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GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS.

Sec. 1-101. Designation and citation of Code.

The ordinances embraced in this and the following Chapters and Sections shall constitute and be designated as "The Municipal Code of Bath, 1976," and may be so cited. The Code may also be cited as the Municipal Code or in the provisions which follow, as "This Code".

Sec. 1-102. Rules of Code construction; definitions.

(a) In the construction of this Code and all ordinances, the following rules of construction and definitions shall be observed unless inconsistent with the manifest intent of the Council or the context clearly requires otherwise :

- (1) **And/or** means "**and**" may read "**or**" and "**or**" may be read "**and**" if the sense requires it.
- (2) **Bond** means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event.
- (3) **Building** means any structure intended to have walls and a roof.
- (4) **Business** means any profession, trade, occupation and any other commercial enterprise conducted for monetary reward.
- (5) **Charter** means the Charter of the City of Bath
- (6) **City** means the City of Bath, in the County of Sagadahoc and State of Maine.
- (7) **City limits** means within the City and includes not only the corporate limits of the City, but also any property which it owns or which is under its jurisdiction.
- (8) **City Manager** means the chief administrative officer of the City.
- (9) **Clerk** mean the City Clerk.
- (10) **Council** means the governing body of the City, the City Council.
- (11) **County** means Sagadahoc County, Maine.

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(12) **Definitions** given within a Chapter or Article apply only to words or phrases used in such Chapter or Article unless otherwise provided.

(13) **Designees**, following an official of the City, means the authorized agent, employee or representative of such official.

(14) **Director** means the chief executive officer of the Office or Department to which the particular Division, Bureau, Board, Agency or subordinate municipal administration body has been assigned by the Council.

(15) **Gender**: Words in any Section importing the masculine gender shall include the feminine and neuter as well as the masculine.

(16) **Health Officer** means the head of the Health Department or any person designated by the Council to perform the City health functions and duties.

(17) **May**: The word "**may**" is permissive and discretionary.

(18) **Month** means a calendar month.

(19) **Number**: Words used in the singular include the plural and the plural includes the singular.

(20) **Oath** means any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath.

(21) **Occupant** means tenant or person in actual possession.

(22) **Operate** means carry on, keep, conduct, maintain, manage, direct or superintend.

(23) **Ordinances** mean the ordinances of the City of Bath and all amendments and supplements thereto.

(24) **Owner** means one who has complete dominion over particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, owner means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land.

(25) **Person** means any individual, natural person, joint stock company, Partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, or any other group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or

employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law.

(26) **Personal Property** means any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property.

(27) **Preceding and following** mean next before and next after, respectively.

(28) **Proprietor** means an owner of the property or premises including any person, firm, association, corporation, club, partnerships or other group acting as a unit whether acting by themselves or by a servant, agent or employee.

(29) **Public Place** shall mean and include any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building or any other place commonly open to the public.

(30) **Real Property** means land, together with all things attached to the land so as to become a part thereof.

(31) **Shall:** The word "**shall**" is mandatory.

(32) **Sidewalk** means that portion of a street between the curb line and the adjacent property along the margin of a street or other highway, designed, constructed and intended for the use of pedestrians to the exclusion of vehicles.

(33) **Signature and Subscription** mean the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him.

(34) **State** means the State of Maine.

(35) **Statutes or Revised Statutes** mean the latest published edition of the Statutes or Revised Statutes of Maine.

(36) **Street** means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other public ways or thoroughfares in this City, over which it has jurisdiction, which have been or may

hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

(37) **Tenant** means any person occupying the premises, building or land of another in subordination to such other person's title and with his express, press or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others.

(38) **Tense:** Words used in the past or present tense include the future, past and present where applicable unless the context clearly indicates otherwise.

(39) **Time** means an hour of the day according to the official time of the City.

(40) **Time of Performance** means the time within which an act is to be done as provided in any Section or any order issued pursuant to any Section, when expressed in days, and is computed by excluding the first and including the last day. If the last day is Sunday or a legal holiday, that day shall not be counted in the computation. When the time is expressed in hours, the whole of Sunday or a legal holiday from midnight to midnight is excluded.

(41) **Treasurer** means the City Treasurer.

(42) **Watercourse** means any drain, ditch and stream, flowing in a definite direction or course in a bed with banks.

(43) **Week** means seven (7) days.

(44) **Words and phrases** shall be construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such meaning.

(45) **Writing and Written** mean any representation of words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means.

(46) **Year** means a calendar year.

Sec. 1-103. Authority of Code.

This Code is a revision and codification of the general ordinances of the City of Bath which have been enacted and published in accordance with the authority granted in 30 M.R.S.A. § 2154 (1964).

Sec. 1-104. Territorial applicability.

This Code shall refer only to the commission or omission of acts within the territorial limits of the City and to that territory outside this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

Sec. 1-105. Certified copy of Code admissible into evidence.¹

Any printed copy of this Code or any printed supplement thereto, published and certified according to law, shall be received in evidence in any court for the purpose of proving any Charter or ordinance provision therein contained with like effect and for the same purpose as the original ordinances, minutes or journals would be received.

Sec. 1-106. Acts by deputy or designee.

Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by an authorized deputy or designee or by any person authorized pursuant to law or ordinances, unless this Code expressly provides otherwise.

Sec. 1-107. Effective date of ordinance, amendment or repeal; publication requirements.

(a) No Ordinance or amendment or repeal of any Section hereof shall be operative, in full force and effect, until it has been adopted in the manner prescribed by law and until it has been published.

(b) Publication shall be sufficient if made in a newspaper published or in general circulation in the City or if made in a book or pamphlet form.

Sec. 1.108. Code provisions as continuance of existing ordinances.

The provisions appearing in this Code, insofar as they relate to the same subject matter and are substantially the same as those ordinance provisions previously adopted by the City and existing at the effective date of this Code, shall be considered as restatements and continuations thereof and not as new enactments.

Sec. 1.109. Effect of repeal of ordinances; revival.

(a) Neither the adoption of this Code nor the repeal hereby of any ordinance of this City shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at the

¹ **State law reference:** As to proof of ordinances, see 30 M.R.S.A. §2155 (1964).

effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.

(b) Whenever any ordinance repealing a former ordinance, clause or provision is repealed, such repeal shall not be construed as reviving such former ordinance, clause or provision, unless expressly provided therein.

Sec. 1-110. Conflicting provisions.

(a) If the provisions of different Chapters, Articles, Divisions or Sections of this Code conflict with or contravene each other, the provisions of each Chapter, Article, Division or Section shall prevail as to all matters and questions growing out of the subject matter of that Chapter, Article, Division or Section.

(b) If clearly conflicting provisions are found in different Sections of the same Chapter, the provisions of the Section last enacted shall prevail unless the construction is inconsistent with the meaning of that Chapter.

(c) Where any conflict exists between a Chapter, Article, Division or Section of this Code and any Chapter or Section of the City Charter or State Code, the latter shall prevail.

Sec. 1-111 . References include amendments; construction.

(a) Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as may now exist or is hereafter amended. .

(b) Any references in this Code to Chapters, Articles, Divisions or , Sections shall be to the Chapters, Articles, Divisions and Sections of this Code unless otherwise specified.

Sec. 1-112. Catchlines and headings; construction.

All designations and headings of Chapters, Articles, Divisions and Sections are intended only for convenience in arrangement and as mere catchwords indicate the contents of such Chapters, Articles, Divisions or Sections, whether printed in boldface type or italics. They shall not be deemed or taken to be any part or title of such Chapters, Articles, Divisions or Sections; nor unless expressly so provided, shall they be so deemed upon amendment or reenactment, nor shall they be construed to govern, limit, modify, alter or in any other manner affect the scope,

meaning or intent of any of the provisions of this Code.

Sec. 1-113. Interpretation of Section numbers.

In reading a Section number from left to right, the digit or digits to the left of the dash designate the Chapter number. The digit or digits to the right of the dash designate the Section number within the Chapter. Figures to the right of a decimal point indicate new Chapters or Sections inserted between existing Chapters or Sections. The decimal system shall be used to maintain the numerical order of this Code.

Sec. 1-114. Continuing offenses.

Each day any violation of this Code occurs or continues to exist shall constitute a separate offense.

Sec. 1-115. Prohibited acts include causing, permitting, concealing.

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

Sec. 1-116. Notices to be written and in English language.

All notices, reports, statements, applications or records required or authorized by this Code shall be made in writing in the English language unless specifically provided otherwise.

Sec. 1-117. Notices; service and proof.

(a) Unless otherwise specifically provided, whenever a notice is required to be given pursuant to any Section of this Code such notice shall be given either by personal delivery to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his last known business or residence address as the same appears in the public records or other records pertaining to the matter for which such notice is served, or by any other method of delivery approved by law. Service by mail shall be deemed to have been completed at the time of deposit in the post office or any United States mailbox.

(b) Proof of giving any notice may be made by the certificate of any officer or employee of this City or by affidavit of any person over the age of eighteen (18) years who actually accomplished personal service in conformity with this Code or other provisions of law applicable to the subject matter concerned, or by a return receipt signed by the recipient notified by United States mail.

Sec. 1-118. Code severability.

It is declared to be the intention of the Council that the Sections, Subsections,, paragraphs, sentences, clauses and words of this Code are severable. In any Section, Subsection, paragraph, sentence, clause or word is declared unconstitutional or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining Sections, Subsections, paragraphs, sentences, clauses and words of this Code, since the Sections or parts of Sections would have been enacted by the Council without and irrespective of any unconstitutional or otherwise invalid Section, Subsection, paragraph, sentence, clause or word being incorporated into this Code.

Sec. 1-119. Same offense punishable by different Sections of the Code; City Solicitor's option.

In all cases where the same offense is made punishable or is created by different Sections of this Code, the City Solicitor may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-120. General penalty; subsequent violation; suspension or revocation of license or permit.

(a) Whenever in this Code or in any ordinance of the City any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) plus costs or by imprisonment in the City or County Jail or other place of legal incarceration for not more than one (1) year, or by both such fine and imprisonment in the discretion of the court.

(b) Whenever in this Code or in any ordinance there is no provision for a greater penalty for a second or subsequent conviction for a violation of this Code, any person who has previously been convicted of the same violation shall be subject to a fine of not less than Ten Dollars (\$10.00) for each succeeding offense, not to exceed the maximum penalty permitted for each offense.

(c) If the penalty for a particular offense is limited by State Statute then such limitation shall be applicable to the provisions of this Code and other ordinances of the City notwithstanding the provisions of this Section.

(d) The suspension or revocation of any license, certificate or other privilege conferred by the City, shall not be regarded as a penalty for the purposes of this Code but shall be in addition thereto.

Sec. 1-121. Adoption of Code.²

The Code of the City of Bath, Maine 1976, subject to the changes and revisions contained in Exhibit A attached hereto hereby is adopted as a codification of the Ordinances of the City of Bath, together with the amendments attached hereto as Exhibit B which have already been enacted by the City Council and which are to be integrated into the Code.

² **EDITORS NOTE:** The material contained in Exhibits A and B has been integrated into the appropriate sections of the Code.

The original exhibits are on file at the office of the City Clerk, Ordinance 77-3.