

2007

Brewer, Maine City Charter

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**BREWER, MAINE
CITY CHARTER**

**ARTICLE I.
GRANT OF POWERS TO THE CITY**

SECTION 1.

The Inhabitants of the City of Brewer shall continue to be a body politic and corporate by the name of the City of Brewer, shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation or pertaining to or incumbent upon the inhabitants or municipal officers thereof; and may enact reasonable by-laws, regulations or ordinances for municipal purposes not inconsistent with the constitution and laws of the State of Maine and impose penalties for the breach thereof not exceeding one hundred dollars in any case.

**ARTICLE II.
CITY COUNCIL**

SECTION 1. POWERS AND DUTIES OF CITY COUNCIL.

The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, except the general management, care, conduct and control of the schools of said city, which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this charter, shall be and hereby is vested in one body of five (5) members, which body shall constitute and be called the City Council, all of whom shall be and remain during their term of office, inhabitants of said city, and shall be sworn in the manner hereinafter prescribed. Said City Council shall exercise its powers in the manner hereinafter provided. (#2)

The members of the City Council shall be and constitute the municipal officers of the City of Brewer for all purposes required by law or ordinance and except as otherwise herein specifically provided, shall have all powers and authority given to and perform all duties required of municipal officers and mayors of cities under the laws of this state. When said City Council shall act as municipal officers, it shall

be sufficient and lawful for such vote to be passed or such action to be taken as "City Council" and any record of any such vote passed or action taken, by law required to be passed or taken by municipal officers, shall be sufficient if recorded as passed, or taken by "City Council".

All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this act, except as herein otherwise provided, shall be vested in said City Council.

The said City shall continue to be divided for election purposes into six (6) wards with the now existing boundaries. Effective January 1, 1993, the six (6) wards with their existing boundaries, as constituted on December 31, 1992, shall continue in effect with the exception that wards five (5) and six (6) shall be combined into one ward to be numbered five (5) and to contain two precincts. Precinct one (1) of ward five (5) shall consist of all of that area that on December 31, 1992 constituted ward five (5). Precinct two (2) of ward five (5) shall consist of all of that area that on December 31, 1992 constituted ward six (6). It shall be the duty of the City Council, once in ten (10) years, and not oftener than once in five (5) years, to review and, if alteration is deemed necessary, to alter the boundaries of said wards in such manner as to preserve as nearly as convenient an equal number of inhabitants in each ward. (#7)

Effective January 1, 2004, the City shall cease to be divided into wards for election purposes and the City shall be constituted as a single ward for election purposes. Thereafter, the City Council may, by ordinance, divide this single ward into precincts for election purposes in accordance with the Revised Statutes of Maine, as amended. (#10)

SECTION 2. TERMS OF MEMBERS; COMPENSATION.

The City Council shall consist of five (5) members, who shall be elected at large by and from the qualified voters of the City of Brewer for a term of three (3) years from the second Monday in November next following the date of their election and until their successors are elected and qualified; except that at the first election after the adoption of this amendment to the charter of the City of Brewer the two (2) candidates having the largest number of votes shall serve for three (3) years and the candidate having the next largest number of votes shall serve

for two (2) years. At the second election after the adoption of this amendment to said charter, the two (2) candidates receiving the largest number of votes shall serve for three (3) years. At the third election date after the adoption of this amendment to said charter, the candidate receiving the largest number of votes shall serve for three (3) years, and each shall hold office until his successor is elected and qualified. Thereafter, at each regular annual municipal election, there shall be chosen at large, one or two members (as the case may be) of the City council to fill the office of the member or members of the City Council whose terms of office expire that year. (#4)

Beginning with the regular annual municipal election of 2000 and thereafter, the members of the City council elected shall have their terms specified in Art. IV, Sec. 1 of this charter. (#8)

In the event any member of the City Council is unable to perform his duties as a member of the City council and attend meetings of the City Council for a continuous period of four (4) months, the Chairman may call a meeting upon a reasonable notice to said member. At said meeting the majority of the City Council present and voting may declare the council office vacant and schedule an election for the balance of the term in accordance with Article 2, Section 4 of this charter.

Each member of the City Council, other than the Chairman or Mayor shall receive the sum of \$200. per year in full compensation. The member elected Chairman or Mayor for the ensuing year shall receive the sum of \$300. per year in full compensation; all such compensation to be payable quarterly. (1957)

Each member of the City Council, other than the Chairman or Mayor, shall receive the sum of \$500. per year in full compensation. The member elected Chairman or Mayor for the ensuing year shall receive the sum of \$700. per year in full compensation; all compensation to be payable quarterly. (#1)

Effective at the annual meeting of the City Council in 1986, each member of the City Council other than the Chairman or Mayor, shall receive the sum of \$1,000. per year in full compensation. The member elected Chairman or Mayor for the ensuing year shall receive the sum of \$1,200. per year in full compensation. All compensation shall be payable quarterly. (#4)

SECTION 3.

At the first meeting annually, or as soon thereafter as possible, the City council shall elect by majority vote of the entire Council, one of its members as Chairman of the Council for the ensuing year, and the City Council may fill for the unexpired term, any vacancy in the office of Chairman that may occur. The Chairman shall preside at all meetings of the City Council and shall perform such other duties consistent with this office as the Council may provide. The Chairman shall be recognized as the official head of the city and known and styled as Mayor and shall have the powers and authority given to and perform the duties required of mayors of cities for all purposes of military law, and shall act as Mayor upon any board or commission or otherwise by any statute.

The City Council may establish the position of Vice Chairman by ordinance. If the position is so established, the Vice Chairman shall serve as chairman in the event of the sickness, disability, continued absence from the city, or such other cause as may prevent the Chairman from performing the duties of the office, and shall have such power and authority as may be set forth in this ordinance.

In the temporary absence or disability of the Chairman and/or Vice Chairman, if the position is established by ordinance, a majority of the City Council members present and voting at any duly called meeting may elect a chairman pro tempore from among its number, who shall exercise the powers and duties of chairman until the temporary absence or disability is removed. Further, the City Council may, by ordinance, also provide for the appointment of a chairman pro tempore by the Chairman or the City Council in situations which are not inconsistent with the provisions of this Charter.

If the Chairman and/or Vice Chairman, if the position is established by ordinance, shall fail from sickness, disability, continued absence from the city or other cause to attend to and perform the duties incumbent on him or her as such Chairman or Vice Chairman, the remaining members of the City Council may, by unanimous vote, after notice and hearing, terminate their term of office of said Chairman or Vice Chairman and remove him or her therefrom and thereupon by majority vote of the entire Council, may elect some other member of said City Council, Chairman or Vice Chairman and such newly elected member shall

thereupon and thereafter hold the office and perform the duties of the Chairman or Vice Chairman for the balance of that year. (#3)(#5)

SECTION 4.

Whenever a vacancy on the City council occurs due to death, resignation or removal from office of any member of the City Council, the vacancy shall be filled at the next regular municipal election or the City Council may call for a special election, the warrant for which shall, upon vote of the City Council, be issued by a member of the City Council by vote designated for that duty. (#1)

SECTION 5. MEETINGS.

Until 1991 the City Council shall meet at the usual place for holding meetings at 7:30 p.m. on the second Monday in November next following the regular annual municipal election at which time the Councilmen-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace, a Notary Public or by the City Clerk. Beginning in 1991 and continuing until and including 1992, the City Council shall meet on the second Tuesday in October next following the regular annual municipal election, at which time the councilmen-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace, a Notary Public or by the City Clerk. Beginning in 1993, and during odd numbered years thereafter, the City Council shall meet on the second Tuesday in November next following the regular annual municipal election, at which time the councilmen-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the City Clerk. Beginning in 1994, and during, even numbered years thereafter, the City Council shall meet on the third Tuesday in October next following the regular annual municipal election, at which time the councilmen-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the City Clerk. Beginning January 1, 2000, and thereafter, the City Council shall meet on the third Tuesday in November, at which time the council members elected at the regular annual municipal election shall be sworn to the faithful discharge of their duties by a Notary Public or by the City Clerk. At its first meeting, or as soon thereafter as may be, the City Council shall establish by ordinance or resolve a time and place for holding its regular meetings, which shall be held at least once per month. (#4)(#6)(#8)

SECTION 6.

Special Meetings may be called by the Chairman or by a majority of the members of the City Council. Notice of such meetings shall be served in person upon, or left at the usual dwelling place of each member of the Council and of the City Manager. A majority of the members of the Council shall be and constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time, or compel attendance of absent members.

SECTION 7.

The City Council shall keep a record of its proceedings and shall be the judge of the qualification and election of its own members. The Council may determine its own rules and procedure, make lawful regulations for enforcing the same, and punish members for misconduct. The meetings of the Council shall be open to the public. The City Council shall act only by ordinance, order or resolve; all ordinances, orders and resolve, except general appropriation resolved, shall be confined to one subject. The appropriation order or resolve shall be confined to the subject of appropriations only. The City Council may provide, by ordinance, order or resolve, for all other rules and orders of a parliamentary character.

SECTION 8.

A member of the City Council may be removed from office by unanimous vote of the other members of the City Council, after notice and hearing, for any of the following reasons:

1. The failure of a member to continue to qualify for office under this Charter or any state or federal law;
2. Any intentional action by a member of the City Council which is expressly prohibited under this Charter or Chapter 1 of the City of Brewer Charter, Codes and Ordinances;
3. A member knowingly discloses any information which is confidential under state or federal law;
4. A member is convicted of a crime of moral turpitude; or
5. A member is convicted of a felony.

(#9)

**ARTICLE III.
SUPERINTENDING SCHOOL COMMITTEE**

SECTION 1. NUMBER OF MEMBERS; TERMS OF OFFICE.

The Superintending School Committee, hereinafter called the School Committee, shall consist of 5 members, who shall be elected at large by and from the qualified voters of the city for a term of 3 years and until their successors are elected and qualified; except that at the first election of members of the School Committee after the adoption of this amendment to the charter of the City of Brewer, the 2 candidates receiving the largest number of votes cast at such election for members of the School Committee shall hold office for 3 years from the 2nd Monday in November next following the date of their election and the candidate receiving the next largest number of votes shall hold office for 2 years from the 2nd Monday in November next following the date of his election. At the second election of a member of the School Committee after the adoption of this amendment to said charter, the candidate receiving the largest number of votes cast at such election for a member of the school Committee shall hold office for 3 years from the 2nd Monday in November next, following the date of his election. At the third election of members of the School Committee after the adoption of the amendment to said charter, the 2 candidates receiving the largest number of votes cast at such election for members of the School Committee shall hold office for 3 years from the 2nd Monday in November next following the date of their election; and at the fifth election of a member of the School Committee after the adoption of this amendment to said charter, the candidate receiving the largest number of votes cast at such election for member of the School Committee shall hold office for 3 years from the 2nd Monday in November next following the date of his election. Thereafter, at each annual municipal election, there shall be chosen at large, one or two members (as the case may be) of the School Committee to fill the office of the member or members of the School Committee whose terms of office expire that year. (1957)

Beginning with the regular annual municipal election of 2000 and thereafter, the members of the Superintending School Committee elected shall have the terms specified in Article IV, Sec. 1 of this charter. (#3)(#7)

SECTION 2. CHAIRMAN, HOW DETERMINED.

At the first meeting annually, or as soon thereafter as possible, the School Committee shall elect by majority vote of the entire committee, one of its members as chairman of the School Committee for the ensuing year, and the School Committee may fill for the unexpired term any vacancy in the office of chairman that may occur. The chairman shall preside at all meetings of the School Committee and shall have a vote as other members of said committee. (1963)

SECTION 3.

Until 1991 the School Committee shall meet and organize at eight o'clock p.m. on the second Monday in November next following the regular annual municipal election. Beginning in 1991 and continuing until and including 1992 the School Committee shall meet on the second Tuesday in October next following the annual municipal election. The members shall be sworn by a Justice of the Peace, a Notary Public or by the City Clerk, to faithful discharge of their duties. Beginning in 1993, and during odd numbered years thereafter, the School Committee shall meet on the second Tuesday in November next following the regular annual municipal election, at which time the members-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the City Clerk. Beginning in 1994, and during even numbered years thereafter, the School Committee shall meet on the third Tuesday in October next following the regular annual municipal election, at which time the members-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the City Clerk. Beginning January 1, 2000, and thereafter, the School Committee shall meet on the third Tuesday in November, at which time the members elected at the regular annual municipal election shall be sworn to the faithful discharge of their duties by a Notary Public or the by the City Clerk. (#1)(#3)(#4)(#6)(#7)

SECTION 4.

The School Committee shall have all the powers and shall perform all the duties in regard to the care and management of the public schools of the city which are now conferred and imposed upon the School Committee by the laws of the state, except as otherwise provided in this charter.

SECTION 5.

Whenever, from any cause, a vacancy in the School Committee shall occur, said vacancy shall be filled at the next annual election, or the City Council may call a special election.

SECTION 6.

Chapter Two Hundred Sixteen (216) of the Private and Special Laws of Nineteen Hundred Three, as amended by Chapter Seventy Two (72) of the Private and Special Laws of Nineteen Hundred Twenty Five is hereby repealed.

SECTION 7.

The School Committee shall submit to the City Council its recommended budget for school purposes for the next school budget year. The school budget shall include an itemized statement of revenue from sources other than municipal taxation, together with a statement of the amount of money to be raised by municipal taxation together with comparative figures from the current and next preceding school budget year. The school budget shall also include the School Committee's recommended appropriation for each of the following line item categories of proposed expenditures, the sum of which shall constitute the total proposed appropriation for school purposes:

Beginning with school fiscal year 1993, the School Committee shall submit for school fiscal year 1993 and years thereafter in the following line item format:

1. Instructional Employees Payroll and Benefits
- 1A. Superintendent, Principals and other Administrative Personnel Payroll and Benefits
2. Instructional Materials
3. Operation and Maintenance of Buildings
4. Transportation, including Bus Purchases
5. Health, Food Services, Community Services
6. Tuition
7. Vocational Education
8. Adult Education
9. Construction and debt service

The City Council, after reviewing the proposed budget, may change the proposed appropriation in any of the above line

categories prior to approving the final budget. Approval of the school budget shall fix the appropriation for each of the line item categories and the school committee shall not authorize the transfer of approved amounts from one line item category to another without prior approval of the City Council. The expenditures included within each line item category shall be consistent with the accounting and reporting requirements of the Maine State Department of Education and Cultural Services. The City Council may not by ordinance create additional line item categories within the school budget. (#1)(#2)(#4)

**ARTICLE IV.
NOMINATIONS AND ELECTIONS**

SECTION 1.

On the third Monday in December, 1931, the qualified voters of the city shall ballot for 5 members of the City Council and for 5 members of the School Committee, and the qualified voters of each ward shall, at the same time, ballot for a warden and a ward clerk for their ward; and thereafter on the second Tuesday in October until 1991, and at the 1991 and 1992 elections on the last Monday in September, a regular annual municipal election shall be held and the qualified voters of the city shall ballot for a member or members of the City Council and for a member or members of the School Committee to fill the offices of those whose terms of office expire that year, and also to fill any vacancies in the above offices which then may exist. Beginning with the regular annual municipal election of the City Councilors and the School Committee members at the annual election in 1988, the term of office shall be as follows:

COUNCILOR(S) AND SCHOOL COMMITTEE
MEMBER(S) ELECTED AT THE REGULAR
ANNUAL MUNICIPAL ELECTION

TERM EXPIRES

1988	Second Tuesday in October, 1991, or when his or her successor is duly elected and sworn.
1989	Second Tuesday in October, 1992, or when his or her successor is duly elected and sworn.

1990	Second Tuesday in October, 1993, or when his or her successor is duly elected and sworn.
thereafter, until 1993	Second Tuesday in October of the third year after the councilor's or school committee member's election until his or her successor is duly elected and sworn.

The wardens and ward clerks elected at the October 1984 regular municipal election shall hold office for two years from the second Monday in November following their election. Effective January 1, 1985, the position of warden and ward clerk shall be an appointive office rather than an elective office. The City Clerk, or in his or her absence the Deputy City Clerk, shall appoint wardens and ward clerks subject to the confirmation of the City Council. (#1)(#3)(#4)(#6)

Beginning in 1993, the regular annual municipal election shall be held on the first Tuesday in November during odd numbered years and on the second Tuesday in October during even numbered years. Beginning with the regular annual municipal election of the City Councilors and the School Committee members in 1993, the terms of office shall be as follows:

COUNCILOR(S) AND SCHOOL COMMITTEE
MEMBER(S) ELECTED AT THE REGULAR
ANNUAL MUNICIPAL ELECTION

TERM EXPIRES

1993	Third Tuesday in October, 1996, or when his or her successor is duly elected and sworn.
thereafter, during odd numbered years only	Third Tuesday in October, of the third year following his or here election or when his or her successor is duly elected and sworn.
1994	Second Tuesday in November, 1997, or when his or her successor is duly elected and sworn.

thereafter, during even
numbered years only

Second Tuesday in November of
the third year following his
or her election or when his
or her successor is duly
elected and sworn. (#5)

Beginning January, 2000, and thereafter, the regular annual
municipal election shall be held on the first Tuesday in
November. Effective January 1, 2007 and thereafter, the
regular annual municipal election shall be held on the Tuesday,
following the first Monday of November. Members of the City
Council and members of the School Committee elected at the
regular annual municipal election shall serve for terms of three
years commencing on the third Tuesday of November next following
his or her election or until his or her successor is duly
elected and sworn. (#9)(#10)

SECTION 2.

The warden and ward clerk, chosen as provided in the preceding
section shall be residents of the ward for which they are
appointed and shall hold their office for two years from the
second Monday in November following their appointment and until
others have been chosen and qualified in their stead. The
warden and the ward clerk shall be sworn to the faithful
performance of their duties by the City Clerk, the Deputy City
Clerk or by a Notary Public, and a certificate of such oath
shall be entered by the clerk on the records of said ward. The
warden shall preside at all meetings with the powers of
moderators of town meetings, and if at any meeting the warden
shall not be present, the clerk of the ward shall call the
meeting to order and preside until a warden pro tempore shall be
appointed by the City Clerk or in his absence by the Deputy City
Clerk. The warden pro tempore shall
have all rights and powers now held by the warden of such ward.

If neither the warden nor the ward clerk shall be present, any
legal voter in the ward may preside until a clerk pro tempore
shall be appointed by the City Clerk. Immediately following the
appointment of a clerk pro tempore, a warden pro tempore shall
be appointed. The ward clerk shall record all the proceedings
and certify the votes given and deliver over to his or her
successor in office all such records and journals in his or her
possession or under his or her control, together with all
documents and papers held by him or her in his or her capacity
as ward clerk. The ward clerk pro tempore shall have all rights

and perform all duties now held and performed by the ward clerk of such ward so far as consistent with this charter. All ward meetings shall be notified and called by the City council in the manner provided by the laws of this state for notifying and calling ward meetings. (#2)(#3)

SECTION 3.

The nomination of all candidates for elective offices provided for by this charter shall be by petition. The petition of each candidate shall be signed by not less than fifty (50) qualified voters of the city if the population of the city according to

the latest published United States census is fifteen thousand (15,000) or less and not less than seventy five (75) qualified voters of the city if the population of the city according to the latest published United States census is over fifteen thousand (15,000). A voter may sign only as many nomination petitions for each office as there are vacancies or expiring terms to be filled in each office. (#2)(#4)(#7)

SECTION 4. (#2)(#9)

The signatures to nomination papers need not all be affixed to one petition, but to each separate petition there shall be attached an affidavit of the circulator thereof, stating the number of signers on each petition and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number of the street or mailing address.

The form of the nomination petition shall be substantially as follows:

"To the City Clerk of the City of Brewer. We, the undersigned voters of the City of Brewer, hereby nominate _____ whose residence is _____, to be voted for at the election to be held in the City of Brewer on the _____ day of _____, and we individually certify that we are qualified to vote for a candidate for the above office and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto.
Name _____ Street and Number _____

being duly sworn deposes and says that he is the circulator of the foregoing nominating petition containing signatures and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

Subscribed and sworn to before me,
this _____ day
of _____ .

Justice of the
Peace
Notary Public

If this petition is deemed insufficient by the City Clerk, he shall forthwith notify by mail _____ at number _____ Street.

SECTION 5.

The nomination petitions for any one candidate shall be assembled and united into one petition and filed with the City Clerk not earlier than the second Wednesday in August nor later than 4:30 p.m. on the Wednesday preceding Labor Day. Beginning with the regular annual municipal election to be held in 1993, and regular annual municipal elections held during odd numbered years thereafter, the nomination petitions for any one candidate shall be assembled and united into one petition and filed with the City Clerk not earlier than the first Tuesday in September nor later than 4:30 p.m. on the first Tuesday in October. Beginning with the regular annual municipal election to be held in 1994, and regular annual municipal elections held during even numbered years thereafter, the nomination petitions for any one candidate shall be assembled and united into one petition and filed with the City Clerk not earlier than the second Tuesday in August nor later than 4:30 p.m. on the second Tuesday in September. No nomination shall be valid unless the candidate shall file with the City Clerk in writing, not later than 4:30 p.m. on the filing deadline set forth above, his or her consent accepting the nomination, agreeing not to withdraw, and, if elected, to qualify. Beginning with the regular annual municipal election in November, 2000, and thereafter, the nomination petitions for any one candidate shall be assembled and united into one petition and filed with the City Clerk no earlier than sixty days before the date of the regular annual

municipal election or any special municipal election nor later than forty five days before the date of the regular annual municipal election or any special municipal election.

(#3)(#8)(#9)

SECTION 6.

The City Clerk shall certify a list of candidates and shall cause a specimen ballot to be published, in one or more of the daily and/or weekly newspapers in general circulation in the City of Brewer, no earlier than 14 days nor later than 7 days prior to the municipal election. The City Clerk shall also post a specimen ballot at each polling place on the day of the municipal election. (#3)

SECTION 7.

Specimen ballots and official ballots for use in all city elections shall be prepared by the City Clerk at the expense of the city.

SECTION 8.

The position upon the ballot of the names of the candidates nominated, as hereinafter provided, shall be determined by lot and said names shall be so placed upon said ballot under title of the office to be filled. Said determination of said position by lot shall be conducted by the City Clerk at which said candidates or their representatives shall be entitled to be present. The City council shall adopt an ordinance establishing the format of the ballot, which may be amended from time to time. The ordinance in effect on the one hundred eightieth (180th) day prior to the election shall control the format of the ballot for said election. If the City Council fails to adopt such an ordinance or an ordinance is not in effect on the one hundred eightieth (180th) day prior to the election the following provisions relating to the format of the ballot shall apply. The ballot shall be without party mark or designation. The name and street address of each candidate shall be given. At the right of each name shall be a square within which the voters shall place a cross (X) or a check mark (√) to designate his choice. A blank space shall be left at the end of the list of candidates for each office in which the voter may insert the name and street address of any person not printed on the ballot for whom he desires to vote. The surname of any person so

inserted may be given either first or last and his or her street address shall be given. The ballot shall be printed substantially as follows: (#1)(#3)

(BACK OF THE BALLOT)
OFFICIAL BALLOT
BREWER

Ward _____
Tuesday _____ A.D.
(Facsimile of Signature)
City Clerk

(FACE OF THE BALLOT)

To vote for a candidate, mark a cross (X) or a check mark (✓) in the square at the right of Name and Street Address.

If you wrongly mark, tear or deface the ballot, return it and obtain another.

For Member of City Council	Vote for _____
Name of Candidate	Street Address

For Superintending School Committee	Vote for _____
Name of Candidate	Street Address
Name of Candidate	Street Address

Mark a cross (X) or a check mark (✓) in the square at the right of your answer

_____ YES
 _____ NO

(#2)(#3)

SECTION 9.

The provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers, and all other particulars in respect to preparation for, conducting, and management of

elections, so far as they may be applicable, shall govern all municipal elections except as otherwise provided in the charter or an ordinance establishing the ballot format. (#4)

**ARTICLE V.
ADMINISTRATIVE OFFICERS**

SECTION 1. BOARDS AND OFFICERS.

There shall be the following administrative boards and officers:

(a) The following boards and officers shall be appointed by ballot by a majority of the members of the City Council; City Manager, City Clerk, Auditor of Accounts, one or more Inspectors of Plumbing, City Solicitor and Health Officer for a period of three (3) years, subject to the approval of the State Commissioner of Health and Welfare as now provided by general law, whose duties shall be as provided under Title 22, M.R.S.A., Chapter 153. (#8)

(b) The following officers shall be appointed by the City Manager, subject to confirmation by the City Council; City Treasurer, Chief of Police, Chief of the Fire Department and Fire Inspector, Electrical Inspector, Inspector of buildings, Director of Public Works, Collector of Taxes, Overseer, not more than ten constables. The City Manager shall appoint all other officers and employees, the appointment of whom is not otherwise provided by State Statute, this charter or by city ordinances. (#2)(#3)(#4)(#5)(#6)(#7)

SECTION 2.

All appointive officers and boards, whose terms are not specified in this charter, shall hold office at the pleasure of the appointing power. Appointive officers and boards whose terms are specified in this charter, shall be removable by the City Council upon written charges, notice and hearing, if upon such hearing they are adjudged guilty of the charges preferred.

SECTION 3.

The City Council shall have power, by ordinance or resolve; (a) to create any new appointive office; (b) to assign or to authorize the City Manager to assign the duties of two or more offices to one officer; (c) to divide the duties of any office

between two (2) or more officers; (d) to authorize the appointment of assistants or deputies in any office.

SECTION 4.

The City Council shall fix by order or resolve, the salaries of the appointees of the Council. Salaries of the appointees of the City Manager shall be fixed by the City Manager, subject to the approval of the City Council.

SECTION 5.

The City Manager shall be chosen by the City Council on the basis of his character, experience and ability, and of his executive and administrative qualifications. He need not be a resident of the City of Brewer or of the State of Maine at the time of his appointment. The City Council shall require, as a condition of the City Manager's employment contract, that the City Manager become a resident of the City of Brewer within one year after the City Manager begins employment as the City Manager. If so required by the City Council, he shall give bond for the faithful discharge of his duties to the City of Brewer in such sum as the City Council shall determine and with surety or sureties satisfactory to the City Council and approved by it. The premium on said bond shall be paid by the city. (#9)

SECTION 6.

The City Manager shall be the administrative head of the City and shall be responsible to the City Council for the administration of all departments. The powers and duties of the City Manager shall be as follows:

- (a) to see that the laws and ordinances are enforced but he shall delegate to the Chief of the Police Department the active duties connected therewith regarding criminal misdemeanors.
- (b) to exercise control over all departments and divisions created herein or that may hereafter be created.
- (c) to attend appointments as provided in this charter.
- (d) to attend meetings of the City Council except when his removal is being considered, and recommend for adoption, such measures as may deem expedient.
- (e) to keep the City Council fully advised as to the business and financial condition and future needs of the city and to

furnish the City Council with all available facts, figures and data connected therewith, when so requested.

- (f) to perform such other duties as may be prescribed by this charter or required by ordinance of the City Council.

SECTION 7.

During any vacancy in the office of the City Manager, and during the absence from the city, or disability of the City Manager, the City Council may designate some person properly qualified, to perform the duties of City Manager and while so acting, he shall have the same powers and duties as those given to and imposed on the City Manager. If so required, he shall give bond to the City of Brewer in such sum as said City Council shall approve and with surety or sureties which shall be approved by the City Council. The premium on said bond shall be paid by the city.

SECTION 8.

The City Council shall, by ordinance, resolve or order, prescribe and determine the duties of administration officers other than the City Manager, except as said duties are prescribed herein or by general law. Such duties shall not be inconsistent with the provisions of this charter.

SECTION 9.

When any vacancy occurs in any office, said vacancy shall be filled as soon as may be by the appointing power authorized to appoint to said office.

SECTION 10.

There shall be a single assessor, who shall be appointed by the City Council for a term not greater than five (5) years, as they may determine. The Council shall fix his compensation and may remove him for cause, after notice and hearing. A vacancy in the office shall be filled forthwith by the Council for the unexpired term. (#1)(#5)

The assessor appointed as above provided shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and may now or hereafter be subject to under the laws of the state.

**ARTICLE VI.
BUSINESS AND FINANCIAL PROVISIONS**

SECTION 1.

Full and accurate accounts of all the departments of the city shall be kept. The City Manager shall prescribe the forms for such accounts. Said accounts, however, shall be kept in such manner as to show fully at all times, the financial condition of the city and of each department thereof. The auditor of accounts shall furnish to the City Manager, prior to the regular monthly meeting of the City Council in each month, a detailed report, showing receipts and disbursements of the city on all accounts and also showing expenditures made and obligations incurred during the preceding calendar month. Said auditor of accounts shall also furnish the City Manager with a balance sheet, showing the financial condition of the city and of the several funds, together with the unexpended balance to the credit of each department.

SECTION 2.

Accounts of the city shall be audited annually by a qualified accountant to be chosen by the City Council.

SECTION 3.

The Auditor of Accounts shall publish each month, a statement of the financial condition of the city. Each of the administrative officers and boards shall annually, on such date as may be fixed by the City Council, render to the City Manager a full report of the transactions of his or her or their department for the year.

On the basis of these reports, the City Clerk shall prepare and publish an annual report for general distribution. In addition to a summary of the services rendered by the various department, the report shall show:

- (a) Receipts classified according to sources.
- (b) Expenditures classified according to objects. The classification of receipts and expenditures in the report shall conform in general to the classification employed in the City's accounting system.
- (c) Balance sheets.
- (d) Such other financial information as may be required by the City Council. (#3)

SECTION 4.

The City Manager shall on or before the date established by city ordinance submit to the City Council, budget estimates for the ensuing year. Said budget estimate shall contain:

- (a) A statement of the financial condition of the city.
- (b) An itemized statement of appropriations and amounts thereof recommended for current expenses, and also appropriations recommended permanent improvements.
- (c) An itemized statement of revenue from sources other than taxation, together with a statement of the amount of money to be raised by taxation together with comparative figures from the current and the next preceding year.
- (d) Such other information, if any, as may be required by the Council. (#1)(#2)

SECTION 5.

In the annual appropriation resolve, the City Council shall provide for a reserve fund, and an appropriation for the same shall therein be made. Transfers from said fund shall be made only by vote of the City Council, and no transfer of any money shall be made from any fund other than the reserve fund until the end of the year, at which time, after all warrants have been paid out of the various funds against which such warrants have been drawn, the Treasurer shall transfer to said reserve fund, any balance or balances then remaining in the various other funds, except balances in the school fund; the City Council shall then apply the full balance in reserve fund to the reduction of the unfunded debt of the city, in case there is such debt, otherwise, the City Council shall transfer the full balance in the reserve fund to the sinking fund; provided however, that before doing so, the City Council may authorize a transfer from the reserve fund to any other fund or account in which there is an overdraft created by an actual emergency.

SECTION 6.

Until the funded indebtedness, not provided for by serial bonds, of the City of Brewer in force at the time of the adoption of this charter, together with any renewal thereof, is fully paid, the City Council shall raise and set apart each year for a sinking fund, a sum equal to not less than two percent of the total appropriations for that year, excluding the amount of the

item of the appropriation resolve, provided for by this section. The sinking fund shall be invested as provided by the Revised Statutes of 1954, Chapter 90 A, Sections 17 to 21 and all acts in addition thereto and in amendment thereof. (1957)

SECTION 7. TEMPORARY LOANS.

Money may be borrowed in anticipation of receipts from taxes during any fiscal year, but the aggregate amount of such loans outstanding at any one time shall not exceed eight percent of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of receipts from taxes for the fiscal year in which said loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized, all such loans shall be paid within one year and are subject to the provisions of laws of the State of Maine in relation thereto.

SECTION 8. PAYMENTS.

Money shall be paid out only on warrants on the City Treasurer, issued by the auditor and countersigned by the City Manager and a member of the City Council so designated from time to time by said City Council. The auditor shall examine all pay rolls, bills and other claims and demands against the city, and shall issue no warrant for payment until he finds that the claim is in proper form, correctly computed, duly certified and legally due and payable. The auditor may require any claimant to make oath to the validity of his claim, may investigate any claim and for such purpose or purposes, may examine witnesses under oath.

SECTION 9.

The City Council shall require bonds with sufficient surety or sureties, from all persons trusted with the collection, custody or disbursement of the public moneys, and all moneys received by any officer, employee or agent of the city belonging to the city, or in connection with the business thereof, shall forthwith be paid into the City Treasury and shall be deposited with such responsible banking institutions as the City Council may determine. All interest from such deposits shall accrue and belong to the city.

SECTION 10.

The City Manager shall purchase all supplies and equipment for the city and for the several officers and boards thereof, except educational supplies for the schools. The City Manager shall see to the delivery of supplies to each department and take and file receipt therefore. He shall conduct all sales of property unfit or unnecessary for the city's use, after such sales have been authorized by the City Council.

**ARTICLE VII.
MISCELLANEOUS PROVISIONS**

SECTION 1. CITY COUNCILMAN, NOT TO HOLD OFFICE: EXCEPTION.

No member of the City Council, during the term for which he was chosen as such member, shall be eligible for any other office, the salary of which is payable by the City, nor shall he, during such term, hold such other office. (#1)

SECTION 2.

No City Manager, no member of the City Council, no subordinate city officer, no member of any board or commission charged with the expenditure of any money appropriated by the City Council or belonging to the city, no officer or employee of the city, elected or appointed, shall be interested directly or indirectly, in any contract entered into by or in behalf of the City of Brewer, for work or material, or the purchase thereof, to be furnished to or performed for the city in violation of the laws of the State of Maine or any ordinance adopted by the City Council. All contracts made in violation of the laws of the State of Maine or any ordinance adopted by the City Council are void, and the City Treasurer is expressly forbidden to pay any money out of the city treasury on account of any such contract.

No such officer or employee, except a policeman or fireman, shall accept or receive from any person, firm or corporation acting under a franchise or license from the city, any frank, free pass, free ticket, or free service or accept directly or indirectly from any such person, firm or corporation, any service upon terms more favorable than those granted to the public generally. This provision shall not apply, however, to any free service nor or hereinafter provided for by contract, franchise, statute or ordinance. (#2)

SECTION 3.

This act shall be submitted for approval or rejection to the qualified voters of the City of Brewer at an election to be held on the second Monday in September, Nineteen Hundred Thirty-one, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said city to meet in the several ward meetings of said city, there to cast their ballots for the approval or rejection of this act. The question proposed on said ballot shall be substantially in the following form: "Shall an act passed by the Legislature in the year nineteen hundred thirty-one approved (insert date) entitled, "An Act to Grant a New Charter to the City of Brewer" be accepted. Otherwise, said ballot shall be in form provided by law when a constitutional amendment is submitted to the vote of the people. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election and said elections in said City are now conducted by Law, and the result thereof shall be determined in the manner now provided by law for the determination of the election of Mayor. If a majority of the ballots deposited as aforesaid shall reject, this act shall not to into effect, but if a majority of the electors voting at said ward meetings shall approve, then this act shall take effect as herein provided.

SECTION 4.

So much of this act as authorizes the submission of the acceptance of this charter to the electors of the City of Brewer shall take effect as provided in the Constitution of the electors of the City of Brewer as hereinbefore provided. If purpose of nominating and electing officers hereunder shall take effect on the date of its adoption by the electors, and for all other purposes this act shall take effect on the second Monday in January, Nineteen Hundred Thirty-two.

SECTION 5.

All ordinances in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

SECTION 6.

All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent therewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

SECTION 7.

In case this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed.

**ARTICLE VIII.
INITIATIVE AND REFERENDUM**

SECTION 1. HOW INVOKED.

The submission to the vote of the people of any proposed ordinance or any ordinance enacted by the City council and which has not yet gone into effect, may be accomplished by the presentation of a petition therefore to the City Council in the manner hereinafter provided. Any order or resolve, other than one of a ministerial nature, either proposed or passed by the City Council and which has not yet gone into effect, may be submitted to the vote of the people by presentation of a petition therefore to the City Council in the manner hereinafter provided. Any 50 registered voters of the City of Brewer may originate a petition putting into operation the initiative or the referendum, by signing such petition at the office of the City Clerk. Whenever requested by 50 such voters, the City Clerk shall file the petition and shall during office hours for 30 business days thereafter, keep the same open for signatures by registered voters of the city, and no such petition shall be signed or presented for signature at any place other than the City clerk's office. At the expiration of said 30 days, the City Clerk shall declare the petition closed and shall, at the first regular meeting of the City Council thereafter, present to that body the petition with verification of the number of valid signatures thereto attached. If the number of valid signatures attached to said petition equals or exceeds 400 the City Council shall, unless the relief petitioned for is granted prior to the call for election, take the necessary steps to submit the issue presented by the petition to the voters of the city, at the next

regular or special election but in no event more than 90 days after the presentation by the City Clerk of the verified petition to the City Council.

For the purposes of this section, orders or resolves of a ministerial nature shall be those concerning:

1. Subdivision approvals.
2. The issuance of state and municipal licenses.
3. Appointments and confirmation of appointments or removals from office.
4. Proposed revision or amendments to the City Charter. (#1)

SECTION 2. FORM OF PETITION.

The petition used to originate the initiative or the referendum, shall be substantially in the following form:

PETITION TO THE BREWER CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, order, or resolve, a copy of which is hereunto attached, be adopted?

We, the undersigned, under oath, depose and say that we are duly qualified voters of the City of Brewer, residing respectively at the addresses placed opposite our names, and we hereby petition the City Council to submit the foregoing question to the voters of the City of Brewer.

NAMES	RESIDENCES	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____

I, _____, the City Clerk of the City of Brewer, do solemnly affirm that I witnessed the signing of each of the above signatures and that, at the time of signing, I made certain that the person affixing his name thereto, has reasonable knowledge of the purpose of the petition.

Date _____ City
Clerk _____

SECTION 3. EFFECT OF REFERENDUM PETITION.

Whenever there has been originated as aforesaid, a petition for the reference to the people of any such ordinance, order or resolve, passed by the City Council, and the required number of valid signatures has been obtained thereof for its presentation to the City council, the same shall be suspended from going into operation until it has been submitted to a vote of people and has received the affirmative vote of a majority of the voters voting on said questions.

SECTION 4. (#1)

SECTION 5. PUBLICATION.

Whenever any ordinance, order or resolve is required by the provisions of this article to be submitted to the voters of the city at any election, the City council must order one publication of the complete text thereof to be made in one, or more should the City Council deem it best, of the newspapers published in the City of Brewer or City of Bangor, such publication to be made not less than 10 days, nor more than 15 days prior to the election.

SECTION 6. FORM OF BALLOT.

The ballots used when voting on such proposed ordinance, order or resolve, shall set forth the title thereof in full and state its general nature, and shall contain the words: "For the ordinance, order or resolve" and; "Against the ordinance, order or resolve."

SECTION 7. RESULT OF ELECTION.

If a majority of the qualified voters voting on said proposed initiative ordinance, order or resolve, or said referred ordinance, order or resolve, shall vote in favor thereof, such ordinance, order or resolve shall take effect 5 days after the declaration of the official canvass of the return of said election.

SECTION 8. CONFLICTING ORDINANCES, ORDERS OR RESOLVES.

Any number of proposed or referred ordinances, orders or resolves may be voted upon at the same election. In the event that 2 or more ordinances, orders or resolves adopted at the same election, shall contain conflicting provisions, the ordinance, order or resolve receiving the highest number of votes at such election shall be paramount, and all questions of construction shall be determined accordingly.

SECTION 9. ORDER UPON THE BALLOT.

In the event that 2 or more ordinances, orders or resolves are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the City Council on its own initiative.

SECTION 10. REPEAL OF POPULAR ORDINANCES, ORDERS OR RESOLVES ENACTED BY THE PEOPLE.

No ordinances, orders or resolves proposed by petition and adopted by vote of the people shall be repealed or amended except by a vote of the people unless such ordinance, order or resolve shall otherwise expressly provide.

SECTION 11. ORDINANCES, ORDERS OR RESOLVES SUBMITTED TO POPULAR VOTE.

The City Council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance, order or resolve, except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the votes cast thereon at such election, such ordinance, order or resolve shall be enacted, repealed or amended accordingly.

SECTION 12. FURTHER REGULATIONS.

The City Council shall by ordinance, make such further regulations as shall be necessary to carry out the provisions of this article.

ARTICLE IX.
RECALL (#1)

Any member of the City Council may be recalled and removed therefrom by the electors of the City as herein provided.

SECTION 1. PROCEDURE FOR INITIATING RECALL PETITION.

Any 50 registered voters of the City of Brewer may originate a petition putting into operation the recall process by signing such petition at the office of the City Clerk. Whenever requested by 50 such voters, the City Clerk shall prepare the proper recall petition and upon its being signed by said 50 voters, the City Clerk shall file the petition and shall, during office hours for 30 days thereafter, keep the same open for signatures by registered voters of the city, and no such petition shall be signed or presented for signatures at any place other than the Clerk's office. At the expiration of said 30 days, the City Clerk shall declare the petition closed and shall, at the first regular meeting of the City council thereafter present to that body, the petition with verification of the number of valid signatures there attached. If the number of valid signatures attached to said petition shall amount to at least 500 signatures of qualified electors registered to vote at the latest regular city election, the City Council shall immediately take the necessary steps to submit to the voters of the city and the recall petition.

SECTION 2. FORM OF BALLOT IN RECALL ELECTION.

The form of the ballot at the recall election shall be as follows:

"Shall City Council member (name of person proposed for recall) be recalled?"

Immediately below such question shall appear in the following order the words "Yes" and "No" and to the right of each word a square within which the voter may cast his vote.

SECTION 3. VOTE REQUIRED.

In order for a Council member to be recalled, at least 30% of the total number of qualified electors registered to vote after the close of polls on the date the recall election is held must

have voted and a simple majority of said 30% must have voted "Yes". In the event less than 30% of said electors vote or a simple majority of said majority do not vote "Yes", the recall fails.

SECTION 4. ELECTION AFTER RECALL.

A Council member recalled shall serve until his successor is duly elected and sworn. If one or more Council members are recalled, the City Council shall declare a vacancy and shall set a time for the holding of a special election not less than 30 days nor more than 60 days after the recall election.

NOTES ON AMENDMENTS

ARTICLE I

ARTICLE II

- (1) Effective January 1, 1978
- (2) Effective January 1, 1979
- (3) Effective January 1, 1985
- (4) Effective January 1, 1988
- (5) Effective January 1, 1992
- (6) Effective January 1, 1993
- (7) Effective November 7, 1995
- (8) Effective January 1, 2000
- (9) Effective January 1, 2002
- (10) Effective January 1, 2004

ARTICLE III

- (1) Effective January 1, 1977
- (2) Effective January 1, 1983
- (3) Effective January 1, 1988
- (4) Effective January 1, 1992
- (5) Effective January 1, 1993
- (6) Effective January 1, 1993
- (7) Effective January 1, 2000

ARTICLE IV

- (1) Effective January 1, 1975
- (2) Effective January 1, 1978
- (3) Effective January 1, 1985
- (4) Effective January 1, 1988
- (5) Effective January 1, 1993
- (6) Effective January 1, 1993
- (7) Effective January 1, 1993
- (8) Effective January 1, 1993
- (9) Effective January 1, 2000
- (10) Effective January 1, 2007

ARTICLE V

- (1) Effective October 9, 1972
- (2) Effective January 1, 1975
- (3) Effective January 1, 1978
- (4) Effective January 1, 1979
- (5) Effective January 1, 1982
- (6) Effective January 1, 1984
- (7) Effective January 1, 1992
- (8) Effective November 7, 1995
- (10) Effective January 1, 2004

ARTICLE VI

- (1) Effective January 1, 1979
- (2) Effective January 1, 1985
- (3) Effective January 1, 1992

ARTICLE VII

- (1) Effective January 1, 1979
- (2) Effective January 1, 1983

ARTICLE VIII

- (1) Effective January 1, 1985

ARTICLE IX

- (1) Effective January 1, 1985