ARTICLE 4 PERFORMANCE STANDARDS

401 GENERAL (#2)

All land use activities in the City of Brewer shall comply with the land use standards contained in Article 4. In reviewing applications submitted pursuant to the Land Use Code, the Code Enforcement Officer, City Planner, or the Planning Board shall determine that the standards of Article 4 are or will be met by the applicant. In all instances, the burden of proof shall be upon the applicant.

402 ACCESSORY DWELLING UNITS (ADUs) (#64)

The following provisions in accordance with LD 2003 under Title 30-A MRSA §4364-B as amended shall govern accessory dwelling units as defined in Article 14 of this Land Use Code.

This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section pursuant to 30-A MRSA §4364-B.

402.1 OCCUPANCY

No accessory dwelling unit shall be occupied unless a Certificate of Occupancy has been issued after final inspection from the Code Enforcement Officer certifying that the ADU meets all applicable Codes and Ordinances of the City of Brewer and this section.

402.1.1 An accessory dwelling unit shall not be rented or leased for less than twenty-eight (28) consecutive days to a person or persons.

402.1.2 Prior to occupancy the owner of an ADU must provide written verification to the Code Enforcement Officer that the ADU is connected to adequate water and wastewater services to include:

a) Proof of payment for the connection to the off-lot sewer system along with written verification from the Director of Environmental Services certifying that the proposed accessory dwelling unit is within the capacity of the system's existing collection and treatment system;

b) Plans for subsurface wastewater disposal prepared by a State of Maine licensed site evaluator prepared in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules* which must be verified as adequate by the City of Brewer Plumbing Inspector when connected to a septic system;

c) Proof of payment for the connection to the off-lot water system along with the volume and supply of water required for the ADU, proof of adequate service to support any additional flow created by the ADU, and written verification from the Superintendent of the Water Department that the proposed ADU will not impose an unreasonable burden on the municipal water system and that the municipal water system has the supply and capacity of water required for the accessory dwelling unit when connected to the city water supply;

d) When connected to a well, proof of access to a potable water supply to include any tests of an existing well or proposed well which must indicate that the water supply is potable and acceptable for domestic use in accordance with the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82.

402.2 SIZE OF THE UNIT AND DIMENSIONAL REQUIREMENTS

The size of the accessory dwelling unit shall be at least 190 square feet in size pursuant to the current minimum adopted standard of the Technical Building Code and Standards Board, under Title 10 M.R.S. §9722 as the same may be amended from time to time. The accessory dwelling unit must be constructed on a permanent foundation and shall not exceed four hundred fifty (450) square feet. The Code Enforcement Officer shall determine if a dwelling unit or an accessory dwelling unit (ADU) has been constructed on a lot for purposes of this section. Accessory dwelling units shall meet the zoning district Dimensional Requirements of Article 3 Section 307 of this Land Use Code with the exception of requirements for lot area and density.

402.3 DISTRICTS WHERE PERMITTED AND OTHER REGULATIONS

Accessory dwelling units may be located on the same lot where a single-family dwelling is the principal structure. In accordance with Title 30-A MRSA §4364-B as amended, only one (1) accessory dwelling unit may be located on the same lot where the single-family dwelling is the principal structure, including as a conditional use. Note: An accessory dwelling unit may be constructed within or attached to an existing single-family structure which does not conform to the regulations of the district in which it is located so long as that structure is a legally existing non-conforming principal structure that is a single-family dwelling unit and as long as the ADU does not further increase the nonconformity.

a) One (1) accessory dwelling unit may be constructed only within a legally existing single-family dwelling unit on the lot; attached to an existing single-family dwelling; or as a new accessory dwelling structure on the lot for the primary purpose of creating an accessory dwelling unit. An accessory dwelling unit shall not be constructed or established within an existing accessory structure or building.

b) An accessory dwelling unit is not subject to any additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling on the lot where the ADU is located. No parking space to be provided for an accessory dwelling unit shall be located or assumed within the right-of-way of any public street or roadway.

c) An accessory dwelling unit located in a shoreland zone must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and City of Brewer Shoreland and Overlay Zone requirements.

d) An accessory dwelling unit shall not be sold separately.

e) Manufactured homes as defined in Article 14 of this Land Use Code shall not be used as an accessory dwelling unit, except as may otherwise be allowed in this Land Use Code and under this section.

f) Recreational vehicles, travel trailers, camping/camper trailers, tents, temporary structures and temporary shelters shall not be used on the premises as an accessory dwelling unit or in conjunction with an accessory dwelling unit.

g) An accessory dwelling unit shall comply with all permitting, subdivision and/or site plan requirements and all other applicable Codes and Ordinances of the City of Brewer.

403 AIRPORT APPROACH

No structure shall be erected, nor vegetation allowed to exist, within airport landing zones in the vicinity of any airport operating in the City of Brewer, at any height greater than is prescribed by the FAA.

404 ARCHAEOLOGICAL/HISTORIC SITES

Any proposed land use activity involving structural development or soil disturbance on or adjacent to historic or archeological resources or listed on, or eligible to be listed on the National Register of Historic Places, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comments, at least 20 days prior to action being taken by the Code Enforcement Officer (CEO) or Planning Board (PB). The CEO or PB shall consider comments received from the Commission prior to rendering a decision on the application and shall require that historic and archaeological resources be protected to the maximum extent possible in accordance with the Commission's recommendations. As used in this Section, the term "eligible" shall mean an application having been filed with the relevant state or federal agency.

405 AUTOMOBILE GRAVEYARD, AUTOMOBILE RECYCLING FACILITY AND JUNKYARDS

No person or landowner shall allow any automobile graveyard, junkyard or automobile recycling facility, hereinafter referred to as facility, to be established, operated, maintained or suffered to exist without first obtaining Site Plan Review approval by the Planning Board, a non-transferable land use permit issued by the City Council in accordance with State licensing and local requirements, and complying with the following provisions:

405.1 LOT SETBACKS

Facilities shall be located a minimum of one hundred feet (100') from the edge of the right-of-ways; and shall be set back one hundred feet (100') from all side and rear lot lines.

405.2 PUBLIC PARK SETBACKS

Facilities shall be located a minimum of three hundred feet (300') from any public park, facility, or grounds.

405.3 CRITICAL AREAS

1. No motor vehicles shall be located on a sand and gravel aquifer or wetland, as shown in the 1995 Comprehensive Plan, or within the 100-year flood plain as mapped by the Federal Emergency Management Agency.

2. A motor vehicle with an intact engine or motor may not be stored within 100 feet of any body of water or freshwater wetland, as defined by 38 MRSA, section 436-A, subsection 5.

3. No permit shall be granted within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the facility or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after the effective date of this subsection if the facility has already received a permit under these regulations.

405.4 SCREENING (#2)

1. The facility shall be screened from ordinary view of the adjoining public and/or private property. Such screening may be accomplished by natural or manmade objects, plantings, or properly constructed fences; any of which must completely screen the facility from ordinary view throughout the entire calendar year. Such screening must complement the colors, textures and tones found in the surrounding area. Certain facilities may be required to provide internal screening because of size and topography.

2. Ordinary view shall be based on line of sight determination of the public and adjoining property owners' buildings. Line of sight views from adjoining

property buildings shall be taken from the highest vantage point in normal, everyday use by occupants of such buildings not to exceed eighteen (18) feet from ground level.

3. Where buildings and/or fences are employed as screening for distances of one hundred lineal feet or more, evergreen plantings which attain a height of six feet or greater at maturity shall be planted and maintained as a textural foil. Such plantings shall be a minimum of three feet high at planting and planted at a rate of four per one hundred lineal feet, approximately twenty-five feet on center (with an allowance of ten feet so as to allow an element of randomness over the course of the plantings).

4. The intent of such provision is to preclude conditions which meet the definition of a "miscellaneous nuisance; under 17 MRSA Section 2802; viz"...as to be unsightly, detracting from the natural scenery and injurious to the comfort and happiness of individuals and the public, and injurious to property rights..."

5. No motor vehicles or major parts may be stacked or piled on top of each other so as to protrude above the screening. In any event, stacking shall not exceed twelve feet above ground level.

6. Stacking and/or parking of motor vehicles shall be arranged in a grid fashion which employs, at maximum either a 70-foot square pattern or a 25' by 200' block pattern. Fifteen-foot aisle spaces shall be provided for firefighting apparatus access to such squares or blocks. Parking along screening in a continuous manner is also permitted.

405.5 FLUIDS

Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground. Engine lubricant, transmission fluid, brake fluid and engine coolant must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal or state laws, rules or regulations.

405.6 SCREENING

All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent areas.

405.7 BURNING

No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner.

405.8 SANITATION

1. The facility shall be at all times maintained in a sanitary condition.

2. No water shall be allowed to stand in any place on facility's grounds in such manner as to afford a breeding ground for mosquitoes or other insects.

3. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the property; nor shall any refuse of any kind be kept in said premises unless said refuse is defined under this Land Use Code or applicable State law.

4. Weeds and vegetation on the property, other than trees and shrubs, shall be kept at a height of not more than ten (10) inches.

405.9 HOURS OF OPERATION

1. No material shall be delivered to the facility on Sundays, legal holidays, nor before the hour of 6:00 A.M. or after the hour of 7:00 P.M. on other days, except that special permission may be granted by a member of the Brewer Police Department in the event of extenuating circumstances.

2. Any equipment used to crush motor vehicles shall only be operated within the area enclosed by screening of junked motor vehicles. No such equipment shall be operated on Sundays, Legal holidays, nor before the hour of 6:00 A.M. or after the hour of 7:00 P.M. on other days, except that special permission may be granted by a member of the Brewer Police Department in the event of extenuating circumstances.

406 CAMPING PARK

Camping parks shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rules shall apply):

406.1 MANAGEMENT

The camping park management shall be responsible for operating their premises in accordance with all City codes and ordinances and all State laws and regulations. The maintenance of all open space areas, roads, and utilities in a park shall be the responsibility of the park management.

406.2 LOCATION AND MINIMUM SIZE

All parks shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water. No park sites shall be developed within the one hundred (100) year floodplain.

Camping parks shall be located on property not less than two (2) acres in size.

406.3 SETBACKS AND SCREENING

Camping parks shall be designed to provide a setback of at least 200 feet between the individual camping lots and the front boundary of the park and 50 feet between the individual camping lots and the side and rear boundaries of the park. The camping park shall be enclosed by a fence, wall, landscape, screening, earth mounds or other approved barriers which will prevent access to adjoining properties other than streets.

The Planning Board may provide a waiver of these standards where exceptional or unique topography of the lot would cause unusual hardship provided that a written finding determines the proposed development is in keeping with the spirit and intent of this Land Use Code, including protection and preservation of the public health, welfare and safety and that the uniqueness of topographic form provides an equivalent form of separation due to its elevation.

406.4 ROAD AND STREETS (#2)

All recreation vehicle and tent parking sites shall be provided with safe and convenient vehicular access.

Access shall be in accordance with the provisions of the text, A Policy of Geometric Design of Highways and Streets, 1984 edition by American Association of State Highway and Transportation Officials Chapter V, Recreation Roads with the following design criteria:

- Design Speed: Maximum 25 (mph)
- Maximum Grade: 7%
- Super elevation Rate: ` 6%
- all access roads which abut a public street shall be paved for a minimum of 100 feet and meet the entrance standards in Article 9, Road and Streets of the Land Use Code
- Loops, rather than dead-end streets, shall be encouraged. All dead-end roads shall provide a cul-de-sac meeting design standards for a thirty (30) foot motor home. Dead-end streets shall not exceed 1,000 feet in length.

406.5 RECREATION AREA

No less than eight (8) percent of the total area of any camping park established under these ordinances shall be devoted to common recreational areas and facilities, such as playgrounds, swimming pools or community buildings. Each park shall have at least one principal recreation and community center which shall contain not less than five (5) percent of the total area of the park. Recreation land shall be of slope and size configuration to provide for the stated purpose. The principal recreation center shall provide a minimum of 8,000 square feet.

406.6 LANDSCAPING

The applicant shall submit a landscape plan showing the preservation of existing trees twelve (12) inches in diameter at breast height and larger, the placement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas which are included in a duly recognized comprehensive, land use or conservation plan.

1. Where possible, existing trees shall be preserved. Natural landscape features such as woods and ravines shall be preserved in their natural state.

2. Screen planting, providing a dense visual barrier at all times, shall be provided around laundry drying yards, garbage and trash collection stations and non-residential uses. The Planning Board may on the basis of site review criteria require screen plantings (or similar architectural techniques) around the boundaries of the park. Screens shall consist of shrubs or trees at least four feet in height and eventually reaching a mature height of at least six feet.

3. Other planting shall be provided and shall be adequate in size, quantity and character to provide an attractive setting for the park, to provide adequate privacy, to minimize reflected glare, and to afford summer shade.

The objective is to provide for minimum tree canopy coverage of forty percent exclusive of roadways and buildings. "Tree canopy" is the area in square feet of a tree's spread at maturity with the following values used:

1,000 sq. ft.	700 sq. ft.	300 sq. ft.
Maple	Pine	Arborvitae
Beech	Spruce	Larch
Oak	Fir	Crabapple
Ash	Hemlock	N. White Cedar
	Aspen	
	Linden	

406.7 SANITARY FACILITIES

1. Sewage Disposal: A sanitary sewer system shall be installed at the expense of the applicant.

   An applicant shall submit plans for sewage disposal designed by a licensed civil engineer in full compliance with the requirements of the State of Maine Plumbing Code and/or Department of Environmental Protection.

   State sanitary disposal standards for tent and recreational parks shall be followed, except that privies are not allowed. Inclusion of State sanitary disposal standards for tent and recreational parks includes provisions for "sanitary station", including performance.

2. Water Supply: Water supply to camping parks shall conform to the rules of the Department of Human Services, relating to tent and recreational vehicle parks and wilderness recreational parks, section 3, revised May, 1990, and as may be amended from time to time.

3. Garbage and Trash Disposal: In all parks, rubbish and garbage cans shall be provided with tight fitting covers or other means of disposal, approved by the City of Brewer Code Enforcement Officer. Adequate garbage and rubbish collection must be provided by the licensee.

4. Lighting: All public areas and facilities shall be sufficiently illuminated to ensure the security and safety of persons using such facilities. A lighting level of 0.3 minimum average horizontal foot-candles shall be the standard.

406.8 FIRE

In a camping park, open fires shall be permitted only in areas designated on the plan of said park as cooking areas. Facilities for such fires must meet the approval of the Fire Chief of the City of Brewer as to adequacy for protection to persons and property from fire with respect to their location and construction.

406.9 SURFACE DRAINAGE

Where a camping park is traversed by a watercourse; drainage way; future sewer line as indicated by the comprehensive land use or sewer plan or plans; or where the Planning Board feels that surface water drainage to be created by the camping park should be controlled for the protection of the camping park, there shall be provided an easement or drainage right-of-way and culverts, catch basins or other means of channeling surface water within such camping park and over other properties, of such nature, width and location as the City Engineer deems adequate.

The applicant shall provide a statement that the proposed camping park will not create erosion, drainage, or runoff problems either in the camping park or other properties. Accompanying such a statement and integral to its findings shall be calculations, maps and materials used in determining the impact of the camping park on surface drainage. The applicant shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements to the City Engineer.

Topsoil shall be considered part of the camping park. Except for surplus topsoil from roads, parking areas and camper stand excavations, it is not to be removed from the site.

406.10 SERVICE BUILDINGS

Each camping park shall have erected therein, a service building which shall contain the following:

1. Separate toilet room for each sex at the ratio of one toilet room for each eight trailers, camp trailers, tents or fraction thereof. Every male toilet facility shall have a urinal for each sixteen trailers, camp trailers, tents or fraction thereof.

2. Toilet rooms shall contain lavatories with hot and cold running water in the ratio of one lavatory to every two or less water closets.

3. Separate shower or bathing facilities shall be provided for each sex in the same ratio of toilets.

4. Laundry facilities shall be provided.

406.11 LOTS

A minimum width of thirty (30) feet for each unit in a camping park shall be provided. An access way shall not be included as part of a unit space requirement. A minimum site of 1200 square feet shall be provided for each unit in a camping park. Each site shall contain a stabilized vehicular parking pad. No part of the trailer or other unit placed on such site shall be closer than seven (7) feet to a camping site line.

Land meeting the State of Maine wetland designation shall not be included in calculating land area per site.

406.12 REGISTRATION

In camping parks, the licensee shall keep a current register which shall contain the following information:

1. the name of the owner of each trailer or tent and the lot number on which said trailer or tent is located;

2. State of registration and number on the license plate on any trailers located therein; and

3. inclusive dates of stay.

NOTATION: No camp trailer or tent shall be used as a permanent place of dwelling or for indefinite period of time. Continuous occupancy extending beyond three (3) months in any one calendar year or any five weeks during the period from November, December, January, February and March, shall be presumed to be permanent occupancy.

406.13 DISCLOSURE OF REGISTRATION INFORMATION

The foregoing information shall be made available to the City Manager of the City of Brewer or the Chiefs of Police and/or Fire Department of said City upon request. Refusal to keep or render up said records shall be grounds for revocation or refusal to renew any license granted hereunder. Licensees shall keep such records for a period of at least three (3) years.

406.14 INSPECTION

The City Council, its departments or their respective agents shall have the right to inspect the park or any park thereof at any time.

407 CONDITIONAL USES

Business offices, professional offices and community service organizations located on arterial streets as defined in Article 14 of this Land Use Code shall be allowed within the residential districts subject to Planning Board approval under the provisions of Article 6 of this Land Use Code and the following criteria:

407.1 Shall not exceed 3,000 square feet in gross floor area;

407.2 Shall meet the off-street parking requirements of this Land Use Code without a variance for any required spaces;

407.3 The development standards and use conditions of the District in which the property in question is located shall be complied with. Conditional use which requires a variance of development or other standards shall not be granted;

407.4 The proposed use will not create unreasonable traffic congestion or hazardous conditions on contiguous or adjacent streets;

407.5 The proper operation of the conditional use will be insured by providing and maintaining adequate and appropriate utilities, fire protection, drainage, parking and loading and other necessary site improvements;

407.6 Lighting shall be residential in character, not exceeding 0.3 minimum average foot-candles;

407.7 Signage shall be residential in character and shall not exceed six square feet in area not to be internally illuminated and shall be attached to the principal structure or visible through a window in the principal structure;

407.8 Parking and loading areas shall have sufficient screening to provide buffering of light, noise and visual impacts of the proposed use so that abutting properties are not adversely impacted;

407.9 The proposed use, although not appropriate for every site in the zone, is appropriate for the location for which it is sought, because the proposed use will conform to the general character of the development in the immediate area as to architectural style, building bulk and extent, and intensity of site use. As to architectural style, the applicant must show that the proposed structure conforms to the exterior facade, rooflines, shape and materials used on buildings in the immediate area. As to building bulk, the applicant shall cause his proposed building to conform with the height and existing ratio of land area to building area for other properties in the immediate area.

407.10 Conditional Use approval secured under the provisions of this Land Use Code shall expire if the use, work or change is not commenced within one (1) year of the date on which such conditional use is finally approved by the Planning Board, or if the work is not substantially completed within two (2) years of the date on which such conditional use is finally approved.

408 COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS (#2)

In all residential districts, the keeping, storage and/or parking of any commercial type vehicles shall not be permitted, except that one commercial vehicle used for transportation to and from a place of employment by the occupant of the residence where said vehicle is parked shall be permitted, provided that such vehicle shall not exceed 27 feet in overall length and shall be parked on the owner's premises. In any proceedings for violation of this section, where a motor vehicle displays commercial license plates, such registration shall constitute a prima facia presumption that it is a commercial vehicle at the time of any alleged violation.

409 CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan of the proposed development shall

indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the one hundred (100) year flood elevation, and in conformance with the provisions of Article 8 of this Land Use Code. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

410 CONVERSIONS - SINGLE FAMILY TO MULTI-FAMILY

Conversions of existing structures into multi-family dwellings, in districts permitting multi-family dwellings, shall be subject to the permit requirements set forth in Article 3, Section 306.5 of this Land Use Code and the following:

410.1 BUILDING SIZE (#2)

Before conversion, the structure must have a minimum gross floor area of one thousand five hundred (1,500) sq. ft. which meets Chapter 16, Article 1, Building Code and Chapter 30, Housing Code of the City of Brewer Charter, Codes and Ordinances, for living area. The gross floor area shall not include porches, garages, accessory buildings or floor area of any portion of which is below grade.

410.2 APPEARANCE

Converted buildings must retain the appearance of a single family dwelling with no major structural alterations to the exterior other than required means of egress from dwelling units. All fire escapes or stairways leading to floor areas above the first floor must be completely enclosed.

410.3 AGE OF STRUCTURE

The structure must have been constructed prior to January 1, 1976.

410.4 OFF-STREET PARKING

The required off-street parking spaces must be provided.

410.5 MINIMUM UNIT SIZE

After conversion, the structure shall contain at least one dwelling unit, which must have a minimum of 800 sq. ft. of floor area, and any combination of the following which, in conjunction with the said dwelling unit, falls within the gross floor area of the structure: (a) An efficiency unit must contain a minimum of 250 sq. ft. of floor area; (b) One bedroom dwelling units must have a minimum of 600 sq. ft. of floor area except for mother-in-law apartments; (c) Dwelling units with two or more bedrooms must have a minimum of 800 sq. ft. of floor area. Required minimum of sq. ft. per dwelling unit shall be exclusive of halls and entries for each unit.

410.6 Converted buildings shall meet the life safety requirements contained in Chapter 30 Housing Code, Article 1 Section 101.19 Residential house & multi-family housing vacant more than 12 months and new additions, of the City of Brewer Charter, Codes, and Ordinances. (#47)

411 DAY CARE

411.1 All Day Care types shall be: (#2)(#46)

1. Licensed by the Maine Department of Human Services, Bureau of Social Services, Day Care Division. Approved by the State Fire Marshal's Office and/or any other required State or Federal approval.

2. Subject to annual City of Brewer permit.

3. Home Day Cares shall meet the criteria of Article 4, Section 411, of this Land Use Code. Child Care Centers shall meet the criteria of Article 4, Section 411 of this Land Use Code, and meet the criteria of Article 6, Site Plan Review of this Land Use Code. All Day Cares shall follow the procedures outlined in Article 3, Section 306.5 of this Land Use Code.

4. Fees for a home day care shall be a non-refundable application fee set forth in the then current City Council adopted fee schedule, payable to the City of Brewer. Fees for a child care center shall follow Article 6, Site Plan Review of the Land Use Code. (#37)

411.2 OUTDOOR PLAY AREA FOR A CHILD DAY CARE (#46)

All daycare types shall provide a safe, hazard-free outside play area with a minimum of seventy-five square feet per child. The play area shall be provided with fencing to provide security and screening. There must be an exit from the play area other than through a building. All parts of the play area must be under constant adult supervision. Play equipment shall meet the "Standard Consumer Safety Specifications for Playground Equipment for Public Use - Designation F 1487-95," and be maintained in good repair.

411.3 HOURS OF OPERATION (#2)(#46)

"Home Day Care" shall not operate between the hours of 6:00 p.m. and 6:00 a.m. unless specifically approved by the City's appropriate authority as defined by Article 3, Section 306.5.

411.4 PARKING (#46)

"Home Day Care" shall provide one off-street parking space per four (4) children plus one (1) space per employee who does not reside on the premises. Parking shall be provided in the side or rear yard only.

Such parking requirements shall be in addition to parking required for the initial use. (For example: a single-family dwelling requires two parking spaces, plus three for day care for 12 children plus two for two outside employees = 7 off-street parking spaces required). All parking shall comply with the parking standards of this Article.

411.5 SIGNS (#46)

"Home Day Care" may have an unlighted sign not to exceed two (2) square feet. Sign permit is required for all signs.

411.6 EMPLOYEES (#46)

"Home Day Care" may employ up to two (2) persons who do not reside on the premises.

411.7 LIFE SAFETY REQUIREMENTS (#47)

1. A minimum of one illuminated exit sign with emergency lights at main entrance of business.
2. A minimum of one fire extinguisher at main entrance of business.
3. Hard wired interconnected combination smoke and carbon monoxide detectors shall be located on all levels of the building.
4. Windows and any exterior opening on a second floor and higher that creates a hazard and/or window sills that is less than 24 inches from the floor must have proper fall protections.

412 ELECTROMAGNETIC RADIATION

412.1 REQUIREMENTS

All uses shall be controlled to prevent any intentional source of electromagnetic radiation which does not comply with the current regulations of the Federal Communications Commission regulations regarding such sources of electromagnetic radiation. Further, any operation in compliance with the Federal Communications Commission regulations shall not be permitted if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation conducted energy in power or telephone systems or harmonic content.

412.2 METHOD OF MEASUREMENT

For the purposes of determining the level of radiated electromagnetic interference, standard field strength measuring techniques shall be used for measuring interference transmitted or conducted by power or telephone lines, a suitable, turntable peak reading, radio frequency voltmeter shall be used. This instrument shall, by means of appropriate isolation coupling, be alternatively connected from line to line from line to ground during the measurement.

412.3 DETERMINATION OF ELECTROMAGNETIC INTERFERENCE

The determination of "abnormal degradation in performance" and "of quality and proper design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Radio Manufacturers Association. In case of any conflict between the latest standards and principles of the above groups, precedence in the interpretation shall be in the following order: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers, and (3) Radio Manufacturers Association.

413 EXCAVATION, REMOVAL, AND FILLING AND GRADING OF LANDS (#4) (#70)

Any excavation, removal, filling, grading or depositing of inert fill as defined in M.R.S. Title 38 §1303-C within the City of Brewer shall meet the requirements of this Article. The use of land for the excavation, removal, filling, grading or depositing of inert fill as defined in M.R.S. Title 38 §1303-C not prohibited by law, is permitted in the districts set forth in this ordinance provided that such activity will not entail the following:

1. Increase runoff or cause flooding on property of others; or
2. Cause erosion or sedimentation; or
3. Alter any waters of the State, stream, watercourse, natural drainage way or wetland without first having obtained requisite State and/or Federal permits or
4. Cause disturbance to stormwater treatment measures or Shoreland Zoning setback buffers or disturb or alter any “sensitive area” identified by qualified professions which may include but not be limited to restricted buffers, waters of the State and Shoreland Zoning, protected natural resources, predevelopment drainage ways, and significant and essential wildlife habitats without first having obtained requisite City, State and/or Federal permit approvals.

413.1 APPROVAL REQUIRED (#70)

A. Such excavation, removal and filling and grading shall be in accordance with a fill and grading plan, for approval by the Planning Board. The City Engineer must approve the plan prior to the approval of the Planning Board. This regulation does not apply to normal soil removal for basement or foundation work when a

building permit has previously been issued by the Code Enforcement Officer or filling or removal of material indicated on an approved site plan pursuant to Article 6 of this Land Use Code.

B. Filling or removal of fill material less than 200 cubic yards per property per calendar year shall not require an approved fill and grading plan when such filling and grading is incidental to, and in connection with, normal soil removal for swimming pool, basement or foundation work when a building permit has been issued by the Code Enforcement Officer or filling or removal of material indicated on an approved site plan pursuant to Article 6 of this Land Use Code and which does not involve activities listed under Section 413 above. However, all such filling or removal shall require written approval from the Code Enforcement Officer and City Engineer to be filed with the Code Enforcement Officer.

413.2 FILL AND GRADING PLAN (#37) (#70)

A. The procedure for Planning Board review and approval of a fill and grading plan shall be the same as outlined in Article 6 of this Land Use Code for a minor site plan.

B. Fees for a fill and grading plan shall be a non-refundable application fee set forth in the City Council adopted fee schedule, payable to the City of Brewer, plus the technical review/escrow account fee as defined in Article 6 of this ordinance for a minor site plan. The applicant is responsible for the legal notice fees for the required public hearing as set forth in the then current City Council adopted fee schedule.

C. The fill and grading submission shall contain the following:

1. Application form.
2. Demonstration of sufficient right, title or interest in the property. (see Section 606.1 of this Land Use Code for options).
3. A 24” x 36” fill and grading plan sheet drawn at a scale of not less than one (1) inch equals twenty feet, showing:

a. existing and proposed grades, at no more than two foot contour intervals with corresponding basis of elevation and who/how the contours were determined. If a Maine registered surveyor is not utilized to complete the contours, the plan shall include base point with elevation and several existing grade shots such that accuracy of information can be reviewed;

b. drainage and stormwater treatment areas;

c. existing site conditions and utility infrastructure (soils, vegetation, property lines, entrances and streets, flood areas, culverts, sewer manholes,

catchbasins, water shut offs, gas shut offs, utility poles, buildings, wells, subsurface wastewater disposal systems, location of on-site and adjacent protected natural resources, public drinking water supplies, etc.);

d. location of sensitive areas on and within one-hundred (100) feet of the site including natural water resources and intermittent channels, significant and essential wildlife habitats, and natural areas and natural communities;

e. location of vegetated buffers not to be disturbed;

f. limits of disturbance including vegetation clearing and grading which shall be marked on the site and maintained throughout the project;

g. project schedule along with erosion control inspection frequency;

h. temporary and permanent erosion control measures meeting "Best Management Practices" including an erosion and sedimentation control plan in accordance with the standards and requirements of Chapter 500 defined in this Land Use Code;

i. Submittal of required information in accordance with Sections 440, 439.2 and 439.2.2 of this Land Use Code as applicable;

j. plus other data as may be required by the City Engineer, Code Enforcement Officer and/or City Planner;

k. Upon completion of all such excavation, removal and filling of lands, it shall be graded, loamed and seeded.

4. Demonstration that the items listed under Section 413 above will be met.

413.3 REMOVAL OF FILL, GRAVEL, STONE, LOAM (#70)

In the districts set forth in this Land Use Code within the City of Brewer, provided that such operation will not have a significant detrimental effect on the use and peaceful enjoyment of abutting properties as a result of noise, vibrations, fumes, odor, dust, glare, air quality, or other cause and meets the requirements of this Land Use Code and Article, any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site shall not be permitted within 100 feet of any property line nor within 100 feet of any street right of way line. Areas within 100 feet of said lines shall be maintained as a natural uncut buffer and remain in stable condition.

413.4 BLASTING (#67)

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

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

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

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

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

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

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

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

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

413.4.3 No blasting activities/operations shall occur within the boundaries of the City of Brewer without first having obtained a permit from the Code Enforcement Officer. The applicant shall comply with all Federal, State and Local permit conditions, standards and regulations. Whenever City, State or Federal permits are required whichever standard between City, State, or Federal permit conditions and standards is stricter shall govern.

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

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

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

414 FIRE AND SAFETY

Only such buildings and structures which are constructed in conformity with all codes and the Building and Fire Codes and ordinances of the City of Brewer shall be permitted.

415 HOME OCCUPATIONS (#46)

415.1 WITHIN DWELLING

Home occupations shall be carried on wholly within a dwelling unit or building accessory to a dwelling unit.

415.2 FAMILY LIMIT

No person other than members of the family residing in the dwelling unit shall be employed in a home occupation, provided that in Rural and LDR districts, there may be two (2) employees who are not members of the family.

415.3 INCIDENTAL

Home occupations shall be clearly incidental and secondary to the use of a dwelling unit (or building accessory thereto) for residential purposes.

415.4 EXTERIOR PROVISIONS

In connection with a home occupation there shall be no exterior signs other than permitted by Section 430, no exterior storage of materials, and no other exterior indication of the home occupation or variance from the residential character of the premises.

415.5 HAZARDS AND NUISANCES

A home occupation shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that normally experienced in an average residential dwelling in the district in which located.

415.6 ON-PREMISE PRODUCTS

No goods, merchandise, or products shall be sold upon the premises, other than those produced on the premises.

415.7 CLIENT LIMIT

Home occupations providing (for a fee) professional, educational and/or personal services to groups of persons on the premises shall be limited to serving no more than four (4) persons at any given time.

415.8 OFF-STREET PARKING

Home occupations providing professional, educational, and/or personal services to persons on the premises shall provide two (2) off-street parking spaces in addition to off-street parking spaces required for the primary residential use.

415.9 SIZE

The home occupation shall not exceed 25 percent of the floor area of the primary structure and/or accessory structure.

415.10 INVENTORY AND SUPPLIES

Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.

415.11 There shall be no stock in trade regularly maintained or any new commodity sold on the premises.

415.12 The following are specifically excluded as home occupations: convalescent or nursing home, tourist home, animal hospital, restaurants, doctors' offices, dentists' offices, real estate offices, beauty shops and barber shops, except those that are owner-occupied, one (1) chair, appointment-only shops that meet all the other home occupation criteria.

415.13 Home day cares shall be reviewed under Section 411 of the Brewer Land Use Code.

415.14 LIFE SAFETY REQUIREMENTS (#47)

1. A minimum of one illuminated exit sign with emergency lights at main entrance of business.
2. A minimum of one fire extinguisher at main entrance of business.
3. Hard wired interconnected combination smoke and carbon monoxide detectors shall be located on all levels of the building.
4. Windows and any exterior opening on a second floor and higher that creates a hazard and/or window sills that is less than 24 inches from the floor must have proper fall protections.

416 IN-LAW APARTMENT

An in-law apartment meeting the following standards shall be considered to be part of a single-family detached dwelling and shall not be considered to be a dwelling unit. In-law apartments shall be permitted only in those districts which allow single-family dwellings. Apartments not meeting these requirements shall be considered to be separate dwelling units.

416.1 The in-law apartment shall be located within the same structure as the principal residential use;

416.2 The in-law apartment shall be accessory to the use of the premises as a single-family dwelling and only one (1) in-law apartment shall be created in a single-family dwelling;

416.3 The total floor area of the in-law apartment shall be a minimum of five hundred twenty-five (525) square feet or thirty (30) percent of the gross floor area of the principal building, not to exceed seven hundred (700) square feet, whichever is greater;

416.4 The creation of the in-law apartment shall not alter the single-family character of the property. The following standards shall be met in creating the unit:

1. The in-law apartment shall not be clearly identifiable from the exterior as a result of the design of the structure; and
2. Provisions for parking, service areas, and storage shall not exceed the levels found in adjacent single-family residences.

416.5 The in-law apartment must not be occupied by more than two (2) people.

416.6 One of the occupants of the in-law apartment must be within the second degree of kinship with at least one of the owners of the property.

416.7 The Code Enforcement Officer on or about the anniversary date of the issuance of a Certificate of Occupancy to insure that the above criteria are being met shall inspect the in-law apartment.

416.8 Buildings with in-law apartments shall meet the life safety requirements contained in Chapter 30 Housing Code, Article 1 Section 101.19 Residential house & multi-family housing vacant more than 12 months and new additions, of the City of Brewer Charter, Codes, and Ordinances. (#47)

417 LAND NOT SUITABLE FOR DEVELOPMENT

417.1 The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Land Use Code:

1. WATER BODIES

   Land which is situated below the normal low water mark of any water body;

417.2 The following lands may be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Land Use Code, provided that no more than 50% of the required minimum lot area shall be met by including one or a combination of the following land areas (this section does not apply to single lots of record proposed to be utilized for single family residents only):

1. FLOOD PLAINS

   Land which is located within the one hundred (100) year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the developer shows proof through the submittal of materials prepared by a Registered Land Surveyor which shows that the property in question lies at least one foot (1') above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered;

2. WETLANDS

   Land that has been determined to be a freshwater wetland, as defined in Title 38, M.R.S.A., Section 480-B, regardless of size.

418 LIGHTING

Any operation or activity producing light shall be conducted so that direct or indirect illumination from the source of light shall not cause illumination in excess of 0.5 candles in any residential district. Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the

standard spectral luminous efficiency curve adopted by the International Commission on Illumination.

419 MULTI-FAMILY DWELLINGS IN LDR DISTRICT

419.1 LAND AREA

Land area required per dwelling unit shall be at least the same as that required for single residences in the same zone.

419.2 NUMBER OF UNITS

No building shall contain more than eight (8) family units.

419.3 DISTANCE BETWEEN BUILDINGS

Distance between buildings shall be at least forty (40) feet.

419.4 HEIGHT

Buildings shall not exceed two (2) stories in height.

420 MULTIPLE USES ON A SINGLE LOT

No structure shall hereinafter be erected, altered, or utilized if the effect of such erection, alterations, or utilization is to create more than one (1) use on the lot unless the following conditions are met:

420.1 The lot improvement meet minimum parking requirements, setbacks, screening, buffering and
all performance standards as applicable in the Brewer Land Use Code. (#35)

420.2 All requirements of the District in which the uses are located are met, with the exception that uses may be in the same building. (#35)

420.3 Unless approved by the Planning Board, no parcel shall have more than two entrances spaced any closer than 120 feet away from other entrances as measured from the closest adjacent edge of each driveway, whether these be located on the subject lot, or adjacent lots. (#4)

This spacing distance is based on 30 mph posted speed limits. Where posted speed limit is 45 mph an access separation distance of 230 feet shall be used.

420.4 Two or more non-residential uses on a lot are subject to site plan review. Multiple Residential Uses are subject to criteria set forth in Section 306.5 Schedule of Uses,

Article 7 Subdivision Review when required and all other Laws, Codes and Ordinances of the City of Brewer and State of Maine. (#4)(#27)

421 NOISE

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness, and shall otherwise comply with the noise standards contained in the Site Location of Development Regulations (Rule 06-096), Chapter 375, Noise, of the Department of Environmental Protection.

422 ODORS

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped or so modified as to remove the odor.

423 OUTSIDE STORAGE

All approved outside storage areas shall be completely obscured from surrounding property by a solid screen not less than six (6) feet in height. Storage of debris, junk or construction materials, which are not associated with an approved use or permitted construction at that site, shall be prohibited.

424 PARKING AND LOADING

424.1 OFF-STREET PARKING REQUIRED (#17) (#31) (#81)

Off street parking spaces shall be provided in accordance with the specifications in this section in any district whenever a use is altered, changed, any new use is established or existing use is enlarged. In addition to the number of off-street parking spaces required, off-street parking spaces to meet the project needs are advised. Such parking spaces shall be located on the same (or adjacent) lot as the use served, and such parking spaces shall be maintained for year-round use. Where a site, building, facility, or space contains more than one use, each portion shall comply with the applicable parking requirements for that use.

424.1.1 When required parking spaces cannot be reasonably provided on the same or adjacent lot, the Code Enforcement Officer may authorize parking on another lot within 500 feet distance of the premises to be served by such parking, provided that such lot is held under the same ownership or lease. Where any business employing 25 or more employees cannot accommodate parking requirements either on site or on an adjacent lot or within the 500 foot distance requirement outlined above; then the Code Enforcement Officer may also approve an off-site employee parking lot with an approved shuttle service plan, providing the business can meet the following criteria:

1. The lot is in the same ownership or lease as the business, and

2. The business and parking lot are on a route or routes that has or have public bus transportation that connect them, or

3. The business has a contract with a provider of bus transportation to transport its employees to and from the place of business and the lot, or

4. The business provides evidence that it has the capacity to transport its employees to and from the place of business and lot.

The Shuttle service plan must guarantee service between the place of business and the parking lot for as many employees and shifts as that business requires for the off-site parking lot.

When required parking spaces for dwelling units cannot be reasonably provided on the same or adjacent lot, the Code Enforcement Officer may authorize parking with existing off-street parking facilities located within 0.25 mile of the subject dwelling units (measured by the shortest straight line between the two parcel boundaries). The developer must be engaged in a legally binding off-site parking agreement with the owner of the off-street parking facility and satisfactory documentation demonstrating the availability of sufficient capacity at the off-site parking facility, as determined by a professional parking study or similar document prepared by a qualified parking analyst shall be provided to the Code Enforcement Officer. After consultation with the City Engineer and City Planner verifying the adequacy of parking supply at the off-site facility, the Code Enforcement Officer shall approve of the parking agreement.

424.1.2 Commercial uses located within the Downtown Development District shall be exempt from the requirements of this section if:

1. The total on-site parking requirements, as listed under Article 4 of this Land Use Code, for all uses on the land parcel is less than 25 spaces and there is adjacent on-street parking; or

2. There is a usable existing public parking lot or parking garage of 25 or more spaces within 1,000 feet of the building.

For commercial uses located within the Downtown Development District which meet the criteria in 424.1.2 above except that the required amount of parking is 25 spaces or greater can be exempt for their first 24 spaces. The remainder of their required parking must be met either on-site or as according to 424.1.1 above.

424.1.3 The reviewing authority may approve a waiver of the requirements of this section for commercial uses within the Waterfront District if:

1. The total on-site parking requirements, as listed under Article 4 of this Land Use Code, for all uses on the land parcel is less than 25 spaces and there is adjacent on-street parking; or
2. There is usable existing public parking lot or parking garage of 25 or more spaces within 1,000 feet of the building, or
3. The applicant can demonstrate that they have entered into a permanent shared parking agreement with another landowner to provide 25 or more spaces within 1,000 feet of the building.

Commercial uses within the Waterfront District which meet the criteria in 424.1.3 above, except that the required amount of parking is 25 spaces or greater, may be eligible for a waiver of parking requirements for their first 24 spaces. The remainder of their required parking must be met whether on-site or as according to 424.11 above. (#85)

424.2 GENERAL PARKING REQUIREMENTS (#2) (#4) (#11) (#12) (#16) (#19) (#31) (#48) (#81)

1. In determining parking space requirements, all partial space requirements shall be rounded to the next highest number of usable parking space. For calculations using fractional numbers, the fraction shall be used for the calculation of the entire project and then rounded up to the next full number.

2. No parking space to be provided shall be located with the right-of-way of any public street or roadway.

3. In DD, WTR, GB and PB zones all parking spaces shall be paved striped surfaces and screened from abutting properties. In all other zones parking areas with more than seven (7) parking spaces shall be on paved striped surfaces and screened from abutting properties. The Code Enforcement Officer may waive the screening requirement in the General Business, Industrial, Industrial-2, HDR and HDR-2 Districts if the proposed project does not abut a Residential District. If screening is waived, tree planting may be less than required in section 424.2.4 but shall not be less than a rate of one tree per fifty feet of parking perimeter for screening. The Code Enforcement Officer may waive the paving and striping requirement for Residential housing and in circumstances proven by the landowner/applicant to be better for the environment. (#85)

   3a. Notwithstanding the above, all Adult Use Establishment parking areas must be screened to be twice the standard as identified in 424.2.4. No waiver will be granted for the reduction in screening.

   3b. All narcotic Treatment Facility parking areas must be screened to the standard as identified in 424.2.4 for the side and rear yards. Front yard screening shall consist of tree planting at a rate of one tree per fifty feet of parking perimeter with no additional screening that would obstruct view of parking and building.

   3c. Medical Marijuana Registered Dispensary, Medical Marijuana Cultivation Facility and/or Adult-Use Marijuana Establishment parking areas must be screened to the standard as identified in Section 424.2.4 of this Article for the side and rear yards. Front yard screening shall consist of tree planting at a rate of one tree per fifty feet of parking perimeter with no additional screening that would obstruct view of parking and of the building(s). (#16)

4. Parking areas shall be buffered with a natural screen masking the parking area from the surrounding area. The screen shall consist of evergreen trees of a minimum size of three feet in height at time of planting with a mature size of at least five feet in height or so as to cause a solid buffer or a demonstrated equivalent approved by the Planning Board. Parking areas shall be designed to prevent stormwater from flowing directly into a water body.

5. Parking spaces shall be located no closer than fifteen (15) feet from the street right-of-way line and ten feet from the side and rear lot lines. Parking setbacks for planned unit developments may be reviewed under site plan review. Space in shared driveways shall not be counted as parking.

   5a. Notwithstanding the above, all required parking spaces for an Adult Use Establishment must be thirty (30) feet from the street right-of-way line and twenty (20) feet from the side and rear lot lines.

5b. The Code Enforcement Officer may reduce the side and rear parking setback requirements in the Convenience Business, Office Residential, and Downtown Development Districts for commercial uses utilizing existing buildings. In no case shall the side and rear parking setbacks be less than one (1) foot. In determining the appropriate side and rear parking setbacks, the Code Enforcement Officer shall consider specific on-site conditions and shall have the owner/applicant sign an agreement indicating that 1) the parking spaces are located on their property, 2) snow plowing and/or snow piles will be kept on their property unless agreed to with abutter, 3) any changes to stormwater flows meet ordinances regulations, and 4) they will comply with any additional conditions or restrictions imposed by the Code Enforcement Officer. (#48)

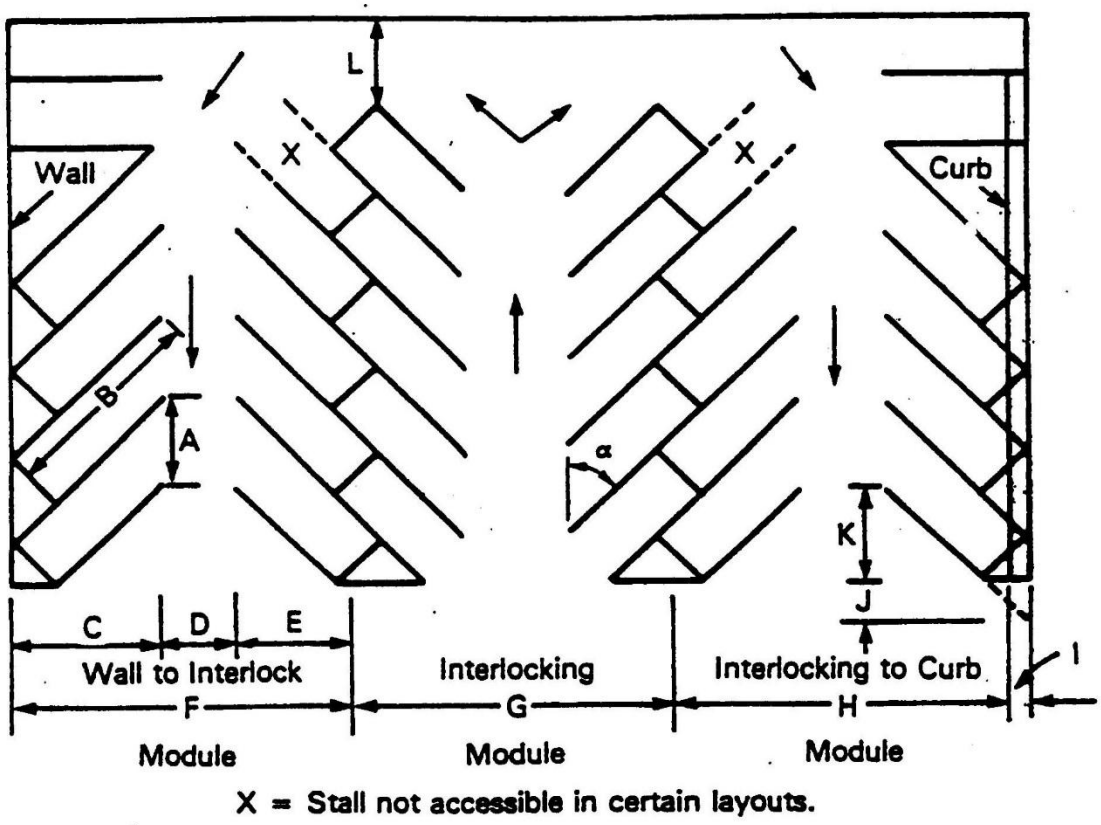
6. Net leasable area as used in this provision is gross floor area less the sum of entry halls; stairways and janitor, electrical, mechanical or maintenance rooms.

7. Parking lot layout shall be governed by the following table:

Parking layout dimensions (in feet) for 9-ft by 18-ft stalls at various angles:

DIMENSION	ON DIAGRAM	ANGLE (∂)			
		45º	60º	75º	90º
Stall width, parallel to aisle	A	12.7	10.4	9.3	9.0
Stall length of line	B	26.8	23.0	20.0	18.0
Stall depth to wall	C	29.0	20.0	19.5	18.0
Aisle width between stall lines	D	12.0	16.0	23.0	24.0
Stall depth, interior	E	16.0	18.0	18.5	18.0
Module, wall to interior	F	47.0	54.0	61.0	60.0
Module, interior	G	44.0	52.0	60.0	60.0
Module, interior to curb face	H	45.0	51.7	57.5	58.5
Bumper overhang (typical)	I	2.0	2.3	2.5	2.5
Offset	J	6.2	2.5	0.6	0.0
Setback	K	12.7	9.0	4.7	0.0
Cross aisle, one-way	L	14.0	14.0	14.0	14.0
Cross aisle, two-way	--	24.0	24.0	24.0	24.0

NOTE: All Diagonal parking must be located on one-way aisles which shall be clearly marked as such at all times. (#12)



424.3 NUMBER OF SPACES REQUIRED (#81)

SE	PARKING SPACES REQUIRED
Boarding Home and Bed and Breakfast	1 per unit or room plus 1 for the owner or manager
Residential	1 per dwelling, except 2 per dwelling in LDR, Rural, & Shoreland Overlay zoning districts
Church	1 per 3 seats of assembly
Private club or lodge	1 per 4 members
Theater* Auditorium	1 per 4 seats
Hospital	1 per 3 beds, and 1 for each employee based on the expected average employee occupancy
Nursing Homes	1 per 6 beds, and 1 for each employee based on the expected average employee occupancy
Professional offices and business services, and retail businesses in CB District	1 for every 350 ft. of gross floor area

Eating and drinking establishments	1 for every 4 seats (including bar stools) plus one space for each employee
Medical Clinics, Medical Offices Narcotic Treatment Facilities (#11) Medical Marijuana Registered Dispensary (#16) Medical Marijuana Dispensary Cultivation Facility (#16) Adult-Use Marijuana Establishment (#55)	1 per each 175 sq. ft. of gross floor area 1 per each 175 sq. ft. of gross floor area 1 space per each 175 sq. ft. of gross floor area 1 space per 350 sq. ft. of gross floor area of office, sales, or display area (minimum of four spaces) plus 1 space per 5,000 sq. ft. of growing or storage area
Industrial Manufacturing, compounding processing or packing of goods and/or products	1 per 1,000 sq. feet plus 1 per each 350 sq. ft. of office, sales or other space to be used by visitors, customers or salesmen
Warehousing & Storage	1 space per 1½ employees on each shift, plus 1 per each 350 sq. ft. of office, sales or other space to be used by visitors, customers or salesmen
Apartment Houses/Multi-Family Housing, Studio Apartment	1 space per unit except 1 ¼ spaces per unit in LDR, Rural, & Shoreland Overlay zoning districts*
One Bedroom Apartment	1 space per unit except 1 ½ spaces per unit in LDR, Rural, & Shoreland Overlay zoning districts*
Two Bedroom Apartment	1 space per unit except 1 ¾ spaces per unit in LDR, Rural, & Shoreland Overlay zoning districts*
Three (+) Bedroom Apartment	1 space per unit except 2 spaces per unit in LDR, Rural, & Shoreland Overlay zoning districts*
Hotels or Motels	1 per hotel or motel room; plus additional spaces as required for other functions such as bar, restaurant, meeting rooms, etc.
Recreation – Indoor	Spaces equal to 30% of total permitted occupancy (BOCA CODE)
Recreation – Outdoor	1 per 4 users

Housing specifically designed, constructed and managed for the elderly	1 space per dwelling unit
Retail business, business services and personal	1 per each 350 sq. ft. of net leasable area; (except) automobile service stations and garages for minor repairs which shall have a minimum of 6 spaces
Funeral Homes; Other	1 per each 3 chapel seats unless otherwise provided for, each primary building or structure shall be required to have a minimum of 2 off-street parking spaces, plus 1 additional off-street parking space for each 250 ft. of floor space or fraction thereof.
Convenience Business District	1 for every 350 sq. ft. of display or sales area plus 1 for each employee on duty at any one time

*For calculations using fractional numbers, the fraction shall be used for the calculation of the entire project and then rounded up to the next full number.

424.4 LOADING

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

425 PLANNED UNIT DEVELOPMENT

425.1 PURPOSE

Planned unit development provisions are established to promote the public health, safety and general welfare by (1) preserving and making open space available for recreation and conservation in rural and residential areas, and (2) assuring convenient and well-designed unified business and industrial areas.

The overall objective of planned unit development provisions is to promote more efficient and creative patterns of land utilization by allowing flexibility in the application of certain land development regulations, and to preserve open space in accordance with the City's 2015 Comprehensive Plan. (#81)

425.2 GENERAL REQUIREMENTS

1. Minimum Size. Planned unit development proposals shall involve the simultaneous construction of at least three (3) buildings on one tract of land subdivided for such purposes. Land Subdivision without simultaneous construction of buildings does not qualify as a planned unit development.

2. Uses Allowed. No use shall be allowed in a planned unit development which is not allowed in the district for which it is being proposed.

3. Maximum Building Density. The density of buildings in the entire planned unit development shall not exceed the density normally permitted in the district for which it is being proposed, provided that there shall be a density bonus of ten percent (10%) for developments which retain fifty percent (50%) of the land areas as permanent open space. In planned unit developments involving construction of new streets within the proposed development, density shall be determined by subtracting 15% of the gross area of the tract (for streets), from the gross area of the tract, and dividing the remainder by the minimum lot area required in the district. Gross area of the tract shall include only land that is not encumbered with easements or other legal restrictions that prevent full use of the land. Accessory buildings shall not be considered in determining building density.

4. Open Space. In planned unit development of dwellings, land area not allocated to building lots, streets or parking lots shall be permanently and legally preserved as open space. In developments which are within 500 feet of the Penobscot River, Felts Brook or Eaton Brook open space suitable for use as elements of the Brewer Open Space and Trail System (BOSTS) shall be so dedicated as open space. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. The developer of any planned unit development of dwelling shall make suitable provision for the permanent maintenance of open space areas, by one of the following methods:

   A. Dedication of such open space to public use if the City or other public agency has indicated it will accept such dedication;

   B. Retention of ownership and responsibility for maintenance of such open space; or

   C. Provide for and establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either a non-profit homeowner's corporation or a community open space trust. If a homeowners corporation or open space trust is formed, it shall be governed by the following:

      1) The organization shall be organized by the developer and operating, with financial subsidization by the developer if necessary, before the sale of any lots within the development;

2) Membership in the organization shall be mandatory for all purchasers of homes therein and their successors;

3) The organization shall be responsible for maintenance of common open space and property and for insurance and taxes on such common open space and property;

4) The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with procedures established by them; and

5) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.

5. Common Property. In any planned unit development where common property or facilities exist, such as streets, sewage treatment facilities, parking lots, elevators, stairwells, heating units; etc., the developer shall make provision for their continual ownership and maintenance either through a homeowner's corporation or by retaining ownership and responsibility for maintenance himself. In the case of a homeowner's corporation, the corporation shall be governed by the same rules listed in Section C above, and such corporation shall be one and the same as any corporation established for ownership and maintenance of common open space.

6. Setback. All setbacks as required by the zoning district in which the project is located shall apply except as follows:

A. In the case of duplexes in separate ownership, the front, side and rear setbacks shall be determined from the exterior boundary liens of the common area property with no separation distance requirement between the two units of the duplex with appropriate firewall construction.

B. In the case of duplexes in separate ownership, the distance between buildings shall be equal to or greater than two (2) times the "minimum width side yard" for the zoning district in which the project is located.

C. In the case of duplexes in separate ownership, if access to the project is by a private road or drive, said private road or drive shall not require a front yard setback. (#5)

425A PLANNED GROUP DEVELOPMENT (#9)

425.A.1 PURPOSE

Planned group development provisions are established to promote the public health, safety and general welfare by (1) allowing flexibility and creativity for well-designed unified commercial and institutional areas (2) to allow for campus style development for individual or multiple ownerships while ensuring access to all owners and tenants to all common areas necessary for conducting daily operations.

The overall objective of planned group development provisions is to promote more efficient and creative patterns of land utilization by allowing flexibility in the application of certain land development regulations without exceeding the overall density within the zoning district in which it lies.

425.A.2 PLANNED GROUP DEVELOPMENT

A planned Group Development for any commercial or institutional complex permitted under other provisions of this Ordinance shall be considered as one site development parcel under the applicable site development standards of the zoning district in which it lies and for subdivision purposes, regardless of the proposed method of ownership for the land area, buildings, building footprint, portion of buildings, site improvements or any combination thereof, provided that:

a) The planned group development shall not create increases in prescribed densities and or lot coverage or reduce the required area for yards and off street parking or violate any other site development standard applicable to the district.

b) Any method of ownership for the land area, buildings, portions of buildings, site improvements or any combination thereof shall afford those acquiring such ownership interest access to land and use of such other portions of the planned group development as are necessary for:

    1) Access to all portions of the planned group development from a public way;

    2) Access to the parking areas required under this Ordinance;

    3) Access to the common areas of the planned group development including the yards and open space required under this Ordinance; or

    4) Compliance with the site development standards required under this Ordinance in the district in which the planned group development lies.

c) The applicant shall have the burden of demonstrating that the proposed method of ownership complies with the foregoing requirements. To that end, the applicant shall submit, as part of the land development review process, copies of all proposed documents relating to the creation of ownership interest, the dedication of all common areas or elements and the organizational arrangements for the

ownership, maintenance, use and preservation of all common areas or elements of the planned group development as required under this Ordinance.

d) A planned group development must receive site plan approval in accordance with this Ordinance.

e) The applicant shall not be relieved of the approval requirements set forth under Maine subdivision law where applicable.

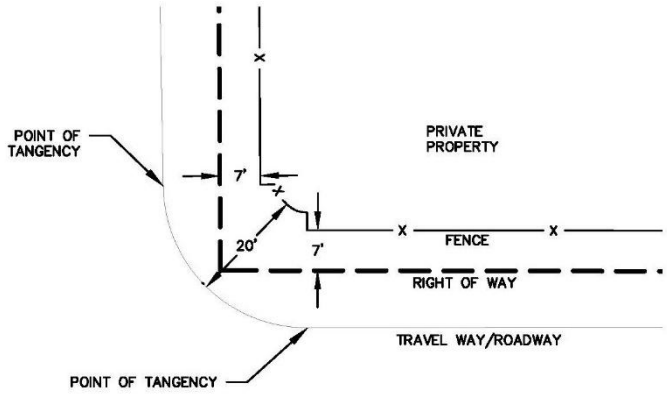
426 PLANTING

Planting set-back for all trees and shrubs with a potential height of over three (3) feet shall be governed by the following:

426.1 There shall be a minimum set-back of seven (7) feet from the street right-of-way line, on all straight-of-ways.

426.2 At street intersections where a radius of curvature is shown on the plan or deed, the minimum set-back line shall be seven (7) feet behind said right-of-way line and/or twenty feet (20') from the edge of the travel way until the point of tangency, whichever is greater. (#61)

426.3 At street intersections where there is no known radius of curvature, the minimum set-back line shall be twenty feet (20') from the edge of travel way until the point of tangency. (#61)



426.4 Landscaping and plantings shall also adhere to the minimum requirement for clear space around hydrants as included in Chapter 40 (Water Department), Section 303 of the City of Brewer Charter, Codes and Ordinances. (#61)

427 RECYCLING CENTER OTHER THAN AUTOMOBILE RECYCLING FACILITY

427.1 Outside collection of materials shall be allowed in containers as approved by the Code Enforcement Officer.

427.2 Outside storage is not permitted.

427.3 No processing shall be conducted on-site except to bundle/bail the materials for pick-up.

427.4 No processing, pickup or delivery of recyclable materials shall take place before 7:00 a.m. or after 9:00 p.m. during any day.

427.5 The facility shall store the materials on-site for a period of time not to exceed thirty (30) days.

427.6 All facilities shall be subject to site plan review.

427.7 Facilities shall be maintained in a neat, clean and orderly manner.

427.8 Facility shall be clearly identified.

428 SANITARY PROVISIONS

428.1 SEPTIC SYSTEMS

When not serviced by the public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.

428.2 SYSTEMS SERVING MORE THAN ONE LOT

Two or more lots or buildings in different ownership may not share a common subsurface disposal system.

428.3 COMMERCIAL/INDUSTRIAL WASTES

Industrial or commercial waste waters may be discharged to municipal sewers only in accordance with Chapter 31, City of Brewer Sewer and Pre-Treatment Ordinance of the City of Brewer Charter, Codes and Ordinances.

428.4 REQUIRED CONNECTION TO CITY SYSTEM

All proposed developments other than single-family and two-family dwellings shall be connected to the City's water and sewer systems when these systems are within 200 feet of the property on which the proposed development is to be located. The Board of Appeals may waive this requirement for either the water or sewer system

when the applicant can demonstrate that such connection would not be practical because of capacity problems with either system, or physical barriers such as a large hill or extensive ledge.

428.5 PUBLIC AND PRIVATE SEWERS

No building intended for human habitation shall be built, constructed, renovated, placed, or occupied on any lot in any district which is not serviced by either an operational public sewer or by an approved subsurface septic system designed by a licensed soil scientist or soil engineer on a Form HHE-200 or other Maine Department of Human Services, division of Health Engineering approved form for subsurface wastewater disposal.

429 SHIPPING CONTAINERS AS STORAGE BUILDINGS PROHIBITED

429.1 It is the intent of the City of Brewer to prohibit, except in strictly regulated circumstances as shown in 429.2 below, the placement and use of any shipping container as an accessory structure or storage building within the city limits.

429.2 No person shall place or cause to be placed or use or permit the use of any shipping container as an accessory structure, storage building or living unit within the City limits except that licensed and bonded contractors may utilize shipping containers for temporary housing of equipment and/or materials during construction for a period not to exceed one year where a building permit has been approved until such time as a Certificate of Occupancy is issued.

430 SIGNS (#24)

Refer to Chapter 28, Brewer Sign Ordinance of the City of Brewer Codes and Ordinances for sign regulations.

431 TEMPORARY STRUCTURES

Temporary structures used in conjunction with construction work shall be permitted by the Code Enforcement Officer during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six (6) month period. A Certificate of Occupancy in a basement or foundation structure before the completion of the total structure shall not be granted.

432 TRAILERS

No individual trailer shall be allowed to locate in any district in the City of Brewer, and no trailer shall constitute a single residence use, whether on a foundation or not, unless located in a duly licensed camping park. An occupied travel trailer shall not be permitted except in a duly licensed camping park pursuant to Article 4, Section 406.

433 VIBRATION

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line.

434 WATER QUALITY

Title 38, Maine Revised Statutes Annotated, Chapter 3, "Protection and Improvement of Waters" and such rules and regulations adopted by the Maine Board of Environmental Protection pursuant to the referenced purpose shall apply.

435 WILDLIFE/NATURAL AREAS PRESERVATION

435.1 MITIGATION MEASURES

Any project involving significant wildlife or fisheries habitat or a unique natural area as identified by a government agency such as the Maine Department of Conservation or the Maine Department of Inland Fisheries and Wildlife, or in Brewer's 1995 Comprehensive Plan, shall include mitigation measures aimed at minimizing the adverse impacts of development on these resources. Such mitigation shall include as a minimum:

1. The clustering of the project to protect to the greatest extent the wildlife habitat pursuant to the Planned Unit Development standards of this Land Use Code (Section 425);

2. Setting back of any construction from the upland edge of any wetland area over 20,000 contiguous square feet to meet the most restrictive requirements of the district(s) in which it is located;

3. The setting back of any construction from any stream or waterway to meet the most restrictive requirements of any district(s) in which it is located;

4. Efforts to preserve the existing vegetation in such a manner that the only vegetation cut or removed shall be necessary for the actual construction involved. Specific vegetation to be retained and to be removed shall be indicated on the development plan;
5. Provisions to eliminate noise disturbance in the area. This shall include the construction of sound barrier fencing, and the planting of additional vegetation such as trees.

435.2 MITIGATION TO BE SHOWN

Mitigation measures shall be indicated clearly on the development plan prior to final approval.

436 YARDS AND SETBACKS

436.1 MULTIPLE STREET FRONTAGES

Lots which abut on more than one street shall provide the required front yards along every street. Side and rear yard shall then be determined by the location of the main entrance of the building as determined by the house number.

436.2 PROJECTIONS (#18)

All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies for platforms above normal grade level, shall not project into any minimum front, side or rear yard.

Structural elements such as ramps, enclosures, balconies, devices and appliances such as wheelchair platform lifts and similar accommodations necessary for providing access to an existing buildings for the handicapped may project into the setback requirements provided the encroachment in the setback is the minimum necessary to meet the provisions for handicap access where required by State or Federal Law or Regulation. All structural elements require prior approval of the Code Enforcement Officer. Structural elements no longer necessary or utilized for intended purpose must be removed within 30 days at the owner's expense.

Structural elements such as fire escapes, stairs, and platforms necessary for means of egress from existing buildings may project into the setback requirements provided the encroachment in the setback is the minimum necessary to meet the rules and provisions as defined by the Local Building Codes and National Fire Protection Agency Regulations. All structural elements require prior approval of the Code Enforcement Officer. Structural elements no longer necessary or utilized for intended purpose must be removed within 30 days at the owner's expense.

Also except as may be authorized in section 436.2.A of this Article. (#9)

436.2.A YARD SPACE FOR PLANNED GROUP DEVELOPMENT (#9)

Where a parcel of land is to be occupied by more than one building, other than an accessory building, each principal building shall be treated as though on a separate lot, unless the Planning Board, after site plan review, authorize redistribution of required yard space in harmony with the intent and purpose of this Ordinance, Section 425.A.

436.3 FUTURE STREET LINES (#12)

All buildings, parking, and landscaping shall be set back from future street lines as though it were a street. Future streets are those either approved by the Planning Board and/or City Council or those whose location has been established by the Maine Department of Transportation. This provision also applies to the planned widening, relocation or realignment of existing streets which have either been approved for funding or whose location has been established with layout plans.

436.4 PENOBSCOT RIVER

Buildings in which humans live or work on lots adjacent to the Penobscot River shall be set back 75 feet from the normal high water mark of the river except as otherwise provided in the ordinance.

436.5 INDUSTRIAL/RESIDENTIAL BOUNDARY

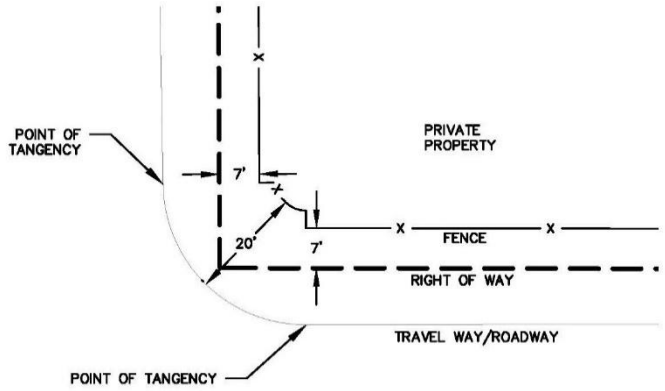
Along any industrial district boundary which abuts any residential district on a side or rear lot line, there shall be an open space beyond any visual barriers, of at least fifty feet wide provided within the industrial district. Such open space shall not be used for off-street parking, off-street loading, storing or processing of any kind.

436.6 EXISTING STRUCTURES (#25)

All existing legal non-conforming primary structures that do not meet the setback requirements set forth by this land use code are allowed to construct up to the furthest projection of the structure that is within the setback area, provided the construction does not encroach upon any additional setback lines and fire separation is still being achieved.

436.7 FENCES (#61)

There shall be a seven foot (7') front yard setback for fences when along a public road, private road, or common driveway. At intersections where a radius of curvature is shown on the plan or deed, the minimum set-back line shall be seven (7) feet behind said right-of-way line and/or twenty feet (20') from the edge of the travel way until the point of tangency, whichever is greater. At street intersections where there is no known radius of curvature, the minimum set-back line shall be twenty feet (20') from the edge of travel way until the point of tangency.



Fences may be placed directly on side and rear property lines. Consideration should be made for access to maintain the fence.

Fences shall also adhere to the minimum requirement for clear space around hydrants as included in Chapter 40 (Water Department), Section 303 of the City of Brewer Charter, Codes and Ordinances.

437 NARCOTIC TREATMENT FACILITIES (#11)

The property for Narcotic Treatment Facilities shall be adequate to accommodate sufficient interior space as not to have patient queuing on sidewalks, parking area, and other areas outside of the facility. A letter of compliance from the Brewer Code Officer shall be submitted to the planning Board as part of the site plan application. The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity. Chapter 20 Licenses and Permits, Article 8-A, of the City of Brewer Charter, Codes and Ordinances shall also be met.

438 MARIJUANA (#16) (#52) (#55) (#66)

No person may establish, operate, or maintain an Adult-Use Marijuana Establishment without first obtaining a license from the City.

438-A MEDICAL MARIJUANA

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

2. Medical marijuana Home Production activities shall be conducted wholly inside a building, and otherwise be in compliance with applicable laws and regulations governing caregivers and patients under the Maine Medical Use of Marijuana Act or other applicable laws. Further, medical marijuana home production shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that normally experienced in an average residential dwelling in the district in which located. Furthermore, with respect to odors, any medical marijuana home production which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonable with the comfort of the public shall be removed, stopped or so modified as to remove the odor.

438-B ADULT-USE MARIJUANA (#55)

1. An adult-use marijuana establishment shall be any adult-use marijuana testing facility or adult-use marijuana store. Each of the adult-use marijuana categories stated herein shall only be permitted for their specific use (ie. A store cannot test and a testing facility cannot sell). Adult-use marijuana may not be considered an accessory or ancillary use and shall not be allowed as a home occupation. Adult-use marijuana may not be sold, used, stored, or distributed in any location except as expressly allowed in this Ordinance.

2. Adult-use marijuana establishments shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the Maine Adult-Use Marijuana Program (Title 28-B), as the same may be amended from time to time and to Chapter 20 Licenses and Permits, Article 8-B, of the City of Brewer Charter, Codes and Ordinances, as the same may be amended from time to time.

3. The property for an adult-use marijuana establishment shall be adequate to accommodate sufficient interior space so as not to have customers queuing on sidewalks, parking area, and other areas outside of the building (s).

4. No adult-use marijuana establishment shall be located within the distance listed below of the property line upon which the Establishment is located and the property line of the uses listed below, which is or are in existence when an application for an Adult-Use Marijuana Establishment is made. For the purposes of this section, a preexisting facility, residence, clinic, or establishment shall also include any pending application (ie: that has received at least one substantive review by the City of Brewer reviewing authority):

    a. Five hundred (500) feet of a pre-existing public or private school,

    b. Five hundred (500) feet of a pre-existing licensed daycare facility,

c. Five hundred (500) feet of a pre-existing methadone clinic,

d. One hundred (100) feet of a pre-existing private residence,

e. Five hundred (500) feet of a pre-existing Medical Marijuana Registered Dispensary and/or Medical Marijuana Dispensary Cultivation Facility.

f. Five hundred (500) feet of a pre-existing Medical Marijuana Cultivation and Processing Facility,

g. Five hundred (500) feet of a pre-existing Adult-Use Marijuana Establishment.

5. Adult-use marijuana establishments shall be located only inside a permanent structure and not within any mobile facility. Adult-use marijuana stores are prohibited from providing home delivery services.

6. Adult-use marijuana stores shall only be open for business between the hours of 8:00a.m. and 8:00p.m. daily.

7. An adult-use marijuana establishment shall conform to the City of Brewer's Sign Ordinance. In addition, signage may use an image or images of the marijuana plant as long as they do not exceed 20 % of the sign face, but there shall be no pictorial representations of other marijuana products or paraphernalia associated with the use or distribution of marijuana. There shall be no signage in any window and or door, except for the hours of operation.

8. Security measures at an adult-use marijuana establishment shall include the following at a very minimum:

a. Security surveillance cameras installed and operating twenty-four (24) hours a day, (7) seven days a week to monitor all entrances, along with the interior and exterior of the Establishment, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;

b. Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications;

c. A safe affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Establishment;

d. Exterior lighting that illuminates all exterior walls of the licensed Establishment and

e. Deadbolt locks on all exterior doors and locks or bars on any other access point.

All security recordings shall be preserved for thirty (30) days by the management of the licensed Establishment.

9. The use of marijuana or any marijuana product is not permitted within the building or outside of the building on the parcel of land.

10. There shall be posted in a conspicuous location inside each adult-use marijuana establishment, at least one legible sign containing the following information:

> *"Adult use of or on-site consumption of marijuana is illegal; Open and public consumption of marijuana is the State of Maine is illegal; The use of marijuana or marijuana products may impair a person's ability to drive a car or operate machinery; No one under the age of twenty-one (21) allowed; Loitering prohibited."*

11. The outdoor storage of any merchandise, plants, or other marijuana-related materials is not allowed.

12. Visibility of activities; control of emissions; disposal plan for an adult-use marijuana establishment shall be as follows:

a. All activities of adult-use marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.

b. No marijuana or paraphernalia shall be displayed so as to be visible from outside the building (s).

c. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting an Establishment must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

d. All adult-use marijuana establishments shall have in place an operation plan for proper disposal of marijuana related byproducts.

e. An odor control plan shall be submitted as part of the site plan review application describing the odor(s) anticipated to originate at the premises and the methods to be used to prevent such odor(s) from leaving the premises. City enforcement actions will be taken if marijuana odors are detected outside of the building.

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

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

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

13. Right of Access, Safety, and Inspections:

    Every adult-use marijuana establishment shall allow Brewer Code Enforcement Officers and Brewer Police Officers to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and local ordinances.

14. No food products shall be sold, prepared, produced or assembled by an adult-use marijuana establishment except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

15. An adult-use marijuana establishment shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation.

439 STORMWATER MANAGEMENT (#44)

439.1 General standards. (#62)

1. Adequate provision must be made for the collection and disposal of stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system, which must not have adverse impacts on abutting or downstream properties.

2. To the extent possible, the drainage system must retain stormwater on the site using the natural features of the site.

3. The applicant must demonstrate that on and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

4. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review system.

5. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

6. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

7. Non-stormwater discharges to the City's storm drainage system are prohibited as detailed in Chapter 31 of the City of Brewer's Charter, Codes and Ordinances. (#62)

8. Developments required to meet the LID standards of section 439.2 below are required to provide a continuing stormwater management plan with annual inspections and reporting per Chapter 31 of the City of Brewer's Charter, Codes and Ordinances. (#62)

439.2 Low Impact Development (LID) standards and review. (#62)

In addition to the general standards listed in section 439.1, these standards apply to all activities which create a disturbed area of either a) one or more acres of land, b) less than one acre of land if part of a larger common plan of development or sale that as approved or amended would create a disturbed area of one acre or more, or c) less than one acre of land if located within the Felts Brook watershed as noted below.

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 therefore must be protected to the greatest extent practicable. Unreasonable impacts on any waterbody or wetland due to pollutants shall be adequately addressed.

1. The City of Brewer Environmental Services Department shall review the proposed work and determine if the LID standards and review process is required.
2. If determined the LID standards and review process in not required, the City of Brewer Environmental Services Department shall be allowed access to the site during earthwork for inspections. Any deficiencies pertaining to stormwater management and/or erosion control shall be reported to the Brewer Code Office for enforcement.

439.2.1 LID Standards. (#62)

The design of the project shall include the following LID measures:

1. Minimize site clearing.
2. Protect natural drainage systems.
3. Minimize decrease in Time of Concentration.
4. Minimize impervious area.
5. Minimize effect of impervious area.
6. Minimize soil compaction.
7. Minimize lawns and maximize landscaping that encourages runoff retention.
8. Provide vegetated open channel conveyance systems.
9. Meet stormwater quality treatment and retention requirements.

The design, plans, and documentation shall include:

1. Locations of all "sensitive areas" as identified by qualified professions and a description of how the applicant has prioritized the protection of the "sensitive areas" in the following order:
   a) Waters of the State and Shoreland Zoning
   b) Protected natural resources
   c) Predevelopment drainage ways
   d) High permeability soils (for natural infiltration)
   e) Maine native vegetation and climate resilient northeast native vegetation
   f) Significant and essential wildlife habitats
2. Limits of disturbance shown on plans and at construction sites (using flagging, fencing, signs, or other means to provide a clear indication).
3. Demonstration that stream crossing for Waters of the State have been designed in accordance with Maine Stream Smart Principles to preserve natural pre-development drainage ways. Exception: stream crossings over portions of streams that are artificially channelized are not subject to this requirement.
4. Preservation of the natural pre-development drainage ways by using the natural flow patterns and pathways for the post-construction drainage system. The applicant may submit an "alternative analysis" which demonstrates that this performance standard is impractical. Exception: If the Time of Concentration for a predevelopment drainage way is the same as or shorter than the post-development drainage way.
5. Meet stormwater treatment measures in accordance with Chapter 500 Section 4.C General Standards, 4.C (2) Treatment requirements, 4.C Phosphorus Standard (for lake watersheds only) and additionally:
   a) Individual stormwater treatment measures may not treat more than one acre of impervious area.
   b) Vegetation used in stormwater treatment measures and general buffers shall be Maine native vegetation or climate resilient northeastern native vegetation.
6. Provide volume control on-site (through infiltration or storage) in accordance with the following:

a) Volume control for new impervious area times:
   - 0.4 inches of rain for type A soils.
   - 0.25 inches of rain for type B soils.
   - 0.1 inches of rain for type C soils.
   - No infiltration for type D soils.

b) May not use stormwater treatment measures with lines for this requirement.

7. Minimize impervious area and the effect of impervious area from road runoff by designing treatment of at least 70% of roadway runoff be directed into a stormwater treatment measure.
8. Minimize impervious area from parking areas by using a maximum parking space stall dimension of 9-foot x 18-foot stall, with the exception for public safety.
9. Runoff from on-site roofs, sidewalks, and peak-use overflow parking runoff shall be directed into stormwater treatment buffers or stormwater treatment infiltration measures.
10. Construction equipment movement, laydown areas, and parking shall be restricted to the designated disturbed areas. Areas to be vegetated shall be tilled and the soils amended with organic matter as needed based on the results of soil tests.
11. Snow storage areas shall be depicted on plans. The location of snow storage areas in stormwater treatment measures and Shoreland Zoning setback buffers shall be prohibited.

439.2.2 LID Review and Approval Process. (#62)

When an activity is required to obtain Planning Board approval (such as, but not limited to, site plan, subdivision, fill/grading), these LID standards and submittals shall be included, as applicable, in said approval applications. For all other activities, the applicant shall obtain approval from the Municipal Environmental Review Authority. Criteria for approval shall be that the project protects sensitive areas, provides on-site volume control, provides treatment of stormwater, and minimizes impervious areas.

The applicant shall include the following information for review:

1. Project narrative and documentation describing:
   a) The overall approach to their stormwater management on the site.
   b) A listing of stormwater treatment measures that will be in use and which will be maintained privately and which will be offered to the municipality for operation. Reference is made to Chapter 31 of the City of Brewer's Charter, Codes and Ordinances for private maintenance.
   c) Documentation and plans to demonstrate how the LID standards are met.
   d) A rationale for any exceptions from the LID standards.
2. Contact information (ie. Name, state license number, company if applicable, phone number, mailing address, physical address, and email address) of all Maine Licensed

Landscape Architects, Maine Certified Soil Scientists, Maine Professional Engineers, and any other state licensed professionals working on the project.

3. Project plans consisting of a graphic representation of the site at a scale no smaller than 1 inch = 100 feet showing:
   a) Waters of the State and their associated Shoreland Protection areas.
   b) Protected natural resources.
   c) Predevelopment drainage areas, pathways, and associated Time of Concentration.
   d) High permeability soils.
   e) Maine native and climate-resilient northeastern native vegetation in general buffer areas and shoreland zoning buffer areas.
   f) Significant and essential wildlife habitats.
   g) Limits of disturbance.
   h) Post-development drainage areas, pathways, and associated Time of Concentration.
   i) Locations of snow storage areas.
   j) Stormwater treatment measures.
4. The applicant shall submit the following information pertaining to infiltration:
   a) Information required by Chapter 500 Section (7)(D)(5)(c) Infiltration Submittals including a plan for use of de-icing materials, pesticides and fertilizers within the drainage area of any infiltration Stormwater Treatment Measures.
   b) Locations of any Uncontrolled Hazardous Substance Sites, Voluntary Response Action Program sites, RCRA Corrective Action sites, or Petroleum Remediation sites on or adjacent to the site.

440 EROSION CONTROL (#44)

1. The proposed site plan shall have a soil erosion and sediment control plan that will effectively prevent soil erosion from leaving the site and entering the City stormwater system, water bodies of Maine, wetlands, and adjacent properties.

2. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling; excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites should be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

3. Soil erosion and sedimentation of water courses and water bodies will be minimized by an active program meeting the requirements of Appendix C, Erosion and Sedimentation Control, Inspections, Maintenance and Housekeeping, of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4), published by the Maine Department of Environmental Protection, Bureau of Water Quality, Dated October 15, 2020. (#68)

4. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

441. MOBILE FOOD BUSINESSES (#49) (#73)

Mobile food businesses shall include mobile food trailers, mobile food trucks, mobile ice cream vendors, and mobile food pushcarts. See Article 14 of this Land Use Code for definitions.

441.1 All entities desiring to operate a mobile food business within the City shall meet the following requirements:

1. Obtain a Mobile Food Business license from the City of Brewer. Said Mobile Food Business license shall include the type of mobile food business, number of mobile units, location and hours of operation. Such license shall be issued by the City Clerk upon certification of the Health Officer, Code Enforcement Officer, Police Chief, and the Fire Chief, or their designees. The fee for said license shall be in accordance with the City of Brewer Schedule of Fees. A copy of said approved Mobile Food Business license shall be placed prominently for public viewing either in the windshield or other window of said vehicle or affixed to the side of a pushcart.

2. Must meet health and safety inspections.

3. All food truck owners/drivers must consent to and, if performed, must pass a background check conducted by the Brewer Police Department and demonstrate proof of vehicle insurance. General liability insurance is required when operating on City property.

4. Must have all necessary licenses and permits from the State of Maine.

5. Must meet NFPA adopted standards.

6. Traffic and Pedestrian Safety Requirements. This does not apply to mobile ice cream vendors and mobile food pushcarts.

    a. Pedestrian Protection Measures.

    All mobile food businesses must ensure that their operations do not create unsafe conditions for pedestrians or interfere with vehicular traffic. At each vending location, the vendor shall implement the following, as appropriate to the site:
    - Maintain a clear and unobstructed pedestrian path at least four (4) feet wide.
    - Position the food truck to avoid backing movements during active vending hours.
    - Avoid setup in areas that block visibility at driveways, intersections, or crosswalks.
    - Use cones, signs, or temporary barriers to clearly define the customer area when located adjacent to vehicle travel lanes or parking lots.
    - Ensure that customer queuing areas do not extend into active vehicle travel lanes, sidewalks, or driveways.
    - Place menu boards and trash receptacles in a way that does not obstruct pedestrian traffic or vehicle sight lines.

b. Site-Specific Considerations.
Not all measures listed above may be necessary at every site. The application of these safety measures shall be proportionate to the layout, location, and traffic conditions of the vending site. Vendors are encouraged to consult with city staff to determine what is reasonable and necessary for each location.

7. The business must be used by foot traffic and not as a vehicle drive-thru.

8. Must be located in allowed locations. See 441.2 of this Brewer Land Use Code.

9. The business infrastructure shall not be permanently affixed to the ground.

10. If located on private property, must have written landowner permission. The written permission must include the duration and hours that the food truck may operate on the property.

11. Must provide own recycling and trash disposal for the business and patrons. All waste must be disposed of in accordance with City of Brewer Ordinances.

12. Outdoor furniture (such as tables and chairs) is permitted with approval and cannot cause safety hazards. Items must also be removed when business is not in operation. Approval of the outdoor furniture shall be by the Code Office when on private land and by the Parks & Recreation Department when on public land.

13. The area around the business must be maintained in a clean and attractive condition.

14. All signs shall be physically attached to the unit with the exception of a sandwich board and/or banner flag. Said sandwich board and/or banner flag shall be located within ten (10) feet of the mobile food business vehicle, outside of street right-of-way, and cannot create visual or safety concerns. Said banner flag shall not exceed ten (10) feet in height. Each mobile food business vehicle is limited to one (1) sandwich board and/or one (1) banner flag. All signs shall be removed when the truck is not open or leaves the site.

15. No horns, amplified systems, or other sound-producing devices or music systems which can be heard outside of the truck may be used with the exception of announcing either an order number or customer name for an order pickup. Mobile ice cream vendors shall be allowed to play typical ice cream truck music only while the truck is in motion or a maximum of five minutes while stationary attending to customers. Said music shall not exceed a sound level of fifty-five (55) decibels as measured at a distance of fifty (50) feet from the source.

16. No alcohol, tobacco, marijuana, or controlled substances may be sold or given.

17. No third party advertising may be displayed on any mobile food business.

The above items are required for each license renewal and shall meet the ordinance and/or standards in place at the time of renewal.

441.2 Mobile food businesses are allowed to operate either on public or private land as follows:

1. If located on private property, must be located in the Convenience Business (CB), Downtown Development (DD), General Business (GB), or the Office Residential (OR) zoning districts. All equipment, tables, chairs, recycling and trash containers must not be located within the public right-of-way of any road or sidewalk.

2. Mobile food trucks and mobile food trailers are not allowed to operate in the public right-of-way of any accepted City Street unless approved by the City. Mobile Ice Cream vendors are allowed to operate in the public right-of-way of City streets.

3. Mobile food businesses are allowed to operate on specific public locations after receiving local Mobile Food Business license and Mobile Food Business Location permit. After receiving a mobile food business license from the City Clerk's Office, the applicant may proceed to the Brewer Parks and Recreation Department to request a Mobile Food Business Location permit to operate on City property. The Brewer Parks and Recreation Department shall set specific locations along with allowed dates/times and maximum number of mobile food businesses for each site. Permits/approvals to operate on school property shall be obtained through the Brewer School Department.

4. Mobile food trucks and mobile food trailers shall not operate:

    a. In a location that: impedes the ingress and egress from another business or otherwise causes undue interference with access to another business; blocks the lawfully placed signage of another business; or prevents access to another business by emergency vehicles;
    b. In a manner which shall impede the flow of traffic, interfere with the general ingress and egress to and from any property, public or otherwise, or present an unsafe condition for patrons, pedestrians, or other vehicles;
    c. In a location which would occupy or eliminate required off-street parking spaces for the principal business on the property. Adequate parking must be maintained for both the existing business and the food truck patrons.
    d. In a location within five feet of any other mobile food truck or mobile food trailer;
    e. At a location where space for pedestrian passage will be reduced to less than four (4) feet;
    f. At a location which obstructs access to any entrance to any building of a facility used by the public, including but not limited to doors and emergency exits;
    g. Within ten (10) feet of any handicap access ramp, pedestrian crosswalk or fire hydrant;
    h. At a location with any surface other than pavement or other impervious surface;
    i. Within any landscaped areas.

441.3 Enforcement and Corrective Action.

1. Authority to Require Corrections. The City reserves the right to inspect any mobile vending operation to assess compliance with this ordinance. If the City determines that the vending setup poses a risk to pedestrian or vehicular safety, the vendor may be required to make immediate corrective adjustments to their layout or operations.

2. Temporary Suspension of Permit. Failure to correct identified safely violations within the time specified by the City may result in the temporary suspension of the vendor's permit. Continued non-compliance or repeated safety violations may lead to further enforcement actions, including permit revocation.

3. If the mobile food business is located on private land, both the mobile food truck licensee and the landowner may face enforcement actions depending on the violation.

442. SOLAR ENERGY SYSTEMS (#51) (#86)

442.1 Regulations pertaining to all solar energy systems.

442.1.1 Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the requirements of this Article shall apply to all pending proceedings regarding building-integrated, roof-mounted, pole-mounted, and small- and large-scale ground-mounted solar energy systems.

442.1.2 All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.

442.1.3 All solar energy system installations shall be installed in compliance with the photovoltaic systems standards of the latest edition of National Fire Protection Association (NFPA) 1, Fire Prevention Code, unless otherwise authorized by the Brewer Code Enforcement Office.

442.1.4 All wiring for solar energy systems shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Electrical Code (NFPA 70).

442.1.5 No solar energy system or device shall be installed or operated within the City of Brewer except in compliance with this Article and all other local codes and ordinances.

442.2 Permitting and Allowed Locations.

442.2.1 Building-integrated, roof-mounted, and small-scale ground- or pole-mounted solar energy systems are permitted in all zoning districts subject to the dimensional standards in Article 3, section 307. All such systems must obtain building permits and all other required permits from the Brewer Code Enforcement Office after consultation with the City Engineer and Brewer Fire Department. Small solar panels generating 100 watts or less to service individual items, such as but not limited to, signs, lights, or electric fences, are not considered a solar energy system and are therefore exempt from these requirements.

442.2.2 Large-scale ground- or pole-mounted solar energy systems are allowed in all zoning districts subject to dimensional standards and performance standards contained in this section as well as the dimension standards in Article 3, section 307 and the performance standards in this Article. All such systems must receive major site plan approval from the Brewer Planning Board plus obtain building permits and all other required permits from the Brewer Code Enforcement Office and annual Solar Energy System Business Licensing from the Brewer City Clerk. The applicant shall submit documentation that demonstrates the project satisfies the requirements of the utility, electrical and structural plans that have been stamped by a Maine licensed engineer, and any required approvals from the Maine Department of Environmental Protection. Site plan technical review escrow money from the applicant may be used by the City to retain expert evaluation, evaluate additional project requirements, and information submitted or conduct studies that it finds necessary in order to determine whether requirements are met. (#86)

442.3 Dimensional Standards.

442.3.1 Height.

a) Roof-mounted and building-integrated solar energy systems shall meet the building height regulations for the zoning district in which they are located. For the purposes of this height dimensional standard, the solar energy system shall be included for the purposes of measuring the vertical distance.

b) Ground-mounted solar energy systems shall be a maximum of 30 feet in height when oriented at maximum tilt. For the purposes of this height determination, height shall mean the vertical distance measured from the mean elevation of the finished grade to the highest point of the ground-mounted solar energy system.

c) Pole-mounted solar energy systems shall be a maximum of 30 feet in height. For the purposes of this height determination, height shall mean the vertical distance measured from the mean elevation of the finished grade o the highest point of the pole-mounted solar energy system.

442.3.2 Setbacks.

a) Building-integrated and roof-mounted solar energy systems shall meet the building setbacks of the zoning district in which they are located.

b) Small-scale ground- or pole-mounted solar energy systems shall meet the building setbacks of the zoning district in which they are located. Small-scale solar energy systems may be considered an accessory structure for the purpose of setbacks.

c) Large-scale ground- or pole-mounted solar energy systems shall meet the building setbacks of the zoning district in which they are located and/or be fifty (50) feet from any property line (including the road right-of-way), whichever is greater.

d) With the exception of vegetation management necessary for shade management and road or utility line crossings, a solar energy development shall not be constructed within 100 feet of a river, stream, or brook. (#86)

442.3.3 Dimensional Requirements. Aside from the setbacks listed in section 442.3.2 above, all solar energy systems shall comply with the dimensional requirements contained in Article 3, section 307 of this Brewer Land Use Code including, but not limited to, minimum lot size and minimum road frontage. The "maximum building or structure coverage percentage" applies to buildings and structures. For the purposes of this coverage calculation, solar panels raised above the ground shall not be included.

442.4 Glare. Solar panels are designed to absorb (not reflect) sunlight; and, as such, solar panels are generally less reflective than other varnished or glass exterior housing pieces. However, solar panel placement or materials should be prioritized to minimize or negate any solar glare onto nearby properties or roadways, to the extent practical.

442.5 All solar energy systems shall comply with the Performance Standards contained in Article 4 of this Brewer Land Use Code, including but not limited to, stormwater management, noise, wildlife/natural areas preservation, and erosion control. (#86)

442.6 Standards for Building-Integrated, Roof-Mounted, and Small-Scale Ground- or Pole-Mounted Solar Energy Systems.

442.6.1 Building-integrated and roof-mounted solar energy systems and equipment shall be permitted only if they are determined by the Brewer Code Enforcement Officer, not to present any unreasonable safety risks, including, but not limited to, the following:

a) Weight load;
b) Wind resistance;
c) Ingress or egress in the event of fire or other emergency; and
d) Proximity of a ground-mounted system relative to buildings. (#86)

All solar energy systems shall meet applicable National Fire Protection Association (NFPA) standards including, but not limited to, safe access for first responders and markings needed for identification of all shut off switches and handles.

The Brewer Code Enforcement Officer may require the applicant to supply certification from a structural engineer, licensed in the State of Maine, stating the condition of the structure and adequacy for the proposed solar energy system.

442.6.2 Prior to operation, electrical connections must be inspected and approved by the Electrical Inspector for the City of Brewer.

442.6.3 Any connection to the public utility grid must conform to the requirements of the appropriate public utility.

442.6.4 If the solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than ninety (90) days after the end of the twelve-month period. The Brewer Code Enforcement Officer may grant an extension for good cause shown, at his or her discretion.

442.6.5 Each solar energy installation shall be maintained to ensure that it is operating safely and as designed over its useful lifetime. (#86)

442.7 Additional Standards for Large-Scale Ground- or Pole-Mounted Solar Energy Systems.

In addition to the standards in section 442.6, large-scale ground- or pole-mounted solar energy systems shall comply with the following:

442.7.1 Use – The applicant shall provide a written narrative describing the proposed solar energy system, including an overview of the project; the project location; the total rated capacity of the solar energy system; dimensions of all components and respective manufacturers; total pervious and impervious area, direct and indirect impacts including everything inside the fence and areas outside the fence needed for maintenance, roads, collector lines, interconnection, and shade management areas and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance. Dual-use solar energy sites where sheep grazing is allowed shall include a Grazing Plan which shall include a rotational grazing plan based on flock sizes and amount of available forage, design of solar facility and equipment for compatibility, compatible forage plant vegetation, water source, security fencing to preclude predators and prevent sheep from escaping and any temporary fencing for rotational grazing, safety protocols and measures to protect solar equipment against damage from sheep which must be inspected and repaired regularly, and reestablishment of vegetation. (#86)

442.7.1.1 Dual-Use Requirement – Large-scale solar energy systems shall be permitted only on sites that support a minimum of two (2) distinct land uses, one of which may be the solar energy system itself. The site must either: a) Currently contain at least one active, legally established primary or secondary use, and incorporate the large-scale energy system as an additional use; or b) Establish one or more additional compatible uses as part of the large-scale energy system development proposal so that the site contains at least two (2) approved uses upon project completion.

Eligible secondary uses – Secondary uses shall be compatible with the design and operation of the large-scale solar energy system and may include, but are not limited to:
a) Parking facilities, including solar canopies constructed above an existing or proposed parking lots or structures;
b) Commercial uses, including retail, restaurant, or other business activities located on the same parcel;
c) Institutional or civic uses, including schools, hospitals, government buildings, or public safety facilities;
d) Stormwater management or green-infrastructure features, such as bioswales, rain gardens, or water-quality treatment areas;
e) Recreational uses, including sports courts, fitness areas, trails, or multi-use open spaces.
f.) Sheep grazing in zoning districts where allowable in this Land Use Code.

Responsibility for establishment and continuity of uses -
a) The property owner and the large-scale solar energy system operator shall be jointly responsible for establishing, maintaining, and ensuring the continuous operation of all approved secondary uses for the duration of the large-scale solar energy system.
b) As part of the site plan review, the applicant shall submit an Operations and Use Continuity Agreement, signed by both the property owner and the large-scale solar energy system operation, identifying: 1) Responsibility for each use; 2) Maintenance obligations; 3) Monitoring procedures; and 4) Actions to be taken if a secondary use becomes inactive or ceases to operate.

Cessation or interruption of secondary use(s) –
a) If any approved secondary use ceases to operate, the property owner or large-scale solar energy system operation shall provide written notice to the Brewer Code Enforcement Department within ten (10) business days of cessation.
b) Upon cessation, the property owner or large-scale solar energy system operation shall have one hundred eighty (180) days to: 1) Reactive the secondary use, or 2) Establish a new secondary use that meets the requirements of this section and is approved through an updated site plan approval by the Brewer Planning Board.
c) The large-scale solar energy system operation may continue to operate during this compliance period, provided that the owner or operation demonstrates good-faith efforts to restore or replace the required secondary use.
d) The Brewer Planning Board may grant one (1) extension of up to ninety (90) days upon a showing of good cause.

Failure to restore or replace secondary use –
a) If the property owner or large-scale solar energy system operation fails to restore or replace a secondary use within the prescribed timeframes, the site shall be deemed out of compliance with this Land Use Code.
b) The Brewer Code Enforcement Department may take enforcement or corrective action, which may include:
1) Modification, suspension, or revocation of the large-scale solar energy system permit;
2) Orders to cease the large-scale solar energy system operations until compliance is achieved;
3) Initiation of the large-scale solar energy system decommissioning, pursuant to applicable standard, if noncompliance persists. (#86)

The applicant shall provide written confirmation that the public utility company to which the solar energy system will be connected has been informed of the customer's intent to install a grid-connected system. The owner or operator shall provide a copy of the final inspection report and connection approval from the utility company to the Code Enforcement Officer prior to the issuance of a certificate of use and occupancy for the solar energy system. The Code Enforcement Officer shall be informed if the solar energy system is being used as an accessory use for a commercial/industrial activity on the same or another property.

442.7.2 Design – The solar energy system layout, design, and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), National Fire Protection Association (NFPA), and/or similar certifying organizations, and shall comply with the City of Brewer's Building Code, Life Safety Code, and all other applicable Brewer Codes and Ordinances. The manufacturer specifications for key components of the system shall be submitted as part of the application along with a statement noting that the project meets applicable electrical codes.

442.7.3 Utility Connections – The applicant shall provide information on any connections to the public utility grid including evidence of meeting the local electric utility's transmission and distribution interconnection requirements.

Reasonable efforts, as determined by the Planning Board, shall be made to limit the visual impact of equipment required to connect the solar photovoltaic installation to the utility. Equipment shall be located underground where applicable and as allowable based upon site conditions, equipment performance requirements, and requirements of the utility provider.

442.7.4 Operations and Maintenance Plan – The applicant shall submit a plan for the operation and maintenance of the solar energy system, which shall include: the name of the solar energy system owner and operator, location of the solar energy system, project name, measures for maintaining safe access to the installation, maintenance of vegetated buffers, green areas and plant growth, fences and gates, stormwater controls, monitoring and inspections for external damage or material changes, panel and electrical equipment functionality, checks of system parameters (yields, status displays, error messages, etc.), cleaning, testing and measuring of system components including testing of safety devices as well as other general procedures for operational maintenance of the installation that meet industry and code standards, including stated intervals in which such operations maintenance will occur. (#86)

442.7.5 Safety and Emergency Services – The solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Brewer Code Enforcement Officer and Fire Department for review and comment. The owner or operator shall cooperate with the City in developing an emergency response plan. As part of the emergency response plan, the owner/operator shall engage the local Fire Department to provide training and build familiarity with the site to establish emergency preparedness plans should an incident occur and such plans shall include post approval training meetings as agreed upon between the Fire Department and the project owner/operator. All means of shutting down the system shall be clearly marked. The owner or operator shall provide to the Code Office the name and contact information of a person responsible for public inquiries throughout the life of the installation. (#86)

All critical controls and any areas that would be hazardous to humans and/or animals shall be completely enclosed by chain link fencing that is a minimum eight-foot high fence with a locking gate, or as designated by the Code Enforcement Officer. A Knox Box or similar device, approved by the Brewer Fire Department, shall be provided and installed by the operator prior to in-service to allow emergency service personnel continuous access. (#86)

A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the solar energy system informing individuals of potential voltage hazards.

442.7.6 Access – Access drives shall be constructed and maintained to allow for maintenance and emergency vehicles.

442.7.7 Visual Impact – Reasonable efforts, as determined by the Planning Board, shall be made to minimize visual impacts by preserving natural vegetation, screening from abutting properties, or other appropriate measures. Solar energy systems shall be screened from view of any adjacent property that is residentially zoned or used for residential purposes. Screening measures shall include, but are not limited to, the following: preserving natural vegetation and/or planting new vegetation, particularly in the setback area for the solar energy system; installing a raised berm and appropriate plantings; and installing a solid fence. All required screening shall be located on the same property as the solar energy system and also within the leased parcel, if land is leased. All screening, landscaping and plant material shall be maintained in a good and healthy condition in accordance with the approved site plan. Dead plants shall be replaced within one year or by the next planting season, whichever occurs first. (#86)

442.7.8 Lighting – Lighting shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be shielded from interference with abutting properties. Lighting of the solar energy system shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

442.7.9 Environmental – Negative environmental impacts, including, but not limited to, wetland disturbance, rare or endangered plant species disturbance, and sensitive wildlife habitat impacts, shall be minimized to the maximum extent possible. Mitigation measures aimed at minimizing the adverse impacts of development on these resources shall be indicated clearly on the development plan prior to final site plan approval. All disturbed areas must be graded and seeded/landscaped with Maine native and climate-resilient northeastern native vegetation and shall not include any prohibited or regulated invasive species as regulated by the State of Maine Natural Areas Program. The owner or operator shall prepare a vegetation management plan associated with the operation of the system. The plan shall identify measures it will use to effectively manage vegetation, including methods such as, but not limited to, vegetating the solar array area in a Maine native pollinator-friendly manner for bees, butterflies, and allowing the area for the grazing of sheep where permitted per this Land Use Code. (#86)

442.7.10 Signage and E911 Addressing – Solar energy systems shall be assigned an E911 address which shall be prominently displayed at the site per E911 sign standards of the Brewer E911 Director. In addition, a sign shall be required to identify the rated nameplate capacity, owner/operator, and provide a 24-hour emergency contact phone number. All signage shall comply with City of Brewer sign regulations and permits. Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system.

442.7.11 Installation Conditions – The owner or operator shall maintain the solar energy system and solar related equipment in good condition. Maintenance shall include, but is not limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Department. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way. (#86)

442.7.11.1 Financial Capacity – The owner or operator shall submit evidence of financial capacity to construct, develop, and maintain the solar energy system in the form of a written statement or other documentation from a bank or financial institution stating that the solar energy system owner and/or operator has adequate current and future financial funds to fully fund the site specific solar energy system construction, development, ongoing maintenance, and any repairs of the solar energy system and solar related equipment. (#86)

442.7.12 Decommissioning Plan – The applicant shall submit a plan for decommissioning the solar energy system as part of the site plan review application to the City of Brewer Planning Board for review and approval. Decommissioning shall consist of:

a) Disconnection of the solar facility from the utility power grid, solar de-energization, physical removal of all solar energy systems as defined in this Land Use Code, structures and equipment, access roads, security barriers and transmission lines from the site, drainage structure repair, regrading to postconstruction grade, revegetation of all earth disturbed during construction and decommissioning and land restoration.

b) Disposal, transport and recycling of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

c) Properly installed erosion control measures installed prior to beginning decommissioning, site stabilization and including re-vegetation of the site to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-ground foundations to a depth of at least 24 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by the environmental permitting entity in order to minimize erosion and disruption to vegetation.

The decommissioning plan, prepared dated, signed and sealed by a Maine licensed Professional Engineer, shall outline in detail the methods for decommissioning and following information, including, but not limited to:

a) The anticipated life of the project and the in-service date.

b) The anticipated present value cost of decommissioning. Decommissioning, salvage value of solar related equipment, solar energy system, and land restoration costs shall be included in the decommissioning cost calculation.

c) An explanation and cost basis of the calculation of the detailed costs of decommissioning which includes removal, delivery, disposal, quantities, unit costs and dollar amount per unit, total dollar amounts, labor, project management, site supervision, site safety costs, and impacts to natural areas and any associated costs.

d) The physical plan for decommissioning including and not limited to:

e) A surety to cover the cost of decommissioning in accordance with the approved decommissioning plan and this ordinance.

f.) The name(s) and contact information for all parties responsible (landowner and lessees, solar developer, service providers, recycling programs, and emergency service providers).

g.) The roles and responsibilities of the landowner and lessees and the solar developer and including the name and contact information of the person(s) financially responsible for decommissioning.

h.) Location and address of the solar energy development, along with City of Brewer Tax Map and Lot number(s).

i.) Expected timeframe for commencement and completion of decommissioning and defined conditions upon which decommissioning will be initiated (such as when land lease ends, system is damaged and will not be repaired or replaced, or system does not produce power for 12 months, etc.).

The owner or operator shall update the decommissioning plan and cost estimate every five years. Said update shall be reviewed by the Brewer Code Officer after consultation with the City Engineer and City Finance Director.

Upon a change, transfer, and/or conveyance in the legal entity that owns or operates a solar energy development, it shall be the responsibility of the owner, operator, their successors and assigns to submit to the City of Brewer notification of ownership changes within 30 days and a copy of the State of Maine environmental permitting authority decommissioning plan transfer approval. (#86)

442.7.13 Decommissioning Surety Guarantee -As part of the site plan application, the applicant shall submit a completed draft financial security instrument to the City containing project-specific information (for example: principal, obligees, who guarantees performance, surety, location, terms, provisions, and conditions) sufficient for review. Allowable security instruments shall be one of the following: performance bond; surety bond; an irrevocable letter of credit; a guarantee by an investment grade entity or another acceptable security. The surety bond and Letter of Credit, issued in accordance with Letter of Credit practice rules, must be issued by an A-rated federally insured or equivalent financial institution that is bankruptcy remote and subject to Maine jurisdictional law. The Letter of Credit shall clearly describe each document that must be presented to obtain payment and shall include attached forms of each required document as an exhibit to the Letter of Credit.

Said surety guarantee instrument shall be approved by the City Solicitor, in the amount of 120% of the estimated total decommissioning costs in accordance with the approved decommissioning plan. Such cost to be submitted by the applicant and reviewed by the City Engineer and Brewer Finance Director, or their duly designated person. Said guarantee shall become effective prior to receiving a building permit.

The person identified in the decommissioning plan as responsible for decommissioning and/or any successor(s) in interest of the solar energy development responsible for decommissioning shall maintain a current valid surety guarantee instrument on file with the City in accordance with this ordinance sufficient to fully cover the total costs of solar decommissioning throughout the life of the solar energy development, including through decommissioning, until all decommissioning obligations have been met. Further, it shall be the responsibility and obligation of said person to submit to the City of Brewer any new and/or amended surety guarantee instruments including any notices thereof and/or renewals prior to instrument lapse or expiration.

The surety guarantee instrument shall be adjusted for inflation every five years based on the updated decommissioning plan and cost estimate. Said adjustment shall submitted to the City of Brewer prior to December 31st of the year in which the updates are required and be approved by the Brewer Code Officer after consultation with the City Engineer and the Brewer Finance Director, or their duly designated person.

The person responsible identified in the decommissioning plan may apply to the Planning Board for release of the guarantee at such time that it or its assigns have removed the solar energy system and solar related equipment and associated abandoned structures, and such completed removal is found to be satisfactory by the City Engineer. (#86)

442.7.14 Modifications – Any material modifications to the solar energy system made after issuance of the required City permit(s) shall require approval by the Code Enforcement Officer and/or Planning Board as required. (#86)

442.7.15 Removal – Any solar energy system which has reached the end of its useful life , ceases to generate electricity for a continuous period of 12 months without obtainment of required State and City of Brewer review and approval including public utility company extensions and/or approvals for repowering at the same site on the same footprint, a land lease has expired and will not be renewed, or has been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than one hundred fifty (150) days after the date of discontinued operations. The owner or operator shall prior to mobilization of solar energy system shutdown and decommissioning of solar related equipment, notify the Code Enforcement Officer by certified mail of the proposed date of shutdown and utility disconnection, proposed date of decommissioning, and schedule of discontinued operations and plans for removal and schedule of the completion of site restoration work. The operator of an installation shall also prior to mobilization of solar energy system shutdown and decommissioning, notify the owner of the real property on which such installation is located by certified mail of the proposed shutdown and utility disconnection, proposed date of decommissioning, and schedule of restoration work and provide evidence of said certified mailing to the property owner to the Code Enforcement Officer. (#86)

442.7.16 Costs/Abandonment – Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy system shall be considered abandoned when it fails to operate for more than one year without having first obtained the written consent of the Code Enforcement Officer.

The operator of an installation and the owner of the real property on which such installation is located shall be jointly liable for all costs and expenses of the City incurred during and relating to the removal of an installation under this Ordinance. Notwithstanding the foregoing, the City shall first attempt to secure payment for such costs and expenses from the operator of the installation; however, in the event the City is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the City reserves all rights under this ordinance to pursue payment for such costs and expense from the owner of the real property on which the installation in question is located.

If the owner or operator of the solar energy system fails to remove all of the solar energy system and solar related equipment in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, the City retains the right to use the decommissioning surety guarantee and all other available means to cause an abandoned, hazardous, or solar energy system to be decommissioned. (#86)

442.7.17 Reactivate a discontinued solar energy system – An owner or operator may submit a written request to the Brewer Planning Board to reactivate a solar energy system that due to force majeure or other event causes the project to fail to generate electricity for a continuous period of 12 months provided the owner or operator has submitted reasonable evidence that the project can be operational within the 12 months and has submitted the following for Planning Board review: a written description of proposed specific repairs and replacements of the solar energy system and solar related equipment; description and cost analysis of expenses involved in the repowering including equipment, labor, and recycling costs; information on interconnection to the public utility grid including evidence of meeting the local electric utility's transmission and distribution interconnection requirements including requirements for reconnection and amendments thereof, copies of current valid executed land leases and amendments thereof, and copies of current valid permit approvals, notifications, and licenses, including any amendments thereof issued by State and Federal agencies. The Brewer Planning Board shall be responsible for the review and approval or denial of any written request to reactivate a solar energy system, subject to applicable review criteria for a new permit to operate the system. Unless the Board approves a request to reactivate the system, the solar energy system shall be considered abandoned. (#59) (#86)

443. AFFORDABLE HOUSING DEVELOPMENTS IN MULTI-FAMILY ZONING DISTRICTS (#63)

As required under Title 30-A MRSA §4364 by the State of Maine per L.D. 2003, the following affordable housing regulations shall become effective on January 1, 2024.

This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section. Property owners are encouraged to conduct due diligence with any applicable State, Federal and Local laws.

This section may not be construed to exempt a subdivider from the requirements of MRSA Title 30-A Chapter 187 subchapter 4.

This section may allow a dwelling unit density bonus for certain affordable housing developments approved on or after January 1, 2024 in accordance with 30-A MRSA §4364 and this section.

443.1 APPLICABILITY AND DEFINITIONS

443.1.1 An affordable housing development may be allowed in zoning districts where multi-family dwellings are allowed and which are located in a designated growth area per the City of Brewer's current adopted Comprehensive Plan meeting the following definition and requirements. The affordable housing development shall be allowed to have a dwelling unit density of 2 ½ times the base density that is otherwise allowed in the zoning district that the affordable housing development is located in. If fractional results occur when calculating the bonus density under this subsection, the number of units is rounded down to the nearest whole number. Affordable housing development as defined under this section shall mean:

For rental housing, a development in which a household whose income does not exceed (80) eighty percent of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8 as amended, can afford fifty-one (51) percent or more of the units in the development without spending more than (30) thirty percent of the household's monthly income on housing costs; and

For owned housing, a development in which a household whose income does not exceed (120) one hundred twenty percent of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8 as amended, can afford fifty-one (51) percent or more of the units in the development without spending more than (30) thirty percent of the household's monthly income on housing costs.

"Housing costs" include but are not limited to the cost of rent and any utilities such as electricity, heat, water, sewer and/or trash that the household pays separately from the rent; and for an ownership dwelling unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowner's association fees. "Area median income" means the midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

"Base density" for purposes of this section shall mean the maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in the City of Brewer Land Use Code.

443.2 ELIGIBILITY REQUIREMENTS FOR DENSITY ALLOWANCE

443.2.1 The affordable housing development must be located in an area in which multifamily dwellings are allowed per the City of Brewer Land Use Code and must be in a designated growth area per the City of Brewer's current adopted Comprehensive Plan;

443.2.2 The affordable housing development must meet the definition of an affordable housing development as defined under this section, and greater than fifty-one (51)

percent of the proposed and existing dwelling units on the same lot shall be affordable for rental housing or owned housing;

443.2.3 An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and City of Brewer shoreland zoning ordinances;

443.2.4 Any lot of land containing a residential dwelling unit disposing of wastewater by means of a subsurface wastewater disposal system must contain a minimum of 20,000 square feet and if the lot abuts a lake, pond, stream, river or tidal area, it shall further have a minimum frontage of 100 feet on such body of water in accordance with MRSA Title 12 Chapter 423-A. The affordable housing development must also comply with City of Brewer Ordinance Chapter 31 Sewer and Pretreatment;

443.2.5 The owner of an affordable housing development shall at the time of site plan and/or subdivision review, submit written verification that each dwelling unit of the affordable housing development is proposed to be connected to adequate water and wastewater service which is accomplished by the following:

a) If a dwelling unit is connected to an off-lot sewer system, proof of adequate service to support any additional wastewater flow created by the unit and proof of payment for the connection to the sewer system must be provided;

b) If a dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater must be provided. The septic system must be verified as adequate by the City of Brewer plumbing inspector pursuant to 30-A M.R.S. §4221. Plans for a subsurface wastewater disposal must be prepared by a State of Maine licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*;

c) If a dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional water flow along with the volume and supply of water required for the dwelling unit and proof of payment for the connection must be provided. For purposes of this section, a centrally managed water system shall be defined as a water system that provides water for human consumption through pipes or other constructed conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This system may be privately owned.;

d) If a dwelling unit is connected to a well, proof of access to potable water as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS),

Resolve 2021 Chapter 82 along with any test of an existing or proposed well which must indicate that the water supply is potable and acceptable for use.

443.3 OTHER REQUIREMENTS

443.3.1 Prior to granting any final approval of an affordable housing development, the owner of the affordable housing development shall execute a restrictive covenant recorded in the Penobscot County Registry of Deeds for the benefit of and enforceable by a party acceptable to the City of Brewer, to ensure that for at least 30 years after completion of construction:

For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below (80) eighty percent of the local area median income at the time of initial occupancy; and

For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below (120) one hundred twenty percent of the local area median income at the time of initial occupancy. For the purposes of this section, upon any change of ownership, affordable requirements must be met as a new "time of initial occupancy".

443.3.2 An affordable housing development shall meet the Parking and Loading requirements of Article 4 section 424 with the exception that an affordable housing development meeting all definitions and requirements of this Section are allowed (2) two off-street parking motor vehicle spaces for every (3) three dwelling units of an affordable housing development. Note: If fractional results occur when calculating the number of motor vehicle parking spaces, the number of spaces shall be rounded up to the nearest whole number.

443.3.3 An affordable housing development shall comply with all other applicable Codes and Ordinances of the City of Brewer.

444. SHORT-TERM RENTALS (STRs) (#65)

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

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

444.1 APPLICABILITY AND DEFINITIONS

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

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

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

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

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

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

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

444.2 STANDARDS AND REGULATIONS (#81)

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

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

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

444.2.3 Accessory Dwelling Unit (ADU) Short-Term Rentals - Accessory dwelling units (ADUs) meeting the requirements of Section 402 shall be allowed to be used as a short-term rental only in zoning districts which allow hosted short-term rentals in accordance with Article 3 of this Land Use Code. An accessory dwelling unit (ADU) shall not be used for non-hosted short-term rentals.

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

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

a. Recreational vehicles, travel trailers, camper and camping trailers, tents, temporary structures, temporary shelters, and buildings or structures not on a permanent foundation shall not be used on the premises in connection with a short-term rental.

b. Affordable housing dwelling units as defined under Section 443 of this Land Use Code shall not be advertised, occupied or purveyed as a short-term rental.

c. The owner or license holder of the short-term rental unit shall not prepare or serve food to short-term rental guests which would require a victualer's license from the City of Brewer and/or a food/eating establishment license from the State of Maine.

e. Short-term rental guests shall not sublease or assign all or any portion of a short-term rental unit to another person or persons.

f. It shall be prohibited for the tenants or occupants of leased and/or rented dwelling units to purvey, sublease or assign all or any portion of a dwelling unit to a person or persons in connection with a short-term rental.

444.3 OTHER REQUIREMENTS

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

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

445. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE (#71)

445.1 This Section shall apply to areas of two (2) or more Level 2 and/or Level 3 electric vehicle chargers/charging stations and associated infrastructure including conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle including electric vehicle battery chargers installed, constructed, or modified after the effective date of this Ordinance Electric vehicle chargers, charging stations, and associated equipment and infrastructure shall conform to the following minimum requirements and shall be designed, built, installed and utilized in accordance with all applicable codes, regulations and standards.

445.2 Definitions:

Level 2 charging: Provides charging through 240 Volts (in residential applications) or 208 Volts (in commercial applications).

Level 3 charging: Is also known as “Direct Current Fast Charging” (DCFC) and voltage is greater than 240 Volts.

EV-Capable parking space means a parking space which is provided with installed electrical panel capacity, dedicated branch circuit(s) and conduit (raceway) to support the future build out of EV charging.

EV-Ready parking space means a parking space which is provided with full circuit installations including electrical panel capacity with dedicated branch circuit(s), raceway, wiring, receptacle, and overcurrent protection devices to make a particular area able to accommodate an EV charger without the charger itself.

EV-Installed parking space means installed infrastructure including electrical panel capacity, with dedicated branch circuit(s) including conduit (raceway) and the fully operational EV charger itself including signage.

445.3 Regulations pertaining to all EVCs, EVCSs, equipment and infrastructure:

445.3.1 No electric vehicle charger (EVC), charging station (EVCS) or infrastructure shall be installed or operated within the City of Brewer except in compliance with this Article and all other local codes and ordinances;

445.3.2 All electric vehicle chargers, infrastructure, equipment and components shall be installed per standards of the latest edition of the National Fire Protection Association (NFPA) standards and National Electrical Code (NFPA 70) Article 625, NFPA 88A and this Article;

445.4 Standards.

445.4.1 Height.

a) EV chargers, stations and associated components shall not exceed height regulations in this Land Use Code for the zoning district in which they are located.

445.4.2 Setbacks.

a) EV chargers, stations and associated components shall meet the setbacks of the zoning district in which located and shall also meet other applicable Code setbacks when located within proximity to motor fueling facilities, property lines, buildings, structures, and hazardous installations, including but not limited to: transformers, oil tanks, flammable liquid storage, electrical panels, hazardous materials storage, and combustibles;

b.) Additional setbacks and clearances may be required as determined by the City of Brewer Fire Chief, Code Enforcement Officer, City Engineer, City Planner, Environmental Services Director or their designees to ensure compliance with this Article and Land Use Code, the codes and ordinances of the City of Brewer, and/or to reduce risk of potential for hazards to persons, property, or the environment.

445.4.3 Parking.

a.) EV charging parking spaces to be used solely for EV vehicle charging use shall meet or exceed the parking setbacks for the zoning district in which they are located and shall not be

included in the calculation for both the number of minimum and maximum parking spaces required in this Land Use Code for the site development;

b.) EV charging parking spaces defined in this Article designed for EV vehicle charging use but which do not contain restrictions of any type prohibiting the usage of such parking spaces by EV or internal combustion engine vehicles, may be included in the calculation for minimum and maximum parking space calculations required in this Land Use Code for the site development and shall meet or exceed parking setbacks for the zoning district in which they are located;

c.) Where electric vehicle chargers and charging stations are provided in parking areas, accessible EV chargers/stations shall be provided in compliance with the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) and Section 508 of the Rehabilitation Act;

d.) Charging of electric vehicles shall occur only on and within parking spaces which are designed and approved for such usage.

445.4.4 Design.

a.) EV chargers and charging infrastructure shall be designed and installed to conform to all applicable industry standards and Nationally Recognized Testing Laboratories (NRTLs) such as Underwriters Laboratory (UL), Electrical Testing Laboratory (ETL), American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), National Fire Protection Association (NFPA), National Electrical Code (NEC), National Highway Safety Transportation Administration (NHSTA), Society of Automotive Engineers (SAE), and/or similar certifying organizations and shall comply with the City of Brewer's Building Code, Life Safety Code, other applicable Codes and the codes and ordinances of the City of Brewer. Manufacturer specifications for components shall be submitted as part of the application, along with a statement that the project meets applicable electrical codes;

b.) On-site design of EV charging spaces and associated infrastructure shall include, but is not limited to: adequate lighting, landscaping, equipment perimeter protection, regulatory and instructional signage to include contact information with telephone number for reporting when the equipment is not operating or other problems, emergency instruction signage conspicuously posted in the area of the EVCS, emergency shutoffs (E-stops) automatic is preferred or such manual shutoff shall be placed twenty (20) feet or greater from any EV charging dispenser, surge and lightning protection safety devices such as charge circuit interrupting devices (CCIDs) and/or ground fault circuit interrupters (GFCIs), safety labeling on EV charging stations and associated components, concrete and/or concrete-filled steel bollards for equipment protection, retractable cords and/or sufficient cord/cable management provided, tamper-proof switches or locking mechanisms to prevent risk of shock or vandalism, and when possible, implementation of advanced monitoring systems for early detection and response such as localized automatic sensor fire suppression systems and interoperability protocols containing diagnostics to report theft, vandalism, and risk of electric shock or fire; (#81)

c.) Such additional design components and/or information as required by the City of Brewer Fire Chief, Code Enforcement Officer, City Engineer and/or City Planner to ensure compliance with the terms of this Land Use Code, this Article, and the Codes and Ordinances of the City of Brewer.

445.5 Operation, Maintenance and Inspections.

a.) Regular operation, maintenance and inspections of EV chargers, charging stations, equipment, and associated infrastructure shall include but is not limited to: regular fixed wiring inspection, hardware & software updates and network connectivity annual thermographic testing by a certified electrician, regular visual checks of cables and connectors for signs of wear and tear, regular testing of surge protection safety devices, and routine inspection, maintenance and repairs of dispensers and associated equipment, connectors, electronics, networking software, and all associated infrastructure. Only persons knowledgeable and qualified in performing the required maintenance, repairs, and inspections shall perform the work and all vehicles and unauthorized persons shall be prevented from entering the EVCS area during such time. It shall be the responsibility of the applicant, their successors, and assigns to ensure compliance with this section; (#81)

b.) The applicant, owner, successors and/or assigns of such EVCs, EVCSs, equipment, and infrastructure shall be responsible to ensure that repairs are promptly addressed in accordance with applicable local codes as well as Codes specified herein and are performed by persons experienced and appropriately certified and qualified to do so;

c.) Within ninety (90) days of cessation of use of the Electric Vehicle Charging Station(s) and components, the property owner, their successors, and/or assigns shall restore the site to its original condition. (#72)

446. DATA CENTERS (#80)

446.1 Purpose and Intent - The purpose of this ordinance section is to regulate the siting, development, operation, and decommissioning of data centers in order to:

i. Encourage data center development in appropriate locations.
ii. Protect residential neighborhoods and sensitive natural resources.
iii. Ensure that data centers operate safely and efficiently.
iv. Manage impacts on electrical infrastructure, water resources, and noise.
v. Support economic development and technological investment in the City.

446.2 Regulations pertaining to all data centers.

i. All data centers shall be designed, installed, and operated in accordance with all applicable codes, regulations, and standards.
ii. No data center shall be installed or operated within the City of Brewer except in compliance with this Article and all other local codes and ordinances.

iii. Required designs and documentation shall be signed by a Maine licensed professional.

446.3 Definitions - See Article 14 of this Land Use Code for definitions.

446.4 Permitting Process and Allowed Locations – See Article 3, section 306 of this Land Use Code.

446.5 Use Specific Performance Standards. In addition to submitting information to meet the site plan requirements of Article 6 of this Land Use Code, the applicant shall include information to demonstrate the following use specific performance standards are or will be met.

1. Noise Standards. The applicant shall submit a noise study showing that any noise will not exceed the applicable standards of local ordinances and also noted below, and that there will be no negative impacts on adjacent lots, and that no noise or vibrations are detectable from nearby residences.

A. General Noise Limits. Noise from generators, cooling towers, chillers, and other equipment shall not exceed:
   i. 55 dBA at the property line adjacent to residential uses.
   ii. 65 dBA at the property line adjacent to commercial uses.
   iii. 70 dBA at the property line adjacent too industrial uses.

B. Generators. Emergency generators may exceed limits only during power outages or scheduled testing, limited to:
   i. No more than 1 hour per week, Monday-Friday, 9:00 am-5:00pm.
   ii. No testing on weekends or state holidays.

Tier 3 Data Centers must use acoustically-enclosed generators or equivalent mitigation.

2. Energy Use and Electrical Infrastructure.

   A. An Energy Impact Statement (EIS) is required for all Tier 3 data centers. The EIS must include anticipated electrical demand, coordination with the electric utility, planned efficiency measures, and peak load management strategies. Said EIS shall also state if, and how, the data center might have negative effects on neighboring properties and the region.

   B. Efficiency Requirements. Documentation shall be submitted to demonstrate the following Power Usage Effectiveness (PUE):
      i. Tier 2 and Tier 3: Target PUE equal to or less than 1.6

   C. On-site Substations
      i. Allowed only in the IND-2 zoning district.
      ii. Require site plan approval.

3. Water Use – The following documentation shall be submitted to demonstrate the following:

   A. Disclosure Requirements. All data centers must disclose:
      i. Cooling technology.
      ii. Maximum daily consumptive water demand.
      iii. Water recycling or reuse systems and maximum daily volume.

B. Water-Use Study. All data centers shall submit a study, prepared by a qualified consultant approved by the City of Brewer Water Department, outlining:
   i. The anticipated amount of water demand and how water will be used on site and discarded.
   ii. Whether the amount of anticipated water usage is available by the City municipal water system.
   iii. Whether the City municipal water system has the ability to transport said water to the site.
   iv. Whether the City has adequate staffing and operations to-serve the project.
   v. If there are any deficiencies or concerns, an itemized list of how the applicant will remedy those deficiencies.

4. Site Design and Screening – All data centers must provide for the buffering and screening in accordance with this Land Use Code.

   A. Mechanical Equipment
      i. Must be screened from public view using architectural walls, fencing, and/or landscaping.
      ii. Cooling towers and generators must be located behind the principal structure where feasible.
   B. Outdoor Storage is prohibited except for equipment directly supporting data center operations. All outdoor storage shall meet the performance standards contained in Article 4 of this Land Use Code.

5. Emergency Power –

   A. Generators
      i. All generators and their use must comply with state and federal emission standards.
      ii. Fuel storage must meet fire code and environmental regulations.

   B. Battery Energy Storage Systems (BESS)
      i. Must comply with all local ordinances.
      ii. Must comply with NFPA and local fire department requirements.
      iii. Must have a fire safety plan and updated as needed. A copy of the current fire safety plan shall be submitted to the Brewer Fire Department.

6. Security and Lighting –
    i. Must include a summary of cybersecurity protections for on-site substations.
    ii. Security fencing between eight (8) feet and ten (10) feet in height shall be installed and maintained around critical infrastructure.
    iii. Exterior lighting must be downward-shielded and comply with dark-sky standards.
    iv. Access control systems must not impede emergency responders.

7. Traffic and Employment

    A. Employment Disclosure. Applicants must provide:
        i. Expected employee counts.
        ii. Shift schedules.
        iii. Delivery schedules.

    B. Sites anticipated to have over 25 employees in a single day shall submit a Traffic Impact Analysis.

8. Emergency Safety and Response

    A. A Fire Safety Plan is required for all data centers. Said plan shall include, but not limited to, emergency venting, fire-resistant separation, remote shut down, and a floor plan drawn to scale. See also Emergency Response Coordination under Reporting and Monitoring.

    B. Signage and E911 Addressing.
        i. All signage shall be compliant with ANSI Z535 and shall include the type of technology associated with the data center, the type of battery energy storage system, any special hazards associated with the system, the type of fire suppressions system installed, and 24-hour emergency contact information.
        ii. As required by the MUBEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad- mounted transformers and substations.
        iii. All data centers shall be assigned an E911 address which shall be prominently displayed at the site per E911 sign standards of the Brewer E911 Director. If said data center is located within a building containing other use(s), the E911 Director shall determine the required addressing and signage.

9. Environmental Protection. Documentation shall be submitted to include the following:
    i. Secondary containment systems.
    ii. Impermeable pads.
    iii. Spill response plan.
    iv. Soil/groundwater testing.

10. Sustainability Requirements.

    A. Tier 3 data centers must submit a Sustainability Plan addressing:
        i. Energy efficiency.
        ii. Water conservation.
        iii. Emissions reduction.
        iv. Heat recovery opportunities.

    B. The City encourages:
        i. Renewable energy procurement.
        ii. Solar installations on rooftops and over parking areas.
        iii. Waste-heat reuse feasibility analysis.
        iv. LEED or equivalent certification.

11. Utility Capacity Verification. The applicant shall submit written confirmation from the electric provider outlining the proposed project and status of the electric provider capacity and transmission.

446.6 Decommissioning Plan. The applicant shall submit a plan for decommissioning the data center. Decommissioning shall consist of, but not limited to:

i. Removal of servers, racks, and cabling.
ii. Removal of cooling systems, generators, and fuel tanks.
iii. Removal of UPS batteries.
iv. Building demolition or repurposing plan.
v. Soil testing around fuel storage.
vi. Stormwater system closure.
vii. Site restoration.
viii. Stabilization or re-vegetation of the site as necessary to minimize erosion.
ix. Certification by a Maine licensed soil scientist to confirm there are no hazardous materials remaining on site.

The decommissioning plan, signed, stamped, and prepared by a Maine Licensed Professional Engineer, shall outline in detail the methods for decommissioning and the following information, including, but not limited to:

i. The anticipated life of the equipment.
ii. The anticipated present value cost of decommissioning. Decommissioning, salvage value, and land restoration costs shall be included in the decommissioning cost calculation.
iii. An explanation of the calculation of the cost of decommissioning.
iv. The physical plan for decommissioning. The disposal of all solid and hazardous waste shall be in accordance with local, State, and Federal waste disposal regulations.
v. A surety to cover the cost of decommissioning.

Prior to the removal of a data center, a permit for removal activities shall be obtained from the Brewer Code Enforcement Office.

446.7 Financial Assurance

As part of the decommissioning plan, the owner or operator of a data center shall provide the City with an irrevocable standby letter of credit or other form of financial security reasonably acceptable to the City Finance Director, which shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restoration of the site subsequent to removal. The amount of the letter of credit or other security shall be in the amount of one hundred twenty percent (120%) of the cost of removal (to be detailed and provided) of the data center and restoration of the property, which shall be renewed and updated every five (5) years. Delivery of the letter of credit or other security to the City shall occur prior to the commencement of operations and at any and all changes in ownership.

Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, a data center shall be considered abandoned when it fails to operate for more than twelve (12) months without having first obtained the written consent of the Brewer Code Enforcement Officer. If the owner or operator of the data center fails to remove the installation in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, the City may enter the property and physically remove the installation using the applicant’s financial security funds. In the event of default of performance of such conditions, after proper notice, the letter of credit or other financial security shall be forfeited to the City, which shall be entitled to maintain an action thereon. The letter of credit or other financial security shall remain in full force and effect until restoration of the property as set forth in the Decommissioning Plan is completed.

Costs of Decommissioning/Removal. The operator of an installation and the owner of the real property on which such installation is located shall be jointly liable for all costs and expenses of the City incurred during and relating to the removal of an installation under this ordinance. Notwithstanding the foregoing, the City shall first attempt to secure payment for such costs and expenses from the operator of the installation; however, in the event the City is not made whole following reasonable attempts to collect such costs and expenses form the operator of the installation, the City reserves all rights under this ordinance to pursue payment for such costs and expenses from the owner of the real property on which the installation in question is located.

446.8 Local Business License. No data center shall operate until it receives an approved Brewer Business License through the Brewer City Clerk's Office. Said license is required prior to operating, whenever the owner/operator is changed by either conveyance or name change, and at a minimum of annually. See Chapter 20 Licenses and Permits of the City of Brewer Charter, Codes, and Ordinances.

446.9 Commissioning Report. All data centers shall submit a commissioning report, prepared by a Maine licensed engineer, verifying and documenting that the facility and all of its systems and assemblies are planned, designed, installed, tested, operated, and maintained according to local regulations and approvals. A satisfactory Commissioning Report is required prior to receiving a Certificate of Occupancy.

446.10 Reporting and Monitoring

1. Annual Reporting. The applicant shall submit an annual report to the City of Brewer. Said report shall be submitted at the time of any new Brewer Business License and subsequent renewals. See Chapter 20 Licenses and Permits of the City of Brewer Charter, Codes, and Ordinances. Said annual report shall include current:
    i. Emergency contact person(s)
    ii. Energy use
    iii. Water use
    iv. PUE
    v. Noise monitoring results
    vi. Generator testing logs
    vii. Status of all security measures.

2. Noise Monitoring. The following shall be included in the said annual report and available to the Brewer Code Officer at any time upon request:
    i. Post-construction testing.
    ii. Testing one year after initial operations.
    iii. Testing as requested by the City, but not more than annually unless pertaining to a specific issue or complaint.
    iv. Testing results from any formal noise complaints

3. Emergency Response Coordination.
    i. The applicant shall submit an Emergency Response Report for review during the site plan process and update said report as needed. A copy of said report and subsequent updates shall be submitted to the Brewer Public Safety Department. The applicant shall schedule an annual meeting with the Brewer Public Safety Department to review said report and hold a subsequent site visit should it be requested by either party.
    ii. The facility owner/operator shall provide, at no cost to the City, fire department training related to potential fire issues that are site specific and could arise from the structure. This training shall be provided when requested by the fire department, but must be held prior to initial operation and when any updated equipment is installed.
    iii. If at any time, specialized equipment is needed by the fire department, the facility owner shall pay for the costs of such equipment or reimburse the City for the purchase. If there is more than one (1) owner, then such owners shall share the costs on a pro-rate basis in proportion to the assessed value of the properties on which the structure owned by each co-owner is located.

447 DESIGN STANDARDS FOR THE WATERFRONT ZONING DISTRICT

447.1 PURPOSE & APPLICABILITY

The following standards shall apply to principal buildings within the WTR District which are newly constructed after August 16, 2026. The style, appearance, and placement of buildings shall be regulated to promote a unified, clearly defined, and attractive district. This is accomplished by a consistency of materials, furnishings, signage, and lighting. Pedestrian circulation and face-to-face retail sales are expressly encouraged.

447.2 DIMENSIONAL REQUIREMENTS

In addition to the dimensional requirements outlined in Article 3, Section 307, the following requirements shall also apply:

1. All buildings shall have a minimum height of 24’.
2. For new principal buildings constructed after August 16, 2026 where a mix of residential and commercial uses are proposed, residential uses shall be limited to the upper stories of the building. In a mixed-use building constructed after August 16, 2026, no residential uses shall be allowable on the first floor. This section does not apply to buildings that are solely residential in use. Residential accessory amenities, including but not limited to fitness rooms, pools, lounges, and similar facilities intended for the exclusive use of building residents, shall not be considered non-residential uses for purposes of this section.
3. The maximum front yard setback shall be 25’.

447.3 BUILDING DESIGN STANDARDS

1. Buildings shall have exterior siding that is residential in appearance, such as brick or masonry veneers, wood siding, wood shingles, aluminum or vinyl siding simulating a clapboard pattern or hardboard siding. All sides of buildings shall have a finished look with similar materials as those used on the front façade.
2. The front façade of the building shall be clearly delineated as such through architectural elements such as, but not limited to, a front door, porch, shop window, portico, arcade, series of bay windows, canopy, or similar. The front façade of the building must face either: (a) the street from which the building receives its frontage, or (2) the Brewer Riverwalk (in instances where a building has frontage along the Riverwalk Trail). This shall be required even in cases

where the "primary," or most-used, entrance is on a different façade of the building.

3. No wall shall go for a length of more than 25 linear feet without an architectural feature such as a dormer, pilaster, corner, window, porch or visually compatible door to break up the large mass of a featureless wall.

4. Roofs:

    a. When a flat roof is proposed, a decorative cornice shall be added.

    b. When a pitched roof is proposed, it shall have a minimum pitch of four vertical to 12 horizontal and a minimum of 6" overhang.

447.4 PARKING & ACCESS

1. For new principal buildings constructed after August 16, 2026, no parking area shall be located between the façade of the building and the adjacent street, or, for buildings fronting the Brewer Riverwalk, between the façade of the building and the Riverwalk trail.

2. Curb cuts: All proposed curb cuts shall meet the standards in this subsection. In addition, an existing developed lot proposing a substantial alteration to the overall site shall come into compliance with the section to the extent practicable.

    a. The number of curb cuts shall be limited to one per lot, except that one additional curb cut may be approved if the curb cut (i) is deemed by the reviewing authority to be necessary for the existing or proposed use and safe operation of the lot in question; (ii) there is no available alternative method for achieving the same goal without the additional curb cut; and (iii) no unsafe or unhealthy situation will be created by the allowance of the additional curb cut. In most cases, two-way driveways shall be encouraged.

    b. Maximum width of curb cuts:

        i. For residential uses, the maximum width of a two-way driveway shall be 20 feet, and the maximum width of each one-way driveway shall be 12 feet.

        ii. For nonresidential uses, the maximum width of a two-way driveway shall be 24 feet, and the maximum width of each one-way driveway shall be 16 feet. If the one-way driveways have curb cuts on the same street, the one-way driveways shall be separated from each other by a minimum of 50 feet or such other greater distance as the reviewing authority shall determine is necessary to provide for traffic and pedestrian safety. The area

between them shall be maintained as a vegetated area at least 10 feet deep as measured from the property line.

c. Access into and out of the site: In addition to any reviewing standards related to traffic, access and parking, the following standards shall apply within the Waterfront zoning district:

    i. Where a lot has frontage on two or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards, taking into consideration the Level of Service (LOS) of adjacent roadways and intersections. Access from other streets may be allowed if an additional curb cut meets the standards of subsection (b) above.

    ii. Curb cuts for residential access shall be a minimum distance of ten feet from curb cuts on adjacent lots unless driveways on two adjacent lots utilize a permanent shared access arrangement (e.g., use the same curb cuts).

    iii. All curb cuts for nonresidential access shall be no less than 50 feet from proposed or existing driveways on adjacent lots unless: (1) driveways on two adjacent lots utilize a permanent shared access arrangement (e.g., use the same curb cuts), or (2) the reviewing authority determines that physical conditions of the site, such as but not limited to sight distance or the irregular shape of a lot, requires a shorter separation distance, in which case the reduction shall be the minimum necessary to relieve the physical limitation.