

City Council Minutes
Tuesday, March 19, 2024

Regular Meeting
City Hall Council Chambers

Tuesday, March 19, 2024
6:00 p.m.

The regular meeting was called to order by Mayor Jenn Morin. The city clerk called the roll:

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

Mayor Morin declared that a quorum was present. City Manager Stephen Bost and City Solicitor Johnathan Pottle were 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: Michele Daniels, Dani O’Halloran, Soubanh Phanthay, 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, March 19, 2024 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

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
Michele Daniels	V. Migliore	CC.	03/15/2024	18:37
Dani O’Halloran	V. Migliore	CC.	03/15/2024	18:46
Soubanh Phanthay	V. Migliore	CC.	03/15/2024	18:26
Jenn Morin	V. Migliore	CC.	03/15/2024	18:31

CITY COUNCIL REGULAR MEETING
Tuesday, March 19, 2024 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 February 13, 2024 Regular Meeting** (Councilor Phanthay)
- B. Awards, Petitions and Public Comments**
 - 1. (2024-B008) RESOLVE Declare results of March 5, 2024 City of Brewer Special Municipal Election and State of Maine Presidential Primary Election. (Councilor O'Halloran)
 - 2. Swearing-In Ceremony Brewer City Council Member, William Kimball
 - 3. (2024-B009) RESOLVE Resolution of Respect for Thomas Kelly III. (Councilor Daniels)
 - 4. (2024-B010) RESOLVE Resolution to support the United Postal Service Eastern Maine Processing and Distribution Facility. (Councilor Daniels)
 - 5. Discussion: Discussion regarding the possible establishment of a City of Brewer cultural arts commission.
 - 6. Public Comments
- IV. Recess for Public Hearing**
 - 1. Fraternal Order of Eagles, d/b/a Brewer Eagles, 22 Atlantic Avenue, Brewer, Maine for a club liquor license.
- V. Adjourn Public Hearing**
- C. Consent Calendar**
 - 1. (2024-A021) ORDER Authorize City Manager to set hearing date and proceed with dangerous building notice to parties of interest in 499 Wilson Street. (Councilor Phanthay)
 - 2. (2024-A022) ORDER Accept donation from John and Jane Poulin to Brewer Parks and Recreation Department in memory of Melanie Brochu. (Councilor Daniels)
 - 3. (2024-A023) ORDER Accept asset forfeiture funds. (Councilor O'Halloran)
 - 4. (2024-A024) ORDER Award contract for shooting range slab and ground preparation. (Councilor Kimball)
 - 5. (2024-A025) ORDER Authorize purchase of pickup truck for Public Works. (Councilor Phanthay)
 - 4. (2024-A026) ORDER Award contract for 2024 street line painting contract. (Councilor Daniels)
 - 7. (2024-A027) ORDER Authorize purchase of materials for Capri Street Park improvements. (Councilor O'Halloran)

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8. (2024-A028) ORDER Authorize purchase of replacement play equipment for Fling Street Park. (Councilor Kimball and Councilor O'Halloran)
9. (2024-B011) RESOLVE Approve State of Maine club liquor license to Fraternal Order of Eagles d/b/a Brewer Eagles, 22 Atlantic Avenue, Brewer, Maine. (Councilor Phanthay)
10. (2024-A029) ORDER Commit water assessment to Treasurer for collection. (Councilor Daniels)
11. (2024-A030) ORDER Commit sewer assessment to Treasurer for collection. (Councilor O'Halloran)
12. (2024-A031) ORDER Accept permanent drainage easement on Riverview Terrace. (Councilor Kimball)
13. (2024-A032) ORDER Accept donation of chess table for Community Playground from Steve Wong. (Councilor Phanthay)
14. (2024-A033) ORDER Authorize City Manager to sign cooperative agreement with Northern Light Medical Transport (d/b/a Northern Light Medical Transport and Emergency Care) for ambulance services. (Councilor Daniels)
15. (2024-A034) ORDER Amend approval of highway sweeper purchase for Public Works. (Councilor O'Halloran)
16. (2024-A035) ORDER Award contract for sewer main rehabilitation on South Brewer Drive. (Councilor Kimball)
17. (2024-A036) ORDER Authorize payment to Town of East Millinocket to reimburse costs for BLETP training for Officer Jasmine Sallies. (Councilor Phanthay)
18. (2024-A037) ORDER Declare City property surplus and authorize sale or disposal of surplus property. (Councilor Daniels)

D. Monthly Reports (Councilor Kimball)

E. Nominations, Appointments, Elections

Consent Calendar

1. (2024-A038) ORDER Reappoint Inspector of Buildings. (Councilor O'Halloran)
2. (2024-A039) ORDER Reappoint Inspector of Plumbing. (Councilor Phanthay)
3. (2024-A040) ORDER Reappoint member to the Board of Appeals of the City of Brewer. (Councilor Daniels)
4. (2024-A041) ORDER Reappoint member to the Brewer Board of Assessment Review. (Councilor O'Halloran)
5. (2024-A042) ORDER Reappoint members to the Conservation Commission of the City of Brewer. (Councilor Kimball)
6. (2024-A043) ORDER Reappoint member to the Library Board of Trustees of the City of Brewer. (Councilor Phanthay)
7. (2024-A044) ORDER Appoint and reappoint members to the Parks & Recreational Advisory Commission of the City of Brewer. (Councilor Daniels)

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- 8. (2024-A045) ORDER Appoint members and associate member to the Brewer Planning Board. (Councilor O'Halloran)
- 9. (2024-B012) RESOLVE Confirm City Manager's appointments of Constables. (Councilor Kimball)

F. Unfinished Business

- 1. (2024-C001) ORDER Amend Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Environmental Ordinance", to amend Article 4 "Building Sewers, Connections and Extensions", Section 404 "Separate Building Sewers Required", Section 413 "Inspection Required", and to add Section 414.1 "Force Mains and Easement Areas". (Councilor Phanthay)

G. New Business

1. Consent Calendar

- 1. (2024-C002) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", to amend Article 3, "Zoning Districts", Section 306, and Article 4, "Performance Standards", Section 438. (Councilor Daniels)
- 2. (2024-C003) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", to amend Article 4, "Performance Standards", Section 413. (Councilor O'Halloran)
- 3. (2024-C004) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", to amend Article 4, "Performance Standards", Section 440. (Councilor Kimball)
- 4. (2024-C005) ORDER Amend Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Land Use Code", to amend Article 6, "Site Plan Review". (Councilor Phanthay)
- 5. (2024-C006) ORDER Amend Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Environmental Ordinance", to amend Article 12, Section 1208. (Councilor Daniels)
- 6. (2024-C007) ORDER Amend Chapter 15 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Parks and Recreation", to amend Articles 1, 2, 3, 4, 5, and 7. (Councilor O'Halloran and Councilor Kimball)
- 2. (2024-A046) ORDER Convene in Executive Session Pursuant to Title 1, M.R.S.A. §405(6)(A) on a personnel matter. (Councilor Phanthay and Councilor Daniels)

H. New Items with Leave of Council

I. ADJOURN

City Council Minutes
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A. Minutes of the February 13, 2024 Regular Meeting

ACTION: Councilor Phanthay moved that the minutes to the February 13, 2024 Regular Meeting be accepted and placed on file. Councilor Daniels seconded the motion. The motion passed with a vote of 4 to 0.

B. Awards, Petitions and Public Comments

2024-B008

March 19, 2024

TITLE: RESOLVE, DECLARE RESULTS OF MARCH 5, 2024 CITY OF BREWER SPECIAL ELECTION AND STATE OF MAINE PRESIDENTIAL PRIMARY ELECTION.

Filed March 7, 2024
By Dani O'Halloran

WHEREAS, the City of Brewer Municipal Special Election and the State of Maine Presidential Primary Election were held on March 5, 2024; and

WHEREAS, Brewer election officials tabulated the results for the vote in the City of Brewer and the City Clerk has verified these results.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council declares the results for the City of Brewer Municipal Special Election and the State of Maine Presidential Primary Election as follows:

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STATE OF MAINE RETURN OF VOTES CAST - DEMOCRATIC

MUNICIPALITY: BREWER - 1 (1-1)

PRESIDENT OF THE UNITED STATES

<u>223</u>	BIDEN, JOSEPH R., JR.
<u>24</u>	PHILLIPS, DEAN B.
<u>0</u>	LYONS, STEPHEN P. (Declared Write-In)
<u>24</u>	BLANK

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STATE OF MAINE RETURN OF VOTES CAST - REPUBLICAN

MUNICIPALITY: **BREWER - 1 (1-1)**

PRESIDENT OF THE UNITED STATES

<u>1</u>	BINKLEY, RYAN L
<u>4</u>	DESANTIS, RON
<u>152</u>	HALEY, NIKKI R.
<u>3</u>	RAMASWAMY, VIVEK G.
<u>485</u>	TRUMP, DONALD J
<u>5</u>	BLANK

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WHEREAS, Tom graduated from Maine Maritime Academy in Castine in 1959, receiving his Bachelor of Marine Sciences Degree, U.S. Coast Guard License and his Commission in the U.S. Navy; and

WHEREAS, Tom served in the U.S. Navy for thirty years and was awarded several decorations, including the Legion of Merit, two Bronze Stars with Combat Valor, two Meritorious Service Awards and several unit and merit citations, including his service in Vietnam; and

WHEREAS, Tom obtained his master's degree in international relations and public affairs from Golden Gate University; and

WHEREAS, following his distinguished Naval career, in 1990 Tom established Kelstar International Company, an international trading company specializing in European business; and

WHEREAS, Tom met the love of his life, Laurie (Nichols) in 1997; and

WHEREAS, Tom volunteered to help educate students about the military through his experiences at the Cole Land Transportation Museum in Bangor, in their Ambassadors of Patriotism Program, and became a member of the Maine Troop Greeters; and

WHEREAS, at age 67, Tom volunteered to support the American troops during the Iraq War by leaving his home and working and living in Baghdad for 8 months providing technical and organizational support to U.S. Forces; and

WHEREAS, Tom was a member of the Brewer Kiwanis Club and past post commander and active member of the Brewer American Legion Post 98; and

WHEREAS, in 2015 Tom was inducted into the Brewer High School Athletic Hall of Fame for outstanding achievements in baseball and football; and

WHEREAS, Tom loved his family, cars, fishing, football and baseball games, collecting antiques, participating in local politics, and was an avid Red Sox fan.

NOW, THEREFORE BE IT RESOLVED, that the Brewer City Council does by this resolution and public pronouncement, recognize the positive influence of Thomas Kelly III 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 Thomas Kelly III 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 moved that the resolve be amended as written. Councilor O'Halloran seconded the motion. The resolve was amended by unanimous vote. Councilor Daniels read the resolve and presented copies to Laurie Kelly the widow of Tom Kelley. The resolve was adopted as amended by a unanimous vote.

2024-B010

March 19, 2024

**TITLE: RESOLVE, RESOLUTION TO SUPPORT THE UNITED POSTAL SERVICE
EASTERN MAINE PROCESSING AND DISTRIBUTION FACILITY.**

Filed March 1, 2024

By Michele Daniels

WHEREAS, the United States Postal Service is an essential service to the American public; and

WHEREAS, the United States Postal Service's report dated January 30th, 2024 recommends consolidating outgoing mail processing at the Eastern Maine Processing and Distribution Facility with the Southern Maine Processing and Distribution Center; and

WHEREAS, the Delivering For America plan, devised by the United States Postmaster General, has already caused delays in mail delivery, lower service standards, reductions in workforce and lowered confidence in the United States Postal Service in general; and

WHEREAS, Maine, being a predominantly rural state, is reliant on the United States Postal Service for prompt and efficient delivery of the mail; and

WHEREAS, Maine has unique geographical and environmental challenges affecting transportation; and

WHEREAS, the shifting of mail processing operations currently proposed by the United States Postal Service away from the Eastern Maine Processing and Distribution Facility may further delay delivery service to the people of Maine; and

WHEREAS, the United States Postal Service has failed to address how these proposed changes may affect staffing and service standards for post offices served by the Eastern Maine Processing and Distribution Facility.

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NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council on behalf of the citizens of the City of Brewer, supports keeping mail processing at the Eastern Maine Processing and Distribution Facility at its current status and believes that the proposed consolidation is not in the best interests of Maine people, that processing and transportation methods developed in other parts of the country are insufficient to address Maine's unique geography and climate and that the United States Postal Service should not consolidate services at the Eastern Maine Processing and Distribution Facility.

ACTION: Councilor Daniels moved that the resolve be adopted. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote.

5. Discussion: Discussion regarding the possible establishment of a City of Brewer cultural arts commission.

Councilor Phanthay expressed his interest in establishing a Brewer cultural arts commission for the purpose of planning events to bring the community together. Councilor Phanthay highlighted the success of last year's tree-lighting event put on by the Brewer Parks and Recreation Department, and said that the commission could create similar events throughout the year. Councilor Phanthay said that the commission could provide volunteers for events like the annual Riverwalk Festival. Councilor Daniels said that the commission could start with the tree-lighting and participating with "Wreaths Across America" and grow its activities slowly. Councilor O'Halloran said that she would like to see something in writing to better define what the commission would entail. Councilor Daniels said that plans for the commission were only in the discussion phase. Councilor Kimball asked what would the finances of the commission be. Councilor Daniels said that expenses would be nominal and the commission would do its own fundraising. Mayor Morin said that they might consider a different name such as the Community Relations Committee. Mayor Morin said that more detailed discussions could happen at another time, but encouraged the interested Councilors to continue to develop plans and to discuss it with City staff.

Public Comments

There were no public comments.

IV. Recess for Public Hearing

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

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The public hearing was called to order by Mayor Morin.

The city clerk called the roll:

Councilor Daniels-present
Councilor Kimball-present
Mayor Morin-present

Councilor O'Halloran-present
Councilor Phanthay-present

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

Mayor Morin read the public notice for the hearing:

**CITY OF BREWER
PUBLIC NOTICE**

Notice is hereby given that the Brewer City Council will hold a public hearing on Tuesday, March 19, 2024 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider the application of:

1. Fraternal Order of Eagles, d/b/a Brewer Eagles, 22 Atlantic Avenue, Brewer, Maine for a club liquor license.

This application is available for public inspection by contacting the Brewer City Clerk (989-7050). This notice is posted on the bulletin board at Brewer City Hall.

Any person may attend this public hearing and speak on this application. The deadline for submission of written comments is 4:00 p.m. on the date of the hearing. Written comments should be addressed to Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412 or emailed to city-clerk-office@brewermaine.gov.

Vincent P. Migliore
City Clerk

published March 12, 13 and 14
in the BDN

Mayor Morin asked the city clerk if there had been any written comments received from the public, there were none. Mayor Morin asked the city clerk if there had been any comments received from the City Departments, the city clerk said that there were no objections from the City Department Heads. There were no public comments.

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V. Adjourn Public Hearing

Mayor Morin adjourned the public hearing.

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

Councilor Daniels-present
Councilor Kimball-present
Mayor Morin-present

Councilor O'Halloran-present
Councilor Phanthay-present

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

C. Consent Calendar

2024-A022

March 19, 2024

TITLE: ORDER, ACCEPT DONATION FROM JOHN AND JANE POULIN TO
BREWER PARKS & RECREATION DEPARTMENT IN MEMORY OF
MELANIE BROCHU.

Filed February 15, 2024
By Michele Daniels

WHEREAS, the Brewer Parks & Recreation Department has received a donation of \$300 from John and Jane Poulin to benefit the After-School Program and Summer Camp programs in memory of Melanie Brochu; and

WHEREAS, it is the recommendation and request of the Parks & Recreation Director and the donor that this donation be appropriated and expended to supplement the After-School Program and the Summer Camp programs.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by a vote of its City Council, herewith accepts this donation and directs that donation 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).

Statement of Fact: This order accepts a contribution of \$300 from John and Jane Poulin to the City of Brewer Parks & Recreation Department in memory of Melanie Brochu and authorizes its expenditure to support the After-School Program and the Summer Camp programs.

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2024-A023

March 19, 2024

TITLE: ORDER, ACCEPT ASSET FORFEITURE FUNDS.

Filed February 21, 2024
By Dani O'Halloran

WHEREAS, the Brewer Police Department 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., SS 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
23-512

Assets
\$529 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 \$539 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.

2024-A024

March 19, 2024

TITLE: ORDER, AWARD CONTRACT FOR SHOOTING RANGE SLAB AND GROUND PREPARATION.

Filed March 12, 2024
By William Kimball

WHEREAS, it has been determined for the City of Brewer Shooting Range Project, that the slab for the training building must be constructed prior to the arrival of the Army National Guard (the Guard) to allow the slab sufficient time to cure; and

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WHEREAS, the Guard recently notified the City of Brewer that they no longer have a crew available to construct the slab and complete all of the associated groundwork as they had planned to do in April; and

WHEREAS, the Brewer Engineering Department reached out to a reputable contractor that they had worked on several projects with; and

WHEREAS, this vendor has the ability to meet the tight time schedule that is needed for this project; and

WHEREAS, the contractor, Gardner Concrete, has provided a price quote to complete the needed work in preparation for the Guard's arrival in June (see attached quote).

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to execute a contract with Gardner Concrete, in an amount not to exceed \$25,000 for slab construction and associated groundwork for the Shooting Range Project, which is being funded by an \$83,050 grant from Penobscot County; 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 materials and contractor services for this project; and

BE IT FURTHER ORDERED, that charges for this contract shall be to the account 0600058-560000-58063 (FIRING RANGE REHAB-GRANT EXP).

Statement of Fact: This order awards the contract for the slab construction and associated ground work for the Shooting Range Project. The Guard identified construction of the concrete slab for the training house as an item that needed to be completed prior to their arrival in June. Recently, the Guard notified the City that they no longer have a crew available to complete the slab due to a change in schedules. A contractor was located that is able to meet the tight timeframe to ensure everything is prepared for the Guard's arrival in June.

2024-A025

March 19, 2024

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

Filed March 14, 2024
By Soubanh Phanthay

WHEREAS, bids were solicited, received and evaluated for the purchase of a new ¾ ton, 4x4 pickup truck with plow to replace Public Works Unit #406, a 2015 Ford F250 extra cab assigned to the fleet maintenance shop; and

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WHEREAS, Quirk Ford of Augusta, Maine provided the City with the lowest of the two (2) bids received in the amount of \$55,810.76, plus \$2,380 for an extended warranty; and

WHEREAS, the total cost exceeds the amount approved in the Fiscal Year 2024 (FY24) Capital Improvement Program (CIP) for this purchase by \$3,190.76, but the City has unallocated funds in the CIP available to cover this gap.

NOW, THEREFORE, BE IT ORDERED, that the City Manager, or his designee, is authorized to sign a purchase order and finalize the purchase to Quirk Ford in the amount of \$58,190.76 for the purchase of a 2024, F250 4x4 Ford pickup truck with plow and service body, \$55,810.76 for the truck and \$2,380.00 for the extended warranty; and

BE IT FURTHER ORDERED, that the funds for this purchase be charged to the FY24 CIP account #0510133-551604 (#406 F250 Truck w/plow); and

BE IT FURTHER ORDERED, that the current Public Works Unit #406, VIN 1FT7X2B63FEC71931, the 2015 Ford F250 with plow, transfer ownership to Quirk Ford as part of this purchase once the new truck is delivered to the Public Works Department; and

BE IT FURTHER ORDERED, that \$3,190.76 be transferred from 0510140-551090 (CIP Unallocated) to 0510133-551604 (#406 Truck with Plow) to support this purchase.

Statement of Fact: This order authorizes the purchase of a replacement truck with plow as approved in the FY24 CIP. The lowest bid came in \$3,191 over the \$55,000 approved in the budget, so the order also appropriates this additional amount needed from the CIP Unallocated account. The new truck will be equipped with a service body to store tools and equipment needed by the fleet maintenance crew to better assist with field service calls. Only one other bid was received from Varney Buick GMC for \$59,413.00 plus \$2,600 for the extended warranty.

2024-A026

March 19, 2024

TITLE: ORDER, AWARD CONTRACT FOR 2024 STREET LINE PAINTING
CONTRACT.

Filed March 5, 2024
By Michele Daniels

WHEREAS, bids were solicited, received and evaluated for the City of Brewer's 2024 street line striping contract; and

WHEREAS, Lucas Striping, LLC., of Readfield, Maine, submitted the lowest price of the four bids received.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith accepts the bid

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from Lucas Striping, LLC., and authorizes the City Manager, or his Designee, to approve a purchase order and payment to Lucas Striping, LLC., up to the amount of \$41,252.64; and

BE IT FURTHER ORDERED, that funds for this contract shall be charged to account 0116611-501044 titled “Contracted Services”.

Statement of Fact: This order is for the City of Brewer’s annual road striping contract which includes center lines, lane lines, and shoulder lines. The contract total exceeds the \$38,690.76 available in the Public Works budget, but with the mild winter the Department’s overall budget should be able to absorb the overage.

2024 STREET LINE PAINTING BID RESULTS		
Fine Line Pavement Striping		
<u>Item</u>	<u>Unit Price</u>	<u>Total Price</u>
Double Yellow Lines	\$795.00	\$23,452.50
Solid White	\$685.00	\$39,182.00
Broken White	\$685.00	\$2,740.00
	Total Bid	\$65,374.50
K5 Corporation		
<u>Item</u>	<u>Unit Price</u>	<u>Total Price</u>
Double Yellow Lines	\$750.00	\$22,125.00
Solid White	\$390.00	\$22,308.00
Broken White	\$300.00	\$1,200.00
	Total Bid	\$45,633.00
On-The-Line, Inc.		
<u>Item</u>	<u>Unit Price</u>	<u>Total Price</u>
Double Yellow Lines	\$580.00	\$17,110.00
Solid White	\$580.00	\$33,176.00
Broken White	\$580.00	\$2,320.00
	Total Bid	\$52,606.00
Lucas Striping LLC.		
<u>Item</u>	<u>Unit Price</u>	<u>Total Price</u>
Double Yellow Lines	\$686.40	\$20,248.80
Solid White	\$343.20	\$19,631.04
Broken White	\$343.20	\$1,372.80
	Total Bid	\$41,252.64

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2024-A027

March 19, 2024

TITLE: ORDER, AUTHORIZE PURCHASE OF MATERIALS FOR CAPRI STREET
PARK IMPROVEMENTS.

Filed March 6, 2024
By Dani O'Halloran

WHEREAS, quotes were solicited and received for the supply and delivery of granular materials needed to construct a parking lot at the former Capri Street School site; and

WHEREAS, an estimated 2,400 yards of gravel will be needed to construct the base for the parking lot; and

WHEREAS, Clisham Construction of Winterport, Maine has offered the City of Brewer the lowest price for the needed materials out of the four quotes received.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign a purchase order to Clisham Construction, up to the amount of \$40,000 for supply and delivery of approximately 2,400 cubic yards of gravel; and

BE IT FURTHER ORDERED, that funds for this purchase shall be charged to CIP account 510124-551454, titled, "Capri St. Park Improvements"; 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 supplies for this project.

MATERIAL QUOTE BREAK DOWN		
Vendor	6" Gravel	2" Gravel
Clisham Construction	\$14.25	\$15.25
Gardner Construction	\$14.50	\$16.00
RF Jordan & Sons	\$21.00	\$26.00
Hughes Bros.	\$23.48	\$25.07
Sargent Materials	No Quote	No Quote

Statement of Fact: The Public Works Department may be able to start the Capri Street Park Improvement Project in March of 2024 due to the possible early onset of spring. In the interest of time, a formal bid request was not sent out, but prices were solicited from a handful of material suppliers in the region. These materials will be used to construct a parking lot at the Capri Street fields.

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2024-A028

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TITLE: ORDER, AUTHORIZE PURCHASE OF REPLACEMENT PLAY EQUIPMENT
FOR FLING STREET PARK.

Filed March 14, 2024
By William Kimball and
Dani O'Halloran

WHEREAS, the play structure at the Fling Street Park is twenty-five years old and nearing the end of its expected useful life; and

WHEREAS, the park and playground is a popular location where area families socialize and recreate; and

WHEREAS, the replacement of the playground structure is in need of immediate replacement.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to begin purchasing procedures for this expenditure not to exceed \$45,000; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the appropriation and expenditure of up to \$45,000 in Unassigned Fund Balance (0109800-300901) from CIP account 0510124-551461 (Fling Street Playground) to support this unanticipated expense.

Statement of Fact: This order provides authorizes the use of \$45,000 in Unassigned Fund Balance for the replacement of playground equipment located at Fling Street Park.

2024-B011

March 19, 2024

TITLE: RESOLVE, APPROVE STATE OF MAINE CLUB LIQUOR LICENSE TO
FRATERNAL ORDER OF EAGLES D/B/A BREWER EAGLES, 22
ATLANTIC AVENUE, BREWER, MAINE.

Filed March 12, 2024
By Soubanh Phanthay

WHEREAS, Fraternal Order of Eagles d/b/a Brewer Eagles, 22 Atlantic Avenue, Brewer, Maine has applied to the State of Maine, Bureau of Liquor Enforcement, for a club liquor license; and

WHEREAS, the Brewer City officials have reviewed this application and have submitted recommendations to the City Council on this application; and

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WHEREAS, after considering their recommendations the City Council finds as follows:

1. The applicants have not been convicted of any Class A, Class B, or Class C crime;
2. The licensed premises and its use are in compliance with all local zoning ordinances and other land use ordinances not directly related to liquor control;
3. There is no record of waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by person patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;
4. There is no record of repeated incidents of record of breaches of peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; and
5. There is no record of the applicants having a violation of any provisions of Title 28-A, M.R.S.A. (Liquor Laws).
6. A determination by the municipal officers or county commissioners that the purpose of the application is not to circumvent the provisions of Section 601.

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council approves the application of Fraternal Order of Eagles d/b/a Brewer Eagles, 22 Atlantic Avenue, Brewer, Maine, for a State of Maine, Bureau of Liquor Enforcement, club liquor license.

Statement of Fact: The Brewer Eagles Club’s previous license was discontinued when the club moved. The Eagles Club is now reestablishing itself at 22 Atlantic Avenue.

2024-A029

March 19, 2024

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

Filed March 11, 2024
By Michele Daniels

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.

NOW, THEREFORE, WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$546,187.74** at the established rate, as provided by Title 30-A M.R.S.A., §3406 (supp [1991] and Title 38 M.R.S.A., §1208 [1989]) and as such sections may be amended from time to time; and

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

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EVENT	COMMITMENT	COMMENTS
March	\$540,546.71	
December	\$1,637.68	
January	\$2,408.59	
February	\$1,594.76	
TOTAL	\$546,187.74	

Statement of Fact: This is a quarterly order.

2024-A030

March 19, 2024

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

Filed March 11, 2024
 By Dani O'Halloran

WHEREAS, under Chapter 31 of the Charter, Codes and Ordinances of the City of Brewer, entitled "Environmental Ordinance", a sewer charge is assessed to users.

NOW, THEREFORE, WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$715,907.80** at the established rate, as provided by Title 30-A M.R.S.A., §3406 and Title 38 M.R.S.A., §1208 [1989] and as such sections may be amended from time to time; and

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

EVENT	COMMITMENT	COMMENTS
March	\$710,654.68	
December	\$345.60	

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January	\$4,147.20	
February	\$760.32	
TOTAL	\$715,907.80	

Statement of Fact: This is a quarterly order.

2024-A031

March 19, 2024

TITLE: ORDER, ACCEPT PERMANENT DRAINAGE EASEMENT OF RIVERVIEW TERRACE.

Filed March 12, 2024

By William Kimball

WHEREAS, in October 2023 the Brewer Public Works Department was notified by a resident of Riverview Terrace that a stormwater outfall on their property was failing and causing erosion issues; and

WHEREAS, after investigating and researching the matter, it was determined that there was no easement in place to maintain this outfall on this property; and

WHEREAS, this is the major outfall for the entire road and Public Works must have the ability to repair it and maintain it going forward and it is not feasible to relocate the pipe; and

WHEREAS, the property owner was in favor of granting the City an easement to maintain the existing storm drain.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith accepts a permanent drainage easement from the property owner of 30 Riverview Terrace, Bruce and Elizabeth Anderson, for the repairs and future maintenance of the storm drain outfall; and

BE IT FURTHER ORDERED, that the City Clerk shall record the Permanent Easement in the Penobscot County Registry of Deeds upon full execution by all parties involved.

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Statement of Fact: This order accepts an easement for a storm drain outfall on Riverview Terrace. Upon notification of imminent failure of the infrastructure, the Engineering Department researched and did not find any indication an easement was ever created for the City to maintain the line. Due to the timing and condition of the pipe at the first notification, the Public Works Department moved forward with sliplining the outfall in November to ensure that a major failure did not occur in the spring. The acceptance of this easement takes care of this issue and allows City Departments to maintain the line as needed moving forward.

2024-A032

March 19, 2024

TITLE: ORDER, ACCEPT DONATION OF CHESS TABLE FOR COMMUNITY
PLAYGROUND FROM STEVE WONG.

Filed March 11, 2024
By Soubanh Phanthay

WHEREAS, local chess enthusiast Steve Wong has offered to donate a chess table to be located at the Brewer Community Playground on State Street; and

WHEREAS, Mr. Wong has been a longtime chess coach and private instructor who has tirelessly promoted the benefits of playing chess, including the life skills that can be gained; and

WHEREAS, people of all ages may enjoy playing chess while they are visiting the Brewer Community Playground.

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by a vote of its City Council herewith accepts this donation of a chess table (estimated value \$2,630, including shipping) to be placed at the Brewer Community Playground with appreciation of Mr. Wong's continued generosity.

Statement of Fact: This order accepts a donation by Steve Wong of a new chess table to be located at the Brewer Community Playground.

2024-A033

March 19, 2024

TITLE: ORDER, AUTHORIZE CITY MANAGER TO SIGN COOPERATIVE
AGREEMENT WITH NORTHERN LIGHT MEDICAL TRANSPORT
(D/B/A NORTHERN LIGHT MEDICAL TRANSPORT AND
EMERGENCY CARE) FOR AMBULANCE SERVICES.

Filed March 12, 2024
By Michele Daniels

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WHEREAS, in 1999 the City of Brewer entered into a Cooperative Ambulance Agreement with Meridian Mobile Health, LLC. (d/b/a Capital Ambulance and now named Northern Light Medical Transport (NLMT)) to provide ambulance services to the City of Brewer based out of the Brewer Public Safety Building; and

WHEREAS, the City and NLMT have renewed and extended the Agreement multiple times, with the current Agreement set to expire on March 31, 2024; and

WHEREAS, the City and NLMT have negotiated mutually agreeable terms to continue the fruitful partnership for another three years, through March 31, 2027.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes the City Manager to finalize and sign an Agreement with Northern Light Medical Transport to provide ambulance services through March 31, 2027 under terms substantially the same as included in the attached Agreement.

Statement of Fact: The City’s contract for ambulance services with Northern Light Medical Transport (NLMT) expires on March 31. This order authorizes the City to sign a new contract that would continue these services through March 31, 2027. NLMT pays the City approximately \$218,250 per year for the right to serve Brewer and base an ambulance at the Public Safety Building.

2024-A034

March 19, 2024

TITLE: ORDER, AMEND APPROVAL OF HIGHWAY SWEEPER PURCHASE FOR PUBLIC WORKS.

Filed March 13, 2024
By Dani O’Halloran

WHEREAS, in November 2023, the Brewer City Council approved order 2023-A141 “Authorize Purchase of Replacement Highway Sweeper for Public Works”; and

WHEREAS, that order authorized a sweeper purchase price of \$239,900, which included a trade-in value of \$40,000 for the unit that is being replaced; and

WHEREAS, the City may have an opportunity to sell the sweeper being replaced to a third party for more than the trade in value being offered by CN Wood North; and

WHEREAS, without the trade-in, the cost of the replacement sweeper from CN Wood North would be \$279,900, which is still below the \$300,000 Council approved for this purchase as part of the Fiscal Year 2024 (FY24) Capital Improvement Program (CIP).

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NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is authorized to sign a purchase order to C. N. Wood North, Inc., in the amount of up to \$279,900.00 for the purchase of a 2024 Elgin Pelican NP mechanical sweeper; and

BE IT FURTHER ORDERED, that upon receipt of the replacement sweeper, the current Public Works Unit #430, the 2016 Elgin Pelican NP sweeper, be declared surplus and the City Manager, or his designee, be authorized to dispose of it as in the best interest of the City; and

BE IT FURTHER ORDERED, that proceeds from the disposal of the 2016 sweeper, if any, be deposited into the CIP Sale of Assets revenue account (0500100-300410) and used to support future equipment purchases.

Statement of Fact: This order updates the order Council passed in November 2023 authorizing the purchase of a replacement street sweeper for Public Works. This order specifies the full price of the sweeper and authorizes the City to dispose of the current sweeper that is being replaced in the manner most advantageous to the City. The previous order limited the City to trading in the previous unit. This order allows the City to sell the previous unit if possible for more than the \$40,000 trade in value being offered by the vendor CN Wood North.

2024-A035

March 19, 2024

TITLE: ORDER, AWARD CONTRACT FOR SEWER MAIN REHABILITATION ON SOUTH BREWER DRIVE.

Filed March 13, 2024
By William Kimball

WHEREAS, the City of Brewer is responsible for maintaining both the sewer and stormwater systems and both must be maintained in proper working order to be in compliance with State and Federal regulations; and

WHEREAS, the City of Brewer is a Municipal Separate Storm Sewer System (MS4) community and is required to regularly inspect its stormwater outfalls and test for a variety of pollutants, including human bacterioids; and

WHEREAS, higher than normal levels of human bacterioids found during testing could be tied to issues with a portion of sewer main on South Brewer Drive; and

WHEREAS, bids were solicited, received and evaluated for the rehabilitation of this portion of sewer main on South Brewer Drive, as was included in the Fiscal Year 2024 (FY24) Water Pollution Control Facility (WPCF) Capital Improvement Program (CIP), and Lou Silver Construction Company of Veazie, Maine, submitted the lowest bid.

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NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council authorizes the City Manager, or his designee, to sign a purchase order with Lou Silver for up to \$100,000 (\$86,000 bid price plus approximately 16% for contingencies) to rehabilitate a portion of sewer main on South Brewer Drive, to repair damage to a sewer pipe and reduce the human bacteroid levels directly downstream at one of the City of Brewer MS4 outfall testing sites; and

BE IT FURTHER ORDERED, that costs for this project shall be charged to WPCF CIP account 0581001-581010 (South Brewer Dr Sewer Main Rehab).

Five bids were sent out but only two were returned:

- Lou Silver, Inc \$86,000
- Eastwood Contractors \$93,300

Statement of Fact: The sewer main located on South Brewer Drive has been identified as needing repair. Federal funds have been sought for a complete repair, but a section of main close to Goupee Street is in need of a more immediate repair. The pipe is damaged and we cannot pass a camera through the main to verify for certain, but we strongly suspect there might be a break there leading to exfiltration and high levels of bacteria at the stormwater outfall at Brewer Cove. This represents possible issues with both sewer and stormwater compliance.

2024-A036

March 19, 2024

TITLE: ORDER, AUTHORIZE PAYMENT TO THE TOWN OF EAST MILLINOCKET TO REIMBURSE COSTS FOR BLETP TRAINING FOR OFFICER JASMINE SALLIES.

Filed March 13, 2024
By Soubanh Phanthay

WHEREAS, the City of Brewer has made an offer of employment as a full-time officer to fill a vacancy in the Brewer Police Department to Jasmine Sallies, and Jasmine has accepted; and

WHEREAS, Officer Sallies comes from the East Millinocket Police Department where she has worked in a full-time capacity since August 22, 2022; and

WHEREAS, Officer Sallies graduated from the Maine Criminal Justice Academy's Basic Law Enforcement Training Program (BLETP) on May 19, 2023; and

WHEREAS, the Maine Criminal Justice Academy Board of Trustees has established mandatory reimbursement rates for the BLETP Academy Training to be paid to the employing agency who put the officer through the BLETP, and said reimbursement rate for Officer Sallies is \$47,025; and

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WHEREAS, the City of Brewer has established a Police Officer Academy Cost, Recruitment, and Retention Reserve to fund these mandatory buyouts, among other things, and this reserve has a current balance of \$63,377.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Manager, or his designee, is herewith authorized and directed to pay the Town of East Millinocket the Maine Criminal Justice Academy's set mandatory BLETP Academy Training reimbursement rate for Officer Sallies; and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of \$47,025 from 0115811-500861 (Academy Reimbursement Costs) to the Town of East Millinocket to be funded with a transfer of \$47,025 from the 0200000-590010-58035 (Police Academy Buyout Transfer to General Fund).

Statement of Fact: This order authorizes the City to reimburse the Town of East Millinocket \$47,025 for costs incurred to send Jasmine Sallies, the City of Brewer's newest Police Officer, to Criminal Justice Academy training. This mandatory reimbursement rate is established by a state board. The City will pay this expense with funds from our Police Officer Academy Cost, Recruitment, and Retention Reserve.

2024-A037

March 19, 2024

TITLE: ORDER, DECLARE CITY PROPERTY SURPLUS AND AUTHORIZE SALE OR DISPOSAL OF SURPLUS PROPERTY.

Filed March 13, 2024
By Michele Daniels

WHEREAS, property belonging to the City of Brewer Water Department has been identified as being no longer useful to the City.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council declares the following Water Department items as surplus:

- Six (6) Keystone epi-torque actuators
- Two (2) butterfly valves
- Ten (10) bailey transmitters (air pressure, water flow)
- One (1) bulk storage tank
- Two (2) Motorola 2-way radios
- One (1) thawing system (homemade pump and hose)
- One (1) gas hydrant pump
- One (1) welder/thawing machine (no longer use due to safety of customer)
- Two (2) handheld Sensus FL6500 meter reading units; and

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BE IT FURTHER ORDERED, that the City Manager, or his designee, is authorized to sell, recycle or dispose of all equipment by means that would be in the best interest of the City of Brewer; and

BE IT FURTHER ORDERED, that any funds received from the sale of the above-mentioned items be receipted to the Water Departments Wellness account (0670001-300410) and be authorized for expenditure from Water Wellness Expense account (0670001-500844).

Statement of Fact: In an effort to keep the Water facilities free of clutter, the Water Department will periodically look to remove unused items from storage areas. These items are no longer needed due to upgraded equipment, changes in the process, not performing their intended function, not having been used in over twelve years, or are unsafe. Most of these items will be disposed of to the landfill or metal recycling. The Water Department will investigate if some of the valves and transmitters have a value to a legacy controls sales firm.

ACTION: Councilor Phanthay asked that 2024-A021 be removed from the consent calendar. Councilor Phanthay moved that the remaining orders on the consent calendar have passage and that the resolve be adopted. Councilor Daniels seconded the motion. The motion passed with a unanimous vote.

2024-A021

March 19, 2024

TITLE: ORDER, AUTHORIZE CITY MANAGER TO SET HEARING DATE AND PROCEED WITH DANGEROUS BUILDING NOTICE TO PARTIES OF INTEREST IN 499 WILSON STREET.

Filed March 7, 2024
By Soubanh Phanthay

WHEREAS, the City of Brewer has filed twelve sewer liens on the property located at 499 Wilson Street (Tax Map 13, Lot 19) recorded in the Penobscot County Registry of Deeds: Book 14631, Page 227; Book 14779, Page 111; Book 14954, Page 201; Book 15105, Page 115; Book 15312, Page 41; Book 15633, Page 312; Book 15710, Page 283; Book 15975, Page 49; Book 16224, Page 189; Book 16423, Page 60; Book 16679, Page 190; and Book 16423, Page 60; and

WHEREAS, the City of Brewer has five tax liens filed on the property located at 499 Wilson Street recorded in the Penobscot County Registry of Deeds: Book 15192, Page 220; Book 15568, Page 335; Book 16080, Page 345; Book 16523, Page 248; and Book 16864, Page 172; and

WHEREAS, on April 6, 2019 the City of Brewer acquired the property situated at 499 ~~North~~ Main-Wilson Street, Brewer, Maine by virtue of automatic foreclosure of the first sewer lien; and

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WHEREAS, again on October 7, 2019, March 28, 2020, September 29, 2020, April 11, 2021, February 3, 2022, March 25, 2022, October 12, 2022, April 8, 2023 and September 25, 2023, City of Brewer sewer liens on the property situated at 499 Wilson Street, Brewer, Maine (Tax Map 13, Lot 19) also automatically foreclosed; and

WHEREAS, again on December 28, 2020, December 17, 2021, December 28, 2022 and December 21, 2023, additional the City of Brewer tax liens also automatically foreclosed on the property situated at 499 Wilson Street, Brewer, Maine; and

WHEREAS, the previous owner of 499 Wilson Street was unable to demonstrate the ability to satisfactorily abate the unsanitary living conditions in the building; and

WHEREAS, the City's Code Enforcement Officer inspected the building and reports that it constitutes a hazard to health and safety because of unsanitary conditions, inadequate maintenance and presents a fire hazard; and

WHEREAS, it is the recommendation of the Brewer City Solicitor to proceed under the dangerous building procedure in order to provide additional protections to the City; and

WHEREAS, in accordance with Title 17 M.R.S., Sections 2851 and 2857, the Brewer City Council wishes to hold a public hearing to determine whether the building on this property is dangerous and any remedy needed thereto.

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council hereby authorizes a public hearing on this issue be held on Tuesday, April 9 at 6:00pm in Brewer City Hall Council Chambers; and

BE IT FURTHER ORDERED, that the City Council herewith authorizes the City Manager, or his designee, to provide notice of the hearing and planned action by the City Council to all parties of interest in accordance with Title 17 M.R.S., Sections 2851 and 2857.

Statement of Fact: This order authorizes the Brewer City Manager to provide notice to parties of interest that a public hearing will be held on Tuesday, April 9 at 6:00pm for the purpose of determining whether the building at 499 Wilson Street is dangerous and, if so, to prescribe a remedy.

ACTION: Councilor Phanthay moved that the order have passage as amended. Councilor Daniels seconded the motion. The order was amended by a unanimous vote. The amended order was passed with a unanimous vote.

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D. Monthly Reports

ACTION: Councilor Kimball moved that the monthly reports from department heads be accepted and placed on file. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote.

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

2024-A038

March 19, 2024

TITLE: ORDER, REAPPOINT INSPECTOR OF BUILDINGS.

Filed January 24, 2024
By Dani O'Halloran

WHEREAS, Title 25 M.R.S.A. §2351-A provides that the municipal officers shall annually, by the month of April, appoint an Inspector of Buildings; and

WHEREAS, Kristie Rines is the Brewer Code Enforcement Officer for the City of Brewer; and,

WHEREAS, it is the sense of the Brewer City Council that the Code Enforcement Officer performs, as part of their duties, inspection of buildings.

NOW, THEREFORE, BE IT ORDERED that Kristie Rines is herewith reappointed to the position of Inspector of Buildings for the City of Brewer for a one-year term commencing April 1, 2024 and expiring March 31, 2025.

Statement of Fact: This is an annual appointment.

2024-A039

March 19, 2024

TITLE: ORDER, REAPPOINT INSPECTOR OF PLUMBING.

Filed January 24, 2024
By Soubanh Phanthay

WHEREAS, Title 30-A M.R.S.A. §4221 states, "In every municipality, the municipal officers shall appoint one or more inspectors of plumbing...".

NOW, THEREFORE, BE IT ORDERED, that Kristie Rines is herewith reappointed Inspector of Plumbing for the City of Brewer for a term of one-year commencing on April 1, 2024 and expiring on March 31, 2025.

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BE IT FURTHER ORDERED, that the City Clerk notify the Maine Department of Human Services of this appointment.

Statement of Fact: This is an annual appointment.

2024-A040

March 19, 2024

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

Filed January 24, 2024

By Michele Daniels

BE IT ORDERED, that Barry Twitchell of 50 Alan-A-Dale Road is herewith reappointed to the Board of Appeals of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Mr. Twitchell's term will commence April 1, 2024 and expire March 31, 2027.

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

2024-A041

March 19, 2024

TITLE: ORDER, REAPPOINT MEMBER TO THE BREWER BOARD OF ASSESSMENT REVIEW.

Filed January 24, 2024

By Dani O'Halloran

BE IT ORDERED, that Michael Whalen of 271 Chamberlain Street is herewith reappointed to the Brewer Board of Assessment Review for a three-year term; and

BE IT FURTHER ORDERED, that Mr. Whalen's term will commence April 1, 2024 and expire March 31, 2027.

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

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2024-A042

March 19, 2024

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

Filed January 30, 2024
By William Kimball

BE IT ORDERED, that Constance Holden of 108 Chamberlain Street and Jonathan MacKay of 64 Century Street are herewith reappointed to the Brewer Conservation Commission for three-year terms; and

BE IT FURTHER ORDERED, that Ms. Holden's and Mr. MacKay's terms will commence April 1, 2024 and expire March 31, 2027.

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

2024-A043

March 19, 2024

TITLE: ORDER, REAPPOINT MEMBER TO THE LIBRARY BOARD OF TRUSTEES
OF THE CITY OF BREWER.

Filed January 30, 2024
By Soubanh Phanthay

BE IT ORDERED, Gail Fernald of 29 School Street is herewith reappointed to the Library Board of Trustees of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Ms. Fernald's term will commence April 1, 2024 and expire March 31, 2027.

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

2024-A045

March 19, 2024

TITLE: ORDER, REAPPOINT MEMBERS AND ASSOCIATE MEMBER TO THE
BREWER PLANNING BOARD.

Filed February 8, 2024
By Dani O'Halloran

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BE IT ORDERED, that Constance Holden of 108 Chamberlain Street and Timothy Daniels of 28 School Street are herewith reappointed to the Planning Board of the City of Brewer as full-time members for three-year terms; and

BE IT FURTHER ORDERED, that Joy Sinclair, of 211 Center Street, is herewith reappointed to the City of Brewer Planning Board as an associate member for a three-year term; and

BE IT FURTHER ORDERED, that Ms. Holden's, Mr. Daniels', and Ms. Sinclair's terms will commence April 1, 2024 and expire March 31, 2027.

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

2024-B012

March 19, 2024

TITLE: RESOLVE, CONFIRM CITY MANAGER'S APPOINTMENTS OF CONSTABLES.

Filed March 12, 2024
By William Kimball

BE IT RESOLVED, that the Brewer City Council herewith confirms the City Manager's appointments of the following constables for the City of Brewer for terms of one year each commencing April 1, 2024 and expiring March 31, 2025:

- Cpl. Levi Sewall
- Cpl. Joseph Everett
- Cpl. Michael Cummings
- Sgt. Amy Nickerson
- Sgt. Scott Jones
- Sgt. Zach Caron
- Sgt. Paul Gauvin
- Arden Jones, Court Officer
- Kristie Rines, Code Enforcement Officer
- Savannah Lutz, Animal Control Officer

Statement of Fact: This is a yearly order to confirm the City Manager's appointment of constables for the City of Brewer.

ACTION: Councilor Daniels asked that 2024-A044 be removed from the consent calendar. Councilor O'Halloran moved that the remaining orders on the consent calendar have passage and that the resolve be adopted. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote.

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2024-A044

March 19, 2024

TITLE: ORDER, REAPPOINT MEMBER TO THE PARKS AND RECREATIONAL
ADVISORY COMMISSION OF THE CITY OF BREWER.

Filed February 2, 2024
By Michele Daniels

BE IT ORDERED, that John Cuskelly of 92 Canterbury Road is herewith reappointed to the Parks and Recreational Advisory Commission of the City of Brewer for a three-year term; and

BE IT FURTHER ORDERED, that Mr. Cuskelly's term will commence April 1, 2024 and expire March 31, 2027.

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

ACTION: Councilor Daniels noted a discrepancy in the title of 2024-A044, listed as "Appoint and reappoint members to the Parks & Recreational Advisory Commission of the City of Brewer." on the agenda, but the order itself listed as "REAPPOINT MEMBER TO THE PARKS AND RECREATIONAL ADVISORY COMMISSION OF THE CITY OF BREWER." The city clerk said that this was a clerical error and apologized to the Council for his mistake. The City Solicitor suggested that the title of the order could be stated in the motion to make it clear what was intended. Councilor Daniels moved that 2024-A044 "Reappoint member to the Parks and Recreational Advisory Commission of the City of Brewer" be reentered under that title. Councilor Phanthay seconded the motion. The motion passed by a unanimous vote. Councilor Daniels moved that the order have passage. Councilor Phanthay seconded the motion. The motion passed by a unanimous vote.

F. Unfinished Business

2024-C001

February 13, 2024

TITLE: ORDER, AMEND CHAPTER 31 OF THE CHARTER, CODES AND
ORDINANCES OF THE CITY OF BREWER, ENTITLED
"ENVIRONMENTAL ORDINANCE", TO AMEND ARTICLE 4
"BUILDING SEWERS, CONNECTIONS AND EXTENTIONS",
SECTION 404 "SEPARATE BUILDING SEWERS REQUIRED",
SECTION 413 "INSPECTION REQUIRED", AND TO ADD SECTION
414.1 "FORCE MAINS AND EASMENT AREAS".

Filed February 6, 2024
By Soubanh Phanthay

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BE IT ORDAINED, by the Brewer City Council that Chapter 31, of the Charter, Codes and Ordinances of the City of Brewer, entitled “Environmental Ordinance”, Article 4 “Building Sewers, Connection and Extensions”, shall be amended as follows:

SECTION 404 SEPARATE BUILDING SEWERS REQUIRED

A separate and independent building sewer shall be provided for every habitable building, except ~~where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. in such cases where it is not possible to connect to the City sewer as deemed not possible by the Director of Environmental Services or his designee. The goal is one dwelling and one separate service. In the event that a separate sewer connection cannot be established, the habitable building without a sewer connection may, with approval from the Director of Environmental Services, install a private sewer system and incur the appropriate fees and billing, or connect to an existing dwelling with an active sewer connection. If connecting to a building with an active sewer connection, the building with the active connection will be charged the flat fee for the unit attached to it. All new connections need to be filed with the Penobscot Registry of Deeds and reflect ownership of, and responsibility for, the new connections.~~

SECTION 413 INSPECTION REQUIRED

- (1) The applicant for the building sewer permit shall notify the City Engineer, the Plumbing Inspector or their agent when the building sewer is ready for inspection and connection to the public sewer.
- (2) No portion of any building sewer extending from the building drain to the public sewer shall be covered without the approval of the City Engineer or the Plumbing Inspector or their agent.
- (3) No public sewer shall be disturbed or broken into or connection made except under the supervision of the City Engineer, the Plumbing Inspector or their agent.
- (4) The City Engineer or the Plumbing Inspector or their agent shall be available to supervise and inspect the connection within Three (3) business days after notification of readiness.
- (5) Inspection by camera in new or impacted sewer or stormwater infrastructure post construction within 10 days of the end of construction is required. Contractors can hire a third party and provide satisfactory proof of camera inspection to the City within the 10-day period, or ask the Director of Environmental Services if the City Collection System crew can be utilized to camera the project. The Director can allow this at his discretion based on schedule conflicts, equipment limitations, et cetera. The Director will endeavor to utilize Collection System crew whenever possible on City projects.

SECTION 414.1 FORCE MAINS AND EASEMENT AREAS

Any and all construction or proposed construction in areas involving City owned force mains or mains located within City owned easements require the approval of the Director of Environmental Services or his designee in order to be given approval to proceed. The Director, or his designee, may set such conditions to protect the infrastructure from damage before granting approval.

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Statement of Fact: This ordinance amendment addresses several housekeeping items. The amendment clarifies the current ordinance with respect to multiple units sharing sewer connections. The amendment adds a section on inspection by camera to ensure adequate inspection of each sewer project and the surrounding infrastructure. The amendment also adds a section force mains and easements to ensure that special attention is paid vulnerable areas.

ACTION: Councilor Phanthay moved that the amendment be enacted. Councilor Daniels seconded the motion. The motion passed with a unanimous vote.

G. New Business

1. Consent Calendar

2024-C003

March 19, 2024

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, TO AMEND ARTICLE 4, “PERFORMANCE STANDARDS”, SECTION 413.

Filed March 13, 2024
By Dani O’Halloran

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”, Article 4 “Performance Standards”, shall be amended as follows:

Article 4 Performance Standards

413.4 BLASTING

The purpose of this Section is to minimize the effects of noise, dust, and vibrations associated with blasting and for the protection of geologic, hydrogeologic, and ecological resources through the establishment of standards and notice requirements of blasting operations and to ensure full and complete compliance with all Federal, State and Local regulations and laws.

413.4.1 This Section shall apply to blasting activities/operations incidental to construction groundwork related to improvements on or the development of real estate within the City of Brewer.

413.4.2 The following definitions shall have the following meanings under this Section: Applicant – The person, company or corporation responsible for managing and conducting blasting operations.

Blast/Blasting – Any activity involving the use of explosives to break up or otherwise aid in the extraction or removal of stone, non-metallic mineral rock matter, or non-metalloid element.

Blast site – The area where explosive material is handled during the loading of drilled blastholes and blasting operations are being conducted, including the perimeter formed by the loaded and 50 feet in all directions from loaded blastholes.

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Blaster – A person fully knowledgeable and competent in the handling and use of each type of blasting method used and who is qualified and authorized to use, be in charge of, or responsible for the loading and firing of a blast.

Blasting – The use of explosives to break up or otherwise aid in the extraction or removal of rock, non-metallic mineral matter, or non-metalloid element.

Explosive – Any chemical compound or other chemical substance that contains oxidizing or combustible materials used for the purpose of producing an explosion intended to break rock, earth or other non-metallic/non-metalloid materials, unless such compound, mixture or device is otherwise specifically classified by the U.S. Department of Transportation.

Rock – A hard, nonmetallic material or non-metalloid element that requires cutting, blasting or similar methods of forced extraction.

413.4.3 No blasting activities/operations shall occur within the boundaries of the City of Brewer without first having obtained a permit from the Code Enforcement Officer. The applicant shall comply with all Federal, State and Local permit conditions, standards and regulations.

Whenever City, State or Federal permits are required whichever standard between City, State, or Federal permit conditions and standards is stricter shall govern.

413.4.4 All applicable permit fees for this Section are found in the City Council’s adopted Fee Schedule, as amended from time to time, and kept on file in the City Clerk’s office.

413.4.5 Blasting shall only be performed by fully qualified blasters experienced in blasting principles and procedures and knowledgeable in all applicable blasting regulations. All blasting activities shall have oversight by a properly certified blaster as defined by State of Maine and Federal requirements, and copies of certifications shall be provided to the City of Brewer Code Office when applying for a blasting permit.

413.4.6 The applicant, blaster and their agents shall comply with all Federal, State, and Local ordinances, rules, laws and regulations. Whenever a conflict between rules, laws, and regulations exists between said authorities, the stricter provision shall apply.

Statement of Fact: These ordinance amendments are proposed in order to include regulations on blasting. The Planning Board held a public hearing on March 4, 2024 and unanimously made the recommendation to adopt these amendments to Chapter 24 Land Use Code as written. There were no public comments.

2024-C004

March 19, 2024

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, TO AMEND ARTICLE 4, “PERFORMANCE STANDARDS”, SECTION 440.

Filed March 13, 2024

By William Kimball

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”, Article 4 “Performance Standards”, shall be amended as follows:

Article 4 Performance Standards

440 EROSION CONTROL (#44)

1. The proposed site plan shall have a soil erosion and sediment control plan that will effectively prevent soil erosion from leaving the site and entering the City stormwater system, water bodies of Maine, wetlands, and adjacent properties.
2. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling; excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites should be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
3. Soil erosion and sedimentation of water courses and water bodies will be minimized by an active program meeting the requirements of Appendix C, Erosion and Sedimentation Control, Inspections, Maintenance and Housekeeping, of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4), published by the Maine Department of Environmental Protection, Bureau of Water Quality, Dated October 15, 2020 ~~the Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers, October 2016 published by the Maine Department of Environmental Protection.~~
4. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

Statement of Fact: These ordinance amendments are proposed in order to meet State requirements. The Planning Board held a public hearing on March 4, 2024 and unanimously made the recommendation to adopt these amendments to Chapter 24 Land Use Code as written. There were no public comments.

2024-C005

March 19, 2024

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “LAND USE CODE”, TO AMEND ARTICLE 6, “SITE PLAN REVIEW”.

Filed March 13, 2024
By Soubanh Phanthay

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”, Article 6 “Site Plan Review”, shall be amended as follows:

Article 6 Site Plan Review

602 PRE-APPLICATION (#2)

The Code Enforcement Officer shall review an applicant's proposed use to determine if the proposed use is allowed and, if so, whether the project requires site plan approval. If site plan review is required, the applicant shall determine whether the project is a major or minor site plan and submit the application accordingly. Upon receiving the application, the Planning Department shall determine if the applicant's classification of major or minor site plan is acceptable. If not acceptable, the applicant shall begin the process again with the submission of a new application.

~~Upon receipt of a request or application for development, including use change, the Code Enforcement Officer shall decide if site plan review is necessary and shall inform the applicant of the project classification and the application process set forth in this Article.~~

605.1 EXPIRATION OF PLANNING BOARD APPROVAL (#2) (#61)

The ability and procedure of a major site plan to be approved and constructed in phases shall be determined on a case-by-case basis by the Planning Board. If permitted, details of such phasing shall be outlined on the site plan and written Planning Board Order. Previously approved site plans may be eligible for phasing if brought before the Planning Board for an amended site plan review within eighteen months of approval.

Fill and Grade or Site plan approval granted by the Planning Board shall expire if on-site construction and alteration activities associated with the approved plan are work or use involved is not commenced within one year of the date which the Planning Board approval is granted, or if the work is not substantially completed within eighteen months of the site plan approval date. For projects approved for completion in phases, site plan approval shall expire if the work does not meet the phasing conditions approved for the project.

Expiration of the applicable dates prior to commencement or substantial completion shall void the site plan approval unless the Code Enforcement Officer has granted an extension for a period not to exceed ninety days based on the Code Enforcement Officer's written finding of a reasonable cause. If additional extensions are required, the Planning Board may grant such additional extensions based on a written finding of reasonable cause.

Requests for the Planning Board to grant an extension shall include a letter stating the status of the project, reason for the extension request, proposed extension date, and the non-refundable fee as set forth in the then current City Council adopted fee schedule, payable to the City of Brewer. Three (3) copies of the above information and the check shall be submitted to the Planning Department four weeks prior to the Planning Board meeting.

In the event that any Fill and Grade or Site Plan Planning Board approved use(s) conducted in a structure or otherwise, ceases, for whatever reason, for a period of one (1) year or more such use(s) shall not be resumed without first having obtained Planning Board approval, as determined by the Code Enforcement Officer.

606 REQUIRED INFORMATION (#2) (#61)

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Application for the establishment of uses and/or site improvements requiring site plan review shall be accompanied by 24" x 36" plans (one inch equals twenty feet is preferred) drawn to scale, and accompanying written materials bound either in a punch and bind or 3-ring binder. Site plans shall be based on field measurements and current on-site data prepared, signed, and stamped by a State of Maine licensed professional land surveyor, engineer, or landscape architect. For purposes of site plan review, the "site" consists of the entire parcel of land and not just the portion developed. The required submission containing at a minimum the following information:

606.1 INFORMATION FOR ALL SUBMISSIONS (#2) (#4)

1. A brief narrative describing the overall goals and objectives of the project, the nature of the operations of the site use, along with the expected schedule of operation and number of employees. Also included shall be the reason for the applicant's determination of the project as either a major or minor site plan.

10. Location and arrangement of proposed off-street parking loading areas and their appurtenant drives and maneuvering areas, including ADA requirements for parking and visitor parking as needed. Calculations determining the minimum required amount of parking spaces shall be included. The distance from the parking spaces to the nearest property line shall be labeled. (#57)

18. Location and type of existing and proposed landscaping, fences, hedges and trees ~~of~~ fourteen inches in diameter ten-inch caliper and over, measured at a point 4.5 feet above ground level. Existing trees and landscaping to remain and be preserved shall be labeled. Existing specimen trees fourteen inches in diameter and over and unique stands of trees shall be shown and labeled.

21. All existing and proposed setback dimensions. (#57) Distances from proposed buildings to nearest property line shall be shown and labeled on the site plan.

25. The location of all wetlands over 4,000 sq. ft. cumulatively on the site, prepared by a State Certified Soil Scientist or Geologist registered in the State of Maine or other qualified professional showing expertise in wetland delineation, and based on an on-site investigation. Said submission shall include a narrative describing method of delineation and location and description of such wetland features including functions and values. All plans showing wetlands and/or vernal pools shall include a note stating who, how, and when the delineation and locations were determined.

34. For projects involving residential uses, the applicant shall include information on the number of potential students added to the school system estimated by using the most recent available published regional numbers. The applicant shall also include a written statement from the Superintendent of Schools indicating any concerns with the additional students and bus stop locations.

- 35-34. Written request for waivers of any item(s) specified.

607.5 ACCESS AND PARKING (#4) (#57)

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4. Curb cuts are located so as to allow a minimum clearance as prescribed in 906.4 of this Land Use Ordinance from ~~unsignalized unsignaled~~ intersections of streets. The minimum clearance distance at signalized intersections shall be 150 feet. Clearance distances are to be measured from the point of tangency (pt.) for the corner to the pt. for the access drive.

607.11 SUFFICIENT WATER (#4)

2. Hydrants shall also be placed such that one (or more if required by the Authority Having Jurisdiction (AHJ)) shall be located within five hundred (500) feet of all structures. The hydrants are to be standard hydrants as approved by the AHJ. Said hydrants to supply seven hundred fifty (750) gpm or more each with a residual pressure of 20 psi. Further, for selected developments, subject to the AHJ, more hydrants and larger fire flows may be required for greater than normal hazards or large structures.

Statement of Fact: These ordinance amendments are proposed in order to update and clarify items pertaining to site plan reviews. The Planning Board held a public hearing on March 4, 2024 and unanimously made the recommendation to adopt these amendments to Chapter 24 Land Use Code as written. There were no public comments.

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2024-C006

March 19, 2024

TITLE: ORDER, AMEND CHAPTER 31 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED “ENVIRONMENTAL ORDINANCE”, TO AMEND ARTICLE 12, SECTION 1208.

Filed March 13, 2024
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 “Environmental Ordinance”, Article 12, shall be amended as follows:

SECTION 1208 ABATEMENTS (#25)

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

A. Outside use of water - residential submeter program

~~Due to the increasing impacts of water runoff and the costs associated with the City's stormwater compliance efforts, the residential submeter program will sunset on December 31, 2024. Participants in the program have until November 1, 2024 to submit their final abatement credit requests, which will be reflected on December 2024 sewer bills. Residential customers shall not be granted abatements for water used for watering lawns or gardens, filling swimming pools or other outside water uses without first installing, at the customer's expense, a secondary water submeter. The submeter shall measure only the volume of water used for outside water uses and/or for purposes of filling indoor swimming pools. To receive credit, before using, the submeter must be inspected and registered by the City of Brewer Water Department. Customers are required to report the submeter reading to the Water Department on or before October 1 each year to receive credit. Residential submeter program rules and requirements are available on the City's website and from the Brewer Water Department.~~

B. Abatement due to mechanical failure

A partial abatement for high consumption due to mechanical failure is available once in a five-year period that the customer has had sewer service if certain conditions are met, including, but not limited to, the following:

- Consumption must cause a customer's bill to be greater than 150% of the average bill in the previous four quarters.
- The excess use must have been accidental, unpreventable, or reasonably undetectable.

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- Customer must have responded timely to all customer service notifications in previous four quarters.
- Customer must submit a written Abatement Application and provide documentation that the problem has been corrected (e.g. receipts, pictures, etc.)
- Water and sewer accounts may not have a past due balance.

Abatement applications are available at the Brewer Water Department, the Brewer City Hall Tax Office and the City's website.

C. Commercial and industrial operations

Commercial, and manufacturing ratepayers that use water that does not reach the City's sewer system and does not contribute directly or indirectly to runoff may ~~not~~ apply for an abatement of the sewer ~~which does not reach the City's sewer system unless~~ as long as they meet the following requirements:

- (1) All commercial, and manufacturing sewer user ratepayers must first file an application and receive written permission from the ~~BWPCF Superintendent~~ Director of Environmental Services and the City's Pretreatment Coordinator prior to engaging in any activity that will remove water from the sewer.
- (2) ~~If a~~ The commercial, or manufacturing ratepayer ~~has received permission to remove water from the City sewer and can must be able to~~ document the volume they wish abated with a meter reading or other verifiable method that has been approved by the Director of Environmental Services ~~they may apply for a sewer abatement request to the Superintendent.~~
- (3) The Director of Environmental Services, 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 business in any 12-month period.

Statement of Fact: The purpose of this ordinance amendment is to sunset the outside water use sewer abatement program effective December 31, 2024. Only a small percentage of households use the program, and even fewer businesses, yet the over \$25,000 per year cost is borne by all customers through sewer rates. The original rationale for the program—that water drained into the ground does not cost the City any money—no longer applies given the ever-increasing infrastructure and regulatory burdens being placed on the City with regard to stormwater.

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2024-C007

March 19, 2024

TITLE: ORDER, AMEND CHAPTER 15 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "PARKS AND RECREATION", TO AMEND ARTICLES 1, 2, 3, 4, 5, AND 7.

Filed March 14, 2024
By Dani O'Halloran and
William Kimball

BE IT ORDAINED, by the Brewer City Council that Chapter 15, of the Charter, Codes and Ordinances of the City of Brewer, entitled "Parks and Recreation", shall be amended as follows:

ARTICLE 1 GENERAL

SECTION 103 DUTIES

The Director of Parks and Recreation shall:

SECTION 103.6 Account for all public moneys received ~~by him~~, in such manner as the ~~e~~City ~~+~~Treasurer may prescribe.

ARTICLE 2 PARK AND RECREATIONAL ADVISORY COMMISSION

SECTION 203 CHAIRMAN AND SECRETARY

The Commission shall elect its own chair~~man~~ from among its members who shall serve for one (1) year, and any vacancy during the term of said chair~~man~~ shall be filled by the Commissioners to serve the unexpired period of the term.

SECTION 203.1 The Commission shall also elect from among its own members, a secretary whose duties shall be to keep a permanent record of all its meetings and activities and of all order, resolutions and recommendations made at such meetings, and such other duties as may be delegated ~~to him or her~~ by the Commission.

SECTION 203.2 When a member is unable to act because of a conflict of interest, physical incapacity, absence or any other reason satisfactory to the chair~~man~~, the chair~~man~~ shall designate an associate member to sit as a regular member during such inability to act. In the case when the chair is unable to act for the aforescribed reasons, the remaining members shall elect a temporary chair, who may then designate an associate member to sit as a regular member during this temporary inability in his or her stead.

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ARTICLE 3 MUNICIPAL AUDITORIUM - Joseph L. Ferris Community Center

SECTION 303 RENTALS

The Director of Parks and Recreation is hereby authorized to rent or lease the facilities of the municipal auditorium to private or public groups or organizations.

SECTION 303.1 ~~He or she~~ The Director shall maintain ~~in his or her office~~, a schedule of all authorized future rentals ~~and this schedule shall be open to public inspection during regular office hours.~~

SECTION 303.2 The primary use of the municipal auditorium shall be for City of Brewer recreational purposes. Rental dates shall be considered for those dates not already reserved and scheduled for Brewer Recreation Department programs.

SECTION 303.3 The Director of Parks and Recreation or ~~his or her~~ designee shall be authorized to restrict or refuse any rental deemed not to be in the best interest of the City of Brewer, the building, or the public. City staff, law enforcement officials, and firefighters shall have the right to expel and/or arrest any person, corporation, legal entity or their agents for any criminal, destructive, or unhealthy activity.

SECTION 303.4 All dates in a month shall be rented on a first come, first served basis; except that the Director of Parks and Recreation shall take into consideration renters with a history of the same time period or holiday rental in the previous calendar year. The Director of Parks and Recreation is hereby authorized to refuse or restrict rentals that directly conflict with a previously scheduled rental. ~~He or she~~ The Director may require a minimum of six (6) days separation between such direct rental conflicts. A rental date may be up to five (5) consecutive days. A renter must pay a non-refundable fee of one hundred (\$100.00) dollars to confirm a date.

SECTION 304 RENTAL RATES

Except as otherwise provided in this Article, the amounts set forth in the following schedules shall be the minimum charged for the use of the municipal auditorium. (#3)

	<u>SCHEDULE I</u>
Commercial Use	\$360.00 per day
General Use	\$300.00 per day
Charitable Use	<u>\$250.00</u> 240.00 per day (Brewer groups only)
Set-up Charge	<u>\$75.00</u> 60.00 for events requiring set-

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	up on day prior to event
Table Charge	\$2.00 per table per day
Speaker Charge	\$20.00 15.00 per day
Marquee Charge	\$25.00 20.00 per day when used beyond actual rental dates if available.

Service charges, if required, for all events, shall be at the rates set forth in Section 304.1 of the Article.

The above rental rates shall include heat, electricity, use of the signs on rental day, parking, use of the main floor, stage, and toilet facilities and chairs and other available facilities. For the purposes of this Ordinance, the term "Charitable Groups" shall be defined as any bona-fide, non-profit organization which is charitable, educational, political, civic, recreational, fraternal, patriotic and or religious or any auxiliary thereof, and any class or organization of an elementary, secondary or post-secondary educational institution operated or accredited by the State of Maine and within the City of Brewer.

SECTION 304.1 SERVICE CHARGES Service charges, if required, for all events, shall be the actual city payroll costs plus ~~twenty-three seventeen~~ (23% ~~17%~~) percent fringe benefit costs.

SECTION 304.2 KENNETH HANSCOM COMMUNITY ROOM The amounts set forth in the following schedule shall be the minimum charge for the use of that portion of the municipal auditorium now or formerly used as the American Legion Quarters: (#3)

SCHEDULE II

General Use	\$150.00 90.00 per day
Charitable Groups, Brewer	\$100.00 75.00 per day

Service charges, if required, for all events, shall be at the rates set forth in Section 304.1 of this Article.

SECTION 304.3 CONFERENCE ROOMS Rental rates for mezzanine level conference room & lower level conference room shall be ~~Forty Fifteen~~ Dollars (~~\$40.00 15.00~~) per hour not to exceed ~~One Hundred Fifty~~ Dollars (~~\$100.00 50.00~~) per day. Service charges, if required, for all activities, shall be at the rates set forth in Section 304.1 of this Article.

SECTION 305 CONCESSION OPERATION

The City of Brewer Recreation Department shall operate and maintain the concession areas in the Municipal Auditorium. All revenue

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received from the operation of concession areas shall be deposited with the City Treasurer in such manner as ~~he or she~~ the City Treasurer may prescribe.

SECTION 307 AUDITORIUM GROUNDS USE

The Director of Parks and Recreation or ~~his or her~~ designee is hereby authorized to rent, lease or grant written permission to individuals, private or public groups or organizations to occupy those portions of the municipal auditorium parking lot or grounds, including but not limited to the front walkways that are not immediately necessary for the Parks & Recreation Department's ongoing programs. (#6)

Any policy implemented by the Director of Parks and Recreation under this section shall be approved by the City Manager first and a copy thereof shall be filed in the City Clerk's office for public inspection.

SECTION 308 WAIVER OF RENTAL AND USER FEES

The Director of Parks and Recreation, or ~~his or her~~ designee, may waive the rental fee and all or some of the other charges set forth in this article for any Brewer non-profit charitable group requesting such waiver in writing and providing that:

- (1) all income from the event shall be returned to the Brewer community through the sponsoring groups. (#2)

ARTICLE 4 MUNICIPAL ATHLETIC FIELD

SECTION 402 CARE AND SUPERINTENDENCE The general care and superintendence of Doyle Field shall be under the control of the Recreation Department, which shall be responsible for the following:

1. The control and responsibility of the bleachers, all buildings and fences and the scoreboard.
2. The control, maintenance and responsibility of the night lighting system.
3. The Director of Parks and Recreation shall have final approval of all scheduled events on the field. Any scheduled activity shall be carried out in a manner which is not damaging to the facility. Whenever, in the judgment of the Director of Parks and Recreation, weather or other circumstances beyond the control of the Parks and Recreation Department and/or the participants in any scheduled event, might result in damage to the facility, the Director of Parks and Recreation, or ~~his or her~~ duly authorized agent, may cancel, terminate, postpone or

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reschedule (if appropriate) any scheduled event.

ARTICLE 5 PARKS

SECTION 501 DEFINITIONS For the purpose of this Article, the following words shall have the meaning ascribed to them in this section:

1. "Major Park" is any of the following named, or unnamed, Public Parks:
 - a. Indian Trail Park
 - b. Eastern ~~Ball~~ Park
 - c. Fling Park
 - d. Sunset Memorial Park
 - e. Brewer Community Playground (a/k/a/ Brewer Creative Playground) and the Brewer Swimming Pool, being designated as Parcel 12 on Map 50, according to the tax assessing maps ~~prepared by James W. Sewall Company,~~ placed on file in the City Tax Assessor's office and may be amended from time to time
 - f. Maple Street Park
 - g. Dougherty Recreational Complex
 - h. Capri Street Park
 - i. Brewer Riverwalk
2. "Minor Park" is any public park or public land not listed as a major park with the exception of Doyle Field and lands owned by the Brewer High School District Trustees.

SECTION 504 TRESPASSING Whoever enters upon any major park between the hours that such park is closed and opened, shall be in violation of this Ordinance and shall also be subject to trespass and similar laws of the State ~~guilty of trespass~~. The City Council shall be primarily responsible for establishing the opening and closing times for all major parks; however, the Recreation Director shall have the authority to alter and amend the opening and closing times of said major parks to accommodate the recreational programs and needs of his or her department. The Recreation Director shall be responsible for

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posting at least two (2) signs at each major park listing the current opening and closing hours of said park. ~~The sign shall be no smaller than two (2) feet by two (2) feet and shall be lettered with no smaller than one hundred twenty (120) point letters.~~

~~**SECTION 504.1 PENALTY FOR TRESPASSING** Whoever trespasses upon any park shall be punished by a fine of not more than Twenty Dollars (\$20.00).~~

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

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

SECTION 702 SAFE ZONES The locations of the Safe Zones which are established under this Article are as follows: (All Tax Assessor map information is as shown on the Brewer tax map dated April 2023 and as amended, and on file at the City Clerk's Office.)

a. Joseph L. Ferris Community Center, athletic field, playground and swimming pool complex, which are generally described as follows:

- (1) ~~on the Tax Assessor's maps, dated April 2003, as amended as~~ Map 31, Lot 21, ~~on file in the City Clerk's office~~ and are more fully described in a deed and recorded in the Penobscot County Registry of Deeds in Volume 1087, Page 375.
- (2) Tax Assessor's Map 50 lot 12 and more fully described in a deed and recorded in the Penobscot County Registry of Deeds in Volume 699, Page 56
- (3) Tax Assessor's Map 31 lot 14 and more fully described in a deed and recorded in the Penobscot County Registry of Deeds in Volume 1491, Page 242.

b. Fling Street Park, which is generally described as ~~on the Tax Assessor's maps, dated April 2003, as amended as~~ Map 29, Lot 31, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 2189, Page 207.

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- c. Maple Street Park, which is generally described as ~~on the~~ Tax Assessor's ~~maps, dated April 2003, as amended as~~ Map 28, Lot 1, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in Penobscot County Registry of Deeds in Volume 4759 age 74, Volume 6151, Page 273, Volume 6151, Page 276 and Volume 6160, Page 239.
- d. Eastern Park, which is generally described as ~~on the~~ Tax Assessor's ~~maps, dated April 2003, as amended as~~ Map 26, Lot 27, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 2133, Page 839.
- e. Sunset Memorial Park and parking lot, which are is generally described as follows:
- (1) ~~on the~~ Tax Assessor's ~~maps, dated April 2003, as amended as~~ Map 42, Lot 155, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 1559, Page 67.
 - (2) Tax Assessor's Map 42, Lot 155-1, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 14849, Page 26.
- f. Indian Trail Park, which is generally described as ~~on the~~ Tax Assessor's ~~maps, dated April 2003, as amended as~~ Map 37, Lot 1, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 287, Page 353.
- g. Penobscot Landing Children's Garden, which is generally described as ~~on the~~ Tax Assessor's ~~maps, dated April 2003, as amended as~~ Map 28, Lot 189, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 8444, Page 82.
- h. Brewer Public Library and School Street Playground, which are is generally described as ~~on the~~ Tax Assessor's ~~maps, dated April 2003, as amended as~~ Map 28, Lot 14, ~~on file in the City Clerk's office~~ and more fully described in a deed

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recorded in the Penobscot County Registry of Deeds in Volume 581, Page 499.

- i. Housing Authority of the City of Brewer Family Projects (Me-21-5, Me-21-7, Me-21-8, and Me-21-9) located on Rinfret Drive and Lyford Drive, Map 14, Lot 21 and Map 14, Lot 31, which is more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 5001, Page 152.

- j. The Brewer Riverwalk Trail, and any improvements which lie within the following areas:
 - (1) The property owned by the City of Brewer by virtue of the Deed from Hiram H. Fogg recorded in the Penobscot County Registry of Deeds in Volume 641, Page 275.

 - (2) The easements to the City of Brewer from Dead River Company, d/b/a Dead River Petroleum Company, recorded in the Penobscot County Registry of Deeds in Volume 8320, Page 205, and Volume 9558, Page 304.

 - (3) The easement to the City of Brewer from G. H. Doane recorded in the Penobscot County Registry of Deeds in Volume 10570, Page 4.

 - (4) The easement to the City of Brewer from Maxwood Services, Inc. recorded in the Penobscot County Registry of Deeds in Volume 10570, Page 10.

 - (5) The easement to the City of Brewer from Bruce R. Blackmer recorded in the Penobscot County Registry of Deeds in Volume 8544, Page 296.

 - (6) The easement to the City of Brewer from Dorks R Us recorded in the Penobscot County Registry of Deeds in Volume 8371, Page 236.

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- (7) The portion of the State of Maine property adjacent to the so-called Joshua Chamberlain Bridge.
 - (8) The property owned by the City of Brewer by virtue of Deed from Creative Arts Center, LLC recorded in the PCROD in Volume 15226, Book 338 (#9)
 - (9) The Easement to the City of Brewer from Getchell Bros. Co. recorded in the PCROD Volume 14971, Page 34 (#9)
 - (10) The Easement to the City of Brewer from Bonton Towers recorded in the PCROD Volume 14779, Page 241 (#9)
 - (11) The Easement to the City of Brewer from EWT, LLC12 recorded in the PCROD Volume 14779, Page 233 (#9)
 - (12) The Easement to the City of Brewer from Mona Memorial, LLC recorded in the PCROD Volume 16361, Page 267.
- k. The Dougherty Recreation Complex, which is generally described as on the Tax Assessor's maps, dated April 2016, as amended as Map 34, Lot 56, ~~on file in the City Clerk's Office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Book 13905, Page 218. (#8)
- l. The Capri Street Field, which is generally described as on the Tax Assessor's maps, dated April, 2016, as amended as Map 44, Lot 13, ~~on file in the City Clerk's office~~ and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Book 13905, Page 215. (#8)
- m. The Sherwood Forest Park, which is generally described as Tax Assessor's as Map 48, Lot 74, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 2449, Page 64.

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- n. The Fisherman's Park/Scenic Turnouts, which is generally described as follows:
 - (1) Tax Assessor's Map 27, Lot 1, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 6129, Page 245.
 - (2) Tax Assessor's Map 27, Lot 3, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 3894, Page 1.
 - (3) Tax Assessor's Map 27, Lot 4, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 5846, Page 183.
 - (4) Tax Assessor's Map 27, Lot 6, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 3886, Page 197.
 - (5) Tax Assessor's Map 27, Lot 7, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 3914, Page 65.

- o. The Veteran's Park, which is located at the corner of State Street and Penobscot Street and is generally described as Tax Assessor's Map 30, Lot 106.

- p. The Chamberlain Park (aka Freedom Park), which is located at the corner of State Street and North Main Street and is generally described as Tax Assessor's Map 33, Lot 158.

- q. The Centennial Monument parcel, which is generally described as Tax Assessor's Map 27, Lot 17, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 1486, Page 386.

- r. The City of Brewer public boat launch parcel, which is generally described as Tax Assessor's Map 18, Lot 12, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 2140, Page 545.

- s. The Caldwell Ice Rink parcel, which is generally described as Tax Assessor's Map 13, Lot 40, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in

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Volume 6151, Page 270.

- t. The Brewer Land Trust parcel, which is generally described as Tax Assessor's Map 16, Lot 28, and more fully described in a deed recorded in the Penobscot County Registry of Deeds in Volume 11341, Page 11.

Statement of Fact: These ordinance amendments are proposed in order to update various items throughout the ordinance and include additional parcels designated under Safe Zones.

ACTION: Councilor Daniels asked to remove Order 2024-C002 from the Consent Calendar. Councilor Daniels moved that the amendments on the consent calendar be certified and filed with the city clerk for posting. Councilor O'Halloran seconded the motion. The motion passed with a unanimous vote.

2024-C002

March 19, 2024

TITLE: ORDER, AMEND CHAPTER 24 OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER, ENTITLED "LAND USE CODE", TO AMEND ARTICLE 3 "ZONING DISTRICTS", SECTION 306, AND ARTICLE 4, "PERFORMANCE STANDARDS", SECTION 438.

Filed March 13, 2024
By Michele Daniels

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 as follows:

Article 3 Zoning Districts

306.3 USES SUBSTANTIALLY SIMILAR TO PERMITTED USES (#41)(#45)(#52)

1. USES ALLOWED WITH OR WITHOUT A PERMIT

Uses substantially similar to those allowed with or without a permit, but which are not listed in the Schedule of Uses, may be permitted upon a ruling of the Code Enforcement Officer that such unlisted use is substantially similar to such allowed uses.

2. USES REQUIRING SITE PLAN APPROVAL

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Uses substantially similar to those requiring Site Plan approval under this Ordinance, as determined by the Code Enforcement Officer, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

3. PROHIBITED USES (#55)

Uses substantially similar to a prohibited use in the Schedule of Uses, as determined by the Code Enforcement Officer, are prohibited.

The following recreational marijuana uses, as defined by State Statute, are prohibited ~~(this does not prohibit the cultivation and sale of medical marijuana as permitted by this Land Use Code);~~

- Adult use marijuana cultivation facilities; and
- Adult use marijuana products manufacturing facilities;

The following medical marijuana uses, as defined by State Statute and this Ordinance, are prohibited:

- Medical marijuana caregiver retail stores;
- Medical marijuana cultivation and processing facilities;
- Medical marijuana registered dispensaries and medical marijuana dispensary cultivation facilities ~~(except as expressly allowed in this Ordinance);~~
- Medical marijuana testing facilities; and
- Medical marijuana manufacturing facilities.

306.4 COMPLIANCE WITH PERFORMANCE STANDARDS

All uses which are permitted must occur and be maintained in compliance with the applicable requirements of Article 4, Performance Standards.

306.5 SCHEDULE OF USES (#31) (#46) (#52) (#57) (#63)

306.5 SCHEDULE OF USES (#31)

USE	RURAL	LDR	MDR-1	MDR-2	HDR	HDR-2	CB	GB	IND	IND-2	OR	PB	DD
INSTITUTIONAL USES													
Medical Marijuana Registered Dispensary(#16)												S-11	
Medical Marijuana Dispensary Cultivation Facility (#16) (#52)												S-11	

306.5 SCHEDULE OF USES (#31) (#55) (#57)

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Footnotes to Schedule of Land Uses

- ~~11. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facility shall be located within the distances listed below of the property line upon which the Dispensary and/or Facility is or are located and the property line of the uses listed below:~~
- ~~a. Five hundred (500) feet of a preexisting public or private school,~~
 - ~~b. Five hundred (500) feet of a preexisting licensed daycare facility,~~
 - ~~c. Five hundred (500) feet of a preexisting methadone clinic,~~
 - ~~d. One hundred (100) feet of a preexisting private residence,~~
 - ~~e. Five hundred (500) feet of a preexisting adult use marijuana establishment,~~
 - ~~f. Five hundred (500) feet of a preexisting Medical Marijuana Cultivation and Processing Facility.~~

Article 4 Performance Standards

438 MARIJUANA (#16)(#52)(#55)

No person may establish, operate, or maintain ~~a Medical Marijuana Registered Dispensary, Medical Marijuana Dispensary Cultivation Facility, and/or~~ an Adult-Use Marijuana Establishment without first obtaining a license from the City.

438-A MEDICAL MARIJUANA

~~1 Medical marijuana caregiver retail stores, medical marijuana cultivation and processing facilities, medical marijuana registered dispensaries and medical marijuana dispensary cultivation facilities, medical marijuana testing facilities, and medical marijuana manufacturing facilities, all as defined by State Statute and this Ordinance, are prohibited.~~

- ~~1. The property for a Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facilities shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking area, and other areas outside of the building (s). A letter of compliance from the Brewer Code Officer shall be submitted to the Planning Board as part of the site plan application. The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients and the registered primary caregiver of each registered patient). Medical Marijuana Registered Dispensaries and/or Medical Marijuana Dispensary Cultivation Facilities shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (18-691 CMR Chapter 2), as the same may be amended from time to time and to Chapter 20 Licenses and Permits, Article 8-B, of the City of Brewer Charter, Codes and Ordinances, as the same may be amended from time to time.~~
- ~~2. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facility shall be located within the distances listed below of the property line upon which the Dispensary and/or Facility is or are located and the property line of the uses listed below:~~

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- ~~a. Five hundred (500) feet of a preexisting public or private school;~~
 - ~~b. Five hundred (500) feet of a preexisting licensed daycare facility;~~
 - ~~c. Five hundred (500) feet of a preexisting methadone clinic;~~
 - ~~d. One hundred (100) feet of a preexisting private residence;~~
 - ~~e. Five hundred (500) feet of a preexisting adult use marijuana establishment;~~
 - ~~f. Five hundred (500) feet of a preexisting Medical Marijuana Cultivation and Processing Facility.~~
3. ~~No more than one (1) Medical Marijuana Registered Facility and/or one (1) Medical Marijuana Dispensary Cultivation Facility shall be located in the City of Brewer. The Medical Marijuana Registered Dispensary and Medical Marijuana Dispensary Cultivation Facility shall be located on the same property that shall be under common ownership.~~
4. ~~A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00a.m. and 8:00p.m. daily.~~
5. ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facility shall conform to the City of Brewer's Sign Ordinance. In addition thereto, any freestanding or sign attached to building(s) in which the Dispensary and/or Facility is located in shall clearly state that it is a Medical Marijuana Dispensary and/or Medical Marijuana Dispensary Cultivation Facility. There shall be no signage in any window and or door, except for the hours of operation.~~
6. ~~Security measures at a Medical Marijuana Registered Dispensary and /or Medical Marijuana Dispensary Cultivation Facility shall include the following at a very minimum:~~
- ~~a. Security surveillance cameras installed and operating twenty four (24) hours a day, (7) seven days a week to monitor all entrances, along with the interior and exterior of the Dispensary and/or Facility, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;~~
 - ~~b. Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications;~~
 - ~~c. A safe affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Dispensary and/or Facility;~~
 - ~~d. Exterior lighting that illuminates all exterior walls of the licensed Dispensary and/or Facility and~~
 - ~~e. Deadbolt locks on all exterior doors and locks or bars on any other access point.~~

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~~All security recordings shall be preserved for thirty (30) days by the management of the licensed Dispensary and/or Facility.~~

~~7. Employees of a Medical Marijuana Registered Dispensary may assist registered patients as that term is defined in 22 M.R.S.A. § 2422(12), as the same may be amended from time to time, with the use of medical marijuana inside the building(s) on the licensed property. An employee of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facility, who is also a registered patient, may use medical marijuana inside the building(s) on the licensed property. Any such use of medical marijuana must not be visible from the street or from outside the building(s). Any Medical Marijuana Facility where use of medical marijuana takes place shall have in place protocols and policies to educate registered patients and registered patients who are employees about the dangers of driving a vehicle while medicated and, when possible, to discourage or prevent driving while medicated. (#22)~~

~~8. Visibility of activities; control of emissions; disposal plan for a Medical Marijuana Registered Facility and/or Medical Marijuana Dispensary Cultivation Facility shall be as follows:~~

- ~~1) All activities of Medical Marijuana Registered Dispensaries and/or Medical Marijuana Dispensary Cultivation Facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.~~
- ~~2) No marijuana or paraphernalia shall be displayed or kept in a Dispensary or Facility so as to be visible from outside the building (s).~~
- ~~3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Dispensary and/or Facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.~~
- ~~4) All Medical Marijuana Registered Dispensaries and/or Medical Marijuana Dispensary Cultivation Facility shall have in place an operation plan for proper disposal of marijuana related byproducts.~~
- ~~5) An odor control plan shall be submitted as part of the site plan review application describing the odor(s) anticipated to originate at the premises and the methods to be used to prevent such odor(s) from leaving the premises. City enforcement actions will be taken if marijuana odors are detected outside of the building.~~

~~If the CEO detects marijuana odors outside of the building and/or the operator indicates that the odor management provisions required for the facility are not being followed, the CEO shall provide a written warning to the operator and/or landowner with instructions to comply with the standards within 10 business days, and to inform the CEO of efforts or completion within that time. The CEO may use electronic meters or devices to measure and quantify the issue for comparative and/or enforcement purposes.~~

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~~If odors persist and/or the issues are not resolved after the ten-day period described above, the CEO shall provide a written notice of violation with the requirement that the odors and/or issues be brought into compliance within 10 business days.~~

~~If the operator and/or landowner fail to bring the facility into compliance within 30 calendar days of the written notice of violation, the CEO will refer the matter to the City Solicitor for prosecution. In addition to penalties and costs recoverable under this Ordinance for violations, the City may suspend or revoke other approvals including, without limitation, any licenses or Certificate of Occupancies, and pursue any other remedies available to the City.~~

- ~~9. No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Registered Dispensary except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.~~
- ~~10. A Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facility shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation.~~
- ~~11. 2. Medical marijuana Home Production activities shall be conducted wholly inside a building, and otherwise be in compliance with applicable laws and regulations governing caregivers and patients under the Maine Medical Use of Marijuana Act or other applicable laws. Further, medical marijuana home production shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that normally experienced in an average residential dwelling in the district in which located. Furthermore, with respect to odors, any medical marijuana home production which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonable with the comfort of the public shall be removed, stopped or so modified as to remove the odor.~~

Statement of Fact: These ordinance amendments are proposed in order to prohibit Medical Marijuana Registered Dispensaries and Medical Marijuana Dispensary Cultivation Facilities. The Planning Board held a public hearing on March 4, 2024 and unanimously made the recommendation to adopt these amendments to Chapter 24 Land Use Code as written. There were no public comments.

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ACTION: Councilor Daniels asked if this amendment would eliminate medical marijuana dispensaries and cultivation facilities. City Manager Stephen Bost said that it would and noted that medical marijuana was not subject to any testing, so that contaminants and poisons had found their way into medicinal marijuana, while recreational marijuana was subject to much more stringent regulation and testing by the State. The City Manager said that the Public Safety Director and the City Planner had recommended this change as a safety concern, and other communities in the area were taking similar steps. Public Safety Director Jason Moffit agreed with the City Manager’s comments and said that law enforcement had concerns that illicit marijuana could be coming into the market as medical marijuana. Councilor Daniels asked if existing medical marijuana facilities would be grandfathered and allowed to continue to operate. The City Manager clarified that there are currently no medical marijuana stores or cultivation facilities in the City of Brewer. Brewer City Planner Linda Johns said that this amendment would affect medical dispensaries and medical dispensary cultivation facilities. The City Planner noted that medical marijuana caregivers fall under a different classification, and would not be affected by this change. Councilor Daniels moved that Order 2024-C002 be brought before the Council. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote. Councilor Daniels moved that the amendment be certified and filed with the city clerk for posting. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote.

2024-A046

March 19, 2024

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

Filed March 14, 2024
By Soubanh Phanthay and
Michele Daniels

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

ACTION: Councilor Phanthay moved that the order have passage. Councilor Daniels seconded the motion. The motion passed with a unanimous vote. Mayor Morin said that the Council would recess to go into executive session.

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

Councilor Daniels-present
Councilor Kimball-present
Mayor Morin-present

Councilor O'Halloran-present
Councilor Phanthay-present

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

H. New Items with Leave of Council

There were no new items with leave of Council.

I. ADJOURN

ACTION: Councilor Daniels moved to adjourn. Councilor Phanthay seconded the motion. The motion passed with a unanimous vote. The meeting was adjourned at 8:40 P.M.

ADJOURNED, ATTEST: _____ Vincent P. Migliore
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine