THURSDAY, JULY 18, 2019
7:00 P.M.

There was a pre-meeting of the City Council in Conference Room A at 6:30 p.m. No Council actions were taken at pre-meetings. Pre-meetings are open to the public.

Present: Mayor Rollins, Councilors Conti, Judkins, Lind, O’Brien, Day and Wilson

Absent: Councilor Alexander

PUBLIC COMMENTS ON ITEMS LISTED ON THE AGENDA:

CONSORT AGENDA:

19-101 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the City Council Regular Business Meeting held June 20, 2019, submitted by the City Clerk’s office be approved.

19-102 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the City Council Special Business Meeting held June 27, 2019, submitted by the City Clerk’s office be approved.

19-103 City Manager (Bureau of Audit)
BE IT ORDERED, that the Roll of Accounts for the month of June 2019 in the amount of $6,659,259.52 be approved.

19-104 Mayor
BE IT ORDERED, that Janet Doerr is hereby reappointed to the Historic Preservation Commission, said term to expire June 6, 2022.

19-105 City Manager
BE IT ORDERED, that the City Council accept a donation of 14 Bicycles and 14 Helmets from the Bethlehem Lodge # 35 A.F. & A.M, to the Lithgow Public Library for the “Bikes for Books” program in an amount valued at $1,260.00.

19-106 City Manager
BE IT ORDERED, that the City Council hereby accept a donation of $1,900.00 from Wal-Mart of Augusta for the Hartford Station television monitors.

19-107 City Manager
BE IT ORDERED, that the City Council hereby accept a donation of $500.00 from Wal-Mart of Augusta for Hartford Station television monitors.

Motion for passage of the Consent Agenda orders 19-101 to 19-107.

By: Conti Second by: Lind
Yea: 6
Nay: 0
NEW BUSINESS
PART 1 – ORDERS AND RESOLVES

19-108    Mayor and Council
BE IT ORDERED, that the City Manager is authorized to accept the $12,500 offer made through the real estate firm RE/MAX Riverside on the tax acquired property at Cross Hill Road (Tax Map 4/Lot 11).

BE IT FURTHER ORDERED, that the net proceeds from the sale be credited to the reserve for demolition of unsafe structures located in the City.

Motion for passage of order 19-108
By: Day    Second by: Lind
Yeas: 6
Nays: 0

19-109    City Manager
WHEREAS, the City finds that a recommendation on a proposed contract or conditional zone is necessary; and

WHEREAS, the use of property in the Riggs Brook Village zoning district does not allow the establishment of a new powersports business, which would be classified as an Automobile Business;

NOW, THEREFORE, BE IT ORDERED, by the City Council of the City of Augusta, Maine, that the Planning Board review and make a recommendation on the establishment of a contract or conditional zoning district at 2459 North Belfast Ave (Tax Map 7, Lot 38A) to allow the sale and maintenance of powersports vehicles and equipment using the existing commercial building.

Motion for passage of order 19-109
By: Lind    Second by: Day
Yeas: 5
Nays: 0
Abstained: 1 – Councilor Wilson abstained because he will personally benefit from this change

19-110    City Manager
BE IT ORDERED, That, under and pursuant to the provisions of Maine law and the Charter and City

Motion to waive reading of order 19-110
By: O’Brien    Second by: Day
Yeas: 5
Nays: 1 – Councilor Wilson
Motion passed

Ordinances of the City of Augusta, Maine, the City Manager is hereby authorized to execute and deliver a tax-exempt lease purchase agreement with M.S.T. Government Leasing, LLC in the name and on behalf of the City of Augusta, Maine (the “Issuer”), for the purpose of refunding and refinancing existing lease purchases of photocopier equipment and lease purchasing additional new and reconditioned photocopier equipment, any service agreements specifically financed in connection with certain equipment, consulting fees and related costs of issuance with an aggregate purchase price not
exceeding One Hundred Six Thousand Seven Hundred One Dollars and Eighty-Eight Cents ($106,701.88), at a rate of interest of not more than 3.95% per year through August 1, 2024, and otherwise in such form as the City Manager may approve; and that the appropriate officials of the Issuer be and hereby are authorized to execute and deliver on behalf of the Issuer such other documents and certificates as may be required in connection with such tax-exempt lease purchase agreement; and that no part of the proceeds of said tax-exempt lease purchase agreement shall be used, directly or indirectly, to acquire any securities or obligations, the acquisition of which would cause the tax-exempt lease purchase agreement to be a “private activity bond” or an “arbitrage bond” within the meaning of Sections 141 and 148, respectively, of the Internal Revenue Code of 1986, as amended (the “Code”); and that the tax-exempt lease purchase agreement issued pursuant hereto be designated as a qualified tax-exempt obligation within the meaning of Section 265(b)(3)(B) of said Code; and that the City Manager be and hereby is authorized to covenant on behalf of the Issuer to file any information report and pay any rebate due to the United States in connection with the issuance of said tax-exempt lease purchase agreement, and to take all other lawful actions necessary to ensure that the interest portion of the rental payments under and pursuant to the tax-exempt lease purchase agreement will be excluded from the gross income of the owners thereof for purposes of federal income taxation and to refrain from taking any action which would cause such interest portion of the rental payments to become includable in the gross income of the owners thereof.

Motion for passage of order 19-110
By: Conti Second by: Lind
Yea: 6
Nay: 0

NEW BUSINESS PART 2 – ORDINANCES - FIRST READING
NO VOTE REQUIRED

19-111 City Manager
WHEREAS, the City finds that regulating and licensing home occupations is in the best interest of the public and the neighborhoods where the uses are located; and

WHEREAS, the Planning Board and City Council held multiple public meetings and hearings and heard testimony on the topic; and

WHEREAS, the following modifications to the Land Use Ordinance are necessary to ensure careful management in the city;

Motion to suspend further reading of order 19-111
By: Wilson Second by: Day
Yea: 6
Nay: 0

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Augusta, Maine, that the following amendments to the Code of Ordinances, Land Use Ordinance be enacted:

§ 300-202. Definitions
HOME OCCUPATION: An occupation or profession which is customarily conducted on or in a residential structure or property, which meets the standards of § 300-510 Home Occupations, and which:

A. Is conducted by a resident of the property; with a valid Home Occupation License.
B. A. Is clearly incidental to and compatible with the residential use of the property and surrounding residential uses;
B. Occupies no more than 30% of the floor area of all structures on the property;
C. Does not change the outside appearance of the residential dwelling unit or premises;
D. Is conducted entirely within the dwelling unit or accessory structure; and
E. Employs Operates with no more than one two persons other than family members residing in the home; and
F. Generates any vehicular or pedestrian traffic.


Commentary:
Traditionally, in zoning, certain occupational uses termed "home occupations" have been allowed in dwelling units. Such uses have been allowed largely on the basis that such uses are incidental to the use of the premises as a residence, that the nature of home occupational uses is such that they are compatible with or even "belong" in the home, or that home occupational uses are of a highly professional nature involving the use of mental rather than physical capabilities and are therefore compatible with residential uses.

Based on the previous paragraph, it is difficult to discern exactly which home-based businesses are to be permitted in residential districts. It is recognized, in Augusta, that certain limited home occupational uses can be useful to both the general community as well as the resident-proprietor. Also recognized is the difficulty of writing an ordinance dealing with home occupations in a "middle-of-the-road" fashion, which is neither discriminatory or arbitrary. It is hoped that both the citizens and the courts will recognize these difficulties; that the former will not abuse the privileges granted within the following text and that the latter will aid in the enforcement of the sometimes seemingly arbitrary restrictions necessary to preserve residential character in an expedient manner.

With the above in mind, it is the intent and purpose of this section to provide for home occupations in residential districts subject to the following restrictions. (The preceding discussion was modified from Rockford, Illinois, Home Occupation Ordinance.)

A. The conduct of home occupations in residential dwelling units may be permitted under the following provisions:
   (1) License:
      a. A license shall be required only for home occupations which generate vehicular or pedestrian traffic.
      b. Licenses shall be granted by a Code Enforcement Officer to a resident of a specific dwelling.
      c. Licenses are non-transferrable.
      d. Licenses are subject to revocation by the Code Enforcement Officer, after notice and hearing, if the licensee fails to comply with the terms of the Home Occupation ordinance and/or operates in a manner other than that stated on the license application.
      e. Licensees shall be issued for a three-year term. The Licensee shall file a renewal license application prior to expiration of the previous license in order for the home occupation to remain in compliance.
      f. Home occupations requiring a license shall apply for a license within one year of (insert the date of adoption), the date this licensing requirement was enacted.
   (2) See definition of "home occupation."
   (3) Home occupations shall be carried on wholly within the principal dwelling unit building or within a building or other structure accessory to it.

(2) Home Occupation Operating Requirements:
   a. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants; no more than 30% of the total existing floor area of the principal dwelling unit or volume, whichever is greater, shall be used for operating the home occupation.
   b. There shall be no visible evidence of the operation of such home occupation outside of typical home uses and equipment, other than one sign, unless such sign is otherwise prohibited by this chapter.
c. A home occupation shall to no extent be carried on in a manner that alters the residential character of the structure, lot or neighborhood. There shall be no outside storage or display of materials or products or equipment or vehicles, nor any window display of any of the same.

d. The sign for a home occupation shall be limited to a property owner "name" sign with the street number and name clearly denoted. The "name" sign may include the type of occupation. The sign shall be non-illuminated and no larger than two square feet. See § 300-516 for additional standards.

e. No traffic shall be generated by such home occupation in greater volumes than would ordinarily be expected in the neighborhood, and no need for parking generated by the operation of the home occupation shall be met on the lot, off the street in the driveway or designated parking spaces, in other than what is the required front yard; the burden of proof shall be on the applicant.

f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. If the home occupation is conducted in a detached one-family home dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises.

g. The sale of products shall be limited to those which are grown, crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

h. A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than one person, including a business associate, who is not a resident or two employees who are not residents of the dwelling unit. The owner’s written permission is required for said home occupation if the resident is a tenant.

i. Licensed home occupations shall terminate when a licensee no longer resides at the location.

j. Only one home occupation is permitted per lot.

k. Initial and periodic inspections by a Code Enforcement Officer, or other city staff, shall be conducted, and shall be consented to by the applicant / licensee as part of the licensing process.

l. Planning Board review, as a conditional use, shall be required for any applicant wishing to exceed the above-stated limitations.

m. No auto repair/service home businesses shall be licensed if it did not exist as a legal home business on January 1, 2019. All existing auto repair/service repair home businesses proposed in the RA, RB1, RB2, and RC Zones shall be reviewed as a conditional use shall obtain a non-transferable license and may continue operating as long as the original licensee is able to renew the license as required by this ordinance.

n. Hazardous materials used during the course of the operation of the home occupation will be stored and disposed of in accordance with any applicable state or federal regulations.

o. Medical Marijuana Registered Caregiver (Home Occupation) shall meet all license requirements for a home occupation and the additional license requirements for a Medical Marijuana Registered Caregiver (Home Occupation). This use shall be a delivery only operation, with no customers coming to the site for any purpose. All in-person caregiver operations shall be done at the patient’s home or other legal site.

B. Failure to obtain a license prior to beginning operation will result in a doubling of the fee for a license after-the-fact. For home occupations in existence when this ordinance is adopted, failure to apply for a license within 12 months of the effective date of the ordinance will result in a doubling of the fee.

COMMUNICATIONS

Committee Reports
City Manager’s Report

Minutes 07/18/2019
19-112     City Manager
Executive Session: Real Estate Matter; 1 M.R.S.A. §405(6)(C)
Motion to enter Executive Session at 7:20 p.m., in accordance with 1 M.R.S. §405(6)(C), Real Estate Matter.
By: Conti     Second by: Day
Yeas: 6
Nays: 0

Motion to leave executive session and adjourn at 8:15 p.m.
By: Wilson     Second by: O'Brien
Yeas: 6
Nays: 0

Respectfully submitted,
Roberta L. Fogg, City Clerk
July 19, 2019