

**SPECIAL MEETING AGENDA**  
**Bath City Council**  
**Wednesday, August 18, 2021, 6:00 PM**  
**City Council Chambers**  
**Bath City Hall**

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Pledge of Allegiance and Roll Call

I. PUBLIC HEARING: Special Amusement License for Bruno's Wood Fired Pizzeria

II. PUBLIC HEARING: Ordinance Amendment to Chapter 14-Sewers

III. PUBLIC HEARING: Proposed Expenditure Limitation Charter Amendments to be put on Municipal Ballot for vote at the November 2, 2021, Election

IV. ORDER: Approval of Proposed Expenditure Limitation Charter Amendments to be put on Municipal Ballot for vote at the November 2, 2021, Election

V. ORDER: Approving Employment Contract for Interim City Manager

ADJOURN:

EXECUTIVE SESSION:

Discuss Real Estate Matters per 1 MRSA §405(6)(C)

Discuss Personnel Matters per 1 MRSA §405(6)(A)

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# NOTICE

THE MUNICIPAL OFFICERS OF THE CITY OF BATH WILL CONDUCT A  
PUBLIC HEARING FOR APPROVING:

A SPECIAL AMUSEMENT LICENSE FOR:

**Bruno's Wood-Fired Pizzeria**  
**128 Front Street**  
**Robert Whisenant, Owner**

SAID PUBLIC HEARING WILL BE HELD ON WEDNESDAY, AUGUST 18, 2021  
AT 6:01 P.M. IN THE COUNCIL CHAMBERS, 3RD FLOOR, AT CITY HALL,  
BATH, MAINE, AND ALL PERSON(S) MAY APPEAR TO SHOW CAUSE WHY SAID  
APPLICATION SHOULD OR SHOULD NOT BE APPROVED.

Darci L. Wheeler  
CITY CLERK



**CITY OF BATH, MAINE**  
**APPLICATION FOR**  
**SPECIAL AMUSEMENT PERMIT FOR MUSIC, DANCING**  
**OR ENTERTAINMENT FOR ESTABLISHMENTS**  
**LICENSED FOR THE SALE OF LIQUOR**

NAME OF APPLICANT: Robert Whisenant

RESIDENCE: Sabatias ME 04280

NAME OF BUSINESS: Bruno's Wood-Fired Pizzeria

BUSINESS ADDRESS: 128 Front St.

1. Describe in detail kind and nature of entertainment:

Live bands for customers.

2. Describe in detail room or rooms to be used under this permit:

Out doors patio, down stairs

3. Has applicant ever had a license to conduct the business herein described either denied or revoked?

NO If so, describe circumstances:

4. Has applicant, including partners or corporate officers ever been convicted of a felony? No  
If so, describe specifically those circumstances:

5. When does your current liquor license expire? \_\_\_\_\_

Signature of Individual

Name of Corporation

If Partnership, members of partnership

If Corporation, dully authorized Officer

Application for Special Amusement Permit: (Fee of \$25.00 must accompany application)

Dated at August on 5th, 20 21

MRSA Title 28-A §1054

This permit includes:

- A. Any music, except radio or other mechanical device.
- B. Any dancing; or
- C. Entertainment of any sort.

This permit is required if a licensee for sale of liquor to be consumed on the premises provides activities or entertainment, listed above, must first obtain a special amusement permit from the municipality in which the licensed premises are located.

STATE OF MAINE

Sagadahoc County, ss

Bath, Maine

The undersigned being Municipal Officer(s) of the City of Bath, Maine hereby approve the application in accordance with the provisions of Title 28-A §1054, Maine Revised Statutes.

Dated: \_\_\_\_\_

Approved by:

Codes Enforcement Officer: \_\_\_\_\_

Date: \_\_\_\_\_

Police Chief: \_\_\_\_\_

Date: \_\_\_\_\_

Fire Chief: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF BATH, MAINE**

450 Oak Grove Avenue  
Bath, ME 04530



**DEPARTMENT OF PUBLIC WORKS**

Lee Leiner, P.E., Director  
[lleiner@cityofbath.com](mailto:lleiner@cityofbath.com)  
207.443.8357  
fax 207.443.8352

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**MEMORANDUM**

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**TO:** BATH CITY COUNCIL  
**FROM:** LEE LEINER, PUBLIC WORKS DIRECTOR  
**SUBJECT:** UPDATE TO ORDINANCE CHAPTER 14 – SEWERS  
**DATE:** JULY 29, 2021  
**CC:** PETER OWEN, CITY MANAGER

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The sewer ordinance has not been updated in many years. The suggested update is significant and includes changes to:

1. Clean up typos and update language to reflect current practice.
2. Add to the existing definitions to clarify terminology, some of which is very technical
3. Clarify the functionality of the ordinance so that City staff can enforce the provisions clearly and correctly.

Adding definitions for things like FOG (fats, oils, and grease) and Break/Broken (pipe) will clarify the intent of the ordinance for new and existing users. Property owners are often not aware that a connection to the City sewer comes with some responsibility. Public Works is tasked with communicating with developers proposing new connections and property owners having trouble with their existing connection. Also, with industries/businesses who have a need to discharge sewage with characteristics that may be a challenge for the treatment plant to handle. Clear rules and terminology allow for more effective communication.

It is difficult for Public Works to enforce the ordinance as it is so outdated. Materials, processes, and methods have all changed over the years and the old terminology confuses contractors who are trying to follow the rules but use new materials and methods. For example, it is typical to use PVC pipe for sewers rather than vitrified clay as in the past. Or that the City must maintain access to cross country portions of the sewer system that are on private property. These, and many other issues occur regularly.

Finally, we are clarifying provisions related to contractors that perform sewer installations and repairs and the processes for billing customers. Property owners and the City should have some assurance that the contractor hired for the job is capable of properly installing the sewer pipes for durability and long life. And contractors who unexpectedly find sewer pipes while excavating should call Public Works prior to just fixing what they find, sometimes using poor techniques or inappropriate materials. Re-excavating is neither inexpensive nor convenient, for the owner, the City, or the public traveling over damaged roads.

**ORDINANCE**

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

**CHAPTER 14. SEWERS**

**Revoke existing Chapter 14, Sewers, and replace with the attached:**

- § 14-30. Cost of installation and connection.
- § 14-31. Separate sewers required; exception.
- § 14-32. Responsibility for maintenance.
- § 14-33. Permits; classification; application; fee.
- § 14-34. Permit issuance; revocation; renewal.
- § 14-35. ~~Drain layers~~ Sewer Contractor license; insurance.
- § 14-36. Specifications of material.
- § 14-37. Rock excavation; use of explosives.
- § 14-38. Barricading of excavations.
- § 14-39. Repairing surfaces disturbed during work.
- § 14-40. Sewers connections in state highways.
- § 14-41. Inspections.
- § 14-42. Manner of installation.
- § 14-43. Warranty.

#### Article 5. Private Wastewater Disposal

- § 14-443. When required.
- § 14-454. Permit required.
- § 14-465. Notification of inspection.
- § 14-476. Compliance with state law required; discharge from septic tank.
- § 14-487. Connection to public sewer.
- § 14-498. Maintenance of disposal facilities.
- § 14-5049. Licensed sewer contractor~~drain-layer~~ required.
- § 14-510. Applicability.

#### Article 6. Charges for Sewer Service

- § 14-521. Betterment charges.
- § 14-532. Use charges.
- § 14-543. Billing; failure to pay; responsibility for payment.
- § 14-554. Impact fee. ~~Reserved.~~

#### Article 7. Private Lift Stations

- § 14-565. Definition - private lift station.
- § 14-576. Standards.
- § 14-58. Maintenance Requirements.
- § 14-59. System Design.
- § 14-60. Entry to City Sewer System.
- § 14-6157. Easement Required.

## SEWERS

### CHAPTER 14. SEWERS ARTICLE 1. GENERAL PROVISIONS.

#### Sec. 14-01. Definitions.

(a) As used in this Chapter:

(1) Backflow Preventer shall mean a device inserted into a building sewer within 8-feet of the inner face of the building wall, but in no case within the City right-of-way, that when properly functioning prevents sewer contents from flowing into the building sewer from the sewer main. Installation of this device is required for all new or replacement building sewers.

(2) BOD (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure as prescribed in "Standard Methods for the Examination of Water and Wastewater" in five (5) days at 20°C, expressed in milligrams per liter.

(1)(3) Break (or Broken) shall mean the building sewer has been crushed, partially or completely, or has separated at a pipe joint. It shall not refer to cracks in pipe walls or the presence of clogs or tree roots.

(2)(4) Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight (8) feet (2.73 meters) outside the inner face of the building wall.

(3)(5) Building Sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

(4)(6) City shall mean the City of Bath, Maine or any lawful representative of the city empowered to act in its behalf.

(5)(7) Cleanout shall mean a means for inserting cleaning tools, for flushing, or for inserting an inspection light into sewers at bends.

(6)(8) Combined Sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

(7)(9) Easement shall mean an acquired legal right for the specific use of land owned by others.

(10) FOG (Fat, Oil, Grease) shall mean fats, oils, or greases in a physical state such that it will separate from wastewater and become a solid within the wastewater treatment system and which will serve as a hindrance to the proper operation of the public sewer system. These materials shall be separated from the flow of wastewater through the use of an interceptor, appropriately sized and placed for the building or operation, and as specified in the Plumbing Code.

(8)(11) Floatable Oil shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

(9)(12) Garbage shall mean animal and vegetable waste from the domestic and commercial handling, preparation, cooking, and dispensing of food, and from the handling, storage,



surface of, or is in suspension in water, sewage or other liquids, and which is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as that fraction of sewage that is not soluble in water.

(22)(32) **Wastewater** shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present. The alternate term is **sewage**.

(23)(33) **Wastewater Treatment Facility** shall mean any arrangement of devices and structures used for treating wastewater.

(Sewer Ord., Art. II, 1/21/76.)

#### **Sec. 14-02. Conflict with other laws.**

If a provision of this Chapter is found to be in conflict with any provision of zoning, building, safety or health or other ordinance or code of the City, the State, or the Federal Government existing on or subsequent to the effective date of this Chapter, that provision which in the judgment of the City establishes the higher standard of safety and protection of health shall prevail. (Sewer Ord., Art. XI, § 1, 1/21/76.)

#### **Sec. 14-03. Damaging property prohibited.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater treatment facilities. Any person causing such damage violating this Section shall be referred to law enforcement for prosecution subject to immediate arrest under charge of disorderly conduct.

(Sewer Ord., Art. X, § 1, 1/21/76.)

If any portion of the wastewater collection or treatment system is uncovered during excavation for any reason, the excavator shall contact the Bath Public Works Department immediately and prior to making any repairs or backfilling over the item uncovered. No repair shall be attempted or made prior to inspection by the Public Works staff and approval.

#### **Sec. 14-04. Investigations; notice of violation.**

The City, upon being informed in writing of a possible civil violation of this Chapter or on its own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violations may exist. After investigation, any person found to be violating or in violation of any provision of this Chapter shall be served by the City with a written notice stating the nature of the violation and providing a reasonable time limit, as determined by the City Manager, for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all such violations. (Sewer Ord., Art. IX, § 1, 1/21/76.)

#### **See Sec. 14-05. Abatement of violation by City.**

If, after notice and demand, the violation has not been abated within the time specified, the City may, in addition to other remedies available, institute appropriate action including an injunction to

shall be held harmless for injury or death to City employees, and the City shall indemnify the owner against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in Section 14-41. (Sewer Ord., Art. VIII, § 3, 1/21/76.)

**Sec. 14-11. Entry onto easements.**

Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds ~~a duly negotiated easement rights~~ for the purposes of, but not limited to, ~~to, inspection, inspection~~ observation, measurement, sampling, repair, and maintenance of any portion of the wastewater treatment facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Sewer Ord., Art. VIII, § 4, 1/21/76.)

**ARTICLE 3. USE OF PUBLIC SEWERS.**

**Sec. 14-12. Depositing garbage; objectionable waste prohibited.**

No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City ~~or in any area under the jurisdiction of the City~~, any human or animal excrement, garbage, or objectionable waste. (Sewer Ord., Art. III, § ~~1, 1~~ 1/21/76.)

**Sec. 14-13. Discharge of wastewaters into natural outlets.**

No person shall discharge into any natural outlet within the City, ~~or in any area under the jurisdiction of the City~~, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this Chapter. (Sewer Ord., Art. III, § 2, 1/21/76.)

**Sec. 14-14. Use of privy or septic tank.**

When a public sewer is available, no person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater, except as hereinafter provided. (Sewer Ord., Art. III, § 3, 1/21/76.)

**Section 14-15. Use of public sewers required.**

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer of the City, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer

materials, water or wastes if it appears likely in the opinion of the City that such waters can harm either the sewers, wastewater treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment facility, degree of treatability of wastes in the wastewater treatment facility and other pertinent factors. The substances prohibited are:

(1) Any slug of liquid or vapor having a temperature higher than one hundred forty (140°F) (60°C).

(2) Any water or waste containing fats, wax, grease, or oils whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures above thirty-two (32°F) (0°C).

(3) Any garbage that has not been properly shredded. The ~~installation and~~ installation and operation of any garbage grinder equipped with a motor of three fourth (3/4) horsepower (0,76 hp metric) or greater shall be subject to the review and approval of the City.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, arsenic, cadmium, cyanide, lead, mercury, nickel, silver, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment facility exceeds the limits established by the City or Federal effluent limitations for such materials.

(6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite wastewater to meet the requirements of the State, Federal or other public agencies which have jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State and Federal regulations.

(8) Any waters or wastes having a Ph in excess of 9.5.

(9) Materials which exert or cause:

(A) Unusual concentrations of inert suspended solids, (such as, but not limited to, Fullers Earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(B) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(C) Unusual chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility;

(D) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein;

(E) Any water or wastes having a five (5) day BOD greater than three hundred (300) milligrams per liter;

(F) Any water or wastes containing more than three hundred fifty (350)

(c) In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured material and, shall maintain records of the dates and means of disposal which are subject to review by the City. Any removal and hauling of the collected materials not performed by the owner and/or his personnel must be ~~performed~~performed by a currently licensed waste disposal firm.

(Sewer Ord., Art. VI, § 6, 1/21/76.)

(d) FOG Program. The City of Bath Wastewater Superintendent will create and maintain a policy addressing fats, oils, and greases generated by Bath residents and businesses and potentially directed to the City sewer system.

#### **Sec. 14-22. Maintenance of preliminary treatment facilities.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Sewer Ord., Art. VI, § 6a, 1/21/76.)

#### **Sec. 14-23. Control manhole required.**

When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, ~~sampling~~sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (Sewer Ord., Art. VI, § 7, 1/21/76.)

#### **Sec. 14-24. Standards for testing.**

All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken.) Normally, but not always, BOD and a suspended solids analyses are obtained from composites of all outfalls whereas pH's are determined from periodic grab samples. The duration of the period for the composite sample shall be determined by the City based on the operating cycle of the industrial concern. (Sewer Ord., Art. VI, § 8, 1/21/76.)

#### **Sec. 14-25. Determination of standards for industrial wastes.**

- (b) If approved by the Director of Public Works or his/her designee, applicants for a drain layerSewer Contractor permit will remain in effect for one year from the date of application.
- (c) Applicants for drain layera Sewer Contractor permit will be approved or disapproved within a period of thirty-one (31) calendar days after filing the application.
- (d) The following criteria shall be used by the City concerning decisions to approve or disapprove applications for the permit as a Drain-LayerSewer Contractor and shall serve as minimum requirements for the approval of such permits;
  - The applicant has paid the permit fee set forth
  - The applicant has complied substantially with the City of Bath Sewer Ordinance within the period of the prior twelve months.

No unauthorized person shall uncover, make connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining the proper permits as required by the City.

Contractors performing sewer and/or drain work as part of a project designed, bid, and managed by the City, shall not be required to obtain a Sewer Contractor permit.

~~No unauthorized person shall uncover, make any connections with or opening into, use, alter, repair or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. All work relating to the installation and repair of building sewers shall be performed by persons licensed for such work by the City, or homeowners who are doing work within the limits of their property, if approved by the City. (Sewer Ord., Art. V, § 1, 1/21/76.)~~

#### **Sec. 14-30. Cost of installation and connection.**

All costs and expense incident to the installation and connection of the building sewer, except where originally installed by the City, shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by his installation of the building sewer. (Sewer Ord., Art. V, § 1, 1/21/76.)

#### **Sec. 14-31. Separate sewers required; exception.**

(a) A separate and independent building sewer shall be provided for every building, except when one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

(b) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City to meet all requirements of this Chapter. All costs of such tests shall be borne by the owner. (Sewer Ord., Art. V, § 1, 1/21/76.)

(c) For any change of use within a building, or expansion or alteration to a building, which results in an increase in the sewer unit charge, a new sewer connection fee is due for each

(a) Permits will not be issued until the applicant has filed a layout plan showing the location of existing service connection, house location and route of sewer service, and the layout has been approved by the City.

(b) Permits will only be issued to sewer contractors ~~drain-layers~~ licensed to lay drains in the City, and to homeowners qualified under Section 14-29. Permits are not transferable.

(c) Permits shall be subject to revocation when any of the rules and regulations contained in this Chapter are not being followed.

(d) If the work under the permit is not completed within ninety (90) days, renewal of the permit must be obtained.

(Sewer Ord., Art, V, § 2, 1/21/76.)

(e) Payment of a deposit fee shall be made at the time of permit issuance. Following sewer construction and/or repair, the permittee shall return to the Public Works Department a sewer tie sheet showing the location of the installed or repaired sewer service. Upon return of the completed tie sheet, the deposit will be returned to the permittee. The amount of the deposit will be as shown in the fee schedule in this chapter.

#### **Sec. 14-35. ~~Drain-layers~~Sewer Contractor license; insurance.**

(a) Licenses to connect building sewers to the common sewers shall be issued to experienced and competent contractors. Licenses must be renewed annually on January 1. The fee for such license shall be ~~One Hundred Fifty Dollars (\$150.00) payable to the City as noted in the schedule of rates later in this chapter~~ and the licenses shall be obtained at the office of the City Clerk. The fee amount may be amended from time to time by Resolution of the Bath City Council. (8/06/2003)

(b) ~~Drain-layers~~Sewer Contractors doing work under this Chapter shall maintain minimum insurance coverage as follows:

Public Liability	\$100,000/\$500,000
Property Damage Liability	\$100,000/\$500,000
<del>Public Liability</del>	<del>\$100,000/\$500,000</del>
<del>Property Damage Liability</del>	<del>\$100,000/\$500,000</del>

and shall file a certificate of the same with the City.

(c) Violation of the requirements of this Chapter shall be cause for revocation of any license and/or permits issued hereunder.

#### **Sec. 14-36. Specifications of material.**

(a) Pipe and fittings:

- ~~S to be used in the work shall be either asbestos-cement, extra heavy cast iron soil pipe or vitrified clay~~SDR 35 PVC Sewer Pipe, six (6) inches or more in diameter.
- Pipe shall be green color.

(a)(b) ~~In general~~general, -, sewer services will not be allowed to have more than two (2) angle points, or a total angular deviation of more than one hundred eighty (180) degrees, unless granted a variance by the City. Cleanouts shall be installed at each deflection and/or every one hundred (100) foot length.

(b)(c) All services shall be laid in an envelope of washed, screened gravel with not less than six

across sidewalks, berms, curbing, etc., until they have been properly protected from damage by ~~Planking~~ planking or other approved means. All damage resulting from the drain layer's operations shall be repaired by them.

**Sec. 14-40. Sewer connections in State highways.**

When making sewer connections in State Highways, the necessary Permits from the ~~State~~ Maine Department of Public Works Transportation must be obtained prior to the issuance of a sewer connection permit. All work shall then be done in accordance with the requirements set forth in the permit from the ~~State~~ Maine Department of Public Works Transportation. Any costs in connection therewith shall be borne by the applicant. (Sewer Ord., Art. V, §6, 1/21/76.)

**Section 14-41. Inspections.**

(a) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made

## **ARTICLE 5. PRIVATE WASTEWATER DISPOSAL.**

### **Sec. 14-443. When required.**

Where a public sanitary or combined sewer is not available under Section 14-15, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article. (Sewer Ord., Art. IV, § 1, 1/21/76.)

### **Sec. 14-454. Permit required.**

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the City. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information required by the Maine Plumbing Code. (Sewer Ord., Art. IV, § 2, 1/21/76.)

### **Sec. 14-465. Notification of inspection.**

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City. The City shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection, and before any underground portions are covered. The notification for inspection shall be made twenty-four (24) hours before the disposal system is to be inspected by the local Plumbing Inspector. (Sewer Ord., Art. IV, § 3, 1/21/76.)

### **Sec. 14-476. Compliance with State law required; discharge from septic tank.**

(a) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all laws and regulations of the State of Maine, Department of Health and Welfare.

(b) No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Sewer Ord., Art. IV, § 4, 1/21/76.)

### **Sec. 14-487. Connection to public sewer.**

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 14-15, a direct connection shall be made to the public sewer within one hundred eighty (180) days. Any abandoned holding tank and connection thereto shall be filled and sealed in accordance with the provision of the Maine Plumbing Code. (Sewer Ord., Art. IV, § 5, 1/21/76.)

### **Sec. 14-498. Maintenance of disposal facilities.**

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City. (Sewer Ord., Art. IV, § 6, 1/21/76.)



system. In instances where it may be demonstrated by the User that water use readings do not reasonably reflect the quantity of waste discharged, and the User can further demonstrate that water is being deferred for other uses before being discharged into the waste system, the User may install a dedicated water meter the purpose of which shall be exclusively to measure the quantity of water consumed for those other purposes. ~~Ninety per cent (90%)~~ One Hundred percent (100%) of the volume of such metered water used for other purposes and not discharged into the system, shall be subtracted from incoming water meter reading to arrive at the volume used for billing purposes. The type of meter to be installed and its installation, shall be with specific advanced approval of the ~~City~~ Bath Water District. All costs associated with the installation and proper maintenance of the meter shall be borne by the User without liability to the ~~City and Bath Water District~~. Meters which are ~~currently installed and being utilized for measurement of water usage being diverted from discharge into the waste water system, may continue to be utilized for that purpose and need not be replaced. The homeowner/resident shall continue to notify the City with regard to meter readings at appropriate times.~~ The City of Bath reserves the right to access the premises currently being served by these meters for the ~~any purpose of verifying readings, determining accuracy of the measurements and for any other purpose related to calculation of the user charge.~~ This provision is intended to grandfather those meters which are now in use. Surcharges may be levied to users whose waste characteristics are above normal strength, the formula or other method for levying such surcharges to be established by Resolution of the City Council in the same manner as sewer user charges. In addition, the City Council, by Resolution, is also authorized to establish an interest charge for all sewer user charges or surcharges which have not been paid. ~~If the billing is on a monthly basis, then the interest shall be assessed thirty (30) days from the date of billing; if the billing is on a quarterly basis, then the interest shall be assessed sixty (60) days from the date of billing.~~ Interest shall be assessed on the day after the due date of the bill. The said interest rate shall be set from time to time by Resolution of the City Council. (Sewer Ord., Art. VII, 1-21-76; Ord. 11-10-76; Ord. 10-4-78; Ord. 9-23-92; Ord. 7-9-12)

(b) The sewer user charge shall be calculated so that the total of such charges will not be greater than the actual cost to the City of the operation and maintenance (including replacement) of the wastewater collection system and the wastewater treatment plant. No portion of the rate shall be calculated to include, nor shall funds raised through the user charge be used to separate the wastewater system of the City from the storm water system, nor to maintain, repair or replace the storm drain system of the City.

(c) In the event that the revenues received from the sewer user charge exceed the actual cost to the city for the operation and maintenance (including the replacement) of the wastewater collection system and wastewater treatment plant, then any such surplus shall be rebated to the user in such manner as the City Council, upon recommendation of the Finance Director, shall require by Resolution. The amount of such surplus is to be determined by the Finance Director and is not to include, under any circumstances, any monies included in the budget as a rate stabilization amount. (Sewer Ord., Art. VII, 1/21/76; Ord. of 11/10/76; Ord. of 10/4/78)

#### **Sec. 14-543. Billing; failure to pay; responsibility for payment.**

(a) Sewerage system use charges shall be billed periodically as determined by the city council, by resolution, upon the recommendation of the finance director. Where sewerage system rates, fees or use charges provided for herein are not paid within ~~sixty (60)~~ thirty (30) days, these rates, fees or charges shall be collected in accordance with Sections 4263, 4355, and 4453 to 4455 of Title 30, M.R.S.A.

SCHEDULE OF SEWER RATES		
<b>Quarterly and Residential based on Bath Water District meter readings</b>		
<u>Minimum charge per quarter</u>		<u>\$49.75</u>
<u>Volume upon which minimum charge is based</u>		<u>600 cubic feet</u>
<u>Additional charge per 100 CF of volume in excess of minimum volume</u>		<u>\$8.10</u>
<u>New sewer connection fee</u>		<u>\$2,000.00</u>
<u>Betterment fee</u>		<u>\$500.00</u>
<u>Impact fee</u>		<u>To be determined on a case by case basis</u>
<b>Monthly Commercial based on Bath Water District meter readings</b>		
<u>Minimum charge per month</u>		<u>\$18.40</u>
<u>Volume upon which minimum charge is based</u>		<u>200 cubic feet</u>
<u>Additional charge per 100 CF of volume in excess of minimum volume</u>		<u>\$8.10</u>
<u>New sewer connection fee</u>		<u>\$2,000.00</u>
<u>Betterment fee</u>		<u>\$500.00</u>
<u>Impact fee</u>		<u>To be determined on a case by case basis</u>
<b>Facilities Based on Flat Water Rates or Individual Wells</b>		
<u>Flat quarterly rate for users on wells</u>		<u>\$157.50</u>
<u>Volume upon which minimum flat quarterly rate is based</u>		<u>2000 cubic feet</u>
<b>Significant Industrial Users/Septage Disposal</b>		
<u>Charge per 100 CF of volume directly metered</u>		<u>\$8.20</u>
<u>Septage disposal (per 1,000 gallons)</u>		<u>\$125.00</u>
<u>Special Waste Fee (per gallon)</u>		<u>\$0.50</u>
<b>Other Fees</b>		
<u>Catch Basin Fees (per quarter)</u>		<u>\$250.00</u>
<u>Drain Layers License</u>		<u>\$100.00</u>
<u>Inspection Fee</u>		<u>\$0.00</u>
<u>After-hours Inspection Fee</u>		<u>\$75.00</u>
<u>Sewer Tie Deposit</u>		<u>\$50.00</u>

right-of-way. The use of a control manhole or other access structure may be utilized. The gravity pipe shall be constructed as per the requirements of section 14-36. If the local topography and site constraints cause a gravity transition to be impossible, the service may enter the City system in a pressure state. Details for this type of entry will be as required by the Public Works Director. The easement procedures in the next section will be followed for any such instance.

**Section 14.6159. Easement Required.**

The construction within the public right-of-way of any private lift station and any portion of any private wastewater disposal system connected thereto, shall require the granting of an easement by the City to the system owner. All expenses associated with the creation of the easement shall be borne by the owner. The easement shall be accepted by the City Manager or his designee and be properly recorded in the Sagadahoc County Registry of Deeds. Construction of components of the wastewater system within the public right-of-way shall not be started until the easement has been accepted by the City Manager.



# CITY of BATH, MAINE

Office of the City Manager

Peter H. Owen, P. E.

55 Front Street

Bath, Maine 04530

## Memorandum

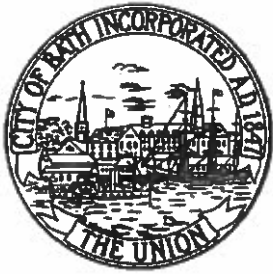
**To:** Chair Park, Vice Chair De Chant and Members of the City Council  
**CC:** Peter Owen, City Manager  
**Date:** July 30, 2021  
**From:** Marc Meyers, Assistant City Manager; Juli Millett, Finance Director  
**RE:** **Setting a Public Hearing -- Expenditure Limitation Charter Amendments**

At its August 4 meeting, the City Council will be voting on an order to set a public hearing on proposed charter amendments related to Section 617, Limitations on Municipal Expenditures. There will be a public hearing held on Wednesday, August 18, at 6 p.m. on the proposed charter amendments and action taken regarding sending the proposed charter amendments out to referendum in November.

As you remember from March's workshop, voters approved Section 617, "Limitations on Municipal Expenditures" in 1988 and it has been implemented in the City since Jan. 1, 1989, as a mechanism to limit the maximum increase of certain expenditures from one fiscal year to the next fiscal year using the National Consumer Price Index ("CPI") (the "Expenditure Limitation"). Section 617 includes exceptions to the Expenditure Limitation, including voter-approved bonds and related debt service, expenditures from grants, state-mandated expenditures, insurance proceeds, emergency appropriations and Regional School Unit 1 assessments.

### Challenges:

- The Expenditure Limitation is intended to keep tax rates low. However, expenditures are not directly correlated with tax rates. the tax rate is expenditures divided by assessment. Regardless of expenditures, if the assessment has a large increase, the tax rate could go down, but if the assessment has a large decrease, taxes will go up.
- While some exemptions exist, there are still programs underneath the Expenditure Limitation that are not taxpayer funded.



# CITY of BATH, MAINE

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## Office of the City Manager

Peter H. Owen, P. E.

55 Front Street

Bath, Maine 04530

- Exemption of the expenditures associated with the BIW TIF fund when the district expires. Without this amendment, the significant expenditures are suddenly counted towards the Expenditure Limitation calculation even though such expenditures have been occurring in previous years, all merely due to the expiration of the TIF district.

### What will these proposed amendments accomplish:

- Alleviating constraints in the budget process created by costs over which the City has no control, by simply adding to the already-existing set of exemptions in the Expenditure Limitation relating to costs over which the City has no authority.
- Reduce the necessity to borrow for capital projects, thereby saving the City financing and interest costs.
- Allow for projects to be undertaken within TIF district development programs where there are existing fund balances, putting money the City already has but cannot use to productive use.
- Allow for the more strategic use of the tax increment financing program in achieving tax shift benefits.
- Allow for a smooth transition when the BIW TIF district expires without significant disruption to existing programs and services or negative consequences to the tax rate.

In addition to this Public Hearing, the City is preparing for an informational campaign, including sessions in September and October to inform the public about the reason behind these changes and why they are beneficial to the City.



# Expenditure Limitation

# Limitations on Municipal Expenditures

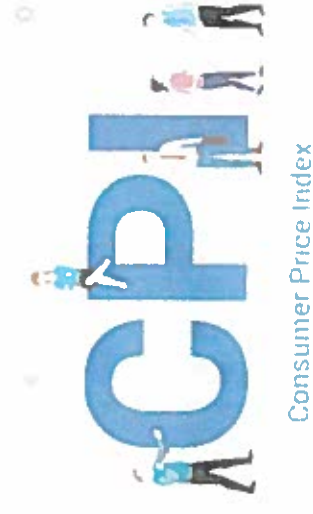
**September 15, 1988**

Bath Citizens for Responsible Spending, a group of residents, presented a petition to City Council, signed by 1,361 residents, to strongly support a proposal for responsible spending and a public hearing was held to discuss the proposal, which was an amendment to the City Charter, Section 617, Limitations on Municipal Expenditures.



# Challenges

The expenditure limitation is based on CPI, and expenses do not increase or decrease based on CPI.





# Challenges

Expenditures do not determine the tax rate. Tax rate is expenditures/assessment. If the assessment has a large increase ↑ the tax rate could go down, ↓ but if the assessment has a large decrease ↓ taxes will go up. ↑

$$\text{TAX RATE} = \text{EXPENDITURES} / \text{ASSESSMENT}$$

# Proposed Amendments



# Amendment

- **Exemption of legally required employment programs, such as workers' compensation, unemployment and payroll taxes.**

An increase in the rate of mandatory payroll taxes uses space in which we have no control

Example: We have a safety program, and work with Maine

Municipal for our mandatory workers compensation program, but one accident can increase the rate 25%.

That can be the difference of an employee or a capital project.



# PAYROLL TAX



# Challenges

When the City agrees to new tax increment finance districts (TIFs) or credit enhancement agreements (CEAs), the City share is put into the general fund. This eliminates the tax shift benefit to the City of no school and county taxes on those tax dollars.





# Amendment

- **Exemption of TIF districts**, allowing the City to use TIF proceeds for specified projects without taking on unnecessary voter-approved debt and allowing the City to take full advantage of the tax shift benefit.

The City has a fund balance in the Wing Farm TIF and the Downtown TIF ready to spend on qualifying projects. The only way to spend them would be to get voter or council approved debt for a project and pay the interest. Example: Riverwalk - Total interest to be paid \$330,000.

New TIFs that are approved are not sheltered on the City side which cost the City approximately \$.48 in lost savings.

Lost Revenue in Every New Tax  
Dollar in State Valuation  
\$.40 lost in State Aid to Education  
\$.05 lost in Revenue Sharing  
\$.03 lost in County Tax



# Challenges



The BIW TIF (which is exempt from the expenditure limitation calculation) is going to expire in FY 2023 and the City will need an exemption or amendment to the charter provision in order to bring those general fund operating expenses currently funded through that TIF (approx. \$900,000) into the general fund on the year following expiration.



Tonight, the City Council is conducting a public hearing on these charter amendments and voting to put these charter amendments out to referendum.

If supported by the City Council, the charter amendments will be decided by the voters on Tuesday, November 8.



**NOTICE  
PUBLIC HEARING**

**BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE SAID CITY COUNCIL, BEING THE MUNICIPAL OFFICERS OF SAID CITY, WILL HOLD A PUBLIC HEARING ON A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF BATH ON WEDNESDAY, AUGUST 18, 2021 AT 6:00 P.M. IN THE COUNCIL CHAMBERS ON THE THIRD FLOOR OF THE BATH CITY HALL. THE PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF BATH WILL BE IN SUBSTANTIALLY THE FORM BELOW:**

**CHARTER AMENDMENT – QUESTION 1**

**“SHALL THE MUNICIPALITY APPROVE THE CHARTER AMENDMENT SHOWN BELOW?”**

☐ YES

☐ NO

**SUMMARY:**

This proposed Charter amendment amends the City’s expenditure limitation to provide for additional exceptions from the calculation and clarification about implementation.

**AMEND AS FOLLOWS:**

**Sec. 617. Limitations on Municipal Expenditures.**

The maximum increase in appropriated expenditures for any fiscal year over those of the immediately preceding fiscal year shall not exceed the increase in the National Consumer Price Index (the "CPI") as determined by the Department of Labor for the United States government of the calendar year which ends within that immediately preceding fiscal year provided, however, that authorized actual expenditures, whether appropriated or otherwise, for any fiscal year shall include the following without regard to the foregoing maximum increase permitted for such fiscal year by the preceding sentence of this provision:

- (1) proceeds of any new bond issues received after their approval by public referendum or pursuant to Section 1002 of the City Charter.
- (2) any debt service required to support any new bonded indebtedness issued following its approval by public referendum or pursuant to Section 1002 of the City Charter.
- (3) expenditures to be funded in full or in part by grants or program specific revenues received by the City of Bath, to the extent of such grant monies or



**ORDER**  
**FOR PUBLIC HEARING**  
**AND NOTICE OF PUBLIC HEARING**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THAT THE CITY COUNCIL, AS MUNICIPAL OFFICERS OF THE CITY, HAVING DETERMINED IN ACCORDANCE WITH THEIR AUTHORITY UNDER 30-A M.R.S. § 2104 (1), THAT THERE ARE CERTAIN AMENDMENTS TO THE BATH CITY CHARTER THAT SHOULD BE CONSIDERED, DOES HEREBY PROVIDE BY THIS ORDER FOR NOTICE TO BE GIVEN OF A PUBLIC HEARING RELATING TO THE PROPOSED CHARTER AMENDMENTS, SAID PUBLIC HEARING TO BE HELD ON WEDNESDAY THE 18<sup>TH</sup> DAY OF AUGUST, 2021, AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS ON THE 3<sup>RD</sup> FLOOR OF THE BATH CITY HALL, 55 FRONT STREET, BATH, MAINE. THE CITY CLERK IS INSTRUCTED TO CAUSE A NOTICE OF THIS PUBLIC HEARING TO BE PUBLISHED IN A NEWSPAPER HAVING A GENERAL CIRCULATION WITHIN THE CITY OF BATH AT LEAST SEVEN (7) DAYS PRIOR TO THE DATE OF THE HEARING THE NOTICE SHALL CONTAIN THE TEXT OF THE PROPOSED CHARTER AMENDMENT WITH A BRIEF EXPLANATION, ALL IN ACCORDANCE WITH THE PROVISIONS OF 30-A M.R.S. § 2104 (5). SUCH NOTICE SHALL ALSO BE POSTED IN THE SAME MANNER AS REQUIRED OF ORDINANCES UNDER § 221 OF THE CHARTER OF THE CITY OF BATH. THE TEXT OF THE PROPOSED CHARTER AMENDMENTS IS ATTACHED TO THIS ORDER AND WILL BE ATTACHED TO THE NOTICE OF PUBLIC HEARING.

## Sec. 617. Limitations on Municipal Expenditures.

The maximum increase in appropriated expenditures for any fiscal year over those of the immediately preceding fiscal year shall not exceed the increase in the National Consumer Price Index (the "CPI") as determined by the Department of Labor for the United States government of the calendar year which ends within that immediately preceding fiscal year provided, however, that authorized actual expenditures, whether appropriated or otherwise, for any fiscal year shall include the following without regard to the foregoing maximum increase permitted for such fiscal year by the preceding sentence of this provision:

- (1) proceeds of any new bond issues received after their approval by public referendum or pursuant to Section 1002 of the City Charter.
- (2) any debt service required to support any new bonded indebtedness issued following its approval by public referendum or pursuant to Section 1002 of the City Charter.
- (3) expenditures to be funded in full or in part by grants or program specific revenues received by the City of Bath, to the extent of such grant monies or program specific revenues are actually received.
- (4) expenditures for programs mandated by the federal or state governments to the extent such programs are funded by federal or state authorities.
- (5) expenditures of insurance proceeds received as the result of damage to or loss or destruction of any asset, for acquisition of a replacement asset.
- (6) emergency appropriations approved by the City Council in accordance with the provisions of Section 611(B) of the Charter of the City of Bath.
- (7) School District assessments paid as a participating member under the provisions of LD 910, "An Act to Permit Public Schools in the Lower Kennebec River Area to Regionalize to Achieve Efficiency and Improve Quality."(11/5/07)
- (8) expenditures of payments for legally required employment programs.
- (9) expenditures of payments of county taxes to Sagadahoc County.
- (10) expenditures of tax increment financing revenues. When a tax increment financing district reduces captured value or terminates in any given fiscal year as compared to the prior fiscal year, the expenditures of revenues associated with the reduced or terminated captured assessed value shall be included in the determination of expenditures for the immediately preceding fiscal year for purposes of the expenditure limitation calculation.

Such authorized actual expenditures as described in sub-sections 1 through 710 above shall not be added to appropriated expenditure for any fiscal year in determining the authorized increase in appropriated expenditures for the following fiscal year pursuant to this provision.  
(11/05/07)

In the first year of implementation for sub-section 8, such current fiscal year expenditures shall be captured for the budget fiscal year calculation. In the first year of implementation for sub-sections 3 with respect to program specific revenues, 9 and 10 above, such expenditures shall also be removed if necessary, from the current fiscal year for purposes of the budget fiscal year calculations.

## ORDER APPROVING EMPLOYMENT CONTRACT

WHEREAS, Marc S. Meyers has been appointed as the Interim City Manager, effective August 21, 2021, and is expected to remain in that position until a permanent City Manager is selected, approved, and assumes the position, or until further action of the Council; and

WHEREAS, both City Council and the Interim City Manager have deemed it appropriate to have the tenure of the Interim City Manager governed by an Employment Contract, setting forth the powers, duties, terms, and conditions of the employment of the Interim City Manager.

NOW, THEREFORE, BE IT ORDERED that the City Council of the City of Bath hereby approves the Employment Contract by and between the City of Bath and the Interim City Manager, Marc S. Meyers, generally in the form attached hereto and made a part of this Order.

## AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of August, 2021, by and between the **CITY OF BATH**, State of Maine, a municipal corporation, hereinafter called "Employer", as party of the first part, and **MARC S. MEYERS**, hereinafter called "Employee", as party of the second part, both of whom understand as follows:

### WITNESSETH:

WHEREAS, Employer desires to employ the services of said Marc S. Meyers as Interim City Manager of the City of Bath, as provided by Section 301 of the Charter of the City of Bath; and

WHEREAS, it is the desire of the Governing Board, hereinafter called "Council", to provide certain benefits, establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council to (1) secure and retain the services of Employee and to provide inducement for him to remain in such employment; (2) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee, and (3) to provide a just means of terminating Employee's services at such time as he may be unable fully to discharge his duties due to age or disability or when Employer may otherwise desire to terminate his employ; and

WHEREAS, Employee desires to accept employment as Interim City Manager of said Bath;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

### Section 1. Powers & Duties

Employer hereby agrees to employ said Marc S. Meyers as the Interim City Manager of the City of Bath to perform the functions and duties of the City Manager as specified in Section 302 of the Charter of the City of Bath and to perform all other legally permissible and proper duties and functions as outlined in the Charter of the City of Bath or as the Council may from time to time assign, and to exercise all powers incumbent upon the City Manager.

The Interim City Manager shall have the specific authority to appoint an Assistant Manager who shall perform such duties as may be assigned by the Manager, in the administration of the City, and shall be designated as the Acting City Manager during periods of temporary absence or disability of the Interim City Manager.

of such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.

C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer forty-five (45) days notice in advance, unless the parties otherwise agree.

D. Removal of the City Manager for cause, shall be in accordance with the provisions of Section 304 of the Charter of the City of Bath. Such termination or removal shall be without severance pay or other compensation except for accrued vacation time.

E. In instances where there are fundamental differences in the management of the City or the conduct of City affairs, then the Employee and the Council agree that there shall be a period of thirty (30) days during which the Employee and the Council shall be required to attempt to resolve the differences through any discussions or dispute resolution techniques that may be acceptable to the parties. During this thirty (30) day period, and in order to allow the best opportunity possible to resolve any such differences, no formal action regarding the status of the Employee will be taken by either party.

#### Section 5. Disability

If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period, Employer shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 4. However, Employee shall be compensated for any accrued sick leave, vacation, holidays, compensatory time and other accrued benefits.

#### Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto an annual base salary \$ \_\_\_\_\_, payable in installments at the same time as other employees of the Employer are paid. Said annual base salary shall be reevaluated and adjusted in conjunction with, and upon completion of, the performance evaluation provisions of Section 7 of this Agreement, and in accordance with the yearly budget process.

#### Section 7. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee at least once annually in advance of the anniversary date of this Agreement. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee. Said criteria may be added to or deleted from as the Council may from time to time determine, in consultation with the Employee. Further the Chairman of City Council shall provide the Employee with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss his evaluation with the Council.

annual convention and the Maine Town and City Managers' annual conference. Employer hereby also agrees to budget for and to pay the travel and subsistence expenses of Employee for travel when required to officially represent the Employer.

Employer also agrees to budget and to pay for the travel and subsistence expenses for Employee for short courses, institutes and seminars that are necessary for his professional development and for the good of the Employer. These expenditures are subject to the budget process and their expenditure is limited to amounts budgeted by the City Council in their annual budget adoption.

### Section 13. General Expenses

Employer recognizes that certain expenses of a nonpersonal and job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses as practical and budgeted.

### Section 14. Civic Club Membership

Employer recognizes the desirability of representation in and before local civic and other organizations, and Employee is authorized to become a member of one such civic club or organization, for which Employer shall pay all expenses.

### Section 15. Indemnification

Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, barring gross negligence, arising out of an alleged act or omission occurring in the performance of Employee's duties, within the scope of his employment as City Manager. Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon, on its own behalf or in accordance with the terms of applicable liability insurance policies. Nothing herein shall be deemed to be a waiver of any indemnity or protection offered to the City Manager or the City of Bath under the Maine Tort Claims Act.

### Section 16. Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

### Section 17. Other Terms and Conditions of Employment

A. The Council, in consultation with the Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

Clerk, and approved as to form by its City Solicitor, and the Employee has signed and executed this Agreement, both in duplicate, the day and the year above written.

CITY OF BATH

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By: Aaron Park  
Chair, Bath City Council  
City of Bath, State of Maine

DULY ATTESTED:

---

By: Darci L. Wheeler  
City Clerk

(Seal)

APPROVED AS TO FORM:

---

By: Roger R. Therriault  
City Solicitor

---

Marc S. Meyers  
Employee