## ARTICLE 14 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their definitions shall have the meaning given herein. When non-inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not discretionary in sense.

Further, any terms, phrases, words and their derivation not defined herein shall be given that definition which is promulgated in Webster's New World College Dictionary, Fifth Edition, Copyright 2014, on file in the City Clerk's Office. (#39)

**Accessory Dwelling Unit (ADU)** An accessory dwelling unit (ADU) is a smaller, self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same lot as the principal single-family dwelling and meets minimum square footage requirements in accordance with the Technical Building Code and Standards Board, under Title 10 M.R.S. §9722 as may be amended from time to time and does not exceed (450) four hundred fifty square feet. An accessory dwelling unit (ADU) is incidental and subordinate to the principal single-family dwelling. (#71)

**Accessory Structure:** A structure customarily and clearly incidental and subordinate to the principal structure and located on the same lot with the principal structure.

In determining whether a structure is an accessory, the factors to be considered shall include size of land area involved, nature of primary use, use made of adjacent lots by neighbors, economic structure of area, and whether similar uses or structures exist in neighborhood on an accessory basis.

**Accessory Use**: A use customarily incidental and subordinate to the principal use of a building, structure, or lot, and located on the same lot with the principal use.

In determining whether a use is an accessory, the factors to be considered shall include size of land area involved, nature of primary use, use made of adjacent lots by neighbors, economic structure of area, and whether similar uses or structures exist in neighborhoods on an accessory basis.

**Adult Amusement Store:** An establishment having as a substantial or significant portion of its sales or stock in trade “sexual devices or books” or films for sale that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “Specified sexual activities” or “Specified anatomical areas”, or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, the exclusion of minors from the establishment’s premises, or any other factors showing that the establishment’s primary purpose is to purvey such material. (#4)

**Adult Entertainment Nightclub, Bar or Cabaret:** An enclosed building used regularly and routinely for presenting or viewing on site of motion picture and video preview or coin operated booths having material as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified sexual activities" or "Specified anatomical areas" for observation by patrons therein.

**Adult Motion Picture Theater and on Site Adult Video Screening:** A public or private establishment which (i) features topless dances, strippers, male or female impersonators, or erotic dancers; (ii) not infrequently features entertainers who display "Specified anatomical areas"; (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, "Specified sexual activities; or (iv) offers Sadomasochistic acts or Bondage and discipline to patrons.

**Adult Relaxation Spa or Adult Spa:** An establishment or place primarily in the business of providing (1) a steam bath or sauna, (2) other bathing or hot tub services, or (3) "rub-down" or other pseudo-massage services by a person or persons not licensed or exempt form licensing under this Article or any other Brewer Code or Ordinance.

**Adult-Use Marijuana Cultivation Facility:** A facility licensed by the State of Maine to cultivate, prepare, and package adult use marijuana and to sell adult use marijuana to marijuana establishments, or any cultivation or any cultivation area used or occupied by one or more medical marijuana registered caregivers or a registered dispensary. (#55)

**Adult-Use Marijuana Establishment:** Any adult-use marijuana store or adult-use testing facility. This term does not include any other adult-use marijuana facilities, such as adult-use marijuana cultivation or products manufacturing facilities. (#55)

**Adult-Use Marijuana Products Manufacturing Facility:** A facility licensed by the State of Maine to purchase marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package marijuana and marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities. (#55)

**Adult-Use Marijuana Testing Facility:** A facility licensed by the State of Maine to develop, research, and test marijuana, marijuana products and other substances. (#55)

**Adult-Use Marijuana Store:** Any adult use store licensed by the State of Maine to sell adult use marijuana products to consumers. (#55)

**Agriculture:** The cultivation of the soil for either food crops or forage and/or the raising and/or breeding of livestock for either personal use or profit**.** The term does not include garden as defined. Agriculture shall specifically not include the cultivation of marijuana for any purpose. (#52)

**Alteration:** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**Animal Emergency Clinic:** A veterinary service conducted only after hours with the primary function of the receiving, treatment, and monitoring of emergency patients. This would include nights, weekends and holidays only. All patients are transferred out of the facility during regular business hours. (#1)

**Animal Hospital:** A building or structure which is used for the health and care of sick, hurt or incapacitated animals. It shall also include the immunization of animals so as to prevent sickness or disease.

**Annual License**: Any license to be issued in accordance with the standards of this Land Use Code.

**Apartment House**: A multi-family dwelling for three (3) or more families, living independently of each other, each in a separate dwelling unit within the one structure.

**Aquifer:** A geological formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as mapped by the Maine Geological Survey.

**Art Gallery:** A building or structure which is designed to show to the public, works of art, whether they be paintings, sculptures or other works of art.

**Arterial Street:** A highway of regional significance or which serves long distance or through traffic**.** Specifically, the following streets are to be considered arterial streets in Brewer: North Main Street, South Main Street, State Street and Wilson Street.

**Artisan Manufacturing Studio:** An establishment to include the production of goods by the use of hand tools or small-scale, light mechanical equipment to be sold primarily on-site. Said goods may include food, beverage, art or craft production. Said goods shall not be transported in bulk off-site for sale at other locations. (#39) Artisan Manufacturing Studio shall specifically not include marijuana, marijuana products, and/or marijuana paraphernalia. (#55)

**Auditorium**: A building used for public gatherings.

**Automobile Graveyard:** A yard, field or other area used to store three (3) or more unregistered or uninspected motor vehicles, unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A MRSA § 101, subsection 42, or parts of such vehicles. "Automobile graveyard" does not include any area for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. "Automobile graveyard" does include an area used for automobile dismantling, salvage and recycling operations. (#71)

**Automobile Recycling Business:** The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that eighty (80) percent of the business premises specified is used for automobile recycling operations.

**Automotive Repair, Major:** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, which must be conducted within a completely enclosed building.

**Automotive Repair, Minor:** An establishment primarily engaged in the repair or maintenance of motor vehicles and similar mechanical equipment including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, which must be conducted within a completely enclosed building.

**Automotive Self-Service Station**: That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into fuel tanks of motor vehicles. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash (with site plan approval).

**Automotive Service Station**: That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into fuel tanks of motor vehicles. Accessory activities shall be permitted to include repair and maintenance, car wash service (with site plan approval) and food sales.

**Auto, Truck, Equipment Sales:** The sales and display of new and used cars, trucks, equipment, boats, trailers, campers, RV's, snowmobiles and manufactured housing.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Aviation:** An airport, seaplaneport and accessory uses.

**Bar, Tavern, or Lounge**: An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives fifty (50) percent or more of its gross revenue, on a monthly basis, from the sale of said alcoholic beverages. Typically does not include accommodations for dancing. Music and/or entertainment only allowed as an accessory use. Minors are not allowed entry unless accompanied by a parent or guardian. Does not include establishments where alcohol service is a secondary activity, such as a bowling alley, or fitness club. (#39)

**Barnyard Animals**: Domestic animals including, but not limited to, cattle, horses, pigs, sheep, chickens, ducks, geese, turkeys, goats, mules, hogs and other like animals that have been traditionally found on farms and are considered to have a value for use as pets, food, or fiber production, whether or not the owner currently utilizes or capitalizes on any of the perceived values. Dogs, birds (except chickens, ducks, geese and turkeys) and cats are specifically excluded from this definition. (#40)

**Bed and Breakfast Facility:** A limited commercial activity, conducted within a structure, of which one or more of the owners reside on site and which includes dining and bathroom facilities with sleeping rooms for overnight guest lodging. Said facility shall not have more than three sleeping rooms for rent.

**Best Management Practices (BMP"):** "Best Management Practices" or BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. (#44)

**Beautician:** A person or persons who are concerned with the ornamentation of human hair. A beautician is concerned with the shampooing, drying, dyeing, setting, shaping and styling of human hair.

**Boarding Home:** A dwelling in which more than two (2) persons, either individually or as families, are housed or lodged, with or without meals, for a fee. A rooming house and/or lodging house shall be deemed a "boarding home."

**Brewpub:** An establishment engaged in the manufacture, storage and bottling of beer in conjunction with the same beer to be sold and consumed on the premises and/or for retail sale from the premises in sealed bottle or other sealed containers. A brewpub shall have a full kitchen and also conduct the sale of food and other beverages for consumption on the premises. Minors are allowed entry. (#39)

**Buffer Area**: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Buffer, Stormwater Treatment**: A buffer constructed in accordance with Appendix F in Chapter 500 for the purposes of providing pollutant removal. (#62)

**Buffer, Shoreland Zoning Setback**: A buffer required by municipal Shoreland Zoning to protect Water of the State. (#62)

**Building:** A structure with exterior walls or fire walls built or occupied as a shelter or roofed enclosure for persons, animals, or property of any kind used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes.

**Building Supply Business:** A business with outside storage which offers new and/or recycled building materials for retail sale to the general public.

**Building Height**: The vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**Business Office**: A general office used but not to include any manufacturing or sale of goods or merchandise. Any office setting in which professional or business services are carried on including, but not limited to finance, real estate, accounting, data processing, legal, insurance, counseling, design, engineering, medical and architecture, but expressly excluding any repair services or retail sales.

**Camper:** A unit normally used for temporary recreational or travel occupancy.

**Camping Park**: A facility for the temporary parking for two or more campers or tents for temporary human habitation. Temporary human habitations shall mean use of tent or camper on the campground for no more than ninety (90) days in one calendar year. Use of any tent or camper for more than ninety (90) days 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.

**Camp Trailer:** A trailer used primarily or exclusively for vacation and recreation purposes and shall include tent-trailers, self-propelled camping units and camping units mounted on or otherwise affixed to a motor vehicle.

**Camping Trailer Parks**: A plot of ground on which two (2) or more camping trailers, occupied recreational, camping or travel and designed for temporary dwelling or sleeping purposes, are located.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Catering Facility:** A business principally engaged in serving prepared foods and drinks to the public on a contracted basis on or off premises.

**Chapter 500**: Chapter 500 of the Maine Department of Environmental Protection's Rules ("Stormwater Management Rules"). (#62)

**Child Care Center:** A building or buildings in which a person or persons maintain or otherwise carries out a program, for any part of the day, providing care and protection for three or more children. Child Care Centers, with or without consideration for the services rendered, may be operated as a service business within a church or community building in any zoning district. This does not include home day cares per the definition contained in this article. (#46)

**Church:** A building or structure which is used for worship of a divine being. It is designed so as to provide a place for people to meet and to conduct the business associated with a church. (A synagogue and/or mosque shall be synonymous with this definition).

**Climate Resilient Northeast Native Vegetation**: Plants identified as native to the Northeast as identified by the Northeast Regional Invasive Species & Climate Change (RISCC) Network or a Maine Licensed Landscape Architect. (#62)

**Club:** An association of persons for social, fraternal, educational, political, athletic, literary or for other like purposes so long as any such purpose is not for profit.

**Clubhouse:** A building or structure which is used by a club for meetings, carrying on functions and other necessary uses which are associated with a club and its workings.

**Cluster Subdivision**: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

**Code Enforcement Officer:** As used in this Land Use Code the term "Code Enforcement Officer" or “Code Officer” shall mean the Code Enforcement Officer, as defined under Chapter 29 - Code Enforcement Department of the City of Brewer Charter Codes and Ordinances, and his/her duly appointed assistant.

**Collector Streets:** A street or public way which is used to connect one (1) or more residential streets with a secondary thoroughfare.

**Common Open Space**: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Common Property:** A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners or occupants in a Planned Unit Development.

**Community Service Organization**: A non-profit charitable institution qualified under Section 501 of the "Internal Revenue Code," not to include social clubs, the primary functions of which is serving the public health or social welfare of the community.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Construction Equipment:** Self-propelled vehicles and other equipment designed or used primarily in the construction trades or manufacturing. The definition shall include, but not be limited to, cement mixers, air compressors, cranes, graders, forms and molds and well drillers. This list shall be deemed partial and shall not operate to exclude other like equipment which are with general terms of this definition. This term does not include those items covered by the definition of automobile graveyard and junkyard in MRSA 30A, § 3752.

**Critical Area:** Area which has potentially serious erosion problems.

**Dance Hall:** Any building, room, hall or other place which is kept or used for public dancing or in which, for compensation paid directly or indirectly to the owner, manager, or operator thereof, men, women, or children are permitted to engage in dancing. (#39)

**Data Center:** A facility used primarily for the centralized storage, management, processing, and transmission of digital data. Data centers typically include servers, computer systems, data storage equipment, networking hardware, and associated mechanical, electrical, and cooling infrastructure. Backup power systems, cooling systems, fire suppression systems, and secure access controls are considered accessory components. See separate definitions for specific types of data centers. (#80)

**Data Center, Tier 1:** A small data facility/server room with an aggregate electrical load of less than 1 MW. Tier 1 typical use is for corporate server rooms and small IT facilities with a typical building size up to 5,000 square feet. (#80)

**Data Center, Tier 2:** A medium-scale data center with an aggregate electrical load between 1 and less than 5 MW. Tier 2 typical uses are regional data centers and cloud edge nodes with a typical building size of 5,000-20,000 square feet. (#80)

**Data Center, Tier 3:** A large-scale data center with an aggregate electrical load between 5 and less than 20 MW. Tier 3 typical uses are enterprise systems with a typical building size of 20,000-100,000 square feet. Data Centers 20 MW and over are prohibited. (#80)

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

**Disturbed Area:** All land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a site. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. (#62)

**Disturbed Area Routine Maintenance:** is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area. (#62)

**Dry Cleaners:** A Dry Cleaners is an establishment which launders or dry cleans articles which are dropped off and picked up at the premises directly by the customer and where the laundering or dry cleaning are done on or off the premises. (#8)

**Dwelling Unit**: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

**Efficiency Unit:** A dwelling unit in which sleeping living facilities are provided for in one principal room.

**Essential Service**: The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions or quasi-public use, of underground systems, collections, communications, telecommunication towers, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare. (#2)

**Event Space:** A building, structure, or site (or portion thereof) designed or operated specifically for the assembly of people for weddings, conferences, meetings, receptions, banquets, trainings, community functions, and similar gatherings. An event space may include food service incidental to the event but does not include a nightclub, dance hall, concert venue, or other use where entertainment, dancing or the sale of alcoholic beverages are the principal activities. (#85)

**Event Space, Small-Scale:** An event space with a maximum approved occupancy of 100 people. (#85)

**Family:** A single individual, doing his own cooking and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

**Farm Stand:** Sale of agricultural products raised or grown on said premises with a sales area of not more than 400 square feet. Marijuana plants, marijuana products, and hemp products as defined in Title 7 of the Maine Revised Statutes, section 2231, subsection 1-A, paragraph D, shall not be sold or dispersed at farm stands. (#52)

**Farming:** The ordinary agricultural use of land.

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board and the City Council for approval and which, if approved, shall be recorded at the Registry of Deeds.

**Financial Institution:** Banks, savings and loan institutions, and credit unions.

**Fisheries, significant fisheries:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas identified in the municipality's Comprehensive Plan.

**Floor Area:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Floodplain Definitions** - see Article 8 Floodplain Management, section 809 Definitions

**Forest Management Activities**: Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forestry:** The planting, cultivating or the harvesting of trees or shrubs for either personal use or for profit. Forestry shall not include the planting or cultivating of trees or shrubs for decorative use around buildings or structures.

**Freshwater Wetland**: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

**Functionally Water-Dependent Uses:** Uses which require for their primary purpose location in submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these water. The uses include, but are not limited to commercial or recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general access to marine or tidal waters.

**Funeral Home**: A building with facilities for the preparation of dead persons for burial or cremation, and for the viewing of the body and for observance.

**Garden:** A plot of cultivated ground adjacent to a dwelling and devoted in whole or in part to the growing of herbs, fruits, flowers or vegetables for household use**.** A garden shall specifically not include marijuana plants. (#52)

**Governmental Use**: An activity carried on directly by the City of Brewer, Brewer School Department, City of Brewer, their departments or agencies, but not any activity by the Housing Authority of the City of Brewer.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**Gross Floor Area**: The total area of a structure with no exclusions for usable space such as closets, hallways, staircases, etc. but excluding below grade unfinished basement floor area not used as part of the primary or accessory use activity.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**High Water Mark, Inland Waters**: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

**Historic or Archaeological Resources**: Areas identified by the Maine Historic Preservation Commission as having significant value as a historic or archaeological resource and any areas identified in the municipality's Comprehensive Plan.

**Home Occupation**: An accessory use of a dwelling unit or a building accessory thereto for gainful employment, involving the manufacture, provision or sale of goods which are incidental to the service being provided and/or services, provided that such use conforms to all the requirements of Section Article 4, Section 415 of this Land Use Code.

**Home Day Care, Children**: A dwelling in which a person or persons residing on the premises provides or maintains a regular program for consideration, for any part of the day, providing care and protection for three or more children. (#46)

**Home Day Care, Adult:** A dwelling in which a person or persons residing on the premises provides or maintains a regular program for consideration, for any part of the day, providing care and protection for three or more adults over the age of 16. (#46)

**Homeowners Association** – An incorporated nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a planned unit or other described land area is automatically a member; (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property; and (c) the charge if unpaid becomes a lien against the property. (#44)

**Hospice:** A facility or program designed to provide a caring environment for supplying the physical and emotional needs of the terminally ill.

**Hospital:** A building or structure which is used for the housing and care of sick, hurt or incapacitated human beings. It shall also include accessory uses which are directly associated with the housing and care of sick, hurt or incapacitated human beings such as kitchen facilities, solariums, dormitories, physicians' offices, etc.

**Immediate Area:** Shall include all properties within the same block and within 500 feet of the site of the proposed use.

**Impervious Area:** The total area of a Parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common Impervious Areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and

under drained artificial turf fields are all considered impervious. For the purpose of determining whether a Site exceeds the Impervious Surface thresholds requiring conformance to LID performance standards, the municipality may exclude these from calculation of Impervious Area if these are designed to be infiltration Stormwater Treatment Measures. (#62)

**Industrial Equipment**: Self-propelled vehicles and other equipment designed or used primarily in the construction trades or manufacturing. The definition shall include, but not be limited to, cement mixers, air compressors, cranes, graders, forms and molds and well drillers. This list shall be deemed partial and shall not operate to exclude other like equipment which are within the general terms of this definition. This term does not include those items covered by the definition of automobile graveyard and junkyard in MRSA 30, Sec. 2451-B, items "1" and "2".

**Industrial Laundry Facility:** A facility that is intended to service commercial customers, including but not limited to, Hospitals, Motels, Hotels, Commercial Uniform Companies, etc. Not intended for use by the general public as defined as a Dry Cleaners and Laundromat. (#8)

**Industrial Park**: An area of land devoted exclusively to industrial purposes and associated uses.

**In-law Apartment:** An apartment in a single-family dwelling which is occupied by up to two people who are within the second degree of kinship by blood or by marriage, with one or more of the owners of the single-family dwelling.

**Installer:** Any licensed dealer or an employee of a licensed dealer, or a person licensed as a mechanic who engages in the process of affixing or assembling or setting up of manufactured housing on foundations at a building site (in conformity with the Maine Manufactured Housing Board Installation Standards as adopted by the Maine Manufactured Housing Board in March, 1993, and as the same may be amended from time to time).

**Junkyard:** A yard, field or other area used as a place of storage for:

(a) Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
(b) Discarded, scrapped and junked lumber;
(c) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, water and all scrap iron, steel and other scrap ferrous or nonferrous materials; and
(d) Garbage dumps, waste dumps and sanitary fills.

**Kennel**: An establishment for the keeping, breeding and/or boarding of four (4) or more dogs which are more than six months old.

**Laundromat**: A facility where the general public may wash, dry, or dry clean clothing or other fabrics in machines operated by the patrons or by facility staff for a fee. (#8)

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the

*Highway Capacity Manual*, 1997 edition, published by the National Academy of Sciences, Transportation Research Board.

**Licensing Authority:** The City Council of the City of Brewer.

**Light Manufacturing:** Activities involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including, by way of example only the following: bakeries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, jewelry, assembly of electrical components, tool and die shops and the packaging of foods. Light manufacturing uses do not include the processing of raw materials or salvaging operations.

**Loading Space:** An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**Lot:** A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Land Use Code. Also, a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for the purposes of transfer of title.

**Lot Front Line**: The horizontal distance of a lot front measured along a street, highway or private way. In the event a lot has access only by private way then the horizontal distance of the lot front line closest to a street or highway.

**Lot Rear Line**: A lot line generally opposite a lot front line.

**Lot Side Line:** A line dividing one lot from another; not a rear line or a front line.

**Lounge:** See Bar. (#39)

**Low Impact Development (LID):** The broad approach to site planning that preserves natural resources, processes, and habitat, defines what portions of the site are suitable for development and then utilizes stormwater treatment measures to manage runoff from the proposed developed impervious areas. In LID, stormwater treatment measures using natural processes such as vegetated buffers are given preference over constructed treatment Stormwater Treatment Measures. The goals of LID are to minimize the environmental impacts of the development. (#62)

**Maine Native Vegetation:** Vegetation including grass seed mixtures, identified as native to Maine from lists maintained by: US Department of Agriculture Hardiness Zones by the Maine Cooperative Extension, Wild Seed Project, Regional Soil and Water Conservation District, Maine YardScaping Program, or a Maine Licensed Landscape Architect. (#62)

**Manufactured Home**: See Article 14 definition "Manufactured Housing" in this Land Use Code.

**Manufactured Housing Subdivision or Development**: A parcel (or contiguous parcels) of land approved by the Brewer Planning Board for the placement of (3) three or more manufactured houses.

**Manufactured Housing:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are 8 body feet or more in width and 40 body feet or more in length or, when erected on site, are 320 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

(a) This term also includes any structure that meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et. seq.; and

(2) Those units commonly called "modular homes," that the manufacturer certifies are constructed in compliance with Title 10, M.R.S.A. chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

**Manufacturing:** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

**Major Thoroughfare**: A street or public way which has been given a Route number by the State.

**Marina:** A structure with associated pier, wharf or dock and water basin which is used for the servicing, maintenance or repair of ships, boats and craft of a similar nature.

**Marijuana plant:** A plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants. "Marijuana plant" does not include hemp as defined in Title 7 of the Maine Revised Statutes, section 2231, subsection 1-A, paragraph D. (#52)

**Marijuana product:** A product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate or a product containing hemp as defined in Title 7 of the Maine Revised Statutes, section 2231, subsection 1-A, paragraph D. (#52)

**Material Storage:** The safekeeping of goods and commodities which are used in the process of construction or manufacturing. The term does not include sand and gravel, nor those items covered by the definition of automobile graveyard and junkyard in MRSA, 3O-A, Sec. 3752, Items "1" and "2".

**Medical Marijuana Caregiver Retail Store:** A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants, harvested marijuana, or marijuana products for sale to qualifying patients. (#52)

**Medical Marijuana Registered Dispensary:** Medical Marijuana Registered Dispensary means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients. A Medical Marijuana Registered Dispensary shall be further defined in, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (18-691 CMR Chapter 2), as the same may be amended from time to time. (#16) (#52)

**Medical Marijuana Dispensary Cultivation Facility:** Medical Marijuana Dispensary Cultivation Facility means a Medical Marijuana Registered Dispensary's permitted additional location for the cultivation of marijuana. A Medical Marijuana Dispensary Cultivation Facility shall be further defined in, and shall adhere to, the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (18-691 CMR Chapter 2), as the same may be amended from time to time. (#16) (#52)

**Medical Marijuana Home Production:** Cultivating, processing, and/or storing of medical marijuana plants and medical marijuana products by a qualifying patient at their own residence or a medical marijuana caraegiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use. As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every zoning district, without any requirement for land use permitting.

**Medical Marijuana Cultivation and Processing Facility:** A facility used for cultivating, processing testing, and/or storing of medical marijuana plants and medical marijuana products by a medical marijuana caregiver or group of medical marijuana caregivers which is not their primary year-round residence or their patient's primary year-round residence.

**Microbrewery:** An establishment engaged in the manufacture, storage and bottling of beer to be sold from the premises in sealed bottles or other sealed containers for consumption off the premises. Microbreweries shall not include the retail sale of food or beer for consumption on the premises with the exception of brew tours or special events as considered an accessory use by the Brewer Code Office. (#39)

**Mobile Food Business.** A business that serves food or beverages from a self-contained unit either motorized or in a trailer on wheels, and conducts all or part of its operations on premises other than its own and is readily movable, without disassembling, for transport to another location. (#49)

**Mobile Food Court.** A parcel of land where two (2) or more mobile food businesses congregate to offer food or beverages for sale to the public. Any cluster of more than one mobile food business, vending cart and seasonal farm stand, located on the same parcel of land shall be considered a mobile food court. (#49)

**Mobile Food Trailer.** A mobile food business that serves food or beverages from a non-motorized vehicle that is normally pulled behind a motorized vehicle. The term "mobile food trailer" shall not include vending carts, mobile food trucks, or mobile ice cream vendors. (#49)

**Mobile Food Truck.** A mobile food business that serves food or beverages from an enclosed self-contained motorized vehicle. The term "mobile food truck" shall not include vending carts, mobile food trailers, or mobile ice cream vendors. (#49)

**Mobile Ice Cream Vendors.** Individuals selling pre-packaged novelty ice cream from a non-stationary vehicle or mobile pushcart. Open food handling such as, but not limited to, flavored grinding ice and pretzels are not allowed. (#49)

**Mobile Food Pushcart.** A portable vending device, pushcart, or other wheeled vehicle or devise which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Transportation, used for the displaying, storing, or transporting of food offered for sale by a vendor. Said cart may be up to four (4) feet in width, six (6) feet in length, excluding auxiliary items such as handles or fenders, or otherwise the cart shall not occupy space greater than a total of twenty-four (24) square feet. (#49)

**Mobile Homes:** A structure, transportable in one or more sections, which is 8 body feet or more in width and is 40 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems

contained therein. Such structures are defined as "manufactured housing" per Article 14 of this Land Use Code.

**Mobile Home Park**: A parcel of land under unified ownership approved by the City of Brewer Planning Board which has been planned and improved for the placement of three (3) or more manufactured homes.

**Motel-Hotel**: A building or structure which contains rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by the guests and where only a general kitchen and dining room are provided within the building or accessory building.

**Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Multiple Family House**: A building containing more than two (2) dwelling units.

**Municipal Environmental Review Authority:** The municipal official or body that has jurisdiction over the land use approval or permit required for the new development or redevelopment. The Municipal Environmental Review Authority shall consist of the City Planner, Code Enforcement Officer, City Engineer, and Environmental Services Director and/or their designees. (#62)

**Museum:** A building or structure used for preserving and/or exhibiting works of art, scientific objects or other objects of a historical nature which contribute to the heritage of the community.

**Narcotic Treatment Facility:** A building or structure used either in part or entirely for any system of treatment provided for chronic heroin or opiate-like drug dependent individuals that administers narcotic drugs under physician orders either for detoxification purposes or for maintenance treatment in a rehabilitative context offered by partnership, corporation, association, or person or groups of persons engaged in such administration. (#11)

**Natural Areas and Natural Communities, Unique Natural Areas and Natural Communities:** Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's Comprehensive Plan.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development.

**Net Residential Density:** The average number of dwelling units per net residential acre.

**Nightclub:** An establishment in which the primary use is dancing and musical entertainment with the dispensing of alcoholic beverages for consumption on the premises. Typically includes a stage

and/or dance floor. Minors are not allowed entry when any alcohol is being served in the establishment. (#39)

**Non-Conforming Use:** A building, structure or use of land existing at the time of the enactment of this Land Use Code, and which does not conform to the regulations of the district in which it is located.

**Nurseries & Greenhouses:** A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants. A nursery or greenhouse may include a retail business whose primary activity is the selling of plants grown on the same site. A nursery or greenhouse shall specifically not include marijuana plants and/or marijuana products.

**Nursing Home:** A facility which is operated in connection with a hospital or in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in the State, for the accommodation of convalescent or other persons who are acutely ill and not in need of hospital care, but who do require extended care and not in need of hospital care, but who do require extended care and related medical services. The term "nursing home" shall be restricted to those facilities, the purpose of which is to provide extended care and related medical services for a period of not less than 24 hours and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service.

**Official Map of the City**: The Zoning Map of the City, overlays, and any amendments thereto, as adopted by City Council and on file with the City Clerk.

**Off-lot Sewage**: The connection or extension of any sewage line or system from any lot to a public sewer line.

**Off-lot Water:** The connection or extension of any water line or system from any lot to a public water line.

**Off-Site Parking Facility:** Either a dedicated parking garage approved solely for the use of parking of passenger vehicles on a site other than where the principal use is located and which is not accessory to another use, and/or an area improved with vehicular off-street parking spaces together with aisles, access drives and landscape screening in accordance with Article 4 of this Land Use Code, which has been approved solely for parking of passenger vehicles on a site other than where the principal use is located and which is not accessory to another use. An Off-Site Parking Facility shall not include public parking lots.

**Off-Street Parking Space**: An area, enclosed in the main building, or unenclosed, having an area of not less than 162 square feet (except as provided for hereafter), exclusive of driveways and maneuvering space permanently reserved for the temporary storage of one motor vehicle and connected with a street or alley by a driveway which affords satisfactory ingress and egress for

motor vehicles. The 162 square foot standard is based on 90 degree parking angle with a 9 foot width and 18 foot length.

**Off-Lot:** The services such as sewer or water are supplied by the municipality.

**Open Space**: The area of a lot not used for structures, driveways, parking spaces, accessory buildings, including areas which are five (5) feet or less from any of the foregoing and the adjoining boundary line.

**Outside Storage**: The storage outside of a building.

**Person:** A firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Pier, Wharf and Dock**: Structures which extend into the water for use as a landing place for ships, boats, canoes or things of a similar character.

**Planned Unit Development**: The development, according to a plan approved under Article 4, Section 425 of this Land Use Code, of a large tract of land where the three (3) or more buildings are built simultaneously on lots smaller than normally required in the district where located, provided the overall density of development of the tract does not exceed the density requirements of the district and land not built upon is permanently preserved as such.

**Planned Group Development:** An area of minimum contiguous area size, as specified in this Ordinance. To be planned, designed and developed with one or more buildings, with one or more units in one or more ownerships in which one or more of the zoning or subdivision regulations, other than use regulations, may be waived or varied to allow flexibility and creativity in site and building design and location, with regards to setback requirements. Permanent easements to all interior and exterior common areas and associated parking, for commercial and institutional purposes and permanent access to a public way must be made available. The creating of individual exterior lots to accompany individual units within the principal structure will not be allowed. (#9)

**Planning Board:** The Planning Board of the City of Brewer.

**Preliminary Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Professional Offices**: Business offices for the following licensed uses: Physician, lawyer, dentist, architect, insurance, real estate, engineer, land surveyor or accountant.

**Public Street:** A street or roadway which has been formally accepted by the City Council of the City of Brewer as a public way.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**Recreational Facilities - Indoor**: Swimming pools, tennis courts, gymnasiums and other recreational facilities which are enclosed by a building or other structure capable of accommodating more than ten (10) persons.

**Recreational Facilities - Outdoor**: Swimming pools, tennis courts, playing fields, basketball courts, golf courses and other recreational facilities which are not in any way permanently enclosed by a building or structure and capable of accommodating more than ten (10) persons. Such facilities may include building or other structures as accessory uses for such facility.

**Recycling Center:** A facility which handles recycled solid materials that have been separated from the City of Brewer's solid waste prior to their receipt at the recycling facility, and are free from and will not produce putrescible or other solid wastes, liquid wastes, or any special or hazardous wastes. A recycling facility shall not include any facility which requires a permit for the operation of an automobile graveyard/junkyard and automobile recycling business as defined in this Article. A recycling center may include a redemption center as an ancillary and subsidiary use.

**Redemption Center:** A facility licensed by the Maine Department of Agriculture which collects beverage containers and refunds the statutory deposit pursuant to Title 32 M.R.S.A., Sec. 1861 (1988 and Supp. 1991). The facility shall also store the beverage containers on-site for a period of time not to exceed thirty (30) days and for the ultimate collection by the beverage distributor.

**Religious Services as an Ancillary Use:** The conduct of activities constituting a "Church Use" in a building other than a religious structure. Such ancillary use is not the primary use of the property but rather subordinate and minor in significance.

**Residential Street**: A street or public way which is used primarily for access to abutting properties.

**Research Facility:** A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises expect as related to the scientific research being conducted. (#2)

**Research & Development Facility:** A building or part of a building devoted to either (a) the manufacturing, propagation, maintenance and distribution of products or materials for use in scientific inquiry; or (b) the initial development and commercialization, including manufacturing, of research into marketable products, materials, or processes. Manufacturing cannot become the primary use of the property. (#2)

**Restaurant**: A business principally engaged in serving prepared foods and drinks to the public on the premises during set business hours.

**Restaurant or Service Establishment with Accessory Production:** An establishment where the principal use is the sale or service of food, beverages, or similar products directly to the customers for on-site consumption, and which includes an accessory on-site component for the manufacture, preparation, productions, processing, packaging, bottling, storage, or distribution of the same products offered for sale on the premises. The production component shall be incidental and subordinate to the principal customer-facing use and shall occupy no more than forty (40) percent of the total gross floor area of the establishment. Wholesale sales and off-site distribution of the products produced on the premises may occur, however, such activities shall remain accessory to and shall not constitute the primary function of the establishment. Such establishments may include but are not limited to restaurants, cafes, bakeries, distilleries with tasting rooms, coffee roasters markets, and similar businesses where on-site production is conducted in conjunction with a principal customer-facing use. This use shall not include marijuana establishments or the production, processing, sale, or distribution of marijuana, marijuana products, or marijuana paraphernalia. (#85)

**Rooming House:** See Boarding Home**.**

**Runoff:** The rainwater, stormwater, meltwater, precipitation, condensate, or other liquid material that drains off an area of land, building, structure, etc. in sheet form, channelized, concentrated flow, or drainage way. (#62)

**School:** The educational use of an area of land, whether primary, secondary, college or vocational nature.

**Screening**: Either (1) a hedge or buffer strip at least five (5) feet wide, consisting of densely planted shrubs or trees at least four (4) feet in height at time of planting, and eventually reaching a mature height of at least six (6) feet; or (2) a wall or fence at least six (6) feet in height, but not exceeding eight (8) feet, which provides an effective visual barrier.

**Secondary Thoroughfare:** A street or public way which is used to connect two (2) or more collector streets with a major thoroughfare.

**Self-Service Storage Facility:** A building, group of buildings, or portion of building consisting of individual, self-contained units leased under a written lease agreement to individuals, organizations, or businesses for self-service storage of their own personal property on a self-serve basis. A self-service storage facility shall not be used for storage of personal property that may be dangerous, harmful, offensive or noxious or that presents a hazardous condition to the facility or its surroundings. (#77)

**Service Business**: Any business or establishment which provides a service of a non-retail nature for hire by others, conducted through the application of some specialized knowledge, training, skill or talent, or through the employment of some special action or work. By definition, a service business does not entail outside storage of goods or equipment nor utilize vehicles larger than 9,000 lbs. gross vehicle weight (GVW). An automobile service station shall not be considered a service establishment.

**Set-Back:** The distance from any street, highway or right-of-way line abutting a lot or parcel of property to the building situated on said lot. Set-back shall apply on all sides of a lot abutting any street, highway or right-of-way unless otherwise specified within this Land Use Code.

**Shipping Containers:** A unit with or without wheels originally or specifically used or designed to store goods or merchandise during shipping or hauling by a vehicle including, but not limited to, trailers, box cars and/or crates.

**Shopping Center:** A group of architecturally unified commercial establishments built on a site which is planned, developed, owned and managed as an operating unit related in its location, size, and type of shops to one trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and total size of the stores.

**Sight Distance**: The length of approaching highway which is visible to the driver. The criteria and standards found in the Maine Department of Transportation Highway Design Guide, January, 1994 revision, shall be used.

**Site Plan Review:** The review to be conducted by the Planning Board using the guidelines provided in this Land Use Code.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

**Solar Energy System** – a system for transforming solar energy into another form of energy for heating, cooling, water heating, or electrical generation purposes.

**Solar Energy System, Building-Integrated** – A solar energy system that is an integral part of a principal or accessory building, and includes, but is not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights, and awnings.

**Solar Energy System, Ground-Mounted** – a solar energy system which is structurally mounted to the ground independent of other structures.

**Solar Energy System, Large-Scale** – a solar energy system with a rated nameplate capacity of greater than 25 kilowatts, including, without limitation, any type of solar energy system whether or not defined herein.

**Solar Energy System, Pole-Mounted** – a solar energy system that is installed on specialized solar racking systems, which are attached to pole, affixed to a foundation in the ground, and wired underground and/or above ground to an attachment point at the building's meter. Pole-mounted systems can be designed to track the sun (with single-axle or dual-axle tracking motors) and to help maximize solar output throughout the year.

**Solar Energy System, Rated Nameplate Capacity.** The maximum rated alternating current (AC) output of the solar energy system based on its design output.

**Solar Energy System, Roof-Mounted** – a solar energy system which is mounted on the roof of a building or structure; may be of any size.

**Solar Energy System, Small-Scale** – a solar energy system with rated nameplate capacity of 25 kilowatts or less. A small-scale system typically is an accessory use to a principal use on the property.

**Solar Glare** – The reflection of sunlight from, with an intensity sufficient to cause annoyance, discomfort, loss in visual performance or visibility, or a public safety hazard, such as but not limited to, airport operations.

**Solar Panel (or module)** – A devise that converts sunlight into usable energy, including electricity and heat.

**Solar Related Equipment** – Any structure and/or equipment used to support a solar energy system including, but not limited to, a photovoltaic cell, module, array; solar hot air or water collector devices; lines (such as distribution); pipes; pumps; batteries; mounting brackets; framing; and foundations or other similar structures or equipment structures used or intended to be used for solar energy systems.

**Stable**: A business primarily engaged in letting horses and/or conducting a riding school.

**Stormwater**: "Stormwater" means any stormwater runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "Storm Water". (#44)

**Stormwater Management Facilities and/or Systems**: "Stormwater Management Facilities and/or Systems" means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures and/or systems that are part of the stormwater management plan for a new development or redevelopment. (#44)

**Stormwater Management Plan**: "Stormwater Management Plan" means BMPs and post stormwater management facilities and/or systems employed by a new Development or Redevelopment to meet the stormwater standards of Chapter 24, Land Use, of the City of Brewer's Charter, Codes and Ordinances and approved by the Municipal Permitting Authority. (#44)

**Stormwater Treatment Measures**: a stormwater management system or innovative treatment measure as described in Maine DEP Chapter 500 4.c.(3) Types of treatment measures allowed. These measures include wet ponds, vegetated soil filters, infiltration, buffers, or innovative treatment measures. For purposes of this Ordinance these are cumulatively referred to as Stormwater Treatment Measures, or individually referred to as Stormwater Treatment Wet Pond, Stormwater Treatment Vegetated Soil Filter, Stormwater Treatment Infiltration Measure, Stormwater Treatment Buffer, or Stormwater Treatment Innovative Measure. (#62)

**Stream crossing designed in accordance with Maine Stream Smart Principles**: A Stream Crossing designed by a Maine Professional Engineer who has completed the Maine Audubon Society Stream Smart Workshops (Parts I and II), which includes the standards recommended by that program's stream span, elevation, slope and skew and substrate to promote passage of fish and other organisms and to limit road-damaging flows from extreme weather. (#62)

**Street**: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Street Highway Line or Right-Of-Way Line**: The boundary line between a parcel of property or lot and the abutting street.

**Structure**: Anything constructed, built or erected, the use of which requires a temporary or permanent location on the ground, or attached to something temporarily or permanently located on the ground. This term shall not include fences, retaining walls, sidewalks, walkways, driveways, out-door parking lots and their attendant paving. (#61)

**Subdivision:** The division of a tract or parcel of land into 3 or more lots within any 5-year period, that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a third lot, unless:

1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36 M.R.S.A., Section 1102 for a period of at least 5 years before the second dividing occurs; or

2. The division of the tract or parcel is otherwise exempt under this definition.

A lot of 40 or more acres shall be counted as a lot.

A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to

the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition. The grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of these regulations.

In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

Not withstanding the provisions of this definition, leased dwelling units are not subject to subdivision review if the Municipal Reviewing Authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under Article 7 of this Land Use Code. (#2)

**Subdivision, Major.** A subdivision which requires the construction of a new street or the extension of an existing public street, or the extension of existing off-lot water and/or sewage.

**Subdivision, Minor:** A subdivision which is located on an existing public street and which does not require the extension of off-lot water and/or sewage.

**Tavern:** See Bar. (#39)

**Telecommunication Facilities:**

> **Antenna** means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.
>
> **Antenna - Building** Mounted means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building mounted mast less than 10 feet tall and 6 inches in diameter, or structure other than a telecommunication tower.
>
> **Ground Mounted** means any antenna with its base, single or multiple posts, placed directly on the ground or a mast less than 10 feet tall and 6 inches in diameter.
>
> **Antenna - Omni-directional** means any antenna which transmits and/or receives radio frequency signals in a 360 degree radial pattern. For the purpose of this Land Use code, an omni-directional antenna is up to fifteen feet (15') in height and up to four inches (4") in diameter.

**Antenna - Parabolic** means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl or cornucopia shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

**Antenna - Portable** means any device used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern, located on a portable or moveable base designed to be placed either for temporary or long-term use at a given site.

**Antenna - vertical** means a vertical type antenna without horizontal cross-sections greater than one half inch in diameter.

**Co-location -** see telecommunication facility co-located.

**Commercial Use** means a use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over a period of time.

**Direct broadcast satellite service** is a system in which signals are transmitted directly from a satellite to a small (not exceeding 18 inches) home receiving dish. DBS competes with cable television.

**Equipment building, shelter or cabinet** means a cabinet or building used to house equipment used by telecommunication providers to house equipment at a facility.

**Inhabited Area** means any residence, any other structure regularly occupied by people, or any outdoor area used by people on a regular basis.

**Lattice Tower** means a self-supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

**Public service use or facility** means a use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, fire and police protection, solid waste management, transportation or utilities.

**Public Rights of Way** means and includes all public streets and utility easements, now and hereafter owned by the City, but only to the extent of the City's right, title, interest or authority to grant a license to occupy and use such streets and easements for telecommunications facilities.

**Quasi-Public Use** means a use serving the public at large, and operated by a private entity under a franchise or other similar governmental authorization, designed to promote the interests of the general public or operated by a recognized civic organization for the benefit of the general public.

**Readily Visible** means an object that stands out as a prominent feature of the landscape when viewed with the naked eye.

**Related equipment** means all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

**Satellite Earth Station** means a telecommunication facility consisting of more than a single satellite dish smaller than 10 feet in diameter that transmits to and/or receives signals from an orbiting satellite.

**Silhouette** means a representation of the outline of the towers and antenna associated with a telecommunication facility, as seen from an elevation perspective**.**

**Structure Ridge line** means the line along the top of a roof or top of a structure, if it has no roof. Telecommunication Facility means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

**Telecommunications Facility** - Exempt include, but are not limited to, the following:

A. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the residential parcel on which the radio or television antenna is located; with an antenna height not exceeding twenty-five feet (25');

B. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed thirty-five feet (35');

C. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if, the height (post and antenna) does not exceed thirty-five feet (35');

D. A ground or building mounted received only radio or television satellite dish antenna, which does not exceed thirty-six inches (36") in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the Ridge line of the primary structure on said parcel;

E. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this Land Use Code.

F. Mobile services providing public information coverage of news events of a temporary nature.

G. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices as determined by the Code Enforcement Officer.

H. City government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding thirty-five feet (35').

**Telecommunication Facility - Major** are all telecommunication facilities not clearly set forth and included in the definition of exempt minor or mini facilities.

**Telecommunication Facility - Mini** is an attached wireless communication facility consisting, but not limited to, the following:

A. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the parcel on which the radio or television antenna is located; with an antenna height not exceeding fifty feet (50');

B. A ground or building mounted citizens band radio antenna including any mast, if the height (tower, support structure, post and antenna) does not exceed seventy feet (70');

C. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed seventy feet (70');

D. A ground or building mounted received only radio or television satellite dish antenna, with diameter exceeding thirty-six inches (36") less than 8' in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the Ridge line of the primary structure on said parcel;

E. City owner and operated antennae used for emergency response services, public utilities, operations and maintenance if the height does not exceed seventy feet (70'). If a facility does not meet these criteria then it is considered either a minor or major telecommunication facility.

**Telecommunication Facility - Minor** means any of the following:

A. Antenna which meet the definition of mini with the exception of the height limit;

B. Telecommunication facilities less then thirty-five feet (35');

C. A single ground or building mounted whip (omni) antenna without a reflector, less than four inches (4") in diameter whose total height does not exceed thirty-five feet (35'), including any mast to which it is attached, located on commercial and/or industrial zoned property;

D. A ground or building mounted panel antenna whose height is equal to or less than four feet (4') and whose area is not more than 480 square inches in the aggregate (e.g., one foot (1') diameter parabola or 2' x 1.5' panel) as viewed from any one point, located on commercial or industrial zoned property. The equipment cabinets shall be designed, placed and screened to be unobtrusive and effectively unnoticeable;

E. More than three (3) antennas, satellite dishes (greater than 3' in diameter), panel antennas, or combination thereof, are proposed to be placed on the commercial or industrial parcel, including existing facilities;

F. Building mounted antennas which, in the opinion of the Code Enforcement Officer, are unobtrusive or undetectable by way of design and/or placement on the building, regardless of number, when located on CB, GB, IND or IND-2 zoned property;

G. Telecommunication facilities less than fifty feet (50') in height, in compliance with the applicable Sections of this Land Use Code, located on a parcel owned by the City of Brewer and utilized for public and/or quasi-public uses where it is found by the Code Enforcement Officer to be compatible with the existing City uses of the property;

H. Telecommunication facilities, including multiple antennas, in compliance with the applicable Sections of this Land Use Code, located on a parcel located in the CB, GB, IND or IND-2 zones and utilized for the sole use and purpose of a research and development tenant of said parcel, where it is found by the Code Enforcement Officer to be aesthetically compatible with the existing and surrounding structures.

**Telecommunication Facility - Co-located** means a telecommunication facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

**Telecommunication Facility - Commercial** means a telecommunication facility that is operated primarily for a business purpose or purposes.

**Telecommunication Facility- Multiple User** means a telecommunication facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity, excluding research and development industries with antennas to serve internal uses only.

**Telecommunication Facility - Non Commercial** means a telecommunication facility that is operated solely for a non-business purpose.

**Telecommunication Tower** means a mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast greater than ten feet (10') tall and six inches (6") in diameter supporting one or more antenna, dishes, arrays, etc., shall be considered a telecommunication tower.

**Time of Concentration**: The same as "Time of concentration" defined in Maine DEP Chapter 500. (#62)

**Tract or Parcel of Land**: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Travel Trailer**: A vehicle mounted on wheels used or so constructed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and designed in such a manner as will permit occupancy thereof as ~~a~~ temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motor vehicle.

**Transportation Uses**: Freight and passenger terminals.

**Truck Terminal**: A building or facility used by a motor freight carrier for receipt, transfer and short-term storage of movable goods for dispatch and routing of such goods for delivery off-site by truck. A truck terminal facility does not include any permanent or long-term storage for land uses at other locations. (#77)

**Two Family Dwellings**: Two (2) separate dwelling units in a single structure on one (1) lot.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. Parcels having surficial geology with any of the following characteristics shall be discounted by 50% in usable open space area:

Calculations:

1. Soils rated "very poorly drained"
2. Slopes of 20% or greater;

3. Land classified as "rock land" or "stony land" with 50% or more of the surface with stone cover.

Source of these criteria is Soils Suitability Guide, Misc. Publication 667 (REV), Maine Soil & Water Commission

**Use**: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

**Unvegetated Area**: Shall mean an area of land that has been impacted by creating an impervious or semi-impervious area designed for human activities, such as foundations, parking lots, or other developments. (#17)

**Variance**: A relaxation of the terms of the Brewer Zoning Ordinance, granted in strict compliance with the provisions of this Land Use Code.

**Vegetated Area**: Shall mean an area of land that is generally undeveloped and is in a natural state replanted and is pervious. (#17)

**Volume of a Structure**: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Warehousing**: The storage of goods in a fully enclosed building for distribution off site. (#77)

**Water Recreational**: A public or private swimming pool and/or any beach, marina, pond or lake open for admission to the general public.

**Waters of the State**: **-** See 38 M.R.S. §361-A (7). (#62)

**Watershed**: "Watershed" means the area of land that catches rain and snow that eventually drains or seeps into a marsh, stream, river, lake or groundwater. (#44)

**Water Storage**: A farm pond or water tower used as a reservoir of water for fire protection and/or human or animal consumption.

**Wildlife Habitat, Significant or Essential**: Areas identified by the Maine Department of Inland Fisheries and Wildlife as having significant or essential value as habitat for endangered or threatened species and any areas identified in the municipality's Comprehensive Plan. (#62)

**Yard Front or Front Yard:** An open unoccupied space extending the full width of the lot and situated between the street line and the front line of a building projected to the side lines of the lot.

**Yard Rear or Rear Yard**: An open unoccupied space between the rear line of a building and the rear line of the lot and extending the full width of the lot.

**Yard Side or Side Yard:** An open unoccupied space situated between a building and the side line of the lot and extending from the front yard to the rear yard.