

17. LAND USE

Historical Development Patterns

Brewer's early growth is concisely summarized in the following piece from James Vickery's "A Pictorial History of Brewer, Maine", 1976 (see the History section of this Plan for a more detailed discussion of Brewer's past).

"Two centuries ago what is now the City of Brewer was a scattered settlement known as New Worcester named for that Massachusetts town from which came Col. John Brewer. Brewer came here in 1771 and built his house and mill. Hostilities of the Revolutionary War caused most families to abandon their homes and return to their former abodes. In 1783 and 1784 the settlement was resumed. The present site of Brewer was a part of Orrington, but in 1812 Brewer was incorporated as a town. Between this time and 1850 it remained a small village, rural in appearance. After mid-century, Brewer grew rapidly; industries such as shipbuilding, saw mills, and brick making attracted people here, as well as overflow of the populace from Bangor. It had its first free public high school in 1873. The construction of the Eastern Manufacturing Co. attracted more families. In 1889 Brewer became a city. During the next fifty years the city prospered although the brick, lumber, and ice industries declined, and the city changed from one of industry to a more residential community. After World War II, motels, shopping centers, and suburbia appeared..."

As described in the City's 1995 Comprehensive Plan, Wilson Street was a commercial/retail corridor by 1970. Commercial and manufacturing growth in the decades since 1970 has been at least partially due to the City's positive efforts to attract such uses and the access that the Parkway South I-395 interchange provides to the Interstate system.

Since the 1960s, a great deal of Brewer's residential growth has occurred away from the downtown, particularly along North Main Street, Day Road, Eastern Avenue and the Wiswell Road. Growth has occurred on the edges of the built-up, sewered part of the City, including subdivisions, apartments and elderly housing projects.

Development Highlights – Last 10 Years

Waterfront. The Brewer waterfront has been steadily changing over the past ten years. The Penobscot Landing waterfront master plan, which was completed in 2000, contains concepts for the waterfront within the more urban area of the City.

Downtown. Changes in the downtown have included:

- Betton Street was moved slightly so that it created a four-way intersection with Parker Street. In addition, Center Street was designated as a one-way.
- The realignment of Betton Street also allowed for additional on-street public parking.
- The Downtown Development zoning district was created in 2013 encompassing a two-block area between Betton Street, State Street, North Main Street and Penobscot Street. Since this new

zoning district was created, three site plans have been approved for commercial uses and upstairs apartments.

South Brewer. There have been a number of major changes in South Brewer:

- Eastern Fine Paper closed and the City was left with site cleanup and finding a new business. The site was cleaned up primarily using Brownfield money. Cianbro now owns the property and manufactures modules, which leave the site via barges down the Penobscot River.
- Condominiums were constructed off Cove Street by a private entity.
- Upgrades were made to the City wastewater treatment facility including shore stabilization along the Penobscot River.
- MDOT grant allowed the City to install and make improvements to Cianbro's entrance and the I-395 ramps.

North Brewer. North Brewer improvements have included the following:

- The City made upgrades to the public boat launch.
- The Brewer Land Trust acquired ownership of the 4-acre parcel of land at the end of the old Bangor Dam. The Trust hopes to improve the site for public access to the river.

Changes in other areas. In addition to improvements described above, other changes, both private and municipal, have taken place elsewhere.

- Shoreline stabilization was completed along the Penobscot River. Portions in the form of rip-rap and other sections were straight-wall.
- The Brewer Public Works facility was moved from its Hardy Street location to Green Point Road. The old site was cleaned up and graded.
- The former Public Safety building on South Main Street was moved to Parkway South and the former site currently parking for waterfront users.
- The Children's Garden was created with a variety of plantings and hardscape. Weddings and other events are often held there.
- The first phase of the Brewer Riverwalk was completed including a multi-use paved surface with lights and benches, and a hand launch boat access point (canoe/kayak). Railings along the river on both the Brewer and the Bangor sides match for a cohesive design.
- The old Archer Block (corner of Wilson St and North Main St) was acquired by the City, demolished, and a new parking lot constructed for public parking.
- The Brewer Library was moved from the City Hall addition to the former school building at 100 South Main Street. The new location provides an improved facility and better parking.
- JR Redemption site underwent remediation by EPA. The site is now capped.
- Completed sewer separation projects have virtually eliminated sewer overflows throughout the City.
- MaineDOT repainted the Joshua Chamberlain Bridge last year.

- Site plans have included the restaurant at the end of the Joshua Chamberlain Bridge (was the Muddy Rudder, then Schooners, and now High Tide with a dental office upstairs); Dirigo School Apartments amendment; All Points Insurance; and B&L Auto.
- Phase II of the Brewer Riverwalk has begun with concept plans and meetings with MDOT.

Subdivisions approvals. Since 2004, the Brewer Planning Board has approved 12 residential subdivisions with a total of 134 lots, and 15 commercial subdivisions with a total of 46 commercial structures or lots. To date, not all of the subdivisions have been built.

Site Plan approvals. Since 2004, the Brewer Planning Board has approved 144 site plan review applications, mostly for non-residential developments. These approvals have included 50 projects on outer Wilson Street, nine projects on Dirigo Drive, 17 multi-family projects or commercial developments with some apartments, and 68 projects located in other parts of the community.

Land Use Ordinance

The City of Brewer has a Land Use Ordinance that includes provisions for zoning, site plan review, subdivision review, floodplain management, roads and streets, mobile home parks, telecommunication facilities and impact fees.

Zoning. The City of Brewer is divided into a number of zoning districts, as described below. Specific uses allowed in each district, either with a permit from the code enforcement officer or after site plan review and approval of the Planning Board, are set forth in a schedule of uses in Section 306.5 of the Land Use Ordinance.

- **Rural District (Rural).** The purpose of this district is to provide for areas within the city for very low density residential development while protecting the rural character of these portions of the city. Development within the area should be sensitive to the rural nature of the district and should preserve open space to the maximum extent possible.
- **Low Density Residential District (LDR).** This district is intended to provide for housing mixed with complementary recreational and institutional uses in a low density setting immediately adjacent to the urban area.
- **Medium Density Residential District.** This district is aimed at providing zones where a majority of the city's population can reside with a balance between urban living and open space. The district is intended to encourage quality single family housing. The lots are designed to be served by off-lot utilities. Protection of established residential neighborhoods from undesirable impacts is an important value in this district.

The MDR-1 district provides for single-family housing and closely related ancillary uses.

The MDR-2 district provides for single-family and two-family housing

- **High Density Residential District (HDR).** This district encompasses portions of the city which were developed in the 19th and early 20th centuries. Serviced by public utilities, it exhibits a mix of residential housing types, plus attendant community services such as churches.
- **High Density Residential District-2 District (HDR-2).** The purpose of this district is to provide for a harmonious mixture of residential uses in close proximity to urban services.
- **Convenience Business District (CB).** The purpose of this district is to permit a variety of uses which are predominantly retail and service oriented. This district permits a mixture of residential uses, governmental and retail uses, so as to provide vitality to the neighborhood. Structures in the district were developed in the 19th and early 20th centuries and are served with municipal water and sewers facilities.
- **General Business District GB).** The purpose of this district is to provide for a variety of commercial uses, including highway oriented types. The area is intended to be the location for the community's major shopping facilities, including shopping centers. The standards of the district are intended to encourage developments which have controlled vehicular access.
- **Industrial District (IND).** The purpose of this district is to provide for industry and warehousing in which high value industrial and warehousing installations in campus arrangements are encouraged.
- **Industrial District Two (IND-2).** The purpose of this district is to provide for industrial and warehousing uses which are compatible with the Brewer Airport and do not require on-lot water and sewer facilities.
- **Office Residential District OR).** The purpose of this district is to provide an orderly transition of older residential areas along major traffic arteries to low intensity office and service uses, as well as multi-family housing. The district, located on arterial roads, contains a mix of residential types and construction styles dating to the 19th century. The district is served by municipal water and sewer facilities. The aim of the district is to provide for a variety of housing types and planned professional office/institutional uses that are compatible with neighborhood character and architectural styles.
- **Professional Business District (PB).** The purpose of this district is to provide for professionally-oriented commercial development in areas located near significant public infrastructure. The area is intended to include office-oriented uses, professional services, and research and development facilities along with retail and commercial enterprises that are supportive of such development. The standards of the district are intended to encourage refined and compatible aesthetic themes across property lines, including landscaping and signage, and provide for the development of thematic or campus-style projects.
- **Downtown Development District (DD).** The purpose of this district is to allow for a variety of retail, entertainment, service businesses and office uses which are characteristic of a walkable central business district. Residential uses are combined with commercial uses but are limited to

the upper floors of multi-story buildings. The district is served by municipal water and sewer facilities, as well as on-street parking and nearby parking facilities.

In addition to these zoning districts, there are two floating zones that can be utilized through contract zoning for eligible projects. These are:

- **Adaptive Reuse District (AR).** The purpose of this floating zone is to allow for the reuse of certain existing municipal or school buildings. If a site meets the eligibility requirements, a contract zone into the AR district would allow for specific new uses and design standards.
- **Adaptive Residential Multi-unit District (ARM).** The purpose of this floating zone is to allow for a diversity of residential housing opportunities for people of different incomes, family types, and lifestyles. If a project meets the eligibility requirements and development standards, a contract zone into the ARM district would allow for large-scale developments with a higher density of dwelling units.

There are also two overlay districts that establish additional requirements on the underlying districts. These include:

- Shoreland Zoning Protection District
- Manufactured Housing District

The table below summarizes some of the dimensional requirements for the districts described above.

Zoning Overview of Dimensional Requirements							
District	Minimum Lot Area (Square Feet)			Minimum Lot Frontage Feet			Max building height in feet
	Off-lot sewer, water	On-lot sewer, public water	On-lot sewer and water	Off-lot sewer, water	On-lot sewer, public water	On-lot sewer and water	
Rural	60,000	70,000	120,000	200	200	200	35
LDR	40,000	50,000	60,000	150	150	150	35
MDR-1	15,000	30,000	40,00-0	100	125	150	35
MDR-2	7,000	30,000	40,000	75	125	150	35
HDR	7,000	n.a.	n.a.	50	n.a.	n.a.	35
HDR-2	15,000	n.a.	n.a.	100	n.a.	n.a.	65
CB	2,000	n.a.	n.a.	25	n.a.	n.a.	65
GB	40,000	n.a.	n.a.	200	n.a.	n.a.	n.a.
IND	30,000	80,000	200,000	150	200	400	n.a.
IND-2	40,000	80,000	200,000	200	200	400	n.a.
OR	7,000	n.a.	n.a.	100	n.a.	n.a.	35
PB	20,000	n.a.	n.a.	150	n.a.	n.a.	90

DD	1,500	n.a.	n.a.	25	n.a.	n.a.	65
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Source: Brewer Land Use Code

In addition to the district requirements, the Land Use Code contains a number of performance standards regulating specific uses and sites. These standards apply to projects requiring code enforcement officer approval as well as those requiring approval by the planning board. The standards include:

- Accessory living quarters
- Airport approach
- Archaeological/historical sites
- Automobile graveyard, recycling facility, junkyards
- Camping park
- Conditional uses
- Commercial vehicles in residential districts
- Construction in flood hazard areas
- Conversions – single-family to multi-family
- Day care
- Electromagnetic radiation
- Excavation, removal and filling of land
- Fire and safety
- Home occupations
- In-law apartments
- Land not suitable for development
- Lighting
- Multi-family dwellings in LDR districts
- Noise
- Odors
- Outside storage
- Parking and loading
- Planned unit development
- Planned group development
- Planting
- Recycling center other than automobile recycling
- Sanitary provisions
- Shipping container as storage buildings prohibited
- Signs
- Temporary structures
- Trailers
- Vibration
- Water quality
- Wildlife/natural areas preservation

- Yards and setbacks
- Narcotic treatment facilities
- Medical marijuana dispensaries and cultivation facilities

Site Plan Review. The purpose of site plan review is to provide for Planning Board review of certain uses which have a potential for significant impact, but which when properly designed with respect to their surroundings can become acceptable uses. The Site Plan Review provisions of the Land Use Code require review and approval of the Planning Board, are set forth in a schedule of uses in Section 306.5 of the Land Use Ordinance. Major projects that are subject to site plan review include:

1. Drilling or excavating natural resources in excess of 30,000 square feet.
2. Hazardous activities involving the consumption, generation of handling of hazardous wastes, oil, and low level radioactive wastes.
3. Any building occupying a ground area in excess of 20,000 square feet.
4. Any project where buildings and parking lots, roads, paved areas, or other areas to be stripped and graded occupy a ground area in excess of 60,000 square feet.
5. Any multi-unit housing development involving three or more housing units.
6. Any project which is a conversion of an existing project meeting the above descriptions.

The standards used by the Planning Board in evaluating site plan review applications include:

- Compatibility with land uses (of adjacent properties)
- Compatibility with the landscape
- Erosion
- Storm water
- Access
- Road system impact
- Landscaping and planting
- Outdoor lighting
- Outdoor recreation
- Wastewater
- Sufficient water
- School system (impact)
- Developments in flood hazard zones
- Impact on abutting properties

Subdivision Review. This portion of the Land Use Code requires that subdivisions as defined by statute be reviewed and approved by the Planning Board. The law includes review criteria which must be used by the Planning Board. The City's Land Use Code makes reference to these criteria but also includes performance standards and design guidelines to clarify the statutory review criteria.

Performance standards

- No pollution

- Sufficient water
- Impact on existing water supplies
- Soil erosion
- Traffic conditions
- Sewage disposal
- Solid waste
- Natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas, public access to the shoreline
- Conformance with zoning districts and performance standards
- Adequate financial and technical capacity
- Ground water protection
- Floodplain management
- Freshwater wetlands
- Storm water management
- Open space and common land
- Phosphorus impact on watersheds of great ponds

Design guidelines

- Sufficient water
- Street design criteria
- Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas, public access to the shoreline
- Storm water management
- Blocks
- Lots
- Monuments
- Cluster subdivisions
- Phosphorus export
- Utilization of the site
- Historic and archaeological resources

Floodplain Management. The Floodplain Management provisions of the Land Use Code require that a permit be obtained prior to construction or other development in any areas of special flood hazard as identified by FEMA (Federal Emergency Management Agency).

- New structures must be elevated such that the first floor is above the level of the base flood (the elevation of the 100-year flood as determined by FEMA).
- New non-residential structures that are not elevated must be flood-proofed.
- Repairs, improvements and additions to existing structures in areas of special flood hazard areas may be made provided the value of such changes does not exceed 50% of the market value of the structure.

Roads and Streets. The Land Use Code contains standards for the design and construction of streets and access points to streets.

Mobile Home Parks. The Land Use Code also regulates new or expanded mobile home parks including their location, dimensional requirements, and construction.

Telecommunication Facilities. The Land Use Code requires that all telecommunication facilities be limited to 195 feet in height. Other standards include provisions for access, construction, design strength, anchoring, grounding and setbacks.

Land Use Issues, Opportunities

Residential development issues

1. **Condominiums.** Currently, condominiums are not technically permitted in Brewer because of lot size requirements in districts where multi-family dwellings are allowed.
2. **In-law apartments.** Currently, Section 416 of the Land Use Code states that in-law apartments shall be considered part of a single-family dwelling and can be permitted anywhere that single-family dwellings (SFDs) are permitted. The ordinance requires that people living in such apartments be within the “second degree of kinship,” which is very difficult to determine and enforce.
3. **Consistency of assessing records.** The City’s assessing records do not make a distinction between accessory apartments and two-family structures. This creates confusion in the for the public and creates enforcement difficulties.
4. **Residential back lot development.** The City’s zoning ordinance does not allow back lot development.
5. **Private roads.** Brewer’s Land Use Code does not allow development on private roads. This limits the potential for a wider range of residential developments, such as gated communities and back lot development (land currently lacking public road frontage).
6. **Density.** The City’s Land Use Code limits the construction of higher density multi-family dwellings in areas where greater density could be accommodated.
7. **Multi-family Density bonuses.** Brewer’s Land Use Code does not include a density bonus that would allow greater density in some cases in exchange for a public benefit such as a trail easement, land for public open space or construction of a bus shelter.
8. **Building height.** Brewer currently limits building height to 35 feet in most residential districts (but 65 feet in HDR-2 and 100 feet in DD). A greater height standard in appropriate areas would allow for the construction of four and five story buildings.

9. **Transient housing.** There is a need for the City to tighten up ordinance provisions to ensure that transient accommodations such as motels and hotels are used for temporary occupancy and not apartments.
10. **Subdivision open space.** The City's Land Use Code does not include a minimum open space requirement.
11. **Open space/cluster development.** The City does not require that subdivisions outside the growth area as identified in the Comprehensive Plan be open space/cluster development.
12. **Density bonus.** The Land Use Code does not contain a density bonus provision for any subdivision that provides publicly beneficial open space in excess of required minimums.

Commercial development issues

1. **Administrative review.** The Land Use Ordinance does not include a mid-level administrative review for minor commercial projects that would be more than a review by the Code Enforcement Officer, but less than a full review by the Planning Board (site plan review, detailed plans and specifications, public hearing, etc.). This would require a review of uses in the land use matrix (Section 306 of the Land Use Ordinance) to determine which ones would be subject to the mid-level review.
2. **Adaptive Reuse District.** The Adaptive Reuse District (an overlay district) does not include privately owned buildings. Currently, the Adaptive Reuse District applies only to the reuse of municipal buildings and public schools. Broadening the Reuse District could encourage the redevelopment of vacant or under-utilized buildings to more productive uses that might otherwise be prohibited
3. **Parking requirements in the Convenience Business (CB) District.** Currently, requirements for on-site parking are a development barrier for some properties. The Land Use Ordinance could be changed to allow on-street parking to meet a portion of the parking requirements (for example, up to four commercial parking spaces). On-site parking requirements could still be retained for residential dwelling units.
4. **Outside storage of merchandise.** Currently, some retail establishments display merchandise outside and some establishments use outside storage containers (which is prohibited by Sections 423 and 429 of the Land Use Ordinance) to store their merchandise. There is a need to include additional provisions in the Land Use Ordinance to better regulate outside storage.
5. **Business signs.** There is a need to research options for timed digital signs, neighborhood signs, and public information signs that take into account public safety and the public benefits of such signs.
6. **Multiple uses on a single lot.** The Land Use Ordinance currently requires that the frontage be met for the first use, and that there be 50 feet of additional frontage for the second use, and 25 feet of additional use for the third use. This can result in excess frontage for certain types of uses such as a mini-mall or a business with one or more apartments.

- 7. Waterfront redevelopment.** The Land Use Ordinance contains provisions which may constrain redevelopment efforts along the waterfront. The creation of a separate waterfront district with provisions geared to its redevelopment would help support public and private efforts to improve this important City asset.