ARTICLE 2 ADMINISTRATION AND ENFORCEMENT

201. ADMINISTERING BODIES

201.1 CODE ENFORCEMENT OFFICER (#2)

Except as otherwise provided in this Land Use Code, the Code Enforcement Officer for the City of Brewer, or a duly appointed Assistant Code Enforcement Officer shall administer and enforce this Land Use Code, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued by them except in compliance with the provisions of this Land Use Code. The Code Enforcement Officer shall have the following powers and duties:

1. Enforce the provisions of this Land Use Code;
2. Act upon building, construction and use applications, refer permits requiring Site Plan Review to the City Planner, refer subdivision applications to the City Planner, and refer requests for variances and administrative appeals to the Board of Appeals;
3. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with this Land Use Code and land use laws set forth in Title 30-A M.R.S.A. Section 4452 Subsection 5. A municipal official' entry onto property under this paragraph is not a trespass; (#14)
4. Investigate complaints and reported violations;
5. Keep written inspection reports and thorough records;
6. Issue violation notices;
7. Participate in appeals procedures;
8. Appear in court when necessary and represent the City (Title 30-A M.R.S.A. Section 4452);
9. Respond to citizen questions in the administration and enforcement of this Land Use Code;
10. Revoke a permit after notice if it was issued in error or if it was based on erroneous information.
11. Issue Cease & Desist, consistent with Main State law.
12. May take any action authorized by Maine State law and the Codes and Ordinances of the City of Brewer.

201.2 CITY PLANNER

The City Planner shall be responsible for assisting the Planning Board in the administration of Site Plan Reviews (Article 6), Subdivision Reviews (Article 7), and Shoreland Zoning Reviews (Article 3, Section 308), and shall otherwise assist in the administration of this Land Use Code.

201.3 PLANNING BOARD

The City Planning Board shall be responsible for reviewing and acting upon applications for Site Plan Review Approval in accordance with the provisions of Article 6 of this Land Use Code. Following Site Plan Review approval, the applicant shall return to the Code Enforcement Officer for building and other permits. The Planning Board shall also review subdivision applications in accordance with the provisions of Article 7 of this Land Use Code. Following subdivision approval, the applicant shall return to the Code Enforcement Officer for any building or land use permits.

The Planning Board shall have such other responsibilities as may be given to it under this Land Use Code.

201.4 BOARD OF APPEALS

The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Article 13 of this Land Use Code and Chapter 34 of the City of Brewer Charter, Codes and Ordinances. Following the issuance of any decision favorable to the applicant, the applicant shall return to the Code Enforcement Officer for building and other permits.

202. CODE ENFORCEMENT OFFICER PERMIT REQUIRED

A permit from the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

202.1 BUILDING PERMIT

No building or structure shall be erected, added to or structurally altered until a permit therefore has been issued by the Code Enforcement Officer. All applications for such permits shall be in accordance with the requirements of this Land Use Code and Chapter 16 of the City of Brewer Charter, Codes and Ordinances, and unless upon written order of the Zoning Board of Appeals no such building permit or Certificate of Occupancy shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of the provisions of this Land Use Code and Chapter 16 of the City of Brewer Charter, Codes and Ordinances.

202.2 MOVING OR DEMOLITION PERMIT

All buildings which are removed from or moved onto, or moved around within a lot, or demolished.

202.3 CHANGE OF USE

The change of any premises from one category of land use to any other land use.

202.4 ACTIVITIES LISTED IN THE SCHEDULE OF LAND USES

Any activity listed in Article 3 Section 306.5 of this Land Use Code as requiring a permit from the Code Enforcement Officer. No permit may be issued under this provision for an activity which is part of a site or project requiring Site Plan Review Approval until such approval has been granted by the Planning Board.

202.5 SITE PLAN REVIEW ACTIVITIES

Any activity approved by the Planning Board under the Site Plan Review provisions of Article 6 of this Land Use Code.

202.6 ADDITIONAL USES IN PREVIOUSLY APPROVED SITE PLANS

Any addition of uses inside a building having previously received Site Plan Review Approval from the Planning Board.

202.7 MINOR EXPANSIONS OF PREVIOUSLY APPROVED SITE PLANS

Construction or expansion of accessory structures or uses, addition of an accessory uses, expansion of a primary building or structure, or expansion of an un-vegetated area on a site or project which has received Site Plan Review Approval from the Planning Board or approval from the City Planner pursuant to Article 6, Section 610 of this Land Use Code.

203. PERMIT APPLICATION PROCEDURE

203.1 APPLICATION

All applications for a permit shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose. All applications shall be signed by the owner or owners of the property, lessee, or other person(s) authorizing the work, certifying that the information in the application is complete and correct.

203.2 SUBMISSIONS (#2)

There shall be submitted with all applications, unless deemed unnecessary by the Code Officer, one copy of a layout or plot plan drawn to scale showing the following:

1. The actual dimensions of the lot to be built upon;

2. In the Shoreland Zoning Protection District and Stream Protection District, the location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty (250) feet of the property boundaries;

3. The exact size and location on the lot of the buildings and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Land Use Code;

4. The existing and intended use of each building or structure;

5. Where applicable, the location of soils test pits, subsurface sewage disposal systems, parking lots, driveways, signs, buffer strips, fences and private wells; and

6. Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Land Use Code.

203.3 BURDEN OF PROOF (#2)

The applicant shall have the burden of proving that a proposed land use activity is in conformity with the provisions of this Land Use Code.

204. ACTION ON THE APPLICATION

204.1 DEADLINE FOR DECISION

The Code Enforcement Officer shall, within thirty (30) calendar days of receipt of a completed application, issue the permit if all proposed construction and land use activity meets the provisions of this Land Use Code, or deny the application, or refer the applicant to the City Planner for Site Plan Review or Subdivision Review. All decisions of the Code Enforcement Officer shall be in writing.

204.2 TO WHOM ISSUED (#2)

No permit shall be issued except to the owner of record, lessee, or his/her authorized agent. In the case of a lessee or authorized agent the application shall be accompanied by a letter authorizing the lessee or the authorized agent to apply for the permit application.

205. APPLICANT RESPONSIBILITY

205.1 POSTING (#2)

The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the street unless other means of posting are authorized by the Code Officer.

205.2 COMMENCEMENT AND COMPLETION OF WORK (#2) (#14) (#74)

Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within six (6) months of the date of issuance of the permit and shall be completed within twelve (12) months of that date. Activities which are not commenced or completed within the time limits provided above shall be subject to a new application and the permit issued under this Section shall be considered void. Activities may be extended, up to three (3) for additional periods of 90 days each, by the Code Enforcement Officer, if an application for an extension is submitted not later than thirty (30) days prior to expiration of the prior permit.

205.3 APPEALS

Appeals from decisions of the Code Enforcement Officer may be taken to the Board of Appeals in accordance with the provisions of Article 13 of this Land Use Code and Chapter 34 of the City of Brewer Charter, Codes and Ordinances.

205.4 CERTIFICATE OF OCCUPANCY (#2) (#43) (#74)

1. No land shall be occupied or used and no building hereafter erected, altered or extended, shall be used or changed in use, or occupied by a new owner(s)/tenant(s) until a Certificate of Occupancy has been issued by the Code Enforcement Officer, stating that the building or proposed use thereof complies with the provisions of this Land Use Code and any other codes and ordinances of the City of Brewer.

   A Certificate of Occupancy shall be obtained by the owner, tenant, lessee, etc. for any change in the building use, for any changes in ownership, for any changes in tenant of a building, suite or unit of a commercial space or for any additions to existing residential and commercial buildings. Multiple Certificates of Occupancy shall be required if additions to commercial space yields multiple units or suites as all units and/or suites in commercial buildings are required to have an individual occupancy permit for each tenant and/or use as determined by the Code Enforcement Officer.

   All residential buildings which have been vacant for one (1) year or more shall also require a new Certificate of Occupancy issued by the Code Enforcement Officer, stating that the building or proposed use thereof complies with the provisions of this Land Use Code (Chapter 24 of the City of Brewer Codes and Ordinances), NFPA (National Fire Protection Association Inc.), 101 Life Safety (Chapter 16 of the City of Brewer Codes and Ordinances), NFPA 70 National Electrical Code (Chapter 17 of the City of Brewer Codes and Ordinances), Uniform Plumbing Code and have hardwired smoke and carbon monoxide detectors as determined by the Brewer Code Officer.

2. No non-conforming use shall be renewed, changed or extended without a Certificate of Occupancy having first been issued by the Code Enforcement Officer within one year from date of non-occupancy.

   If a building is placarded by the Code Enforcement Officer or authorized designee for conditions unsafe for human habitation and/or a dangerous building, the existing Certificate of Occupancy immediately becomes null and void, and a new Certificate of Occupancy application is required before any re-occupancy.

3. All Certificates of Occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been completed and approved. A Certificate of Occupancy is only issued after an inspection confirms full compliance with all applicable codes and ordinances. Said building and use must comply with the Maine Uniform Building and Energy Code (MUBEC), City of Brewer Land Use Code, and the Codes and Ordinances of the City of Brewer.

4. The Code Enforcement Officer shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

5. Under such rules and regulations as may be established within this Land Use Code and Chapter 16 of the City of Brewer Charter, Codes and Ordinances, a temporary Certificate of Occupancy may be issued by the Code Enforcement Officer.

206. ENFORCEMENT

206.1 CODE ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Land Use Code. If the Code Enforcement Officer shall find that any provisions of this Land Use Code are being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it within thirty (30) days unless deemed an emergency that could affect the health, safety or wellbeing of any person, persons or the City of Brewer. He or she shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings, structures, additions, or work being done, or shall take any other action authorized by this Land Use Code and applicable laws to ensure compliance with or to prevent violation of their provisions. (#4)

1. ON-SITE INVESTIGATIONS

The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals, and shall investigate all complaints of alleged violations of this Land Use Code.

2. RECORDS

The Code Enforcement Officer shall keep a complete record of all essential transactions, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, appeals, court actions, violations investigated, violations found, and fees collected. In the case of shoreland zoning violations, the Code Enforcement Officer shall, on an annual basis, submit a summary of the record of such violations to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

206.2 LEGAL ACTIONS, FINES

1. LEGAL ACTION

When any violation of any provision of this Land Use Code shall be found to exist, the City Solicitor or other attorney, as designated by the City Council, upon notice from the Code Enforcement Officer, is hereby authorized to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Land Use Code in the name of the City of Brewer. The Code Enforcement Officer is also authorized to represent the City of Brewer pursuant to Title 30A, M.R.S.A. §4452.

2. FINES

Any person, firm, corporation or other legal entity, being the owner or having control of use of any building or premises who violates any of the provisions of this Land Use Code shall be penalized in accordance with Title 30-A MRSA Section 4452.

3. ADMINISTRATIVE CONSENT AGREEMENT (#2)

Upon recommendation of the City Solicitor or other attorney designated by the City Council as to form and compliance with this Land Use Code, certain violations of this Land Use Code may be resolved by an Administrative Consent Agreement executed by the violator and the City Council or its designee. An Administrative Consent Agreement shall require, unless the City Council expressly finds that the violation was the direct result of erroneous advice or approval by City officials based on facts fully and accurately presented, that:

A. The violation will be corrected in all respects;

B. The violator admits to the violation; and

C. The violator pays an appropriate monetary penalty of not less than $100 nor more than the maximum civil penalty allowed as provided by law and the City's reasonable legal fees and costs.

207. INSTALLATION OF PUBLIC UTILITY SERVICE - SHORELAND ZONE

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials, indicating that installation has been completed.