~~categorical~~ users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the City a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become ~~categorical~~ users subsequent to the promulgation of an applicable ~~categorical~~ standard, shall be required to submit to the City a report which contains the information listed in paragraph B, below. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- B. Users described in paragraph A above shall submit the information set forth below:
- (4) Information showing the measured average daily ~~and maximum-daily~~ flow, in gallons per day, to the POTW from regulated process streams and other streams, ~~as necessary, to allow use of the combined wastestream formula set out in 40 CFR Part 403.6~~ (e).
- (5) A. The ~~categorical-pre~~treatment standards applicable to each regulated process.
- B. The results of sampling and analysis identifying the nature and concentration, and/or mass where required ~~by the standard or~~ by the City, of regulated pollutants in the discharge from each regulated process. Instantaneous ~~daily maximum and long term average~~ concentrations ~~or mass~~, where required, shall be reported. The sample shall be

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representative of daily operations and shall be sampled and analyzed in accordance with the provisions of Article 6, Sections 604.8 and 604.9 of this Ordinance.

- (6) A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether ~~pretreatment~~ standards are being met on a consistent basis, and if not, whether additional Operation & Maintenance and/or ~~pretreatment~~ is required to meet the ~~pretreatment~~ standards and requirements.
- (7) If additional ~~pretreatment~~ and/or Operation & Maintenance will be required to meet the ~~pretreatment~~ standards, the shortest schedule by which the user will provide such additional ~~pretreatment~~ and/or Operation & Maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable ~~pretreatment~~ standard. A compliance schedule pursuant to this section must meet the requirements set out in Article 6, Section 603 of this Ordinance.
- (8) All ~~baseline~~ monitoring reports must be signed and certified in accordance with Article 6, Section 601.1 (11) of this Ordinance.

**SECTION 604.2 Report on Compliance with ~~Categorical Pretreatment Standard Deadline~~**

Within ninety (90) days following the date for final compliance with applicable ~~categorical pretreatment~~ standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such ~~pretreatment~~ standards and requirements shall submit to the City a report containing the information described in Article 6, Section 604 (B) (4-6) of this Ordinance. ~~For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR Part 403.6 (c), this report shall contain a reasonable measure of the user's long-term production rate.~~ For all other users subject to ~~categorical pretreatment~~ standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Article 6, Section 601.1 (11) of this Ordinance.

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**SECTION 604.3 Periodic Compliance Reports (#18)**

- A. ~~If required,~~ all ~~significant industrial~~ user(s) shall, at a frequency determined by the Superintendent, ~~but in no case less than twice per year in June and December,~~ submit a report indicating the nature ~~and concentration~~ of pollutants in the discharge ~~which are limited by pretreatment standards~~ and the ~~measured or~~ estimated average ~~and maximum~~ daily flows. ~~for the reporting period.~~ In cases where the ~~Pre~~treatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by [the Superintendent] or the ~~Pre~~treatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with Article 6, Section 601.1 (11) of this Ordinance.

**SECTION 604.5 Reports of Potential Problems (#18)**

- A. In the case of any discharge, including, but not limited to, hazardous waste discharges, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. ~~Significant Industrial~~ Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

**SECTION 604.6 Notification of the Discharge of Hazardous Waste**

In addition to all other requirements of this Ordinance, any user who commences to discharge into the POTW a substance which, if otherwise disposed of, would be a hazardous waste ~~under 40 CFR Part 261,~~ shall notify the POTW, the EPA Regional Waste Management Division Director and Maine hazardous waste authorities, in writing, within five (5) days of the discharge, of any such discharge. Such notification must include the name of the hazardous waste ~~as set forth in 40 CFR Part 261,~~ the EPA hazardous waste number, the type of discharge (continuous, batch or other ) and the user's plan to avoid future discharges of the same or other hazardous waste. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

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**SECTION 604.8 Analytical Requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or a report required by this Ordinance shall be performed in accordance with the techniques prescribed in Standard Methods, Editions 18-22. 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with appropriate procedures approved by the EPA.

**SECTION 604.9 Sample Collection (#18)**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report based on data that is representative of conditions occurring during the reporting period. [Note: the Control Authority is required to indicate the frequency of monitoring necessary to assess and assure compliance by the User. ~~with applicable Pretreatment Standards and Requirements~~].

~~[Note: In the Streamling Rule changes, Paragraphs A and B below have been deleted from 40 CFR 403.12(b)(5) and added to 40 CFR 403.12(g)(3). The original paragraphs relate to Categorical Industrial User monitoring reports only while the relocated paragraphs apply to all SIU monitoring.]~~

- A. Except as indicated in paragraph B ~~and C~~ below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by [the Superintendent]. Where time-proportional composite sampling or grab sampling is authorized by [the City], the samples must be representative of the discharge. ~~Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by [the City], as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits. [Note: Required Streamlining Rule Change. See 40 CFR 403.12(g)(3)].~~

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B. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab sample collection techniques.

~~C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling are available, [The Superintendent] may authorize a lower minimum. For the reports required by paragraphs Section 604.3 (40 CFR 403.12(e) and 403.12(h), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.~~

**SECTION 604.10 Determination of Noncompliance**

The Superintendent will use appropriate sampling to determine noncompliance with ~~pre~~pretreatment standards, including the use of standard methods.

**SECTION 605.2 Administrative Inspection Warrants**

If the Superintendent has been refused access to any building, structure or property, or any part thereof, for the purpose of inspecting, sampling or otherwise monitoring compliance with this Ordinance, the Superintendent shall seek to secure an administrative inspection warrant pursuant to M.R.Civ.P. 80E. The warrant, if issued by the District Court, shall be executed pursuant to M.R.Civ.P. 80E and the Superintendent shall be accompanied by a uniformed City police officer during said execution. The cost of attorney and legal fees that the City occurs during this process will be absorbed by the ~~Industrial~~ User.

**SECTION 605.3**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be made in accordance with analytical procedures specified by the ~~Superintendent U.S. EPA as currently set out in 40 CFR Part 136,~~ and shall be determined at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four or whether a grab sample or samples should be taken. Normally, but not

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always, BOD and TSS analyses are obtained from a 24-hour composite of all outfalls whereas pH's are determined from periodic grab samples).

~~**SECTION 606. NATIONAL PRETREATMENT STANDARDS**~~

~~National Categorical Pretreatment Standards as promulgated by the U.S. EPA pursuant to the Act shall be met by all dischargers. An application for modification of the National Categorical Pretreatment Standards may be submitted to the Regional Administrator by the City when the City's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR Section 403.7.~~

~~**SECTION 606.1 (#18)**~~

~~Any discharger subject to the National Categorical Pretreatment Standards as defined in Article 1 of this Chapter, after compliance date of such National Categorical Pretreatment Standard, or, in the case of a new discharger, after commencement of the discharge to the POTW shall submit to the Superintendent during the months of June and December of each year, unless required more frequently by the City or the U.S. EPA, a report indicating the nature and concentrations of known or suspected prohibited and/or regulated substances in the effluent which are limited by the National City Categorical Pretreatment Standards. Such reports shall be signed by the principal executive officer of the discharger, and shall contain the certification required in Article 6, Section 601.1 (11) of this Ordinance Chapter. In addition, such reports shall include a record of all measured or estimated average and daily maximum flows, BOD and TSS loadings during the reporting period. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with Section 606.1.~~

~~A. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Superintendent. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 606.1(A) through 606.1 (B) below:~~

~~1. To be eligible for equivalent mass limits, the Industrial User must:~~

~~(a) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater~~



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~~discharge permit. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and have not used dilution as a substitute for treatment;~~

~~(b) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;~~

~~(c) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.~~

~~2. An Industrial User subject to equivalent mass limits must:~~

~~(a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;~~

~~(b) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;~~

~~(c) Continue to record the facility's production rates and notify the Superintendent whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 606.1(A)(1)(c) of this section. Upon notification of a revised production rate, the Superintendent will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and~~

~~(d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 606.1(A)(1) of this section so long as it discharges under equivalent mass limit.~~

~~3. When developing equivalent mass limits, the Superintendent:~~

~~(a) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and~~

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~~Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;~~

~~(b) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and~~

~~(c) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 507. The Industrial User must also be in compliance with Section 13.3 regarding the prohibition of bypass.~~

~~B. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 610 in lieu of the promulgated categorical standards from which the equivalent limitations were derived. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Superintendent within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.~~

**SECTION 607. CONFIDENTIAL INFORMATION**

Information and data on a user obtained from reports, surveys, wastewater discharge permit and monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the user under applicable State law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose such confidential information shall not be made available for inspection by the public, unless ordered by a court of competent Jurisdiction, but shall be made available immediately upon request to State and Federal governmental agencies for uses related to the NPDES MEPDES program or ~~pre~~pretreatment program, and in enforcement

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proceedings involving the person furnishing the report. ~~Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR Part 2.302 will not be recognized as confidential information and will be available to the public without restriction.~~

**SECTION 608. SPECIAL AGREEMENTS**

No statement contained in this Ordinance shall be construed as preventing any special agreement or arrangements between the City and any industrial user concern whereby ~~an a industrial user~~ waste of unusual strength or character may be accepted by the City for treatment, subject to the payment thereof, by the industrial user concern, provided that such arrangements not contravene any requirements of existing Federal laws or regulations, including the City's MEPDES permit requirements, and are compatible with any user charge and industrial cost recovery system in effect. (#13)

**SECTION 609. PUBLICATION OF USERS IN ~~SIGNIFICANT~~ NONCOMPLIANCE (#18)**

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in ~~Significant~~ Noncompliance with the applicable ~~Pre~~treatment Standards and Requirements. The term ~~Significant~~ Noncompliance shall be applicable to all ~~Significant Industrial~~ Users (~~or any other Industrial User~~ that violates Section 902.6).

~~**SECTION 610. CALCULATED TECHNICALLY BASED LOCAL LIMITS FOR INDUSTRIAL DISCHRGERS (#8)**~~

~~Calculated Technically Based Local Limits, as defined in 40 CFR 403.5 (c), as developed and promulgated by the Water Pollution Control Facility, shall be met by all Industrial Dischargers of wastewater into the City of Brewer Collection System and/or Water Pollution Control Facility.~~

~~Failure to meet these limits may result in a fine up to \$1000.00 per day, one year in jail or both.~~

~~The Local Limit Parameters and Maximum Daily Limit are as listed below.~~

~~**TABLE 1**~~  
~~**Local limits for the City of Brewer, Maine**~~  
~~(February 12, 2002)~~

<del><u>Parameter</u></del>	<del><u>Maximum Daily Limit (mg/L)</u></del>
<del>Arsenic</del>	<del>0.10</del>
<del>Cadmium</del>	<del>0.14</del>

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<del>Chromium</del>	<del>2.64</del>
<del>Copper</del>	<del>2.59</del>
<del>Cyanide</del>	<del>0.25</del>
<del>Lead</del>	<del>0.26</del>
<del>Mercury</del>	<del>0.02</del>
<del>Molybdenum</del>	<del>0.77</del>
<del>Nickel</del>	<del>2.59</del>
<del>Selenium</del>	<del>10.01</del>
<del>Silver</del>	<del>0.66</del>
<del>Zinc</del>	<del>MAHL</del>

~~LOCAL LIMITS~~

~~The purpose of development and implementation of local limits is to control conventional, non-conventional, and toxic pollutant discharges from non-domestic industrial users, (IUs) to the Brewer Water Pollution Control Facility. Discharges targeted for regulation include those that will interfere with the operation of the Water Pollution Control Facility, sludge use or disposal, and cause pass-through or interference. In short, Development of Technically Based Local Limits establish **Enforceable** local requirements developed by the City's Water Pollution Control Facility to address Federal Standards as well as State and Local regulations.~~

~~LOCAL LIMITS DEVELOPMENT PROCESS (#18)~~

~~Local Limits development requires the City's Water Pollution Control Facility to use site-specific data to identify pollutants of concern which might reasonably be expected to be discharged in quantities sufficient to cause plant or environmental difficulties. The Water Pollution Control Facility has decided to select, as a technical approach for limit development the "**Allowable Headwork's Loading Method**". In this procedure, the City's Water Pollution Control Facility will convert environmental and plant protection criteria into maximum allowable headwork's loading that, if received, would still enable the Water Pollution Control Facility to meet environmental limits and avoid plant interference. The Superintendent may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits [or general permits (optional)], to implement Local Limits and requirements of Section 610.~~

**ARTICLE 6-A - CATCH BASINS**

**SECTION 602-A REGISTRATION**

Prior to June 15, 1995, any person(s) or entity(ies) who own catch basins which are connected to the City of Brewer's combined storm water

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- sanitary sewer lines shall register said catch basins with the Director of ~~Public Works~~ the POTW for the City of Brewer.

**SECTION 603-A**

The Director of ~~Public Works~~ the POTW for the City of Brewer shall design the form to be used to register the catch basins.

**SECTION 604-A CATCH BASIN USER FEES**

All catch basins shall be charged a user fee to be connected to combined storm water - sanitary sewer lines ~~as follows:~~ (a fee schedule may be obtained from the City Clerk or Code Enforcement).

~~Beginning July 1, 1996, a user fee of \$50.00 per quarter.  
Beginning July 1, 1997, a user fee of \$75.00 per quarter.  
Beginning July 1, 1998, a user fee of \$100.00 per quarter.  
Beginning July 1, 1999, a user fee of \$150.00 per quarter.  
Beginning July 1, 2000, a user fee of \$175.00 per quarter.  
Effective beginning with the period covered by the December, 2001 billing, a user fee of \$200.00 per quarter.  
Effective beginning with the period covered by the September, 2002 billing, a user fee of \$250.00 per quarter.  
(#3) (#6) (#9) (#10)~~

**SECTION 606-A PENALTIES**

Any person or entity required to register a catch basin pursuant to Section 601-A of this Article shall pay a penalty of \$2.00 per month, or portion thereof, for each month the catch basin is not registered with the Director of ~~Public Works~~ the POTW, and all user fees and related fees under Article 12 of this Ordinance shall apply as of July 1, 1995.

**ARTICLE 6-B NON-STORMWATER DISCHARGE ORDINANCE**

**SECTION 602-B DEFINITIONS**

**D. Exempt Person or Discharge.** "Exempt Person or Discharge" means any person who is subject to a Multi-Sector General Permit ~~for Industrial Activities~~, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES MEDES permit, waiver, or waste discharge license or order issued to the discharger and

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administered un the authority of the U.S. Environmental Protection Agency ("EPA") or the Maine Department of Environmental Protection ("DEP").

~~**E. Industrial Activity.** "Industrial Activity" means activity or activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).~~

**Q. Urbanized Area ("UA").** "Urbanized Area" or "UA" means the areas of the State of Maine so defined by the latest ~~decennial~~ (2000) (2020) census by the U.S. Bureau of Census.

**SECTION 605-B PROHIBITION OF NON-STORM WATER DISCHARGES**

**C. Exempt Person or Discharge.** This ordinance shall not apply to an exempt person or discharge, except that the enforcement authority may request ~~form~~ from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses, and orders from the EPA or DEP that authorize the discharge(s).

**SECTION 608-B ENFORCEMENT**

**D. Appeal of Notice of Violation.** Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the Board of Appeals in accordance with the City of Brewer Board of Appeals Ordinance. The notice of appeal must be received within thirty (30) days from the date ~~if~~ of notice of violation. The Board of Appeals shall hold a *de novo* hearing on the appeal within thirty (30) days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse, or modify the decision of the enforcement authority. A suspension under Section 6 of this ordinance remains in place unless or until lifted by the Board of Appeals or by a reviewing court. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within forty-five (45) days of the date of the Board of Appeals decision pursuant to Rule 80-B of the Maine Rules of Civil Procedure.

**APPENDIX 1**

**Maintenance Agreement for Storm Water Management Facilities and/or Systems**

1. The Owner agrees as follows:

(f) The property owner will be responsible for any and all filing fees related to 3<sup>rd</sup> party agreements associated with the property's management agreement.

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**ARTICLE 7 - HAULED WASTEWATER**

**SECTION 701.**

Septic tank and holding tank waste are defined in Article 1, Section 100.3 Definitions. Hauled septic tank and holding tank waste ~~and industrial waste~~ may be introduced into the POTW only at the designated receiving structure of the POTW and at such times as are established by the Superintendent. Waste from portable toilets must be recorded at the point where the toilets were placed even ~~through~~ though these wastes may have been combined into a common tank for short-term storage prior to delivery to the City of Brewer's Water Pollution Control Facility. Such wastes shall not violate Article 5, Section 506 of this Ordinance or any other requirements established or adopted by the City. Wastewater discharge permits for individual vehicles to use such facilities may be issued by the Superintendent. (#7)

**SECTION 701.1 PERMITS**

Each truck used by a septic hauler to transport wastes to the City's septage receiving station is required to have a permit to discharge. Each permit will include the license plate number of the vehicle for which it is issued and cannot be transferred to another vehicle. Any septage hauler wishing to discharge septage/holding tank waste at the receiving station must first request a permit by completing an application. Each applicant for a permit shall be charged a non-refundable fee of ~~Twenty-Five~~ One Hundred Dollars ~~(\$25.00)~~ (\$100.00) made payable to the City of Brewer. This fee must accompany the initial application form.

**SECTION 701.2 PERMIT RENEWAL**

Permits shall be issued on a One (1) year basis. ~~Permits may be renewed at no charge if the renewal is applied for sixty (60) days prior to the expiration date of the permit. Permit renewals must be submitted no later than December 1<sup>st</sup> to allow time to process the renewal application.~~ Late applications shall be subject to a Twenty Dollar (\$20.00) service charge. Permits may be renewed by submitting a letter requesting renewal with the reference to the number of the permit being renewed. The applicant shall include with the letter the license plate number of the vehicle for which the permit was issued and an updated copy of insurance coverage, as well as the \$100.00 application fee.

**SECTION 702. DISCHARGE FEES (#1) (#17) (#24)**

~~Fees for treatment of septage, holding tank waste and grease (if permitted) shall be established by the City Council in accordance with the provisions of this chapter. The rate shall be established per One~~

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~~Thousand (1000) gallons or portions thereof.~~

<del>Septage Waste</del>	<del>\$60 per 1000 gallons</del>
<del>For Haulers Committing to</del>	
<del>1,000,000/gal. per yr.</del>	<del>\$55 per 1000 gallons</del>
<del>For Haulers Committing to</del>	
<del>2,000,000/gal. per yr.</del>	<del>See Frost Septic Contract</del>
	<del>Section 4, Compensation</del>
<del>Holding Tank Waste</del>	<del>\$60 per 1000 gallons</del>
<del>Propylene Glycol (ANG &amp; BIA)</del>	<del>Cost based on strength (BOD)</del>
<del>Leachate (Landfills)</del>	<del>Cost based on strength (BOD)</del>
<del>Soil Preparation Wastewater</del>	<del>Cost based on strength (BOD)</del>
<del>Grease</del>	<del>\$100.00/1000 gallons</del>

The Brewer Environmental Services Director shall establish and update as needed, a schedule of fees for all hauled wastewater services provided by the Brewer Environmental Services Department. The schedule of fees shall be based on actual costs of the services and that which is usual, customary, and reasonable, which may include any Brewer City Ordinances contained in Chapter 31. (Per Council Order 2022-C008)

**SECTION 703. DISCHARGE REQUIREMENTS (#24)**

A. The permitted vehicle must be equipped with a suitable discharge hose. This shall extend from the truck's discharge point to below the rim of the manhole connection in the Septic Receiving Station, currently being used for septage/holding tank waste discharging.

C. Any spillage of the truck's contents onto the ground near the manhole Septage Receiving Station may constitute a health hazard as well as a nuisance. Immediate ~~clean-up~~ cleanup of such spillage is the responsibility of the hauler. (#1)

F. The maximum daily limit of septage and holding tank waste is ~~Twenty-five Thousand (25,000)~~ Fifty-two Thousand (52,000) gallons per day on a first come first serve basis. Septic and holding tank wastes are accepted twenty-four (24) hours per day, seven days per week, 365 days per year. ~~between the hours of 7:00 A.M. and 3:00 P.M., Monday through Friday except Holidays. It is recognized that unusual eumstances may require exceptions, and the Superintendent is willing to work with all haulers as long as there is advance notification.~~ (#1) (#3)

G. Haulers shall not decant a load of septic prior to unloading at Septic receiving.



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**SECTION 704. DISCHARGE PROCEDURE**

The Superintendent requests ~~a Twenty-four hour notice of a discharge. all haulers notify the POTW at least 30 minutes prior to delivering any waste. notice of a discharge.~~ Only Official Septic Waste Disposal Records of the City of Brewer will be accepted, in conjunction with a State Manifest. The hauler must come to the POTW located at 37 Oak Street and complete an official discharge slip and to make payment of the discharge fee. Payment is expected at this time unless the hauler has made previous ~~(written)~~ arrangements with the Superintendent, such as monthly billings. If samples are required at the time of the discharge, the hauler will be given a container and will collect a sample during the discharge. The sample will be left at the discharge site and retrieved by City staff. Failure to collect a samples may be grounds for refusing future loads from the hauler. ~~Wastewater personnel must be present during the disposal.~~ (#1) (#13) (#24)

**SECTION 706.2**

Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of the waste. In addition, for hauled industrial waste, the form shall identify the type of industry, known or suspected constituents, and whether any wastes are RCRA hazardous wastes.

**SECTION 706.3**

Any person who discharges hauled wastewater at any other location in the City, ~~or at the designated receiving structure at other than the times allowed,~~ shall be subject to applicable civil and criminal penalties, including those proscribed at 30-A M.R.S.A. Section 4452 and 38 M.R.S.A. Section 439 and 1319-T, as the same may be amended from time to time. (#1)

**ARTICLE 9 - ENFORCEMENT SECTION & PENALTIES**

**SECTION 900**

The Superintendent is hereby empowered ~~(in accordance with CFR 40 Part 403.8 f.1.), as the same may be amended from time to time,~~ to issue Notices of Violation, Administrative Orders, conduct show cause hearings, assess administrative fines (penalties) that shall not exceed \$1,000 per day per violation to ~~an industrial user or~~ any ~~other~~ user of the Brewer sewer system for violations of their ~~pretreatment~~ permit or violations of this Ordinance. Payment of a fine is due within 30 days of receipt of the administrative fine. A user desiring to dispute such fines must file a request for the Superintendent to reconsider the fine

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within 10 days of being notified of the fine. Where the Superintendent believes a request has merit, he/she shall convene a hearing on the matter within 15 days of receiving the request for reconsideration.

The Superintendent may order any ~~industrial~~ user which causes or contributes to violations of the Ordinance, wastewater permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken.

For noncompliance not specifically covered in the above schedule, the following may be considered in determining administrative fines (ranging from \$50 to \$1,000/day/violation):

~~2. Violation which cause SNC~~

**SECTION 901. INDUSTRIAL WASTEWATER PRETREATMENT ENFORCEMENT RESPONSE GUIDE**

KEY OF ABBREVIATIONS & TERMS USED IN ARTICLE 9

~~BMR~~ ~~Base-line Monitoring Report~~

Civil Litigation                      Civil Litigation against the ~~Industrial~~ User seeking equitable relief, monetary penalties and actual damages.

Fine                                      Monetary Penalty assessed by Control Authority Officials. Fine should be assessed by the ~~Pretreatment Coordinator or the~~ BWWT Superintendent.

~~IU~~ User                              ~~Industrial~~ Any sewer U-user

~~NC~~                                      Non-compliance

~~PC~~                                      ~~Pretreatment Coordinator~~

Show Cause                          Formal meeting requiring the ~~IU~~ User to appear and demonstrate why the City should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

~~SNC~~                                      ~~Significant Noncompliance~~

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**SECTION 902. INDUSTRIAL WASTEWATER PRETREATMENT ENFORCEMENT RESPONSE GUIDE**

All ~~significant industrial~~ users shall may be issued ~~an a industrial pretreatment~~ permit. The City shall act on violations of any ~~industrial pretreatment~~ permit provision in accordance with the response as set in Article 9, Sections 902.2 through 902.7.

**SECTION 902.1 DEFINITION: SIGNIFICANT INDUSTRIAL USER**

1. All dischargers subject to State and/or City POTW categorical pretreatment standards;
2. All non-categorical dischargers that, in the opinion of the City of Brewer, have a reasonable potential to adversely affect the BMWTP's operation;
3. All non-categorical dischargers that contribute a process wastewater which makes up five percent or more of the average dry weather capacity of the BMWTP, or that discharge an average of 25,000 gallons per day or more of process wastewater to the BMWTP;
4. All dischargers that have the potential to violate any ~~of the pretreatment~~ standards or prohibitions.

**SECTION 902.2 NONCOMPLIANCE WITH SAMPLING AND MONITORING PROCEDURES**

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
FAILURE TO SAMPLE, MONITOR OR REPORT (ROUTINE REPORTS, <del>BMRTS</del> ).	Isolated or infrequent	Phone call or NOV requiring	<del>PE</del> <u>S</u>
Same as above.	<del>FU</del> does not respond to the verbal warning or NOV.	AO is issued with compliance schedule.	<del>PE</del> <u>S</u>
Same as above.	<del>FU</del> does not respond to the AO or is in frequent violation - SNC	Publish <del>FU</del> in local news-paper as <del>SNC</del> with the possibility to seek or assess up to \$1,000 per day in civil penalties or criminal investigation.	<u>S</u>

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
FAILURE TO NOTIFY OF EFFLUENT LIMIT VIOLATION OR SLUG DISCHARGE.	Isolated or infrequent. No known effect to BMWTP or environment.	Phone call with NOV requiring a written report with corrective action taken to prevent recurrence. Report within ten days.	<del>PE</del> , <u>S</u>
Same as above.	No response to NOV, continued or recurring violation - <del>SNC</del>	AO with a show cause meeting with compliance schedule. Publish <del>IU</del> in newspaper, assess up to \$1,000 per day in penalties.	<del>PE</del> , S
Same as above.	Known BMWTP damage or environmental damage - <del>SNC</del>	Publish <del>IU</del> in newspaper and assess up to \$1,000 per day in penalties or possible sewer ban and criminal investigation.	S
FAILURE TO NOTIFY OR REPORT A SPILL OR CHANGE IN DISCHARGE.	Isolated or Infrequent	NOV requiring written report within ten days, with corrective action and action to prevent recurrence.	<del>PE</del> , <u>S</u>
Same as above.	<del>IU</del> does not respond to NOV, no environmental and/or BMWTP damage - <del>SNC</del>	AO, or civil penalty of up to \$1,000 per day, publish in newspaper.	S
Same as above.	Recurring or environmental and/or BMWTP damage - <del>SNC</del>	Publish <del>IU</del> in newspaper, assess up to \$10,000 per day in penalties and/or jail and sewer ban.	S
MINOR SAMPLING, MONITORING OR REPORTING DEFICIENCIES.	Infrequent or isolated.	Phone call or NOV requiring report within ten days.	<del>PE</del> , <u>S</u>

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above. recurring.	No response to NOV or schedule. If continued,	AO with compliance publish <del>FU</del> in newspaper.	<del>PE</del> , S
MAJOR OR GROSS SAMPLING, MONITORING OR REPORTING DEFICIENCIES (MISSING INFORMATION, LATE REPORTS).	Infrequent or isolated.	NOV - request corrections within ten days.	<del>PE</del> <u>S</u>
Same as above.	No response to NOV or frequent - <del>SNC</del>	AO with compliance schedule. If continued, publish <del>FU</del> in newspaper, assess up to \$1,000 per day in penalties.	<del>PE</del> , S
FAILURE TO SIGN OR CERTIFY REPORTS PROPERLY	Infrequent or isolated	Phone call or NOV requiring report within ten days.	<del>PE</del> <u>S</u>
Same as above.	<del>FU</del> does not respond to the verbal warning or NOV.	AO, with show cause meeting with compliance schedule.	<del>PE</del> , S
Same as above.	<del>FU</del> does not respond to the AO is in frequent violation - <del>SNC</del>	Publish <del>FU</del> in local newspaper as <del>SNC</del> with the possibility to seek or assess up to \$1,000 per day civil penalties or criminal investigation, sewer ban.	S
REPORTING FALSE INFORMATION.	Any instance - <del>SNC</del>	Criminal investigation and judicial action with a penalty up to \$10,000 per day, one year in jail or both, sewer ban. Publish <del>FU</del> in newspaper.	S

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**SECTION 902.3 IMPLEMENTATION SCHEDULE**

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
MISSED INTERIM DATE.	Will not cause late final date or other interim dates.	NOV	<del>PG</del> <u>SI</u>
Same as above.	Will result in missed interim dates. Violation for valid cause.	NOV - written report required within ten days.	<del>PG</del> <u>SI</u>
Same as above.	Failure or refusal to comply without valid cause - <del>SNC</del>	AO, publish <del>FU</del> in newspaper, up to \$1,000 per day penalty with sewer ban if necessary.	<del>PG</del> , S
FAILURE TO INSTALL MONITORING EQUIPMENT.	Isolated.	NOV - written report of corrective action taken required within ten days.	<del>PG</del> <u>SI</u>
Same as above.	Continued - <del>SNC</del>	AO to begin monitoring and install equipment within minimal time, temporary sewer ban. (Using outside contracts if necessary.) Publish <del>FU</del> in newspaper.	<del>PG</del> , S



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**SECTION 902.4 EFFLUENT LIMITS**

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
EXCEEDING <del>DAI</del> LIMITS ( <del>CATEGORICAL</del> , LOCAL OR PROHIBITED).	Infrequent, isolated minor violation.	NOV	<del>PE</del> <u>S</u>
EXCEEDING FINAL LIMITS ( <del>MONTHLY</del> , <del>AVERAGE</del> <del>LIMITS</del> , <del>CATEGORICAL</del> , LOCAL OR PROHIBITED).	Infrequent, isolated, minor violation.	NOV requiring a written re- port within ten days, with corrective action and action taken to prevent recurrence.	<del>PE</del> <u>S</u>
Same as above.	<del>FU</del> does not respond to NOV or recurring vio- lation <del>SNC</del>	AO or civil penalty of up to \$1,000 per day, one year in jail or both. Publish <del>FU</del> in newspaper.	<del>PE</del> , <u>S</u>
EXCEEDING DAILY <u>AVERAGE</u> LIMITS AND/OR FINAL LIMITS.	Infrequent, isolated, major violation.	Show cause meeting and AO with compliance schedule.	<del>PE</del> , <u>S</u>
Same as above.	Recurring major vio- lation. No BMWTP or environmental damage - <del>SNC</del>	Publish <del>FU</del> in newspaper, assess up to \$1,000 per day in penalties and/or sewer ban.	<u>S</u>
Same as above.	Recurring major vio- lation environmental and/or BMWTP damage - <del>SNC</del>	Publish <del>FU</del> in newspaper, assess up to \$10,000 per day in penalties and/or one year in jail and sewer ban.	<u>S</u>
REPORTED SLUG LOAD	Isolated without known damage.	Show cause meeting with AO that action be taken to pre- vent recurrence. Publish <del>FU</del> in newspaper.	<del>PE</del> <u>S</u>

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above.	Isolated with known damage interference or pass through - <del>SNC</del>	Publish <del>FU</del> in newspaper, assess up to \$1,000 per day in penalties.	<del>CP</del> , S
Same as above. per day in penalties and/or	Recurring - <del>SNC</del>	Sewer ban, up to \$10,000 one year in jail. Publish <del>FU</del> in newspaper.	S
DISCHARGE WITHOUT A PERMIT OR APPROVAL	One time without known environmental or BMWTP damage.	AO with a written report within ten days with corrective action to prevent recurrence.	<del>PE</del> , S
Same as above.	One time with known BMWTP or environmental damage, a recurring violation - <del>SNC</del>	Judicial action with up to \$1,000 per day in penalties. Publish <del>FU</del> in newspaper.	S
Same as above. mental or BMWTP damage	Continuing violation with known environmental investigation. - <del>SNC</del>	Assess up to \$10,000 per day in penalties with Publish <del>FU</del> in newspaper.	S



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**SECTION 902.5 NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS**

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
MINOR VIOLATION OF ANALYTICAL PROCEDURES	Any instance.	NOV with written response within ten days.	<b>PE S</b>
MAJOR VIOLATION OF ANALYTICAL PROCEDURES	No evidence of negligence or willful intent.	NOV with written response within ten days documenting corrective action taken.	<b>PE S</b>
Same as above.	Evidence of negligence or willful intent - <b>SNC</b>	AO publish <b>FU</b> in newspaper penalty with possible criminal action.	<b>PE, S</b>
MINOR VIOLATION OF PERMIT CONDITION	No evidence of negligence or willful intent.	NOV - immediate correction, require a written response within ten days.	<b>PE S</b>
Same as above.	Evidence of negligence or willful intent - <b>SNC</b>	AO or judicial action or up to \$10,000 per day with possible criminal action. Publish <b>FU</b> in newspaper.	<b>S</b>
MAJOR VIOLATION OF PERMIT CONDITION	Evidence of negligence or willful intent - <b>SNC</b>	Judicial action with penalty up to \$10,000, criminal action, sewer ban. Publish <b>FU</b> in newspaper.	<b>S</b>

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~~SECTION 902.6 DEFINITION OF SIGNIFICANT NONCOMPLIANCE (SNC)~~  
~~SNC is when one or more other following criteria is met:~~

~~Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard of Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).~~

~~Any other violations of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, interference or Pass Thorough, including endangering the health of POTW personnel or the general public.~~

~~Any discharge of a pollutant that is harmful to health and welfare or the environment which resulted in the Brewer Water Pollution Control Facility exercising its emergency authority (under 40 CFR 403.8 (f) (1) (vi) (B)) to halt or prevent such a discharge.~~

~~Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in the pretreatment permit or enforcement order for starting or completing construction, or attaining full and final compliance.~~

~~Failure to provide within 30 days of the due date, required reports such as Baseline Monitoring Reports (BMR), 90 day compliance progress reports, periodic self monitoring reports, monthly reports, and compliance schedule reports.~~

~~Failure to report noncompliance accurately.~~

~~Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.~~

~~These definitions have been established in accordance with 40 CFR 403.8 (f) (2) (vi).~~

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**SECTION 902.7 TIMEFRAMES FOR ENFORCEMENT RESPONSES**

- A. All violations will be identified and documented within five (5) days of receiving compliance information. The WWTP Superintendent ~~and/or Pretreatment Coordinator~~ will be responsible for initiating enforcement responses.
- B. Initial enforcement responses (involving contact with the ~~FU~~ and requesting information or corrective or preventive actions) will occur within five (5) days of violation detection.
- C. Follow up actions for continuing or recurring violations will be taken within thirty (30) days of the initial enforcement response. For all continuing violations, the response will also include a compliance schedule.
- D. Violations which threaten health, property or the environment are considered emergencies and will receive an immediate response.

~~E. All violations meeting the criteria for SNC Article 9, Section 902.6 will be addressed with an enforcement order within thirty (30) days of the identification of significant noncompliance - SNC.~~

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**SECTION 903. NOTICE OF VIOLATION**

When the Superintendent finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written NOV. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which must include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

**SECTION 905. SHOW CAUSE HEARING**

The Superintendent may order a user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement actions, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally by the Superintendent or by registered or certified mail, return receipt requested, at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. Failure to appear for a show cause hearing may be grounds for revocation of the user's wastewater discharge permit and disconnection from or termination of discharge to the POTW.

**SECTION 906. COMPLIANCE ORDERS**

When the Superintendent finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user comes into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established



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for a ~~Federal~~-pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**SECTION 908. ADMINISTRATIVE FINES**

A. When the Superintendent finds that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other ~~pre~~pretreatment standard or requirement, including a user's failure to obtain a wastewater discharge permit pursuant to Article 6, Section 602 of this Ordinance, the Superintendent may fine such user in an amount not to exceed \$1,000 per day per violation. Each day of violation shall constitute a separate offense subject to fine. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. In the case of failure to obtain a required wastewater discharge permit, the fine shall accrue on a daily basis commencing on the day the user first was notified or became aware of the need for such a permit. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, legal fees, attorney fees, to any fine assessed.

**SECTION 910. TERMINATION OF DISCHARGE**

In addition to the provisions in Article 6, Section 602.9 of this Ordinance, any user that violates the following conditions is subject to termination of the user's discharge to the POTW;

E. Violation of the ~~pre~~pretreatment standards in Article 5, Section 505 of this Ordinance.

**SECTION 911. JUDICIAL ENFORCEMENT REMEDIES**

**SECTION 911.1 Injunctive Relief**

When the Superintendent determines that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other ~~pre~~pretreatment standard or requirement, the Superintendent may request that the City Solicitor or his designee seek appropriate injunctive relief pursuant to the laws of this State which restrains or compels the specific performance of the conditions of the wastewater discharge permit, order, or other requirements imposed by this Ordinance on activities of the user. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement

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for the user to conduct environmental remediation. The decision whether to seek injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

**SECTION 911.2 Civil Penalties and Criminal Referral**

B. A user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or other permit issued hereunder, or any other ~~pre~~treatment standard or requirement shall be required to pay a fine of not less than \$1,000 per day per violation and not more than \$2,500 per day per violation for each and every day of a violation for a first offense. These fines shall increase to a minimum of \$2,500 per day per violation and a maximum of \$25,000 per day per violation for a second offense of the same or a similar nature occurring within two (2) years of the first offense. Each day of violation shall constitute a separate offense subject to fine. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

**SECTION 912. SUPPLEMENTAL ENFORCEMENT ACTION**

**SECTION 912. Performance Bonds**

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder, or any other ~~pre~~treatment standard or requirement, unless such user first files a satisfactory bond with the City, payable to the City, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance with this Ordinance.

**SECTION 912.1 Liability Insurance**

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder, or any ~~pre~~treatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge, which shall include naming the City as an additional insured.

**SECTION 912.2 Water Supply Severance**

Whenever a user violates or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or

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any other ~~pre~~treatment standard or requirement, the Superintendent will work with the Brewer Water Department to sever water service to the user under Water Department regulations, if applicable. Service will only recommence at the user's expense, after the user has satisfactorily demonstrated its ability to comply with this Ordinance. (#13)

**SECTION 913. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**SECTION 913. Upset**

- A. An upset shall constitute an affirmative defense to an action brought for noncompliance with ~~categorical-pre~~treatment standards if the requirements of paragraph B below are met.
  
- D. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with ~~categorical-pre~~treatment standards.
  
- E. Users shall control production of all discharges to the extent necessary to maintain compliance with ~~categorical-pre~~treatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**SECTION 913.1 Prohibited Discharge Standards**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Article 5, Section 505 of this Ordinance or the specific prohibitions in Article 5, Section 506 (A) through (P) of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or (b) no local limits exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its ~~NPDES~~ MEPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**SECTION 913.2 Bypass**

- B. A user may allow any bypass to occur which does not cause

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~~pre~~treatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this subsection.

- C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable ~~pre~~treatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

**ARTICLE 12 - SCHEDULE OF SEWER RATES**

**SECTION 1200. METER RATES**

QUARTERLY

(#2) (#4) (#6) (#9) (#10) (#12) (#13) (#14) (#16) (#19) (#21) (#22) (#23) (#24) (#27) (#28) (#29) (#30)

Effective beginning with and retroactive, the period covered by the September, ~~2021~~ 2023 billing, the following rates shall apply:

For the first 1,000 cu. ft. per quarter: ~~\$96.70~~ \$115.23 minimum charge for Residential customers classified in the billing system as User Type 9.

For the first 1200 cu. ft. per quarter: ~~\$116.04~~ \$138.28 minimum charge for all other users not otherwise classified as a Residential customer.

Effective beginning with the period covered by the September, ~~2021~~ 2023 billing, the following rates shall apply:

For all in excess of 1,000 cu. ft. per quarter: ~~\$9.67~~ \$11.52 per 100 cu. ft.



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**SECTION 1203. SURCHARGE**

QUARTERLY SEWERAGE SYSTEM SURCHARGE

Surcharge	<del>\$0.0091/lb.</del>	<u>\$0.0146/lb.</u>	BOD
	<del>\$0.0062/lb.</del>	<u>\$0.0099/lb.</u>	SS

**SECTION 1205. ABILITY TO SERVE CHARGE**

In instances where City sewer service exists within a public way abutting property served by private septic tank or cesspool and where connection of said septic tank or cesspool into the City sewer is possible, the owner of said property shall pay an "Ability to Serve" charge in the amount of ~~five~~ twenty dollars ~~(\$5.00)~~ (\$20.00) per quarter until such time as they connect with the public sewer.

**SECTION 1208. ABATEMENTS (#25)**

**Effective January 1, 2015, the following abatement policy shall apply:**

C. Commercial and industrial operations

Commercial, ~~industrial~~ and manufacturing ratepayers may not apply for an abatement of the sewer which does not reach the City's sewer system unless they meet the following requirements:

- (1) All commercial, ~~industrial~~ and manufacturing sewer user ratepayers must first receive written permission from the BWPCF Superintendent ~~and the City's Pretreatment Coordinator~~ prior to engaging in any activity that will remove water from the sewer.
- (2) If a commercial, ~~industrial~~ or manufacturing ratepayer has received permission to remove water from the City sewer and can document the volume with a meter reading they may apply for a sewer abatement request to the Superintendent.
- (3) The Superintendent after consultation with the City Manager ~~and the City Pretreatment Coordinator~~ shall make the final decision as to whether the abatement shall or shall not be granted.
- (4) No more than one (1) sewer abatement shall be given to any manufacturing, or commercial ~~or industrial~~ business in any 12-  month period.

**SECTION 1210. APPLICATION OF SEWER RATES**

F. When an owner or owners of a residential dwelling unit in the City of Brewer, any one of whom is sixty (60) years of age or older, disconnects water service to said residential dwelling

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unit and ceases to use the public sewer system for at least one hundred (100) consecutive days between October 1 and the Following May 1, said owner or owners shall upon written request, receive a rebate equal to the lowest minimum quarterly sewer bill during the same period of time, if said sewer payments are current, or a credit equal to the lowest minimum quarterly sewer bill during the same period of time if the sewer bill has not been paid.

In order for an owner or owners to avail themselves of this section, they must certify to the Finance Department of the City of Brewer on or before July 1 of each year the following information for the prior year:

- C. The owner, owners, or ~~ant~~ third party did not occupy the dwelling unit during the said one hundred (100) consecutive days.

**SECTION 1211. PRETREATMENT CHARGES AND FEES**

The Superintendent may adopt reasonable fees set by a City Council Order for reimbursement of the costs of setting up and operating the City's ~~Pre~~treatment Program including, but not limited to, the following:

- A. Fees, not to exceed ~~\$200~~ \$319.80 per year pursuant to 38 M.R.S.A. Section 413, for wastewater discharge permit applications including the cost of processing such applications;

**SECTION 1213.**

All surcharge fees and ~~pre~~treatment charges and fees shall be set from time to time by City Council Order and shall be kept on file for public inspection with the City Clerk and the Superintendent.

**SECTION 1214.**

The City may establish fees for the disposal of hauled wastewater and special agreements. These fees shall be consistent with, but not necessarily the same as, regular sewer use charges. They shall be set from time to time by ~~City Council Order~~ the Superintendent (per Council Order 2022-C008) and be kept on file for public inspection with the City Clerk and the Superintendent.

**ARTICLE 13 - VALIDITY & AMENDMENTS**

**SECTION 1302.**

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This Ordinance can be periodically amended as necessary to respond to changes in City, State and Federal regulations

In the event Industry comes into the City, the Industrial Pretreatment Program will be re-introduced to meet all State and Federal Regulations in Chapter 31.

**Statement of Fact:** This amendment to Chapter 31 addresses a number of housekeeping matters that will clarify and update the ordinance.

2023-C022

November 21, 2023

**TITLE:** ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, ARTICLE 3 “ZONING DISTRICTS”, SECTION 306.5, AND ARTICLE 4 “PERFORMANCE STANDARDS”, SECTION 444.

Filed November 15, 2023  
 By Jenn M. Morin

BE IT ORDAINED, by the Brewer City Council 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 3, and Article 4:

**Article 3 Zoning Districts**

**306 SCHEDULE OF USES**

306.5 SCHEDULE OF USES (#31) (#46) (#52) (#57)

USE	RURAL	LDR	MDR-1	MDR-2	HDR	HDR-2	CB	GB	IND	IND-2	OR	PB	DD
<b>RESIDENTIAL USES</b>													
Accessory Use	P	P	P	P	P	P	P				P		P
Single-family Dwelling	P	P	P	P	P	P	P	P-61			P		
Home Occupations	P	P	P	P	P	P	P				P		
Home Day Care	D-62	D-62	D-62	D-62	D-62	D-62	D-62				D-62		
Medical Marijuana Home Production	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67	Y-66, 67

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Manufactured Housing*													
Mobile Home Park		S-15,16				S-15,16							
Multi-family, 3 or more, Dwelling Units (#18)		S			S	S	S	P-61			S		S-65
Planned Unit Development Of Residential Units		S	S-12,15,16	S-12,15,16	S	S-12,15,16	S-12,15,16						
<u>Short-Term Rentals</u>		<u>Y-71</u>			<u>Y-71</u>	<u>Y-71</u>	<u>Y-72</u>				<u>Y-71</u>		<u>Y-71, 65</u>
Two-family Dwelling Units (#18)		P		P	P	P	P	P-61			P		S-65

Footnotes to Schedule of Land Uses

71. Hosted Short-Term Rentals only in accordance with Article 4 Section 444. See also Chapter 20 Licenses and Permits.

72. Non-Hosted Short-Term Rentals only in accordance with Article 4 Section 444. See also Chapter 20 Licenses and Permits.

**Article 4 Performance Standards**

**SECTION 444. SHORT-TERM RENTALS (STRs)**

The purpose of this section is to require the registration and licensing of short-term rentals within the City of Brewer to ensure that license holders comply with applicable codes and ordinances, laws and regulations in order to protect the public’s health and safety and with the intent to minimize any potential adverse impacts on adjacent properties.

This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section.

**444.1 APPLICABILITY AND DEFINITIONS**

444.1.1 This section shall apply to any person intending to operate or purvey a short-term rental as defined under this section within the City of Brewer. The provisions of this section do not apply to rooming houses, boarding homes, motels, hotels, bed and breakfasts, inns, lodging as defined under Title 30-A MRSA §3801(3), and similar commercial activities as determined by the Code Enforcement Officer. A short-term rental is not a home occupation or accessory use.

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“Short-Term Rental” as defined under this Section shall mean the rental of a legal residential dwelling unit in whole or in part for residential purposes and for direct or indirect compensation for a period of less than twenty-eight (28) consecutive days to a person or persons.

“Dwelling Unit” shall mean the same as defined in Article 14 of this Land Use Code.

“Person” shall mean the same as defined in Article 14 of this Land Use Code.

“Hosted Short-Term Rental” as defined under this section shall mean a dwelling that is the primary residence of the property owner of record who occupies the premises overnight during the short-term rental period.

“Primary Residence” as defined under this section means a person or persons who permanently resides in the principal residential dwelling on the premises for greater than 183 consecutive days within any calendar year declaring domicile at the address with current valid legal documentation containing a physical address.

“Non-Hosted Short-Term Rental” as defined under this section shall mean a residential dwelling unit that may or may not be the property owner(s) primary residence and the premises is not occupied by the property owner overnight during the short term rental period.

#### 444.2 STANDARDS AND REGULATIONS

444.2.1 Permitting and Licensing – All short-term rentals shall be subject to inspection, unit registration, and annual licensing requirements of the City of Brewer prior to any advertisement, use, or occupancy as set forth in Chapter 20, Article 2. Licenses, of the Charter, Codes and Ordinances of the City of Brewer.

444.2.2 Use – Only the following types of dwelling units which have been issued a Certificate of Occupancy by the Code Enforcement Officer may be used in conjunction with a short-term rental in zoning districts where certain short-term rentals are allowed:

- a) an entire principal single-family detached dwelling which is not located in or part of an apartment house, semi-detached home that shares a common wall, townhome, multi-family dwelling, condominium, co-op housing, or planned unit development; or
- b) a single bedroom or no greater than two (2) bedrooms in a principal single-family detached primary residence dwelling of the property owner of record; or
- c) a legal apartment unit within either a multi-family dwelling or mixed commercial with residential use building and the building and parcel are under the same ownership; or
- d) one (1) dwelling unit inclusive of a two-family dwelling where the property and both dwelling units are under the same ownership; or
- e) a hosted short-term rental of an accessory dwelling unit as defined in Article 14 of this Land Use Code.

444.2.3 Accessory Dwelling Unit (ADU) Short-Term Rentals - Accessory dwelling units (ADUs) meeting the requirements of Section 402 shall be allowed to be used as a short-term rental only in zoning districts which allow hosted short-term rentals in accordance with Article 3

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of this Land Use Code. An accessory dwelling unit (ADU) shall not be used for non-hosted short-term rentals.

444.2.4 Laws and Regulations - All short-term rentals are subject to City of Brewer Ordinances and State of Maine statutes requirements which may include but not be limited to: use of fireworks, noise limitations, disruptive activities, pet leash laws, open burning, trash disposal, etc. It shall be the responsibility of the license holder to inform any person occupying a short-term rental of such regulations.

444.2.5 Prohibited Use and Activities – The following activities and uses are prohibited in conjunction with a short-term rental:

- a. Recreational vehicles, travel trailers, camper and camping trailers, tents, temporary structures, temporary shelters, and buildings or structures not on a permanent foundation shall not be used on the premises in conjunction with a short-term rental.
- b. Affordable housing dwelling units as defined under Section 443 of this Land Use Code shall not be advertised, occupied or purveyed as a short-term rental.
- c. The owner or license holder of the short-term rental unit shall not prepare or serve food to short-term rental guests which would require a victualer’s license from the City of Brewer and/or a food/eating establishment license from the State of Maine.
- e. Short-term rental guests shall not sublease or assign all or any portion of a short-term rental unit to another person or persons.
- f. It shall be prohibited for the tenants or occupants of leased and/or rented dwelling units to purvey, sublease or assign all or any portion of a dwelling unit to a person or persons in conjunction with a short-term rental.

444.3 OTHER REQUIREMENTS

444.3.1 Parking – The property owner must provide adequate parking on designated impervious surface areas to serve both the existing use(s) and the short-term rental unit on the property. Parking requirements of Section 424.3 of this Land Use Code shall be met plus one (1) additional off-street parking space shall be provided for the short-term rental unit. Emergency responder vehicle access and circulation must be maintained on the premises. No parking space shall be provided or assumed within the right-of-way of any public street or roadway.

444.3.2 Short-term rentals shall comply with State of Maine and City of Brewer shoreland zoning laws and requirements, site plan review and subdivision review requirements and all other applicable Codes and Ordinances of the City of Brewer.

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**Statement of Fact:** These ordinance amendments are proposed in conjunction with the requirements of the State LD 2003 and subsequent legislation. The State legislation, in general, mandates that local zoning be amended to increase residential density, include affordable housing regulations, and allow for ADUs for the general purpose of increasing affordable housing. These proposed short term rental regulations would better ensure that the State mandates be used for affordable housing. The Planning Board held a public hearing on November 6, 2023 and unanimously made the recommendation to adopt these amendments to Chapter 24 Land Use Code as written. There were no public comments.

**ACTION:** Councilor Daniels moved that the amendments on the consent calendar be enacted. Councilor Phanthay seconded the motion. The motion passed with a vote of 4 to 0.

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**G. New Business**

2023-C023

December 12, 2023

TITLE: ORDER, AMEND CHAPTER 10 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “THE POLICE DEPARTMENT”, TO ESTABLISH ARTICLE 2 “DISRUPTIVE PROPERTY”, AND ARTICLE 3 “SEX OFFENDER RESIDENCY RESTRICTIONS.

Filed December 5, 2023  
By Soubanh Phanthay

BE IT ORDAINED, by the Brewer City Council that Chapter 10, of the Charter, Codes and Ordinances of the City of Brewer, entitled “The Police Department”, shall be as follows:

**ARTICLE 2. DISRUPTIVE PROPERTY**

**SECTION 201 ~~106~~ DISRUPTIVE PROPERTY (#3)**

**SECTION 202 ~~106.1~~ DEFINITIONS**

**SECTION 203 ~~106.2~~ DECLARATION OF PUBLIC NUISANCE**

**SECTION 204 ~~106.3~~ DISRUPTIVE PROPERTY PROHIBITED**

**SECTION 205 ~~106.4~~ DOCUMENTATION AND SUBSTANTIATION OF COMPLAINTS**

**SECTION 206 ~~106.5~~ NOTICE OF DISRUPTIVE EVENTS OR DISRUPTIVE PROPERTY**

**SECTION 207 ~~106.6~~ REMEDIATION PROCESS**

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**SECTION 208 ~~106.7~~ DURATION OF DISRUPTIVE PROPERTY CLASSIFICATION**

**SECTION 209 ~~106.8~~ VIOLATIONS AND PENALTIES**

**SECTION 210 ~~106.9~~ ENFORCEMENT**

**SECTION 211 ~~106.10~~ SEVERABILITY**

**ARTICLE 3. SEX OFFENDER RESIDENCY RESTRICTIONS**

**SECTION 301 FINDINGS AND PURPOSE**

The findings and purpose of this Section include the following:

- a) The City of Brewer promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance;
- b) The City of Brewer recognizes that sex offenders who prey upon children have a high rate of recidivism;
- c) Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to Title 34-A, Chapter 15, in order to protect the public from potentially dangerous registrants and offenders by enhancing access to information concerning those registrants and offenders, the City finds that further protective measures are necessary and warranted to safeguard places where children congregate; and
- d) The purpose of this Section is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

**SECTION 302 AUTHORITY**

This Section is adopted in accordance with the provisions of 30-A M.R.S.A. §3001 and 30-A M.R.S.A. §3014.

**SECTION 303 APPLICATION**

This Section applies to persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction. A person to whom this Section applies is referred to as a "sex offender".



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**SECTION 304 RESTRICTED AREAS**

SECTION 304.1. No sex offender shall reside within seven hundred fifty (750) feet of the property line of any public or private elementary, middle or secondary school.

SECTION 304.2. No sex offender shall reside within seven hundred fifty (750) feet of any publicly owned property where children are the primary users. Without limiting the application of this subsection, any public park containing playground equipment or a municipal pool shall be deemed to be municipally owned property where children are the primary users. For the purpose of this Section, if the area used by children is concentrated onto a portion of a larger parcel, the boundary of the property shall be deemed to be one hundred (100) feet from the nearest piece of equipment or area used by children or the property line, whichever distance is less.

SECTION 304.3. No sex offender shall reside within seven hundred fifty (750) feet surrounding the real property of a municipally owned or state-owned property that is leased to a non-profit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users. For the purpose of this Section, if the area used by children is concentrated onto a portion of a larger parcel, the boundary of the property shall be deemed to be one hundred (100) feet from the nearest piece of equipment or area used by children or the property line, whichever distance is less.

SECTION 304.4. For the first offense only of this restriction, a sex offender shall have twenty-five (25) days following the date of mailing or service as required by Subsection 306 below to move from the residence to a residence not within the areas restricted by the provisions of this Section and by so moving avoid the fines and penalties imposed by Subsection 306 below.

**SECTION 305 EXEMPTION**

Any sex offender actually residing within a restricted area on the effective date of this Section is not subject to the restrictions contained in Subsection 304 while that person continues to reside in that dwelling. Upon moving from such dwelling, the sex offender shall comply with the restrictions contained in Subsection 304.

**SECTION 306 VIOLATIONS AND PENALTIES**

Any sex offender who, after written notice sent by regular mail or delivered by the City about the requirements of this Section, remains

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in violation of this Section for more than twenty-five (25) days shall be subject to an action brought by the City in District Court to enforce the requirements of this Section.

- a) The minimum penalty for a violation of this Section is \$500.00 per violation. Each day shall be considered a separate violation.
- b) If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.
- c) The City shall seek injunctive relief to require compliance with this Section.

**Statement of Fact:** This ordinance amendment will move sections in Article 1 pertaining to Disruptive Property into a new Article 2 and add Article 3 to address Sex Offender Residency Restrictions. These restrictions will enhance public safety by limiting where certain sex offenders may reside.

**ACTION:** Councilor Phanthay moved that the amendment be certified and filed with the city clerk for posting. Councilor Daniels seconded the motion. The motion passed with a vote of 4 to 0.

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**H. New Items with Leave of Council**

There were no new items with leave of Council.

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**I. ADJOURN**

**ACTION:** Councilor Daniels moved to adjourn. Councilor Phanthay seconded the motion. The motion passed with a vote of 4 to 0. The meeting was adjourned at 6:21 P.M.

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ADJOURNED, ATTEST: \_\_\_\_\_ Vincent P. Migliore  
City Clerk

A TRUE COPY, ATTEST: \_\_\_\_\_ Brewer, Maine