

AMENDED

AGENDA

CITY COUNCIL OF THE CITY OF BATH, MAINE

Regular Meeting

Wednesday, November 8, 2017 6:00pm

City Council Chambers, Bath City Hall

We encourage your comments and views, and appreciate your participation in your local government. Note: Materials for agenda items are available through the City Clerk's Office.

A. Pledge of Allegiance

B. Roll Call

C. Public Hearings:

- 1) Ordinance – General Assistance Maximums for 2018 (second passage)
- 2) Ordinance – Chapter 13. Refuse, Article 5 – Single Use Carry-Out Bags, Sections 13-61 through 13-69 (second passage)
- 3) Ordinance – Chapter 13. Refuse, Article 6 – Consumer Packaging, Sections 13-91 through 13-100 (second passage)
- 4) Ordinance – Amendment Land Use Code Flood Plain (second passage)

D. Consent Agenda

(Items as marked with an asterisk (*) on the agenda shall be considered routine matters not requiring debate. In the case of items marked with an asterisk, the motion as stated in parenthesis following the items on the agenda shall be considered to have been passed by the City Council as part of the Consent Agenda. Any Councilor wishing to have any item so marked with an asterisk removed from the Consent Agenda shall have the unlimited right to do so at any time prior to the vote by Council on the Consent Agenda. If such an item is removed from the Consent Agenda, it shall be dealt with in the normal course of the meeting.)

*5) Minutes of the previous meeting of October 4, 2017 (motion to accept as presented)

E. Time Devoted to Residents to Address City Council

F. Resolutions, Orders and Ordinances

- 6) Letter of Approval for Game of Chance and/or Beano Games for the American Legion – Smith Tobey Post #21.
- 7) Order: Authorizing Purchase of New Dump Truck for Public Works Department. (motion to pass Order)

8) Acceptance of Election Tabulations for the State of Maine Referendum Election, City of Bath Candidate/Referendum Election and RSU #1 Candidate/Referendum Election held on November 7, 2017.

G. Petitions & Communications

H. City Manager's Report

I. Committee Reports

J. Unfinished Business

K. New Business

9) Appointment of 1 member to the Bath Bicycle and Pedestrian Committee with a term to expire in May 2020.

10) Appointment of 1 member to the Bath Water District Board of Directors with a term to expire in November 2022.

L. Councilor Announcements

EXECUTIVE SESSION:

Discuss a Labor Matter -Union Negotiations Matter per 1 MRSA §405(6)(D)

ADJOURN

01

Date: September 27, 2017
To: Bath City Council
From: Juli Millett, Finance Director and
Judy Hardy-Goddard, GA Administrator
Re: Annual Adoption of GA Maximums

The Adoption Process

The municipal officers (i.e., selectpersons/council) adopt the local General Assistance Ordinance and yearly Appendices, even in town meeting communities. The law requires that the municipal officers adopt the ordinance and/or Appendices after notice and hearing. Seven days posted notice is recommended, unless local law (or practice) provides otherwise.

At the hearing, the municipal officers should:

- 1) Allow all interested members of the public an opportunity to comment on the proposed ordinance;
- 2) End public discussion, close the hearing; and
- 3) Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.

Filing of GA Ordinance and/or Appendices

Please remember that General Assistance law requires each municipality to send DHHS a copy of its ordinance once adopted. In addition, any changes or amendments, such as new Appendices, must also be submitted to DHHS. DHHS will accept the enclosed "adoption sheet" as proof that a municipality has adopted the current GA maximums. This signed form may be scanned and emailed to generalassistance.DHHS@maine.gov; faxed to Robin Reed at 287-3455; or sent by US mail to: DHHS/General Assistance, 19 Union Street, 11 State House Station, Augusta, ME 04333.

Appendix A- Overall Maximums

Persons in Household

2016/2017	1	2	3	4	5
Sagadahoc County	769	851	986	1302	1581

New Maximums

Persons in Household

2017/2018	1	2	3	4	5
Sagadahoc County	781	863	999	1318	1600

**Add \$75 for each additional person

Appendix B-Food Maximums

Sagadahoc County	1	2	3	4	5
2016/2017	194	357	511	649	771
2017/2018	192	352	504	640	760

**note for each additional person add \$144 per month.

Appendix C - Housing

Appendix C is a listing of the maximum levels of assistance for housing (both heated and unheated). These maximum levels were developed by MMA using 2009-2010 HUD Fair Market Rent values that include utility costs. Because the FMR numbers include utility and heating costs, the applicable average utility and heating allowances, as developed by the Maine State Housing Authority (MSHA), are subtracted from the FMR to obtain a pure "housing" cost.

# Bedrooms	2016/2017		# Bedrooms	2017/2018	
	UnHeated	Heated		Unheated	Heated
1	657	781	1	675	796
2	749	903	2	795	922
3	1019	1207	3	1045	1228
4	1241	1407	4	1274	1497

Appendix D – Utilities

There was no change in the Utilities

1) **Electricity Maximums for Households Without Electric Hot Water.** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.70	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households With Electrically Heated Hot Water.** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

Appendix E

There was no change in fuel. We use what the applicate uses per month or the cap of what is allowed for that month at the current price for fuel.

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

Appendix F

There was no change in Personal and Household Supplies

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

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ARTICLE I

Statement of Policy

The Municipality of _____ administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours ~~after~~ after ~~of receipt~~ of ~~ving~~ of an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an

any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

Real Estate. Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

Recipient. A person who has applied for and is currently receiving general assistance.

[Registered Domestic Partner. An individual registered as the domestic partner of the applicant pursuant to 22 M.R.S.A. § 2710.](#)

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: "available" and "potential". Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

ARTICLE III

Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

Release of Information. Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

Information from Other Sources; Penalty. Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution ~~(except national banks)~~ or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Effective November 1, 2017 national banks are also obligated to disclose deposit information to the Administrator upon receipt of a written

request and release signed by the depositor. Additionally, effective November 1, 2017, when a municipality or its agents are acting in accordance with section 4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

Misuse of Information. Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided

assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that he or she is ~~they are~~ not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide

burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

Application for Assistance Shall be Calculated on Behalf of the Deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

The Financial Responsibility of Certain Family Members. [Through October 31, 2017,](#) grandparents, parents, children and grandchildren of the deceased, who live in Maine

or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Effective November 1, 2017, grandparents, parents, children and grandchildren of the deceased whether or not living in or owning property in Maine, and the spouse or registered domestic partner of the deceased, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses. The Administrator may also seek information from financial institutions holding assets of the deceased. Effective November 1, 2017, Maine law requires a financial institution to disclose the amount deposited in the corporation or association when the municipality or its agents are acting in accordance with section 4313(2) and provide a written request and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased.

Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of Familial Responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, the grandchildren, children, parents, ~~and~~ grandparents, and effective November 1, 2017, the spouse and a registered domestic partner, are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

CHAPTER 13. REFUSE

Add a new Article 5 entitled “Single Use Carry-Out Bags,” as follows:

Article 5 - Single Use Carry-Out Bags

Section 13-61. Purpose.

It is in the best interest of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State of Maine by: discouraging the distribution and use of disposable, single- use, carryout paper shopping bags, prohibition of single-use carry out plastic bags and encouraging the use of reusable shopping bags in stores, as defined below. The purpose of this ordinance is to:

- Reduce litter arising from single use bags;
- Reduce taxpayer expenses to clean-up or otherwise manage litter and its impact;
- Reduce the environmental impact of their manufacture, transportation, and disposal;
- Create a citizenry informed about the impact of plastic in the environment; and,
- Encourage a culture of sustainability and discourage a culture of disposability.

Section 13-62. Authority.

This ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. seq. as well as the general powers of municipalities to enact police power ordinances.

Section 13-63. Findings.

- Single-use carryout bags have a negative impact on the environment and wildlife; and
- The City believes that the best alternative to single-use carryout bags is the use of reusable bags for shopping, which is accomplished through prohibiting the free distribution of single-use carryout bags by stores, as defined in this section.
- It is important to keep the City of Bath as litter-free as possible to enhance the quality of life for Bath's residents and visitors; and
- Bath is a coastal community with a vested interest in protecting water resources from plastic debris; and

Section 13-64. Definitions.

Single-Use Carryout Bag means a bag other than a reusable bag, as defined below, provided at the check stand, cash register, point of sale or other point of departure from the store for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags, including paper bags, but does not include reusable bags, produce bags, or product bags.

Produce Bag or Product Bag means any bag without handles used exclusively to carry produce, meats, seafood, prescriptions, other food items or merchandise within the store to the point of sale inside such store or to prevent such items from coming into direct contact with other purchased items.

Reusable Bag means a bag that meets all of the following criteria:

- A. Is designed and manufactured to withstand repeated uses over a period of time;
- B. Is washable or made from a material that can be cleaned and disinfected regularly;
- C. If plastic, has a minimum thickness of 2.25 mils, has handles, and has the capability of carrying a minimum of 18 pounds.

Store means all retail establishments and restaurants located within the City of Bath engaged in the sale of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale, such as:

- A. A drug store, pharmacy, grocery store, convenience food store, food mart, or other entity located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- B. A hardware store, home improvement supplier, clothing store, print shop, entertainment retailer, personal care product retailer including jewelry, gifts, house wares and crafts.
- C. A farmer's market and/or its tenant participants or other temporary and/or seasonal retail entities.
- D. Fairs, festivals, craft or flea markets, or other events of an infrequent and short-term nature, shall not be considered stores for the purposes of this article.

Section 13-65. Restrictions on Single-Use Carryout Bags.

- A. **Prohibition.** No store, as defined above, shall provide a single use carryout bag made of plastic that does not meet all the criteria as a reusable bag, as defined above, to a customer at the check stand, cash register, point of sale or other point of departure from the store, for the purpose of transporting food or merchandise out of the establishment.

B. Single-Use Paper Carryout Bags.

- 1 A store may make available for sale to a customer a single-use paper carryout bag for a mandatory, minimum charge of five cents (\$0.05) per bag. The charge will increase to ten cents (\$0.10) per bag one year after this ordinance takes effect. The charge will increase to fifteen cents (\$0.15) per bag two years after this ordinance takes effect.
 - 2 All monies collected by a store for single-use carryout paper bags under this section shall be retained by the store and used by the store for any lawful purpose.
 - 3 All stores shall post signage at each point of sale clearly indicating the per bag charge for single-use carryout paper bags. This requirement shall not apply to restaurants.
 - 4 Notwithstanding this section, no store may make available for sale a single-use carryout paper bag unless the amount of the sale of the single-use carryout paper bag is separately itemized on the sale receipt.
 - 5 No store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).
- C Customer Options.** Nothing in this section shall be construed to prohibit customers from using bags of any type that the customer brings to the store for their own use or from carrying away from the store goods that are not placed in a bag provided by the store.

Section 13-66. Exemptions

A Store may be deemed exempt from the provisions of this ordinance by the City Manager, in a situation which he determines to be an emergency, threatening and requiring the immediate preservation of the public health or safety.

Section 13-67. Violations and Enforcement.

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this Ordinance. If the City Manager or his/her designee(s) determines that a violation of this Ordinance has occurred and is the first violation by the establishment within a one-year period, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Ordinance shall be subject to the penalties set forth below.

Violations of this Ordinance shall be punishable by fines as follows:

- A fine not exceeding \$250 for the second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period.
Each day that a violation occurs will be considered a subsequent violation.

Section 13-68. Effective Date.

The provisions of this ordinance shall become effective on Earth Day, April 22, 2018.

Section 13-69. Severability.

If any part or provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable.

First Passage
CITY OF BATH MAINE
IN CITY COUNCIL
October 7, 2017
RECEIVED READ AND ACCEPT
 TABLED GRANTED PASSED FAILED
REFERRED TO:
ATTEST *Mary J. White*
CITY CLERK

Second Passage
CITY OF BATH MAINE
IN CITY COUNCIL
November 1, 2017
RECEIVED READ AND ACCEPT
 TABLED GRANTED PASSED FAILED
REFERRED TO:
ATTEST _____
CITY CLERK

1714
C2



MEMORANDUM

TO: BATH CITY COUNCIL
FROM: LEE LEINER, PUBLIC WORKS DIRECTOR
SUBJECT: ORDINANCE BANNING SINGLE USE PLASTIC BAGS
DATE: SEPTEMBER 26, 2017
CC: PETER OWEN, INTERIM CITY MANAGER

As discussed with the City Council on September 6, 2017, the Solid Waste Advisory Committee presents an ordinance to encourage the use of reusable bags in Bath by:

- Banning the distribution of single use plastic bags, and
- Instituting a fee on single use paper bags.

Since January 2017 the committee has been studying whether Bath should adopt rules to reduce the volume of waste generated from single-use bags and polystyrene. Both of these items are found as litter in the environment as they do not break down. They foul waterways, impact wildlife, and clog storm drains. The manufacture of these items uses fossil fuels and causes the generation of greenhouse gases. Single use bags and non-recyclable foam containers contribute to a "throw-away culture" and it is hoped the ordinance will result in a return to a mindset of durability and reuse.

Single-use bags are those typically used by a business at the point of sale in which a customer would carry their purchased goods. Those goods may include groceries, house wares, clothing, jewelry, hardware items, etc. Businesses that may use these types of bags include grocery stores, convenience stores, drug stores, hardware stores, etc. The term single-use bag includes compostable and biodegradable bags, including paper bags, but does not include reusable bags, produce bags, or product bags.

The ordinance includes a fee on paper bags starting at \$0.05 per bag and rising to \$0.10 per bag one year after implementation of the ordinance, and to \$0.15 per bag two years after implementation. Businesses will keep any fee revenues from paper bag sales.

Businesses are free to choose whether to offer paper bags for purchase, to offer for purchase or give away any type of reusable bags, or require customers to bring their own bags or other containers. Customers may bring their own bags, not use bags, or purchase a paper or reusable bag.

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

CHAPTER 13. REFUSE

Add a new Article 6 entitled "Consumer Packaging," as follows:

Article 6 - Consumer Packaging

Section 13-91. Purpose.

It is in the best interests of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State of Maine and the waterbodies within and surrounding the City by prohibiting the use and distribution of polystyrene food service ware and promoting and requiring the use of biodegradable, recyclable, and compostable alternatives. Therefore, the purpose of this Ordinance is to ban the use of polystyrene foam food service ware in order to reduce litter, to minimize the impact on the City's landfill, reduce the necessity to manage litter and the impact of that litter, and reduce the expense to the taxpayers for cleanup and to reduce the environmental impact of the use of polystyrene foam food service ware.

Section 13-92. Authority.

This ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. Seq. as well as the general powers of municipalities to enact police power ordinances.

Section 13-93. Findings.

- Polystyrene foam food service ware is not biodegradable and the litter that it causes does not decompose over time but remains in the natural environment.
- Polystyrene foam food service ware constitutes a significant adverse environmental impact. It creates problems for the City's waste management programs, litters the City's streets, parks, public places, and open spaces, clogs storm drains, culverts, and catch basins, and creates significant expense to remove the litter, while damaging terrestrial and marine habitats.
- National and international organizations have acknowledged the threat of chlorofluorocarbons to the earth's atmosphere and depletion of the ozone layer.

- Products which are degradable, recyclable, and compostable offer environmentally sound alternatives to the non-degradable and non-recyclable products currently used. The use of these products and the banning of polystyrene foam food service ware provides a lesser danger to the natural environment, resulting in less environmental damage and reduced costs.

Section 13-94. Definitions.

As used in this article, the following terms have the following meanings:

Biodegradable means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature, within a reasonably short period of time after customary disposal, and is consistent with the materials accepted at the composting facility used by the City of Bath.

Disposable food service ware means all containers, bowls, plates, trays, cartons, cups, and other items that are designed for one-time use and on, or in, which any restaurant or retail food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants or retail food vendors.

Food packager means any person who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.

Prepared food means food or beverages that are served at the food vendor's location having been previously prepared elsewhere or are prepared at the vendor's location by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. "Prepared food" does not mean raw uncooked meat or eggs. Prepared food may be eaten either on or off premises.

Polystyrene foam means and includes blown polystyrene and expanded and extruded foams (sometimes referred to as Styrofoam®; a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. For the purposes of this chapter, the term "polystyrene" shall not include clear polystyrene known as "oriented polystyrene."

Restaurant, for purposes of this Article, means any establishment located within the City of Bath that sells prepared foods for consumption on, near, or off its premises by a customer.

Retail food vendor means any person, restaurant, store, shop, sales outlet or other establishment, including without limitation, a grocery store, convenience or variety store or a delicatessen located within the City of Bath which sells prepared foods.

Section 13-95. Prohibitions.

- (a) No retail vendor shall serve or sell prepared food in polystyrene foam containers and shall not package meat, eggs, bakery products or other food in polystyrene foam containers.
- (b) No food packager shall package meat, eggs, bakery products or other food in polystyrene foam containers.
- (c) The City shall not use polystyrene foam food or beverage containers at any City facility or City-sponsored event.
- (d) No City department or facility shall purchase or acquire polystyrene foam food or beverage containers.
- (e) All parties who contract with the City shall be prohibited from using polystyrene foam food and beverage containers in City facilities or on City-funded projects within the City.

Section 13-96. Exemptions.

- (a) The sale and packaging of raw meat and live seafood is exempt from the provisions of this article.
- (b) Retail vendors, food packagers, City departments, City facilities and contractors shall be exempt from the provisions of this article, in a situation deemed by the City manager to be an emergency for the preservation of the public peace, health or safety.
- (c) Retail vendors that receive items, pre-packed in polystyrene foam food or beverage containers, packaged outside of the City of Bath, may re-sell items without repackaging those items.

Section 13- 97. Required biodegradable and compostable disposable food service ware.

- (a) All food vendors using any disposable food service ware will use biodegradable or compostable disposable food service ware unless they can show an affordable biodegradable or compostable product is not available for a specific application. Food vendors are strongly encouraged to provide reusable food service ware in place of disposable food service ware.
- (b) All City facilities will use biodegradable or compostable disposable food service ware unless they can show an affordable biodegradable or compostable product is not available for a specific application.
- (c) City contractors and vendors doing business with the City will use biodegradable food service ware in City facilities or on City projects within the City of Bath, unless they can show an affordable biodegradable or compostable product is not available for a specific application.

Section 13-98. Violations and enforcement.

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this ordinance. If the City Manager determine(s) that a violation of this ordinance has occurred

and is the first violation by the establishment within a one-year period, he/she shall issue a written warning notice to the food vendor that a violation has occurred. Subsequent violations of the Ordinance shall be subject to the penalties set forth below.

Violations of this Ordinance shall be punishable by fines as follows:

- A fine not exceeding \$250 for the second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period. Each day that a violation occurs will be considered a subsequent violation.

Section 13-99. Effective date.

The provisions of this Ordinance shall become effective on Earth Day, April 22, 2018.

Section 13-100. Severability.

If any part or provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby, and shall continue in full force and effect. To this end, provisions of this ordinance are severable.

First Passage
CITY OF BATH MAINE
IN CITY COUNCIL
October 4, 2017
RECEIVED READ AND ACCEPT
 TABLED GRANTED PASSED FAILED
REFERRED TO: _____
ATTEST Mary White
CITY CLERK

Second Passage
CITY OF BATH MAINE
IN CITY COUNCIL
November 1, 2017
RECEIVED READ AND ACCEPT
 TABLED GRANTED PASSED FAILED
REFERRED TO: _____
ATTEST _____
CITY CLERK



d3

MEMORANDUM

TO: BATH CITY COUNCIL
FROM: LEE LEINER, PUBLIC WORKS DIRECTOR
SUBJECT: ORDINANCE BANNING POLYSTYRENE FOAM CONTAINERS
DATE: SEPTEMBER 26, 2017
CC: PETER OWEN, INTERIM CITY MANAGER

As discussed with the City Council on September 6, 2017, the Solid Waste Advisory Committee presents an ordinance to ban the use of polystyrene foam containers for prepared food.

Since January 2017 the committee has been studying whether Bath should adopt rules to reduce the volume of waste generated from single-use bags and polystyrene. Both of these items are found as litter in the environment as they do not break down. They foul waterways, impact wildlife, and clog storm drains. The manufacture of these items uses fossil fuels and causes the generation of greenhouse gases. Single use bags and non-recyclable foam containers contribute to a "throw-away culture" and it is hoped the ordinance will result in a return to a mindset of durability and reuse.

Polystyrene means and includes blown polystyrene and expanded and extruded foams (sometimes referred to as Styrofoam®; a Dow Chemical Company trademarked form of polystyrene foam insulation). This material is typically used to manufacture containers for food sales. The ordinance would ban the use of cups and packaging made of polystyrene by any Bath business for the purpose of selling prepared food. There are exceptions for raw meats and seafood and other uses.

Businesses choosing to offer packaging for prepared foods must select packaging made of a material other than polystyrene foam. There are several alternatives available. Use of polystyrene foam containers will not be permitted at any City government sponsored event or facility. This ordinance does not ban the sale of polystyrene foam containers to the public.

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

ARTICLE 15: FLOODPLAIN MANAGEMENT ORDINANCE
[NEW ARTICLE JULY 16, 2015]

Amend the following Sections by adding the underlined text and omitting the crossed out text, as follows:

SECTION 15.02 PERMIT REQUIRED

Before any construction or other development (as defined in Section 15.04~~14~~), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 15.01, a Flood Hazard Development Permit must be obtained except as provided in Section 15.07. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Bath, Maine.

SECTION 15.05 REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 15.09-10 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Section 15.03, 15.06, and Section 15.08 of this Ordinance.

SECTION 15.06 DEVELOPMENT STANDARDS

J. **Accessory Structures** - Accessory Structures, as defined in Section 15.14, located within Zones ~~A and AE~~, AO, AH and A, shall be exempt from the elevation criteria required in Section 15.06.F. & G. above, if all other requirements of Section 15.06 and all the following requirements are met. Accessory Structures shall:

~~1. be 500 square feet or less and have a value less than \$3000;~~

21. have unfinished interiors and not be used for human habitation;

- | 23. have hydraulic openings, as specified in Section 15.06.L.2., in at least two different walls of the accessory structure;
- | 34. be located outside the floodway;
- | 45. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- | 56. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

| SECTION 15.105 ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

First Passage
 CITY OF BATH MAINE
 IN CITY COUNCIL
October 4, 2017
 RECEIVED READ AND ACCEPT
 TABLED GRANTED PASSED FAILED
 REFERRED TO:
 ATTEST Mary White
 CITY CLERK

Second Passage
 CITY OF BATH MAINE
 IN CITY COUNCIL
November 1, 2017
 RECEIVED READ AND ACCEPT
 TABLED GRANTED PASSED FAILED
 REFERRED TO:
 ATTEST _____
 CITY CLERK

City of Bath

55 Front Street
Bath, Maine 04530

Dept: 207/443-8363
Fax: 207/443-8389



**Planning &
Development**

MEMORANDUM

TO: Mari Eosco, Chair
City Councilors

FROM: Andrew H. Deci, Director of Planning & Development

DATE: September 26, 2017

RE: Land Use Code Amendment to Floodplain Ordinance

The Planning Board has unanimously recommended adoption of the attached amendments to the floodplain ordinance. These amendments are proposed to bring our local code into conformance with the state's model code.

Besides clerical omissions, the principal modification is the standards of review for accessory structures within the Shoreland zone. This issue was raised to Staff's attention as part of a development review inquiry from our Code Enforcement Officer to the state.

No members of the public spoke at the public hearing held by the Planning Board on September 19, 2017.

Please let City Solicitor Therriault or I know if you have any questions.

Fl6

CITY OF BATH, MAINE



CITY CLERK'S OFFICE

City Hall, 55 Front Street
Bath, Maine 04530

Telephone: (207) 443-8332
Facsimile: (207) 443-8337
November 1, 2017

Chief of State Police
Department of Public Safety
Gambling Control Unit
87 State House Station
Augusta, Maine 04333-0087

Dear Sir:

Please be advised that at a Regular Meeting of the Bath City Council held on November 1, 2017, the undersigned Municipal Officers hereby certify that they consent to this Letter of Approval to operate a Game of Chance and/or Beano Games in accordance with the provisions of R.S. 1964, T. 17, Chapter 14, Sections 330-346, as amended, for the following organization:

American Legion - Smith Tobey Post #21 of Bath, Maine

This approval will be in force through December 31, 2017.

Gregory Page, Ward 1

Susan Bauer, Ward 6

Sean Paulhus, Ward 2

Aaron Park, Ward 7

Terry Nordmann, Ward 3

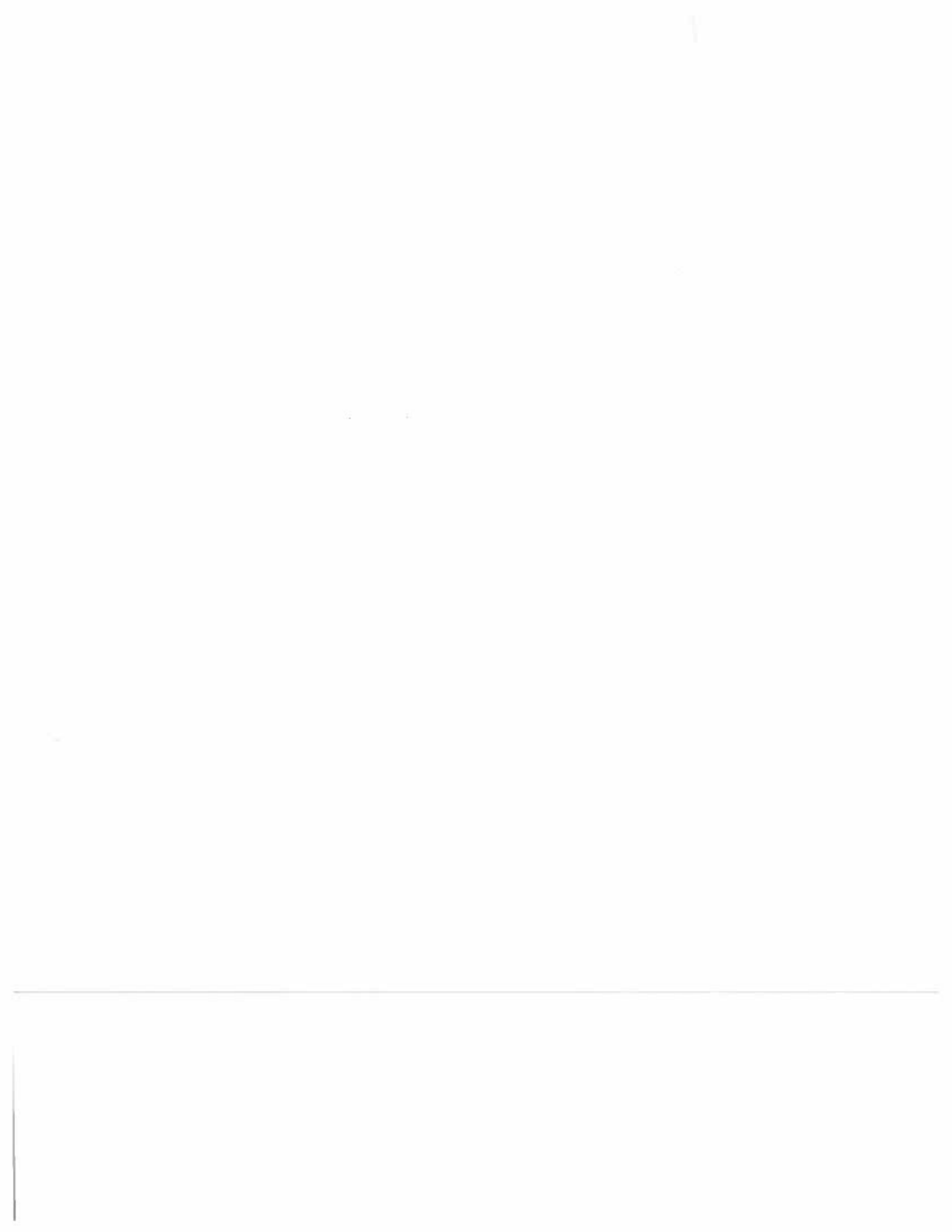
Mari H. Eosco, At Large

Bernard Wyman, Ward 4

James Omo, At Large

David Comeau, Ward 5

Attest: _____
Mary J. White, City Clerk



**ORDER
AUTHORIZING PURCHASE**

WHEREAS, the City of Bath Public Works Department intends to purchase a new dump truck; and

WHEREAS, the City has gone out to bid for this equipment; and

WHEREAS, the City has received and opened a number of bids relative to the equipment purchase; and

WHEREAS, the most qualified bid was provided by Daigle & Houghton for a 2019 Western Star Model # 4700SF at a bid price of \$150,293.00.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the bid price provided by Daigle & Houghton of \$150,293.00 for the purchase of a 2019 Western Star Model # 4700SF, be and hereby is accepted and the City Manager is authorized to execute any and all documentation necessary to finalize the purchase of the equipment. The funds for this purchase are designated in the City's 2017/2018 Fiscal Year Budget in Public Works Capital Fund Replacement Account 05-0520-533.



MEMORANDUM

TO: BATH CITY COUNCIL
FROM: LEE LEINER, PUBLIC WORKS DIRECTOR
SUBJECT: COUNCIL APPROVAL OF TRUCK PURCHASE
DATE: OCTOBER 23, 2017
CC: PETER OWEN, INTERIM CITY MANAGER

The Public Works Department has accepted a bid proposal from Daigle & Houghton for a 2019 Western Star 4700 SF dump truck with front and wing plow equipment. The truck will replace a 1993 Ford L-8000 and will be used for plowing snow and hauling materials. The proposal includes the trade-in of the existing truck. The price of the new truck is \$160,293.00 and the trade-in value is \$10,000, bringing the net purchase price to \$150,293.00.

The City Council approved \$175,000 for the purchase of a new Public Works truck in the FY2018 budget and will be paid from account 05-0520-533.

Staff recommends the council approve this order.

