AMENDED AGENDA FOR THE CITY COUNCIL BUSINESS MEETING
COUNCIL CHAMBERS
THURSDAY, OCTOBER 18, 2018
7:00 P.M.

AMENDED October 16, 2018

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

PRESENTATION:  C-SPAN "50 Capitals Tour"

PUBLIC COMMENTS ON ITEM LISTED ON THE AGENDA:

CONSENT AGENDA:

18-158 City Manager (Bureau of City Clerk)
BE IT ORDERED, that the minutes of the City Council Regular Business Meeting held October 4, 2018, submitted by the City Clerk’s office be approved.

18-159 Mayor
BE IT ORDERED, that Mae L’Heureux be appointed to the Community Development Advisory Committee, said term to expire October 15, 2021.

18-160 Mayor
BE IT ORDERED, that Katie Smith be appointed to the Community Development Advisory Committee, said term to expire October 15, 2021.

18-161 Mayor
BE IT ORDERED, that Luc Pepin be appointed to the Community Development Advisory Committee, said term to expire October 15, 2021.

NEW BUSINESS:

PART 2 – ORDINANCES BEING READ FOR THE FIRST TIME
NO VOTE REQUIRED

18-162 Mayor and Council
WHEREAS, the Planning Board recently held a public hearing related to amending the Land Use Ordinance so as to allow event and conference facilities in the KBD1 zoning district, and;

WHEREAS, the Planning Board subsequently unanimously recommended a change to the Land Use Ordinance to accommodate said uses.

NOW THEREFORE, BE IT ORDAINED, that the City Council hereby amend the Augusta Land Use Ordinance as follows:

Section 300-202, Additional Definitions, modifying the definition of “Conference Center” as follows:
Conference/Event Center: A facility used for conferences, seminars, and events with accommodations for food preparation and eating, entertainment, resource facilities, and meeting rooms that meets all city ordinances and city requirements. The total floor area of a conference/event center shall not exceed 20,000 square feet.

Table 300 Attachment 4, Table of Land Uses in the Base Zoning Districts, add a “CU” in the KBD1 zoning district column, indicating that the following use shall be Conditional Use in the KBD1 zoning district: Conference/Event Center.

18-163 Mayor and Council
WHEREAS, the Planning Board recently held a public hearing related to amending the Land Use Ordinance so as to allow “Business/Professional Associations” and “Educational Services” to the Regional Commercial (CC) zoning district, and;

WHEREAS, the Planning Board subsequently unanimously recommended a change to the Land Use Ordinance to accommodate said uses as Conditional Uses (CU).

NOW THEREFORE, BE IT ORDAINED, that the City Council hereby amend the Augusta Land Use Ordinance as follows:

Table 300 Attachment 4, Table of Land Uses in the Base Zoning Districts, add a “CU” in the CC zoning district column, indicating that the following use shall be Conditional Use in the CC zoning district: “Business/Professional Associations” and “Educational Services”.

18-164 City Manager
WHEREAS, medical marijuana Caregivers are a type of use that is not specifically regulated under the current City Code;

WHEREAS, given recent amendments to the Maine Medical Use of Marijuana Act, Caregivers are entitled to possess up to 30 mature plants and to serve an unlimited number of patients;

WHEREAS, such expanded activities cause concerns regarding compatibility with residential uses, such as traffic, odor and safety considerations;

WHEREAS, 22 M.R.S.A. § 2429-D, as recently amended, gives municipalities explicit authority to regulate Caregivers;

WHEREAS, the City needs time to review regulations being considered by the State and to review its own Code of Ordinances to determine the implications of allowing Caregivers in residential zones and to develop reasonable ordinances governing the location and operations of such establishments;

WHEREAS, the City Council, with the professional advice and assistance of the City Manager, Planning Board, Planning Department and Police Department, shall study the City’s current Code of Ordinances to determine the land use and other regulatory implications of allowing Caregivers in residential zones and to consider what locations, if any, and approval and performance standards, if any, might be appropriate for such uses; and

WHEREAS, it is anticipated that such a study, review, and development of recommended
Ordinance changes will take at least one hundred and eighty (180) days from the date the City enacts this Moratorium Ordinance regarding Medical Marijuana Caregivers in Certain Residential Zones;

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Augusta, that the following Moratorium Ordinance regarding Medical Marijuana Caregivers in Certain Residential Zones (the “Moratorium Ordinance”) be, and hereby is, enacted, and, in furtherance thereof, the City Council does hereby declare a moratorium on the location, operation or licensing of any Caregivers within the following zones: RA, RB, RC and RD (“the applicable zones”).

For the purposes of this Moratorium Ordinance, a Caregiver is as defined by 22 M.R.S.A. § 2422, regardless of whether the facility meets the relevant definitions, standards and restrictions pertaining to Home Occupations under the City Code.

This Moratorium Ordinance shall take effect once enacted by the City Council, in accordance with the provisions of the City Charter and, notwithstanding 1 M.R.S.A. § 302, shall be applicable to Caregivers in the applicable zones which were not located and actively serving qualifying patients in such zones as of October 11, 2018. A Caregiver shall have the burden to prove exemption from this Moratorium. The Moratorium shall expire on the 180th day after enactment, unless extended, repealed, or modified by the City Council, for the express purpose of drafting an amendment or amendments to the City’s current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of Caregivers with existing and permitted uses in residential zoning districts, the potential adverse health and safety effects of Caregiver establishments on the community if not properly regulated, and the adequacy of the City’s infrastructure to accommodate the presence of medical marijuana storefronts in the applicable zones.

BE IT FURTHER ORDAINED, that no Caregiver shall actively conduct business from a location within the applicable zones on or after October 11, 2018 without complying with whatever ordinance amendment or amendments the City Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a Caregiver unless the application under review was filed with the City prior October 11, 2018; and

BE IT FURTHER ORDAINED, that those provisions of the City current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if a Caregiver facility is established in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.
WHEREAS, a Moratorium Ordinance regarding Retail Marijuana Establishments (“the Moratorium”) was enacted on December 21, 2017 and extended on May 17, 2018;

WHEREAS, a Moratorium Ordinance regarding Medical Marijuana Storefronts was enacted on May 17, 2018;

WHEREAS, City officials and staff have been working diligently to discuss and propose zoning, licensing and operational standards for Retail Marijuana Establishments and Medical Marijuana Storefronts (“the Moratoria”);

WHEREAS, since enactment of these Moratoria, the Maine Legislature enacted sweeping changes to the laws regarding adult use and medical marijuana establishments, and various agencies of the State are pursuing rulemaking regarding licensure and operation of marijuana related establishments;

WHEREAS, City officials and staff must review the relevant legislation and rules in order to determine the appropriate review and enforcement standards to be included within the City Code; and

WHEREAS, it is the City’s intent that such review be completed and that relevant ordinances enacted before the State begins issuing licenses for Retail Marijuana Establishments and Medical Marijuana Storefronts;

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Augusta, that the Moratorium Ordinance regarding Retail Marijuana Establishments and the Moratorium Ordinance regarding Medical Marijuana Storefronts are each hereby extended for an additional 180-day period, unless sooner repealed in whole or in part by the City Council.

COMMUNICATIONS

Committee Reports
City Manager’s Report

Respectfully submitted,
Roberta L. Fogg, City Clerk
October 16, 2018