



CITY COUNCIL AGENDA



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If you have any questions or concerns, please don't hesitate to contact me.

lisa.goodwin@bangormaine.gov

REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

PLEDGE OF ALLEGIANCE

Currently, the public has the choice to participate in meetings in person at City Hall or remotely through Zoom, Facebook, television, and the City’s website. Public comment, whether in person or through Zoom requires a person to state their name and address, any inappropriate or offensive remarks may be removed, and the Council Chair will have discretion over the time allowed for comment. On Zoom, the public may be recognized to speak by the hand wave function or, on a phone, by pressing *9.

PUBLIC COMMENT

CONSENT AGENDA ITEM NO.

ASSIGNED TO COUNCILOR

*Explanatory Note: All items listed in the Consent Agenda are considered routine and are proposed for adoption by the City Council by one motion without discussion or deliberation. If discussion on any item is desired any member of the Council or public may merely request removal of the item to its normal sequence in the regular agenda prior to a motion for passage of the Consent Agenda.

MINUTES OF: **Bangor City Council Regular Meeting of August 14, 2023, Business and Economic Development Meeting of August 8, 2023, Airport Committee Meeting of August 8, 2023, Infrastructure Committee Meetings of June 6, 2023, June 21, 2023, July 3, 2023 and July 17, 2023, Finance Committee Meetings of March 20, 2023, April 3, 2023, April 19, 2023, May 1, 2023, May 15, 2023 and May 22, 2023**

LIQUOR LICENSE RENEWALS: **Application for Liquor License Renewal Malt, Wine, Spirits of MF Dreams, LLC d/b/a Benjamin’s Pub, 123 Franklin Street** **HAWES**

Application for Liquor License Renewal Malt, Wine, Spirits of Bangor Pie, LLC d/b/a Portland Pie Bangor, 91 Main Street **HAWES**

Application for Liquor License Renewal Malt, Wine, Spirits of DMF International, Inc d/b/a Refueler Pub, 299 Godfrey Boulevard **HAWES**

LIQUOR LICENSE NEW: **Application for Liquor License New Malt, Wine, Spirits of M Thai 9, LLC d/b/a M Thai, 128 Main Street** **HAWES**

23-254 ORDER **Authorizing the Execution of a Municipal Quitclaim Deed for Real Estate Located at 2204 Ohio Street** **YACOUBAGHA**

Executive Summary: This Order will authorize the execution of a municipal quitclaim deed for real estate located at 2204 Ohio Street. Tax and stormwater liens have matured on the property owned by Heirs of Elizabeth Margaret Gould, at 2204 Ohio Street. The outstanding charges due the City have been paid, and there are no known code violations on the property. Because the liens matured, a municipal quitclaim deed is required to release the City's interest in the property.

REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

**CONSENT AGENDA
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

**23-255 ORDER **Accepting a \$5,000 Donation from Fidelity Charitable
on Behalf of the Lise and Myles Striar Charitable
Fund to Provide Homeless Outreach Services** **LEONARD****

Executive Summary: This Order will accept a donation in the amount of \$5,000 from Fidelity Charitable on behalf of the Lise and Myles Striar Charitable Fund.

The donation allowed for the funds to be used "where it's needed most". Staff recommendation is to use the funds for Homeless Outreach. The City's Homeless Outreach program, primarily administered by Health and Community Services provides assistance to homeless individuals in the form of basic necessities and meals.

The program creates a bridge between City staff and the homeless which can open the door to other assistance opportunities.

23-256 ORDER **Amending the City of Bangor Procurement Policy **HAWES****

Executive Summary: This Order will amend the City of Bangor Procurement Policy. The City of Bangor Procurement Policy threshold limits for goods and services have been unchanged since 1994. When established, the levels matched the Federal threshold limits for purchases as did the limits for Federal Transit and CDBG purchases when those sections were added to the policy. As the Federal limits increased the City policy was not updated to keep pace.

With the recent shortages of goods and services, supply chain issues and rising inflation, the Committee and the Council have had to discuss routine purchases and contracts that previously would not have met the current thresholds. Updating the policy, using the current Federal thresholds as well as the Consumer Price Index changes since 1994 as guidance, will allow the Council to focus on larger policy issues and other areas of concerns.

This item was reviewed and approved by the Finance Committee on August 21, 2023.

23-257 ORDER **Appointing Constable for the Year 2023 **TREMBLE****

Executive Summary: This Order authorizes the appointment of Rob Hanscom as Constable for the Parks and Recreation Department for the year 2023.

REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.	ASSIGNED TO COUNCILOR
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<u>23-258</u>	<u>ORDINANCE</u>	Amending Chapter 165, Land Development Code, by Updating the Allowed Number of Dwelling Units in Residential Zones to Comply with LD 2003 (First Reading and Referral to Planning Board Meeting of September 5, 2023)	SPRAGUE
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Executive Summary: This Ordinance would update the City’s Land Development Code to comply with the requirements of the State law known as LD 2003. This update has the effect of allowing more dwelling units in residential zones throughout the City. These changes align with the City Council policy to create residential units where feasible and with the 2022 Comprehensive Plan, which suggests that the City update the Land Development Code to comply with LD 2003.

<u>23-259</u>	<u>ORDINANCE</u>	Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located at 54 Webster Avenue from Urban Residence 1 District (URD-1) to Urban Residence 2 District (URD-2) (First Reading and Referral to Planning Board Meeting of September 5, 2023)	PELLETIER
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Executive Summary: This Ordinance will amend Chapter 165, Land Development Code, District Map, to re-zone property located at 54 Webster Avenue from Urban Residence 1 District (URD-1) to Urban Residence 2 District (URD-2).

The applicant is seeking a zone change for the property at Map-Lot 014-101, located at 54 Webster Avenue, from the Urban Residence 1 District (URD-1) to the Urban Residence 2 District (URD-2). The total area requested to be changed is approximately 0.19 acres and is shown in the attached exhibit.

The change to the URD-2 district would allow for three dwelling units on the property versus the current one unit allowed by the URD-1 zone. The neighborhood primarily consists of URD-1, with some NSD lots nearby, adjacent to Hammond Street. There are several legally nonconforming multi-unit dwellings in the vicinity of this property. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this area as consisting of “medium to high-density neighborhoods surrounding the Downtown and encompassing most of the City’s historic residential areas”.

<u>23-260</u>	<u>ORDINANCE</u>	Amending Chapter 165, Land Development Code, District Map to Re-zone a Portion of the Property Located at 79 Fourteenth Street from Urban Residence 1 District (URD-1) to Urban Service District (USD) (First Reading and Referral to Planning Board Meeting of September 5, 2023)	TREMBLE
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REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

**REFERRALS TO COMMITTEE AND FIRST READING
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

Executive Summary: The applicant is seeking a zone change for a portion of the property at Map-Lot 020-013, located at 79 Fourteenth Street, from the Urban Residence 1 District (URD-1) to the Urban Service District (USD). The total area requested to be changed is approximately 0.15 acres and is shown in the attached exhibit.

The current zoning limits the property primarily to single-family residential, while the change to the USD district would allow for various commercial uses such as offices, restaurants, retail, and service businesses, as well as mixed commercial residential uses. The neighborhood primarily consists of URD-1, but an adjacent parcel is zoned USD, as well as several others at the nearby intersection of Fourteenth Street and Union Street. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this area as including “limited commercial and institutional uses that are complementary to the surrounding residential uses”.

<u>23-261</u>	<u>ORDINANCE</u>	Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located at 128 & 130 Hammond Street from Contract Downtown Development District (Contract DDD) to Downtown Development District (DDD) (First Reading and Referral to Planning Board Meeting of September 5, 2023)	SCHAEFER
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Executive Summary: The applicant is seeking a zone change for the property at Map-Lot 042-087, located at 128 & 130 Hammond Street, to remove the contract conditions from the property zoning and to be zoned as only Downtown Development District (DDD). The total area requested to be changed is approximately 0.15 acres and is shown in the attached exhibit.

The current contract conditions state that no alcoholic beverages shall be sold on the property and non-residential uses shall be limited to 6,200 square feet. This zone change would remove these restrictions. The Downtown Development District generally allows for a wide range of commercial uses, including restaurants, bars, retail stores, offices, and others.

The neighborhood primarily consists of DDD, M&SD, and G&ISD lots. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this as the Downtown area and consisting of “a high-density mixed-use development area that is inclusive of central business district functions, commercial uses, municipal and institutional uses, and high-density residential development”.

**UNFINISHED BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

PUBLIC HEARING:

<u>23-230</u>	<u>ORDER</u>	Authorizing Issuance of \$13,339,000 of the City's General Obligations Bonds and a Tax Levy Therefor	HAWES
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REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

**UNFINISHED BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

Executive Summary: This Order would authorize the issuance of \$13,339,000 in general obligation bonds for the following purposes: \$3,972,400 for streets and sidewalks, \$1,005,000 for infrastructure improvements, \$800,000 for Water Quality infrastructure improvements, \$1,660,000 for equipment and vehicle replacement and \$1,901,600 for building improvements (including the Central Kitchen and Fleet car wash) and \$4,000,000 for building improvements (City Hall renovations). These projects were reviewed during the recently completed FY 2024 budget process.

The City's Charter requires that bonds issued for a single capital expenditure over a proscribed amount, are subject to voter referendum, unless the City Council finds, determines and declares that an emergency exists. As described in the findings set forth in the Order, the heating system deficiency and non-ADA compliant elevator at City Hall create an unacceptable risk to the health and safety of the residents of the City and the users of City Hall. Therefore, the City Council finds, determines, and declares that the capital expenditures for the City Hall renovations constitute an emergency and shall be excepted from the referendum approval requirements of Article VIII, Section 19(a)(1) of the City Charter.

This Order needs to be amended by substitution to reflect updated information.

PUBLIC HEARING:

23-231 ORDER **Authorizing a Loan in the Amount of \$1,000,000 from LEONARD the Maine Municipal Bond Bank State Revolving Fund, and the Issuance of the City's General Obligation Bonds and a Tax Levy Therefor**

Executive Summary: This Order would authorize a loan in the amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund (SRF) and the issuance of the City's general obligation bonds. These funds would be used fund the Meadowbrook Regulator and Separation.

The SRF program was created in 1987 by the Clean Water Act. The Environmental Protection Agency (EPA) provided all states with the seed money to capitalize this revolving loan fund. SRF funding is typically at below market rates, but does carry additional State administrative costs and processes. In addition, all bidding must comply with federal regulations such as: Davis Bacon wage rates. Borrowing through this program is most cost effective for larger combined sewer overflow type projects.

This Order needs to be amended by substitution to reflect updated information.

23-245 ORDINANCE **Amending Chapter 165, Land Development Code by SCHAEFER Removing and/or Rewording Sections of the Municipality's Code to Align with the Maine State Statutes for the Regulation of Manufactured Housing**

Executive Summary: This Ordinance will amend Chapter 165, Land Development Code by removing and/or rewording sections of the municipality's code to align with the Maine State Statutes for the regulation of manufactured housing. In 1989, the State enacted 30-A M.R.S. § 4358, which places limitations on the City's home rule authority regarding mobile home parks. The following amendments are provided to ensure the City of Bangor is following state regulations of manufactured housing, as well as avoiding unequal treatment between manufactured housing and other types of housing. These amendments adjust the definitions of

REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

UNFINISHED BUSINESS
ITEM NO.**ASSIGNED TO**
COUNCILOR

manufactured housing to reflect the new laws and adjust the setbacks and other dimensional requirements of manufactured home parks to make them more on par with uses like tiny home parks. The changes also include greater allowances for manufactured home parks in the Rural Residence and Agricultural District to ensure that any parks located in that zone would be able to expand.

This item was reviewed and unanimously recommended for passage by the Planning Board at its meeting on August 21, 2023.

23-246 ORDINANCE Amending Chapter 165, Land Development Code, Attachment 2, Schedule A Urban Developed Area by Increasing the Maximum Height in the Multifamily and Service District (M&SD) DAVITT

Executive Summary: This Ordinance will amend Chapter 165, Land Development Code, Attachment 2, Schedule A Urban Developed Area by increasing the maximum height in the Multifamily and Service District (M&SD). The proposed change would increase the maximum allowable building height in the M&SD district from 45 feet (approximately four stories) to 60 feet (approximately five stories). This is the same height proposed for high density residential in the S&PS and GC&S zones, the ordinance for which was recently adopted. This increase in height allowance could allow affordable housing projects in this district to be more financially feasible and could allow for more units on M&SD lots. This ordinance would be in keeping with the City Council’s policy to create more housing where feasible.

Additionally, the 2022 Comprehensive Plan directs the City to revise zoning regulations as needed to support the development of housing within the growth boundary and to remove barriers to development for a variety of housing types.

This item was reviewed and recommended “ought not to pass” with a vote of 5 to 2 by the Planning Board at its meeting on August 15, 2023.

NEW BUSINESS
ITEM NO.**ASSIGNED TO**
COUNCILOR

PUBLIC HEARING Application for Special Amusement License Renewal of MF Dream, LLC d/b/a Benjamin’s Pub, 123 Franklin Street HAWES

23-262 ORDER Authorizing the Award of \$154,765 in State and Local Fiscal Recovery Funds to Together Place Peer Recovery Center to Fund a Grant Writer/Development Manager PELLETIER

Executive Summary: This Order will authorize the award of \$154,765 in State and Local Fiscal Recovery Funds (aka ARPA funds) to Together Place Peer Recovery to hire a grant writer/development manager.

Together Place Peer Recovery is looking to use these funds as an opportunity to expand their ability to attract various funding sources to support an increase in the number of individuals that can be served. The

REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

**NEW BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

position would support all three program areas; peer center, employment connection and housing. The overall goal being to increase funding opportunities that would allow for the creation of additional programming which supports the building of trust both with members and peers, as well as continue to provide opportunities for social integration free of charge to anyone seeking support and ensure the long-term financial stability of the operations.

This award is in support of the following:

- One-time funding that will support a position to building financial sustainability within a non-profit organization providing services and support to a disproportionately impacted community.
- This award will support our impacted community of individuals who have experienced mental health and/or substance use challenges and are on their own chosen path of recovery.

This item was discussed at a Council Workshop on August 14, 2023.

23-263 ORDER Authorizing The Award of \$140,000 in CDBG Funds **SPRAGUE
to Support Design Wall Housing's Redevelopment of 9
Smith Street Avenue**

Executive Summary: This Order will authorize the award of \$140,000 in excess CDBG funds to the Design Wall Housing (DWH) to redevelop a vacant property into supportive living apartments for chronically homeless adults. The project has been funded in part by the Penobscot County Commission, as well as independent fundraising efforts from DWH. The total cost is estimated to be about \$225,000.

The Project will restore a 2 unit multi-family housing project for occupancy by DWH clients, who will receive intensive case management support and transitional resources from community partners.

This item was reviewed and recommended for passage by the Business and Economic Development Committee meeting on August 21, 2023.

23-264 ORDER Authorizing the Award of \$325,000 in CDBG Funds to **DAVITT
Support Volunteers of America New England for the
Development of Supported Housing**

Executive Summary: This Order will authorize the award of \$325,000 in excess CDBG funds to the Volunteers of America-Northern New England (VOANNE) to fund development of new housing to benefit clients with mental health and accessibility needs. This award will support the acquisition of land and limited pre-development site costs.

VOANNE has provided Bangor's residents with fully-staffed, supportive living options for adults with disabilities for at least a decade. While their application for the limited ARPA funding was scored favorably as a high priority for the City, it did not advance to the final round of awards. Their request was referred to CDBG for possible support to develop a new housing project. VOANNE has designed a new neighborhood of supportive housing to serve these adults, identifying a formerly undeveloped subdivision to provide permanent housing that includes therapeutic and rehabilitative services, community integration services, daily living support and/or skills development, and individual counseling services.

REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 28, 2023

**NEW BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

The overall project costs total approximately \$1,225,000. VOANNE plans to secure capital funding through HUD's 811 Supported Housing Program. HUD will conduct an evaluation of the property to determine its appropriateness for the project. If approved by the Council, this funding commitment will be subject to their final approval to proceed with the development. This item was reviewed and recommended for passage by the Business and Economic Development Committee meeting on August 21, 2023.

23-265 ORDER **Authorizing the Award of \$130,00 in State and Local Fiscal Recovery Funds to Big Brothers Big Sisters of Mid Maine to Support the Creation of a Mentoring Hub Through the Boys and Girls Club of Bangor **SCHAEFER****

Executive Summary: This Order will authorize the award of \$130,000 in State and Local Fiscal Recovery Funds (aka ARPA funds) to Big Brothers Big Sisters of Mid Maine to support the creation of a mentoring hub at the Boys and Girls Club of Bangor.

Big Brothers Big Sisters' current operational model at the Boys and Girls Club of Bangor is not able to serve the needs of all the youth. In order to dramatically increase the number of youth that can be served, Big Brothers Big Sisters is proposing to create a "hub", whereby staff would be hired to focus specifically on this program location. The staff will monitor the relationships with the littles and their families, manage the recruitment of mentors, and provide ongoing monitoring and support of the match relationships. With this level of funding, the goal would be to increase the number of mentor relationships from 20 to 70. The applicant has recently hired a development director and they have identified multiple opportunities to pursue to fund the efforts beyond this award.

This award is in support of the following:

- One-time start-up funding to expand mentor relationship opportunities for youth served by the Boys and Girls Club of Bangor.
- To support the emotional and social needs of the youth served at the Boys and Girls Club of Bangor.

This item was reviewed at a Council Workshop on August 22, 2023.



CONSENT AGENDA

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 14, 2023

*Meeting called to order at 7:30 PM
Chaired by Council Chair Fournier
Councilors Present: Hawes, Leonard, Pelletier, Schaefer,
Sprague, Fournier
Councilors Absent: Tremble, Yacoubagha, Davitt
Meeting adjourned at 8:23 PM*

PUBLIC COMMENT *Michael Beck spoke about utilizing Docusearch and showed concern that meeting minutes are not always available in a timely manner. He would like to see access to the minutes a lot sooner.*

CONSENT AGENDA ITEM NO.	ASSIGNED TO COUNCILOR
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**Explanatory Note: All items listed in the Consent Agenda are considered routine and are proposed for adoption by the City Council by one motion without discussion or deliberation. If discussion on any item is desired any member of the Council or public may merely request removal of the item to its normal sequence in the regular agenda prior to a motion for passage of the Consent Agenda.*

MINUTES OF: *Bangor City Council Regular Meeting of July 24, 2023, Business and Economic Development Meetings of July 3, 2023, July 17, 2023 and July 24, 2023, Airport Committee Meeting of July 5, 2023 and Infrastructure Committee Meetings of March 7, 2023, March 21, 2023, April 18, 2023 and May 16, 2023*

**LIQUOR LICENSE
RENEWALS:** *Application for Liquor License Renewal Malt, Wine, Spirits HAWES
of Launchpad d/b/a Bangor Arts Exchange, 189-193
Exchange Street*

Action: Approved

*Application for Liquor License Renewal Malt, Wine, Spirits HAWES
of Husson University d/b/a Husson University, 1 College
Circle*

Action: Approved

*Application for Liquor License Renewal Malt, Wine, Spirits HAWES
of Timka, Inc. d/b/a Geaghans Pub and Brewery, 570 Main
Street*

Action: Approved

23-237 ORDER *Authorizing the Purchase of Three (3) Police Patrol Vehicles TREMBLE
from Darlings Ford, the Current State Contract Holder, in
the Amount of \$152,940*

Action: Passed

23-238 ORDER *Authorizing a Contract with Northeast Paving for Emergency PELLETIER
Repairs to the Airport Runway and Replacement of the 600
Cargo Ramp*

Action: Passed

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 14, 2023

CONSENT AGENDA			ASSIGNED TO
ITEM NO.			COUNCILOR
<u>23-239</u>	<u>ORDER</u>	<i>Authorizing a Collective Bargaining Agreement between the City of Bangor and Bangor Federation of Public Employees, Local 6071 Representing Fleet Service and Ground Support Equipment Employees</i>	SCHAEFER
	<i>Action:</i>	<i>Passed</i>	
<u>23-240</u>	<u>ORDER</u>	<i>Authorizing a Contract with D.P. Porter Contractors/CEM for the HVAC Replacement at Building 195, the State Police Barracks in the Amount of \$250,000</i>	HAWES
	<i>Action:</i>	<i>Passed</i>	
<u>23-241</u>	<u>ORDER</u>	<i>Authorizing Execution of a Contract with Radio Communications Management for \$507,004 for the Upgrade of the Public Safety Radio System</i>	SPRAGUE
	<i>Action:</i>	<i>Passed</i>	
<u>23-242</u>	<u>ORDER</u>	<i>Authorizing an Amendment to the Employment Agreement of City Assessor Philip Drew</i>	TREMBLE
	<i>Action:</i>	<i>Passed</i>	
<u>23-243</u>	<u>ORDER</u>	<i>Appointing Constables for the Year 2023</i>	LEONARD
	<i>Action:</i>	<i>Passed</i>	
<u>23-244</u>	<u>RESOLVE</u>	<i>Authorizing the Execution of a Memorandum of Understanding with the Penobscot County Sherriff's Office to Jointly Apply for Edward Byrne Memorial Grant Program Funding in the Amount of \$21,771</i>	PELLETIER
	<i>Action:</i>	<i>Passed</i>	
REFERRALS TO COMMITTEE AND FIRST READING			ASSIGNED TO
ITEM NO.			COUNCILOR
<u>23-245</u>	<u>ORDINANCE</u>	<i>Amending Chapter 165, Land Development Code by Removing and/or Rewording Sections of the Municipality's Code to Align with the Maine State Statutes for the Regulation of Manufactured Housing</i>	SCHAEFER
	<i>Action:</i>	<i>First Reading and Referral to Planning Board Meeting of August 15, 2023</i>	

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 14, 2023

**REFERRALS TO COMMITTEE AND FIRST READING
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

23-246 ORDINANCE *Amending Chapter 165, Land Development Code, Attachment 2, Schedule A Urban Developed Area by Increasing the Maximum Height in the Multifamily and Service District (M&SD) (First Reading and Referral to Planning Board Meeting of August 15, 2023)* **DAVITT**

Action: First Reading and Referral to Planning Board Meeting of August 15, 2023

**UNFINISHED BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

23-228 ORDINANCE *Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located on Sunset Avenue from Urban Residence 2 District (URD-2) and High-Density Residential District (HDR) to Multifamily & Service District (M&SD)* **SPRAGUE**

*Action: Motion made and seconded for Passage
Vote: 6 – 0
Councilors Voting Yes: Hawes, Leonard, Pelletier, Schaefer, Sprague, Fournier
Councilors Voting No: None
Passed*

23-229 ORDINANCE *Amending Chapter 165, Land Development Code, District Map to Re-zone Portion of Property Located on Finson Road from Rural Residence & Agricultural District (RR&A) to Low-Density Residential District (LDR)* **HAWES**

*Action: Motion made and seconded for Passage
Vote: 6 – 0
Councilors Voting Yes: Hawes, Leonard, Pelletier, Schaefer, Sprague, Fournier
Councilors Voting No: None
Passed*

Public Hearing

Public Comment

Michael Beck raised concern that there was not a Finance Committee meeting on August 7, 2023, but on August 8, 2023, and that this item was not discussed. He requested that it be referred back to the Finance Committee. He would also like more transparency on the \$5,910.600 for building improvements.

23-230 ORDER *Authorizing Issuance of \$13,339,000 of the City’s General Obligations Bonds and a Tax Levy Therefor* **HAWES**

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 14, 2023

**UNFINISHED BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

*Action: Motion made and seconded to Open Public Hearing
Motion made to Open Public Hearing
Public Hearing Opened
Motion made and seconded to Close Public Hearing
Public Hearing Closed
Motion made and seconded to refer back to Finance
Committee
Passed*

Public Hearing

Public Comment

Michael Beck raised concern that this item was not listed on the Agenda or discussed during the Finance Committee meeting on August 7, 2023.

23-231 ORDER

Authorizing a Loan in the Amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund, and the Issuance of the City's General Obligation Bonds and Tax Levy Therefor

LEONARD

*Action: Motion made and seconded to Open Public Hearing
Public Hearing Opened
Motion made and seconded to Close Public Hearing
Public Hearing Closed
Motion made and seconded to refer back to Finance
Committee
Passed*

23-232 RESOLVE

Appropriating an Amount not to Exceed \$1,500,000 from the Airport Unappropriated Fund Balance to Fund Anticipated Emergency Repairs to the Airport 600 Cargo Ramp and Runway

PELLETIER

*Action: Motion made and seconded for Passage
Passed*

23-233 RESOLVE

Accepting and Appropriating a Grant Amendment in the Amount of \$103,000 for Bangor Public Health and Community Services' Public Health Infrastructure Enhancement Grant with Maine Center for Disease Control

SPRAGUE

*Action: Motion made and seconded for Passage
Passed*

**NEW BUSINESS
ITEM NO.**

**ASSIGNED TO
COUNCILOR**

PUBLIC HEARING:

Application for Special Amusement License Renewal of Launchpad d/b/a Bangor Arts Exchange, 189-193 Exchange Street

HAWES

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 14, 2023

NEW BUSINESS ITEM NO.	ASSIGNED TO COUNCILOR		
<p><i>Action: Motion made and seconded to Open Public Hearing Public Hearing Opened Motion made and seconded to Close Public Hearing Motion made and seconded for Approval Approved</i></p>			
<u>PUBLIC HEARING:</u>			
<p><i>Application for Special Amusement License Renewal of Timka, Inc. d/b/a Geaghans Pub and Brewery, 570 Main Street</i></p>	HAWES		
<p><i>Action: Motion made and seconded to Open Public Hearing Public Hearing Opened Motion made and seconded to Close Public Hearing Motion made and seconded for Approval Approved</i></p>			
<u>23-247</u>	<u>ORDER</u>	<p><i>Authorizing the Allocation of \$500,000 in State and Local Fiscal Recovery Funds to Fund the Construction of Health Clinic Spaces within the Bangor School Departments Two Middle Schools</i></p>	SCHAEFER
<p><i>Action: Motion made and seconded for Passage Passed</i></p>			
<u>23-248</u>	<u>ORDER</u>	<p><i>Authorizing Award of \$100,000 in State and Local Fiscal Recovery Funds to Fund the Christine B Foundation to Support the Site Design and Planning of the Construction of a Nutritional Health Facility</i></p>	HAWES
<p><i>Action: Motion made and seconded for Passage Passed</i></p>			
<u>23-249</u>	<u>ORDER</u>	<p><i>Authorizing Award of \$2,000,000 in State and Local Fiscal Recovery Funds to Support Bangor Housing Development Corporation's Sunset Avenue Housing Projects</i></p>	SPRAGUE
<p><i>Action: Motion made and seconded for Passage Passed</i></p>			
<u>23-250</u>	<u>ORDER</u>	<p><i>Authorizing Award of \$75,000 in State and Local Fiscal Recovery Funds to Food and Medicine to Support the Expansion and Start-up Operating Costs of Community Gardens in Bangor</i></p>	LEONARD
<p><i>Action: Motion made and seconded for Passage Passed</i></p>			

MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – AUGUST 14, 2023

NEW BUSINESS
ITEM NO.

ASSIGNED TO
COUNCILOR

23-251 ORDER *Authorizing Award of \$40,000 in State and Local Fiscal Recovery Funds to Support Capital and Fit Out Costs to Relocate the Bangor Arts Exchange Operated by Bangor Symphony Orchestra*

PELLETIER

*Action: Motion made and seconded for Passage
Passed*

23-252 ORDER *Authorizing Award of \$1,000,000 in State and Local Fiscal Recovery Funds to Habitat for Humanity Greater Bangor to Develop Single Family Homes*

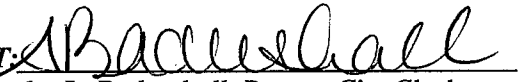
LEONARD

*Action: Motion made and seconded for Passage
Passed*

23-253 ORDER *Authorizing Award of \$70,700 in State and Local Fiscal Recovery Funds to Provide the Start Up Funding for a Program Manager at the Maine Multicultural Center*

SCHAEFER

*Action: Motion made and seconded for Passage
Passed*

ATTEST: 
Samantha L. Badershall, Deputy City Clerk

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

Tuesday, August 8, 2023 @ 5:15 PM
City Council Chambers

MEETING MINUTES

City Councilors Present: Fournier, Hawes, Leonard, Pelletier, Schaefer,
Sprague, Tremble.

City Staff Present: Collette, Krieg.

Chair Sprague called the meeting to order at 5:15 P.M.

1. SHORT-TERM RENTAL DISCUSSION, Action requested to provide staff policy direction

Development Director Anne Krieg presented to the Committee. Reported that staff is still working on updating proposal language to be in-line with Committee's recommendations re: hosted vs. non-hosted property definitions and regulations. Two public hearings have been held – one at the public library and one during the most recent Planning Board meeting. Significant public feedback received at both hearings indicating support for allowance of STRs in the City. Krieg noted that feedback also indicated there are many more traveling workers who stay for 28 days or less than was originally surmised. Also noted feedback reflecting opposition to STR allowance, primarily in regards to the potential for neighborhood erosion. Currently, staff is discussing the idea of a potential cap on the number of STR units, although Krieg noted that she is not generally in favor of this kind of policy. Several cap options currently being proposed are (1) a cap on the number of STRs per zoning district, (2) a cap on the number of non-hosted STRs City-wide, and (3) a cap on the number of the whole-house STR permits issued per person/entity (likely two). Krieg noted that after preparing the Committee's memo regarding these suggestions, staff also had a meeting with a consultant who provided the suggestion of allowing non-hosted STRs as a Conditional Use. Noted that the purpose of a Conditional Use is to assess whether the use in question is appropriate for the particular location where it is being proposed, and these applications go in front of the Planning Board for approval. Planning Board would then be able to apply heightened scrutiny to these proposals, and be able to ask questions such as how many people can be accommodated at the property, potentially even applying a limit as a requirement of the permit.

Council Schaefer echoed the concerns of neighborhood erosion and the transient nature of STR use. Asked where there would be a cap involved in the Conditional Use proposal? Krieg clarified that there would not be a cap, but it would provide City staff with more awareness of these properties, and she repeated that increased oversight in the application process that would be part of the Planning Board approval process.

Council Leonard also noted that he is not generally in favor of caps, though feels it may be useful in this circumstance, and asked what number of STRs would hypothetically be sustainable in the City, per staff's assessment. Krieg responded that a City-wide cap could be addressed two ways: (1) acceptance of the approx. 150-160 pre-existing STR properties, with a growth allowance of x-%, or (2) assessing the City's whole housing inventory and deciding on a percentage of that number that could be allowed as STRs.

Councilor Tremble expressed his thoughts that property owners should have the right to use their homes as they wish in regards to renting, but did note concerns re: non-hosted properties. Suggested that there should not need to be limits on properties where the owner resides, even if they only reside there part-time, but that limits should be put in place for properties that are not the owner's primary residence. Krieg responded that it may be helpful to include a sub-definition under non-hosted properties reflecting allowances for seasonal property owners, such as those who live at their Bangor property in the summer but live elsewhere in the winter. Noted that this has been done in other coastal communities where these situations are especially common.

Council Schaefer asked if ADUs would be considered hosted or non-hosted, if they are on the same property as the owner's primary residence. Krieg responded that they would be considered hosted.

Councilor Leonard brought up the example of a policy instituted in the city of Atlanta, in which a limit was placed on the number of properties that can be owned by individuals who are not citizens of Atlanta. Suggested that Bangor may want to look into something similar, as he is concerned with maintaining fairness of property availability/ownership for local citizens. Krieg responded that staff will look into this.

Councilor Fournier also commented that he is not generally in favor of caps, but also expressed support in this circumstance. Noted that his primary concern is the displacement of long-term housing when there is already a shortage.

Krieg asked the Committee how they felt about a cap based on the current known number of STRs in the City. Councilor Schaefer responded that she would be in favor of this. Schaefer also asked if an STR permit would be attached to the property owner or to the address – Krieg responded that it would be attached to the address to prevent issues such as property owners selling permits to one another.

Chair Sprague commented that he would like to have a better understanding of the breadth of the STR "problem" before instituting a cap. Also concurred with the comments provided from Planning Board Don Meagher re: addressing short- and long-term rental policies comprehensively. Noted that there seems to be a general lack in the understanding of Bangor's overall housing needs. Krieg responded that Bangor is in the unique position of being able to implement an STR policy before it becomes a problem. Noted that the suggested cap based on the current STR units and an associated growth percentage may be best, as it would then allow for

continual monitoring to assess how things are progressing and if the number of STRs is becoming problematic. Sprague also expressed a desire for research to be done on what types of housing are needed in the City, and what numbers are currently existing vs. needed. Krieg responded that the primary concern with STRs has less to do with the type of housing and more to do with displacement of potential long-term housing inventory. Sprague brought up the public comments re: usage of STRs for travelling workers, and wondered if there would be a way to differentiate between work use vs. recreational use in policy-making. Also asked if there would be potential tax policy implications for property owners if based on how their STRs are used. Suggested following up with the City Assessor. Krieg responded that STRs are not taxed differently in other communities, but that she will follow up with Tax Assessor Phil Drew.

Councilor Tremble concurred with Chair Sprague's comments on differentiating between work and recreational uses of STRs. Commented that he would be open to a cap on the number of properties that are being used primarily commercially (i.e. most or fully non-hosted, with consistent STR usage).

Councilor Pelletier asked if STR platforms such as Airbnb apply the same state lodging tax as hotels do. Krieg responded that they do not, but the platform does collect a tax fee that gets paid federally. Property owners are responsible for any associated state taxes themselves.

Chair Sprague asked if the taxes are different for hosted vs. non-hosted properties. Krieg responded that she was not sure.

Councilor Schaefer asked whether the lodging tax gets paid to the State or to the City. Krieg responded that it gets paid to the State, and that state licensing is also required for lodging properties where 2+ bedrooms are being used as individual lodging units.

No further questions/comments from the Committee.

Krieg stated that staff will fine-tune these proposed options for the next discussion.

2. SOFTWARE PURCHASE FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, Action requested to accept staff recommendation

Development Director Krieg reported that Community Development Officer Robyn Stanicki has been working with City's IT department and HUD to propose usage of a software program that is presently used by many other CDBG professionals. Staff is requesting that the Committee approve purchase of said software.

Councilor Schaefer asked if the software could be purchased using CDBG funds. Krieg responded that this would be an allowed use.

Councilor Schaefer moved acceptance of the staff recommendation, seconded by Councilor Leonard.

Chair Sprague asked if this software would allow for tracking housing inventory. Krieg responded that it would.

Councilor Leonard commented that he seconded Councilor Schaefer's motion before realizing that he could not do so because he is not a member of this Committee.

Councilor Schaefer moved again for acceptance of the staff recommendation, seconded by Councilor Tremble. Vote unless doubted, no doubt.

3. UPDATES

A. COMMERCIAL KITCHEN

Development Director Krieg reported that staff is currently interviewing architects. Consultant Caroline Paras is currently preparing a report that will likely be included on the Committee's next meeting agenda.

Councilor Tremble requested that this report be sent to the Committee as early as possible for review prior to the next meeting.

B. COMPREHENSIVE PLAN

Krieg reported that the State has received the City's final draft of the Comprehensive Plan for review, to ensure compliance with State laws and policies and that the adoption procedure was carried out according to State regulations. Will likely have an update on its acceptance in the fall.

Councilor Schaefer moved to go into Executive Session, seconded by Councilor Tremble.

Meeting adjourned at 5:41 P.M.

Meeting minutes respectfully submitted,

Sarah Pritchard
Admin. Asst.
C&ED

City of Bangor Airport Committee

August 8, 2023

Meeting Minutes

The following City Councilors attended: Cara Pelletier, Richard Fournier, Dan Tremble, Joseph Leonard, Jonathan Sprague, Susan Hawes, Gretchen Schaefer, and Airport Co-Interim Director/Airport Assistant Director, Evan Thomas and Airport Co-Interim Director/Director Marketing and Business Development Manager, Aimee Thibodeau.

Agenda and Discussion:

1. Marketing Update and June stats – Aimee Thibodeau

June was a record month. Load factors are on target and comparable to the 2019 numbers. Parking, passenger load numbers, and fuel sales are consistent; military traffic is slightly lower.

Weather has been a factor on the east coast resulting in delays and cancellations for many airports including Bangor. Tourism trends reflect that other cities in Maine show an increase in travel. Rental car prices are high nation-wide however, the rental car companies at BGR have increased their inventory and are providing adequate opportunities for rental for our area.

2. New Allegiant flight to Punta Gorda – Aimee Thibodeau

Flight will start in October and run 2x per week year-round. We are currently collaborating on marketing strategies to serve BGR and Allegiant.

3. Conference schedule update – Aimee Thibodeau

We have made a couple of changes to the conference/event schedule for FY24; replacing EBACE with Dubai Air Show – will alternate every other year if Dubai proves to be beneficial. This includes attending the Dubai Air Show in November, which will provide us a new audience for FBO traffic. It is held every other year, so the plan is to alternate with EBACE to keep BGR Aviation and BGR visible to both demographics.

4. UPS contract extension and update on service – Evan Thomas

The UPS contract has been extended from a seasonal operation to a full year operation, ending July 31, 2023; there is potential to increase their operation at BGR. They are very pleased with our services. We saw 189 total landing operations equating to 960 tons of mail/package loads. We have extended our agreement through August 2024.

Meeting Adjourned

BGR Statistics Report for June 2023

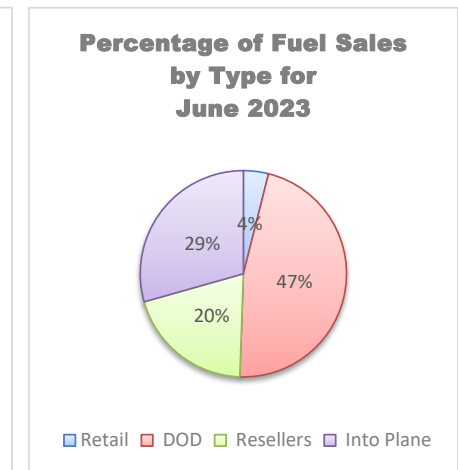
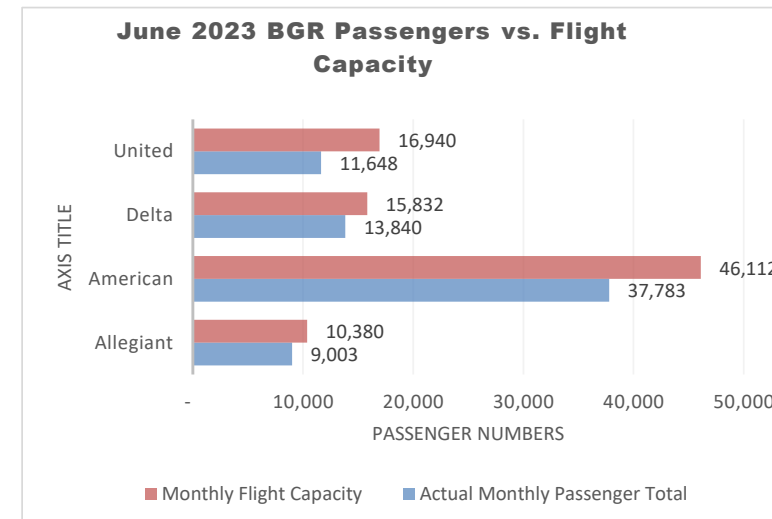
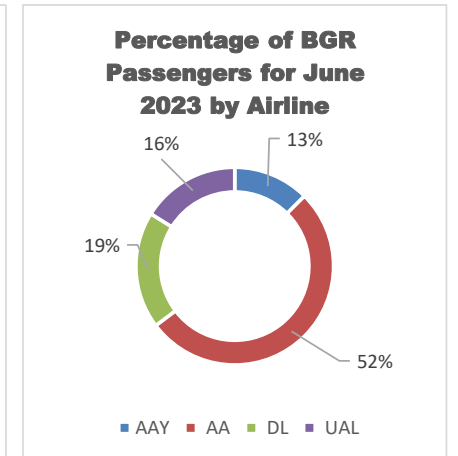
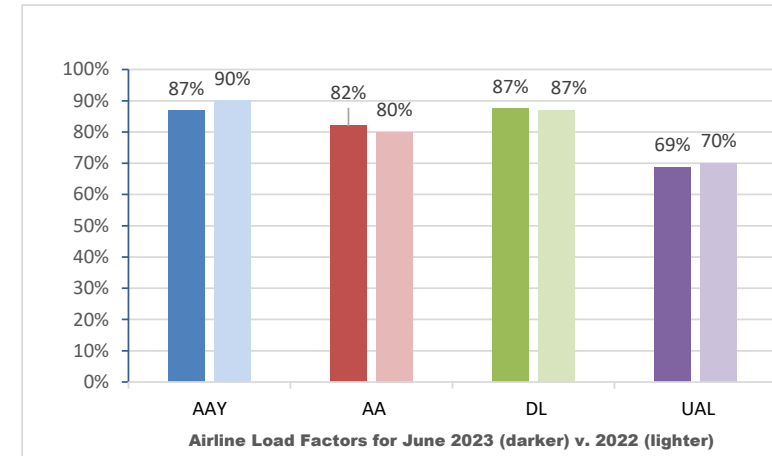
MONTHLY PASSENGER STATS

	Enplaned 2023	Enplaned 2022	Deplaned 2023	Deplaned 2022	Monthly Total 2023	Monthly Total 2022	% of Change
Allegiant	4,183	4,562	4,820	5,168	9,003	9,730	-7.47%
American	18,028	16,061	19,755	17,714	37,783	33,775	11.87%
Delta	6,501	9,371	7,339	9,752	13,840	19,123	-27.63%
United	5,471	4,403	6,177	4,670	11,648	9,073	28.38%
Total Monthly Passengers	34,183	34,397	38,091	37,304	72,274	71,701	0.80%
CALENDAR YTD	144,950	150,398	150,952	154,919	295,902	305,317	-3.08%

YEARLY PASSENGER STATS

	2019	2020	2021	2022	2023	Avg Mo
January	27,751	31,514	11,218	31,308	33,558	27,070
February	32,739	37,573	13,165	36,552	38,003	31,606
March	44,267	26,451	19,774	48,258	45,545	36,859
April	44,468	2,333	30,742	57,218	51,035	37,159
May	47,664	6,878	40,911	60,280	55,487	42,244
June	61,560	13,411	69,464	71,701	72,274	57,682
July	74,310	22,979	90,099	82,535		67,481
August	76,579	25,226	83,168	79,455		46,449
September	62,022	21,881	73,650	73,021		57,644
October	60,064	25,056	70,936	63,706		54,941
November	38,384	14,985	42,679	41,030		46,449
December	36,187	13,799	39,224	38,896		46,449
CALENDAR YTD	605,995	242,086	585,030	683,960	295,902	
FISCAL YTD	570,452	123,926	705,073	746,113		

* Yellow indicates a record month during the last 5-year period

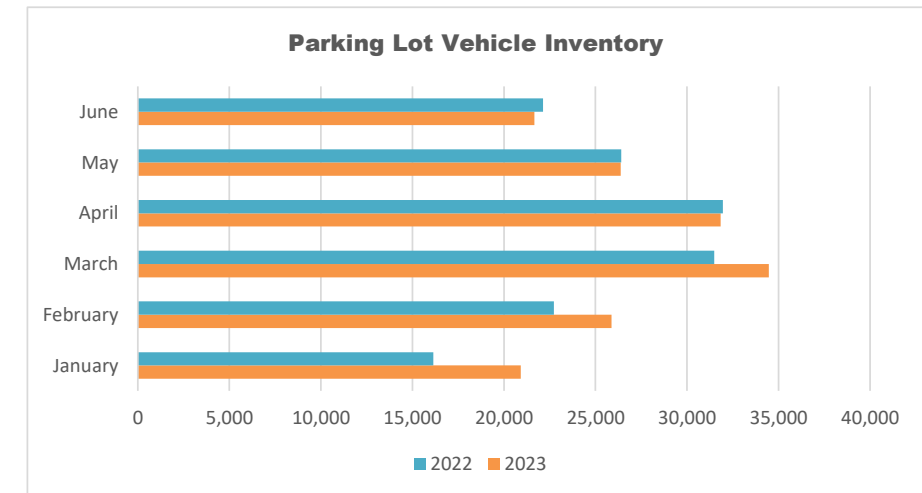


OPERATIONAL STATS

	Jun-23	Jun-22	% Change	FYTD 2023	FYTD 2022	% of Change
Total Operations	3,864	4,850	-20%	40,992	43,052	-5%
Military Operations	763	1,418	-46%	9,063	11,071	-18%

FUEL STATS (gallons)

	Jun-23	Jun-22	% Change	FYTD 2023	FYTD 2022	% of Change	FY23 Budgeted Gallons	Budget%
Retail	80,641	76,872	4.9%	674,788	624,585	8.0%	427,590	158%
DOD	958,125	814,319	17.7%	10,158,069	13,847,863	-26.6%	11,040,598	92%
Resellers	411,996	498,468	-17.3%	3,747,236	3,074,100	21.9%	1,747,747	214%
Into Plane	603,861	651,796	-7.4%	8,065,086	7,790,587	3.5%	6,800,761	119%
Avgas	3,735	3,044	22.7%	41,386	41,849	-1.1%	41,433	100%
Total Fuel Sales	2,058,358	2,044,499	1%	22,686,565	25,378,984	-11%	20,058,129	113%



BGR NOTES

Infrastructure Committee Minutes

June 6, 2023

ATTENDEES

Councilors: Gretchen Schaefer, Dan Tremble, Jonathan Sprague, Clare Davitt, Joseph Leonard, Susan Hawes, Cara Pelletier, Dina Yacoubagha, Richard Fournier

Staff: John Theriault, Richard May

AGENDA ITEMS

1. Easements: Thornton Rd, Maps & Lots R42-041 & R42-042

John Theriault provided the background activities associated with the easement. Richard May explained the City routinely has sanitary sewer and stormwater crossing private properties through easements.

In reviewing the property records at the Penobscot Registry of Deeds for the properties at 165 and 169 Thornton Road he found no recorded easements for existing public infrastructure on those properties, and no record of an easement in the recorded subdivision plans for these properties either.

The City is the current owner of 169 Thornton Road and can issue itself an easement before the property is sold.

The owner of 165 Thornton Road was sent a letter to inquire if they would be willing to give the City an easement to maintain the existing sanitary sewer line that is partially on their property, with no response.

Vote: Moved and seconded to forward to Council.

2. Easement: Versant Power, MR08-011 Pine Grove Cemetery

John Theriault explained the request to execute an easement with Versant Power for the Pine Grove Cemetery.

The easement is triangular shaped and extends along the westerly boundary and southerly boundary for twenty feet and includes approximately 200 square feet of property.

The easement would provide overhead power to the new tiny home development being constructed to the immediate west of Pine Grove Cemetery. The easement will not impact the use or maintenance of the cemetery.

Vote: Moved and second to forward to Council.

3. Engineering Construction Project 2023

John Theriault provide the following project list to the Committee:

2023 Construction Season

- 21663.00 – Broadway Center Earle Ave. and I-95 Safety Project – Summer 2023 to 2026
- 023573.00 - Intersection traffic signal removal – State Street and Forest Avenue
- 023114.00 - Penobscot Corridor Traffic Signals Bangor and Brewer - Construction 2022- 2023
- 024771.00 – Bangor Waterfront Trail Enhancements 025379.00 - Oak Street – Broadway to Penobscot Bridge
- 025617.00 - Grandview/Broadway Pedestrian Signal Improvements 025033.02 - MaineDOT 50/50 – State Street – Hogan Road to Young Street
- 025033.01 - MaineDOT – 50/50 – Hammond St. – Norway Rd to Union St. – Const. 2023-2024
- State Street Culvert upsize at Wing Park
- Culvert Replacement – Mount Hope Avenue near Humane Society Birch/Essex Street Stormwater Improvements

- Fifteenth Street/Union Street and Union Street/Beecher Park Improvements Davis Road Crosswalk and RRFB
- Essex Street Crosswalk and RRFB
- Finson Road - Strout driveway to Weebee Eaton Place Repave project
- City Hall First Floor Renovations
- Pickering Square Phase 3 Landscape improvements Montgomery Street Stormwater Improvements
- Downtown Sidewalk Improvements – Main Street, Exchange Street, Pleasant Street Curb Bump Out at Library
- Dog Park Parking lot improvements
- Traffic Calming/Traffic Island on West Broadway at Steve Kings Waterfront parking lot modifications/bio cells
- Balsam Drive Ditch repair and CB structure

2024 Construction Season

- 026354.00 – Intersection Kenduskeag/Griffin Road Traffic signal Ohio St. MaineDOT 50/50 Project – Bailey Street to Crestwood Place Ohio St. MaineDOT 50/50 Project – I-95 to Thomas Hill Road Fourteenth Street Extension Multi-Use Trail
- Ohio Street Bridge over Birch Stream Project Kenduskeag Stream Retaining Walls
- Meadow Brook Sewer Separation – Cumberland Street Godfrey Road Sewer Replacement – Const. 2024

2025 Construction Season

- 026932.00 - BACTS – Outer Hammond Street – Hammond St. Ext. to Hermon Possible Sewer and Stormwater Improvements
- 026930.00 - BACTS – Union Street – Griffin Road to Davis Road
- BACTS – Main Street – Hammond Street to Cedar Street – Village Partnership Initiative 2025
- Penobscot River Coal Tar Contamination – Final IZ Remediation

The Committee members discussed various proposed City projects.

Vote: No vote required.

**Infrastructure Committee Minutes
June 21, 2023**

ATTENDEES

Councilors: Gretchen Schaefer, Dan Tremble, Jonathan Sprague, Clare Davitt, Joseph Leonard, Susan Hawes, Cara Pelletier, Dina Yacoubagha

Staff: John Theriault, Richard May

AGENDA ITEMS

1. Ordinance Amendment: Chapter 268, Stormwater Post Construction

Richard explained that the amendment Chapter 268, Stormwater, would specifying a time frame of 60 days for owners of stormwater management structures to make needed repairs and submit evidence of the repairs to the City.

The City discharges stormwater in accordance with the MS4 Permit issued to it by the Maine DEP. The Permit dated October 15, 2020 requires that owners of stormwater management structures repair deficiencies within 60 days and provide a record of the repairs to the City within 60 days. The current ordinance does not meet this requirement as it states that the owner of the stormwater structure must take corrective actions to address deficiencies, but does not specify a time limit as to when that action must be completed, nor does it require a record of the deficiency and corrective action to be submitted to the City. Amending Chapter 268 will keep the City in compliance with the MS4 Permit.

Vote: Moved and seconded to forward to Council.

2. MDOT Agreement: 026930.00 Resurfacing Portion of Union Street

John Theriault explained the City would enter into an agreement with Maine Department of Transportation for the resurfacing of a portion of Union Street.

The project is for the preservation paving of 1.5 miles of Union Street, consisting of mill and fill starting at Davis Road continuing to Griffin Road.

MaineDOT project estimate is \$2,027,000. State Share of \$202,700.00 or 10%, and Local City Share of \$202,700.00 or 10%. Project Timeline expected in 2025.

Vote: Moved and seconded to forward to Council.

3. MDOT Agreement: 026932.00 Hammond Street Resurfacing

John Theriault explained the City would to enter into an agreement with Maine Department of Transportation for Outer Hammond Street resurfacing.

The project is for the preservation paving of 0.44 mile of Outer Hammond Street (Route 2) consisting of mill and fill starting at the Hermon town line, continuing to Hammond Street Extension.

MaineDOT project estimate is \$445,300. State Share of \$44,530.00 or 10%, and Local City Share of \$44,530.00 or 10%. Project Timeline expected in 2024.

Vote: Moved and seconded to forward to Council.

**Infrastructure Committee Minutes
July 3, 2023**

ATTENDEES

Councilors: Dan Tremble, Jonathan Sprague, Clare Davitt, Joseph Leonard, Susan Hawes, Cara Pelletier, Richard Fournier, Dina Yacoubagha

Staff: John Theriault

AGENDA ITEMS

1. Drainage Easement: 830 Finson Road

John Theriault stated the City would be completing roadway and drainage improvements along a portion of Finson Road this summer. This work will include roadway widening and installation of new drainage structures within the roadway ditch line. In order for the City to construct and maintain the drainage outlets, permanent drainage easements on the private property located at 830 Finson Road will be necessary.

Vote: Moved and seconded to forward to Council.

2. MaineDOT Modification 2 to Locally Administered Project Agreement with City of Bangor, Riverfront Trail Enhancement

John Theriault stated the City to execute Modification 2 to the Locally Administered Project Agreement with the Maine Department of Transportation for the Riverfront Trail Enhancement project.

This Modification will increase the total funding for the project from \$464,586.87 to \$597,635.00. The City of Bangor's twenty percent local match for the project will increase by \$26,609.63 from \$92,917.37 to \$119,527.00.

Vote: Moved and seconded to forward to Council.

**Infrastructure Committee Minutes
July 17, 2023**

ATTENDEES

Councilors: Gretchen Schaefer, Dan Tremble, Joseph Leonard, Susan Hawes, Cara Pelletier, Dina, Yacoubagha, Richard Fournier

Staff: Aaron Huotari, John Theriault

AGENDA ITEMS

1. Public Works Dept.: Paving Cycle Synchronization/Paving List

Aaron Huotari stated there was approval of the FY24 budget has allowed the Public Works Department to move forward with their plan to shift the paving bid process from a fiscal year cycle to a calendar year cycle. This change is being initiated with the intention of obtaining better paving service from our contractors by taking advantage of their availability in the early spring, when we are currently nearing the end of our paving budget. Bidding out paving services in December/January with prep work already completed will allow contractors to place bids knowing that they can put their crews on the job earlier in the year, aiding in their employee retention efforts, thereby giving us more attractive pricing. This will also result in more streets being paved earlier in the year, providing a better experience to residents and visitors during summer travels.

This move also entails a shift in readiness by PW crews to prepare streets for paving the year before they actually get paved. Working ahead on pavement prep also gives us the ability to make more efficient changes as infrastructure work gets re-prioritized by other departments and agencies.

Our Fall 2023 paving list, which covers July 2023 through the end of the paving season, is attached for your review. This will also be posted on the City of Bangor website at www.bangormaine.gov/paving . These streets were chosen based on need and their ability to be paved without a significant amount of preparation. It is a little more than 5 miles of roads and just under 7,000 tons of asphalt. The unpaved portion of Kittredge Road is included on this list, as the underlayment is in very good shape. This is the last unpaved City road in Bangor. We already have a lengthy list of streets to evaluate for the CY24 paving list. Our soon to be announced Pavement Management Officer will be managing paving and striping contractors as well as evaluating streets for the CY2024 paving season.

Vote: Moved and seconded for passage.

2. Additional Item: Grant Application for Fourteenth Street Sidewalk Trail

John Theriault provided background on grants he had submitted and the funding sources from Maine. He would be submitting a grant for construction funding and the design portion would be in house.

There was no further discussion, this was an update only.

Vote: No vote required.

FINANCE COMMITTEE MINUTES

March 20, 2023

Councilors in Attendance – Schaefer, Pelletier, Tremble

Staff in Attendance – Little, Huotari, Theriault

1. Consent Agenda

- a. Emergency Repair – Public Works – Camertora - \$28,250
- b. New Vehicle Purchase – Fleet/Police – Darlings Ford - \$39,310

Motion made and seconded to approve consent agenda, motion passed unanimously

2. Bids/Purchasing

- a. Camera Detection Systems – Public Works – Coastal Traffic – \$35,510

Motion made and seconded to approve purchase, motion passed unanimously.

Meeting adjourned: 5:04 pm

FINANCE COMMITTEE MINUTES

April 3, 2023

Councilors in Attendance – Hawes, Sprague, Leonard, Pelletier, Tremble, Yacoubagha, Fournier

Staff in Attendance – Little, Laurie, Huotari, Theriault, Willette

1. Bids/Purchasing

- a. Front End Loader – Public Works – Chadwick-BaRoss - \$243,800 (life cycle cost \$115,800)

Motion made and seconded to recommend purchase to Council, motion passed unanimously.

- b. Landscaping – Downtown & Waterfront - Parks & Rec./Public Works – Street's Landscaping \$16,000 & Black Bear Lawn Care and Landscaping \$28,725

Motion made and seconded to approve contracts, motion passed unanimously.

2. Council Order – Transfer of Fund Balance

Motion made and seconded to table until the April 19, 2023 meeting to allow Council an opportunity to review the annual audited financial statements.

3. Council Order – Appropriating Fund Balance for Debt Service – 6 Central Street

Motion made and seconded to recommend approval to the Council, motion passed unanimously.

Meeting adjourned: 5:45 pm

FINANCE COMMITTEE MINUTES

April 19, 2023

Councilors in Attendance – Hawes, Fournier, Sprague, Leonard, Pelletier, Davitt

Staff in Attendance – Little, Laurie, Caruso, Krieg

1. Bids/Purchasing

- a. Metal Castings – Public Works – F.W. Webb - \$68,470

Motion made and seconded to award contract, motion passed unanimously.

- b. 2-Way Radios - Airport – Whitten 2-Way Radio Services - \$38,150

Motion made and seconded to award contract, motion passed unanimously.

- c. Emergency Runway Repair – Airport - Northeast Paving - \$172,300

Motion made and seconded to recommended contract to Council, motion passed unanimously.

2. Council Order – Transfer of Fund Balance

Motion made and seconded to recommend approval to Council, motion passed unanimously.

Meeting adjourned – 5:18 pm

FINANCE COMMITTEE MINUTES

May 1, 2023

Councilors in Attendance – Hawes, Fournier, Sprague, Leonard, Pelletier, Yacoubagha, Tremble

Staff in Attendance – Little, Laurie, Thomas, Theriault, Arron Huotari, Aimee Huotari, Hayman.

1. Bids/Purchasing

- a. Mt. Hope Storm Drain – Stormwater – Lou Silver, Inc. - \$155,700

Motion made and seconded to recommend to award contract, motion passed unanimously.

- b. Rock Salt – Public Works – New England Salt Co. - \$455,100 - \$758,500

Motion made and seconded to recommend to award contract, motion passed unanimously.

- c. Security Measures – Gates 7 & 8 – Airport – Minuteman/Norris - \$17,754

Motion made and seconded to award contract, motion passed unanimously.

- d. Consulting Agreement – Airport – Kirstein & Young - \$5,000/month

Motion made and seconded to award contract, motion passed unanimously.

2. Review of Fiscal Year 2022 Audit by City's Independent Auditor – Information to be provided at meeting.

Jennifer Conners and Marcus Pratt from the City's external auditing firm, Runyon Kersteen Ouelette, presented a review of the City's audited Fiscal Year Ended June 30, 2022 Financial Statements.

Meeting adjourned: 6:25 pm

*Upcoming Items (subject to change)
(Anticipated dates are subject to change)*

- Interim Financial Statements (May 15)
- Procurement Policy Recommended Changes (TBD)

FINANCE COMMITTEE MINUTES

May 15, 2023

Councilors in Attendance – Fournier, Sprague, Leonard, Pelletier, Tremble

Staff in Attendance – Little, Laurie, Thomas, Aaron Huotari, Aimee Huotari, Linscott.

1. Executive Session – 36 MRSA Section 841(2) – Hardship Abatement Applications

Motion made and seconded to enter executive session, motion passed unanimously.

2. Open Session – Hardship Abatement Application Decisions

Motion made to award hardship abatements, motion passed unanimously.

3. Bids/Purchasing

- a. Door Replacement – Airport – Portland Glass - \$15,633

Motion made and seconded to award contract, motion passed unanimously.

- b. Sidewalk Tractor – Public Services – Central Equipment - \$116,995

Councilor Leonard excused himself due to a conflict of interest, Councilor Tremble stepped in as a voting member.

Motion made and seconded to award contract, motion passed unanimously.

- c. Storage Building – Public Services – Gardner Concrete - \$174,000

Motion made and seconded to recommend contract, motion passed unanimously.

- d. Plow Trucks – Public Services – Freightliner of Maine - \$470,524

Motion made and seconded to recommend purchase, motion passed unanimously.

- e. Backhoe/Loader Lease – Public Services – United Construction & Forestry - \$139,129 (\$34,782/year)

Motion made and seconded to recommend contract, motion passed unanimously.

4. Review of Quarterly Financials

Staff presented a quarterly financial report to the Committee depicting year to date revenues and expenditures through March 2023.

Upcoming Items (subject to change)
(Anticipated dates are subject to change)

- Procurement Policy Recommended Changes (TBD)

Meeting adjourned: 5:50 pm

FINANCE COMMITTEE MINUTES

May 22, 2023

Councilors in Attendance – Hawes, Fournier, Sprague, Leonard, Pelletier, Tremble, Schaefer, Davitt

Staff in Attendance – Little, Pelletier, Emery

1. Bids/Purchasing

- a. Central Fire Roof Replacement – Fire – GR Roofing - \$333,500

Motion made and seconded to recommend to award contract, motion passed unanimously.

Meeting adjourned: 5:20 pm



CITY COUNCIL ACTION

08/28/2023 23-254

Council Meeting Date: 08/28/2023

Item No: 23-254

Responsible Dept: Legal

Requested Action: Order

Map/Lot: R02-002-C

Title, Order

Authorizing the Execution of a Municipal Quitclaim Deed for Real Estate Located at 2204 Ohio Street

Summary

This Order will authorize the execution of a municipal quitclaim deed for real estate located at 2204 Ohio Street. Tax and stormwater liens have matured on the property owned by Heirs of Elizabeth Margaret Gould, at 2204 Ohio Street. The outstanding charges due the City have been paid, and there are no known code violations on the property. Because the liens matured, a municipal quitclaim deed is required to release the City's interest in the property.

Committee Action

Committee:

Action: Recommend for passage

Meeting Date: 08/28/2023

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: Consent



CITY OF BANGOR ORDER

08/28/2023 23-254

Date: 08/28/2023

Item No: 23-254

Assigned to Councilor: Yacoubagha

Authorizing the Execution of a Municipal Quitclaim Deed for Real Estate Located at 2204 Ohio Street

Be it Ordered by the City Council of the City of Bangor that, David W. Little, Finance Director, is hereby authorized, on behalf of the City of Bangor, to execute a Municipal Quitclaim Deed releasing any interest the City may have by virtue of tax and stormwater liens recorded in the Penobscot County Registry of Deeds in Book 16878, Page 200; Book 16546, Page 344; Book 16103, Page 234; Book 15653, Page 122; Book 15174, Page 252; Book 14871, Page 131; Book 14545, Page 349; Book 14187, Page 329; Book 16830, Page 135; Book 16657, Page 42; Book 16314, Page 79; Book 16056, Page 283; Book 15789, Page 33; Book 15616, Page 113; Book 14657, Page 148; Book 14440, Page 176; and Book 14266, Page 317. Said deed shall be directed to Heirs of Elizabeth Margaret Gould and shall be in final form approved by the City Solicitor or the Assistant City Solicitor.



CITY COUNCIL ACTION

08/28/2023 23-255

Council Meeting Date: 08/28/2023

Item No: 23-255

Responsible Dept: Finance

Requested Action: Order

Map/Lot: N/A

Title, Order

Accepting a \$5,000 Donation from Fidelity Charitable on Behalf of the Lise and Myles Striar Charitable Fund to Provide Homeless Outreach Services

Summary

This Order will accept a donation in the amount of \$5,000 from Fidelity Charitable on behalf of the Lise and Myles Striar Charitable Fund.

The donation allowed for the funds to be used "where it's needed most". Staff recommendation is to use the funds for Homeless Outreach. The City's Homeless Outreach program, primarily administered by Health and Community Services, provides assistance to homeless individuals in the form of basic necessities and meals.

The program creates a bridge between City staff and the homeless, which can open the door to other assistance opportunities.

Committee Action

Committee:

Action: Recommend for passage

Meeting Date:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: Consent



CITY OF BANGOR ORDER

08/28/2023 23-255

Date: 08/28/2023

Item No: 23-255

Assigned to Councilor: Leonard

Accepting a \$5,000 Donation from Fidelity Charitable on Behalf of the Lise and Myles Striar Charitable Fund to Provide Homeless Outreach Services

WHEREAS, the City of Bangor has a homeless population; and

WHEREAS, the City Council has set addressing homelessness as a priority; and

WHEREAS, Health and Community Services has direct and regular contact with homeless individuals; and

WHEREAS, the Homeless Outreach program allows staff to provide basic necessities and/or meals to homeless individuals; and

WHEREAS, this program creates a relationship between City staff and the individual which can lead to other assistance opportunities;

Now Therefore, Be it Ordered by the City Council of the City of Bangor that, a donation in the amount of \$5,000 from Fidelity Charitable on behalf of the Lisa and Myles Striar Charitable Fund is hereby accepted to provide Homeless Outreach services.



CITY OF BANGOR ORDER

08/28/2023 23-256

Date: 08/28/2023

Item No: 23-256

Assigned to Councilor: Hawes

Amending the City of Bangor Procurement Policy

Be it Ordered by the City Council of the City of Bangor that, the City of Bangor Procurement Policy is hereby amended and the attached policy shall supersede all previous versions in their entirety.

CITY OF BANGOR

P R O C U R E M E N T
P O L I C Y

as adapted

from

The Model Procurement Ordinance
for Local Governments

By

The American Bar Association

in cooperation with

The National Institute of Governmental
Purchasing

Adopted by the Bangor City Council
January 10, 1994

Revised June, 1997

Revised October 27, 2003

Revised March 28, 2011 (CO11-110)

Revised October 24, 2011 (CO11-313)

Revised September 2016

Revised August 28, 2023

Table of Contents

ARTICLE 1 GENERAL PROVISIONS.....	5
Part A - Purpose and Application.....	5
1-101 Purpose.	5
1-102 Application.	5
Part B - Definitions.....	6
1-201 Definitions.....	6
Part C - Public Access to Procurement Information.....	8
1-301 Public Access to Procurement Information.	8
1-302 Authorization to Use Electronic Transmissions.....	9
ARTICLE 2 - OFFICE OF THE PURCHASING AGENT.....	9
2-101 Establishment, Appointment, and Tenure.....	9
2-102 Authority and Duties.....	9
2-103 Delegations to Other City Officials.....	10
ARTICLE 3 - SOURCE SELECTION AND CONTRACT FORMATION.....	10
Part A - Methods of Source Selection.....	10
3-101 Competitive Sealed Bidding.....	10
3-102 Request for Proposals/Qualifications.....	13
3-103 Contracting for Designated Professional Services.....	14
3-104 Revenue Contracts.....	14
3-105 Purchases.....	15
3-106 Sole Source Procurement.....	16
3-107 Emergency Procurements.....	18
3-108 Tie Bids.....	19
3-109 Cancellation of Request for Bids or Requests for Proposals/Qualifications. 19	
Part B - Qualifications and Duties.....	19
3-201 Responsibility of Bidders and Offerors.....	19
3-202 Cost or Price Analysis.....	19
3-203 Bid and Performance Bonds on Service Contracts.....	20
3-204 Insurance on Supply or Service Contracts.....	20
Part C - Types of Contracts and Contract Administration.....	21

3-301	Types of Contracts.....	21
3-302	Contract Clauses and Their Administration.....	22
3-303	Change Orders	24
3-304	Contract Administration.....	25
3-305	Right to Audit Records	28
3-306	Reporting of Anticompetitive Practices	29
3-307	City Procurement Records	29
ARTICLE 4 - SPECIFICATIONS		29
4-101	Maximum Practicable Competition.....	29
4-102	Brand Name or Equal Specification.	29
4-103	Brand Name Specification.	30
ARTICLE 5 - PROCUREMENT OF CONSTRUCTION, ARCHITECT, ENGINEER AND LAND SURVEYING SERVICES.....		30
Part A - Management of Construction Contracting.....		30
5-101	Responsibility for Selection of Methods of Construction Contracting Management	31
Part B - Bid Security and Performance Bonds		33
5-201	Bid Security.....	33
5-202	Contract Performance and Payment Bonds.....	33
5-203	Copies of Bond Forms	34
5-204	Insurance Requirements.....	34
Part C - Fiscal Responsibility		34
5-301	Contract Changes and Approval Process	34
5-302	Fiscal Responsibility	35
ARTICLE 6 - DEBARMENT OR SUSPENSION		35
6-101	Authority to Debar or Suspend.....	35
6-102	Decision to Debar or Suspend.	36
6-103	Notice of Decision	36
6-104	Finality of Decision.....	36
6-105	Debarment and Suspension Requirements for FTA Funded Procurements. 36	
ARTICLE 7 - COST PRINCIPLES.....		37
7-101	Federal Cost Principles for FTA Funded Procurements	37
ARTICLE 8 - SUPPLY MANAGEMENT		37
ARTICLE 9 - APPEALS AND REMEDIES.....		37

9-101 Bid Protests	37
ARTICLE 10 - COOPERATIVE PURCHASING	40
10-101 Authority to Join Groups.....	40
ARTICLE 11 - ASSISTANCE TO DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.....	41
ARTICLE 12 - ETHICS IN PUBLIC CONTRACTING	42
ARTICLE 13 – COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM	42
13-101 General Provisions.....	42
13-102 Small Purchase Procedures.....	43
13-103 Sealed Bids.....	43
13-104 Competitive Proposals	44
13-105 Non-Competitive Proposals	44
13-106 Ineligible Beneficiaries	44
Article 14 – BUY AMERICA REQUIREMENTS	44
14-101 Buy America Requirements for FTA Funded Procurements	44

ARTICLE 1 GENERAL PROVISIONS

Part A - Purpose and Application

1-101 Purpose.

The Purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City of Bangor, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

This policy is also intended to ensure that City of Bangor complies with Federal Transit Administration (FTA) standards to ensure full and open competition consistent with:

- FTA Circular 4220.1F "Third Party Contracting Guidance" or latest version thereof;
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (referred to now as the "Super Circular" and which replaced and consolidated OMB Circulars A-87, A-102, A-110, A-122, and A-133);
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 1201, which replaces 49 CFR parts 18 and 19

Purchases made with any FTA funds for the transit program must follow the specific FTA requirements as outlined in this Policy. Purchases made with local funds only and for purposes other than transit may follow the City of Bangor's requirements.

1-102 Application.

1. This Policy applies to contracts for the procurement of supplies, services, and construction, entered into by the City of Bangor after the effective date of this Policy, unless the parties agree to its application to contracts entered into prior to the effective date. It shall apply to every City of Bangor expenditure irrespective of the source of the funds. When the procurement involves the expenditure of Federal assistance or contract funds, such as with the Federal Transit Administration and Community Development Block Grant Program (See Article 14), the procurement shall be conducted in accordance with any mandatory applicable Federal law and regulations. Nothing in this Policy shall prevent any City department from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
2. Prohibited Practices for FTA Funded Procurements:
Solicitations with requirements that contain features that unduly restrict competition may not be used. City of Bangor shall not:
 - Impose unreasonable business requirements for bidders or offerors.
 - Impose unnecessary experience requirements for bidders and offerors.
 - Use prequalification procedures that are restrictive of competition.

- Make a noncompetitive award to any person or firm on a retainer contract with City of Bangor, if that award is not for the property or services specified for delivery under the retainer contract.
- Impose unreasonable restrictive bonding requirements on bidders and offerors in excess of FTA and state requirements.
- Specify only a "brand name" product without allowing offers of an "equal" product, or allowing an "equal" product without listing the salient characteristics that the "equal" product must meet to be acceptable for award.
- Specify in-state or local geographical preferences, or evaluating bids or proposals in light of in-state or local geographic preferences, even if those preferences are imposed by State or local laws or regulations. The only exception expressly mandated or encouraged by Federal law that may be applicable to City of Bangor is the procurement of Architectural and Engineering (A&E) Services. Geographic location may be a selection criterion in the procurement of A&E services if an appropriate number of qualified firms are eligible to compete for the contract in view of the nature and size of the project.
- Engage in practices that result in organizational conflicts of interest. An organizational conflict of interest occurs when any of the following circumstances arise:
 - Lack of Impartiality or Impaired Objectivity – When the bidder or offeror is unable, or potentially unable, to provide impartial and objective assistance or advice to City of Bangor due to other activities, relationships, contracts, or circumstances.
 - Unequal Access to Information – When the bidder or offeror has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
 - Biased Ground Rules – When during the conduct of an earlier procurement, the bidder or offeror has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.
- Support or acquiesce in noncompetitive pricing practices between firms or between affiliated companies.
- Take any arbitrary action in the procurement process.
- Use tag-ons where work is added that is beyond the scope of the original contract.

Part B - Definitions

1-201 Definitions.

- (1) Architect, Engineer and Land Surveying Services. Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the State of Maine.
- (2) Brand Name or Equal Specification. A specification limited to one or more items by manufacturers' names or model numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the City of Bangor's requirements, and which provides for the submission of equivalent products.
- (3) Brand Name Specification. A specification limited to one or more items by manufacturers' names or model numbers.
Brand Name Requirement for FTA Funded Procurements:

If used, salient characteristics must be listed so that alternatives can be proposed under Federally funded procurements.

- (4) Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- (5) Change Order. A written order signed by the City Manager, authorizing the contractor to make changes.
- (6) Contract Modification. Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- (7) Construction. The process of building, altering, repairing, improving, or demolishing any structure or building, or other improvements of any kind. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- (8) Contract. All types of City of Bangor agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.
- (9) Contractor. Any person having a contract with the City of Bangor or a using agency thereof.
- (10) Cost Analysis. The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed, including profits.
- (11) Employee. An individual drawing a salary or wages from the City of Bangor, whether elected or not; any noncompensated individual performing personal services for the City or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the City; and any noncompensated individual serving as an elected official of the City.
- (12) Financial Interest.
 - (a) Direct or indirect ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$500 per year, or its equivalent;
 - (b) Direct or indirect ownership of 10% of any property or business to include 10% of the stock of a private corporation; or
 - (c) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

- (13) Person(s). Any business, individual, union, committee, club, other organization, or group of individuals.
- (14) Price Analysis. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
- (15) Pricing Data. Factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.
- (16) Procurement. The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (17) Request for Bids (Sealed Bids). All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- (18) Request for Proposals/Qualifications. All documents, whether attached or incorporated by reference, utilized for soliciting proposals/qualifications.
- (19) Responsible Bidder or Offeror. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
- (20) Responsive Bidder. A person who has submitted a bid which conforms in all material respects to the requirements set forth in the request for bids.
- (21) Services. The furnishing of labor, time, or effect by a contractor, not involving the delivery of a specific product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- (22) Specifications. Any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- (23) Supplies. All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

Part C - Public Access to Procurement Information

1-301 Public Access to Procurement Information.

Procurement information shall be a public record to the extent provided in 1 MRSA Section 401 et. seq. and shall be available to the public as provided in such statute.

1-302 Authorization to Use Electronic Transmissions

The use of electronic media, including acceptance of electronic signatures, is authorized consistent with the City's applicable statutory, regulatory or other guidance for use of such media, so long as such guidance provides for:

- (a) appropriate security to prevent unauthorized access to the bidding, approval and award processes; and
- (b) accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

ARTICLE 2 - OFFICE OF THE PURCHASING AGENT

2-101 Establishment, Appointment, and Tenure.

- (1) Establishment of the Position of Purchasing Agent. There is hereby created the position of Purchasing Agent, who shall be the City's principal public purchasing official.
- (2) Appointment. The City Manager or his or her designee shall act as Purchasing Agent until or unless the City Council by ordinance shall provide for the appointment of a Purchasing Agent.
- (3) Tenure. The Purchasing Agent shall be appointed to serve an indefinite term and may be removed from office by the City Manager in accordance with City Policy.

2-102 Authority and Duties.

- (1) Principal Public Purchasing Official. Except as otherwise provided herein, the Purchasing Agent shall serve as the principal public purchasing official for the City, and shall be responsible for the procurement of supplies, services, and construction in accordance with this Policy, as well as the management and disposal of supplies.
- (2) Authority. The Purchasing Agent shall have the authority to award bids and/or contracts where the value is \$75,000 or less under the following conditions:
 - (a) funding for the item or service has been approved in the current year budget; and
 - (b) the recommendation is to award to the low bidder; and
 - (c) the City has previous experience with the bidder; and

- (d) where vendors, staff, Councilors or members of the public have not expressed concern/or heightened interest in some form about the item bid or the bid process itself.

All bids or contracts awarded under this section shall be reported to the Finance Committee on a monthly basis.

- (3) Duties. In accordance with this Policy, and subject to the supervision of the City Manager, the Purchasing Agent shall:
 - (a) procure or supervise the procurement of all supplies, services, and construction needed by the City;
 - (b) sell, trade, or otherwise dispose of surplus supplies belonging to the City; and
 - (c) establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the departments using the supplies, services, and construction.
- (4) Operational Procedures. Consistent with this Policy, and with the approval of the City Manager, the Purchasing Agent may adopt operational procedures relating to the execution of his/her duties.

2-103 Delegations to Other City Officials.

With the approval of the City Manager, the Purchasing Agent may delegate authority to purchase certain supplies, services, or construction items or used vehicles and equipment to other City officials, if such delegation is deemed necessary for the effective procurement of those items. Procurement guidelines may be waived for the purchase of used vehicles or equipment after coordination with the Purchasing Agent. Written documentation consistent with purchasing guidelines must be available for all such purchases. Purchases of used vehicles or equipment in excess of \$25,000 must be reported to the Finance Committee.

ARTICLE 3 - SOURCE SELECTION AND CONTRACT FORMATION

Part A - Methods of Source Selection

3-101 Competitive Sealed Bidding.

- (1) Conditions for Use. All contracts of the City shall be awarded by competitive sealed bidding except as otherwise provided in Sections 3-102 (Request for Proposals/Qualifications), 3-103 (Contracting for Designated Professional Services), 3-104 (Purchases), 3-105 (Sole Source Procurement), and 3-106 (Emergency Procurements).

(2) FTA Requirements for Sealed Bids:

The sealed bid method of procurement is a formal method in which bids are publicly solicited and a firm fixed price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the Invitation for Bids, is lowest in price. The vehicle through which bids are solicited is an Invitation for Bids (IFB). The IFB document contains technical specifications for the product or service to be purchased, a description of the procedures for submitting a bid, and the forms on which bids must be submitted.

(a) When Appropriate – The sealed bid method of procurement is the preferred method for acquiring products and services that, including construction services, cost greater than \$250,000. The sealed bid method of procurement may also be used for small purchases if it is determined to be appropriate. The sealed bid method of procurement is appropriate if the following conditions apply:

- (1) Precise Specifications – A complete, adequate, precise, and realistic specification or purchase description is available.
- (2) Adequate Sources – Two or more responsible bidders are willing and able to compete effectively for the business.
- (3) Fixed Price Contract – The procurement generally lends itself to a firm fixed price contract.
- (4) Price Determinative – The successful bidder can be selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken. Apart from responsibility determinations, contractor selection may not be determined on the basis of other factors whose costs cannot be measured at the time of award.
- (5) Discussions Unnecessary – Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as award of the contract will be made based on price and price-related factors alone.

(b) Requirements for Sealed Bids – The following requirements apply to the sealed bid method of procurement:

- (1) Publicity – The Invitation for Bids must be publicly advertised.
 - i. The Director of Finance shall ensure that sufficient time is allowed to prepare bids before the date of bid opening.
 - ii. Notice of bidding opportunities may be provided in other ways in addition, but not as a substitute, to a published notice. The methods may include, but not necessarily be limited to:
 - a. Direct notice, based on compiled vendor lists or from pre-qualification list, sent to prospective offerors; or
 - b. Use of advertisement by electronic means.
- (2) Adequate Sources – Bids must be solicited from an adequate number of known suppliers.
- (3) Adequate Specifications – The Invitation for Bids, including any specifications and pertinent attachments, must describe the property or services sought in sufficient detail that a prospective bidder will be able to submit a proper bid.

- (4) Sufficient Time – Bidders must be allowed sufficient time to prepare bids before the date of bid opening.
 - (5) Public Opening – All bids must be publicly opened at the time and place prescribed in the Invitation for Bids.
 - (6) Fixed Price Contract – A firm fixed price contract must be awarded in writing to the lowest responsive and responsible bidder unless the Invitation for Bids specifically allowed for award of a fixed price incentive contract or the inclusion of an economic price adjustment provision.
 - (7) Rejection of Bids – Any or all bids may be rejected if there is a sound, documented business reason.
-
- (3) Request for Bids. A request for bids shall include specifications, and all contractual terms and conditions applicable to the procurement.
 - (4) Public Notice. A public notice of the request for bids shall be given no less than seven (7) calendar days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation or posting on the City's website. The public notice shall state the place, date, and time of bid opening.
 - (5) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for bids. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-301 (Public Access to Procurement Information).
 - (6) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alterations or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirements set forth in the request for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.

Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The request for bids shall set forth the evaluation criteria to be used. No criteria should be used in bid evaluation that are not set forth in the request for bids.
 - (7) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or electronic notice received in the office designated in the request for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening changes in bid prices may only be allowed if the bid price was based on incorrect information provided by the City. No other changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be

permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- (a) the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (b) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent.
- (8) Award. The contract shall be awarded with reasonable promptness by appropriate notice to the bidder whose bid best meets the requirements and criteria set forth in the request for bids. In the event the bid for a construction project exceeds available funds as certified by the Finance Director, does not exceed such funds by more than five (5) percent, the Purchasing Agent is authorized, when time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the request for bids.
- (9) Multi-Step Sealed Bidding. When it is considered impractical to prepare initially a purchase description to support an award based on identified criteria, a request for bids may be issued requesting the submission of unpriced offers to be followed by a request for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

3-102 Request for Proposals/Qualifications.

- (1) Conditions for Use. When the Purchasing Agent determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of a request for proposals/qualifications.
- (2) Conditions for FTA Funded Procurements:
When Appropriate – The competitive proposal method of procurement is appropriate for the acquisition of products and services that cost greater than \$250,000 when the nature of the procurement does not lend itself to sealed bidding and City of Bangor expects that more than one source will be willing and able to submit a proposal. The competitive proposal method of procurement may also be used for small purchases if it is determined to be appropriate. The competitive proposal method of procurement may not be used for the procurement of construction services, unless it is a Design-Build Procurement. The competitive proposal method of procurement is appropriate when any of the following circumstances are present:
 - (1) Type of Specifications – The products or services to be acquired are described in a performance or functional specification, or if described in detailed technical specifications, other circumstances such as the need for

discussions or the importance of basing contract award on factors other than price alone are present.

- (2) Uncertain Number of Sources – Uncertainty about whether more than one bid will be submitted in response to an Invitation for Bids.
 - (3) Price Alone Not Determinative – Due to the nature of the procurement, contract award need not be based exclusively on price or price-related factors.
 - (4) Discussions Expected – Separate discussions with individual offerors are expected to be necessary after they have submitted their proposals.
- (3) Public Notice. Adequate public notice of the request for proposals/qualifications shall be given in the same manner as provided in Section 3-101(3) (Competitive Sealed Bidding, Public Notice).
 - (4) Evaluation Factors. The request for proposals/qualifications should include all evaluation factors and selection criteria that will be used in the evaluation process. All evaluation factors cited in the request shall be considered equal unless the relative importance of such factors is so noted or assigned to each factor listed in the request for proposal/qualifications.
 - (5) Discussion with Responsible Offerors and Revisions to Proposals/Qualifications. As provided in the request for proposals/qualifications, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.
 - (6) Award. Award shall be made to the responsible offeror whose proposal/qualification is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals/qualifications. The contract file shall contain the basis on which the award is made.

3-103 Contracting for Designated Professional Services.

- (1) Procurement of Services. For the purpose of procuring the services of accountants, lawyers, appraisers, construction contract manager, architect, engineer, land surveyor or other professionals Section 3-102 (Request for Proposals/Qualifications) shall be used except as provided under Section 3-105 (Sole Source Procurement) or Section 3-106 (Emergency Procurement)

3-104 Revenue Contracts

- (1) FTA Requirements for Revenue Contracts:
City of Bangor may enter into a revenue contract with a third party to generate revenues in connection with a transit related activity, or to create business opportunities utilizing an

FTA funded asset. Any such said contract opportunity will follow competitive selection procedures and principles outlined herein.

3-105 Purchases.

- (1) General. Any contract costing less than \$25,000 may be made in accordance with the purchase procedures authorized in this Section. Contract requirements shall not be artificially divided so as to constitute a purchase under this Section.
- (2) Purchases costing \$10,000 but less than \$25,000. In so far as it is practical, no less than three businesses shall be solicited to submit written quotations on vendor letterhead. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record. All pricing information shall be sent directly to the Purchasing Agent.
- (3) Purchases costing over \$1,000 but less than \$10,000. The Purchasing Agent shall adopt operational procedures for making purchases of \$1,000 - \$10,000. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service, or construction being purchased; further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the purchase made.
- (4) Purchases costing up to \$1,000. Purchases of up to \$1,000 may use a single selection, after contact, based on reasonable price, stock availability and delivery requirements.
- (5) Purchase Thresholds for FTA Funded Procurements:
Requirements applicable to micro-purchases (\$10,000 or less):
 - (1) Competition not required,
 - (2) Must document determination that price is fair and reasonable and how the determination was derived,
 - (3) Prohibit splitting of procurements to avoid competition, and
 - (4) When competition is not obtained, require equitable distribution among qualified suppliers.

Requirements applicable to small purchase threshold (from \$10,000 to \$250,000):

- (1) Must obtain price or rate quotations from an adequate number of qualified sources, and
- (2) Document file that price is fair and reasonable.

Required Competition

Price or rate quotations must be obtained from an adequate number of qualified sources. It is the responsibility of City of Bangor to ensure that an adequate number of quotations, bids, or proposals are received.

Prohibited Divisions

The size or dollar value of procurements may not be divided or reduced merely to come within the small purchase limit. The only allowable exception to this restriction is for the express purpose of fostering greater participation of DBE, small and minority firms and women's business enterprises in City of Bangor Federally-assisted procurements.

Documentation

Every small purchase must be documented in the grantee's written procurement history file. Contracts above the small purchase threshold must contain remedies for breach of contract. Contracts in excess of \$25,000 must have termination for cause and termination for convenience provisions.

Requirements applicable for large purchase greater than \$250,000:

Definition: Large purchases are those purchases of products and services that cost greater than Formal Threshold or the Federal threshold of \$250,000.

Large purchases must be made through the formal methods found in other sections of this policy. See, e.g., sections 3-101, 3-106.

City of Bangor reserves the right to use formal purchase methods instead of the micro-purchase or small purchase methods described herein, even if small purchase thresholds are met, if the Director of Finance believes it is in the best interests of the City of Bangor to do so.

3-106 Sole Source Procurement.

- (1) A contract may be awarded without competition when the Finance Committee determines after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The Purchasing Agent or respective department head shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification of each contract file.
- (2) Sole Source Requirements for FTA Funded Procurements: *Note: Change Orders beyond the scope of the contract are treated as Sole Source Procurements
When City of Bangor requires products or services available from only one responsible source, and no other products or services will satisfy its requirements, City of Bangor may make a sole source award with the prior approval of FTA or if otherwise allowed by the conditions below. Note that while the City of Bangor may contact FTA for prior approval, this approval is not required. In addition, when City of Bangor requires an existing

contractor to make a change to its contract that is beyond the scope of that contract, City of Bangor has made a sole source award that must be justified. Sole source awards are only appropriate when one of the following conditions apply:

- (a) Unique Capability or Availability – The products or services are available from a single source if one of the conditions described below is present:
- (1) Unique or Innovative Concept – The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to City of Bangor only from one source and has not in the past been available to City of Bangor from another source.
 - (2) Patents or Restricted Data Rights – Patent or data rights restrictions preclude competition.
 - (3) Substantial Duplication Costs – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
 - (4) Unacceptable Delay – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling City of Bangor needs.
- (b) Procurement by noncompetitive negotiation may be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances exists:
- The item is available only from a single source;
 - A public urgency or emergency for the item exists which will not permit a delay resulting from competitive solicitation;
 - FTA authorizes noncompetitive negotiations;
 - After solicitation of a number of sources, competition is determined inadequate; or
 - The item is an associated capital maintenance item as defined in 49 USC 5307(a)(1) et seq. that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify that such manufacturer or supplier is the only source for the item and the price of the item is no higher than the price paid for item by like customers; and
 - Cost analysis, *i.e.*, verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of cost and profit, is required.
- (c) Single Bid or Proposal – Upon receiving a single bid or proposal in response to a solicitation, City of Bangor should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.

- (1) Adequate Competition – Competition is adequate when the reasons for a single response were caused by conditions beyond City of Bangor control.
 - (2) Inadequate Competition – Competition is inadequate when the reasons for a single response were caused by conditions within City of Bangor control.
- (d) Unusual and Compelling Urgency – City of Bangor may limit the number of sources from which it solicits bids or proposals when City of Bangor has such an unusual and urgent need for the products or services that City of Bangor would be seriously injured unless it were permitted to limit the solicitation. City of Bangor may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the products or services.
- (e) Authorized by FTA – City of Bangor may request permission from FTA to allow it to use noncompetitive proposals for a particular procurement.
- (f) Procurement Procedures – The following requirements apply when City of Bangor completes a procurement utilizing less than full and open competition:
- (1) Potential Sources – City of Bangor must solicit offers from as many potential sources as is practicable under the circumstances.
 - (2) Sole Source Justification – City of Bangor must justify all sole source procurements in writing. Sole source procurement justifications must describe the reasons for why a sole source procurement is appropriate, state which of the authorized justifications listed in 3-106(a)-(e) are applicable, include a cost analysis and be signed by the Director of Finance. If City of Bangor decides to solicit an offer from only one source, City of Bangor must justify its decision in writing. The written justification must include the same elements as a sole source justification except that it must state which of the authorized justifications listed in 3-106(a)-(e) are applicable to the sole source purchase.
 - (3) Cost Analysis – City of Bangor must prepare or obtain a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits. A price analysis shall not be adequate to justify a sole source purchase.

3-107 Emergency Procurements.

Notwithstanding any other provisions of this Policy, the Purchasing Agent may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification of the contract file.

3-108 Tie Bids.

Tie bids shall be resolved by the drawing of lots or the flip of a coin. Such tie breaking procedures shall be performed by the Purchasing Agent in the presence of one or more witnesses and reported to the Finance Committee.

3-109 Cancellation of Request for Bids or Requests for Proposals/Qualifications.

A request for bids, a request for proposals/qualifications, or other solicitation may be canceled, or any or all bids or proposals/qualifications may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of the City. The reasons therefor shall be made part of the contract file.

Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the City.

Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation of any future procurement of similar items.

Part B - Qualifications and Duties

3-201 Responsibility of Bidders and Offerors.

- (1) Determination of Nonresponsibility. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the Purchasing Agent. Any grounds which would give the City the right to demand adequate assurance or due performance as to an awarded contract under 11 MRSA §2-609 shall be deemed adequate grounds for a determination of nonresponsibility under this section. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be made a public record.
- (2) Responsibility Determination Requirements for FTA Funded Procurements:
Before selecting a contractor for award, the recipient must consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See additional information in Section 6-105 regarding Debarment or Suspension.

3-202 Cost or Price Analysis.

- (1) A cost analysis or a price analysis, as appropriate, shall be conducted prior to award of the contract other than one awarded under Section 3-101 (Competitive Sealed Bidding).
- (2) Independent Cost Estimates for FTA Funded Procurements:
For every procurement over the micro-purchase threshold, City of Bangor shall make a written independent estimate of cost prior to receiving price quotes, bids or proposals.
- (3) Cost or Price Analysis for FTA Funded Procurements:
City of Bangor shall perform a cost or price analysis in connection with every procurement action above the Federal small acquisition threshold, including contract modifications.

Price Analysis:

If City of Bangor determines that competition was adequate, a written price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price.

Cost Analysis:

City of Bangor must perform or obtain a cost analysis when:

- (a) A price analysis will not provide sufficient information to determine the reasonableness of the contract cost.
- (b) When the offeror submits elements of the estimated cost.
- (c) When only a sole source is available, even if the procurement is a contract modification.
- (d) In the event of a change order.

City of Bangor must perform cost and profit analysis when adequate price competition is lacking.

3-203 Bid and Performance Bonds on Service Contracts.

Bid and performance bonds or other security may be requested for service contracts as the Purchasing Agent deems advisable to protect the City's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's financial or other responsibility.

3-204 Insurance on Supply or Service Contracts.

Comprehensive general liability, fire hazard, property damage, workers compensation or other insurance coverage may be required in connection with any City contract, when the Purchasing Agent or City Solicitor deems such insurance is advisable to protect the City's interests. Any such insurance requirement shall be set forth in the solicitation. Insurance shall not be used as a substitute for a determination of the bidder or offeror's financial or other responsibility.

Part C - Types of Contracts and Contract Administration

3-301 Types of Contracts.

- (1) General Authority. Subject to the limitations of this Section, any type of contract which is appropriate to the procurement and which will promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

- (2) Contract Type Requirement for FTA Funded Procurements:
Time and Materials Type Contracts may only be used:
 - (1) After a determination that no other type of contract is suitable, and
 - (2) If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

- (3) Multi-Term Contracts.
 - (a) Specified Period. Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

 - (b) Determination Prior to Use. Prior to the utilization of a multi-term contract, it shall be determined:
 - (i) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (ii) that such a contract will serve the best interests of the City by encouraging effective competition or otherwise promoting economies in the City's procurement.

 - (c) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.

(4) Multiple Source Contracting.

- (a) General. A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the City's actual requirements is limited by the provision of Uniform Commercial Code, 11 MRSA §2-306(1).
- (b) Limitations on Use. A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, product compatibility, or to be in the City's best interest. Any multiple source award shall be made in accordance with the provision of Section 3-101 (Competitive Sealed Bidding), Section 3-102 (Request for Proposal/Qualification), Section 3-104 (Purchases), and Section 3-106 (Emergency Procurements), as applicable. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.
- (c) Contract and Solicitation Provisions. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that:
 - (i) the City shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and
 - (ii) the City shall reserve the right to take bids separately if the Purchasing Agent approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the City.
- (d) Intent to Use. If a multiple source award is anticipated prior to issuing a solicitation, the City shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.
- (e) Determination Required. The Purchasing Agent shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

3-302 Contract Clauses and Their Administration.

- (1) Contract Clauses. All City contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Agent, after consultation with the City Solicitor, may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:
 - (a) the unilateral right of the City to order in writing changes in the work within the scope of the contract;

- (b) the unilateral right of the City to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
 - (c) variations occurring between estimated quantities of work in contract and actual quantities;
 - (d) defective pricing;
 - (e) liquidated damages;
 - (f) specified excuses for delay or nonperformance;
 - (g) termination of the contract for default;
 - (h) termination of the contract in whole or in part for the convenience of the City;
 - (i) suspension of work on a construction project ordered by the City;
 - (j) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
 - (i) when the contract is negotiated;
 - (ii) when the contractor provides the site or design; or
 - (iii) when the parties have otherwise agreed with respect to the risk of differing site conditions.
 - (k) the right of the City to require that the contract be performed in compliance with all applicable City ordinances, building codes, and State and Federal laws;
 - (l) specifying whether and under what conditions contract disputes may be subject to binding or non-binding arbitration; and
 - (m) specifying what law is applicable to resolution or contract disputes.
- (2) FTA Required Clauses for FTA Funded Procurements:
City of Bangor must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the grantees purchase document. It is the City of Bangor's responsibility to ensure that the provisions are included and followed.

If such requirements, clauses, and certifications were not included in the original purchase solicitation and contracts, due to an omission or a change in federal contract clause requirements, City of Bangor may request the vendor to append the required Federal clauses in the purchase order or other document that affects the City of Bangor procurement. When this method is used, City of Bangor shall obtain Buy America

- certification before entering into the purchase order. This method cannot be used to circumvent FTA's Buy America requirements.
- (3) Price Adjustments.
- a. Adjustments in price resulting from the use of contract clauses required by Subsection (1) of this Section shall be computed in one or more of the following ways:
- (i) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (ii) by unit prices specified in the contract or subsequently agreed upon;
 - (iii) by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 - (iv) in such other manner as the contracting parties may mutually agree; or
 - (v) in the absence of agreement by the parties, by a unilateral determination by the City of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the City, as accounted for in accordance with [reference to cost principles] and subject to the provision of Article 9 (Appeals and Remedies).
- b. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provision of Section 3-202 (Cost or Pricing Data).
- (4) Standard Clauses and Their Modification. The Purchasing Agent, after consultation with the City Solicitor, may establish standard contract clauses for use in City contracts. If the Purchasing Agent establishes any standard clauses addressing the subjects set forth in Subsection (1) of this Section, such clauses may be varied provided that any variations are reviewed by the City Solicitor.

3-303 Change Orders

- (1) Required Submissions Relating to Change Orders or Contract Modifications. A contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not costs or pricing data was required in connection with the initial pricing of the contract.
- (2) Contract Changes for FTA Funded Procurements:
City of Bangor may not use Federal assistance to finance:

- (a) Improper Contract Expansion – A contract has been improperly expanded when it includes significantly larger quantities, or options beyond the recipient’s reasonably anticipated needs. A contract has also been improperly expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity.
- (b) Cardinal Changes – A significant change in contract work that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change or “tag-on”. A change within the scope of the contract is not a cardinal change or “tag-on.”

3-304 Contract Administration.

- (1) Each department shall ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.
- (2) Contract Administration for FTA Funded Procurements:

- (a) City of Bangor Staff Responsibilities

- Prior to execution of third party contracts, City of Bangor shall designate a Project Manager to serve as City of Bangor principal contact with the contractor and as the primary administrator of the contract. The designated Project Manager for each contract shall have responsibility for directing and overseeing the work performed by the contractor; reviewing and approving deliverables and invoices from the contractor; determining percentage of contract completion for progress payments (if applicable); making recommendations on the exercise of contract options (if applicable); recommending contract changes; preparing justifications for contract changes; performing independent cost estimates and cost or price analyses for contract changes; making recommendations on approval or rejection of subcontractors; assisting with the resolution of contract disputes; making recommendations on contract termination or other contractor disciplinary actions; maintaining complete contract files; and other contract administration duties that may be necessary.

- (b) Period of Performance

- The period of performance generally should not exceed the time necessary to accomplish the purpose of the contract. City of Bangor will also consider competition, pricing, fairness, and public perception. City of Bangor procurement files will document its rationale for determining the performance period designated for each contract. City of Bangor third party contracts (such as property, services, leases, construction, revenue, and so forth) are limited to a maximum period of performance of five (5) years, unless the City justifies the business need or reason for establishing a longer term. City of Bangor may enter into a multi-year contract

to buy rolling stock with an option not exceeding five (5) years to buy additional rolling stock or replacement parts (49 U.S.C. § 5325(e)(1)). City of Bangor may not exercise that option later than five (5) years after the date of its original contract.

(c) Time Extensions

Consistent with the general tone of FTA Circular 4220.1F, contract time extensions shall be considered in light of whether they are permissible changes or impermissible cardinal changes. Once City of Bangor awards a third party contract, an extension of the contract term length that amounts to a cardinal change will require a sole source justification. The Director of Finance has the sole authority to approve and execute contract modifications. The Project Manager for the contract shall review all contract modifications as to whether additional time can be granted. The Project Manager shall prepare a written justification and cost analysis (if applicable) for the contract time extension and shall negotiate the appropriate contract modification with the contractor.

(d) Advance Payments

Advance payments utilizing FTA funds are prohibited unless prior written concurrence is obtained from FTA.

(e) Progress Payments

Progress payments are payments for contract work that has not been completed. City of Bangor may use FTA assistance to support progress payments provided the City obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested. Adequate security for progress payments may include taking title or obtaining a letter of credit or taking equivalent measures to protect the recipient's financial interest in the progress payment. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances. FTA acknowledges the practical reality that taking title to work in progress may not be desirable in some circumstances. The recipient should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance. Applicable provisions of Circular 4220.1F requires that any progress payments for construction contracts be made on a percentage of completion method described therein. City of Bangor however, may not make progress payments for other than construction contracts based on this percentage method.

(f) Remedies

City of Bangor shall include provisions that address remedies in its third party contracts. Provisions related to remedies may include provisions for:

a. Liquidated Damages

City of Bangor may use liquidated damages if City of Bangor reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such

damages are uncertain and would be difficult or impossible to determine. Rate and measurement standards must be calculated to reasonably reflect City of Bangor costs should the standards not be met, and must be specified in the solicitation and contract. The assessment for damages may be established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The contract file must include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account.

b. Violation or Breach

Third party contracts exceeding \$250,000 must include administrative, contractual, or legal remedies for violations or breach of the contract by the third party contractor.

c. Suspension of Work

City of Bangor may include provisions pertaining to suspension of work in its third party contracts.

d. Termination

Termination for cause and termination for convenience provisions must be included in third party contracts exceeding \$25,000.

(g) Contents of Complete Contract Files

The following documents shall comprise the contents of a complete contract file for procurements above the micro-purchase level:

a. Written Record of Procurement History

City of Bangor shall maintain written records detailing the history of the procurement for at least three years after the grant period concludes, including records relating to:

1. Procurement Method

City of Bangor must provide its rationale for the method of procurement it used for each contract, including a sole source justification for any acquisition that does not qualify as competitive.

2. Contract Type

City of Bangor must state the reasons for selecting the contract type it used.

3. Contractor Selection

City of Bangor must state its reasons for contractor selection or rejection, including written justification and evaluation documents;

4. Contractor Responsibility

City of Bangor must provide a written determination of responsibility for the successful contractor;

5. Cost or Price

City of Bangor must evaluate and state its justification for the contract cost or price, including the independent cost estimate and cost or price analysis; and

6. Reasonable Documentation

City of Bangor must retain documentation commensurate with the size and complexity of the procurement, including documents related to solicitation, receipt and evaluation of offers, and contract award, negotiation and execution.

(h) Contract Administration and Close-Out Documents

City of Bangor shall maintain written records detailing the performance and close-out of the contract, including records relating to:

(i) Contractor Performance

City of Bangor must maintain documents related to contractor adherence to budget and schedule, compliance with contract terms and conditions, DBE participation, progress reports, disputes and disciplinary actions.

(j) Contract Deliverables

City of Bangor must maintain copies of all contract deliverables and records relating to approval, rejection and requested modifications of contract deliverables.

(k) Contract Changes

City of Bangor must maintain copies of all contract modifications, including documentation related to the determination of need, written justification and rationale, cost analysis, negotiation and execution.

(l) Contract Payments

City of Bangor must retain documentation of invoices, approval of payments, requests for modifications to invoices, determination of percentage of contract completion for partial payments (if applicable), and ownership of title to partial work products.

(m) Contract Close-Out

City of Bangor must retain documentation related to contractor performance and evaluation, approval of final deliverables and payments, transfer of title to complete work products to City of Bangor and contract audit and final reconciliation.

3-305 Right to Audit Records.

- (1) Audit of Cost or Pricing Data. The City may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to

Section 3-202 (Cost or Pricing Data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, document, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.

- (2) Contract Audit. The City shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed price contract to the extent that such books, documents papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract.

3-306 Reporting of Anticompetitive Practices.

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General and the City Solicitor.

3-307 City Procurement Records.

- (1) Contract File. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City in a contract file by the Purchasing Agent.
- (2) Retention of Procurement Records. All procurement records shall be retained and disposed of by the City in accordance with State record retention guidelines.

NOTE: Records as to awarded contracts should be retained for at least six (6) years following final performance thereunder. Statute of limitations under 14 MRSA §751 et. seq. is 20 years for actions on contracts under seal and maximum ten (10) years for negligence of design professionals.

ARTICLE 4 - SPECIFICATIONS

4-101 Maximum Practicable Competition.

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this Section applies to all specifications including but not limited to, those prepared for the City by architects, engineers, designers, and draftsmen.

4-102 Brand Name or Equal Specification.

- (1) Use. Brand name or equal specifications may be used when the Purchasing Agent determines that:
 - (a) no other design, performance specification or qualified product is available;
 - (b) time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (c) the nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement; or
 - (d) use of a brand name or equal specification is in the City's best interests.
- (2) Designation of Several Brand Names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- (3) Required Characteristics. Unless the Purchasing Agent determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
- (4) Nonrestrictive Use of Brand or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

4-103 Brand Name Specification.

- (1) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent determines that only the identified brand name item or items will satisfy the City's needs.
- (2) Competition. The Purchasing Agent shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 3-105 (Sole Source Procurement).

ARTICLE 5 - PROCUREMENT OF CONSTRUCTION, ARCHITECT, ENGINEER AND LAND SURVEYING SERVICES

Part A - Management of Construction Contracting

5-101 Responsibility for Selection of Methods of Construction Contracting Management.

- (1) The Purchasing Agent shall have the discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the Purchasing Agent may consult with the City Engineer and shall consider the City's requirements, its resources, and the potential contractor's capabilities. If a method of construction contracting management other than a single prime contractor is selected, the Purchasing Agent shall include in the contract file a written statement setting forth the reasons for the alternate method of construction contracting management for that project.

- (2) Architectural and Engineering (A&E) Requirements for FTA Funded Procurements:
FTA's enabling legislation at 49 U.S.C. Section 5325(b)(1) requires the use of the qualifications-based procurement procedures contained in the "Brooks Act," 40 U.S.C. § 1101 through 1104, to acquire A&E services.
 - (a) Qualifications-Based Procurement Procedures Required – City of Bangor must use qualifications-based procurement procedures to acquire architectural and engineering (A&E) services as well as certain other services that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property. In addition to A&E services, other services that must be procured by qualifications-based procurement procedures include:
 - Program management;
 - Construction management;
 - Feasibility studies;
 - Preliminary engineering;
 - Design, architectural, engineering;
 - Surveying, mapping; and
 - Other related services.

The nature of the work to be performed and its relationship to construction, not the nature of the prospective contractor, determine whether qualifications-based procurement procedures may be used.

- (b) Qualifications-Based Procurement Procedures Prohibited – Unless FTA determines otherwise in writing, qualifications-based procurement procedures may not be used to acquire other types of services if those services are not directly in support of, directly connected to, directly related to, or do not lead to construction, alteration, or repair of real property. Qualifications-based procurement procedures may not be used for actual construction, alteration or repair to real property.

- (c) Qualifications-Based Procurement Procedures – The following procedures apply to qualifications-based procurements:
 - (1) Qualifications – Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror's qualifications are evaluated to determine contract award.

- (2) Price – Price is excluded as an evaluation factor.
 - (3) Most Qualified – Negotiations are first conducted with only the most qualified offeror.
 - (4) Next Most Qualified - Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.
- (3) FTA Funded Design-Build Procurements:
The City of Bangor must procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act as set forth in 4220.1F, VI, 3. h. when the preponderance of the work to be performed is considered to be for architectural and engineering (A&E) services as defined in 4220.1F, VI, 3. f. Qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not of an A&E nature as defined in 4220.1F, VI, 3. f, unless required by State law adopted before August 10, 2005.
- (4) Prevailing Wages Requirements for FTA Funded Procurements (Davis Bacon):
Under 49 U.S.C. Section 5333(a), Davis-Bacon Act prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction projects. City of Bangor will ensure that any third party contracts at any tier exceeding \$2,000 shall include provisions requiring compliance with the Davis-Bacon Act, 40 U.S.C. § 3141 *et seq.*, and implementing DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction” (29 CFR Part 5). The Davis-Bacon Act requires contractors to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The Davis-Bacon Act also requires contractors to pay wages not less than once a week. City of Bangor will include a copy of the current prevailing wage determination issued by DOL in each contract solicitation and will condition contract award upon the acceptance of that wage determination.
- (5) Anti-Kickback Requirements for FTA Funded Procurements:
For all third party construction and repair contracts exceeding \$100,000, City of Bangor, shall require provisions for compliance with the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874, and implementing DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States,” 29 CFR Part 3. The Act prohibits a contractor from inducing, by any means, any employee, to give up any part of his or her compensation to which he or she is otherwise entitled. Section 4104(c) of the Federal Acquisition Streamlining Act of 1994, 40 U.S.C. § 3701(b)(3)(A)(iii), increased the threshold for construction and repair to \$100,000 from \$2,000 as set forth in the Super Circular, so that a federally assisted construction contract must exceed \$100,000 before these “Anti-Kickback” prohibitions apply to that contract.

Part B - Bid Security and Performance Bonds

5-201 Bid Security.

- (1) Requirement for Bid Security. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated to exceed \$75,000. Bid security shall be a bond provided by a surety company authorized to do business in the State of Maine, certified check, or otherwise supplied in a form satisfactory to the Purchasing Agent. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$75,000 when the circumstances warrant.
- (2) Amount of Bid Security. Bid security shall be an amount equal to at least 5% of the amount of the bid.
- (3) Rejection of Bids for Noncompliance with Bid Security Requirements. When the request for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.
- (4) Withdrawal of Bids. If a bidder is permitted to withdraw his/her bid before award as provided in Section 3-101(6) (Competitive Sealed Bidding; Correction or Withdrawal of Bids; Cancellation of Awards), no action shall be made against the bidder or the bid security.

5-202 Contract Performance and Payment Bonds.

- (1) When Required and Amounts. When a construction contract is awarded in excess of \$75,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:
 - (a) a performance bond satisfactory to the City, executed by a surety company authorized to do business in the State of Maine or otherwise secured in a manner satisfactory to the City, in an amount to equal to 100% of the price specified in the contract; and
 - (b) a payment bond satisfactory to the City, executed by a surety company authorized to do business in the State of Maine or otherwise secured in a manner satisfactory to the City, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.
- (2) Authority to Require Additional Bonds. Nothing in this Section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in Subsection (1) of this Section.
- (3) Suits on Payment Bonds - Right to Institute. Unless otherwise authorized by law, any person who has furnished labor or materials to the contractor or subcontractors for the work provided in the contract, for which a payment bond is furnished under this Section,

and who has not been paid in full within 90 days from the date on which that person performed the last of the labor or supplied the material, shall have the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

- (4) Suits on Payment Bonds - Where and When Brought. Unless otherwise authorized by law, every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction in Penobscot County.
- (5) City of Bangor Subrogation Rights. The City of Bangor may reserve by contract the right to make payments directly to any supplier or subcontractor who shall not have received timely payment from the contractor for labor or materials provided to a City project.

In the event the City shall make such payments, it shall be deemed subrogated to the rights of the supplier or subcontractor concerned to the extent of the payments made, and may institute suit on any payment bond as provided above, the City's right to institute suit under this paragraph shall be in addition to the City's rights in regard to payment of contract funds to the contractor or to institute suit against the contractor for enforcement of any performance bond.

5-203 Copies of Bond Forms.

Any person may request and obtain from the City a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

5-204 Insurance Requirements

Where the Purchasing Agent has required liability or hazard insurance in accordance with section 3-204, the minimum coverage amount of such insurance shall be \$1,000,000 for comprehensive general liability coverage and the value of the City property affected for fire, hazard or property damage insurance. A higher coverage limit may be specified. The City shall be named as an additional insured on all such insurance policies, which shall be issued by an insurance company authorized and licensed to do business in the State of Maine.

Part C - Fiscal Responsibility

5-301 Contract Changes and Approval Process

Every contract modification, change order, or contract price adjustment under a construction contract with the City shall be subject to prior approval by the City Manager after receiving a report from the department head or other appropriate City official that the requested change is appropriate and that sufficient funds are available for the change.

5-302 Fiscal Responsibility.

Every contract modification, change order, or contract price adjustment in excess of \$250,000 under a construction contract with the City shall be subject to prior approval by the City Council after receiving a report from the appropriate City official as to the effect of the contract modification, change order, or contract price adjustment on the total project budget or the total contract budget.

ARTICLE 6 - DEBARMENT OR SUSPENSION

6-101 Authority to Debar or Suspend.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consulting with the City Solicitor, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three (3) years.

After consultation with the City Solicitor, the Purchasing Agent is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not to exceed one (1) year. The causes for debarment include:

- (a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honest which currently, seriously, and directly affects responsibility as a City contractor;
- (c) conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
- (d) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify debarment action:
 - (i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to

perform or unsatisfactory performance caused by acts beyond the control of the contract shall not be considered to be a basis for debarment.

- (e) any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a City contractor including debarment by another governmental entity for any cause listed in this Policy; and
- (f) for violation of the ethical standards as set forth in Ethics in Public Contract, (See Chapter 33, City of Bangor Ordinance).

6-102 Decision to Debar or Suspend.

The Purchasing Agent shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

6-103 Notice of Decision.

A copy of the decision required by Section 6-102 (Decision to Debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

6-104 Finality of Decision.

A decision under Section 6-102 (Decision to Debar or Suspend) shall be final and conclusive, unless fraudulent, or the debarred or suspended person within 10 days after receipt of the decision takes an appeal to the Board of Appeals or commences a timely action in court in accordance with applicable law.

6-105 Debarment and Suspension Requirements for FTA Funded Procurements.

Debarment and Suspension:

Debarment and suspension regulations and guidance include the following provisions.

DOT Debarment and Suspension Regulations:

U.S. Department of Transportation (DOT) regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200 apply to each third party contract at any tier of \$25,000 or more, to each third party contract at any tier for a federally required audit (irrespective of the contract amount), and to each third party contract at any tier that must be approved by an FTA official irrespective of the contract amount. See, 2 CFR Part 1200. City of Bangor shall apply DOT's debarment and suspension requirements to itself and each third party contractor at every tier to the extent required by DOT's regulations that incorporate the requirements of Office of Management and Budget (OMB), "Guidelines to Agencies on Government Wide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180.

System for Award Management:

The System for Award Management (SAM) combines federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. SAM includes the functionality from the following systems:

- Central Contractor Registry (CCR)
- Federal Agency Registration (Fedreg)
- Online Representations and Certifications Application
- Excluded Parties List System (EPLS)

At its discretion, City of Bangor may collect a debarment and suspension certification from the prospective third party contractor or include a clause in the third party contract requiring disclosure. Additionally, it shall be the policy of City of Bangor to verify that the prospective third party vendor is not listed as a debarred contractor on the SAM website at SAM.gov. Documentation of SAM searches shall be retained in the permanent history file associated with each procurement.

ARTICLE 7 - COST PRINCIPLES

7-101 Federal Cost Principles for FTA Funded Procurements.

Applicable provisions of 2 CFR Part 200.400 require project costs to conform to applicable Federal cost principles for allowable costs. City of Bangor must follow the cost principles outlined in Title 48 Chapter 1 Subchapter E Part 31. In general, costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the recipient.

ARTICLE 8 - SUPPLY MANAGEMENT

(RESERVED)

ARTICLE 9 - APPEALS AND REMEDIES

9-101 Bid Protests.

- (1) Right to Protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the City Council. Protesters are urged to seek resolution of their complaints initially with the Purchasing Agent. A protest with respect to a request for bids or request for proposals/qualifications shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within five (5) calendar days after such aggrieved person knows of the facts giving rise thereto. The decision of the City Council is final.
- (2) Stay of Procurements During Protests. In the event of a timely protest under Subsection (1) of this Section, the Purchasing Agent shall not proceed further with the solicitation or

award of the contract unless the City Council makes a written determination that the award of a contract without delay is necessary to protect substantial interests of the City.

- (3) Entitlement to Costs. In addition to any other relief, when a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

- (4) Protest Procedures for FTA Funded Procurements:

(a) Statement of Policy

City of Bangor is responsible for resolving all contractual and administrative issues, including protests of evaluations and contract awards, arising out of its third party procurements using good administrative practices and sound business judgment.

In general, FTA will not substitute its judgment for that of City of Bangor unless the matter is primarily a Federal concern. Nevertheless, FTA can become involved in City of Bangor administrative decisions when a City of Bangor protest decision is appealed to FTA.

City of Bangor shall give timely notification to FTA when it receives a third party procurement protest and will keep FTA informed about the status of any such protest. City of Bangor shall disclose all information about any third party procurement protest to FTA upon request.

City of Bangor shall insert its protest procedure in all solicitation documents for products and services having an estimated value of \$250,000 or greater.

(b) City of Bangor Staff Responsibilities

The following staff responsibilities shall be assigned in all protests:

- Director of Finance – Responsibilities include: ensuring that the City of Bangor Protest Procedure is included in all solicitation documents; and providing information to and assisting Legal Counsel with the resolution of protests.
- Legal Counsel – Responsibilities include: reviewing all procurement protests; and advising and assisting the City of Bangor as needed with the resolution of all procurement protests.

(c) Solicitation Provision

City of Bangor shall insert the following provision in all solicitation documents:

• Pre-Proposal Protests

All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Director of Finance as specified below not later than ten (10) business days prior to the deadline for submission of bids/proposals.

The Director of Finance may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the Director of Finance as the result of a protest the postponement will be announced through an addendum to the solicitation.

The decision by the Director of Finance shall be the final agency decision on the matter but shall be subject to judicial review as set forth by FTA below.

- Pre-Award Protests

With respect to protests made after the deadline for submission of bids/proposals but before contract award by «Db_Name», protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process, «Db_Name»'s failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Director of Finance as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by City of Bangor.

The Director of Finance may, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three (3) business days prior to the date that City of Bangor shall announce the contract award.

The decision by the Director of Finance shall be the final agency decision on the matter but shall be subject to judicial review as set forth or review by FTA as specified below.

(d) Requirements for Protests

All protests must be submitted to City of Bangor in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by City of Bangor.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Director of Finance at the address shown in the solicitation documents.

(e) Protest Response

The Director of Finance shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, City of Bangor will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official City of Bangor response to the protest and City of Bangor will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

(f) Review of Protests by FTA

All protests involving contracts financed with Federal assistance shall be disclosed to FTA. Protesters shall exhaust all administrative remedies with City of Bangor prior to pursuing protests with FTA. FTA limits its reviews of protests to: a grantee's failure to have or follow its protest procedures; a grantee's failure to review a complaint or protest when presented an opportunity to do so; or violations of Federal law or regulation. Appeals to FTA must be received within five (5) working days of the date the Protester has received actual or constructive notice of City of Bangor final decision or within five (5) working days of the date the Protester has identified other grounds for appeal to FTA.

ARTICLE 10 - COOPERATIVE PURCHASING

10-101 Authority to Join Groups.

- (1) The Purchasing Agent shall have the authority to join cooperative purchasing groups or other units of government in order to purchase goods or services when such action is deemed in the best interest of the City. Authorization and award of purchases made under cooperative purchasing arrangements shall be in accordance with the award requirements cited in Article 3, Source Selection and Contract Formation.
- (2) Piggybacking requirements for FTA funded procurements:
Assignment of Contract Rights ("Piggybacking") – If a recipient of FTA assistance finds that it has inadvertently acquired contract rights in excess of its needs, it may assign those contract rights to City of Bangor if the original contract contains an assignability provision that permits the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions. City of Bangor may use contractual rights through assignment from another recipient of FTA assistance after first determining the contract price remains fair and reasonable, and the contract provisions are adequate for compliance with all Federal requirements. City of Bangor need not perform a second price analysis if a price analysis was performed for the original contract; however, City of Bangor must determine whether the contract price or prices originally established are still fair and reasonable before using those rights. City of Bangor shall be responsible for ensuring the

contractor's compliance with FTA's Buy America requirements and execution of all the required pre-award and post-delivery Buy America review certifications. Before proceeding with the assignment, however, City of Bangor shall review the original contract to ensure that the quantities the assigning recipient acquired, coupled with the quantities that City of Bangor would acquire, do not exceed the amounts available under the assigning recipient's contract and that the required FTA clauses are included.

ARTICLE 11 - ASSISTANCE TO DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

- (1) Disadvantaged Business Enterprises (DBE) FTA Requirements:
City of Bangor must comply with applicable Federal laws and regulations that provide competitive opportunities for a contractor that qualifies as a disadvantaged business enterprise (DBE), minority owned firm, women's business enterprise, or small business.

FTA desires to make available at least 10 percent of its funding under that Act for contracts with small business concerns owned and controlled by socially and economically disadvantaged people. City of Bangor assists FTA in meeting this national goal. To receive FTA assistance, City of Bangor must comply with applicable requirements of DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26.

Small and Minority Firms and Women's Business Enterprises

FTA Circular 4220.1F, Chapter IV, Section 2a(6)(b) requires City of Bangor and its subrecipients (if any) to take steps to ensure that it uses small and minority firms and women's business enterprises (irrespective of whether they qualify as DBEs) to the fullest extent practicable.

- (a) Notice – City of Bangor shall make information available to potentially qualified firms about procurement opportunities. City of Bangor shall include these contractors on solicitation lists and request their participation when they are potential sources.
- (b) Contract Size – To foster greater participation of small and minority firms and women's business enterprises, City of Bangor may divide total requirements into smaller tasks or quantities, when economically feasible.
- (c) Delivery Schedule – City of Bangor may specify delivery schedules that encourage their participation.
- (d) Small Business Administration and the Department of Commerce Minority Business Development Agency – City of Bangor may use the services and assistance of the Small Business Administration and the Department of Commerce's Minority Business Development Agency.
- (e) Subcontracting Opportunities – City of Bangor may require its prime third party contractors to include the preceding provisions in FTA assisted subcontracts.

- (f) Prompt Payment – City of Bangor requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

City of Bangor ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

ARTICLE 12 - ETHICS IN PUBLIC CONTRACTING (See also Chapter 33, City of Bangor Ordinance)

Conflicts of Interest for FTA Funded Procurements:

Organizational conflicts of interest may result in bias and potentially provide an unfair competitive advantage to a potential offer or. An organizational conflict of interest occurs due to the type of work to be performed under a third party contract, or because of other activities or relationships such as:

- A contractor is unable, or potentially unable, to render impartial assistance or advice to the City of Bangor.
- A contractor's objectivity in performing contract work is or might otherwise be impaired; or
- A contractor has an unfair competitive advantage.

Bias arises when a contractor is placed in a situation where there may be an incentive to distort advice or decisions. Whenever a contract is awarded that involves the rendering of advice, the question must always be asked as to whether the potential for a conflict of interest exists for the contractor rendering the advice. City of Bangor will utilize a "Conflict of Interest Disclosure Statement," in its solicitation when contracting for services of this nature.

ARTICLE 13 – COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

13-101 General Provisions

- (1) When procuring goods or services using Community Development Block Grant funding, the City and its subrecipients, must follow federal procurement rules when purchasing services, supplies, materials, or equipment.
- (2) The City must adhere to federal procurement requirements found in 24 CFR Part 85 and as amended. Subrecipients must adhere to federal procurement requirements found in 2 CFR Part 215.44, as implemented through 24 CFR Part 84 and as amended.
- (3) Subrecipients are those entities and individuals receiving loans or grants to fulfill a CDBG national objective using CDBG funding and/or matching funds.

Subrecipients include, but are not limited to, businesses, nonprofit organizations, housing developers and single family home owners. Sub recipients are not required to receive the City's authorization to award contracts using CDBG funding so long as these procurement policies are adhered to and documented.

- (4) There are four categories of procurement pertaining to CDBG funding:
 - (a) Small purchase procedures,
 - (b) Sealed bids,
 - (c) Competitive proposals and
 - (d) Non-competitive proposals.

13-102 Small Purchase Procedures

This category may be used for goods and services totaling no more than \$250,000. The Director of Community & Economic Development, or his/her designee, has authority to award contracts within this category.

- (1) .
- (2) Non Housing Rehabilitation - Under the small purchases method, a request for quotes may be sent to a reasonable number of potential vendors with a detailed description of the goods or services needed. Once three or more competitive written quotations are received from qualified sources, a contract may be awarded to the lowest responsive and responsible source.
- (3) Housing Rehabilitation – Under the small purchases method, a request for quotes shall be sent to a reasonable number of pre-qualified vendors with a detailed description of the goods or services needed. Once three or more competitive written quotations are received from qualified sources, a contract may be awarded to the lowest responsive and responsible source.

13-103 Sealed Bids

- (1) This category may be used for construction contracts and goods totaling over \$250,000. The City Council must approve all contracts within this category.
- (2) Competitive and publicly solicited sealed bids are required for this category. A firm-fixed-price lump sum or unit price contract shall be awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. A minimum of two bidders is required.
- (3) The invitation for bids must be publicly advertised in a newspaper of general circulation and a minimum of two bids must be received in order to award the contract. All bids must be opened publicly at the time and place stated in the invitation for bids. The public is allowed at that time to review the bids. All bids may be rejected when sound documented reasons exist.

13-104 Competitive Proposals

- (1) Competitive proposals are used to purchase professional services where the total cost will exceed \$250,000. The Director of Community & Economic Development, or his/her designee, has authority to award contracts within this category.
- (2) Bids may be solicited under this category using two methods:
 - (a) A request for proposals
 - (b) A request for qualifications for architect and engineering services.
- (3) The invitation for bids must be publicly advertised in a newspaper of general circulation and a minimum of two bids/qualifications must be received in order to award the contract.

13-105 Non-Competitive Proposals

- (1) Non-competitive procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:
 - (a) Where the item is available only from a single source;
 - (b) Where a public emergency or urgent situation is such that the urgency will not permit a delay beyond the time needed to employ one or the other procurement methods;
 - (c) Where after solicitation of a number of sources, competition is determined inadequate.

Any contract in excess of \$250,000 must be awarded by the City Council. Contracts under \$250,000 may be awarded by the Director of Community & Economic Development, or his/her designee.

13-106 Ineligible Beneficiaries

- (1) No member of the Bangor City Council, nor any other public official, officer, employee or agent of the City, shall have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.
- (2) No member or delegate to the Congress of the United States, nor any Resident Commissioner, shall be permitted any share or part of the proceeds of this Agreement or any benefit that may arise herefrom.

Article 14 – BUY AMERICA REQUIREMENTS

14-101 Buy America Requirements for FTA Funded Procurements.

- (1) Preference for U.S. Property--Buy America

FTA's "Buy America" regulations apply to procurements in excess of \$150,000 that involve the purchase of iron, steel, manufactured goods, or rolling stock to be delivered to City of Bangor under the third party contract for incorporation into the FTA project.

- (2) Any construction contract exceeding \$150,000 entered into by City of Bangor with FTA assistance shall include provisions that require the third party contractor to provide property produced or manufactured in the United States for use in the construction project that the recipient acquires, unless FTA has granted a waiver authorized by those regulations. FTA cautions that its Buy America regulations are complex and different from the Federal "Buy American Act" regulations in FAR Subparts 25.1 and 25.2.
- (3) Property that the contractor acquires to perform its construction activities for the recipient, such as tools, machinery, and other equipment or facilities, is not covered by FTA's Buy America requirements unless the recipient intends to take possession of that property upon completion of the project. Thus, if a third party contractor is acquiring property for its general inventory of equipment or facilities to conduct its overall business affairs, City of Bangor may enter the cost of that acquisition into its calculations of overhead amounts applicable to the FTA assisted project irrespective of whether that property would comply with FTA's Buy America regulations.



CITY COUNCIL ACTION

08/28/2023 23-257

Council Meeting Date: 08/28/2023

Item No: 23-257

Responsible Dept: City Clerk

Requested Action: Order

Map/Lot: N/A

Title, Order

Appointing Constable for the Year 2023

Summary

This Order authorizes the appointment of Rob Hanscom as Constable for the Parks and Recreation Department.

Committee Action

Committee:

Action: Recommend for passage

Meeting Date:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: Consent



CITY OF BANGOR ORDER

08/28/2023 23-257

Date: 08/28/2023

Item No: 23-257

Assigned to Councilor: Tremble

Appointing Constable for the Year 2023

Be it Ordered by the City Council of the City of Bangor that,

the City Council hereby confirms the appointment of Rob Hanscom as Constable for the Parks and Recreation Department of the City of Bangor for the Year 2023.



**REFERRALS TO
COMMITTEES
& FIRST READING**



CITY COUNCIL ACTION

Council Meeting Date: August 28, 2023

Item No: 23-258

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: N/A

Title, Ordinance

Amending Chapter 165, Land Development Code, by Updating the Allowed Number of Dwelling Units in Residential Zones to Comply with LD 2003.

Summary

The proposed changes would update the City's Land Development Code to comply with the requirements of the state law known as LD 2003. This update has the effect of allowing more dwelling units in residential zones throughout the City. These changes align with the City Council policy to create residential units where feasible and with the 2022 Comprehensive Plan, which suggests that the City update the Land Development Code to comply with LD 2003.

Committee Action

Committee: Planning Board

Meeting Date: September 5, 2023

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: August 28, 2023

Assigned to Councilor: Sprague

ORDINANCE, Amending Chapter 165, Land Development Code, by Updating the Allowed Uses in Residential Zones to Comply with LD 2003.

WHEREAS, at present, LD 2003 is a state law that requires municipalities to update land use codes to allow a minimum number of residential units in residential zones;

WHEREAS, the proposed changes would update the City's Land Development Code to comply with the requirements of LD 2003;

WHEREAS, the City Council has a policy to create residential units where feasible;

WHEREAS, the 2022 Comprehensive Plan suggests the City update the Land Development Code to comply with LD 2003;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165, Attachment 2 - Schedule A, Attachment 3 – Schedule B, and Attachment 4 – Schedule C of the Code of the City of Bangor is amended as shown on the attached, and

Chapter 165 of the Code of the City of Bangor is amended as follows:

§ 165-31.2 Accessory dwelling units (ADUs).

- A. Accessory dwelling units (ADUs) are not subject to minimum lot area requirements, ~~nor~~ requirements for the number of dwelling units per acre, nor minimum parking requirements.
- B. In districts where ADUs are allowed, the Code Enforcement Officer shall approve an ADU upon a determination that said ADU complies with the following conditions:
 - ...
 - (6) No more than one ADU is allowed per lot and an ADU may only be allowed where there exists only one single-family detached dwelling or one detached manufactured housing unit.
 - ...
 - ~~(8) ADUs shall not be rented for less than 30 days.~~

§ 165-72 Required number of spaces.

- C. Exemptions from the requirements of this § 165-72 are as follows:

(6) Accessory dwelling units shall be exempt from the requirements of this section.

§ 165-88 Urban Residence 1 District (URD-1).

...
C. Permitted uses. The following uses are permitted in this district:

- ...
- (1) One-family detached dwellings, with additional dwelling units permitted given the following:
- (a) The lot is inside the Growth Boundary defined in the City's most recently adopted Comprehensive Plan.
 - (b) If no dwelling exists on a lot, up to 4 units are allowed, either detached or attached.
 - (c) If one dwelling unit exists on the lot, up to 2 additional units are allowed, one being attached to or within the existing dwelling and one being detached.
 - (d) If two dwelling units exist on a lot, no additional units are allowed.
 - (e) If dwelling units are demolished after the date this ordinance is adopted and the demolition results in an empty lot, there can be no increase in the number of units above what existed on the lot prior to demolition.

§ 165-89 Urban Residence 2 District (URD-2).

...
C. Permitted uses. The following uses are permitted in this district:

- (1) One-family, two-family, three-family and four-family detached dwellings
- (a) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-90 Multifamily and Service District (M&SD).

...
C. Permitted uses. The following uses are permitted in this district:

- (1) One-family, two-family, three-family and four-family detached dwellings
- (a) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-91 Neighborhood Service District (NSD).

...
C. Permitted uses. The following uses are permitted in this district:

- ...
- (10) One-family, and two-family-unit dwellings, three-family, and four-family detached dwellings
- (a) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-92 Urban Service District (USD).

...
D. Conditional uses. Subject to Planning Board approval under the provisions of § **165-9**, the following uses may be permitted in this district:

- ...
- (5) A mixed residential and commercial use, provided that:
- ...
- (e) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-99 Low-Density Residential District (LDR).

...
C. Permitted uses. The following uses are permitted in this district:

...

- (1) ~~A single building containing one dwelling unit.~~ One-family detached dwellings, with additional dwelling units permitted given the following:
- (a) If the lot is inside the Growth Boundary defined in the City's most recently adopted Comprehensive Plan:
- (i) If no dwelling exists on a lot, up to 4 units are allowed, either detached or attached.
- (ii) If one dwelling unit exists on the lot, up to 2 additional units are allowed, one being attached to or within the primary dwelling and one being detached.
- (iii) If two dwelling units exist on a lot, no additional units are allowed.
- (b) If the lot is outside the Growth Boundary defined in the City's most recently adopted Comprehensive Plan:
- (i) If no dwelling exists on a lot, up to 2 units are allowed, either detached or attached.
- (ii) If one dwelling unit exists on the lot, up to 2 additional units are allowed, one being attached to or within the existing dwelling and one being detached.
- (iii) If two dwelling units exist on a lot, no additional units are allowed.
- (c) If dwelling units are demolished after the date this ordinance is adopted and the demolition results in an empty lot, there can be no increase in the number of units above what existed on the lot prior to demolition.

§ 165-100 High-Density Residential District (HDR).

...

C. Permitted uses. The following uses are permitted in this district:

...

- (2) One or more buildings containing two to six dwelling units
- (a) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI
- (3) One or more buildings containing seven to 12 dwelling units, provided that:
- (a) The parcel is a minimum of two acres in size.
- (b) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

...

D. Conditional uses. Subject to Planning Board approval under the provisions of § **165-9**, the following uses may be permitted in this district:

- (1) One or more buildings containing 13 to 30 dwelling units, provided that:
- (a) The parcel is a minimum of three acres in size.
- (b) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-101 Shopping and Personal Service District (S&PS).

...

C. Permitted uses. The following uses are permitted in this district:

...

- (18) Multi-family detached dwellings, provided that:
- (a) The lot does not have frontage on Hammond Street or Union Street.
- (b) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI
- (19) A mixed residential and commercial use, provided that:
- (c) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

D. Conditional uses. Subject to Planning Board approval under the provisions of § **165-9**, the following uses may be permitted in this district:

...

- (9) A mixed residential and commercial use if the lot has frontage on Union Street, provided that:

- (a) The commercial activity is a use permitted in Subsection C above, except that marijuana stores would not be permitted.
- (b) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

...

- (13) Multi-family detached dwellings if the lot has frontage on Union Street
 - (a) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-102 General Commercial and Service District (GC&S).

- D. Conditional uses. Subject to Planning Board approval under the provisions of § **165-9**, the following uses may be permitted in this district:

...

- (11) A mixed residential and commercial use if the lot has frontage on Union Street, provided that:
 - (a) The commercial activity is a use permitted in §165-101.C, except that marijuana stores would not be permitted.
 - (b) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

- (12) Multi-family detached dwellings if the lot has frontage on Union Street
 - (a) An affordable housing density bonus may be allowed, subject to the requirements of Article XXI

§ 165-105 Rural Residence and Agricultural District (RR&A).

- C. Permitted uses. The following uses are permitted in this district:

...

- (4) One-family dwellings and one-family detached manufactured housing units, with additional dwelling units permitted given the following:
 - (a) If the lot is inside the Growth Boundary defined in the City's most recently adopted Comprehensive Plan:
 - (i) If no dwelling exists on a lot, up to 4 units are allowed, either detached or attached.
 - (ii) If one dwelling unit exists on the lot, up to 2 additional units are allowed, one being attached to or within the primary dwelling and one being detached.
 - (iii) If two dwelling units exist on a lot, no additional units are allowed.
 - (b) If the lot is outside the Growth Boundary defined in the City's most recently adopted Comprehensive Plan:
 - (i) If no dwelling exists on a lot, up to 2 units are allowed, either detached or attached.
 - (ii) If one dwelling unit exists on the lot, up to 2 additional units are allowed, one being attached to or within the existing dwelling and one being detached.
 - (iii) If two dwelling units exist on a lot, no additional units are allowed.
 - (c) If dwelling units are demolished after the date this ordinance is adopted and the demolition results in an empty lot, there can be no increase in the number of units above what existed on the lot prior to demolition.

§ 165-112 Submittal requirements.

- A. Any site development project requiring a land development permit shall include the following information and submittals:

...

- (6) For developments using the Affordable Housing Density Bonus outlined in Article XXI, documentation showing the proposed mechanism(s) to ensure affordability, as described in §165-143.D.
- (6 7) Such other information as the Code Enforcement Officer or Planning Board shall deem necessary.

Article XXI
Affordable Housing Density Bonus

§ 165-141 Purpose.

This article provides for a density bonus for the creation of affordable dwelling units in certain zoning districts per Title 30-A Section 4364 in the State of Maine statutes.

§ 165-142 Definitions.**AFFORDABLE**

When used for the purpose of claiming the Affordable Housing Density Bonus outlined in Article XXI, "affordable" means:

- (1) For rental housing, a household whose income does not exceed 80% of the area median income can afford to rent the dwelling unit without spending more than 30% of the household's monthly income on housing costs.
- (2) For owned housing, a household whose income does not exceed 120% of the area median income can afford to own the dwelling unit without spending more than 30% of the household's monthly income on housing costs.
- (3) For the purposes of this definition, "area median income" means the midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development
- (4) For the purposes of this definition, "housing costs" include, but are not limited to:
 - (a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
 - (b) For an owned unit, the cost of the mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

BASE DENSITY

The maximum number of units allowed on a lot not used for affordable housing based on the dimensional requirements listed for the zone(s) in which the lot is located. This does not include any other density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

CENTRALLY MANAGED WATER SYSTEM

A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.

COMPARABLE SEWER SYSTEM

Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

§ 165-143 General requirements.

- A. **Density Bonus.** A residential or mixed-use development shall be allowed a maximum dwelling unit density of up to 2.5 times the base density (as defined in § 165-142) permissible in the underlying zoning district if the project meets the following eligibility criteria:

- (1) **Affordability.** After completion of the project, more than half of the total dwelling units, existing and new, on the same lot shall be affordable (as defined in § 165-142) for a period of at least 30 years.
 - (2) **Located in a Growth Area or Served by Water and Sewer.** The lot is inside the Growth Boundary defined in the City's most recently adopted Comprehensive Plan, or the lot is served by both a public, special district, or centrally managed water system and public, special district, or comparable sewer system.
 - (3) **Adequate Utility Capacity.** The lot has adequate water and wastewater services.
 - (4) **Zoning.** The lot is located in the URD-2, M&SD, NSD, USD, HDR, S&PS, or GC&S zoning districts.
 - (5) **Minimum Lot Sizing for Septic.** The subject property complies with minimum lot size requirements in accordance with 12 M.R.S.A. § 423-A, as amended, if subsurface wastewater disposal is proposed.
- B. Non-conforming Situations.** The density bonus may not be applied to non-conforming lots.
- C. Fractional Density.** If a fractional results when calculating the density bonus, the number of units shall be rounded down to the nearest whole number.
- D. Long-Term Affordability Covenant.** Prior to granting a Certificate of Occupancy for any dwelling unit in the project, or in a phase of the project, the applicant shall:
- (1) Execute an affordable housing agreement, in such form as shall be approved by the City Solicitor, containing a restrictive covenant relating to the affordability of the dwelling unit, enforceable by a party acceptable to the City, and record the affordable housing agreement in the Penobscot County Registry of Deeds. The affordable housing agreement shall require that for at least thirty (30) years after the issuance of the Certificate of Occupancy for a dwelling unit in the project:
 - (a) For rental housing, occupancy of all the dwelling units designated affordable in the development to qualify for the density bonus, or an equivalent number of affordable dwelling units in the project when specific locations for the affordable units are not specified, will remain limited to households at or below 80% of the local area median income (i.e. within the area represented by the "Bangor, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Housing Act of 1937, as amended) from the time of initial occupancy; and
 - (b) For owned housing, occupancy of all the dwelling units designated affordable in the development to qualify for the density bonus will remain limited to households at or below 120% of the local area median income (i.e. within the area represented by the "Bangor, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Housing Act of 1937, as amended) from the time of initial occupancy.
 - (2) For phased projects, the City may issue Certificates of Occupancy for dwelling units in a phase of a project only if a sufficient number of affordable dwelling units, subject to an affordable housing agreement consistent with Subsection D(1) above, are included in the phase so that more than one-half of the total number of dwelling units that will be approved for occupancy, as evidenced by Certificates of Occupancy, at the end of the phase constitute affordable dwelling units.
- E. Site Plan and Subdivision Review Required.** All projects creating 3 or more dwelling units are subject to Site Plan review per § 165-111 and Subdivision review per Title 12 Section 682 in the State of Maine statutes.

LAND DEVELOPMENT

165 Attachment 2

City of Bangor

Schedule A
Urban Developed Area
Article XIII, §§ 165-88 through 165-97

Zoning Districts	Maximum District Height (feet)	Minimum Lot Area (square feet)	Maximum Lot Coverage	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Impervious Surface Ratio	Minimum Water Setback (feet)	Maximum Floor Area Ratio
Urban Residence 1 (URD-1)	35	¹	35%	50	10 ⁷	5	15; 5 for accessory structure	0.75	--	--
Urban Residence 2 (URD-2)	40	⁺²	40%	50	10 ⁷	5	15; 5 for accessory structure	0.8	--	--
Multifamily and Service (M & SD)	45	^{±3}	50%	50	10	5	5	0.85	--	--
Neighborhood Service (NSD)	35	10,000 ²	25%	75	20	10	20	None	0.4	0.4

NOTES:

¹ For one and two dwelling units, 5,000 square feet; for three dwelling units, 7,500 square feet; and for four dwelling units, 10,000 square feet. 5,000 square feet for each dwelling unit up to 4 on an empty lot, up to 2 (additional) if one dwelling unit exists (see §165-88.C(1)).

² For the first two dwelling units, 5,000 square feet, plus 250 square feet for each additional dwelling unit. For one and two dwelling units, 5,000 square feet; for three dwelling units, 7,500 square feet; and for four dwelling units, 10,000 square feet. If using Affordable Housing Density Bonus, 5,000 square feet for first 5 units, plus 1,000 square feet for each additional unit up to 10 (see §165-143).

³ (Reserved) For the first two dwelling units, 5,000 square feet, plus 250 square feet for each additional dwelling unit. If using Affordable Housing Density Bonus, 5,000 square feet for first 5 units, plus 100 square feet for each additional unit (see §165-143).

...

²10,000 square feet for 1 to 4 dwelling units. If using Affordable Housing Density Bonus, 10,000 square feet for up to 10 dwelling units (see §165-143).

LAND DEVELOPMENT

165 Attachment 3

City of Bangor

Schedule B

Developing Area

Article XIV, §§ 165-99 through 165-103.1

Zoning Districts	Minimum Lot Area (square feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Dwelling Units per Acre	Maximum Dwelling Units per Building	Maximum Height (feet)	Maximum Lot Coverage	Maximum Floor Area Ratio	Maximum Impervious Surface Ratio	Minimum Open Space	Minimum Lot Width (feet)	Minimum Buffer Yard Type
Low-Density Residential (LDR)													
Permitted uses													
Buildings containing 1-unit dwelling, home occupation, community living arrangement	¹⁰	25	10 ⁷	20 ⁷	3 ½ ¹¹	± 2 - 4	35	20%	NA	0.3	NA	100	NA

NOTES:

¹12,000 square feet for the first two units in a building and 3,000 square feet for each additional unit in the same building. If using Affordable Housing Density Bonus, up to 15 units per building - minimum 12,000 square feet for the first 5 units in a building and 1,200 square feet for each additional unit in the same building. (see §165-143).

²27,000 square feet for seven-dwelling-unit buildings and 3,000 square feet per unit over seven units in the same building, but not less than a two-acre site. If using Affordable Housing Density Bonus, up to 30 units per building - minimum 27,000 square feet for the first 17 units in a building and 1,200 square feet for each additional unit in the same building, but not less than a two-acre site. (see §165-143).

³45,000 square feet for 13 dwelling units in a building and 3,000 square feet per unit over 13 units in the same building, but not less than a three-acre site. If using Affordable Housing Density Bonus, up to 75 units per building - minimum 45,000 square feet for the first 32 units in a building and 1,200 square feet for each additional unit in the same building, but not less than a three-acre site. (see §165-143).

...

⁸For the first two dwelling units, 10,000 square feet, plus 250 square feet for each additional dwelling unit. If using Affordable Housing Density Bonus, minimum 10,000 square feet for first five units, plus 100 square feet for each additional. (see §165-143).

...

¹⁰12,000 square feet for the first dwelling unit, 6,000 square feet for each additional (up to 3-4 in Growth Boundary, 2-3 outside Growth Boundary) (see §165-99.C(1)).

¹¹Applies to subdivision only.

LAND DEVELOPMENT

165 Attachment 4

City of Bangor

Schedule C

**Resource, Open Space and Rural Area
Article XV, §§ 165-105 through 165-107**

Zoning Districts	Maximum District Height (feet)	Minimum Lot Area (acres)	Maximum Lot Coverage	Maximum Impervious Surface Ratio	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)
Rural Residence and Agricultural (RR&A), permitted and conditional uses	40	1 ½ [§]	15%	.20	200	40	20	30

NOTES:

...

[§]For dwelling units inside the Growth Boundary, 12,000 square feet for the first unit plus 6,000 square feet for each additional unit up to 3-4 units. For dwelling units outside the Growth Boundary, minimum lot size of 1.5 acres regardless of the number of units. (See §165-105.C(4)).



CITY COUNCIL ACTION

Council Meeting Date: August 28, 2023

Item No: 23-259

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: 014-101

Title, Ordinance

Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located at 54 Webster Avenue from Urban Residence 1 District (URD-1) to Urban Residence 2 District (URD-2).

Summary

The applicant is seeking a zone change for the property at Map-Lot 014-101, located at 54 Webster Avenue, from the Urban Residence 1 District (URD-1) to the Urban Residence 2 District (URD-2). The total area requested to be changed is approximately 0.19 acres and is shown in the attached exhibit.

The change to the URD-2 district would allow for three dwelling units on the property versus the current one unit allowed by the URD-1 zone. The neighborhood primarily consists of URD-1, with some NSD lots nearby, adjacent to Hammond Street. There are several legally nonconforming multi-unit dwellings in the vicinity of this property. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this area as consisting of "medium to high-density neighborhoods surrounding the Downtown and encompassing most of the City's historic residential areas".

Committee Action

Committee: Planning Board

Meeting Date: September 5, 2023

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: August 28, 2023

Assigned to Councilor: Pelletier

ORDINANCE, Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located at 54 Webster Avenue from Urban Residence 1 District (URD-1) to Urban Residence 2 District (URD-2).

WHEREAS, at present, the zoning of the property allows single-family residential and this zone change would allow for multi-family residential;

WHEREAS, the 2022 Comprehensive Plan shows this area as consisting of "medium to high-density neighborhoods surrounding the Downtown and encompassing most of the City's historic residential areas";

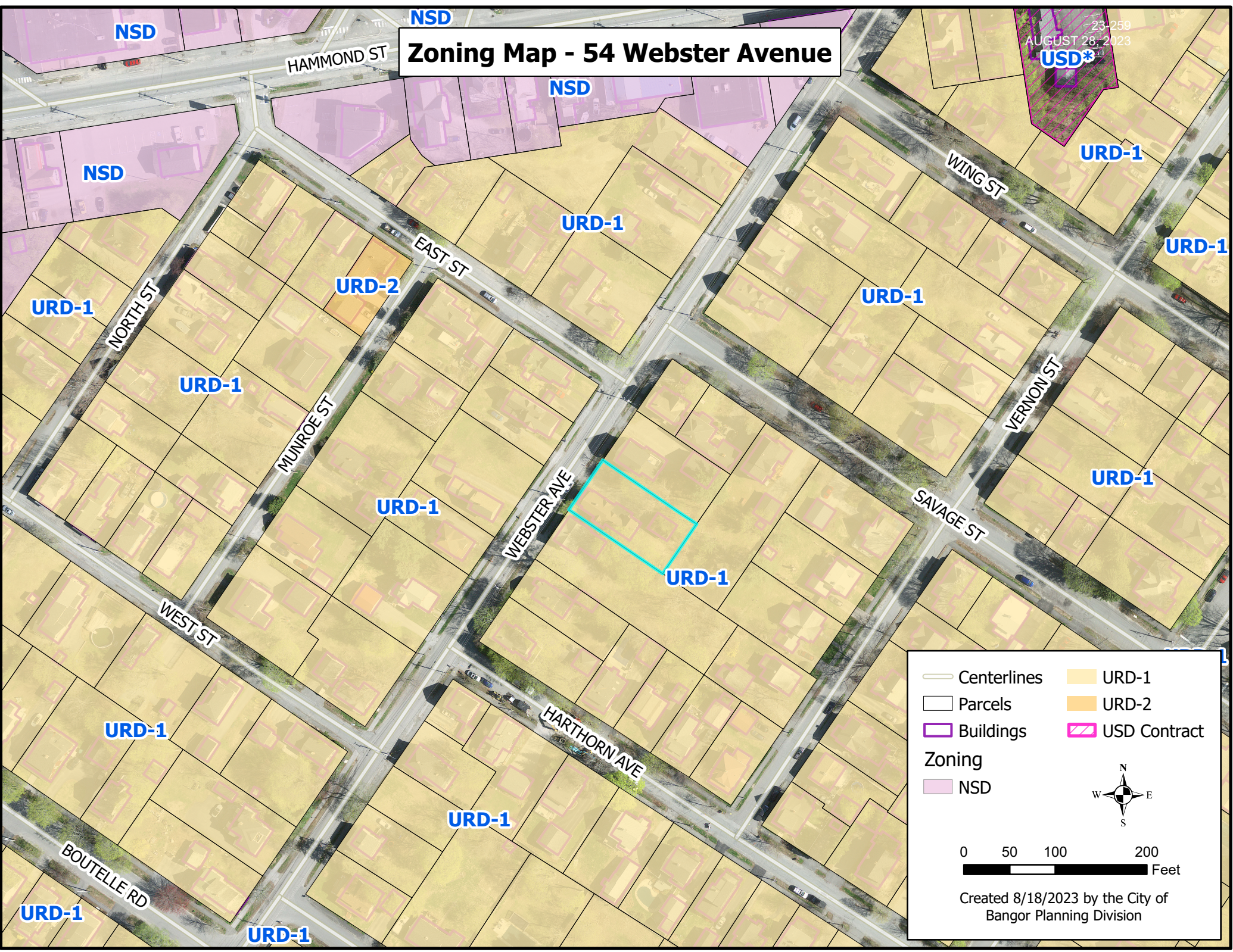
WHEREAS, the City Council has a policy to create residential units where feasible;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165 of the Code of the City of Bangor, District Map, is amended to reclassify the property at Map-Lot 014-101, located at 54 Webster Avenue, from the Urban Residence 1 District (URD-1) to the Urban Residence 2 District (URD-2). The total area requested to be changed is approximately 0.19 acres and is shown in the attached exhibit.

Zoning Map - 54 Webster Avenue

23-259
AUGUST 28, 2023
USD*



Centerlines	URD-1
Parcels	URD-2
Buildings	USD Contract
Zoning	
NSD	

0 50 100 200 Feet

Created 8/18/2023 by the City of Bangor Planning Division



CITY COUNCIL ACTION

Council Meeting Date: August 28, 2023

Item No: 23-260

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: 020-013

Title, Ordinance

Amending Chapter 165, Land Development Code, District Map to Re-zone a Portion of the Property Located at 79 Fourteenth Street from Urban Residence 1 District (URD-1) to Urban Service District (USD).

Summary

The applicant is seeking a zone change for a portion of the property at Map-Lot 020-013, located at 79 Fourteenth Street, from the Urban Residence 1 District (URD-1) to the Urban Service District (USD). The total area requested to be changed is approximately 0.15 acres and is shown in the attached exhibit.

The current zoning limits the property primarily to single-family residential, while the change to the USD district would allow for various commercial uses such as offices, restaurants, retail, and service businesses, as well as mixed commercial residential uses. The neighborhood primarily consists of URD-1, but an adjacent parcel is zoned USD, as well as several others at the nearby intersection of Fourteenth Street and Union Street. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this area as including "limited commercial and institutional uses that are complementary to the surrounding residential uses".

Committee Action

Committee: Planning Board

Meeting Date: September 5, 2023

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: August 28, 2023

Assigned to Councilor: Tremble

ORDINANCE, Amending Chapter 165, Land Development Code, District Map to Re-zone a Portion of the Property Located at 79 Fourteenth Street from Urban Residence 1 District (URD-1) to Urban Service District (USD).

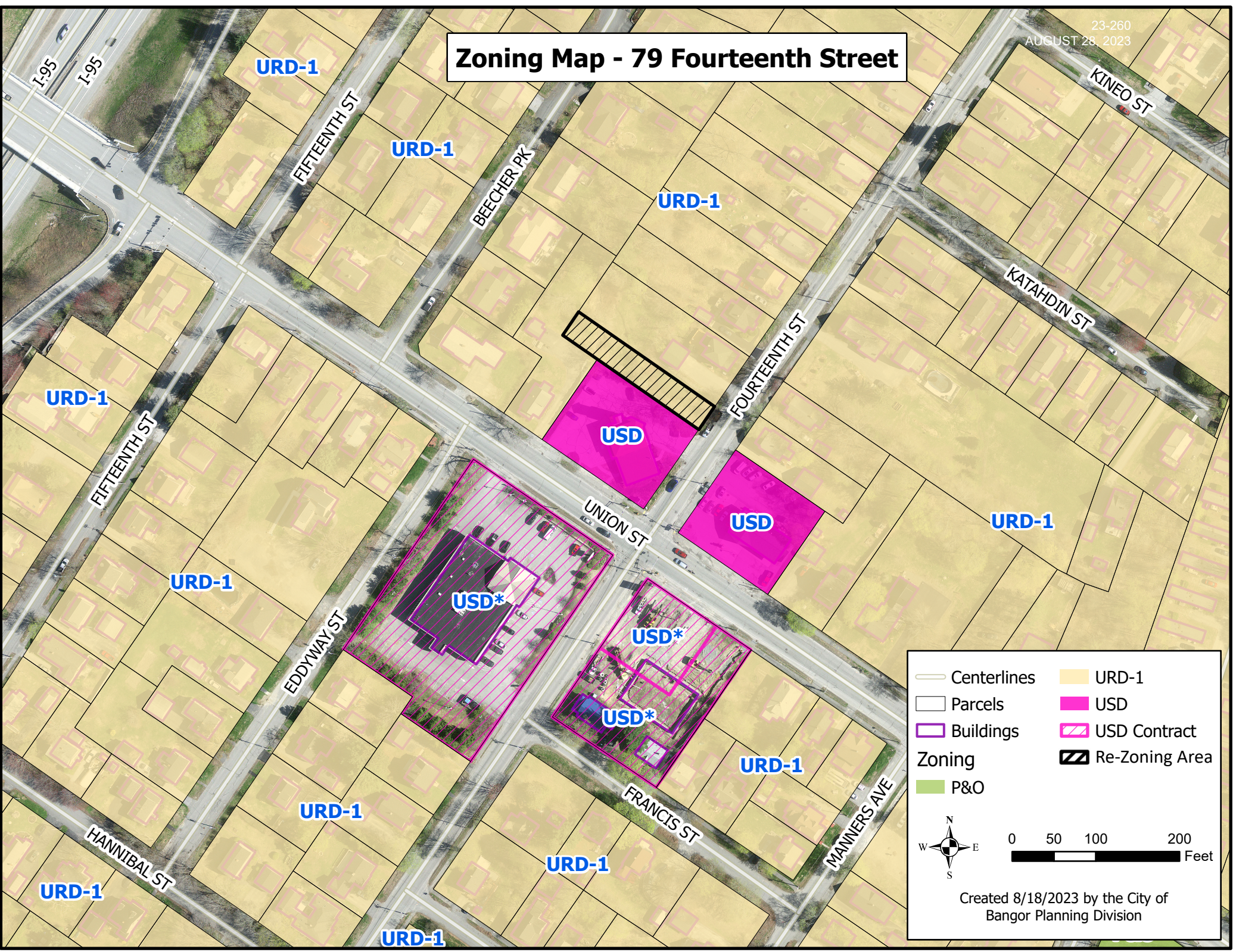
WHEREAS, at present, the current zoning of the property primarily allows single-family residential and this zone change would allow for various commercial uses such as offices, restaurants, retail, and service businesses, as well as mixed commercial residential uses;

WHEREAS, the 2022 Comprehensive Plan shows this area as including "limited commercial and institutional uses that are complementary to the surrounding residential uses";

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165 of the Code of the City of Bangor, District Map, is amended to reclassify the property at Map-Lot 020-013, located at 79 Fourteenth Street, from the Urban Residence 1 District (URD-1) to the Urban Service District (USD). The total area requested to be changed is approximately 0.15 acres and is shown in the attached exhibit.

Zoning Map - 79 Fourteenth Street



	Centerlines		URD-1
	Parcels		USD
	Buildings		USD Contract
Zoning			Re-Zoning Area
	P&O		

0 50 100 200 Feet

Created 8/18/2023 by the City of Bangor Planning Division



CITY COUNCIL ACTION

Council Meeting Date: August 28, 2023

Item No: 23-261

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: 042-087

Title, Ordinance

Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located at 128 & 130 Hammond Street from Contract Downtown Development District (Contract DDD) to Downtown Development District (DDD).

Summary

The applicant is seeking a zone change for the property at Map-Lot 042-087, located at 128 & 130 Hammond Street, to remove the contract conditions from the property zoning and to be zoned as only Downtown Development District (DDD). The total area requested to be changed is approximately 0.15 acres and is shown in the attached exhibit.

The current contract conditions state that no alcoholic beverages shall be sold on the property and non-residential uses shall be limited to 6,200 square feet. This zone change would remove these restrictions. The Downtown Development District generally allows for a wide range of commercial uses, including restaurants, bars, retail stores, offices, and others.

The neighborhood primarily consists of DDD, M&SD, and G&ISD lots. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this as the Downtown area and consisting of "a high-density mixed-use development area that is inclusive of central business district functions, commercial uses, municipal and institutional uses, and high-density residential development".

Committee Action

Committee: Planning Board

Meeting Date: September 5, 2023

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: August 28, 2023

Assigned to Councilor: Schaefer

ORDINANCE, Amending Chapter 165, Land Development Code, District Map to Re-zone Property Located at 128 & 130 Hammond Street from Contract Downtown Development District (Contract DDD) to Downtown Development District (DDD).

WHEREAS, at present, the current contract conditions state that no alcoholic beverages shall be sold on the property and non-residential uses shall be limited to 6,200 square feet;

WHEREAS, the Downtown Development District generally allows for a wide range of commercial uses, including restaurants, bars, retail stores, offices, and others;

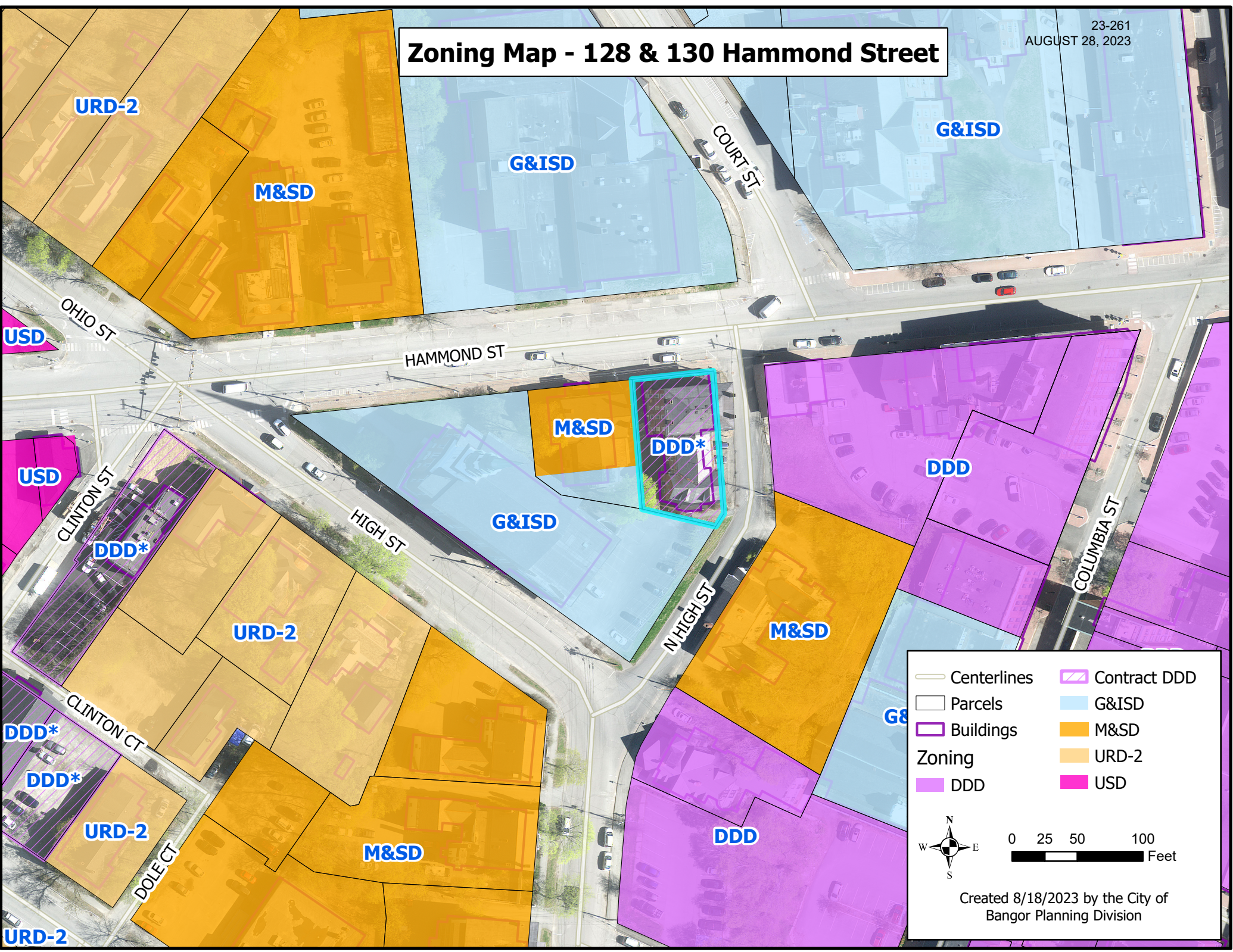
WHEREAS, the 2022 Comprehensive Plan shows this area as consisting of "a high-density mixed-use development area that is inclusive of central business district functions, commercial uses, municipal and institutional uses, and high-density residential development";

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165 of the Code of the City of Bangor, District Map, is amended to reclassify the property at Map-Lot 042-087, located at 128 & 130 Hammond Street, to remove the contract conditions from the property zoning and to be zoned as only Downtown Development District (DDD). The total area requested to be changed is approximately 0.15 acres and is shown in the attached exhibit.

Zoning Map - 128 & 130 Hammond Street

23-261
AUGUST 28, 2023



Centerlines	Contract DDD
Parcels	G&ISD
Buildings	M&SD
Zoning	
DDD	URD-2
USD	

N
W E S

0 25 50 100 Feet

Created 8/18/2023 by the City of Bangor Planning Division



UNFINISHED
BUSINESS



CITY COUNCIL ACTION

07/24/2023 23-230, As Amended

Council Meeting Date: 07/24/2023

Item No: 23-230, As Amended

Responsible Dept: Finance

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing Issuance of \$13,339,000 of the City's General Obligations Bonds and a Tax Levy Therefor

Summary

This Order would authorize the issuance of \$13,339,000 in general obligation bonds for the following purposes: \$3,972,400 for streets and sidewalks, \$1,005,000 for infrastructure improvements, \$800,000 for Water Quality infrastructure improvements, \$1,660,000 for equipment and vehicle replacement and \$1,901,600 for building improvements (including the Central Kitchen and Fleet car wash) and \$4,000,000 for building improvements (City Hall renovations). These projects were reviewed during the recently completed FY 2024 budget process.

The City's Charter requires that bonds issued for a single capital expenditure over a proscribed amount, are subject to voter referendum, unless the City Council finds, determines and declares that an emergency exists. As described in the findings set forth in the Order, the heating system deficiency and non-ADA compliant elevator at City Hall create an unacceptable risk to the health and safety of the residents of the City and the users of City Hall. Therefore, the City Council finds, determines, and declares that the capital expenditures for the City Hall renovations constitute an emergency and shall be excepted from the referendum approval requirements of Article VIII, Section 19(a)(1) of the City Charter.

This Order needs to be amended by substitution to reflect updated information.

This Order will require a Public Hearing at the August 28th City Council Meeting.

Committee Action

Committee: Finance Committee

Meeting Date: 08/21/2023

Action: Recommend for passage

For:

Against:

Staff Comments & Approvals

This item is the amended version of the bond authorization Order presented for First Reading on July 24, 2023. The Order has been updated to reflect that the portion of the bonds related to the City Hall Renovation fall under the emergency provision within the City Charter.

City Manager

City Solicitor

Finance Director

Introduced for: Unfinished Business



CITY OF BANGOR ORDER

07/24/2023 23-230, As Am

Date: 07/24/2023
Item No: 23-230, As Amended
Assigned to Councilor: Hawes

Authorizing Issuance of \$13,339,000 of the City's General Obligations Bonds and a Tax Levy Therefor

Following a public hearing held upon due notice posted and published pursuant to Article VIII, Section 13 of the City Charter,

By the City Council of the City of Bangor, BE IT ORDERED:

THAT, pursuant to 30-A, §5772 of the Maine Revised Statutes, Article VIII, Sections 13 and 15 of the City Charter (Private and Special Laws of 1931, Chapter 54 and all amendments thereof and acts additional thereto), and all other authority thereto enabling, there is hereby authorized and approved the issue and sale of the City's general obligation bonds and notes in anticipation thereof, in an amount not to exceed the aggregate principal amount of Thirteen Million Three Hundred Thirty-Nine Thousand Dollars (\$13,339,000). The proceeds derived from the sale of said bonds and notes (referred to herein as the bonds and the notes), including premium, if any, and any investment earnings thereon shall be used and are hereby appropriated to pay a portion of the costs (as herein defined) of the following improvements, equipment and vehicles (the Projects):

Description	Amount	Estimated Life
Streets & Sidewalks	\$3,972,400	12 years
Infrastructure (includes Union Street Complex and Ohio Street Bridge)	\$1,005,000	20 years
Water Quality Infrastructure	\$800,000	20 years
Equipment (includes plow trucks, loaders, and Fire engine)	\$1,660,000	15 years
Building Improvements (includes Central Kitchen and Fleet car wash)	\$1,901,600	20 years
Building Improvements (City Hall)	\$4,000,000	20 years

BE IT FURTHER ORDERED:

THAT the City Council finds, determines and declares with respect to the Building Improvements (City Hall Renovations) project listed above (the City Hall Renovation Project) that an emergency exists within the meaning of Article VIII, Section 19(b)(vi) of the Charter as follows:

The building housing Bangor City Hall was constructed in 1915. After the City acquired the building, Bangor City Hall relocated to the building in 1969. The building was last renovated almost 50 years ago, in the 1970s. The building's heating system deficiency and the non-ADA compliant elevator create an unacceptable risk to the health and safety of the residents of the City and the users of City Hall.

- The current HVAC system is in need of significant and urgent upgrades. There is currently no cooling system in the building. The current heating and ventilation system is in a deteriorated condition which is inefficient and costly to operate, with resulting substandard air quality.
- One of the two boilers in City Hall is completely non-operational. The other boiler is approximately 25 years old and at the end of its useful life.
- The current City Hall elevator is not ADA compliant.
- These circumstances raise significant concerns concerning accessibility to and the potential disruption to the operation of and services provided at City Hall and therefore pose a significant risk to the health and safety of the residents of the City and the users of City Hall;
- There is therefore a substantial public exigency to speedily acquire, install, replace and improve the City Hall HVAC system in order to meet the needs of the residents of the City and the users of City Hall;
- Because there was and is an urgent and unavoidable need for the City Hall Renovation Project to commence, proceed and be completed in an expeditious manner, the City Council finds, determines and declares that the above circumstances constitute emergency circumstances under Article VIII, Section 19(b)(vi) of the City Charter, and that the authorization and approval of the general obligation bonds to be issued for the City Hall Renovation Project are and shall be excepted from the referendum approval requirements of Article VIII, Section 19(a)(1) of the City Charter.

THAT the estimated weighted period of utility for the property constituting the Projects to be financed with the proceeds of the bonds and notes is hereby determined to be the period of time indicated above for said Projects.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to issue and sell said bonds and notes, at one time or from time-to-time, up to \$13,339,000 aggregate principal amount, which bonds and notes may be issued as physical certificates or in book-entry form pursuant to the Depository Trust Company Book-Entry Only System.

THAT the bonds and notes shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to determine the form, dates, maturities (not to exceed the maximum term permitted by law), denominations, interest rates, place of payment, provisions for redemption prior to the stated maturity date(s), with or without a premium, as provided in Title 30-A, §5772(6) of the Maine Revised Statutes, as amended, and all other details of the bonds and notes, including the timing and provision for their sale and award, which may be through a public offering or a private placement or the general resolution program of the Maine Municipal Bond Bank (the "Bond Bank"), or some combination thereof, on a competitive or negotiated basis, or some combination thereof, his determination and approval thereof to be conclusively evidenced by the execution thereof.

THAT in each of the years during which any of the bonds are outstanding, there shall be levied a tax in an amount that, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds, payable in such years, and the principal of such bonds maturing in such years.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to do or cause to be done all such acts and things, including to approve, execute and deliver all such contracts, agreements, loan agreements (including but not limited to one or more loan agreements between the City and the Bond Bank, with such usual and customary terms and provisions, not contrary to the general tenor hereof, as the Bond Bank may require), investment agreements, financial or municipal advisory agreements, underwriting agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments, a Letter of Representation or other agreement required to qualify the bonds or notes for and participate in the Depository Trust Company Book-Entry Only System and such other documents (the "Bond Documents"), as may be necessary or advisable in order to accomplish the issuance of the bonds and notes, which Bond Documents may

be in such form and contain such terms and provisions including, without limitation, the waiving of the City's sovereign or governmental immunity with respect to the enforceability of any of the forgoing, and such other details as he shall approve, his approval to be conclusively evidenced by his execution thereof.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and certify that no part of the proceeds of the issue and sale of the bonds or notes shall be used directly or indirectly, in such a manner as would cause such bonds or notes to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended (the "Code").

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds or notes will remain exempt from federal income taxation and that the City will refrain from any action that would cause interest on the bonds or notes to be subject to federal income taxation.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized to take all such action as may be necessary to designate such bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the City Council's intention that, to the extent permitted under the Code, the bonds or notes be Section 265(b) designated and that the Finance Director with advice of bond counsel, make the required Section 265(b) election with respect to such bonds to the extent that the election may be available and advisable as determined by the Finance Director.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant, certify, and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c2 12 of the Securities and Exchange Commission, if applicable, are met.

THAT the term "cost" or "costs" as used herein and applied to Projects, or any portion thereof, includes, but is not limited to: (1) cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (2) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (3) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (4) other costs of the Projects ancillary or related to the foregoing costs, and (5) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

THAT the proceeds of the bonds and notes (including premium), if any, and the investment earnings thereon, if any, be and hereby are appropriated for the following purposes, to be selected by the Finance Director:

1. To the cost of the Projects;
2. If the bonds or notes are issued on a tax-exempt basis, in accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the City's General Fund;
3. To pay debt service on the bonds or notes.

THAT if the actual cost of any Project differs from the estimated cost, whether due to completion, delay or abandonment of such Project, or for any other reason, the Finance Director is authorized, in his sole discretion, to reallocate proceeds of the bonds or notes to any other Project or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

THAT if the Finance Director, Chair of the City Council, or Clerk are for any reason unavailable to approve and execute the bonds or notes or any related Bond Document, the person or persons then acting in any such capacity, whether on an interim or acting basis, as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

THAT if any of the officers or officials of the City who have signed or sealed the bonds or notes shall cease to be such officers or officials before the bonds or notes so signed and sealed shall have been actually authenticated or delivered by the City, such bonds or notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed in the name of and on behalf of the City by those persons who, at the actual date of the execution of such bonds or notes, shall be the proper officers and officials of the City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.

THAT during the term any of the bonds are outstanding, in order to obtain debt service savings, the Finance Director is hereby authorized, in the name of and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 30 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director is hereby further authorized to provide that any of such refunding bonds authorized hereby be made callable, with or without premium, prior to their stated date(s) of maturity, and each such refunding bond shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT if, following issuance of some but less than all of the bonds authorized hereby, the Finance Director determines, in his sole discretion, that the remaining authorized but unissued bonds will not be issued in furtherance of the Projects, then the Finance Director is authorized, in the name of and on behalf of the City, to note on the financial books and records of the City, in the form and manner as she shall determine to be appropriate, that such authorized but unissued bonds will not be issued, following which notation the remaining unissued bonds shall not thereafter be issued and the authority established pursuant to this Order to issue such remaining unissued bonds shall be extinguished and of no further force and effect.

THAT the City may pay certain costs of the Projects prior to the issuance of the bonds and notes authorized hereby (referred to as "original expenditures"); to that end, the City hereby declares its official intent to reimburse itself for such original expenditures from the proceeds of such bonds and notes, and this Order shall constitute the City's declaration of official intent pursuant to Treasury Regulation §1.150-2.



CITY COUNCIL ACTION

07/24/2023 23-230

Council Meeting Date: 07/24/2023

Item No: 23-230

Responsible Dept: Finance

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing Issuance of \$13,339,000 of the City's General Obligations Bonds and a Tax Levy Therefor

Summary

This Order would authorize the issuance of \$13,339,000 in general obligation bonds for the following purposes: \$3,972,400 for streets and sidewalks, \$1,005,000 for infrastructure improvements, \$800,000 for Water Quality infrastructure improvements, \$1,660,000 for equipment and vehicle replacement and \$5,901,600 for building improvements (including City Hall and the Central Kitchen). These projects were reviewed during the recently completed FY 2024 budget process.

This Order will require a Public Hearing at the August 14th City Council Meeting.

Committee Action

Committee:

Meeting Date:

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading & Referral

Finance Committee

08/07/2023



CITY OF BANGOR ORDER

07/24/2023 23-230

Date: 07/24/2023

Item No: 23-230

Assigned to Councilor: Hawes

Authorizing Issuance of \$13,339,000 of the City's General Obligations Bonds and a Tax Levy Therefor

Following a public hearing held upon due notice posted and published pursuant to Article VIII, Section 13 of the City Charter,

By the City Council of the City of Bangor, BE IT ORDERED:

THAT, pursuant to 30-A, §5772 of the Maine Revised Statutes, Article VIII, Sections 13 and 15 of the City Charter (Private and Special Laws of 1931, Chapter 54 and all amendments thereof and acts additional thereto), and all other authority thereto enabling, there is hereby authorized and approved the issue and sale of the City's general obligation bonds and notes in anticipation thereof, in an amount not to exceed the aggregate principal amount of Thirteen Million Three Hundred Thirty-Nine Thousand Dollars (\$13,339,000). The proceeds derived from the sale of said bonds and notes (referred to herein as the "bonds" and the "notes"), including premium, if any, and any investment earnings thereon shall be used and are hereby appropriated to pay a portion of the costs (as herein defined) of the following improvements, equipment and vehicles (the "Projects"):

Description	Amount	Estimated Life
Streets & Sidewalks	\$3,972,400	12 years
Infrastructure (includes Union Street Complex and Ohio Street Bridge)	\$1,005,000	20 years
Water Quality Infrastructure	\$800,000	20 years
Equipment (includes plow trucks, loaders, and Fire engine)	\$1,660,000	15 years
Building Improvements (includes City Hall, Central Kitchen and Fleet car wash)	\$5,901,600	20 years

BE IT FURTHER ORDERED:

THAT the estimated weighted period of utility for the property constituting the Projects to be financed with the proceeds of the bonds and notes is hereby determined to be the period of time indicated above for said Projects.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to issue and sell said bonds and notes, at one time or from time-to-time, up to \$13,339,000 aggregate principal amount, which bonds and notes may be issued as physical certificates or in book-entry form pursuant to the Depository Trust Company Book-Entry Only System.

THAT the bonds and notes shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to determine the form, dates, maturities (not to exceed the maximum term permitted by law), denominations, interest rates, place of payment, provisions for redemption prior to the stated maturity date(s), with or without a premium, as provided in Title 30-A, §5772(6) of the Maine Revised Statutes, as amended, and all other details of the bonds and notes, including the timing and provision for their sale and award, which may be through a public offering or a private placement or the general resolution program of the Maine Municipal Bond Bank (the "Bond Bank"), or some combination thereof, on a competitive or negotiated basis, or some combination thereof, his determination and approval thereof to be conclusively evidenced by the execution thereof.

THAT in each of the years during which any of the bonds are outstanding, there shall be levied a tax in an amount that, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds, payable in such years, and the principal of such bonds maturing in such years.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to do or cause to be done all such acts and things, including to approve, execute and deliver all such contracts, agreements, loan agreements (including but not limited to one or more loan agreements between the City and the Bond Bank, with such usual and customary terms and provisions, not contrary to the general tenor hereof, as the Bond Bank may require), investment agreements, financial or municipal advisory agreements, underwriting agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments, a Letter of Representation or other agreement required to qualify the bonds or notes for and participate in the Depository Trust Company Book-Entry Only System and such other documents (the "Bond Documents"), as may be necessary or advisable in order to accomplish the issuance of the bonds and notes, which Bond Documents may be in such form and contain such terms and provisions including, without limitation, the waiving of the City's sovereign or governmental immunity with respect to the enforceability of any of the forgoing, and such other details as he shall approve, his approval to be conclusively evidenced by his execution thereof.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and certify that no part of the proceeds of the issue and sale of the bonds or notes shall be used directly or indirectly, in such a manner as would cause such bonds or notes to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended (the "Code").

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds or notes will remain exempt from federal income taxation and that the City will refrain from any action that would cause interest on the bonds or notes to be subject to federal income taxation.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized to take all such action as may be necessary to designate such bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the City Council's intention that, to the extent permitted under the Code, the bonds or notes be Section 265(b) designated and that the Finance Director with advice of bond counsel, make the required Section 265(b) election with respect to such bonds to the extent that the election may be available and advisable as determined by the Finance Director.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant, certify, and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c2 12 of the Securities and Exchange Commission, if applicable, are met.

THAT the term "cost" or "costs" as used herein and applied to Projects, or any portion thereof, includes, but is not limited to: (1) cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (2) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (3) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (4) other costs of the Projects ancillary or related to the foregoing costs, and (5) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

THAT the proceeds of the bonds and notes (including premium), if any, and the investment earnings thereon, if any, be and hereby are appropriated for the following purposes, to be selected by the Finance Director:

1. To the cost of the Projects;
2. If the bonds or notes are issued on a tax-exempt basis, in accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the City's General Fund;
3. To pay debt service on the bonds or notes.

THAT if the actual cost of any Project differs from the estimated cost, whether due to completion, delay or abandonment of such Project, or for any other reason, the Finance Director is authorized, in his sole discretion, to reallocate proceeds of the bonds or notes to any other Project or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

THAT if the Finance Director, Chair of the City Council, or Clerk are for any reason unavailable to approve and execute the bonds or notes or any related Bond Document, the person or persons then acting in any such capacity, whether on an interim or acting basis, as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

THAT if any of the officers or officials of the City who have signed or sealed the bonds or notes shall cease to be such officers or officials before the bonds or notes so signed and sealed shall have been actually authenticated or delivered by the City, such bonds or notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed in the name of and on behalf of the City by those persons who, at the actual date of the execution of such bonds or notes, shall be the proper officers and officials of the City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.

THAT during the term any of the bonds are outstanding, in order to obtain debt service savings, the Finance Director is hereby authorized, in the name of and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 30 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director is hereby further authorized to provide that any of such refunding bonds authorized hereby be made callable, with or without premium, prior to their stated date(s) of maturity, and each such refunding bond shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT if, following issuance of some but less than all of the bonds authorized hereby, the Finance Director determines, in his sole discretion, that the remaining authorized but unissued bonds will not be issued in furtherance of the Projects, then the Finance Director is authorized, in the name of and on behalf of the City, to note on the financial books and records of the City, in the form and manner as she shall determine to be appropriate, that such authorized but unissued bonds will not be issued, following which notation the remaining unissued bonds shall not thereafter be issued and the authority established pursuant to this Order to issue such remaining unissued bonds shall be extinguished and of no further force and effect.

THAT the City may pay certain costs of the Projects prior to the issuance of the bonds and notes authorized hereby (referred to as "original expenditures"); to that end, the City hereby declares its official intent to reimburse itself for such original expenditures from the proceeds of such bonds and notes, and this Order shall constitute the City's declaration of official intent pursuant to Treasury Regulation §1.150-2.



CITY COUNCIL ACTION

07/24/2023 23-231, As Am

Council Meeting Date: 07/24/2023

Item No: 23-231, As Amended

Responsible Dept: Finance

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing a Loan in the Amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund, and the Issuance of the City's General Obligation Bonds and a Tax Levy Therefor

Summary

This Order would authorize a loan in the amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund (SRF) and the issuance of the City's general obligation bonds. These funds would be used fund the Meadowbrook Regulator and Separation.

The SRF program was created in 1987 by the Clean Water Act. The Environmental Protection Agency (EPA) provided all states with the seed money to capitalize this revolving loan fund. SRF funding is typically at below market rates, but does carry additional State administrative costs and processes. In addition, all bidding must comply with federal regulations such as: Davis Bacon wage rates. Borrowing through this program is most cost effective for larger combined sewer overflow type projects.

This Order needs to be amended by substitution to reflect updated information.

This Order will require a Public Hearing at the August 28th City Council Meeting.

Committee Action

Committee: Finance Committee
Action: Recommend for passage

Meeting Date: 08/21/2023
For: Against:

Staff Comments & Approvals

This item is the amended version of the bond authorization Order presented for First Reading on July 24, 2023. The Order has been updated to reflect the correct project in the Summary section.

City Manager

City Solicitor

Finance Director

Introduced for: Unfinished Business



CITY OF BANGOR ORDER

07/24/2023 23-231, As Am

Date: 07/24/2023

Item No: 23-231, As Amended

Assigned to Councilor: Leonard

Authorizing a Loan in the Amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund, and the Issuance of the City's General Obligation Bonds and a Tax Levy Therefor

Following a public hearing held upon due notice posted and published pursuant to Article VIII, Section 13 of the City Charter,

By the City Council of the City of Bangor, BE IT ORDERED:

THAT, the Finance Director is hereby authorized, in the name of and on behalf of the City, to borrow an amount not to exceed \$1,000,000 at any one time outstanding from the Maine Municipal Bond Bank (the "Bond Bank") pursuant to its Revolving Loan Fund program to pay a portion of the costs (as herein defined) of the following improvements (the "Project"):

Description	Amount	Estimated Life
Meadowbrook Regulator and Separation	\$1,000,000	20 years

BE IT FURTHER ORDERED:

THAT pursuant to 30-A, §5772 of the Maine Revised Statutes, Article VIII, Sections 13 and 15 of the City Charter (Private and Special Laws of 1931, Chapter 54 and all amendments thereof and acts additional thereto), and all other authority thereto enabling, in furtherance of said loan, there is hereby authorized and approved the issue and sale of the City's general obligation bonds and notes in anticipation thereof, in an amount not to exceed the aggregate principal amount of One Million Dollars (\$1,000,000). The proceeds derived from the sale of said bonds and notes (referred to herein as the "bonds" and the "notes"), including premium, if any, and any investment earnings thereon shall be used and are hereby appropriated to pay a portion of the costs of the Project.

THAT the estimated weighted period of utility for the property constituting the Projects to be financed with the proceeds of the bonds and notes is hereby determined to be the period of time indicated above for said Projects.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to issue and sell said bonds and notes, at one time or from time-to-time, up to \$1,000,000 aggregate principal amount.

THAT the bonds and notes shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to determine the form, dates, maturities (not to exceed the maximum term permitted by law), denominations, interest rates, place of payment, provisions for redemption prior to the stated maturity date(s), with or without a premium, as provided in Title 30-A, §5772(6) of the Maine Revised Statutes, as amended, and all other details of the bonds and notes, including the timing and provision for their sale and award, on a competitive or negotiated basis, or some combination thereof, his determination and approval thereof to be conclusively evidenced by the execution thereof.

THAT in each of the years during which any of the bonds are outstanding, there shall be levied a tax in an amount that, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds, payable in such years, and the principal of such bonds maturing in such years.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to do or cause to be done all such acts and things, including to approve, execute and deliver all such contracts, agreements, loan agreements (including but not limited to one or more loan agreements between the City and the Bond Bank, with such usual and customary terms and provisions, not contrary to the general tenor hereof, as the Bond Bank may require), investment agreements, financial or municipal advisory agreements, underwriting agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments, a Letter of Representation or other agreement required to qualify the bonds or notes for and participate in the Depository Trust Company Book-Entry Only System and such other documents (the "Bond Documents"), as may be necessary or advisable in order to accomplish the issuance of the bonds and notes, which Bond Documents may be in such form and contain such terms and provisions including, without limitation, the waiving of the City's sovereign or governmental immunity with respect to the enforceability of any of the forgoing, and such other details as he shall approve, his approval to be conclusively evidenced by his execution thereof.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and certify that no part of the proceeds of the issue and sale of the bonds or notes shall be used directly or indirectly, in such a manner as would cause such bonds or notes to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended (the "Code").

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds or notes will remain exempt from federal income taxation and that the City will refrain from any action that would cause interest on the bonds or notes to be subject to federal income taxation.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized to take all such action as may be necessary to designate such bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the City Council's intention that, to the extent permitted under the Code, the bonds or notes be Section 265(b) designated and that the Finance Director with advice of bond counsel, make the required Section 265(b) election with respect to such bonds to the extent that the election may be available and advisable as determined by the Finance Director.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant, certify, and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c2 12 of the Securities and Exchange Commission, if applicable, are met.

THAT the term "cost" or "costs" as used herein and applied to Projects, or any portion thereof, includes, but is not limited to: (1) cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (2) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (3) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (4) other costs of the Projects ancillary or related to the foregoing costs, and (5) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

THAT the proceeds of the bonds and notes (including premium), if any, and the investment earnings thereon, if any, be and hereby are appropriated for the following purposes, to be selected by the Finance Director:

1. To the cost of the Projects;
2. If the bonds or notes are issued on a tax-exempt basis, in accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the City's General Fund;
3. To pay debt service on the bonds or notes.

THAT if the actual cost of any Project differs from the estimated cost, whether due to completion, delay or abandonment of such Project, or for any other reason, the Finance Director is authorized, in his sole discretion, to reallocate proceeds of the bonds or notes to any other Project or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

THAT if the Finance Director, Chair of the City Council, or Clerk are for any reason unavailable to approve and execute the bonds or notes or any related Bond Document, the person or persons then acting in any such capacity, whether on an interim or acting basis, as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

THAT if any of the officers or officials of the City who have signed or sealed the bonds or notes shall cease to be such officers or officials before the bonds or notes so signed and sealed shall have been actually authenticated or delivered by the City, such bonds or notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed in the name of and on behalf of the City by those persons who, at the actual date of the execution of such bonds or notes, shall be the proper officers and officials of the City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.

THAT any issue of bonds may be consolidated with and issued at the same time as any other issue of bonds authorized prior to their issuance, and the bonds may be divided into multiple series and issued in separate plans of financing, with the approval of the Finance Committee.

THAT the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- (1) That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.
- (2) That the Project Account shall be maintained in accordance with standards set forth by the Maine Municipal Bond Bank and in accordance with generally accepted government account standards.
- (3) That a final accounting shall be made to the Bank of the total cost of the Projects upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bank reserves the right at its sole discretion to be provided with a cost certification of the Projects as built.
- (4) That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bank for the term of the loan.
- (5) That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bank's interest for the term of the loan with the Bank named as loss payee.
- (6) That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.
- (7) That the City certify to the Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.
- (8) That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bank is sufficient.
- (9) That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Projects.
- (10) That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

THAT during the term any of the bonds are outstanding, in order to obtain debt service savings, the Finance Director is hereby authorized, in the name of and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 30 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director is hereby further authorized to provide that any of such refunding bonds authorized hereby be made callable, with or without premium, prior to their stated date(s) of maturity, and each such refunding bond shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT if, following issuance of some but less than all of the bonds authorized hereby, the Finance Director determines, in his sole discretion, that the remaining authorized but unissued bonds will not be issued in furtherance of the Projects, then the Finance Director is authorized, in the name of and on behalf of the City, to note on the financial books and records of the City, in the form and manner as she shall determine to be appropriate, that such authorized but unissued bonds will not be issued, following which notation the remaining unissued bonds shall not thereafter be issued and the authority established pursuant to this Order to issue such remaining unissued bonds shall be extinguished and of no further force and effect.

THAT the City may pay certain costs of the Projects prior to the issuance of the bonds and notes authorized hereby (referred to as "original expenditures"); to that end, the City hereby declares its official intent to reimburse itself for such original expenditures from the proceeds of such bonds and notes, and this Order shall constitute the City's declaration of official intent pursuant to Treasury Regulation §1.150-2.



CITY COUNCIL ACTION

07/24/2023 23-231

Council Meeting Date: 07/24/2023

Item No: 23-231

Responsible Dept: Finance

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing a Loan in the Amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund, and the Issuance of the City's General Obligation Bonds and a Tax Levy Therefor

Summary

This Order would authorize a loan in the amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund (SRF) and the issuance of the City's general obligation bonds. These funds would be used fund the repair and upgrade of the Aeration system, and the upgrade to the Barkersville Regulator Structure.

The SRF program was created in 1987 by the Clean Water Act. The Environmental Protection Agency (EPA) provided all states with the seed money to capitalize this revolving loan fund. SRF funding is typically at below market rates, but does carry additional State administrative costs and processes. In addition, all bidding must comply with federal regulations such as: Davis Bacon wage rates. Borrowing through this program is most cost effective for larger combined sewer overflow type projects.

This Order will require a Public Hearing at the August 14th City Council Meeting.

Committee Action

Committee:

Meeting Date:

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading & Referral

Finance Committee

08/07/2023



CITY OF BANGOR ORDER

07/24/2023 23-231

Date: 07/24/2023

Item No: 23-231

Assigned to Councilor: Leonard

Authorizing a Loan in the Amount of \$1,000,000 from the Maine Municipal Bond Bank State Revolving Fund, and the Issuance of the City's General Obligation Bonds and a Tax Levy Therefor

Following a public hearing held upon due notice posted and published pursuant to Article VIII, Section 13 of the City Charter,

By the City Council of the City of Bangor, BE IT ORDERED:

THAT, the Finance Director is hereby authorized, in the name of and on behalf of the City, to borrow an amount not to exceed \$1,000,000 at any one time outstanding from the Maine Municipal Bond Bank (the "Bond Bank") pursuant to its Revolving Loan Fund program to pay a portion of the costs (as herein defined) of the following improvements (the "Project"):

Description	Amount	Estimated Life
Meadowbrook Regulator and Separation	\$1,000,000	20 years

BE IT FURTHER ORDERED:

THAT pursuant to 30-A, §5772 of the Maine Revised Statutes, Article VIII, Sections 13 and 15 of the City Charter (Private and Special Laws of 1931, Chapter 54 and all amendments thereof and acts additional thereto), and all other authority thereto enabling, in furtherance of said loan, there is hereby authorized and approved the issue and sale of the City's general obligation bonds and notes in anticipation thereof, in an amount not to exceed the aggregate principal amount of One Million Dollars (\$1,000,000). The proceeds derived from the sale of said bonds and notes (referred to herein as the "bonds" and the "notes"), including premium, if any, and any investment earnings thereon shall be used and are hereby appropriated to pay a portion of the costs of the Project.

THAT the estimated weighted period of utility for the property constituting the Projects to be financed with the proceeds of the bonds and notes is hereby determined to be the period of time indicated above for said Projects.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to issue and sell said bonds and notes, at one time or from time-to-time, up to \$1,000,000 aggregate principal amount.

THAT the bonds and notes shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT the Finance Director, with the approval of the Finance Committee, be and hereby is authorized, in the name of and on behalf of the City, to determine the form, dates, maturities (not to exceed the maximum term permitted by law), denominations, interest rates, place of payment, provisions for redemption prior to the stated maturity date(s), with or without a premium, as provided in Title 30-A, §5772(6) of the Maine Revised Statutes, as amended, and all other details of the bonds and notes, including the timing and provision for their sale and award, on a competitive or negotiated basis, or some combination thereof, his determination and approval thereof to be conclusively evidenced by the execution thereof.

THAT in each of the years during which any of the bonds are outstanding, there shall be levied a tax in an amount that, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds, payable in such years, and the principal of such bonds maturing in such years.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to do or cause to be done all such acts and things, including to approve, execute and deliver all such contracts, agreements, loan agreements (including but not limited to one or more loan agreements between the City and the Bond Bank, with such usual and customary terms and provisions, not contrary to the general tenor hereof, as the Bond Bank may require), investment agreements, financial or municipal advisory agreements, underwriting agreements, bond purchase agreements, official statements, certificates, tax certificates, instruments, a Letter of Representation or other agreement required to qualify the bonds or notes for and participate in the Depository Trust Company Book-Entry Only System and such other documents (the "Bond Documents"), as may be necessary or advisable in order to accomplish the issuance of the bonds and notes, which Bond Documents may be in such form and contain such terms and provisions including, without limitation, the waiving of the City's sovereign or governmental immunity with respect to the enforceability of any of the forgoing, and such other details as he shall approve, his approval to be conclusively evidenced by his execution thereof.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and certify that no part of the proceeds of the issue and sale of the bonds or notes shall be used directly or indirectly, in such a manner as would cause such bonds or notes to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended (the "Code").

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports and take any other action that may be necessary to ensure that interest on the bonds or notes will remain exempt from federal income taxation and that the City will refrain from any action that would cause interest on the bonds or notes to be subject to federal income taxation.

THAT if the bonds or notes (or any portion thereof) are issued on a tax-exempt basis, the Finance Director be and hereby is authorized to take all such action as may be necessary to designate such bonds or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the City Council's intention that, to the extent permitted under the Code, the bonds or notes be Section 265(b) designated and that the Finance Director with advice of bond counsel, make the required Section 265(b) election with respect to such bonds to the extent that the election may be available and advisable as determined by the Finance Director.

THAT the Finance Director be and hereby is authorized, in the name of and on behalf of the City, to covenant, certify, and agree for the benefit of the holders of such bonds or notes, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c2 12 of the Securities and Exchange Commission, if applicable, are met.

THAT the term "cost" or "costs" as used herein and applied to Projects, or any portion thereof, includes, but is not limited to: (1) cost of feasibility studies, surveys, environmental studies and assessments, engineering,

plans and specifications, legal and other professional services associated with the Projects; (2) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (3) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (4) other costs of the Projects ancillary or related to the foregoing costs, and (5) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.

THAT the proceeds of the bonds and notes (including premium), if any, and the investment earnings thereon, if any, be and hereby are appropriated for the following purposes, to be selected by the Finance Director:

1. To the cost of the Projects;
2. If the bonds or notes are issued on a tax-exempt basis, in accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the City's General Fund;
3. To pay debt service on the bonds or notes.

THAT if the actual cost of any Project differs from the estimated cost, whether due to completion, delay or abandonment of such Project, or for any other reason, the Finance Director is authorized, in his sole discretion, to reallocate proceeds of the bonds or notes to any other Project or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

THAT if the Finance Director, Chair of the City Council, or Clerk are for any reason unavailable to approve and execute the bonds or notes or any related Bond Document, the person or persons then acting in any such capacity, whether on an interim or acting basis, as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

THAT if any of the officers or officials of the City who have signed or sealed the bonds or notes shall cease to be such officers or officials before the bonds or notes so signed and sealed shall have been actually authenticated or delivered by the City, such bonds or notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed in the name of and on behalf of the City by those persons who, at the actual date of the execution of such bonds or notes, shall be the proper officers and officials of the City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.

THAT any issue of bonds may be consolidated with and issued at the same time as any other issue of bonds authorized prior to their issuance, and the bonds may be divided into multiple series and issued in separate plans of financing, with the approval of the Finance Committee.

THAT the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- (1) That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.

- (2) That the Project Account shall be maintained in accordance with standards set forth by the Maine Municipal Bond Bank and in accordance with generally accepted government account standards.

- (3) That a final accounting shall be made to the Bank of the total cost of the Projects upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bank reserves the right at its sole discretion to be provided with a cost certification of the Projects as built.

- (4) That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bank for the term of the loan.

- (5) That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bank's interest for the term of the loan with the Bank named as loss payee.

- (6) That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.

- (7) That the City certify to the Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.

- (8) That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bank is sufficient.

- (9) That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Projects.

- (10) That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

THAT during the term any of the bonds are outstanding, in order to obtain debt service savings, the Finance Director is hereby authorized, in the name of and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 30 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director is hereby further authorized to provide that any of such refunding bonds authorized hereby be made callable, with or without premium, prior to their stated date(s) of maturity, and each such refunding bond shall be signed by the Finance Director, countersigned by the Chair of the City Council, sealed with the seal of the City, attested by its Clerk.

THAT if, following issuance of some but less than all of the bonds authorized hereby, the Finance Director determines, in his sole discretion, that the remaining authorized but unissued bonds will not be issued in furtherance of the Projects, then the Finance Director is authorized, in the name of and on behalf of the City, to note on the financial books and records of the City, in the form and manner as she shall determine to be

appropriate, that such authorized but unissued bonds will not be issued, following which notation the remaining unissued bonds shall not thereafter be issued and the authority established pursuant to this Order to issue such remaining unissued bonds shall be extinguished and of no further force and effect.

THAT the City may pay certain costs of the Projects prior to the issuance of the bonds and notes authorized hereby (referred to as "original expenditures"); to that end, the City hereby declares its official intent to reimburse itself for such original expenditures from the proceeds of such bonds and notes, and this Order shall constitute the City's declaration of official intent pursuant to Treasury Regulation §1.150-2.



CITY COUNCIL ACTION

Council Meeting Date: August 14, 2023

Item No: 23-245

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: N/A

Title, Ordinance

Amending Chapter 165, Land Development Code by Removing and/or Rewording Sections of the Municipality's Code to Align with the Maine State Statutes for the Regulation of Manufactured Housing

Summary

In 1989, the State enacted 30-A M.R.S. § 4358, which places limitations on the City's home rule authority regarding mobile home parks. The following amendments are provided to ensure the City of Bangor is following state regulations of manufactured housing, as well as avoiding unequal treatment between manufactured housing and other types of housing. These amendments adjust the definitions of manufactured housing to reflect the new laws and adjust the setbacks and other dimensional requirements of manufactured home parks to make them more on par with uses like tiny home parks. The changes also include greater allowances for manufactured home parks in the Rural Residence and Agricultural District to ensure that any parks located in that zone would be able to expand.

Committee Action

Committee: Planning

Meeting Date: August 15, 2023

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: August 14, 2023

Assigned to Councilor: Schaefer

ORDINANCE, Amending Chapter 165, Land Development Code by Removing and/or Rewording Sections of the Municipality's Code to Align with the Maine State Statutes for the Regulation of Manufactured Housing;

WHEREAS, at present, the City's Land Development and Planning ordinances predate the 1989 State statutes;

WHEREAS, in order to provide a complimentary set of Ordinances that, while maintaining home rule, are in compliance with the State of Maine statutes and avoid discrimination against manufactured home parks;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165 of the Code of the City of Bangor is amended as follows:

§ 165-13 Definitions.

...

MANUFACTURED HOUSING

A structural unit or units designed to be used as a dwelling or dwellings and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building that is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and that may be purchased, sold, offered for sale or brokered by a licensee in the interim. For the purposes of this Chapter, 3 types of manufactured housing are included. They are:

- A. ~~For the purpose of this chapter, the term "manufactured housing" shall include the following:~~ Units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein, except that the term shall include any structure which meets all the requirements of this subsection, except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.
- B. Pre-HUD-code homes, commonly called "mobile homes", which are those units constructed prior to June 15, 1976, meaning structures, transportable in one or more sections, that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning, or electrical systems contained therein.

(B C). In order for the above-described units to qualify as manufactured housing under this chapter, such units shall also:

- (1) Be not less than 14 feet in width.
- (2) Contain not less than 750 square feet of living area.
- (3) Have a pitched, shingled roof with a minimum pitch of two inches rise (vertical) to 12 inches of run (horizontal).
- (4) Have exterior siding that is residential in appearance, such as brick or masonry veneers, stucco or exterior plaster, wood siding, wood shingles, aluminum or vinyl siding simulating a clapboard pattern or hardboard siding.
- (5) Have a permanent foundation which complies with the requirements of the State of Maine Manufactured Housing Board Maine Uniform Building and Energy Code, as adopted by Chapter 81, Building Code, of the Code of the City of Bangor, and any amendments, replacements or substitutions thereof.
- (6) Be anchored to the permanent foundation in accordance with the requirements of the above-referenced Board Building Code, and any amendments, replacements or substitutions thereof.
- (7) With the exception of pre-HUD-code homes, conforms to all standards of construction, design and performance adopted pursuant to the the State of Maine Manufactured Housing Act (10 M.R.S.A. § 9001 et seq., as it may be amended) or the State of Maine Industrialized Housing Law (30-A M.R.S.A. § 4358 et seq., as it may be amended) or any successive legislation or standards, except those meeting local standards.

...

MOBILE HOME

~~A vehicular portable structure built on a chassis of which wheels are an intrinsic part and are designed to remain so, and said structure is used without a permanent foundation as a dwelling for one or more persons and is provided with a toilet and bathtub or shower. Such a structure body must be 10 feet or more in width and 40 feet or more in length. See "Manufactured Housing".~~

...

MOBILE HOME PARK or MANUFACTURED HOME PARK

~~A parcel of land planned and improved for the placement of two or more mobile homes for nontransient use as licensed under the provisions of this chapter. A parcel of land under unified ownership approved by the City of Bangor Planning Board for the placement of 3 or more manufactured homes.~~

...

PERMANENT FOUNDATION

- A. For Manufactured Housing, as defined above in this Chapter, a foundation that conforms to the installation standards established by the State of Maine Manufactured Housing Board; or
- B. For Modular Homes, as defined above in this Chapter, a foundation that conforms to the municipal building code or, in the absence of a municipal building code, a foundation that conforms to the Maine Uniform Building and Energy Code.

§ 165-100 High-Density Residential District (HDR)

C. Permitted uses. The following uses are permitted in this district:

...

- (9 10) Accessory uses on the same lot and customarily incidental to and subordinate to the above uses and any use approved under Subsection D below.

D. Conditional uses. Subject to Planning Board approval under the provisions of §165-9, the following uses may be permitted in this district:

...

- (2) Mobile home parks, provided that:
- (a) They meet the requirements of Article XVII.
 - ~~(b) They have sewer service from the City of Bangor.~~
 - ~~(c) They have water service from the Bangor Water District.~~
 - ~~(d) They contain a minimum of 25 mobile home spaces and a minimum land area of five acres.~~
 - ~~(e) They do not contain more than six mobile homes per acre (of lotted area).~~
 - (f) They receive site development approval under Article XVI.

§ 165-105 Rural Residence and Agricultural District (RR&A)

C. Permitted uses. The following uses are permitted in this district:

...

(16) Tiny home park, provided that:

- (a) The site is located within the growth area delineated in the most recently adopted Comprehensive Plan
- (b) The park meets the requirements of Article XX.

(17) Manufactured home parks, provided that:

- (a) The site is located within the growth area delineated in the most recently adopted Comprehensive Plan
- (b) The park meets the requirements of Article XVII.

~~(17 18)~~ Accessory uses on the same lot and customarily incidental to and subordinate to the above uses and any use approved under Subsection D below.

D. Conditional uses. Subject to Planning Board approval under the provisions of §165-9, the following uses may be permitted in this district:

- (4) Reconstruction of mobile home parks established prior to 1971 that are located outside the growth area delineated in the most recently adopted Comprehensive Plan, provided that the reconstruction is done consistent with the requirements of § 165-121C.
 - ~~(a) They have water service from the Bangor Water District sewer service from the City of Bangor and a minimum of 25 mobile home spaces.~~
 - ~~(b) The reconstruction is done consistent with the requirements of § **165-121C.**~~

§ 165-109 Site developments requiring permit.

...

- (7)** Construction or renovation of one or more buildings with three or more dwelling units, including multifamily dwellings, rooming houses or boardinghouses, community living facilities, nursing homes, congregate housing, tiny home parks, manufactured home parks, and similar residential uses.

§ 165-118 General Requirements

...

- C. No mobile home shall be located or occupied in the City of Bangor unless the mobile home conforms to all standards of construction, design and performance adopted pursuant to the ~~National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.)~~, the State of Maine Manufactured Housing Act (10 M.R.S.A. § 9001 et seq., as it may be amended) or the State of Maine Industrialized Housing Law (30-A M.R.S.A. § 4358 et seq., as it may be amended) or any successive legislation or standards, except those meeting local standards. Any mobile home presently located and occupied in the City of Bangor which does not conform to said standards may remain but may not be replaced by a mobile home which does not conform to said standards.

§ 165-120 Development Requirements

...

~~D. All mobile homes shall be located at least 50 feet from all mobile home park boundary lines that abut land used for residential uses and shall be screened from adjacent properties and public streets in accordance with Subsection L of this section, provided that the fifty-foot requirement shall be waived for all mobile home parks in which the projected density of mobile homes per acre is less than twice the density of existing residential units on adjacent residential properties or, if any adjacent parcel remains undeveloped, less than twice the maximum density of residential units permitted under the existing zoning classifications. Where the fifty-foot requirement is waived under this provision, all units in the mobile home park shall be set back from existing or proposed public streets the same distance as is required for adjacent residential developments.~~

...

~~F. A minimum of 25 mobile home lots shall be completed and provided with all utilities, streets and sidewalks as required by this chapter before occupancy of the mobile home park shall be permitted.~~

...

H. Lot size and setback requirements Dimensional requirements.

- (1) Each individual mobile home lot shall meet the following requirements: not be less than 6,000 square feet in area and shall not be less than 50 feet wide and 120 feet deep.
 - (a) If served by water from the Bangor Water District and sewer from the City of Bangor, or if served by a centrally managed subsurface wastewater treatment system, the lot shall be at least 5,000 square feet in area.
 - (b) If the lot is served by its own individual subsurface wastewater treatment system, the lot shall be at least 20,000 square feet in area.
 - (c) All lots shall be at least 50 feet in width.
- (2) No mobile home shall be located less than five feet from the side and rear lines of an individual lot. and 20 feet from the rear lines of an individual mobile home lot. and there shall be a minimum distance of 20 feet between adjacent mobile homes.
- (3) ~~No mobile home shall be located less than 30 feet from the right of way line of any street or less than 40 feet from a service building within the park. All homes in the park shall be set back at least 15 feet from the right of way line.~~
- (4) The setback for cluster subdivisions in the underlying zone for rear and side setbacks shall apply to the distance between homes in the park and the park boundary.
- (5) No structures may exceed the height requirements of the underlying zone of the park.

I. Streets, walks and parking.

- (1) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. All park streets shall be well drained, paved, maintained in good condition and adequately lighted at night. ~~All streets within the park shall have a minimum right-of-way width of 50 feet. Pavement width shall be no less than 36 feet where parking is permitted on both sides of the street. Where parking is permitted on only one side of a street, the minimum pavement width shall be 28 feet, and where all on-street parking is prohibited the minimum pavement width shall be 20 feet, provided that any roads within a mobile home park to remain in private ownership shall be not less than 23 feet in width, of which 20 feet must be suitably paved. All streets within the park shall have a minimum right-of-way width of 50 feet. Pavement width shall be no less than 36 feet where parking is permitted on both sides of the street. Where parking is permitted on only one side of the street, the minimum pavement width shall be 28 feet.~~
- (2) ~~All streets within a mobile home park shall be constructed in accordance with sound engineering standards and practices and designed by a licensed professional engineer.~~

(a) Privately owned roads within a mobile home park must:

- (1) Be built according to acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board;
- (2) Have a right-of-way up to 23 feet in width, 20 feet of which the municipality may require to be paved;
- (3) Conform to reasonable safety standards applicable to intersections with public ways adjacent to the mobile home park.

(b) If the developer intends to offer the roads to the City for acceptance as town ways, the roads must meet City road standards.

...

L. Landscaping.

...

- (2) Lawn and other ground cover shall be installed on all areas except those covered by structures, paved or surfaced areas and planting beds and undisturbed areas, such as woods and ravines, which are to be preserved in their natural state. In no case will the impervious surface ratio of a mobile home park exceed ~~.25~~ .35.
- (3) ~~Screen planting, providing a dense visual barrier at all times subject to review by the Planning Board, shall be provided around the boundaries of the park and around laundry-drying yards, and garbage and trash collection stations, nonresidential uses and along rear lot lines of all mobile home lots. Screens shall meet the requirements of Bufferyard Type A and shall consist of shrubs or trees at least five feet wide and, at the time of planting, at least four feet in height and eventually reaching a mature height of at least 10 feet. The screen planting zone extending along boundary lines shall have a minimum width of 25 feet. Street tree planting (Buffer E) shall occur along the boundary adjacent to the public street providing access to the park.~~

- M. Recreation areas shall be provided for the use of mobile home park residents. The size of such areas shall be based upon a minimum of 10% of the area of the mobile home lots in the development, ~~with no single recreation area being less than 15,000 square feet.~~ Such areas shall be easily accessible to all park residents, located so as to be free of traffic hazards and, where topography permits, centrally located. Any buildings provided for recreation areas shall contain adequate toilet facilities. The number and location of such facilities shall be determined by the Planning Board.

§ 165-121 Existing mobile home parks.

Mobile home parks in existence prior to the effective date of this chapter shall conform to the following regulations:

...

- B. ~~The coverage of any lot shall not be increased over that existing on the effective date of this chapter, or, in the case of lots unoccupied by mobile homes on such date, lot coverage shall not be increased over what it was when last occupied prior to the effective date of this chapter.~~
- C. Any existing mobile home park developed prior to September 13, 1971, may be reconstructed in its entirety in accordance with the provisions of this subsection.

...

- (3) The Planning Board shall review all applications for the reconstruction of an existing mobile home park in accordance with § 165-119E. Before the Planning Board may approve reconstruction, the Board shall determine the following:
 - (a) ~~That the proposed reconstruction will not result in an increase in density, as compared to that of the existing mobile home park, density being measured as the number of mobile homes per acre.~~

- ~~(b) That the proposed reconstruction will not result in an increase in the percentage of lot coverage, as compared to that of the existing mobile home park, the percentage of coverage being calculated by dividing the square footage of the mobile homes by the square footage of the land area developed for mobile home lots.~~
- (c) That it would constitute an undue economic hardship to require that the reconstruction of the existing mobile home park be in accordance with the provisions applicable to new or expanded mobile home parks. The applicant must demonstrate that reconstruction of the mobile home park in accordance with the requirements contained in § 165-120 above would result in the failure to realize a reasonable rate of return on the investment necessary for such a reconstruction of the mobile home park in question.
- (4) Alternative development requirements. For those applications for reconstruction of an existing mobile home park where the Planning Board determines that compliance with any or all of the requirements of § 165-120 would result in an undue economic hardship, the Planning Board may approve reconstruction plans which conform to the minimum standards set forth below. (Note: If an alternative standard is not set forth herein, the applicable standard set forth in § 165-120 shall apply to the proposed reconstruction of an existing mobile home park.)

...

~~(b) No mobile home in the reconstructed mobile home park shall be located any closer to the park boundary than were the mobile homes in the existing park.~~

(c) Lot size and setback requirements:

...

[5] Minimum distance between adjacent mobile homes: ~~20~~ 10 feet.

(d) Streets, walks and parking.

...

~~[5] In the event that the pavement width in a reconstructed mobile home park is less than 36 feet, on-street parking in said park shall be consistent with the provisions of § 165-120I(1).~~

§ 165-122 Special Provisions

...

~~C. Net residential density of the development shall not exceed six mobile homes per acre. For purposes of this chapter, net residential density shall be computed by dividing the total number of mobile home lots by the total mobile home lot area (in acres).~~

§ 165-123 Utilities and accessory structures

A. Water supply.

...

(6) If a public water supply is not available, a fire pond must be constructed per NFPA standards.

B. Sewage disposal.

...

(2) Any mobile home park located with ~~1,000~~ 100 feet of an existing public sewer shall be required to connect to such sewer and to provide a sewer system for the park designed by a registered engineer ~~to connect to the existing public sewer and to connect to such sewer.~~

~~(3) Septic sewage disposal systems for individual mobile homes in a mobile home park shall be prohibited.~~

(4) If public sewer is unavailable, a sewer system and treatment facility for the entire mobile home park or for each individual mobile home park lot, designed by a registered engineer, shall be required.

...

G. Accessory structures. The following requirements shall apply to any accessory structures located on an individual mobile home site and accessory to the mobile home. For the purpose of this article, an "accessory structure" in a mobile home park is a detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land and which is located on the same lot as the primary use mobile home.

(1) The accessory structures shall:

...

(b) Be located not less than 15 ~~20~~ feet from the street right-of-way, not less than 5 ~~10~~ feet from a rear lot line and not less than 5 ~~five~~ feet from a side lot line.

Additions are underlined, deletions ~~struck through~~.

LAND DEVELOPMENT

165 Attachment 3

City of Bangor

Schedule B
Developing Area

Article XIV, §§ 165-99 through 165-103.1

Zoning Districts	Minimum Lot Area (square feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Dwelling Units per Acre	Maximum Dwelling Units per Building	Maximum Height (feet)	Maximum Lot Coverage	Maximum Floor Area Ratio	Maximum Impervious Surface Ratio	Minimum Open Space	Minimum Lot Width (feet)	Minimum Buffer Yard Type
Conditional uses													
Mobile home parks- (minimum of 25 mobile home spaces)	8.5 acres	15 30 (20 for accessory structures)	5 from internal lot line (10 from park boundary)	5 from internal lot line (20 from park boundary)	N/A	N/A-1	35	30%	N/A-0.5	0.35 0.25	10% of lotted area	50 per internal lot; 100 for park site	9-B

NOTES:

⁸For internal lots, 5,000 square feet if on public water/sewer or using a centrally managed subsurface wastewater disposal system, 20,000 square feet if each individual lot is served by its own subsurface wastewater disposal system; for entire park, the total of lotted area, open space, right-of-way, buffer strips, and any other areas required by City ordinances

⁹Type A along the park boundaries, garbage collection stations; Type E along the public street from which the park is accessed

LAND DEVELOPMENT

165 Attachment 4

City of Bangor

Schedule C

Resource, Open Space and Rural Area
Article XV, §§ 165-105 through 165-107

Zoning Districts	Maximum District Height (feet)	Minimum Lot Area (acres)	Maximum Lot Coverage	Maximum Impervious Surface Ratio	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)
Rural Residence and Agricultural (RR&A), permitted and conditional uses								
<u>Manufactured home parks</u> ³	<u>35</u>	⁴	<u>20%</u>	<u>0.35</u>	<u>50 per internal lot; 100 for park site</u>	<u>15</u>	<u>5 from internal lot line (10 from park boundary)</u>	<u>5 from internal lot line (20 from park boundary)</u>

NOTES:

³Type A buffer along the park boundaries, garbage collection stations; Type E along the public street from which the park is accessed

⁴For internal lots, 5,000 square feet if on public water/sewer or using a centrally managed subsurface wastewater disposal system, 20,000 square feet if each individual lot is served by its own subsurface wastewater disposal system; for entire park, the total of lotted area, open space, right-of-way, buffer strips, and any other areas required by City ordinances



COMMUNITY & ECONOMIC DEVELOPMENT

CITY OF BANGOR

PLANNING DIVISION

Memorandum

To: Honorable Bangor City Council
Deb Laurie, City Manager

From: Anja Collette, Planning Analyst

Date: August 16, 2023

CC: Courtney O'Donnell, Assistant City Manager
David Szewczyk, City Solicitor
Anne Krieg AICP – Director of Community & Economic Development

Re: Planning Board Recommendation August 15, 2023
Amending Chapter 165, Land Development Code by Removing and/or Rewording Sections of the Municipality's Code to Align with the Maine State Statutes for the Regulation of Manufactured Housing

Please accept this memorandum as the recommendation from the Planning Board for the noted item. The Planning Board considered this item in a noticed public hearing on August 15, 2023.

The meeting was conducted in the Council Chambers at City Hall and on Zoom. Members in attendance in the Chambers were the Chair Reese Perkins, Vice Chair Ted Brush, and Members Don Meagher, Mike Bazinet, Ken Huhn, and Jonathan Boucher. Also in attendance was Alternate Member Joshua Saucier.

Planning Analyst Anja Collette reviewed the proposed changes with the Board.

From the staff memo:

- A. In 1989, the State enacted 30-A M.R.S. § 4358, which places limitations on the City's home rule authority regarding mobile home parks. At present, the City's Land Development ordinances pertaining to mobile home parks predate the 1989 State statute. The following amendments are provided to ensure the City of Bangor is following state regulations of manufactured housing, as well as avoiding unequal treatment between manufactured housing and other types of housing.
- B. These amendments adjust the definitions of manufactured housing to reflect the new laws and adjust the setbacks and other dimensional requirements of manufactured home parks to make them more on par with uses like tiny home parks. The changes also include greater allowances for manufactured home parks in the Rural Residence and Agricultural District to ensure that any parks located in that zone would be able to expand.
- C. These amendments are the same as those reviewed at the August 1st [Planning Board] meeting, except that item C(6) in the definition for Manufactured Housing was changed from referring to the "Building Code" to the "Board", as suggested by Chair Perkins.

CITY OF BANGOR PLANNING DIVISION
PLANNING BOARD RECOMMENDATION TO CITY COUNCIL 8.15.23
Land Development Code – Mobile Home Parks

Additionally, the setbacks for accessory structures were modified to be equivalent to the new setbacks for the primary homes.

Chair Perkins commented that he felt this was a good end product after incorporating the suggested changes from before. There were no other comments from the Board or the public.

Member Brush made a motion to recommend to the City Council that the amendments to Chapter 165 ought to pass. Member Bazinet seconded the motion. The motion passed 7:0 with all in favor and none opposed.

Anja Collette



CITY COUNCIL ACTION

Council Meeting Date: August 14, 2023

Item No: 23-246

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: N/A

Title, Ordinance

Amending Chapter 165, Land Development Code, Attachment 2, Schedule A Urban Developed Area by Increasing the Maximum Height in the Multifamily and Service District (M&SD)

Summary

The proposed change would increase the maximum allowable building height in the M&SD district from 45 feet (approximately 4 stories) to 60 feet (approximately 5 stories). This is the same height proposed for high density residential in the S&PS and GC&S zones, the ordinance for which was recently adopted. This increase in height allowance could allow affordable housing projects in this district to be more financially feasible and could allow for more units on M&SD lots. This ordinance would be in keeping with the City Council's policy to create more housing where feasible.

Additionally, the 2022 Comprehensive Plan directs the City to revise zoning regulations as needed to support the development of housing within the growth boundary and to remove barriers to development for a variety of housing types.

Committee Action

Committee: Planning Board

Meeting Date: August 15, 2023

Action:

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: August 14, 2023

Assigned to Councilor: Davitt

ORDINANCE, Amending Chapter 165, Land Development Code, Attachment 2, Schedule A Urban Developed Area by Increasing the Maximum Height in the Multifamily and Service District (M&SD).

WHEREAS, at present, the maximum height in M&SD is 45 feet, which limits buildings to approximately 4 stories;

WHEREAS, the proposed change would increase the maximum height to 60 feet, or approximately 5 stories;

WHEREAS, at present, there are properties proposed to be renovated and improved to create units in this district, and an increase in height allowance to 5 stories could make affordable housing projects more financially feasible;

WHEREAS, the City Council has a policy to create residential units where feasible;

WHEREAS, the 2022 Comprehensive Plan directs the City to revise zoning regulations as needed to support the development of housing within the growth boundary and to remove barriers to development for a variety of housing types;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165, Attachment 2, Schedule A of the Code of the City of Bangor is amended as shown on the attached.

LAND DEVELOPMENT

165 Attachment 2

City of Bangor

Schedule A

Urban Developed Area

Article XIII, §§ 165-88 through 165-97

Zoning Districts	Maximum District Height (feet)	Minimum Lot Area (square feet)	Maximum Lot Coverage	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Side Yard Depth (feet)	Minimum Rear Yard Depth (feet)	Maximum Impervious Surface Ratio	Minimum Water Setback (feet)	Maximum Floor Area Ratio
Multifamily and Service (M & SD)	45 <u>60</u>	²	50%	50	10	5	5	0.85	--	--



COMMUNITY & ECONOMIC DEVELOPMENT

CITY OF BANGOR

PLANNING DIVISION

Memorandum

To: Honorable Bangor City Council
Deb Laurie, City Manager

From: Anja Collette, Planning Analyst

Date: August 16, 2023

CC: Courtney O'Donnell, Assistant City Manager
David Szewczyk, City Solicitor
Anne Krieg AICP – Director of Community & Economic Development

Re: Planning Board Recommendation August 15, 2023
Amending Chapter 165, Land Development Code, Attachment 2, Schedule A Urban Developed Area by Increasing the Maximum Height in the Multifamily and Service District (M&SD)

Please accept this memorandum as the recommendation from the Planning Board for the noted item. The Planning Board considered this item in a noticed public hearing on August 15, 2023.

The meeting was conducted in the Council Chambers at City Hall and on Zoom. Members in attendance in the Chambers were the Chair Reese Perkins, Vice Chair Ted Brush, and Members Don Meagher, Mike Bazinet, Ken Huhn, and Jonathan Boucher. Also in attendance was Alternate Member Joshua Saucier.

Chair Perkins briefly mentioned a public comment received earlier in the day via email opposing the change.

Development Director Anne Krieg reviewed the new proposed change with the Board.

From the staff memo:

- A. The proposed change would increase the maximum allowable building height in the M&SD district from 45 feet (approximately 4 stories) to 60 feet (approximately 5 stories). This is the same height proposed for high density residential in the S&PS and GC&S zones, the ordinance for which was recently adopted.
- B. This increase in height allowance could allow affordable housing projects in this district to be more financially feasible and could allow for more units on M&SD lots. This ordinance would be in keeping with the City Council's policy to create more housing where feasible.
- C. Additionally, the 2022 Comprehensive Plan directs the City to revise zoning regulations as needed to support the development of housing within the growth boundary and to remove barriers to development for a variety of housing types.

CITY OF BANGOR PLANNING DIVISION
PLANNING BOARD RECOMMENDATION TO CITY COUNCIL 8.15.23
Land Development Code – M&SD Height Limit

Member Huhn stated he thought the proposal was appropriate considering the City's housing goals and mentioned that the member of the public who commented was concerned about the waterfront blocking the view of the river, which is unrelated to the proposal in question.

Chair Perkins disagreed with Huhn and listed the following concerns with the proposal – if existing properties in M&SD were 60 feet high instead of their current height, they would dwarf the surrounding homes, creating a loss of view and excessive shading; the proposal appears to go against the purpose of the M&SD zone, which mentions promoting family life; and the wording of the Comprehensive Plan justification statement in the Council Order appears to oblige the Board to approve the change, rather than suggest it. Perkins mentioned the possibility of allowing this on major arterials only.

Development Director Krieg discussed the challenges with the M&SD district in that it is placed similarly to the G&ISD district and is scattered around various parts of the City rather than comprising one contiguous district; its location is determined on more of a case-by-case basis. Krieg stated that if other Board members feel similarly to Perkins, it might be helpful to have a discussion about other things that could be done to allow the height but mitigate the impact on other properties.

Saucier stated his favor of the increase in height, but suggested perhaps making it a conditional use to go to 60 feet or requiring a shadow analysis for adjacent homes. Saucier pointed out that 45 feet is already allowed and a 45-foot home would still dwarf a 3-story home. Saucier felt it would not be a big difference to go to 60 feet.

Sean Thies from Haley Ward commented on how the proposal relates to the Bangor Housing development project on the agenda. The applicants currently have the building under 45 feet, but wish to put solar panels on the roof; however, with the pitch of the roof, they could not do the solar without increasing the height over 45 feet. If the proposal being discussed were to pass, they would come back later to the Board to increase the height. Perkins amended his earlier statement and said that perhaps a more appropriate change would be to make buildings with this height a conditional use instead of located on a major arterial. Krieg stated that the impact to a dense URD-1 lot from an M&SD lot is different than the project being reviewed tonight where it abuts other apartments and I-95; if the Board decides not to recommend this change, it would be helpful to get suggestions on ways to bring it back.

Member Meagher made a motion to recommend to the City Council that the amendment to Chapter 165 to increase the maximum height in the Multifamily & Service District ought not to pass. Chair Perkins seconded the motion.

Member Meagher stated that he was persuaded by the concerns expressed by other Board members and thought that the approach of making it a conditional use was appropriate. However, he would like to see a specific standard in the conditional use standards that would apply very specifically to how the evaluation would be done by the applicant since he does not feel the current standards are

CITY OF BANGOR PLANNING DIVISION
PLANNING BOARD RECOMMENDATION TO CITY COUNCIL 8.15.23
Land Development Code – M&SD Height Limit

sufficient. Perkins agreed with this suggestion and suggested that based on the comment from Thies, there should perhaps be more definition on the interaction of rooftop solar and building height.

Member Boucher asked for clarification on the conditional use process. Krieg clarified the process and agreed with Member Meagher on the importance of establishing criteria. Krieg and Boucher discussed how the Board's recommendations on the proposal would work as far as moving this effort forward. Saucier differentiated between a waiver and a conditional use.

There was further discussion amongst Board members and Krieg on the stipulations and analysis to be required for the height increase, as well as the process moving forward.

Member Huhn stated that he was in favor of making it a conditional use.

The motion passed 5:2 with Chair Perkins and Members Boucher, Huhn, Meagher, and Bazinet voting to approve the motion that the amendments ought not to pass, and Members Saucier and Brush voting against the motion.

The result of the vote is that a majority of Planning Board members voted to recommend that the proposed change ought **not** to pass.

Anja Collette



NEW BUSINESS



CITY COUNCIL ACTION

08/28/2023 23-262

Council Meeting Date: 08/28/2023

Item No: 23-262

Responsible Dept: City Manager

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing the Award of \$154,765 in State and Local Fiscal Recovery Funds to Together Place Peer Recovery Center to Fund a Grant Writer/Development Manager

Summary

This Order will authorize the award of \$154,765 in State and Local Fiscal Recovery Funds (aka ARPA funds) to Together Place Peer Recovery to hire a grant writer/development manager.

Together Place Peer Recovery is looking to use these funds as an opportunity to expand their ability to attract various funding sources to support an increase in the number of individuals that can be served. The position would support all three program areas; peer center, employment connection, and housing. The overall goals being to increase funding opportunities that would allow for the creation of additional programming which supports the building of trust both with members and peers, as well as to continue to provide opportunities for social integration free of charge to anyone seeking support, and to ensure the long-term financial stability of the operations.

This award is in support of the following:

- One-time funding that will support a position to building financial sustainability within a non-profit organization providing services and support to a disproportionately impacted community.
- This award will support our impacted community of individuals who have experienced mental health and/or substance use challenges and are on their own chosen path of recovery.

Committee Action

Committee: Council Workshop
Action: Recommend for passage

Meeting Date: 08/14/2023
For: 6 Against: 0

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: New Business



CITY OF BANGOR ORDER

08/28/2023 23-262

Date: 08/28/2023

Item No: 23-262

Assigned to Councilor: Pelletier

Authorizing the Award of \$154,765 in State and Local Fiscal Recovery Funds to Together Place Peer Recovery Center to Fund a Grant Writer/Development Manager

WHEREAS, in conjunction with the Heart of Maine United Way, the City of Bangor conducted an open and public application process to determine distribution of State and Local Fiscal Recovery Funds; and

WHEREAS, the application from Together Place Peer Recovery Bangor ranked highly in the initial citizen panel review process; and

WHEREAS, the new Executive Director requested the City Council consider an amended application; and

WHEREAS, the City Council reviewed a revised application that would fund a grant writer/development manager for a period of two-years; and

WHEREAS, the award will provide one-time start-up funding to support the organization's ability to attract additional funding to maintain and expand their peer center, and employment connection and housing programs that support a disproportionately impacted community;

Now, Therefore, Be it Ordered by the City Council of the City of Bangor that, \$154,765 in State and Local Fiscal Recovery Funds are awarded to Together Place Peer Recovery to fund a grant writer/development manager.



CITY COUNCIL ACTION

08/28/2023 23-263

Council Meeting Date: 08/28/2023

Item No: 23-263

Responsible Dept: Community & Economic Development

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing The Award of \$140,000 in CDBG Funds to Support Design Wall Housing's Redevelopment of 9 Smith Street Avenue

Summary

This Order will authorize the award of \$140,000 in excess CDBG funds to Design Wall Housing (DWH) to redevelop a vacant property into supportive living apartments for chronically homeless adults. The project has been funded in part by the Penobscot County Commission, as well as independent fundraising efforts from DWH. The total cost is estimated to be about \$225,000.

The Project will restore a 2-unit multi-family housing project for occupancy by DWH clients, who will receive intensive case management support and transitional resources from community partners.

Committee Action

Committee: Business and Economic Development

Action: Recommend for passage

Meeting Date: 08/21/2023

For:

Against:

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: New Business



CITY OF BANGOR ORDER

08/28/2023 23-263

Date: 08/28/2023

Item No: 23-263

Assigned to Councilor: Sprague

Authorizing The Award of \$140,000 in CDBG Funds to Support Design Wall Housing's Redevelopment of 9 Smith Street Avenue

WHEREAS, the City has received funding from the U.S. Department of Housing and Urban Development to administer the Community Development Block Grant Program,

WHEREAS, The Objectives of the Program are to primarily benefit low- and moderate-income people with decent housing and economic opportunities,

WHEREAS, Design Wall Housing (DWH) has requested funding to renovate a vacant home on an in-town lot for use by their clients,

WHEREAS, the project is both eligible for CDBG funding and aligns with the City's goals to add safe, decent and affordable housing,

Be it Ordered by the City Council of the City of Bangor that, the City Manager is authorized to execute any and all documents necessary to make available to Design Wall Housing a Community Development Block Grant (CDBG) award not to exceed \$140,000 to renovate a property at 9 Smith Street Ave. Said grant award shall be encumbered with certain terms and conditions to ensure the property will be used in accordance with the goals and objectives of the City of Bangor's Consolidated Plan as approved by HUD. All documents shall be in a final form as approved by the City Solicitor's Office.



CITY OF BANGOR ORDER

08/28/2023 23-264

Date: 08/28/2023

Item No: 23-264

Assigned to Councilor: Davitt

Authorizing the Award of \$325,000 in CDBG Funds to Support Volunteers of America Northern New England for the Development of Supported Housing

WHEREAS, the City has received funding from the U.S. Department of Housing and Urban Development to administer the Community Development Block Grant Program,

WHEREAS, The Objectives of the Program are to primarily benefit low- and moderate-income people with decent housing and economic opportunities,

WHEREAS, Volunteers of America Northern New England (VOANNE) has requested funding to develop supportive housing on a parcel of vacant land for disabled residents,

WHEREAS, the project is both eligible for CDBG funding and aligns with the City's goals to add safe, decent and affordable housing,

Be it Ordered by the City Council of the City of Bangor that, the City Manager is authorized to execute any and all documents necessary to make available to Volunteers of America a Community Development Block Grant award not to exceed \$325,000 to acquire land in the City of Bangor to develop supportive housing. Said grant award shall be encumbered with certain terms and conditions to ensure the development of the land in accordance with the goals and objectives of the City of Bangor's Consolidated Plan as approved by HUD. All Documents shall be in a final form as approved by the City Solicitor's Office.



CITY COUNCIL ACTION

08/28/2023 23-265

Council Meeting Date: 08/28/2023

Item No: 23-265

Responsible Dept: City Manager

Requested Action: Order

Map/Lot: N/A

Title, Order

Authorizing the Award of \$130,00 in State and Local Fiscal Recovery Funds to Big Brothers Big Sisters of Mid Maine to Support the Creation of a Mentoring Hub Through the Boys and Girls Club of Bangor

Summary

This Order will authorize the award of \$130,000 in State and Local Fiscal Recovery Funds (aka ARPA funds) to Big Brothers Big Sisters of Mid Maine to support the creation of a mentoring hub at the Boys and Girls Club of Bangor.

Big Brothers Big Sisters' current operational model at the Boys and Girls Club of Bangor is not able to serve the needs of all the youth. In order to dramatically increase the number of youth that can be served, Big Brothers Big Sisters is proposing to create a "hub", whereby staff would be hired to focus specifically on this program location. The staff will monitor the relationships with the littles and their families, manage the recruitment of mentors, and provide ongoing monitoring and support of the match relationships. With this level of funding, the goal would be to increase the number of mentor relationships from 20 to 70. The applicant has recently hired a development director and they have identified multiple opportunities to pursue to fund the efforts beyond this award.

This award is in support of the following:

- One-time start-up funding to expand mentor relationship opportunities for youth served by the Boys and Girls Club of Bangor.
- To support the emotional and social needs of the youth served at the Boys and Girls Club of Bangor.

Committee Action

Committee: Council Workshop
Action: Recommend for passage

Meeting Date: 08/22/2023
For: 7 Against: 0

Staff Comments & Approvals

City Manager

City Solicitor

Finance Director

Introduced for: New Business



CITY OF BANGOR ORDER

08/28/2023 23-265

Date: 08/28/2023

Item No: 23-265

Assigned to Councilor: Schaefer

Authorizing the Award of \$130,00 in State and Local Fiscal Recovery Funds to Big Brothers Big Sisters of Mid Maine to Support the Creation of a Mentoring Hub Through the Boys and Girls Club of Bangor

WHEREAS, in conjunction with the Heart of Maine United Way, the City of Bangor conducted an open and public application process to determine distribution of State and Local Fiscal Recovery Funds; and

WHEREAS, the application from Big Brothers Big Sisters of Mid Maine ranked highly in the initial citizen panel review process; and

WHEREAS, the award will provide one-time start-up funding to support the the creation of a mentor hub at the Boys and Girls Club of Bangor to support the emotional and social needs of the youth served by the Club;

Now, Therefore, Be it Ordered by the City Council of the City of Bangor that, \$130,000 in State and Local Fiscal Recovery Funds are awarded to Big Brothers Big Sisters of Maine to support the creation of a mentoring hub to serve the youth of the Boys and Girls Club of Bangor.