

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, August 7, 2019, 6:00 PM
City Council Chambers, Bath City Hall**

Present: Councilor Bailey was excused, Councilor Paulhus, Councilor Nordmann, Councilor Leonard, Councilor Comeau, Councilor Bauer, Councilor Park, Councilor Ambrosino and Madame Chair Eosco

Also in attendance were the Assistant City Manager – Marc Meyers, City Solicitor – Roger Therriault and City Clerk – Mary C. Howe.

Madame Chair Eosco led the Pledge of Allegiance and Mary C. Howe, City Clerk called the Roll.

Proclamation recognizing “Kindness Day” to be held on August 17, 2019.

Madame Chair Eosco read the following Proclamation:

PROCLAMATION

WHEREAS Kindness Day is the dream of Morse High Senior Bryanna Ringrose, which evolved from a conversation with her best friend Taylor Bisson, and

WHEREAS the desire was to have a day in Bath where everyone could just focus on doing small acts of kindness for each other, and

WHEREAS this event is co-ordinated by Jennifer McDorr and Darreby Ambler with the help and support from the community of merchants, area non-profits, Main Street Bath and a number of individuals jumping onboard to make this dream a reality, and

WHEREAS the power of kindness lies in every individual and by recognizing, understanding and actually using this power, we have the ability to send out a positive ripple that may travel for miles, and

WHEREAS no one, no matter how young or how small, is too little to make a difference in our own community and our world and through random acts of kindness, we can promote healthy behaviors and positive dynamics within our community, nourishing and strengthening our community with a celebration of simple kindness that encourages people to tap into their own human spirit;

NOW THEREFORE BE IT PROCLAIMED that August 17, 2019 shall be recognized as Bath Kindness Day remembering that simple day-to-day acts of kindness enable our community to be a kinder, safer and more secure place to live, work and play and to urge all citizens to participate in spreading kindness, and practicing respect, generosity, patience and consideration of others not just this day, but every day of the year.

Jennifer McDorr, coordinator of “Kindness Day”, announced that on August 17th the community will be coming together on Front Street on the sidewalks of the downtown area between 10:00 a.m. and 2:00 p.m. to share acts of kindness and encourages everyone to show up and participate.

Noah Eckstein, Planning Board Comprehensive Planning Intern from the Bowdoin College Environmental Studies Fellowship Program stated that his primary role was to update the old comprehensive plan and bring it up to date. He’s been laying the groundwork, collecting the data and the

facts that will be analyzed. Noah presented some figures, charts, tables and maps to the Councilors to give examples. Noah explained the data and the significance of his findings. He talked about the population decrease with deaths outnumbering births in the City. He talked about Bath's median age over time and about how the population of Bath has changed from 1980 to 2017 and that the median age was just over 30 years to now, over 40 years. Maine has the oldest population in the country and Bath is on the older age of that spectrum. He talked about how the population has changed since 1960. When including all of the surrounding towns, Bath is the only town that has seen a decrease in its population. Noah also stated that the school enrollment has decreased over the last 15 years in Bath and the population is getting smaller and older. There are decreasing numbers of people moving into Bath and younger people are moving away. Noah spoke about the high crash locations in Bath, beginning with intersection of State Road and Route #1, High Street and Route #1, High Street, Centre Street and Middle Street.

Emma Kryzivat, also a Bowdoin College student, introduced herself as working in the City Manager's Office as an intern. Her focus has been on greenhouse gas and emissions inventory and the climate action plan. The last update was in 2008. Emma's data research has involved contacting departments and state agencies such as MDOT, DEP, CMP, BIW and many more to capture data for fuel uses and electricity within the City of Bath. Most of the emissions are methane, carbon dioxide and nitrous oxide. The software program used included a community track and a government track. The community track incorporated everything for the City of Bath including emissions from the government while the government track separates all emissions from the municipality. Government tracks saw a 27% reduction in emissions and community tracks saw a 28% reduction which included residential and commercial since 2007.

Marc Meyers, Assistant City Manager, added that the City has been working with Revision Energy talking about a potential project to offset some of Bath's electricity costs.

Madame Chair Eosco thanked Noah and Emma for doing all of this work that the staff would not normally have time to do and for their presentations. She, also, told them that they were very impressive young people and she was excited they were going out into the world to make it a better place.

C. Public Hearings: 6:01 PM
1)

Madame Chair Eosco read the following 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:

Amend Article 16, by adding Section 16.28, as follows:

SECTION 16.28 BATH IRON WORKS CONTRACT ZONE, NUMBER 3

A. District Designation

The property designated for contract rezoning is the property located on Washington Street, being identified as Lot 142, on City of Bath Tax Map 27 and a portion of Lot 165 on City of Bath Tax Map 32 dated April 1, 2018.

B. Findings

The property is located in the Industrial / Shipyard(I) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Industrial/ Shipyard Zoning District.
2. The project consists of adding a canopy over the four existing turnstile units located at each of the four main entry gates to Bath Iron Works.
3. The structures are accessory to the industrial use.
4. Without the creation of a contract zone, the minimum yard area is 25 feet from the front, and 5 feet from the side and rear of the parcel. Two of the canopies are proposed to be constructed in the yard area, necessitating contract zoning.
5. Without the creation of a contract zone, the minimum setback is 50 feet from the front lot line, and 25 feet from the side and rear lot lines. The canopy proposed over two of the existing turnstiles is within the front setback necessitating contract zoning. The contract zone will relax the front setback to 0 feet from the front lot line.
6. Contract rezoning is allowed on the parcel per section 8.14 (D) of the Land Use Code.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D1.
8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
 - The applicant will provide \$15,000 worth of pedestrian improvements along Washington Street as outlined in the South End Transportation Study.

C. Zoning Provision Affected

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the canopies and other site improvements depicted on the Site Plan approved, without conditions, by the Bath Planning Board on June 4, 2019.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to Bath Iron Works, by the Bath Planning Board on June 4, 2019.

Councilor Ambrosino made the motion to waive the reading of the ordinance and it was seconded by Councilor Park. All were in favor of waiving the reading.

Madame Chair Eosco asked for a motion to put the ordinance on the floor for discussion.

Councilor Bauer made the motion and it was seconded by Councilor Park.

Benjamin Averill, City Planner, stated that this was a second passage for Contract Rezoning at 700 Washington Street for installation of canopies on top of existing turnstile gates. BIW went through the Planning Board and has been approved, on a site plan level, to install turnstile gates on all the main entrances and is now awaiting approval from the Council. BIW is proposing to reduce the setback to zero and is willing to give \$15,000.00 as a discretionary condition towards the work that's part of the transportation study.

ROLL CALL VOTE:

Councilors Paulhus, Councilor Nordmann, Councilor Leonard, Councilor Comeau, Councilor Bauer, Councilor Park and Councilor Ambrosino

YEAS: 7

NAYS: 0

Madame Chair Eosco stated that this ordinance will become law in 21 days.

D. Consent Agenda: 6:44 PM

***2) Minutes of the previous Council Meeting of July 3, 2019. (motion to accept as presented)**

Councilor Park made the motion to accept and it was seconded by Councilor Bauer.

All were in favor.

E. Time Devoted to Residents to Address the City Council:

F. Resolutions, Orders and Ordinances:

3) ORDINANCE: Approving Contract for Public Works Employees, Cemeteries and Parks Employees and Water Pollution Control Facility Employees (*first passage*)

Madame Chair Eosco read the following ordinance:

ORDINANCE APPROVING CONTRACT

Public Works Employees, Cemeteries and Parks Employees and Water Pollution Control Facility Employees

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT, PURSUANT TO THE REQUIREMENTS OF §1102 OF THE CHARTER OF THE CITY OF BATH, A BARGAINING AGREEMENT BY AND BETWEEN THE CITY OF BATH AND THE BATH PUBLIC WORKS EMPLOYEES, BATH CEMETERIES AND PARKS DEPARTMENT EMPLOYEES, AND THE BATH WATER POLLUTION CONTROL FACILITY EMPLOYEES, LOCAL NO. S-89 OF DL-4 THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, IAMAW, AFL-CIO, COMMENCING JULY 1, 2019, AND EXTENDING THROUGH JUNE 30, 2022, A COPY OF WHICH IS ATTACHED HERETO, BE AND HEREBY IS APPROVED, AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID CONTRACT ON BEHALF OF THE CITY OF BATH.

Madame Chair Eosco asked for a motion to put the ordinance on the floor for discussion.

Councilor Bauer made the motion and it was seconded by Councilor Ambrosino.

Marc Meyer, Assistant City Manager, stated they have reached a three year contract agreement beginning July 1st of this year until June 30, 2022. The wage increase of 85 cents goes into effect on January 1, 2020. On January 1, 2021, there will be a 2.5 % increase and the following year there will be a 1.75% increase. The various rate increases have been removed and replaced with a 20 cent raise, beginning July 1st of this year.

ROLL CALL VOTE:

Councilor Ambrosino, Councilor Park, Councilor Bauer, Councilor Comeau, Councilor Leonard, Councilor Nordmann and Councilor Paulhus

YEAS: 7

NAYS: 0

All were in favor of the ordinance.

4) RESOLUTION: Non-profit waiver for The Virginia Project, Inc. d/b/a Maine's First Ship

RESOLUTION

DECLARING A LANDFILL FEE-WAIVER POLICY

Acknowledging that non-profit institutions are a vital resource to the City of Bath and an important part of the fabric of the community,

Realizing that the City of Bath's landfill is one of the few operating landfills left in Maine and has a finite life-span remaining,

Understanding that there are real personnel and overhead costs associated with its operation and its eventual closure,

Further realizing that most non-profits are tax-exempt and do not pay property or business taxes to the City, yet they do utilize City services from time to time,

Further realizing that forgiving tipping fees is, in effect, a donation to a particular non-profit from the taxpayers of Bath,

And understanding that the City must be as fair and equitable as possible to all non-profits doing business within City limits, and not favor any one non-profit over another,

The City Council hereby declares that tipping fees may be waived for any requesting non-profit, for construction or demolition-related projects only, for an amount not to exceed an equivalent of \$3,000 over any ten-year period as assessed at the scales of the City Landfill. Materials delivered to the landfill must be separated and include no toxic or volatile organic compounds (VOC's). Requests for waivers for each construction or demolition project must be made in writing and include all prior waiver(s) granted that organization and its value certified by the Landfill Director and passed by Resolution of the Bath City Council. Nothing herein shall require approval of any particular request and the Council reserves the right to consider and act on each individual request on its own merits.

An Annual Report by the Landfill Director will be made to the City Council for all waived non-profits.

Madame Chair Eosco asked for a motion to put the resolution on the floor for discussion.

Councilor Bauer made the motion and it was seconded by Councilor Park.

Marc Meyers stated that back in 1999 the City Council passed a resolution declaring a landfill waiver fee policy. The Council will need to weigh the merits of Mr. Wood's application to determine whether it qualifies for this waiver. A suggestion was made by Peter Owen, City Manager, prior to this Council Meeting, to take another look at this resolution since the landfill has a diminishing lifespan.

Lee Leiner, Director of Public Works, stated that about twenty one organizations have taken advantage of the non-profit waiver since 1999. There were nine active organizations in 2019; twelve have not been active at all. Most of the debris have been demolition materials and often for specific projects. The average fee waiver, per organization, was \$570.00 since the non-profit waiver was granted. Most of the approvals were made by Council from 1999 to 2004 and a lot less since then. Mr. Leiner's conclusion was that there has not been a lot of activity in recent years. There has been approximately \$12,000.00 of lost revenue by granting these waivers.

Madame Chair Eosco asked Mr. Wood to come up and speak about his request for the waiver.

Dan Wood introduced himself as a member of the volunteers of Maine's First Ship. Mr. Wood stated that the majority of materials taken to the landfill would be wood.

Councilor Park made the motion to grant the waiver and it was seconded Councilor Ambrosino

VOTE:

YEAS: 7

NAYS: 0

5) 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: Amend Article 9 – Uses, as follows: Add Section 2.3, Section 4.3, and Section 16.9 to the Land Use Table in Article 9, Article 18 – Adult Use and Medical Marijuana. *(first passage)*

Madame Chair Eosco read the following ordinance:

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:

Add Article 18 – Adult Use and Medical Marijuana, as follows:

Article 18- ADULT USE AND MEDICAL MARIJUANA

Section 18.01 PURPOSE

The purpose of this article is to provide for the regulation of marijuana establishments as defined in this Article and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S. Chapter 1 as may be amended.

Section 18.02 AUTHORITY

This article is adopted pursuant to the authority granted by 28-B M.R.S. § § 1401 et seq., as may be amended.

Section 18.03 DEFINITIONS

As used in this Article, the following words and phrases shall have the meanings ascribed to them in this section.

Adult Use Marijuana shall mean “adult use marijuana product” as that term is defined in 28-B M.R.S. § § 1102 (2), as may be amended.

Applicant shall mean a person that has submitted an application for licensure as a marijuana establishment or medical marijuana establishment pursuant to this Article.

Cultivate or Cultivation shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other processing of marijuana for use or sale. It does not include manufacturing.

Licensed Premises shall mean the premises specified in an application for a state or local license pursuant to this Article that are owned or in possession of the licensee and within which the licensee is authorized to Cultivate, Manufacture, distribute, sell, or test Adult Use Marijuana or Adult Use Marijuana Products in accordance with the provisions of this Article and the requirements of state law and regulations.

Licensee shall mean a person licensed pursuant to this Article or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Article.

Local Licensing Authority shall mean the City Clerk or the City Council, as further specified in the provisions of this Article.

Manufacture or Manufacturing shall mean the production, blending, infusion, compounding, or other preparation of marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. It does not include cultivation.

Marijuana shall mean “marijuana” as defined in 28-B M.R.S. §§ 1102(27), as may be amended.

Marijuana Concentrate shall mean the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin, including, but not limited to hashish. In determining the weight of Marijuana Concentrate in a marijuana product, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Marijuana Cultivation Facility shall mean a “cultivation facility” as that term is defined in 28-B M.R.S. §§ 1102 (13), as may be amended. A Marijuana Cultivation Facility is an entity licensed to cultivate, prepare, and package Adult Use Marijuana and to sell Adult Use Marijuana to Marijuana Establishments.

Marijuana Establishment shall mean a “marijuana establishment” as that term is defined in 28-B M.R.S. §§ 1102 (29), as may be amended. A Marijuana Establishment is a Marijuana Store, a Marijuana Cultivation Facility, a Marijuana Products Manufacturing Facility, or a Marijuana Testing Facility.

Marijuana Products Manufacturing Facility shall mean a “products manufacturing facility” as that term is defined in 28-B M.R.S. §§ 1102 (42), as may be amended. A Marijuana Products Manufacturing Facility is an entity licensed to purchase Adult Use Marijuana products; and to sell Adult Use Marijuana products from a Marijuana Cultivation Facility only to other Marijuana Products Manufacturing Facilities, and Marijuana Stores.

Marijuana Store shall mean a “marijuana store” as defined in 28-B M.R.S. §§ 1102 (33), as may be amended. A Marijuana Store is an entity licensed to purchase Adult Use Marijuana from a Marijuana Cultivation Facility and to purchase Adult Use Marijuana products from a Marijuana Products Manufacturing Facility and to sell Adult Use Marijuana and Adult Use Marijuana products to consumers.

Marijuana Testing Facility shall mean a “testing facility” as defined in 28- B M.R.S. §§ 1102 (53), as may be amended. A Marijuana Testing Facility is a facility licensed to develop, research, and test Marijuana, marijuana products, and other substances.

Medical Use shall mean the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of Marijuana or paraphernalia relating to the administration of Marijuana to treat or alleviate a qualifying patient’s medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under 22-M.R. S. §§ 2421-2430-H.

Medical Marijuana Storefront shall mean an establishment which resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons, and which is operated by one or more registered primary caregivers as defined by 22 M.R.S. §§ 2422 (8-A) for the sale of Marijuana and marijuana products to qualifying patients as defined by 22 M.R.S. §§ 2422(9).

Owner shall mean a person whose beneficial interest in a Marijuana Establishment is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Marijuana Establishment and has a controlling interest in a Marijuana Establishment.

Registered Dispensary or “dispensary” shall mean an entity registered under section 22-M.R.S. §§ 2421-2430-H. that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Person shall mean a natural person, partnership, association, corporation, or a manager, agent, owner, director, servant, officer, or employee thereof. “Person” does not include any governmental organization.

State license shall mean any license issued by the state licensing authority.

State licensing authority shall mean the authority created by the State for the purpose of regulating and controlling the testing and sale of Adult Use Marijuana and Adult Use Marijuana products in the state.

Section 18.04 MARIJUANA ESTABLISHMENTS

Marijuana Establishments, Dispensaries, and Medical Marijuana Storefronts shall be allowed, subject to the requirements and restrictions of this article.

Section 18.05 Prohibited Activities

- A. No Marijuana Establishment, Dispensary, or Medical Marijuana Storefronts shall be established or operated within the City without first receiving and then maintaining all approvals required under this Code, including, but not limited to, this article and other articles as required by the Land Use Code,
- B. No Marijuana Establishment, Dispensary, or Medical Marijuana Storefronts shall conduct any activity for which it has not received the required state license and local license. Local license requirements are detailed in the City Code section

Section 18.06 LICENSE REQUIRED

- A. State license** A Marijuana Establishment, Dispensary, or Medical Marijuana Storefront shall not operate until it is licensed by the state licensing authority pursuant to the requirements of 28-B M.R.S. §§ 101-1504, Chapter 1, as may be amended. An applicant may not operate a Marijuana Establishment, Dispensary, or Medical Marijuana Storefront without a state license and all other necessary local approvals.
- B. Local license** A local license issued under the provisions of this article is required for any Marijuana Cultivation Facility, Marijuana Products Manufacturing Facility, Marijuana Store, Dispensary, or Medical Marijuana Storefront. A Marijuana Testing Facility does not require a local license.

Section 18.07 PERFORMANCE STANDARDS FOR MEDICAL MARIJUANA

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed Medical Marijuana Dispensary or Medical Marijuana Storefront for which an application has not been submitted and acted upon by the Planning Board prior to January 1, 2019. The following standards apply to all medical marijuana Dispensaries and Medical Marijuana Storefronts:

- A. Location Criteria** No medical marijuana Dispensary or Medical Marijuana Storefront shall be sited within 500 feet of the lot lines of any of the following:
 - 1. A public or private elementary, secondary, or post-secondary school
 - 2. A licensed child care facility, day-care facility, or day-care home
 - 3. Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment centerThe distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary or medical

marijuana storefront and the lot line of the site of the use listed above at their closest points.

A Marijuana Establishment may continue to operate in its present location as a pre-existing use if a use as listed in Section 18.07 A locates within the applicable buffer zone, however, the Marijuana Establishment does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana establishment near another use.

B. Signage and Advertising All signage and advertising for a medical marijuana Dispensary and Medical Marijuana Storefront shall comply with the applicable provisions of the Advertising Ordinance of the City of Bath.

C. Security Requirements Security measures at a medical marijuana Dispensary, Medical Marijuana Storefront, and any associated Cultivation facilities shall include, at a minimum, the following:

1. Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises
2. Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition
3. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises
4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Land Use Code
5. Deadbolt locks on all exterior doors and locks or bars on any other access points

All security recordings shall be preserved for at least seventy-two (72) hours. The medical marijuana Dispensary or Medical Marijuana Storefront shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the medical marijuana Dispensary or Medical Marijuana Storefront.

D. Cultivation If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana. The plant canopy of a Marijuana Cultivation Facility shall not exceed

10,000 square feet in area. A Cultivation Facility must comply with all building and life safety codes

E. On site Consumption of Medical Marijuana The consumption, ingestion, or inhalation of medical marijuana on or within the premises of a medical marijuana Dispensary, Medical Marijuana Storefront, or Cultivation Facility is prohibited.

F. Visibility of Activities

1. All activities of medical marijuana Dispensaries, Medical Marijuana Storefronts, and Cultivation facilities including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.
2. No Marijuana or paraphernalia shall be displayed or kept in a Dispensary, Medical Marijuana Storefront, or Cultivation Facility so as to be visible from outside the premises.

G. Odor Management For all Medical Marijuana Establishments, the odor of Marijuana must not be perceptible at the exterior of the building, at the premises, or at any adjoining use of the property. Medical Marijuana Cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Medical Marijuana Storefronts and Dispensaries are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all establishments are strongly encouraged to adopt best management practices with regard to implementing state of the art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

1. Marijuana manufacturing facilities and marijuana testing facilities shall include proper ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
2. Sufficient measures and means of preventing smoke debris, dust, fluids, and other substances from exiting a marijuana establishment must be provided at all times.

H. Disposal All Medical Marijuana Establishments shall have in place an operational plan for proper disposal of Marijuana and related by products in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations. Dumpster and refuse containers must not be overflowing and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from the public view. All trash receptacles on the premises used to discard marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such

trash receptacles. In addition, all dumpsters and containers must comply with all other articles of the Land Use Code.

- I. Sale of Edible Products** No food products shall be sold, prepared, produced, or assembled by a Medical Marijuana Dispensary or Medical Marijuana Storefront except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- J. Drive Through** Medical Marijuana Establishments, including Medical Marijuana Dispensaries and Medical Marijuana Storefronts, are prohibited from having drive-through facilities. Retail sales of Medical Marijuana shall only be made from within a retail establishment
- K. Other Laws Remain Applicable** A Medical Marijuana Dispensary or Medical Marijuana Storefront shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

SECTION 18.08 PERFORMANCE STANDARDS FOR ADULT USE MARIJUANA ESTABLISHMENTS

Notwithstanding the provisions of 1 M.R.S § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed Marijuana Establishment for which an application has not been submitted and acted upon by the Planning Board prior to January 1, 2019. The following standards apply to all Adult Use Marijuana Establishments:

- A. Location Criteria** No Marijuana Establishment shall be sited within 500 feet of the lot lines of any of the following:

- 1. A public or private elementary, secondary, or post-secondary school
- 2. A licensed child care facility, day-care facility, or day-care home
- 3. Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center

The distance cited in this subsection shall be measured between the lot line of the proposed site for the marijuana establishment and the lot line of the site of the use listed above at their closest points.

A Marijuana Establishment may continue to operate in its present location as a pre-existing use if a use as listed in Section 18.08 A locates within the applicable buffer zone, however, the Marijuana Establishment does so at its own risk, and City-issued licenses, permits or approvals provide no protection

or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana establishment near another use.

B. Cultivation The plant canopy of a Marijuana Cultivation Facility shall not exceed 10,000 square feet in area. A Cultivation Facility must comply with all building and life safety codes. If there is both the cultivation and retail sales of adult use marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for retail sale of marijuana.

C. Separation of Marijuana Retail Facilities No adult use Marijuana Store shall be sited within 300 feet of another adult use Marijuana Store as measured by the closest points between the storefronts.

D. Signage and Advertising All signage and advertising for adult use Marijuana Establishments shall comply with the applicable provisions of the Advertising Ordinance of the City of Bath.

E. Security Requirements Security measures at an adult use Marijuana Establishment shall include, at a minimum, the following:

1. Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts, and nuisance activities occurring at the premises.
2. Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition.
3. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises.
4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Land Use Code.
5. Deadbolt locks on all exterior doors and locks or bars on any other access points.

All security recordings shall be preserved for at least seventy-two (72) hours. The Marijuana Establishment shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the establishment.

F. No Outdoor Sales All activities of Marijuana Establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana Establishments are not permitted as outdoor sales or services of any kind.

G. Display of Paraphernalia No marijuana or paraphernalia shall be displayed or kept in an adult use Marijuana Retail Store, or Cultivation Facility so as to be visible from outside the premises.

H. Odor Management For all Marijuana Establishments the odor of marijuana must not be perceptible at the exterior of the building, at the premises, or at any adjoining use of the property. Marijuana Cultivation Facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Marijuana stores, Marijuana Manufacturing Facilities, and marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state of the art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

1. Marijuana Manufacturing Facilities and Marijuana Testing Facilities shall include proper ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
2. Sufficient measures and means of preventing smoke debris, dust, fluids, and other substances from exiting a Marijuana Establishment must be provided at all times.

I. Disposal All Marijuana Establishments shall have in place an operational plan for proper disposal of marijuana and related by products in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations. Dumpster and refuse containers must not be overflowing and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from the public view. All trash receptacles on the premises used to discard marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles. In addition, all dumpsters and containers must comply with all other articles of the Land Use Code.

J. Sale of Edible Products No food products shall be sold, prepared, produced, or assembled by a Marijuana Establishment except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

K. Drive Through Marijuana Establishments are prohibited from having drive-through facilities. Retail sales of Adult Use Marijuana shall only be made from within a retail establishment.

- L. Other Laws Remain Applicable** A Marijuana Establishment shall meet all operating and other requirements of State and local laws and regulations. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing marijuana or marijuana establishments, the stricter law or regulation shall control.

Section 18.09 Violations and Penalties

The operation of any Marijuana Establishment, Dispensary, or Medical Marijuana Storefront without the required local license or in violation of the requirements of this article shall be a violation of this article. Violations shall be subject to fines as set by the City Council. Each day of violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of Section 18.09 of this article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its attorney's fees.

Section 18.10 Severability

The provisions of this article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Section 18.11 Other Laws

Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S § Chapter I, as may be amended. In the event of a conflict between the provisions of this article and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

Councilor Bauer motioned to waive the reading of the ordinance and it was seconded by Councilor Comeau.

All were in favor of waiving the reading.

Madame Chair Eosco asked for a motion to put ordinance on the floor for discussion. Councilor Comeau made the motion and it was seconded by Councilor Park.

Ben Averill, City Planner, stated that there are two separate ordinances. Article 18 includes the definitions and performance standards and Article 9 covers the land use table. Mr. Averill began by referring to Article 9 and the changes to 2.3 and 4.3 in the ordinance. 16.9 deals with the changes in the zones, what is acceptable and what is not. The map, in the Councilors' packet, showed the zones in which marijuana would not be allowed as well as where usage would be allowed. The first change would be adding 2.3 for retail use for marijuana, allowing any type of retail use whether adult use or medical in both zoning districts of C1(downtown) and C4 (Leeman Highway area). This would require a site plan review. C2 has been withdrawn.

Mr. Averill further explained the land use categories in Article 9, 4.0 would be manufacturing, processing, creating, repairing, renovating or assembling; 4.3 would be manufacturing and testing in C3 and C4 which would need site plan approval. The 16.0 category would be for a marijuana cultivation facility, agricultural and 16.9 is the addition. The performance standards will require that no matter what type of business they are, local licensing will be required. The licensing component would allow for a limitation of the number of licenses and any establishment would be required to obtain a state license as well as a local license.

ROLL CALL VOTE ON ARTICLE 18:

Councilor Paulhus, Councilor Nordmann, Councilor Leonard, Councilor Comeau, Councilor Bauer, Councilor Park and Councilor Ambrosino

YEAS: 7

NAYS: 0

All were unanimous on Article 18.

Second passage will be at 6:02 p.m. on September 4, 2019

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:

Amend Article 9 – Uses, as follows:

Add Section 2.3, Section 4.3, and Section 16.9 to the Land Use Table in Article 9

The Land Use Table in Article 9 is available in the City Planner's Office or in the City Clerk's Office.

ROLL CALL VOTE ON ARTICLE 9:

Councilor Ambrosino, (No), Councilor Park, (No), Councilor Bauer, (Yes), Councilor Comeau, (Yes), Councilor Leonard, (Yes), Councilor Nordmann, (Yes) and Councilor Paulhus, (Yes)

YEAS: 5

NAYS: 2

Second passage will be at 6:03 p.m. on September 4, 2019

G. Petitions and Communications: 8:12 PM

Madame Chair Eosco read a letter from Kirk Mahoney, Historic Preservation Officer announcing that the Mary E. was approved for nomination to the National Register of Historic Places and that Maine Maritime Museum has submitted an application to get on the register.

H. City Manager's Report: 8:13 PM

Marc Meyers, Assistant City Manager, reported that during the heat wave last month, the Bath Fire Department and Sagadahoc Emergency Management Agency came up with a couple of cooling stations, Bath Area YMCA and the Bath Area Food Bank who were able to provide those services to anyone who needed it. Mr. Meyers thanked the two organizations for stepping up during this time. Mr. Meyers, also, reported that the preliminary value letters will be going out this week. The data will be available on the City's website, Assessor's Office, City Clerk's Office and Patten Free Library. The appeals process begins in mid-August and information on that is included in the letter as well.

I. Committee Reports: 8:14 PM

Councilor Leonard reported that she visited the Bath Water District and commented that it was pretty cool and fascinating. Councilor Paulhus reported that the Appointment Screening Committee met with a few applicants and the committee will have recommendations at the next Bath Council Meeting in September. Councilor Ambrosino reported that they had a Finance Committee meeting on July 25th. Councilor Comeau pointed out that Councilor Ambrosino is now the Chair of that committee. Madame Chair Eosco reported that the Transportation Committee met and that they did have the public meeting on June 25th regarding Richardson and Western. The vast majority of people in attendance did not like the traffic calming proposal.

J. Unfinished Business: 8:17 PM

K. New Business: 8:17 PM

L. Councilor Announcements: 8:17 PM

Councilor Park wanted to congratulate Deputy Chief, Robert Savory on his retirement and thanked him for his valuable service. Councilor Paulhus announced that the Bi-Centennial Committee met.

Madame Chair Eosco wanted remind everyone that tomorrow at the Bath Fire Department beginning at 11:00 a.m. there will be a proclamation presented to Emma Bailey who helped saved her family from a fire.

Councilor Bauer made a motion to go into executive session and it was seconded by Councilor Ambrosino.

All were in favor of going into executive session at 8:20 p.m.

Meeting adjourned at 8:21 PM

EXECUTIVE SESSION:

Councilor Leonard made the motion to end the executive session and it was seconded by Councilor Park.

All were in favor of ending the executive session at 8:31 p.m.

**Councilor Bauer made the motion to adjourn and it was seconded by Councilor Comeau.
All were in favor of the adjournment at 8:32 p.m**

Attest:

Mary C. Howe

City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review, by appointment, in the City Clerk's office during regular business hours or by going to <http://www.cityofbath.com/BCTV/> and clicking on BCTV on Demand.