

CHAPTER 31 - ENVIRONMENTAL ORDINANCE (SEWER, STORMWATER, SEPTIC, HAULED WASTEWATER, PUMP STATIONS) PREAMBLE

ARTICLE 1.

Purpose & Policy

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

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

This Ordinance shall apply to all domestic sewage discharges and other users of the POTW. The Ordinance authorizes the issuance of wastewater discharge permits, authorizes monitoring, compliance and enforcement activities, establishes administrative review procedures, requires user reporting, and provides the setting of fees for the equitable distribution of costs resulting from the operation of the POTW and the program established herein.

SECTION 100.1 ADMINISTRATION

Except as otherwise provided, herein, the Superintendent of the POTW shall administer, implement and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other qualified city personnel.

SECTION 100.2 APPLICABLE LAW

Any reference in this Ordinance to a state or federal statute or regulation or local Ordinance shall mean the statute, regulation or ordinance in force on the effective date of this Ordinance and as any statute, regulation or ordinance may be amended from time to time thereafter.

SECTION 100.3 DEFINITIONS (#18)

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

1. **"ACT OR THE ACT"** shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act. 33 United States Code § Sect. 1251 et seq.
2. **"ADMINISTRATIVE ORDER"** shall empower the Superintendent that finds any user who continues to violate the Ordinance, permit or orders issued thereunder. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order.
3. **"APPLICANT"** shall mean any person requesting approval to discharge commercial or domestic wastewaters into facilities of the City.
4. **"APPROVAL AUTHORITY"** shall mean the Maine Department of Environmental Protection and or the Regional Administrator of Region 1, EPA Boston.
5. **"AUTHORIZED REPRESENTATIVE OF THE USER"** shall mean:
 1. If the user is a corporation:
 - a. The president, secretary, treasurer or a vice president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

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- b. The manager of one or more commercial facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit[or general permit{optional}] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 2. If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively; or
 - 3. If the user is a federal, state or local government facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or the designer.
 - 4. The individuals described in Paragraph 1 through 3 above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Brewer's POTW.
- 6. **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the Biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20°C, expressed in milligrams per liter.

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- 6A. **"BMP"** (Best Management Practices or BMPs) shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 505 and 506. BMPs include treatment requirements, operating procedures, and practices to control plant runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established Standards and effluent limits.]
7. (DELETED)
8. **"BUILDING DRAIN"** shall mean the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 8 feet outside the inner face of the building wall.
9. **"BUILDING SEWER"** shall mean the extension from the building drain to the public sewer or other place of disposal.
10. **"BWPCF"** (Brewer Water Pollution Control Facility) shall mean the facility owned by the City and used for receiving and treating wastewater.
11. (DELETED)
12. (DELETED)
13. **"CITY"** shall mean City of Brewer.
14. **"CITY ENGINEER"** shall mean the City official appointed and designated by the City Manager as the City Engineer for the City of Brewer.
15. **"CIVIL LITIGATION"** shall mean civil litigation against a user seeking equitable relief, monetary penalties and actual damages.
16. **"CODE ENFORCEMENT OFFICER"** the Code Enforcement Officer or a duly appointed Assistant Code Enforcement Officer shall receive applications and issue building permits. See also Chapter 29, Article 1 of the City's Ordinances.

17. **"COMBINED SEWER"** shall mean a sewer receiving both surface runoff and sewage.
18. **"COMPOSITE SAMPLER"** shall mean the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
19. **"CRIMINAL PROSECUTION"** shall mean punitive measures against an individual and/or organization through a court of law.
- 19A. **"DEPARTMENT OF ENVIRONMENTAL PROTECTION-DEP"** shall mean the State of Maine Environmental Agency.
20. **"DISCHARGE"** shall mean any substance released into any part of the City's sewer system or treatment works.
21. **"DISCHARGER"** "Discharger" refers to any user of the City's sewer system who may be subject to regulation under this Ordinance.
22. **"DOMESTIC SEWAGE"** shall mean water and water-carried wastes normally discharged into the sanitary sewers from dwellings, including single-family homes, multi-family homes and motels, from office buildings, factories and institutions, but not including storm water drainage or surface water drainage and not including industrial wastes as defined in this section.
23. **"ENVIRONMENTAL PROTECTION AGENCY E.P.A."** shall mean the U.S. Environmental Agency, or where appropriate, the Regional Water Management Division Director or other authorized official of said agency.
24. **"EXCESSIVE LOADING"** shall mean any discharge resulting in a Biochemical Oxygen Demand (BOD) or Total Suspended Solids (TSS) loading in excess of 350 mg/l. Where a correlation is established between BOD, COD and TOC, a discharge in excess of the equivalent COD or TOC, loading shall constitute excessive loading.
25. **"FINE"** As used in Article 10 of this Ordinance the Wastewater Enforcement Response Guide is a Monetary Penalty assessed by Control Authority Officials. Fines should be assessed by the BWTP Superintendent.

26. **"GARBAGE"** shall mean solid waste from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of food products and produce.
27. **"GRAB SAMPLE"** shall mean a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.
28. **"HAZARDOUS WASTE"** shall mean a hazardous waste as that term is defined in Maine Department of Environmental Protection Regulations Chapter 850.
29. **"HIGH STRENGTH CONVENTIONAL WASTE"** shall mean any non-industrial waste of a substantially greater density, toxicity, or acidity than normal domestic sewage, including all wastes likely to cause "Excessive Loading" as defined in this section.
30. **"HOLDING TANK WASTES"** shall mean a waste from solely domestic sources which have not been concentrated or had chemicals added to them.
31. **"INDIRECT DISCHARGE OR DISCHARGE"** shall mean the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307 (a), (c), or (d) of The Act.
32. **"INDUSTRIAL USER"** shall mean a source of non-domestic waste, including agriculture, forestry, fishing, mining manufacturing, transportation, communication, electrical, gas and sanitary services and any other industrial services discharging into the City's sanitary sewer system and industrial waste or any waste other than "domestic sewage" as defined in this section.
33. **"INDUSTRIAL WASTE"** shall mean all water, water-carried solids, liquid and gas wastes resulting from any industrial, manufacturing, or food processing operation or process or from the development of any natural resource or a mixture of any of these fluids and domestic sewage, or any mixture of these fluids with any other water or with any other liquid.

34. **"INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT"** shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from analysis of and grab or composite sample collected, independent of the flow rate and duration of the sampling event.
35. **"INTERFERENCE"** shall mean a discharge that, alone or in conjunction with a discharge or discharges from other sources, both (1) inhibits or disrupts the City's sewer system, treatment processes or operations, or its sludge processes, use of disposal; and (2) which thus contributes to a cause of a violation of any requirement of the City's MEPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued under Section 405 of the Clean Water Air Act, the Toxic Substances Control Act, the Marine Protection, Research and Sanctuaries Act and any State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Resource Conservation and Recovery Act. (#13)
- 35A. **"LEACHATE"** shall mean a liquid that has percolated through, or out of some substance; a liquid that has been polluted or made toxic by percolating through rubbish: a solution obtained by leaching.
- 35B. (DELETED)
36. **"MEDICAL WASTES"** shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated laboratory wastes and dialysis wastes.
37. **"MEETING"** as used in Article 9 of this Ordinance the Wastewater Enforcement Response Guide shall mean an informal compliance meeting with a commercial business to resolve recurring noncompliance.
- 37A. **"MEPDES"** shall mean the Maine Pollutant Discharge Elimination System permit program of the State of Maine. (#13)

38. **"MILLIGRAMS PER LITER"** shall be abbreviated as "mg/L" and shall mean a weight to volume ratio. The figure appearing before the symbol "mg/L" shall be the number of milligrams to be found in one liter of the substance being tested. This figure can be transposed to pounds per million gallons of water by multiplying the figure appearing before the symbol "mg/L" by 8.34. (The weight in pounds of one gallon of water)
39. **"NATURAL OUTLET"** shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
40. **"NEW SOURCE"** shall mean:
1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307 (c) of The Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section of The Act, provided that:
 - (a) The building, structure, facility or installation constructed at a site at which no other source is located; or
 - (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether the sources are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

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2. Construction on site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section 1(b) or (c) above, but otherwise alters, replaces or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin as part of a continuous on site construction program:
 - (I) Any placement, assembly or installation of facilities or equipment; or
 - (II) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of a new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subparagraph.
41. **"NONCONTACT COOLING WATER"** shall mean water used for cooling which does not come in direct contact with any raw materials, intermediate product, waste product or finished product.
42. **"NORMAL DOMESTIC SEWAGE"** shall mean the sewage in which average concentration of Total Suspended Solids does not exceed 250 mg/L and in which the average concentration of BOD does not exceed 250 mg/L.

43. **"NOV"** (Notice of Violation) shall mean a written letter of Notice of Violation when a user has violated this ordinance, permit or order issued. Within 10 (ten) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention, with specific required actions taken. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.
44. **"NPDES"** shall mean the National Pollutant Discharge Elimination System permit program of the U.S. EPA.
45. **"OWNER"** shall mean the owner, tenant, occupant or person in charge of any building or premises, or any person acting in the owner's behalf.
46. **"PASS-THROUGH"** shall mean any discharge from the City's treatment works into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the City MEPDES permit, including an increase in the magnitude or duration of a violation. (#13)
47. **"PERSON"** shall mean any individual, partnership, firm, company, association, society, corporation, group, joint stock company, trust, estate, governmental entity, or any other legal entity of whatever relationship; or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.
48. **"pH"** shall mean the logarithm (base 10) of the reciprocal of the Hydrogen ion concentration expressed in moles per liter. pH shall be determined by standard methods as defined in this section.
49. **"PLUMBING INSPECTOR"** shall mean the Plumbing Inspector(s) that the City Council appoints to inspect all plumbing, for which permits are granted, within the City, which is in the process of construction, alteration or repair. See also Chapter 18 Article 1 of the City's Ordinances.

50. **"POLLUTANT"** shall mean the dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, munitions, wastewater, medical wastes, chemical wastes, biological materials, metals, oil and grease, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and other waste or material that alters or adversely affects the characteristics of the wastewater (ie., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, TTO, TOC, or odor).
51. **"POTW"** shall mean Publicly Owned Treatment Works.
52. **"PREMISES"** shall mean any building or lot under individual ownership or individual use where water and/or sewer service is metered independently.
53. (DELETED)
54. (DELETED)
55. **"PRETREATMENT REQUIREMENTS"** shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
56. (DELETED)
57. **"PROHIBITED DISCHARGE STANDARD OR PROHIBITED DISCHARGES"** shall mean the absolute prohibitions against the discharge of certain substances. These prohibitions appear in Article 5 section 505 and 506 of this ordinance.
58. **"PROPERLY SHREDDED GARBAGE"** shall mean the City's preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 (one-half) inch in any dimension.
59. **"PUBLICLY OWNED TREATMENT WORKS"** shall mean a treatment works as defined by Section 212 of The Act (33 USC Section 1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater of a liquid nature and any conveyances which convey wastewater to a treatment plant.

60. **"PUBLIC SEWER"** shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
61. **"SANITARY SEWER"** shall mean a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.
62. **"SECT."** shall mean the section of any statute, rule, regulation or Ordinance to which it refers.
63. **"SEPTAGE"** shall mean any waste, refuse, effluent, sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates waste or to which chemicals have been added. Thus, wastes from portable or chemical toilets, septic tanks and multiple user systems having and filters or other treatment units shall be septage, not holding tank wastes. (#13)
64. **"SEWAGE"** shall mean human excrement and gray matter (household showers, dish washing operations, etc.).
65. **"SEWAGE TREATMENT PLANT"** shall mean any arrangement of devices and structures used for treating sewage.
66. **"SEWAGE WORKS"** shall mean all facilities for collecting, pumping, treating and disposing of sewage.
67. **"SEWER"** shall mean a pipe or conduit for carrying sewage.
68. **"SEWER EXTENSION"** shall mean the connection of any public or private sewer to the existing sewer system.
69. **"SHALL"** is mandatory; **"MAY"** is permissive.
70. **"SHOW CAUSE MEETING"** as used in Article 9 of this Ordinance, the Enforcement Response Guide is a formal meeting requiring the user to appear and demonstrate why the City should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

71. **“USER”** shall mean:

1. All businesses and residences that discharge to the City sewer.
2. All noncategorical discharges that, in the opinion of the City of Brewer, have a reasonable potential to adversely affect the POTW's operation;
3. All noncategorical discharges that contribute a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW, or that discharge an average of 25,000 gallons per day or more of process wastewater to the POTW;
4. All discharges that have the potential to violate any of the prohibitions.

72. **“NONCOMPLIANCE”** shall mean when one or more of the following criteria is met:

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

Any discharge of a pollutant that is harmful to health and welfare or the environment or has resulted in the Brewer Water Pollution Control Facility exercising its emergency authority to halt or prevent such a discharge.

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

Any other violation or group of violations which the Superintendent of the Brewer Water Pollution Control Facility determines will adversely affect the effluent discharge.

73. **"SLUG LOAD OR SLUG DISCHARGE"** A discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 506 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which has a reasonable potential to cause Interference Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
74. (DELETED)
75. **"STANDARD METHODS"** shall mean the testing methods and techniques approved by the EPA.
76. **"STORM SEWER"** shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and commercial wastes, other than unpolluted cooling water.
77. **"SUPERINTENDENT"** shall mean the Director of Environmental Services, of the Water Pollution Control Facility of the City of Brewer, or his authorized deputy, agent or representative.
78. **"SUSPENDED SOLIDS"** shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.
79. (DELETED)
80. **"TOXIC POLLUTANT"** shall mean one of 126 pollutants, or combination of those pollutants listed as toxic in regulations promulgated by the EPA pursuant to Section 307 (33 USC Sect. 1317 of The Act). This term also includes any pollutants that may be added to this promulgated list by amendment.
81. **"UPSET"** shall mean an exceptional incident in which a discharger is in a state of non-compliance with the Sewer Use-Ordinance due to factors beyond the reasonable control of the discharger, and excluding non-compliance due to the extent cause by operations error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

82. **"WASTEWATER"** shall mean liquid and water-carried wastes and domestic sewage from residential dwellings, commercial buildings, and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.
83. **"WASTEWATER TREATMENT PLANT"** shall mean any facility owned by the City and used for receiving and treating wastewater.
84. **"WATERCOURSE"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

If any word is not defined in this section, the common accepted definition of the word written within the context is used.

ARTICLE 2. USE OF PUBLIC SEWERS REQUIRED

SECTION 201 UNSANITARY DISPOSAL METHODS PROHIBITED

It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City of Brewer, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

SECTION 202 UNLAWFUL DISCHARGE PROHIBITED

It shall be unlawful to discharge to any natural outlet within the City of Brewer, or in any area under the jurisdiction of said Brewer any sanitary wastewater, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance. It is not intended by this Section to prohibit the discharge of any sanitary wastewater into an existing sewer which discharges its sanitary wastewater into any natural outlet within the City of Brewer if such discharge is allowed by the State of Maine regulatory agencies.

SECTION 203 PRIVATE DISPOSAL SYSTEMS PROHIBITED

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

SECTION 204 SEWER USE REQUIRED

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

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The fact an exemption is granted shall not preclude the City of Brewer from assessing a benefit to the land and the owner under Chapter 23 - Public Works, of the City of Brewer, Charter and Ordinances, and/or the laws of the State of Maine.

ARTICLE 3 - PRIVATE SEWAGE DISPOSAL (#7)

SECTION 301 WASTEWATER DISPOSAL REQUIRED

Where a public sanitary or combined sewer is not available under the provisions of Article 2, Section 204, of this Ordinance the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article and State of Maine Plumbing Code, Part 2, Subsurface Wastewater Disposal Regulations.

SECTION 302 PERMIT REQUIRED

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the City's Plumbing Inspector. The application of such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the City's Plumbing Inspector.

SECTION 302.1

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

SECTION 302.2 COMPLIANCE WITH STATE REGULATIONS REQUIRED

The type, capacities, location, and layout of a private sewage disposal system shall comply with all requirements of the Maine Department of Human Services, and shall be in compliance with the State of Maine Plumbing Code, Part 2, Subsurface Wastewater Disposal Regulations, the Minimum Lot Size Law (12 M.R.S.A. Section, 4807 et seq.). No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre, unless it is a Lot of Record established before zoning and meets the requirements set forth in the State of Maine Plumbing Code. No septic tank or cesspool shall be permitted to discharge into any natural outlet.

SECTION 303 INSPECTION REQUIRED

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City's Plumbing Inspector. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City's Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made during normal business hours within three (3) working days of the receipt of notice by the City's Plumbing Inspector.

SECTION 303.1 MINIMUM REQUIREMENTS

No building permit shall be issued for any building where a septic system is required unless the existing on-site native soil meets the requirements for a private sewerage disposal system as set forth in the State of Maine Plumbing Code.

SECTION 304 CONNECTION TO PUBLIC SEWER REQUIRED

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 204, of this Ordinance a direct connection shall be made within ninety (90) days to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be abandoned and filled with clean bank-run gravel or dirt, unless otherwise exempted by the Board of Appeals in accordance with Chapter 34 - Board of Appeals of the City of Brewer, Section 100, et seq., as amended.

SECTION 305 OPERATION - MAINTENANCE REQUIRED

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

SECTION 306 HEALTH OFFICE STANDARDS APPLY

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the City's Health Officer.

SECTION 307 NUISANCE

The City may require discontinuance of a septic tank or cesspool at such time that it shall be deemed a nuisance by health officials, in accordance with applicable sections of the State of Maine Revised Statutes and City Ordinances.

ARTICLE 4 - BUILDING SEWERS, CONNECTIONS AND EXTENSIONS

SECTION 401 PERMIT REQUIRED

No person shall uncover, make any connections or open into, use, alter or disturb any public sewer or appurtenance thereof, without first obtaining a written permit from the City's Plumbing Inspector or his agent.

SECTION 402 APPLICATION FEE REQUIRED (#24)

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

In either case, the owner or his agent or the occupant of the property, shall make application on a special form furnished by the City's Plumbing inspector. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Plumbing Inspector and/or Superintendent. A permit and the inspection fee shall be paid to the Plumbing Inspector at the time of application is filed for anything other than a new or expanded use of the sewer system (see the City of Brewer Schedule of Fees).

In the case of new or additional residential units, a permit shall be applied for with a permit fee for each new or additional residential unit (see the City of Brewer Schedule of Fees).

In the case of any new construction, renovation, or expansion of retail, commercial, or institutional use(s), a permit shall be applied for from the City's Plumbing Inspector plus the City staff's estimate of the expected increase in daily sewerage flow resulting from the new construction, renovation or expansion of the retail, commercial, or institutional use (see the City of Brewer Schedule of Fees). The City shall separately average the daily gallonage of sewage flow for each of the four (4) full billing quarters after the completion of the new construction, renovation or expansion or the issuance of a Certificate of Occupancy, whichever occurs first. The average daily sewer gallonage for the last full billing quarter prior to the beginning of the new construction, renovation, or expansion shall be subtracted from the highest average daily gallonage for the four (4) billing quarters after the completion of the new construction, renovation, or expansion or the issuance of the Certificate of Occupancy, whichever occurs first.

The permit fee shall be compared with the initial fee paid at the time the permit was obtained. If the initial fee is higher, the difference between it and the permit shall be repaid to the party making the same within thirty (30) days after the calculation is made and paid. If the initial payment is lower, the difference between it and the permit fee shall be added to and become part of the next quarter sewer billing on the property.

Upon the payment of the initial fee for the sewer permit for new construction, renovation or expansion of retail, commercial, or institutional uses, the City of Brewer shall file any affidavit in the Registry of Deeds providing notice to the public that an initial permit fee has been paid, but it will be reviewing the sewer gallonage in the future to determine the actual sewer permit fee. Further, any additional fee based upon the review will become a charge on the property. The cost of recording the affidavit in the Penobscot County Registry of Deeds will be paid by the applicant for the permit.

If the application is made by the occupant, the applicant must present to the City Plumbing Inspector a written authorization signed by the owner of the property authorizing the City to enter the premises to do the necessary inspections. Each person will be responsible, at his own expense, to collect and discharge his wastewater from property in accordance with this Ordinance into the facilities provided by the City, all in an acceptable manner and with prior approval by the City.

No permits or licenses required by other City Codes and Ordinances shall be issued by the City of Brewer prior to the permit required by this Ordinance being issued.

All application fees paid pursuant to this Section shall be escrowed by the City and used exclusively for sewer/stormwater separation of the existing sewer system.

SECTION 402.1

Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this Ordinance without first having applied for a permit therefore shall pay double the permit fee fixed by this Ordinance for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the City's Plumbing Inspector, or his agent, that such work was urgently necessary and that it was not practical to apply for a permit therefore before the commencement of the work.

Following the effective date of this subsection, any person, firm, corporation or other legal entity who commences work before applying for a permit shall not be subject to paying double the permit fee for the first time that such failure to apply occurs but instead shall be issued a verbal or written warning by the City's Plumbing Inspector, or his agent, that subsequent failures to apply for permits will result in the person, firm, corporation or other legal entity being subject to the payment of double the permit fee.

SECTION 403 OWNER RESPONSIBILITY STATED

New installations, repairs and maintenance of the connection from the point outside the cellar wall where building installation according to the State Plumbing regulations ends, to the point of entrance to the City sewer, shall be at the expense of the owner of the premises, subject to the rules and regulations of the City in accordance with this Chapter. The owner shall indemnify the City for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. All persons agree to abide by all rules and regulations set forth in this Ordinance. The City retains the right to levy a sewer use charge to provide the revenue for operation and administration of the facilities.

SECTION 404 SEPARATE BUILDING SEWERS REQUIRED

A separate and independent building sewer shall be provided for every habitable building, except 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 405 CONNECTION TEST REQUIRED

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Ordinance.

SECTION 406 PIPE SIZE - SLOPE SPECIFIED

The size and slope of the building sewer shall be subject to the approval of the City Engineer, but in no event shall the diameter be less than four inches. The slope of a four-inch pipe shall not be less than one-quarter inch (1/4) per foot. The slope of a six-inch pipe shall not be less than one-eighth (1/8) inch per foot.

SECTION 407 BUILDING SEWER PLACEMENT SPECIFIED

Whenever possible, the sanitary sewer shall be brought to the building at an elevation below the basement floor. Not building sanitary sewer shall be laid parallel to or within three (3) feet of any bearing wall except for the purposes of crossing a bearing wall. The depth shall be sufficient to afford protection from frost. The sanitary sewer shall be laid at uniform grade and in straight alignment in so far as possible. Change in direction shall be made only with properly curved pipe and fittings or manholes.

SECTION 408 DRAIN ELEVATION REQUIREMENTS SPECIFIED

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the same building sewer.

SECTION 409 CONSTRUCTION TECHNIQUE SPECIFIED

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City Engineer. Pipe laying and backfill shall be performed in accordance with American Standard Testing Materials specification (C12-72) except that no backfill shall be placed until the work has been inspected.

SECTION 410 CONSTRUCTION MATERIALS SPECIFIED

The building sewer shall be gasketed SDR-35 PVC pipe. All joints shall be tight and waterproof.

SECTION 411 CONSTRUCTION METHODS SPECIFIED

All joints and connections shall be made gastight and watertight.

SECTION 412 CONNECTION METHOD SPECIFIED

The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. When connecting a four (4) inch diameter building sewer to any public sewer eight (8) inches in diameter or less, a "Y" branch must be installed. When connecting a six (6) inch diameter building sewer into any public sewer twelve (12) inches in diameter or less a "Y" branch must be installed. Such "Y" branches shall be installed at the owner's expense and at the location specified by the City Engineer. Where the public sewer is greater than the maximum diameter for installation of a "Y" branch as specified above and not properly located "Y" branch is available, a neat hole may be cut into the upper quadrant of the public sewer to receive the building sewer, with entry in the downstream direction at any angle of about forty-five (45) degrees. A proper sized "Y" saddle is to be inserted in the hole so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the City Engineer.

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 EXCAVATION PROTECTION REQUIRED

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City Engineer.

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.

SECTION 415 COMMUNITY SEWAGE DISPOSAL SYSTEM

Any wastewater disposal system not connected to a public or city-owned wastewater disposal system serving more than one independent connection shall be considered a community wastewater disposal system and shall be constructed of such materials and in such manner as may be prescribed by the City Engineer. If such a system is intended to become or to be connected to a public or city sewer system, it shall be constructed according to the requirements of and under the supervision of the City Engineer.

SECTION 416 WINTER CONDITIONS

Except in case of emergency, no connections will be installed during winter conditions which will increase the cost of the work, unless payment of the extra expense above the ordinary cost is assumed by the owner or occupant.

SECTION 417 SEWER EXTENSIONS

All extension of the City sewer system, whether for a public or private sewer, will only be allowed by vote of the City Council. The Council will authorize such extensions only after receipt of a written report from the City Engineer outlining the engineering, feasibility and estimated cost of such proposed extension, as well as an assessment of the potential properties benefiting from such action. The Council must also receive prior written comments from the Director of Community and Economic Development as to the compliance of such an extension with relevant sections of the City's Comprehensive Plan before issuing authorization for the extension.

SECTION 417.1

The Council will base it's decision on any sewer extension request on the request's consistency with the provisions and furtherance of the objectives of the City's Comprehensive Plan and the specific criteria established in this ordinance.

SECTION 417.2

Specifically, the City Council will authorize sewer extensions in consideration of the following mandatory requirements:

1. Said sewer extension lies within a defined primary service area and if said area is defined on an adopted primary service area map as provided for in the Comprehensive Plan, or
2. Said sewer extension lies within the urban growth boundary; and
 - a. The proposed sewer extension does not extend more than 500 feet beyond a primary service area boundary;
 - b. The immediately adjacent primary service area has not been declared service deficient; and
 - c. It shall have been determined that it is feasible to provide other critical services to the area to be served including water, fire and police protection and adequate traffic capacity on existing or proposed streets; and

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3. In either case, No. 1 or No. 2 above, such an extension will not be installed in or through environmentally sensitive areas such as wetlands or in or through areas of extensive shallow depth to bedrock or other extreme physiographic conditions which would render, in the opinion of the City, the cost of installation and maintenance of such a sewer prohibitive.

4. Nothing in this Section will permit the City Council, at its' discretion, from extending public sewer service for public health reasons.

ARTICLE 5 - USE OF THE PUBLIC SEWERS

SECTION 501 DISPOSED OF UNPOLLUTED WATERS PROHIBITED

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted process waters into any sanitary sewer.

SECTION 502 SUBSOIL DRAINAGE CONTROL

Where new subsoil drains are placed under the cellar floor or used to encircle the outer walls of a building, the drains will be made of plastic, required by code, not less than four (4) inches in diameter, and shall be properly trapped. Subsoil drainage may discharge through a separate drain, as provided herein, into a storm sewer system, or into a combined sewer system if a separate storm water system is not available in the immediate area, only upon written approval of the Superintendent.

SECTION 503 DISCHARGE METHOD SPECIFIED

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

SECTION 504 DISCHARGE RESTRICTED

No person or corporation shall cause or allow any sewage, containing any substance which by the City Superintendent is deemed deleterious by reason of its composition, consistency, temperature or in any other respect, in the operation of the sewer system, to enter the system. No person shall discharge or cause or allow to be discharge into any sewer under the control of the City, the following described substances, materials, waters or wastes if in the opinion of the Superintendent, such substances, materials, water or wastes are in excessive amounts or concentrations.

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

SECTION 505 GENERAL PROHIBITIONS

No discharger or user shall introduce or cause to be introduced into the POTW and pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to any federal, state, or local standards or requirements. The provisions of this Ordinance shall apply to wastewater originating in the City of Brewer, as well as wastewater originating in the Town of Orrington which is introduced to the City's WPCF. The Town of Orrington will also abide with the Interlocal and Interjurisdictional Agreements, that both the City of Brewer and the Town of Orrington agreed upon. (#7)

SECTION 506 SPECIFIC PROHIBITIONS (#18)

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

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

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

Any spill shall be reported immediately to the Superintendent.

Any damages experienced by the City as a result of a spill are considered a violation of this Ordinance and costs for repair, replacement of other associated costs are recoverable under Article 9, Section 911.2 (C) of this Ordinance.

No discharger or user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (a) Any wastewater containing toxic or poisonous liquids, gases, or solids in excessive quantity, either singly or by interaction with other wastes. Said toxic pollutants are defined in standards, issued from time to time under Section 307A of the Act.
- (b) Any incompatible pollutant controlled by any user in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306 and/or 307 of the Act.
- (c) Any wastewater, liquid or vapor having a temperature higher than one hundred four (104°) F.
- (d) Any wastewater containing caustic alkalinity, calculated as CaCO₃ (Calcium Carbonate) in excess of 75 parts per million by weight, or in volumes which may be excessive.
- (e) Any wastewater having a ph lower than 5.0 or higher than 11.0 or having any other corrosive property capable of causing damage or hazard to sewers, structures, equipment process or personnel at the wastewater works.
- (f) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/L or containing substances which may solidify or become viscous at temperatures between thirty-two (32°) F and one hundred fifty (150°) F. (#13)
- (g) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to, waste streams with a closed-cup flash point of less than one hundred forty (140°)F.

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- (h) Any solid or viscous substances in such quantities or of such size to be capable or causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, disposable wipes, rags, kitty litter, diapers, paper towels, feathers, tar, plastics, wood, unground garbage, whole blood, paunch, manure, hair, fleshing, entrails, paper dishes, cups, mild container, etc., either whole or ground by garbage grinders.
- (i) Any garbage that has not been "properly shredded" (See Article 1, Section 100.3, Definition "58" of this Ordinance).
- (j) Any wastewater containing excessive amounts of iron, chromium, copper, zinc, mercury, mineral acid, and similar objectionable or toxic substances.
- (k) Any wastewater containing phenols or other taste or odor producing substances in excessive amounts.
- (l) Any radioactive wastes or isotopes in excessive amounts or such half-life or concentration as may exceed limits established in applicable State or Federal regulations or by the City.
- (m) Any obnoxious or malodorous liquids, gases, solids or other wastewater which either singly or by interaction with other wastes, are sufficient to cause acute worker health and safety problems.
- (n) Any wastewater containing:
 - (1) Materials which cause excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (2) Materials with oxygen demanding pollutants or chlorine requirements when released in a discharge at a flow or pollutant concentration that will cause interference is prohibited.
 - (3) Materials in such concentration as to constitute "slugs" as defined in Article 1, Section 100, Definition "72" of this Ordinance.

(4) Materials which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a limited degree that the water pollution control facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(5) (DELETED)

(o) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.

SECTION 507 DILUTION

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

The Superintendent may impose limitations on users who are using dilution to meet applicable standards.

SECTION 508 INTERCEPTORS REQUIRED

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

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

SECTION 509 INTERCEPTOR MAINTENANCE REQUIRED

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

SECTION 510 NOTIFICATION OF DISCHARGE CHANGE REQUIRED

The City must be notified 45 days in advance by any person or persons involved in:

- (1) proposed substantial change in volume or character of pollutants over that being discharged into the treatment works at the time of issuance of this permit.
- (2) proposed new discharge into the treatment works of pollutants from any source which would be a new source as defined in Section 306 of the Act if such source were discharging pollutants.

SECTION 511 CONTROL OF DISCHARGE REQUIRED

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

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

SECTION 512 PRELIMINARY TREATMENT FACILITY MAINTENANCE REQUIRED

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

SECTION 513 CONTROL MANHOLE REQUIRED

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

SECTION 514 STANDARD ANALYSES METHODS REQUIRED

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Article 5, Sections 504 and 507 of this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", Published by American Public Health Association, American Water Works Association and Water Environment Federation and shall be determined at the control manhole provided for in Article 5, Section 509 of this Ordinance, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

SECTION 515 APPLICANT AGREEMENT REQUIRED

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

SECTION 516 ANNUAL REPORT REQUIRED

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

SECTION 517 SPECIAL AGREEMENTS ALLOWED

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

SECTION 518 MONITORING STATION

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

SECTION 519 LIMITS

- A. Limits for certain pollutants will be established to protect against pass-through or interference. No person shall discharge wastewater containing in excess of limits as identified on the user's wastewater discharge permit. All discharge limits shall be approved by the Superintendent.

- B. This list may be amended or limits may be developed for any other pollutants deemed appropriate, including pollutants that can cause pass through, interference, worker health and safety problems, fume toxicity, etc. conventional Pollutants are Classified as: Biochemical Oxygen Demand (BOD), Total Suspended Solids (Nonfilterable) (TSS), ph, Fecal Coliform, and Oil and Grease. The City will provide advanced written notice of new limits to users prior to initiating enforcement actions. (#13)

- C. The discharge limits must be met at the point where the user's wastewater is discharged to the POTW.

SECTION 520 CITY'S RIGHT OF REVISION

The City reserves the right to establish, by Ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

SECTION 521 SPECIAL AGREEMENT

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

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

SECTION 522 TREATMENT FACILITIES

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

SECTION 523 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS

The Superintendent may require any user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years the Superintendent shall evaluate whether each user needs such a plan. Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of store chemicals;
- C. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of prohibited discharges in this section of this Ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures of containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

ARTICLE 6 - DISCHARGES

SECTION 601

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

SECTION 601.1 (#18)

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

- (1) Disclosure of name, address and location of discharger.
- (2) Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (3) Disclosure of known or suspected to be present wastewater constituents and characteristics including, but not limited to, those mentioned in this Ordinance. Any sampling or analysis that is required by the City shall be performed in accordance with procedures established by the City. The costs of all such sampling shall be fully borne by the discharger.
 - a. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the [Superintendent] or the applicable Standards to determine compliance with the Standard.
- (4) Disclosure of time and duration of discharges.
- (5) Disclosure of daily flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the Superintendent due to cost or nonfeasibility.

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- (6) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- (7) Description of activities, facilities, and processes on the premises including all material which are or may be discharged to the sewage works of the City.
- (8) Disclosure of the nature and concentration of any known or suspected pollutants or materials prohibited by this Ordinance in compliance is being achieved with this Ordinance on a consistent basis and, if not, whether additional operations and maintenance activities and/or additional treatment is required for the discharger to comply with this Ordinance.
- (9) Disclosure of each product by type, amount, process or processes and rate of production.
- (10) Disclosure of the type and amount of raw materials utilized per day.
- (11) Application Signatories and Certifications.

All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 601.1 #11. [Note: Definition of Authorized Representative has been revised. See definition at Section 100.3 #5].

- A. Certification of Permit Applications. User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 506. Users submitting periodic compliance reports required by Section 604.3 and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 604. The following certification statement must be signed by an Authorized Representative as defined in Section 100.3(5):

"I certify under penalty of law that this document and

all attachments were prepared under my direction or supervision in accordance with system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the systems, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to [the Superintendent] prior to or together with any reports to be signed by an Authorized Representative.

(12) The Superintendent will evaluate the completed survey form and material safety data sheets furnished by the discharger and may require the discharger to furnish additional information. The discharger shall provide all requested additional information within fifteen (15) days after receiving notification from the Superintendent that additional information is required.

SECTION 602 WASTEWATER DISCHARGE PERMITS

Every new or existing user of the City's sewer system or treatment plant who is determined to be a "user" as defined in Article 1, Section 100.3, Definition "71" of this Ordinance may be required to obtain a wastewater discharge permit from the Superintendent.

SECTION 602.1 SPECIAL LICENSES FOR CERTAIN NON-INDUSTRIAL USERS

The Superintendent may prescribe special license, disclosure and reporting requirements for non-industrial dischargers of high strength conventional waste as defined in Article 1 of this Chapter, distinct from the requirements imposed on industrial dischargers under this Section. In addition, non-industrial dischargers of high strength conventional waste, whether or not licenses, may be subject to surcharges (Art. 12, Section 1203 of this Ordinance) on their regular sewer charges for any discharge that results in "excessive loading", as defined in Article 1. Section 100, Definition "24" of this Ordinance.

SECTION 602.2

Wastewater discharge permits shall be expressly subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the Superintendent. The conditions of the wastewater discharge permits shall be uniformly enforced in accordance with Article 6, Section 601.1 of this Ordinance, and applicable State and Federal regulations.

SECTION 602.3

Wastewater discharge permits may impose effluent restrictions or limits on the discharger if the Superintendent determines that such limits are necessary to protect the quality of the treatment plant influent, effluent, or sludge, or to maintain compliance with any applicable Federal or State law including requirements under the City's NPDES permit and national standards for new and existing sources.

SECTION 602.4

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than one (1) year, or may be stated to expire on a specified date. The terms and conditions of the permit may be subject to modification and change by the Superintendent during the life of the permit, as limitations or requirements are modified and changed. The user should be informed of any proposed changes in their permit at least forty-five (45) days prior to the effective date of change. Any change or new conditions in the permit shall include a reasonable time schedule for compliance.

SECTION 602.5

Wastewater discharge permits are issued to a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner or a new user, different premises, or a new or changed operation. To facilitate the issuance of new, separate permits, the Superintendent may allow new owners or individuals to operate under an existing wastewater discharge permit for a time period not to exceed ninety (90) days.

SECTION 602.6 (#18)

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Wastewater discharge permits shall contain the following conditions:
- (1) A statement that indicates the wastewater discharge permit duration;
 - (2) A statement that indicates the wastewater discharge permit is non-transferable pursuant to Article 6, Section 602.5 of this Ordinance, and a provision requiring any new owner or operator to be furnished with a copy of the existing wastewater discharge permit by the prior user;
 - (3) Standards and effluent limits based on the general and specific prohibited City discharge standards, and all applicable law.
 - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include a sampling frequency and sample type based on Federal, State and local law;
 - (5) A statement of applicable penalties for violation of permit limits and requirements, and any required compliance schedule. Such schedule may not extend the time for compliance beyond that required by Federal, State or local law; and

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- (6) Other specific conditions the Superintendent deems necessary to ensure compliance with this Ordinance, and federal and state regulations and statutes.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and flow-equalization including Best Management Practices.
 - (2) Limits on the instantaneous, daily and monthly average, and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties, including Best Management Practices.
 - (3) Requirements for the installation of technology, pollution control, or construction of appropriate containment devices, any of which would be designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.
 - (4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharge;
 - (5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW by the user;
 - (6) The unit charge or schedule of user charges and fees for the management of the user's wastewater discharged to the POTW;
 - (7) Requirements for the installation and maintenance of inspection and sampling facilities and equipment, if required by the Superintendent.

- (8) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal, State, and City standards, including those which become effective during the term of the wastewater discharge permit;
- (9) Identification by the user of the location of the user's outfall to the POTW; and
- (10) Other specific conditions the Superintendent deems necessary to ensure compliance with this Ordinance and Federal and State regulations and statutes.

SECTION 602.7

Any aggrieved person, including the user, may file a Petition with the Superintendent in writing to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit application within 15 days of the permit's issuance or notification of the Superintendent's denial.

- A. Failure to submit a timely Petition for review shall be deemed to be a waiver of any administrative appeal.
- B. In it's petition, the petitioner must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. A petitioner seeking review of a permit denial must specifically allege reasons why a permit should be issued, along with conditions of issuance that petitioner believes should satisfy any concerns the Superintendent may have about the suitability of the users' wastewater for discharge to the City's POTW.
- C. The requirements or conditions of any wastewater discharge permit shall not be stayed by the Superintendent pending the outcome of the administrative appeal.

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- D. Upon receipt of the Petition, the Superintendent may act to grant the petitioner's request. Said action must take place within 14 days of receipt of the petition. If the Superintendent refuses to grant the petitioner's request, however, the Superintendent shall notify, in writing, the City Council having oversight responsibility for the operation of the City's POTW. The City Council shall schedule an administrative hearing, which shall be recorded, within 30 days of notification by the Superintendent or as soon thereafter as may be arranged. The City Council shall conduct the hearing so as to develop an adequate administrative record and the City Council may choose to limit the asking of questions to the members of the Council only. The petitioner will bear the burden of proof at the hearing and will present its case first. The City Council shall issue its decision in writing within 45 days of the hearing. The City Council's decision must be guided by the provisions of this Ordinance.

Failure by the Council to issue a decision within that time period shall constitute a denial of the administrative appeal, however, the record of the administrative hearing, including any exhibits, shall be made a part of any further judicial reviews. City Council decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, not to modify a wastewater discharge permit or to issue a modified wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

- E. Parties seeking judicial review of the final administrative action must do so by filing a complaint with the Penobscot County Superior Court pursuant to M.R.Civ.P. 80B within Thirty (30) days after notification of denial or from failure to act.

SECTION 602.8

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

- A. To incorporate any new or revised Federal, State, or local treatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the issuance of the wastewater discharge permit;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information is received by the Superintendent indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater survey form, wastewater discharge permit application or in any other required reporting;
- G. Revision of, or a grant of a variance from, treatment standards and
- H. To correct typographical or other errors or omissions in the wastewater discharge permit.

Challenges to any such modifications can be made pursuant to the provisions of Section 602.7 of this Ordinance.

SECTION 602.9

Any user who violates any condition of its permit, or of this Ordinance, or of applicable State and Federal statute and regulations, may have its permit revoked by the Superintendent. Violations subjecting a user to possible revocation of its permit include, but are not limited to, the following;

- A. Failure of a user to accurately report the wastewater constituents and characteristics of its discharge;

- B. Failure of a user to report significant changes in operations or its wastewater constituents and characteristics;
- C. Refusal of reasonable access by the Superintendent to the user's premises during regular business hours for the purpose of inspection or monitoring;
- D. Violations of the conditions of the permit;
- E. Failure to provide advance notice of the transfer of the ownership of a permitted user;
- F. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application, any required wastewater surveys or other required reporting;
- G. Falsifying monitoring reports or tampering with monitoring equipment;
- H. Failure to pay surcharges, user fees, permit fees, fines or other required payments; or
- I. Failure to meet the requirements of a compliance schedule.

SECTION 603 COMPLIANCE SCHEDULES

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

SECTION 603.1

Under no circumstances shall the Superintendent permit a time increment for any single step directed toward compliance which exceed nine (9) months.

SECTION 603.2

No later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the City including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date at which it expects to comply, the reason for the delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the City. Progress reports may be required every thirty days if, in the opinion of the Superintendent, such reports are necessary.

SECTION 604 REPORTING REQUIREMENTS

Monitoring Reports

- A. Within either one hundred and eighty (180) days after the effective date of a POTW treatment standard, or the final administrative decision on a POTW determination, whichever is later, existing users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the City a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become users subsequent to the promulgation of an applicable standard, shall be required to submit to the City a report which contains the information listed in paragraph B, below. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

- B. Users described in paragraph A above shall submit the information set forth below:
 - (1) The name and address of the facility, including the name of the operator and owner.
 - (2) A list of any environmental control permits held by or for the facility.
 - (3) A brief description of the nature, average rate of production, and SIC of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

- (4) Information showing the measured average daily flow, in gallons per day, to the POTW from regulated process streams and other streams,
- (5) A. The treatment standards applicable to each regulated process.

B. The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the City, of regulated pollutants in the discharge from each regulated process. Instantaneous concentrations, where required, shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with the provisions of Article 6, Sections 604.8 and 604.9 of this Ordinance.
- (6) A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether treatment standards are being met on a consistent basis, and if not, whether additional Operation & Maintenance and/or treatment is required to meet the treatment standards and requirements.
- (7) If additional treatment and/or Operation & Maintenance will be required to meet the treatment standards, the shortest schedule by which the user will provide such additional treatment and/or Operation & Maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable treatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Article 6, Section 603 of this Ordinance.
- (8) All monitoring reports must be signed and certified in accordance with Article 6, Section 601.1 (11) of this Ordinance.

SECTION 604.1 COMPLIANCE SCHEDULE PROGRESS REPORT

The requirements imposed by Article 6, Section 603 of this Ordinance shall apply to the compliance schedule required by Article 6, Section 604 (B) (7) of this Ordinance.

SECTION 604.2 REPORT ON COMPLIANCE WITH TREATMENT STANDARD DEADLINE

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

SECTION 604.3 PERIODIC COMPLIANCE REPORTS (#18)

- A. If required, all user(s) shall, at a frequency determined by the Superintendent, submit a report indicating the nature of pollutants in the discharge and the estimated average and maximum daily flows. In cases where the treatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by [the Superintendent] or the treatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with Article 6, Section 601.1 (11) of this Ordinance.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW, using the analytical requirements and sampling procedures prescribed in Article 6, Sections 604.8 and 604.9 of this Ordinance, the results of this monitoring shall be included in the report.

SECTION 604.4 REPORT OF CHANGED CONDITIONS

Each user must notify the Superintendent of any planned significant changes to the user's operations or process systems which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change.

- A. The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Article 6, Section 602 of this Ordinance.
- B. The Superintendent may issue a wastewater discharge permit under Article 6 of this Ordinance or modify an existing wastewater discharge permit under Article 6, Section 602.8 of this Ordinance in response to changed conditions or anticipated changed conditions.
- C. No user shall implement the planned changed conditions(s) until and unless the Superintendent has responded in writing to the user's notice.
- D. For purposes of this subsection, significant changes include, but are not limited to, flow increases of ten percent (10%) or greater, and the discharge of any previous unreported pollutants.

SECTION 604.5 REPORTS OF POTENTIAL PROBLEMS (#18)

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

- B. Within five (5) days following such a discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

SECTION 604.6 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

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

SECTION 604.7 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING

If sampling performed by a user indicates a violation, the user must notify the Superintendent within twenty four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the POTW monitors at the user's facility at least once a month, or if the POTW samples between the user's initial sampling and when the user receives the results of this sampling.

SECTION 604.8 ANALYTICAL REQUIREMENTS

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or a report required by this Ordinance shall be performed in accordance with the techniques prescribed in Standard Methods, Editions 18-22.

SECTION 604.9 SAMPLE COLLECTION (#18)

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

- A. Except as indicated in paragraph B below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by [the Superintendent]. Where time-proportional composite sampling or grab sampling is authorized by [the City], the samples must be representative of the discharge.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab sample collection techniques.
- C. (DELETED)

SECTION 604.10 DETERMINATION OF NONCOMPLIANCE

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

SECTION 604.11 TIMING

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall control.

SECTION 604.12 RECORD KEEPING

Users subject to the reporting requirements of this Ordinance shall retain and make available for inspection and copying all records or information obtained pursuant to any monitoring activities required by this Ordinance and any additional records or information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include, but not be limited to, the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

These records shall be retained by the user for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the POTW, or where the user has been specifically notified of a longer retention period by the Superintendent.

SECTION 604.13 STATE REQUIREMENTS

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such requirements and limitations, provided, however, that such requirements and limitations are more stringent than the provisions of this Ordinance or Federal law requirements or limitations.

SECTION 604.14 REPORTS FROM UNPERMITTED USERS

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City upon the request of the Superintendent.

SECTION 605 COMPLIANCE MONITORING

SECTION 605.1 INSPECTION AND SAMPLING

The Superintendent shall have the right to enter the facilities of any user to ascertain whether the purpose of this Ordinance, and any permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. All users shall allow the Superintendent ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties as the Superintendent deems necessary.

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- A. Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurement of the user's wastewater discharge to the POTW.
- B. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing compliance monitoring.
- C. The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. The user shall bear the costs of such setup or installation.
- D. The Superintendent shall require the user to install monitoring equipment as the Superintendent deems necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly (4 times per year) to ensure their accuracy.
- E. Any temporary or permanent obstruction to the safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and the obstruction shall not be replaced. The costs of clearing such access shall be born by the user.
- F. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this Ordinance.
- G. In the event that user is in or has previously been in noncompliance with this Ordinance or with the user's wastewater discharge permit, the user shall be required to pay the full cost of all additional sampling and analysis that the City may conduct to determine the user's compliance with this Ordinance.

- H. All monitory facilities shall be constructed and maintained in accordance with all applicable construction codes, standards or specifications. Construction, if required, shall be completed within one hundred twenty (120) days of receipt of the wastewater discharge permit by the user.

SECTION 605.2 ADMINISTRATIVE INSPECTION WARRANTS

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

SECTION 605.3

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be made in accordance with analytical procedures specified by the Superintendent and shall be determined at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four or whether a grab sample or samples should be taken. Normally, but not always, BOD and TSS analyses are obtained from a 24-hour composite of all outfalls whereas pH's are determined from periodic grab samples).

SECTION 606 (REPEALED)

SECTION 607 CONFIDENTIAL INFORMATION

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

SECTION 608 SPECIAL AGREEMENTS

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

SECTION 609 PUBLICATION OF USERS IN NONCOMPLIANCE (#18)

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

SECTION 610 (REPEALED)

ARTICLE 6A - CATCH BASINS

SECTION 601-A PRIVATE CATCH BASINS

This Article shall apply to all catch basins on private property which are connected to combined storm water - sanitary sewer lines in the City of Brewer.

SECTION 602-A REGISTRATION

Prior to June 15, 1995, any person(s) or entity(ies) who own catch basins which are connected to the City of Brewer's combined storm water - sanitary sewer lines shall register said catch basins with the Director of the POTW for the City of Brewer.

SECTION 603-A

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

SECTION 604-A CATCH BASIN USER FEES

All catch basins shall be charged a user fee to be connected to combined storm water - sanitary sewer lines as (see the City of Brewer Schedule of Fees).

SECTION 605-A

Except for the amount of the user fee, all other provisions of Article 12, Schedule of Sewer Rates, of this Chapter shall apply.

SECTION 606-A PENALTIES

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

ARTICLE 6B - NON-STORMWATER DISCHARGE ORDINANCE

SECTION 601-B PURPOSE/OBJECTIVES

A. Purpose. The purpose of this Non-Stormwater Water Discharge Ordinance (Article 6-B of this Chapter and hereinafter referred to as the "Ordinance") is to provide for the health, safety, and general welfare of the citizens of the City of Brewer through the regulation of Non-Storm Water Discharges to the municipality's storm drainage system as required by federal and State law. This Ordinance establishes methods for controlling the introduction of pollutants into the City's storm drainage system in order to comply with requirements of the federal Clean Water Act and State law.

B. Objectives. The objectives of this Ordinance are:

1. To prohibit unpermitted or unallowed Non-Storm Water Discharges to the storm drainage system; and
2. To set forth the legal authority and procedures to carry out all inspection, monitoring, and enforcement activities necessary to ensure compliance with this Ordinance.

SECTION 602-B DEFINITIONS

For the purposes of this Ordinance, the terms listed below are defined as follows:

A. CLEAN WATER ACT. "Clean Water Act" the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the "Clean Water Act"), and any subsequent amendments thereto.

B. DISCHARGE. "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing, or other addition of pollutants to "waters of the State". "Direct discharge" or "point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel, or other floating craft, from which pollutants are or may be discharged.

C. ENFORCEMENT AUTHORITY. "Enforcement Authority" means the person(s) or department authorized under Section 604-B of this Ordinance to administer and enforce this Ordinance.

D. EXEMPT PERSON OR DISCHARGE. "Exempt Person or Discharge" means any person who is subject to a Multi-Sector General Permit, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a MEDES permit, waiver, or waste discharge license or order issued to the discharger and administered un the authority of the U.S. Environmental Protection Agency ("EPA") or the Maine Department of Environmental Protection ("DEP").

E. (REPEALED)

F. MUNICIPALITY. "Municipality" means the City of Brewer.

G. MUNICIPAL SEPARATE STORM SEWER SYSTEM, OR MS4. "Municipal Separate Storm Sewer System, or MS4" means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency of Federal agency, or other public entity that discharges directly to surface waters of the State.

H. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. This means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

I. NON-STORM WATER DISCHARGE. Means any discharge to an MS4 that is not composed entirely of storm water.

J. PERSON. Means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency, or Federal Agency or other legal entity which creates, initiates, originates, or maintains a Discharge of Storm Water of a Non-Storm Water Discharge.

K. POLLUTANT. Means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, domestic, commercial, or agricultural wastes of any kind.

L. PREMISES. Means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the Storm Drainage System are or may be created, initiated, originated, or maintained.

M. REGULATED SMALL MS4. "Regulated Small MS4" means any Small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems", dated June 3, 2003 ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that, as of the issuance of the General Permit, have been designated by the DEP as Regulated Small MS4s.

N. SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM, OR SMALL MS4. Means any MS4 that is not already covered by the Phase 1 MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

O. STORM DRAINAGE SYSTEM. The Municipality's Regulated Small MS4 [and if want to expand reach of ordinance, add: "and areas outside the UA that drain into the Regulated MS4" or "and all premises"].

P. STORM WATER. Any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "Storm Water".

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

SECTION 603-B APPLICABILITY

This ordinance shall apply to all persons discharging storm water and/or non-storm water discharges from any premises into the storm drainage system.

SECTION 604-B RESPONSIBILITY FOR ADMINISTRATION

The Director of Environmental Services, or his or her designee, is the Enforcement Authority who shall administer, implement, and enforce the provisions of this ordinance.

SECTION 605-B PROHIBITION OF NON-STORM WATER DISCHARGES

A. General Prohibition. Except as allowed or exempted herein,, no person shall create, initiate, originate, or maintain a non-storm water discharge to the storm drainage system. Such non-storm water discharges are prohibited, notwithstanding the fact that the municipality may have approved the connections, drains, or conveyances by which a person discharges unallowed non-storm water discharges to the storm drainage system.

B. Allowed Non-Storm Water Discharges. The creation, initiation, origination, or maintenance of the following non-storm water discharges to the storm drainage system is allowed:

1. Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFT 35.2005(20); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; and individual residential car washing.
2. Discharges specified in writing by the enforcement authority as being necessary to protect public health and safety; and
3. Dye testing, with verbal notification to the enforcement authority prior to the time of the test.

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

SECTION 606-B SUSPENSION OF ACCESS TO THE MUNICIPALITY'S SMALL MS4

The enforcement authority may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened non-storm water discharges to the storm drainage system which present or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams, or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize a non-storm water discharge to the storm drainage system. If the person fails to comply with a suspension order issued in an emergency, the enforcement authority may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons; provided, however, that in taking such steps the enforcement authority may only enter upon the premises that is the source of the actual or threatened non-storm water discharge to the storm drainage system with the consent of the premises' owner, occupant, or agent.

SECTION 607-B MONITORING OF DISCHARGES

In order to determine compliance with this ordinance, the enforcement authority may enter upon and inspect premises subject to this ordinance at reasonable hours with the consent of the premises' owner, occupant, or agent to inspect the premises and connections thereon to the storm drainage system and to conduct monitoring, sampling, and testing of the discharge to the storm drainage system.

SECTION 608-B ENFORCEMENT

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this ordinance. Whenever the enforcement authority believes that a person has violated this ordinance, the enforcement authority may enforce this ordinance in accordance with 30-A M.R.S.A. § 4452, as the same may be amended from time to time.

A. Notice of Violation. Whenever the enforcement authority believes that a person has violated this ordinance, the enforcement authority may order compliance with this ordinance by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The elimination of non-storm water discharges to the storm drainage system, including, but not limited to, disconnection of the premises from the MS4;
2. The cessation of discharges, practices, or operations in violation of this ordinance;
3. At the person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-storm water discharges to the storm drainage system and the restoration of any affected property; and/or
4. The payment of fines, of the municipality's remediation costs and of the municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

B. Penalties/Fines/Injunctive Relief. Any person who violates this ordinance shall be subject to fines, penalties, and orders for injunctive relief and shall be responsible for the municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452, as the same may be amended from time to time. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this ordinance also shall be responsible for any and all fines, penalties, damages, and cost, including but not limited to attorneys' fees and costs, incurred by the municipality for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this ordinance; this responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this section.

C. Consent Agreement. The enforcement authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violations(s) of this ordinance for the purposes of eliminating violations of this ordinance and of recovering fines, costs, and fees without court action.

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

E. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the enforcement authority's decision, then the enforcement authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Main Rules of Civil Procedure.

F. Ultimate Responsibility of Discharger. The standards set forth herein are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This ordinance shall not create liability on the part of municipality, or any officer, agent or employee thereof for any damage(s) that may result from any person's reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 609-B SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this ordinance.

SECTION 610-B BASIS

The City of Brewer enacts this Non-Storm Water Discharge Ordinance (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 39 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate storm Sewer Systems", dated June 3, 2003, has listed the City of Brewer as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this ordinance as part of the Municipality's Storm Water Management Program.

SECTION 610-B ENFORCEMENT SECTION AND PENALTIES

The following shall be a guide for determining fines for violations of the Non-Storm Water Discharge Ordinance.

Non-Storm Water Discharge Ordinance

The following shall be a guide for determining fines for violations of the Non-Storm Water Discharge Ordinance:

Fist minor discharge violation of ordinance	NOV
Significant discharge violation intentional discharge significance determined by Environmental Director)	NOV and \$1,000.00/day/violation
Repeat of minor discharge violation	\$100.00/day/violation
Repeat of significant violation -intentional discharge	\$2,500.00/day/violation
Late compliance report (30 days after NOV)	\$100.00/day/violation
Late compliance report	

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Chapter 31 - Sewer and Pre-Treatment Ordinance*

(60 days after NOV)	\$500.00/day/violation
Failure to meet compliance schedule by more than 30 days (NOV and AO will require a schedule)	\$500.00/day/violation
Reoccurring discharge violations after NOV, AO, Board of Appeals and compliance schedule	\$1,000.00/day/violation
Failure to complete compliance schedule as required by NOV, AO and Board of Appeals (45 days after BOA decision)	\$1,000.00/day/violation

**ARTICLE 6-C (#20) - POST-CONSTRUCTION STORMWATER MANAGEMENT
AND MONITORING ORDINANCE**

SECTION 1 PURPOSE

The purpose of this "Post-Construction Stormwater Management and Monitoring Ordinance" (the "Ordinance") is to provide for the health, safety, and general welfare of the citizens of the City of Brewer through monitoring, inspections, and enforcement of compliance with Post Construction Stormwater Management Plans in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations, and of Maine's Small Municipal Separate Storm Sewer Systems General Permit.

SECTION 2 OBJECTIVES

This Ordinance seeks to ensure that Post-Construction Stormwater Management Plans are followed and Stormwater Management Facilities and/or Systems are inspected and properly maintained and pose no threat to public safety.

SECTION 3 DEFINITIONS

For the purposes of this Ordinance, the terms listed below are defined as follows:

A. APPLICANT - "Applicant" means a Person with requisite right, title or interest or an agent for such Person which will include applicants, who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance. Thereafter, the term "applicants" shall include the applicant and applicants heirs, successors and assigns.

B. BEST MANAGEMENT PRACTICES (BMP) - "Best Management Practices" or BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

C. CLEAN WATER ACT - "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq., also known as the "Clean Water Act"), and any subsequent amendments thereto.

D. CODE ENFORCEMENT OFFICER "CODE ENFORCEMENT OFFICER" except as otherwise provided in this Ordinance, the Brewer Code Enforcement Officer or a duly appointed Assistant Code Enforcement Officer shall administer and enforce this Ordinance, including the receiving of applications and the issuing of permits.

E. COLLECTION SYSTEMS SUPERVISOR - "Collection Systems Supervisor" means the person responsible for the operations and maintenance of the City's sewer and stormwater collection systems.

F. CONSTRUCTION ACTIVITY - "Construction Activity" means Construction Activity including one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

G. DISCHARGE - "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to "waters of the State". "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

H. DISTURBED AREA - "Disturbed Area" is clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area". "Disturbed area" does not include routine maintenance but does include redevelopment. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

I. ENFORCEMENT AUTHORITY - "Enforcement Authority" means the Code Enforcement Officer who is authorized by the City of Brewer to administer and enforce this Ordinance.

J. ENVIRONMENTAL SERVICES DIRECTOR - "Environmental Services Director" or his/her authorized designee, means person responsible for managing the City's environmental programs which include the Water Pollution Control Facility, sewer collections systems, Stormwater Program and Solid Waste Program for the City of Brewer,

K. MUNICIPALITY - "Municipality" means the City of Brewer.

L. MUNICIPAL REVIEW AUTHORITY - "Municipal Review Authority" means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment. The Municipal Review Authority will consist of the City Planner, Code Enforcement Officer, City Engineer and Environmental Services Director and/or their designees.

M. MUNICIPAL SEPARATE STORM SEWER SYSTEM, OR MS4 - "Municipal Separate Storm Sewer System" or "MS4", means conveyances for stormwater, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

N. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT - "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" means a permit issued by the U.S. Environmental Protection Agency ("EPA") or by the Maine Department of Environmental Protection ("DEP") that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

O. NEW DEVELOPMENT - "New Development" means any construction activity, as defined herein, on unimproved Premises.

P. PERSON - "Person" means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity.

Q. POLLUTANT - "Pollutant" means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

R. POST CONSTRUCTION STORMWATER MANAGEMENT PLAN - "Post Construction Management Plan" means BMP's and Stormwater Management Facilities employed by a New Development or Redevelopment to meet the stormwater standards of the Municipality's subdivision, site plan, or other zoning, planning or other land use ordinances and approved by the Municipal Permitting Authority.

S. PREMISES - "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the City of Brewer from which discharges into the Municipal Separated Storm Sewer System (MS4), as defined herein, are or may be created, initiated, originated or maintained.

T. QUALIFIED POST-CONSTRUCTION STORMWATER INSPECTOR - "Qualified Post-Construction Stormwater Inspector" means a person who conducts post-construction inspections of stormwater management facilities and/or systems and meets the following qualifications:

1. Has a working knowledge of Chapter 500, Stormwater Management Rules, and Maine's Stormwater Best Management Practices Manual; and
2. Meets the following criteria or is on the Maine Department of Environmental Protection's list of approved post-construction stormwater best management practices inspectors:

(a) has a college degree in environmental science, landscape architecture, civil engineering, or comparable field, with demonstrated knowledge of stormwater hydrology and stormwater management techniques, or (b) has successfully completed the requirements of a Maine Department of Environmental Protection training course on inspecting post-construction stormwater management facilities. Proprietary stormwater management facilities and/or systems must be inspected by a person approved by the company that built and furnished the equipment.

U. REDEVELOPMENT - "Redevelopment" means construction activity, as defined herein, on premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

V. REGULATED SMALL MS4 - "Regulated Small MS4" means any Small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" effective July 1, 2008 ("General Permit"), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

W. SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM, OR SMALL MS4 - "Small Municipal Separate Storm Sewer System", or "Small MS4", means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

X. STORMWATER - "Stormwater" means any stormwater runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "Storm Water".

Y. STORMWATER DRAIN SYSTEMS - "Storm Drainage Systems" means the Municipality's Regulated Small MS4.

Z. STORMWATER MANAGEMENT FACILITIES AND/OR SYSTEMS - "Stormwater Management Facilities and/or Systems" means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures and/or systems that are part of the stormwater management plan for a new development or redevelopment.

AA. STORMWATER MANAGEMENT PLAN - "Stormwater Management Plan" means BMPs and post stormwater management facilities and/or systems employed by a new Development or Redevelopment to meet the stormwater standards of Chapter 24, Land Use, of the City's Charter's and Codes of Ordinances and approved by the Municipal Permitting Authority.

BB. URBANIZED AREA (U.A.) - "Urbanized Area" or "U.A." means the area of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

CC. WATERSHED - "Watershed" means the area of land that catches rain and snow that eventually drains or seeps into a marsh, stream, river, lake or groundwater.

SECTION 4 APPLICABILITY

A. Applicability - This Ordinance applies to all new Development and Redevelopment within the City of Brewer that are part of a large common plan of development or sale, that discharges stormwater to the municipal separated stormwater sewer system (MS4), whether by direct flow to the system or through the new Development or Redevelopment Stormwater Management Facilities, structures and/or Systems.

B. Exception - This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that has received approval of its Post-Construction Stormwater Management Plan and Stormwater Management Facilities and/or Systems under the Municipality's subdivision or other zoning, planning or other Land Use Codes and Ordinances; said lot, tract, or parcel shall not require additional review under this Ordinance, but must comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

SECTION 5 POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN APPROVAL

A. General Requirement - Except as provided in **Section 4.B.** above, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit or approval for that New Development or Redevelopment unless the Municipal Review Authority for that New Development or Redevelopment also determines that the Applicant's Post-Construction Stormwater Management Plan for that New Development or Redevelopment meets the requirements of the Ordinance.

B. Performance Standards

1. **Stormwater Treatment Required** - The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the New Development or Redevelopment through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan must be designed by a Maine Licensed Professional Engineer to meet the standards contained in the Maine Department of Environmental Protection's Chapters 500 and 502 Rules and shall comply with the practices described in the manual *Stormwater Management for Maine*, published by the Maine Department of Environmental Protection, January 2006, which are hereby incorporated by reference pursuant to **Title 30-A M.R.S.A. § 3003.**

2. Location of Facilities - The Applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the Applicant shall submit to the City of Brewer documentation, approved as to legal sufficiency by the City's attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New Development or Redevelopment and that the property will not be altered in a way that interferes with the off-site facilities.

3. Maintenance Agreement Required - Where the Applicant proposes to retain ownership of the Stormwater Management Facilities and/or Systems shown in its Post-Construction Stormwater Management Plan, the Applicant shall submit to the City documentation, approved as to legal sufficiency by the City's attorney that the Applicants, shall have the legal obligation and the resources available to operate, repair, maintain and replace the Stormwater Management Facilities and/or Systems. Applications for New Development or Redevelopment requiring Stormwater Management Facilities and/or Systems that will not be dedicated to the City of Brewer must enter into a Maintenance Agreement with the City of Brewer. A sample of the Maintenance Agreement is attached as Appendix 1 to this Ordinance. The applicant, at the applicants expense shall record the signed agreement in the Penobscot County of Deeds within 14 days after both the City and applicant has signed.

4. Easements and Dedications - Whenever elements of the Stormwater Management Facilities and/or Systems are not within the right-of-way of a public street and the facilities will not be offered to the Municipality for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the City's attorney, shall be provided to the City allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities and/or Systems. When an offer of dedication is required by the Municipal Review Authority, the Applicant be responsible for the maintenance of these Stormwater Management Facilities and/or Systems under this Ordinance until such time (if ever) as they are accepted by the Municipality.

5. **Conflict with State Laws or Rules** - In addition to any other applicable requirements of this Ordinance and the Municipality's land use ordinances, any New Development or Redevelopment which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under **Title 38 M.R.S.A. §420-D** shall comply with the rules adopted by DEP under **Title 38 M.R.S.A. §420-D(1)**, as the same may be amended from time to time, and the Applicant shall document such compliance to the Municipal Review Authority. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

6. **Engineering and administrative fees** - At the time of application, the Applicant shall pay to the City the amount estimated by the Municipal Reviewing Authority to be sufficient to pay the engineering, legal review, and administrative costs incurred by the City in review of the Post-Construction Stormwater Management Plan. The City shall deduct from this amount the actual engineering, legal and administrative review costs incurred by the City. Any remaining engineering, legal and administrative review costs owed by the Applicant shall be paid in full by the Applicant prior to the issuance of any temporary or permanent certificate of compliance for the New Development or Redevelopment, and any unused balance remaining at that time will be refunded to the Applicant.

In addition, any persons required to file an annual certification under **Section 6** of this Ordinance shall pay, prior to the issuance of any temporary or permanent certificate of compliance for the New Development or Redevelopment, an amount estimated to equal the City's administrative and technical costs of review of the annual certification for a period of five (5) years.

7. **Notice of BMP Discharge to Municipality's MS4** - At the time of application, the Applicant shall notify the Municipal Review Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the City's MS4. The Applicant shall include in this notification a listing of which BMP(s) will so discharge and the volume of stormwater they intend to discharge. The flow volume will be calculated based on average annual rainfall and square feet of area draining.

SECTION 6 POST-CONSTRUCTION STORMWATER MANAGEMENT MONITORING PROGRAM

A. General Requirements - Any person owning, operating, leasing or having control over Stormwater Management Facilities and/or Systems required by a Stormwater Management Plan approved by Brewer's Municipal Review Authority shall demonstrate compliance with that Plan as follows:

Pursuant to the Post Construction Ordinance Monitoring Program

1. **Scope of Inspection** - A Qualified Post-Construction Stormwater Inspector shall be hired by the Applicant annually to inspect the Stormwater Management Facilities and/or Systems including, but not limited to, any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Stormwater Management Plan.
2. **Deficiencies Identified** - If the Stormwater Management Facilities and/or Systems require maintenance or repairs to function as intended by the approved Post-Construction Stormwater Management Plan, that Applicant shall take corrective action(s) to address the deficiency or deficiencies within six months of the date reported to the City.
3. **Submission of Inspection Form** - The Qualified Post-Construction Stormwater Inspector shall, on or before June 1 of each year, provide a completed and signed certification to Brewer Code Enforcement Officer in a form provided by the City of Brewer identical to the form set forth in Appendix 2 of the Ordinance, certifying that he or she has inspected the Stormwater Management Facilities and/or Systems and that they are adequately maintained and functioning as intended by the approved Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and/or Systems and, if the Stormwater Management Facilities and/or Systems require maintenance or repair, the Applicant shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

Applications for New Development or Redevelopment that include privately owned, leased, or controlled Stormwater Management Facilities and/or Systems shall be accompanied by a maintenance agreement with the City of Brewer in a format substantially as set forth in Appendix 1 of this Ordinance.

Once the New Development or Redevelopment project is complete, the Applicant shall provide "as built" to the City of Brewer showing the location of all Stormwater Management Facilities and/or Systems that were installed.

B. Right of Entry - In order to determine compliance with this Ordinance and with the Stormwater Management Plan, the Code Enforcement Officer, or his/her designee, and the Environmental Services Director or his/ her designee, may enter upon property at reasonable hours to inspect the Stormwater Management Facilities and/or Systems.

C. Annual Report - Beginning July 1, 2009 and July 1 each year thereafter the City of Brewer shall include the following in its Annual Report to the Maine Department of Environmental Protection:

1. The cumulative number of sites that have Stormwater Management Facilities and/or Systems discharging into Brewer's separate storm sewer system;
2. A summary of the number of sites that have Stormwater Management Facilities and/or Systems discharging into Brewer's Separate Storm Sewer System that have sent the annual inspection results to the City;
3. The number of sites with documented functioning Stormwater Management Facilities and/or Systems; and;
4. The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

D. Felts Brook Watershed and City Project Inspections

1. As stated in Section 6.1 the applicant is responsible for hiring a Qualified Post Construction Stormwater Inspector to inspect all Stormwater Management Facilities and/or Systems installed during construction, annually. This requirement pertains to all Development and Redevelopment projects Citywide that disturbed one acre or more during construction.
2. Felts Brook is the City's priority watershed and may be at risk of becoming an urban-impaired stream as a result of current and future development and must be protected to the greatest extent practicable. To help protect the Felts Brook watershed from impairment in the future, the City shall periodically inspect all Stormwater Management Facilities and/or Systems located in the Felts Brook watershed, including those sites of one acre or less to verify compliance with Stormwater Management Plans. The City's inspections will be performed by a Qualified Post-Construction Stormwater Inspector, preferably the City's Code Enforcement Officer and/or Collection Systems Supervisor, once they receive training and certification from Maine Department of Environmental Protection (MDEP).
3. A Qualified Post-Construction Stormwater Inspector will inspect all Stormwater Management Facilities and/or Systems installed in the Felts Brook Watershed by City of Brewer Departments. BMP's will be inspected during construction and Stormwater Management Facilities and Systems installed will be inspected annually. These inspections will be conducted by a Qualified Post-Construction Stormwater Inspector, preferably the City's Code Enforcement Officer and/or Collection Systems Supervisor.

E. Inspections/Installed Prior to July 1, 2009

1. A list will be created of all Stormwater Management Facilities and/or Systems installed in the City prior to July 1, 2009.
2. The Facilities and/or Systems where the Applicants have maintenance agreements or homeowner associations will be responsible for correcting any discrepancies.
3. The Facilities and/or Systems where no owner is responsible for operation and maintenance of the facilities, the City will correct any deficiencies as manpower and funding becomes available.

F. As builts - Once the New Development or Redevelopment project is complete; the Applicant shall provide the City of Brewer copies of as built's showing the location of all Stormwater Management Facilities and/or Systems that were installed. The as built's shall include the following: Operation and Maintenance manuals, location of Systems, elevations, final testing certifications of equipment or systems, certified drawing and easement information and contracts.

SECTION 7 ENFORCEMENT

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Stormwater Management Plan. Whenever the Code Enforcement Officer believes that a person has violated this Ordinance or the Stormwater Management Plan, the Code Enforcement Officer, or his/her designee, may enforce this Ordinance in accordance with Title 30-A M.R.S.A. § 4452.

A. Notice of Violation - Whenever the Code Enforcement Officer believes that a person has violated this Ordinance or the Stormwater Management Plan, the Code Enforcement Officer or his/her designee, may order compliance with this Ordinance or with the Stormwater Management Plan by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limiting or forgoing the following:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Stormwater Management Plan;
2. At the person's expense, compliance with BMPs required as a condition of approval of the new Development or Redevelopment, the maintenance and repair of Stormwater Management Facilities and/or Systems, the restoration of any affected property; and/or
3. The payment of penalty, of the City's maintenance and repair costs and of the City's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/ or Systems and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

B. Penalties/Fines/Injunctive Relief - Any person who violates this Ordinance or the Stormwater Management Plan shall be subject to civil penalties as determined by the courts and orders for injunctive relief and shall be responsible for the City's attorneys' fees and costs, all in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Stormwater Management Plan also shall be responsible for any and all State and Federal civil penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the City for violation of Federal and State environmental laws and regulations caused by or related to that person's violation of this Ordinance or of the Stormwater Management Plan; this responsibility shall be in addition to any penalties, or injunctive relief imposed under this Section.

C. Consent Agreement - The Code Enforcement Officer or his/her designee, may, with the approval of the Municipal Officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Stormwater Management Plan and of recovering civil penalties, costs and fees without court action.

D. Enforcement Measures - If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the Code Enforcement Officer or his/her designee, may recommend to the City Manager or his/her designee, that the City's attorney or certified Code Enforcement Officer file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

SECTION 8 SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

SECTION 9 BASIS

The City of Brewer enacts this "Post-Construction Stormwater Management Monitoring Ordinance" (the "Ordinance") pursuant to Title 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), Title 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), Title 33 U.S.C. §1251 et seq. (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems," has listed the City of Brewer as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under the General Permit as indicated above, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program in order to satisfy the minimum control measures required by Part IV D 5 ("Post-construction stormwater management in new development and redevelopment").

SECTION 10 PENALTIES

The following shall be a guide for determining fines for violations of the Post Construction Ordinance.

Penalties

Post Construction Ordinance

The following shall be a guide for determining fines for violations of the Post Construction Ordinance.

First minor violation of ordinance	Notice of Violation (NOV)
Significant violation - intentional discharge (Significance determined by Environmental Director)	NOV and \$1000/day/violation
Repeat of minor violation	\$100.00/day/violation
Repeat of significant violation - intentional	\$2,500.00/day/violation
Late compliance report	\$100.00/day/violation (30 days after NOV)
Late compliance report	\$500.00/day/violation (60 days after NOV)

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Failure to meet compliance schedule by more than 30 days-500.00/day/violation
(NOV and Administrative Order (AO) will require a schedule)

Recurring violations after NOV, AO, Board of Appeals, (BOA)
\$1,000.00/day/violation and compliance schedule

Failure to complete compliance schedule as required by NOV, AO, and Board of
Appeals \$1,000.00/day/violation (45 days after BOA decision)

Enacted this ____ day of _____, 20__.

Effective Date: _____, 20__.

**THIS MAINTENANCE AGREEMENT RELATES TO THE PROPERTY DESCRIBED IN THE DEED
RECORDED IN THE PENOBSOT COUNTY REGISTRY OF DEEDS IN VOLUME _____, PAGE _____**

APPENDIX 1

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

This Maintenance Agreement is made this _____ day of _____
20__ by and between _____, whose mailing address is

_____, hereinafter referred to as the "Owner" and the **City of
Brewer**, Maine, hereinafter referred to as the "City".

WITNESSETH

WHEREAS, the Owner owns a project, the name of which is
_____, hereinafter referred to as the "Project"; and

WHEREAS, the location of the Project is _____,
Maine; and

WHEREAS, the Project's Tax Map and Lot Numbers are Tax Map____Lot____; and

WHEREAS, most recently the Project was approved by the City's Planning Board,
hereinafter referred to as the "Municipal Permitting Board" on _____, 20__
as either a site plan or subdivision, or both, and if as a subdivision the
plan is recorded in the Penobscot County Registry of Deeds in Plan File No.
_____; and

WHEREAS, the approval of the Project includes Storm water Management
Facilities and/or Systems which require periodic maintenance; and

WHEREAS, in consideration of the approval of the Project, the City requires
that the said periodic maintenance be performed on the Storm water Management
Facilities and/or Systems at least annually;

NOW, THEREFORE

in consideration of all of the foregoing and of the mutual benefits accruing
from the approval of the Project by the City Municipal Permitting Board and
the agreement of the Owner to maintain the Storm water Management Facilities
and/or Systems, the parties hereby agree as follows:

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1. The Owner agrees as follows:

(a) To inspect, clean, maintain, and repair the Storm water Management Facilities and/or Systems, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the build up and storage of sediment and debris in the system.

(b) To promptly repair any deficiencies in the Storm water Management Facilities and/or Systems noted during the annual inspection.

(c) To promptly provide a summary report of the inspection, maintenance, and repair activities performed annually by a Qualified Post-Construction Storm water Inspector of the Storm water Management Facilities and/or Systems to the City's Code Enforcement Officer;

(d) To allow access to the Project after forty-eight (48) hours written notice to the City Code Enforcement Officer, or his/her designee, for the purpose of inspecting the Storm water Management Facilities and/or Systems for compliance with these requirements.

(e) If the Project is a subdivision, to create a homeowners' or property owners' association for the purpose of maintaining the Storm water Management Facilities and/or Systems.

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

2. Upon creation of the homeowners' or property owners' association, the homeowners' or property owners' association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and all future conveyances, of all or a portion of the Project, shall reference to this Maintenance Agreement.

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4. If the Owner fails to comply with the terms and conditions of this Maintenance Agreement, the City will give thirty (30) days written notice to cure the default. If the Owner fails to do so, the City may then enter onto the Project with men, equipment and material to cure the default. The Owner shall promptly pay all of the City's costs to cure the default, including reasonable attorney fees and costs in the event the City has to undertake legal action to collect the debt.
5. The term Owner as used in this Maintenance Agreement shall include the Owner's heirs, successors and assigns, which have an ownership interest, either in whole or in part, in the Project.
6. For the purpose of this Maintenance Agreement, time shall be of the ESSENCE.
7. This Maintenance Agreement contains the complete understanding of the parties and may only be modified by their mutual written agreement.

CITY OF BREWER - City

By: _____

Witness
Name:

Printed

Its:

Duly Authorized

Witness (signature language to be added)
Owner

(Appropriate acknowledgments for the City and Owner are to be added prior to the Agreement being signed)

APPENDIX 2

**Stormwater Management Facilities Certification
(To be sent to Municipality)**

I, _____ (print or type name), certify the
Name of the Qualified Post-construction Stormwater Inspector
Following:

1. I am making this Stormwater Management Facilities and/or Systems
Certification for the following property:

(print or type name of subdivision,
condominium or other development)
located at _____, (the
"Property");
(print or type address)

2. The owner, operator, tenant, lessee or homeowners' association of the
Property is:

(names of owner, operator, tenant, lessee, homeowners' association or other
party having control over the Property);

3. I am a Qualified Post-construction Stormwater Inspector hired by the
person/entity named in Paragraph 2;

4. I have knowledge of erosion and stormwater control and have reviewed the
approved Post-Construction Stormwater Management Plan for the Property;

5. On _____, 20____, I inspected the Stormwater Management
Facilities and/or Systems, including but not limited to parking areas, catch
basins, drainage swales, detention basins and ponds, pipes and related
structures required by the approved Post-Construction Stormwater Management
Plan for the Property;

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6. At the time of my inspection of the Stormwater Management Facilities and/or Systems on the Property, I identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities and/or Systems:

7. On _____, 20____, the owner, operator, tenant, lessee or president of the homeowners' association took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities and/or Systems stated in 6 above:

8. As of the date of this certification, the Stormwater Management Facilities and/or Systems are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: _____, 20____.

By: _____

Signature

Print Name

STATE OF MAINE

_____, ss.
_____, 20____

Personally appeared the above-named _____, the _____ of _____, and acknowledged the foregoing Certification to be said person's free act and deed in said capacity.

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Before me,

Notary Public/Attorney at Law

Print Name

Mail certified or hand deliver this certification to the City of Brewer at the following address:

Code Enforcement Officer
City of Brewer
80 North Main Street
Brewer, ME 04412

ARTICLE 7 - HAULED WASTEWATER

SECTION 701

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

Septage which is harmful to the treatment processes or sludge disposal practices shall not be accepted. Industrial wastes, wastes having heavy metals, toxic chemicals, extreme pH (such as acid), flammable (such as gasoline), or corrosive materials in concentrations deemed harmful to the treatment facility operation, at the sole discretion of the Superintendent or his designee, shall be refused. (#7)

SECTION 701.1 PERMITS

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

SECTION 701.2 PERMIT RENEWAL

Permits shall be issued on a One (1) year basis. Permit renewals must be submitted no later than December 1st to allow time to process the renewal application. Late applications shall be subject to a Twenty Dollar (\$20.00) service charge. Permits may be renewed by submitting a letter requesting renewal with the reference to the number of the permit being renewed. The applicant shall include with the letter the license plate number of the vehicle for which the permit was issued and an updated copy of insurance coverage.

SECTION 701.3 PERMIT REVOCATION

Any permit issued in accordance with this ordinance will be subject to revocation by the Superintendent on the basis of failure to pay proper charges, use of unauthorized disposal sites, failure to meet sanitation standards, or the discharging of industrial or any other wastes that damage the City's treatment works or sludge disposal program.

SECTION 702 ESTABLISHMENT OF FEES (#31)

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

SECTION 703 DISCHARGE REQUIREMENTS (#24)

- A. The permitted vehicle must be equipped with a suitable discharge hose. This shall extend from the truck's discharge point to the connection at the Septage Receiving Station.
- B. The City will consider failure by the hauler to use a suitable discharge hose as grounds for refusing a hauler's load.
- C. Any spillage of the truck's contents onto the ground near the Septage Receiving Station may constitute a health hazard as well as a nuisance. Immediate cleanup of such spillage is the responsibility of the hauler. (#1)
- D. All septic haulers must have a functional sight gauge with marks indicating the volume in gallons of liquid carried in the truck tank.
- E. All permitted vehicles must be kept neat, clean, and in good repair. The name and place of business shall be located on each side of the vehicle in plain view.
- F. The maximum daily limit of septage is Fifty-two Thousand (52000) gallons per day on a first come first serve basis. Septic and holding wastes are accepted Twenty-four (24) hours per day, seven days per week, 365 days per year.
- G. Haulers shall not decant a load of septic prior to unloading at Septic receiving.

SECTION 704 DISCHARGE PROCEDURE

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

SECTION 705 NOTIFICATION OF TEMPORARY STOPPAGE

The Superintendent or his designee reserves the right to temporarily shut off all septic and holding tank discharges in the event of lack of personnel or adverse plant conditions including, but not limited to, MEPDES permit violations. (#1) (#13)

SECTION 706 HAULED INDUSTRIAL WASTE

The Superintendent may issue wastewater discharge permits to original sources of hauled industrial waste. The Superintendent shall also have the authority to prohibit the disposal of hauled industrial wastes.

SECTION 706.1

Waste haulers may only discharge loads at locations specifically designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with this Ordinance. The Superintendent may require the hauler to provide a waste analysis of any load prior to discharge.

SECTION 706.2

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

SECTION 706.3

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

SECTION 707

If needed a suitable odor control chemical approved by the Superintendent shall be introduced to the hauled wastewater prior to its transportation to the designated receiving structure. Sufficient quantities of such chemical shall be used by the waste hauler to adequately control odors emanating from the hauled wastewater.

SECTION 708

If at any time, in the opinion of the Superintendent, the discharge of hauled wastewater is placing an excessive burden on the POTW's treatment process or is otherwise causing a nuisance, the Superintendent can refuse to accept such wastewater for treatment in the POTW.

SECTION 709 MOTOR COACH DISCHARGES

The operation of discharging wastes from Motor Coaches into the sewer has to be approved by the Superintendent. The discharge locations must be suitable to allow dumping without causing visible debris, odor or a public nuisance. Written permission from the Superintendent must be on file at the place of business. Bi-yearly reports with the number of Motor Coaches that discharged, name and address of the facility including the name of the operator and owner of the facility must be supplied to the Superintendent. The reports are due by March 15, and September 15 of each year. All reports must be signed and certified in accordance with Article 6, Section 601.1 (11) of this Ordinance. (#1)

SECTION 710

No toxic or poisonous liquids, gases or solids in excessive quantities as specified in Article 5, Section 506 of this Ordinance or any other substances deemed hazardous by the Superintendent, shall be discharged into the sewer or receiving stations. Any individual or firm who dumps waste into any other part of the sewer system without written permission from the Superintendent will be prosecuted in accordance with the provisions of M.R.S.S. Title 38, Chapter 13A, et. seq. (#1)

ARTICLE 7A - HAULED LEACHATE (#18)

Leachate is defined in Article 1, Section 100.3. Definitions. Hauled leachate may be introduced into the Water Pollution Control Facility only at the designated receiving structure of the WPCF, and at such times as are established by the Superintendent. Hauled leachate from any location will be measured and recorded by the hauler, prior to delivery at the Brewer WPCF. No leachate shall violate any specific limitations, as is established in the permittees discharge permit. Initial permits will be issued on a one year basis. If the permittee does not violate any terms or conditions set forth in said permit within the first year, then a permit of up to three years may be issued.

If the Brewer WPCF is established as the primary discharge location, and the permittee changes it to their secondary discharge location, the Superintendent has the authority to automatically increase the designated fee to reflect what he deems adequate for the treatment of leachate. (A fee structure will be discussed by the Superintendent and the permittee representative prior to the issuance of a permit)

ARTICLE 8 - OPERATION OF PUMP STATIONS & TREATMENT PLANTS
(#11)

SECTION 801

The operation of all privately owned pump stations, lift stations or ejector stations for the purpose of pumping wastewater shall be subject to the approval of the Superintendent, and shall be subject to inspection as outlined in Article 6, Section 605 of this Chapter.

SECTION 801.1

All private pump stations, lift stations or ejector stations shall be equipped with at least two pumps, each of which shall have a capacity to pump the total design flow of the facility, and each being provided with automatic switches which will insure uninterrupted operation in case of overload or failure of the other. In addition, the pump station facility shall have an approved standby gasoline or diesel generator system of sufficient capacity to operate the pumps in case of power failure, and shall also be equipped with an approved alarm system designed to provide warning in case of mechanical failure.

SECTION 801.2

All private pump stations, lift stations and ejector stations and attendant facilities shall be properly maintained by a qualified mechanic or operator, and a proposed schedule and method of maintenance shall be subject to the approval of the Superintendent.

SECTION 801.3

No person, partnership, corporation, or other legal entity shall construct or operate a private sewage treatment facility without first obtaining the necessary waste discharge permits from the DEP. If, in the opinion of the Superintendent, the operation of any privately owned sewage treatment plant is considered to be unsatisfactory and is creating a nuisance, then the Superintendent shall immediately notify the DEP of the problem. Any other duly authorized employee of the City shall have the right to inspect said facilities as provided in Article 6, Section 605 of this Ordinance.

SECTION 802 OPERATION OF PRIVATE PUMP STATIONS & TREATMENT PLANTS

SECTION 802.1

The operation of all privately owned pump stations, lift stations or ejector stations for the purpose of pumping wastewater shall be subject to the approval of the City, and shall be subject to inspection as outlined in Article 6, Section 605 of this Chapter.

SECTION 803 INSTALLATION OF SEWERAGE PUMPING STATION, LIFT STATION, OR EJECTOR STATION FOR PUBLIC USE

SECTION 803.1

In the event any person, partnership, corporation, or other legal entity wishes the City to accept the sewerage pumping station, lift station, or ejector station in an approved subdivision, the person, partnership, corporation, or other legal entity must comply with Section 803.1 through and including 803.12.15 of this Article. The installation of any pump stations, lift stations, or ejector stations in the City by any person, partnership, corporation, or other legal entity for the purpose of pumping wastewater shall be subject to the approval of the Brewer Planning Board.

SECTION 803.2

The Brewer Planning Board will base its decision of any pump station, lift station, or ejector station installation on the request's consistency with the provisions and furtherance of the objectives of the City Comprehensive Plan and the specific criteria established in this Ordinance.

SECTION 803.3

Any pump station, lift station, or ejector station installation will be allowed by vote of the Brewer Planning Board. The Planning Board will authorize such installation only after a technical review has been completed by the City Planner, City Engineer, Code Enforcement Officer and Superintendent of the Waste Water Treatment Plant and a recommendation given to the Planning Board in writing.

SECTION 803.4

Before commencement of construction, the owner or the owner's agent must obtain a permit authorizing the installation from the Code Enforcement Officer.

SECTION 803.5

Installation shall be in accordance with all Federal, State and Local rules and ordinances that are applicable.

SECTION 803.6

All installation plans must be reviewed and approved by the City Engineer, City Planner, Code Enforcement Officer and the Superintendent of the Waste Water Treatment Facility.

SECTION 803.7

The pump station, lift station, or ejector station shall not be installed in or through an environmentally sensitive area such as wetlands or in areas of extensive shallow depth to bedrock or other extreme physiographic conditions, which would render, in the opinion of the City Planning Board, the cost of installation and maintenance of such pump station, lift station, or ejector station prohibitive.

SECTION 803.8

Noting in this Article will prohibit the City of Brewer, at its discretion, from installing a pump station for public health reasons.

SECTION 803.9

The City Engineer or his or her designee and the Superintendent of the Waste Water Treatment Facility shall review all the specifications of the pump station prior to being authorized to start construction. The purpose of the review is to assure that the station is sized to pump the maximum peak flow volume of wastewater expected from the full 20-year build-out of the area that the station is intended to service.

SECTION 803.10

Any pump station, lift station, or ejector station installed in the City shall be equipped with electrical, mechanical and equipment standards as required by the City Planning Board.

SECTION 803.11

Only above ground type pump stations will be allowed in the City such as wet well mounted or recessed mounted pump station packages unless otherwise approved by the Superintendent of the Waste Water Treatment Facility. The make and model of the pump station package shall be approved by the Superintendent of the Waste Water Treatment Facility.

SECTION 803.12

The approved pump station package shall meet the following minimum standards before being approved by the Superintendent of the Waste Water Treatment Facility.

803.12.1

The wet well shall be sealed in a manner such that no ground water can enter and no wastewater can leave the structure.

803.12.2

Power to the station must be above the ground in a steel conduit. The City Electrical Inspector shall inspect the electrical prior to being approved by the Code Enforcement Officer and the Superintendent of the Waste Water Treatment Facility.

803.12.3

A weatherproof fused disconnect shall be installed outside of the station to provide maintenance personnel a method of isolating and locking out power to the entire station prior to performing maintenance.

803.12.4

A weatherproof standby generator disconnect shall be installed outside of the station to provide for the connection of a standby generator during power outages. The disconnect plug receiver must be such that it matches the City's existing plug.

803.12.5

The station shall have a minimum of two (2) pumps, each of which is capable of pumping peak hourly wastewater flow volumes expected at the pump station, lift station, or ejector station wet well.

803.12.6

The pump motor must have 230/460, three (3) phase capability and be controlled off a pump station package standard control panel. Any other power selection must be approved by the Superintendent of the Waste Water Treatment Facility.

803.12.7

The pump impellers shall be large enough to prevent unnecessary plugging and the capacity to pump the hourly wastewater flow volume entering the station wet well.

803.12.8

The station suction and discharge pipes must have minimum size of four (4") inches. This will assure the pumping of large solids and to prevent unnecessary pump, valve and line plugging.

803.12.9

Mechanical seal for pumps are mandatory.

803.12.10

The wet well level pump controls shall be air bubbler control unless prior approval is granted for another equal control system by the Superintendent of the Waste Water Treatment Facility.

803.12.11

The station shall provide a separate 120V circuit.

803.12.12

An alarm system with both a horn and red light is mandatory. This system shall be capable of operating of both 12 Volt and 120 Volt systems and the 12 Volt system must have a charging system. The alarm system must have a panel mounted alarm system silence and reset switch.

803.12.13

The station must have an insulated hood, an auxiliary heater, a vacuum release solenoid and relay with thermostat for freeze protection or a equal system approved by the Superintendent of the Waste Water Treatment Facility.

803.12.14

The following electrical components shall be mandatory: Running time meters, time delays to prevent starting of both pumps at once, generator interlock relay, transformer circuit breaker, pump running lights.

803.12.15

The station must be capable of communicating with the City's existing Pump Station Monitoring System (SCADA)

803.12.16

Sections 803.12.1 through and including Section 803.12.15 are minimum requirements for station installation in the City. If any person, partnership, corporation, association, firm or other legal entity is not willing to conform to the standard set by the City Planning Board and City staff, the City is under no obligation to accept the station once it is built. The person, partnership, corporation, association, firm or other legal entity that is responsible for the installation will be responsible for all operation, preventive and reoccurring maintenance of the station. The City will therefore not be held liable for any damage which occurs as a result of the station failing now or in the future.

ARTICLE 9. ENFORCEMENT SECTION & PENALTIES

SECTION 900

The Superintendent is hereby empowered to issue Notices of Violation, Administrative Orders, conduct show cause hearings, assess administrative fines (penalties) that shall not exceed \$1000 per day per violation to any user of the Brewer sewer system for violations of their permit or violations of this Ordinance. Payment of a fine is due within 30 days of receipt of the administrative fine. A user desiring to dispute such fines must file a request for the Superintendent to reconsider the fine within 10 days of being notified of the fine. Where the Superintendent believes a request has merit, he/she shall convene a hearing on the matter within 15 days of receiving the request for reconsideration.

Whenever the Superintendent finds that a user has violated this Ordinance, a wastewater discharge permit, or order issued hereunder, the Superintendent may serve the user a written Notice of Violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the correction and prevention thereof, shall be submitted to the Superintendent by the party upon whom the Notice of Violation was served. Submission of this plan in no way relieves the violator of liability for any violations occurring before or after receipt of the Notice of Violation.

When the Superintendent finds that a user has violated or continues to violate the Ordinance, a permit, or order issued hereunder, he/she may issue an Administrative Order directing, after a specified time period, adequate treatment facilities, devices, or other related equipment or procedures be installed and properly operated. Administrative Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self monitoring, and management practices.

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

Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, and a request that the user show cause why this proposed enforcement action should not be taken. The Superintendent shall conduct the show cause hearing. The notice of the meeting shall be delivered personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice shall be served on any person, principal executive, general partner or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

The following shall be a guide for determining fines for violations of the Sewer Ordinance:

SCHEDULE OF FINES

Discharge limit violation, significance of violation to be determined by the Superintendent	\$100/day/violation
Recurring and/or causing interference or pass-through of WWTP as defined in this Ordinance	\$1000/day/violation
Late reports (30 days after NOV)	\$100/day/report
Reports still late after NOV or AO	\$500/day/report
Failure to report spill or changed discharge, with damage, pass-through or interference of WWTP	\$1000/day/violation
Repeated failure to report spills after NOV or AO	\$1000/day/violation
Repeated failure to monitor discharge after NOV	\$100/day/violation
Repeated failure to monitor discharge when AO is sent	\$1000/day/violation
Repeated failure to report additional monitoring	\$100/day/violation

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Failure to install monitoring equipment
more than 30 days late \$100/day/violation

Failure to meet compliance schedule
(milestone) by more than 30 days (with
good cause but without approval of
Superintendent) \$100/day/violation

Failure to meet milestone by more
than 30 days (no good cause) \$1000/day/violation

Waste streams are diluted in lieu
of treatment, recurring \$500/day/violation

Improper sampling, recurring after NOV \$100/day/violation

The guide from the previous page that determines the fines for violations of this Ordinance lists the maximum fine that can be assessed per violation. The Superintendent will decide after reviewing the violation the fine that will be levied.

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

1. Economic benefit enjoyed by violator from the noncompliance
2. *(DELETED)*
3. Compliance history of the violator
4. Duration of noncompliance
5. Number of violations
6. Type and severity of violation
7. Efforts by the violator to take corrective action

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

KEY OF ABBREVIATIONS & TERMS USED IN ARTICLE 9

AO	Administrative Order
BWWTP	Brewer Water Pollution Control Facility
Civil Litigation	Civil Litigation against the Industrial User seeking equitable relief, monetary penalties and actual damages.
Criminal Prosecution	Pursing punitive measures against an individual and/or organization through a court of law.
Fine	Monetary Penalty assessed by Control Authority Officials. Fine should be assessed by the BWWTP Superintendent.
User	Any sewer user
Meeting	Informal Compliance meeting with IU to resolve recurring Noncompliance.
NOV	Notice of Violation
S	Superintendent or his/her Authorized Representative
Show Cause	Formal meeting requiring the IU to appear and demonstrate why the City should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.
TRC	Technical Review Criteria

SECTION 902 WASTEWATER TREATMENT ENFORCEMENT RESPONSE GUIDE

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

SECTION 902.1 DEFINITION: USER

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

SECTION 902.2 NONCOMPLIANCE WITH SAMPLING AND MONITORING PROCEDURES

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>	<u>PERSONNEL</u>
FAILURE TO SAMPLE, MONITOR OR REPORT (ROUTINE REPORTS).	Isolated or infrequent	Phone call or NOV requiring	S
Same as above.	U does not respond to the verbal warning or NOV.	AO is issued with compliance schedule.	S

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above.	U does not respond to the AO or is in frequent violation - SNC	Publish U in local news-paper as NC with the possibility to seek or assess up to \$1,000 per day in civil penalties or criminal investigation.	S
FAILURE TO NOTIFY OF EFFLUENT LIMIT VIOLATION OR SLUG DISCHARGE.	Isolated or infrequent. No known effect to BWWTP or environment.	Phone call with NOV requiring a written report with corrective action taken to prevent recurrence. Report within ten days.	S
Same as above.	No response to NOV, continued or recurring violation -	AO with a show cause meeting with compliance schedule. Publish U in newspaper, assess up to \$1,000 per day in penalties.	S
Same as above.	Known BWWTP damage or environmental damage -	Publish U in newspaper and assess up to \$1,000 per day in penalties or possible sewer ban and criminal investigation.	S
FAILURE TO NOTIFY OR REPORT A SPILL OR CHANGE IN DISCHARGE.	Isolated or Infrequent	NOV requiring written report within ten days, with corrective action and action to prevent recurrence.	S

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above.	U does not respond to NOV, no environmental and/or BWWTP damage -	AO, or civil penalty of up to \$1,000 per day, publish in newspaper.	S
Same as above.	Recurring or environmental and/or BWWTP damage	Publish U in newspaper, assess up to \$10,000 per day in penalties and/or jail and sewer ban.	S
MINOR SAMPLING, MONITORING OR REPORTING DEFICIENCIES.	Infrequent or isolated.	Phone call or NOV requiring report within ten days.	S
NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above. recurring.	No response to NOV or schedule. If continued,	AO with compliance publish U in newspaper.	S
MAJOR OR GROSS SAMPLING, MONITORING OR REPORTING DEFICIENCIES (MISSING INFORMATION, LATE REPORTS).	Infrequent or isolated.	NOV - request corrections within ten days.	S
Same as above.	No response to NOV or frequent -	AO with compliance schedule. If continued, publish U in newspaper, assess up to \$1,000 per day in penalties.	S

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
FAILURE TO SIGN OR CERTIFY REPORTS PROPERLY	Infrequent or isolated	Phone call or NOV requiring report within ten days.	PC
Same as above.	U does not respond to the verbal warning or NOV.	AO, with show cause meeting with compliance schedule.	S
Same as above.	U does not respond to the AO is in frequent violation - NC	Publish U in local newspaper as NC with the possibility to seek or assess up to \$1,000 per day civil penalties or criminal investigation, sewer ban.	S
REPORTING FALSE INFORMATION.	Any instance - NC	Criminal investigation and judicial action with a penalty up to \$10,000 per day, one year in jail or both, sewer ban. Publish U in newspaper.	S

**SECTION 902.3 IMPLEMENTATION SCHEDULE
NONCOMPLIANCE**

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

SECTION 902.4 EFFLUENT LIMITS

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
EXCEEDING LIMITS (LOCAL OR PROHIBITED) .	Infrequent, isolated minor violation.	NOV	S
EXCEEDING FINAL LIMITS (LOCAL OR PROHIBITED) .	Infrequent, isolated,	NOV requiring a written re- corrective action and action taken to prevent recurrence.	S
Same as above.	U does not respond to NOV or recurring vio- lation NC	AO or civil penalty of up to \$1,000 per day, one year in jail or both. Publish U in newspaper.	S
EXCEEDING DAILY AVERAGE LIMITS AND/OR FINAL LIMITS.	Infrequent, isolated, major violation.	Show cause meeting and AO with compliance schedule.	S
Same as above.	Recurring major vio- lation. No BWWTP or environmental damage - NC	Publish U in newspaper, assess up to \$1,000 per day in penalties and/or sewer ban.	S
Same as above.	Recurring major vio- lation environmental and/or BWWTP damage - NC	Publish U in newspaper, assess up to \$10,000 per day in penalties and/or one year in jail and sewer ban.	S

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
REPORTED SLUG LOAD	Isolated without known damage.	Show cause meeting with AO that action be taken to prevent recurrence. Publish U in newspaper.	S
NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above.	Isolated with known damage interference or pass through - NC	Publish U in newspaper, assess up to \$1,000 per day in penalties.	S
Same as above. S	Recurring - NC	Sewer ban, up to \$10,000 per day in penalties and/or one year in jail. Publish U in newspaper.	
DISCHARGE WITHOUT A PERMIT OR APPROVAL	One time without known environmental or BWWTP damage.	AO with a written report within ten days with corrective action to prevent recurrence.	S
Same as above.	One time with known BWWTP or environmental damage, a recurring violation - NC	Judicial action with up to \$1,000 per day in penalties. Publish U in newspaper.	S

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
Same as above. mental or BWWTP damage	Continuing violation with known environ- criminal investigation. - NC	Assess up to \$10,000 per day in penalties with Publish U in newspaper.	S

SECTION 902.5 NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS

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

NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	PERSONNEL
MAJOR VIOLATION OF PERMIT CONDITION	Evidence of negligence or willful intent - SNC	Judicial action with penalty up to \$10,000, criminal action, sewer ban. Publish IU in newspaper.	S

SECTION 902.6 (REPEALED)

SECTION 902.7 TIMEFRAMES FOR ENFORCEMENT RESPONSES

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

SECTION 903 NOTICE OF VIOLATION

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

SECTION 904 CONSENT ORDERS

The Superintendent may enter into Consent Orders, assurances of voluntary compliance, or other documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 906 and 907 of this Article and shall include language which make them judicially enforceable. Such orders may require the payment of administrative fines pursuant to Section 908 of this Article.

SECTION 905 SHOW CAUSE HEARING

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

SECTION 906 COMPLIANCE ORDERS

When the Superintendent finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other treatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user comes into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a treatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION 907 CEASE AND DESIST ORDERS

When the Superintendent determines that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist any such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge to the POTW.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION 908 ADMINISTRATIVE FINES

- A. When the Superintendent finds that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other treatment standard or requirement, including a user's failure to obtain a wastewater discharge permit pursuant to Article 6, Section 602 of this Ordinance, the Superintendent may fine such user in an amount not to exceed \$1,000 per day per violation. Each day of violation shall constitute a separate offense subject to fine. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. In the case of failure to obtain a required wastewater discharge permit, the fine shall accrue on a daily basis commencing on the day the user first was notified or became aware of the need for such a permit. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, legal fees, attorney fees, to any fine assessed.
- B. Any and all unpaid fines, and penalties under this Ordinance shall, after (30) calendar days from the due date, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property may be sought for unpaid charges, fines and penalties as allowed under State law.
- C. Users desiring to dispute such fines must file a written request for the Superintendent to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. The Superintendent shall convene an administrative hearing on the matter and conduct said hearing in accordance with the procedures delineated in Article 6, Section 602.7 (D) of this Ordinance. Failure to timely request an administrative hearing constitutes a waiver of any administrative appeal. The decision of the City Council conducting the administrative hearing, including a decision to not reduce the fine, shall be final and any appeal must follow the requirements of M.R.Civ.P. 80B. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

SECTION 909 EMERGENCY SUSPENSIONS

The Superintendent may immediately suspend a user's discharge either with or without written or verbal notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of the public.

The Superintendent may also immediately suspend a user's discharge, either with or without written or verbal notice, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the POTW. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the connection to the POTW, to prevent or minimize damage to the POTW, its receiving waters or endangerment to any persons. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Article 9, Section 910 of this Ordinance are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Superintendent describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Said report must be submitted at least seven (7) days prior to the date of any show cause or termination hearing held pursuant to Article 9, Sections 905 and 910 of this Ordinance.

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this subsection.

SECTION 910 TERMINATION OF DISCHARGE

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

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of the user's discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for that purpose of inspection, monitoring or sampling; or
- E. Violation of the treatment standards in Article 5, Section 505 of this Ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause pursuant to Article 9, Section 905 of this Ordinance why the proposed action should not be taken. Additionally, the user may request an administrative hearing in writing within thirty (30) days of the decision of the show cause hearing. The hearing shall be conducted in accordance with the procedures delineated in Section 908 (C) of this Ordinance. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 911 JUDICIAL ENFORCEMENT REMEDIES

SECTION 911.1 INJUNCTIVE RELIEF

When the Superintendent determines that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other treatment standard or requirement, the Superintendent may request that the City Solicitor or his designee seek appropriate injunctive relief pursuant to the laws of this State which restrains or compels the specific performance of the conditions of the wastewater discharge permit, order, or other requirements imposed by this Ordinance on activities of the user. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. The decision whether to seek injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

SECTION 911.2 CIVIL PENALTIES AND CRIMINAL REFERRAL

- A. Any person who violates the provisions of this Ordinance shall be subject to civil penalties pursuant to 30-A M.R.S.A. Section 4452, as well as applicable civil or criminal penalties pursuant to 38 M.R.S.A. Sections 349 and 1319-T. The penalties in those statutes shall be in addition to the specific penalties in this Ordinance.
- B. A user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or other permit issued hereunder, or any other treatment standard or requirement shall be required to pay a fine of not less than \$1,000 per day per violation and not more than \$2,500 per day per violation for each and every day of a violation for a first offense. These fines shall increase to a minimum of \$2,500 per day per violation and a maximum of \$25,000 per day per violation for a second offense of the same or a similar nature occurring within two (2) years of the first offense. Each day of violation shall constitute a separate offense subject to fine. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- C. Pursuant to 30-A M.R.S.A. Section 4452 and M.R.Civ.P. 80K, the City may seek reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

- D. In determining the amount of civil liability, the Court shall be asked to take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions undertaken by the user, the compliance history of the user, and any other factor as justice requires.

- E. No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, prevent access to any structure, appurtenance or equipment, or other part of or otherwise harm the POTW. Penalties for violations of this provision of this Ordinance shall be a minimum \$1,000 and maximum \$10,000 fine for the first offense. A second offense committed within 5 years shall be punished by a minimum \$10,000 and a maximum of \$25,000 fine. These penalties are in addition to any penalties associated with other civil or criminal provisions of state and federal law which said person may be subject to for such action.

SECTION 911.3

Filing a suit for civil penalties or making a criminal referral shall not be a bar against, or a prerequisite for, taking any other action against a user.

SECTION 911.4

The Superintendent reserves the right to make referrals for criminal prosecution pursuant to the provisions of 38 M.R.S.A. Sections 349 and 1319-T, as well as any other applicable Federal or State law. Additionally, enforcement of this Ordinance shall not preclude criminal prosecution for other violations of State or Federal law and the City will cooperate in any such prosecutions.

SECTION 911.5

The provisions of Article 9, Section 900 of this Ordinance are not exclusive remedies. The City reserves the right to take any and all enforcement actions or combinations thereof against a noncompliant user.

SECTION 912 SUPPLEMENTAL ENFORCEMENT ACTION

SECTION 912 PERFORMANCE BONDS

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

SECTION 912.1 LIABILITY INSURANCE

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

SECTION 912.2 WATER SUPPLY SEVERANCE

Whenever a user violates or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other treatment standard or requirement, the Superintendent will work with the Brewer Water Department to sever water service to the user under Water Department regulations, if applicable. Service will only recommence at the user's expense, after the user has satisfactorily demonstrated its ability to comply with this Ordinance. (#13)

SECTION 913 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

SECTION 913.0 UPSET

- A. An upset shall constitute an affirmative defense to an action brought for noncompliance with treatment standards if the requirements of paragraph B below are met.
- B. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and the user can identify the cause(s) of the upset;
 2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable Operation & Maintenance procedures; and
 3. The user has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time period the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- C. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- D. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with treatment standards.

- E. Users shall control production of all discharges to the extent necessary to maintain compliance with standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

SECTION 913.1 PROHIBITED DISCHARGE STANDARDS

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

SECTION 913.2 BYPASS

- A. For the purposes of this Ordinance:
- (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means any substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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- B. A user may allow any bypass to occur which does not cause treatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this subsection.
- C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable treatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

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- D. (1) Bypass is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:
- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under subsection C of this subsection.
- (2) The Superintendent may approve an anticipated bypass, after considering the adverse effects, if the Superintendent determines that it will meet the three conditions listed in subsection D (1) of this subsection.

ARTICLE 10. PROTECTION FROM DAMAGE

SECTION 1000

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal wastewater works.

No person other than an authorized representative of the City shall open, close or tamper with any of the manholes or sewer pipes of the City. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

ARTICLE 11. ORDINANCE IN FORCE

SECTION 1100

This Ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by federal law.

ARTICLE 12. SCHEDULE OF SEWER RATES

SECTION 1200 METER RATES

Rates based on water meter readings for the use of and for the services furnished, or to be furnished by the municipal sewer facility on property having water metered service, not including meters used exclusively for water not draining into sewers:

QUARTERLY

(#2) (#4) (#6) (#9) (#10) (#12) (#13) (#14) (#16) (#19) (#21)
(#22) (#23) (#24) (#27) (#28) (#29) (#30) (#32)

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

For the first 1,000 cu. ft. per quarter: \$115.20 minimum charge for Residential customers classified in the billing system as User Type 9.

For the first 1200 cu. ft. per quarter: \$138.24 minimum charge for all other users not otherwise classified as a Residential customer.

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

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

MONTHLY

Since only major users are billed monthly, the quarterly billing rates will apply. Rates for properties not serviced by public water but which discharge wastes into the public sewers shall be at the minimum established above. Each dwelling unit shall be billed at the minimum established above.

Notwithstanding any of the foregoing, the City shall have the right to enter upon the property of any party which is connected will be connected to the public sewer to install, at the City's expense, water meters, to repair and replace said meters and to read the meter so installed, when the City deems necessary. A water meter shall be installed by the City when a new water source is established and/or installed in a new or existing structure connected to the public sewer, or, a property with uses the public sewer and has a private water source is sold and/or the name to whom the sewer bill is to be sent is changed on the City records.

The revenue derived from the above sewer fees shall be used to defray all of the costs associated with the operation for the City's Water Pollution Control Facility and the public facilities connected therewith.

SECTION 1201 FLAT FIXTURE RATES

Rates for property discharging wastes indirectly into the sewers where the City finds that it is not practical to attempt to measure such wastes by meter standard, shall be fixed by measurement in such manner and by such method as the City may find practicable in the light of the conditions and attendant circumstances of the case in order to determine the sewer service rate according to the corresponding rates per metered one hundred cubic feet provided in Rate Sheet No. 1.

SECTION 1202 RATE FOR AUXILIARY METERS

No sewer rate shall be charged with respect to water metered by a meter installed and maintained without expense to the City and metering water not draining into sewers.

SECTION 1203 SURCHARGE

When a customer discharges a waste, which because of its characteristics, requires treatment which is more costly than that required by "normal" strength wastes, then that customer shall bear the extra cost in the form of a surcharge. The relevant parameters for surcharge determination are biochemical oxygen demand (BOD) and suspended solids (SS). Customers who discharge a wastewater whose characteristics exceed approximately 250 milligrams per liter (mg/L) BOD and 300 mg/L SS, respectively, shall be subject to a surcharge on the excess BOD and SS. To calculate the surcharge, the following formulae shall be used:

$$\text{Surcharge for BOD} = (C1 - 250) * Q * 8.34 * S1$$

Where C1 = the concentration of BOD in milligrams per liter.

Q = the total volume of wastewater contributed during the billing period, in millions of gallons.

S1 = the surcharge for each pound of BOD in dollars.

$$\text{Surcharge for SS} = (C2 - 300) * Q * 8.34 * S2$$

Where C2 = the concentration of SS in milligrams per liter.

Q = the total volume of wastewater contributed during the billing period, in millions of gallons.

S2 = the surcharge for each pound of SS, in dollars.

QUARTERLY SEWERAGE SYSTEM SURCHARGE

Surcharge \$0.0146/lb. BOD

 \$0.0099/lb. SS

The City may conduct sampling programs periodically to analyze the wastewater characteristics of large volume users of the sewerage system and to determine if a surcharge is indicated. The City reserves the right not to surcharge industries whose surcharge revenue would not cover the cost of an adequate waste monitoring program.

SECTION 1204 DEPOSIT

The City may require the owner, tenant or occupant of land who is obligated to pay rates, fees or charges for the use of or for the services furnished, or to be furnished, by the sewer system, to make a reasonable deposit with the municipality in advance to insure the payment of such rates, fees, thereof, if and when delinquent.

SECTION 1205 ABILITY TO SERVE CHARGE

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

SECTION 1206 RATE PAYMENT

All rates are due from the owner of the premises and such owner shall be held responsible. The City may, if requested by the owner and occupant, send the bill to the occupant. To secure payment of rates, fees and charges for the use of sewers furnished, or to be furnished, procedures established by Title 30-A M.R.S.A. § 3406 (1996), as the same may be amended from time to time. All rates shall be due and payable in arrears at the City offices. Quarterly bills shall be due on the first day of the following quarter. Monthly bills shall be due on the first day of the following month.

Failure of the consumer to receive his bill does not relieve him or the obligation of its payment nor from the consequences of non-payment.

SECTION 1207 INTEREST ON UNPAID BILLS

There shall be charged, in addition to the rates herein established, interest which shall be established each year by the Brewer City Council and shall accrue from the due date of the unpaid sewer fees. (#5)

SECTION 1208 ABATEMENTS (#25)

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.

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.
- 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 apply for an abatement of the sewer 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 Director of Environmental Services prior to engaging in any activity that will remove water from the sewer.
- (2) The commercial or manufacturing ratepayer 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
- (3) The Director of Environmental Services, after consultation with the City Manager, 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.

SECTION 1209

The schedule of sewer user charges shall be subject to the approval of the Superintendent and the City Council. The schedule of charges may be changed from time to time to conform with new State and/or Federal criteria and to conform to the current costs of construction and O&M associated with the City's POTW. The current schedule of user charges, the method of measurement and collection, and all other regulations pertaining thereto shall be available for public inspection in the office of the City Clerk and the Superintendent.

SECTION 1210 APPLICATION OF SEWER RATES

The following interpretations shall apply to issuance of sewer bills:

- A. When a water meter is removed but the sewer remains connected and in use, the minimum rate shall apply.
- B. When the owner of an owner-occupied multiple-unit structure shall remove the water meter(s) from an unoccupied rental unit(s), the City shall not bill for the unoccupied unit(s) as long as at least one unit in the owner-occupied house is billed. (This recognizes the fact that the owner has a right to connect all units to one water meter and receive one sewer bill).
- C. When the owner of a vacant multiple-unit structure shall remove all water meters from a vacant multiple structure, the City shall bill as if the structure had one water meter and received one sewer bill (This recognizes the fact that the owner has a right to connect all units to one water meter and receive one sewer bill).
- D. If a single unit or multiple-unit structure is posted by the Code Enforcement Officer as unfit for human habitation, and the water meter(s) are removed from the structure, the owner may request that the City suspend any further billing for sewer services until such time as the structure is either demolished or brought up to code compliance and a certificate of occupancy is issued.
- E. When a sewer connection is made for a lot in anticipation of future construction, the owner of the lot shall be billed the same rate as the Ready-to-Serve charge. At such time as a water meter is installed and water is provided to the lot, the regular sewer charge shall then commence.

*Charter, Codes and Ordinances of the City of Brewer
Chapter 31 - Sewer and Pre-Treatment Ordinance*

- F. When an owner or owners of a residential dwelling unit in the City of Brewer, any one of whom is sixty (60) years of age or older, disconnects water service to said residential dwelling unit and ceases to use the public sewer system for at least one hundred (100) consecutive days between October 1 and the following May 1, said owner or owners shall upon written request, receive a rebate equal to the lowest minimum quarterly sewer bill during the same period of time, if said sewer payments are current, or a credit equal to the lowest minimum quarterly sewer bill during the same period of time if the sewer bill has not been paid.

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

- A. At least one of the owners is sixty (60) years old or older;
- B. The owners disconnected the water and did not use the public sewer for at least one hundred (100) consecutive days between October 1 and the following May 1;
- C. The owner, owners, or a third party did not occupy the dwelling unit during the said one hundred (100) consecutive days.

SECTION 1211 TREATMENT CHARGES AND FEES

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

- A. Fees, not to exceed \$319.80 per year pursuant to 38 M.R.S.A. Section 413, for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and/or construction;
- D. Fees for filing administrative appeals; and
- E. Other fees as the Superintendent may deem necessary to carry out the requirements contained herein. These fees will relate solely to the matters covered by this Ordinance.

SECTION 1212 SURCHARGE FEES

- A. In addition to any penalties and fines required by this Ordinance and State or Federal law, as well as regular sewer use charges, the Superintendent may impose surcharge fees on any user that discharges into the POTW and the discharge causes or constitutes the following:
 - (1) slug or slug load;
 - (2) interference;
 - (3) pass-through;
 - (4) excessive loading, including excessive loading caused by high strength conventional waste from a non-permitted user;
 - (5) violations of Article 6, Section 6 of this Ordinance; or
 - (6) any other discharge which adversely affects the POTW or increases the City's cost of treating wastewater in the City's POTW.

- B. Surcharges shall not exceed fifty percent (50%) of the normal sewer user charges unless said amount is necessary to offset the City's cost of treating the discharged material, including any costs incurred by the City for violations of the City's MEPDES permit. (#13)

SECTION 1213

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

SECTION 1214

The City may establish fees for the disposal of hauled wastewater and special agreements. These fees shall be consistent with, but not necessarily the same as, regular sewer use charges. They shall be set from time to time by the Superintendent (per Council Order 2022-c008) and be kept on file for public inspection with the City Clerk and the Superintendent.

SECTION 1215

Interest shall be collected upon all unpaid sewer use charges, surcharges hauled wastewater fees, and fees and charges associated with pretreatment which remain unpaid after the due date. The rate of interest shall be as set by the Council for the payment of delinquent property taxes, which rate shall not exceed the highest interest rate allowed by State law for municipal property taxes.

ARTICLE 13. VALIDITY & AMENDMENTS

SECTION 1300

All other Ordinances or parts of other Ordinances in conflicts herewith, are superseded by this Ordinances.

SECTION 1301

The invalidity of any section, clause, sentence, or provision of this Ordinance by any Court of competent jurisdiction shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

SECTION 1302

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

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

*Charter, Codes and Ordinances of the City of Brewer
Chapter 31 - Sewer and Pre-Treatment Ordinance*

END OF CHAPTER NOTATIONS

	Revised 03/11/97,	Effective 03/21/97	(C0197-3)
1.	Enacted 10/14/97,	Effective 10/24/97	(c0797-2)
2.	Enacted 12/08/98,	Effective 12/18/98	(c1098-2)
3.	Enacted 08/10/99,	Effective 08/20/99	(c0699-4)
4.	Enacted 08/10/99,	Effective 08/20/99	(c0699-5)
5.	Enacted 12/28/99,	Effective 01/07/00	(c1199-3)
6.	Enacted 08/08/00,	Effective 08/18/00	(june2000-c02)
7.	Enacted 07/09/01,	Effective 07/19/01	(june2001-c07)
8.	Enacted 04/09/02,	Effective 04/14/02	(2002-c004)
9.	Enacted 04/09/02,	Effective 04/14/02	(2002-c008)
10.	Enacted 08/13/02,	Effective 08/18/02	(2002-c045)
11.	Enacted 12/10/02,	Effective 12/15/02	(2002-c063)
12.	Enacted 09/09/03,	Effective 09/14/03	(2003-c016)
13.	Enacted 09/13/05,	Effective 09/18/05	(2005-c016)
14.	Enacted 09/12/06,	Effective 09/17/06	(2006-c010)
15.	Enacted 05/23/07,	Effective 05/28/07	(2007-c001)
16.	Enacted 09/18/07,	Effective 09/23/07	(2007-c005)
17.	Enacted 07/15/08,	Effective 07/20/08	(2008-c005)
18.	Enacted 10/14/08,	Effective 10/19/08	(2008-c010)
19.	Enacted 09/08/09,	Effective 09/13/09	(2009-c007)
20.	Enacted 04/06/10,	Effective 04/11/10	(2010-c004)
21.	Enacted 02/08/11,	Effective 02/13/11	(2010-c025)
22.	Enacted 09/13/11,	Effective 09/18/11	(2011-c006)
23.	Enacted 08/14/12,	Effective 08/19/12	(2012-c012)
24.	Enacted 06/03/14,	Effective 06/08/14	(2014-c008)
25.	Enacted 10/14/14,	Effective 10/19/14	(2014-c018)
26.	Enacted 09/19/16,	Effective 09/24/16	(2016-c006)
27.	Enacted 08/08/17,	Effective 08/13/17	(2017-c012)
28.	Enacted 08/13/19,	Effective 08/18/19	(2019-c003)
29.	Enacted 06/02/20,	Effective 06/07/20	(2020-c001)
30.	Enacted 08/10/21,	Effective 08/15/21	(2021-c004)
31.	Enacted 06/07/22,	Effective 06/12/22	(2022-C008)
32.	Enacted 08/08/23,	Effective 08/13/23	(2023-C015)
33.	Enacted 12/12/23,	Effective 12/17/23	(2023-C021)
34.	Enacted 3/19/24,	Effective 03/24/24	(2024-C001)
35.	Enacted 4/09/24,	Effective 04/14/24	(2024-C006)
36.	Enacted 6/04/24,	Effective 06/09/24	(2024-C011)