THE CITY OF AUGUSTA

CITY COUNCIL

MARCI A. ALEXANDER
LINDA J. CONTI
JENNIFER DAY
HAROLD ELLIOTT

DAREK GRANT
ERIC LIND
MARK S. O'BRIEN
COREY WILSON

DAVID M. ROLLINS, MAYOR
WILLIAM R. BRIDGE
CITY MANAGER

INFORMATIONAL MEETING AGENDA

THURSDAY, JULY 12, 2018
CITY HALL (COUNCIL CHAMBERS)
6:30 P.M.

A. Items for discussion submitted by the City Council and/or the City Manager:

1. Five Year Capital Improvement Plan – City Manager
2. Grub Management – City Manager
3. Two-Way Traffic – City Manager
4. Proposed Ordinance Amendment for Licensing Cats – Councilor Conti
5. Council Core Values – Councilor Lind
6. Food Sovereign Community- Councilor O’Brien
7. Middle Street Parking Changes – City Manager

B. Persons wishing to address the City Council who have submitted a formal request in accordance with Section 2-61 of the Code of Ordinances:

C. Open comment period for any persons wishing to address the City Council:
To:       City Manager and City Council  
Re:      GRUB Infestation  
From:  Leif Dahlin  
Date:  July 12, 2018  

I was charged with determining the scope and challenge associated with the GRUB infestation that has hit the City this year to the magnitude not previously experienced. Attached is a spread sheet that quantifies the challenge. Currently, resources have not been appropriated to correct this situation. To be discussed is the policy question of using an insecticide as well as the fiscal resources necessary to mitigate the GRUB challenge. If council chooses to move forward with a GRUB prevention program it is strongly recommended this become an annual funding commitment and appropriation.

The first year’s expense will include turf damage work to include working the soils and hydro-seeding as well as the GRUB program. A Weed and Feed program for the turf is recommended. Weed and Feed would then be recommended for annual application in high priority areas and as needed. It has been suggested the program to address the GRUBs takes a minimum of two years before a more modest program can be adopted. This impacts funding moving forward. It was also noted in our field work, there is a significant Ant challenge.

The initial budget (excluding schools grounds) is on the order of One Hundred Thousand Dollars ($100,000.00). A large Cemetery that has been hit (Forest Grove) should have ample funds to correct the situation. City Council appropriated an additional $25,000.00 in FY 19 to the Parks operation that will help the cause should Council chose to direct those funds for the GRUB program.

**JULY 12TH PRESENTATION:** Tru-Green of Bangor Maine has provided initial on-site consulting services and will be at the July 12th City Council Informational Meeting to present and discuss this issue and the implementation of a grub prevention program. Their help has proven invaluable.

The City will need to rely on expertise to help chart a plan for when to; do grub prevention, weed & feed and hydro-seed.
# Grubs and Turf Program

City of Augusta, Community Services Department, Bureau of Parks, Cemeteries and Trees

<table>
<thead>
<tr>
<th>Total Acreage of Areas</th>
<th>All</th>
<th>Parks</th>
<th>Cemeteries</th>
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# Grubs and Turf Program

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<th>Hydoseed Area</th>
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<thead>
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Grubs and Turf Program

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<tr>
<th>Area Technical Center</th>
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<th>Hydro Seed</th>
<th>Weed &amp; Feed</th>
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**Priority Classification**

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<th>Weed &amp; Feed</th>
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AVMA MODEL DOG AND CAT CONTROL ORDINANCE

Section I—Definitions
For the purposes of this ordinance, the following definitions shall prevail:

Animal—Dog or cat.

Animal Control Authority—The person or persons designated to enforce this ordinance.

Animal establishment—Any pet shop, grooming shop, animal auction, performing animal exhibition, kennel, or animal shelter. This term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provisions of US Public Laws 89-544, 91-579, 94-279, 99-198, and 101-624.

Animal shelter—Facility designated or recognized by the ______________________________ [jurisdiction] for the purpose of impounding and caring for animals.

At large—A dog or cat off the property of the owner and not under restraint.

Humane manner—Care of an animal including, but not limited to, adequate heat, ventilation, sanitary shelter, wholesome food, and water consistent with the normal requirements and feeding habits of the animal’s size, species, and breed.

Kennel—An establishment kept for the purpose of breeding, selling, or boarding dogs or cats or engaged in training dogs or cats.

Licensing Authority—The agency or department of ______________________________ [jurisdiction] or any designated representative thereof charged with administering the issuance or revocation of permits and licenses under the provisions of this ordinance.

Livestock guarding dogs—Dogs kept for the primary purpose of protecting livestock from predatory attacks.

Neutered—Rendered permanently incapable of reproduction.

Nuisance—A dog or cat that damages, soils, defiles, or defecates on private property other than the owner’s or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles or molests, attacks, or interferes with persons or other domestic animals on public property.

Owner—A person having the right of property or custody of a dog or cat who keeps or harbors a dog or cat or knowingly permits a dog or cat to remain on or about any premises occupied by that person.
Person—Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

Pet shop—An establishment engaged in the business of buying or selling at retail dogs or cats or other animals for profit-making purposes.

Under restraint—A dog or cat within the real property limits of its owner, secured by a leash or lead, or under the control of a responsible person.

Dangerous—A dog or cat that without justification attacks a person or domestic animal causing physical injury or death or that behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals.

Section II—Licensing and Rabies Vaccination
A. Except as provided in Section III, no person shall own, keep, or harbor any dog or cat over 4 months of age within [jurisdiction] unless such dog or cat is vaccinated and licensed. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government-operated or licensed animal shelter.

B. All dogs and cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the most recent version of the Compendium of Animal Rabies Prevention and Control, authored by the National Association of State Public Health Veterinarians.

C. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also receive a durable vaccination tag indicating the year in which it was issued.*

D. Application for a license must be made within 30 days after obtaining a dog or cat over 4 months of age. This requirement will not apply to a nonresident keeping a dog or cat within the [jurisdiction] for no longer than 60 days.

Written application for a dog or cat license shall be made to the [Licensing Authority] and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog or cat. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination.

E. The licensing period shall be for _____ years. License renewal may be applied for within 60 days prior to the expiration date. New residents must apply for a license within 30 days of establishing residence.

F. A license shall be issued after payment of a fee of $______ for each unneutered dog or cat and $______ for each neutered dog or cat.† Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a delinquent fee of $______.
G. License fees shall be waived for dogs serving the blind or deaf or government-owned dogs used for law enforcement. All other licensing provisions shall apply.

H. Upon acceptance of the license application and fee, the _______________ [Licensing Authority] shall issue a durable license tag including an identifying number, year of issuance, city, county, and state. Both rabies and license tags must be attached to the collar of the dog or cat. Tags must be worn at all times and are not transferable. _______________ [Licensing Authority] shall maintain a record of all licenses issued, and such records shall be available to the _______________ [Animal Control Authority].

Section III—Permits
A. No person shall operate an animal establishment without first obtaining a permit in compliance with this section.

B. The permit period shall begin with the first day of the fiscal year and shall run for one year. Renewal applications for permits may be made within 60 days prior to the expiration date. Application for a permit to establish a new breeding animal establishment under the provisions of this ordinance may be made at any time.

C. Annual permits shall be issued upon payment of the applicable fee:
   • For each kennel authorized to house less than six dogs or cats $ __________
   • For each kennel authorized to house more than six but not more than 49 dogs and cats $ __________
   • For each kennel authorized to house 50 or more dogs and cats $ __________
   • For each pet shop $ __________
   • For other animal establishments $ __________

D. A person who maintains a kennel of six or more dogs or cats for breeding purposes may pay an annual permit fee or may elect to license individual dogs or cats as provided under Section II. Every facility regulated by this ordinance shall be considered a separate enterprise, requiring an individual permit.

E. Under the provisions of this ordinance, no permit fee shall be required of any animal shelter. All other provisions shall apply. Any change in the category under which a permit is issued shall be reported to the _______________ [Licensing Authority] within 60 days, whereupon reclassification and appropriate adjustment of the permit fee shall be made.

F. Persons who fail to comply with the provisions of this section are subject to a fine of $ ______.

Section IV—Issuance and Revocation of Permits and Licenses
A. The _______________ [appropriate authority] may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this ordinance, the regulations promulgated by the _______________ [appropriate authority], or any other law governing the protection and keeping of animals.
B. If an applicant is shown to have withheld or falsified any material information on the application, the _______________ [Licensing Authority] may refuse to issue or may revoke a permit or license.

C. It shall be a condition of issuance of any permit for an animal establishment that the _______________ [appropriate authority] shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause or pending appeal of any such action, the _______________ [appropriate authority] shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not reapply for a period of at least 30 days. Each reapplication shall disclose any previous denial or revocation and shall be accompanied by a $ __________ fee.

Section V—Owner Responsibility

A. All dogs and cats shall be kept under restraint.

B. Every dangerous dog or cat, as determined by the _______________ [appropriate authority], shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

C. No dog or cat shall be allowed to cause a nuisance. The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this ordinance.

D. Persons who fail to comply with the provisions of this section shall be subject to a fine of $ __________.

E. Dog and cat owners shall ensure that their dog or cat carries identification at all times in the form of microchip, tag, or other means to allow easy determination of the owners.

F. Livestock guarding dogs shall be exempt from nuisance regulations when performing duties protecting livestock on premises owned or controlled by the owner.

Section VI—Impoundment

A. Any dog or cat found at large shall be impounded by the _______________ [Animal Control Authority] in an animal shelter and confined in a humane manner. Immediately upon impounding a dog or cat, the _______________ [Animal Control Authority] shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats not claimed by their owners within a period of ______ full days in which the shelter is open to the public shall become the property of the _______________ [jurisdiction].

B. When a dog or cat is found running at large and its ownership is verified by the _______________ [Animal Control Authority], the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.
C. In the event that the appropriate authority finds dogs or cats to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner’s expense or to euthanize them when necessary to prevent further suffering. Return to the owner may be withheld until the owner has made full payment for all expenses so incurred.

D. Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

Section VII—Redemption
A. Any animal impounded may be redeemed by the owner thereof within five days upon payment of an impoundment fee of $_____; if any such animal has been previously impounded, the impoundment fee shall be $_____. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, or license fees.

B. Any animal confined for rabies quarantine, evidence, or other purpose may be redeemed by the owner thereof upon payment of a fee of $_____.

C. No animal required to be licensed or vaccinated under this ordinance may be redeemed until provisions for such licensing have been fulfilled.

Section VIII—Adoption
An adoption fee of $_____ shall be assessed at the time of adoption. No dog or cat shall be released for adoption as a pet without being neutered or without a written agreement from the adopter guaranteeing that the animal will be neutered. Vaccination fees, licensing fees, and veterinary costs may be assessed above and beyond the adoption fee.

Section IX—Interference
No person shall interfere with, hinder, or molest any agent of the [Animal Control Authority] in the performance of any duty as provided herein.

Any person violating this section shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than $_____ or more than $_____.

Section X—Repeals (Conflicting Ordinances)
All other ordinances of the [jurisdiction] that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section XI—Severability
If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

Section XII—Applicability
This ordinance shall be in full force and effect upon the expiration of _____ days after its passage and publication.
Disclaimer: This model form/document is published by the American Veterinary Medical Association, 1931 N. Meacham Rd., Schaumburg, IL 60173. It is a sample only, is not specific to the facts of any business or organization, and therefore should not be used or relied upon without the advice of retained legal counsel. This model form/document is not intended to provide legal advice or opinion and should not be construed as such.
"The Little Blue Book"

Whoever you are and wherever you fit on the Air Force team, this is your basic guide to the Air Force Core Values.

The Core Values exist for all members of the Air Force family—officer, enlisted, and civilian; active, reserve, and retired; senior, junior, and middle management; civil servants; uniformed personnel; and contractors. They are for all of us to read, to understand, to live by, and to cherish.

The Core Values are much more than minimum standards. They remind us what it takes to get the mission done. They inspire us to do our very best at all times. They are the common bond among all comrades in arms, and they are the glue that unifies the force and ties us to the great warriors and public servants of the past.

*Integrity first, Service before self, and Excellence in all we do.* These are the Air Force Core Values. Study them ... understand them ... follow them ... and encourage others to do the same.
I will send you separately the Code of Ethics that the OOB council members sign each year. However I would direct you to Jack Clukey in Dover-Foxcroft. He sent me this past year the Code of Ethics and Code of Conduct that his board agrees to and it is darn good I thought.

Larry

Larry S. Mead
Town Manager
Old Orchard Beach
Lmead@oobmaine.com
207-934-5714 Ext. 1528

Good morning colleagues,
I have a new councilor who wants to initiate the process of adopting a codified council statement of core values (i.e. code of ethics). Do any of you have anything on the books that along those lines?
The good news here is that right now Augusta is fortunate to have a good, non-partisan, pretty non-contentious group and the motivating councilor thinks that this is the best time to establish something that might ensure the continuation of that dynamic going forward.
I will also reach out to Martha Perago at ICMA but Maine stuff always carries more oomph.
Thanks!
Bill- See below for the section of the Town Council Rules & Policies Manual that is self-imposed by the Town Council. I have provided the relevant section for your review, but let me know if you want to see it in context. Tom

Section 200: TOWN COUNCIL PROCEDURES

200.0: Breach of Rules and Orders [amended 10/21/09].
The proper operation of democratic government requires that Town Councilors be fair, impartial and responsive to the needs of the people and each other in the performance of the respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors which is not intended to deny Council members their constitutional rights nor violate their civil rights.

200.1: Standards of Conduct. The purpose of this Code is to establish ethical standards of conduct for all Town Councilors by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interest of the Town of Scarborough.

200.2: Conflicts of Interest. No Councilor shall participate directly by means of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the Town, and the award of any contracts with the Town, except that he/she may be allowed to submit bids for same in accordance with the Town ordinances; and under the laws of the State of Maine, where to his/her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

200.2.a: himself/herself or a member of his/her immediate family;

200.2.b: a business in which he/she or a member of his/her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

200.2.c: any other person or business with whom he/she or a member of his/her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

200.3: Disclosure of Confidential Information. No Town Councilor shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he/her use such information to advance the financial or private interest of himself/herself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town Councilor only because of his/her position with the Town, and is not a matter of public record. Information received and discussed
during an executive session of the Scarborough Town Councilor any Town agency shall be considered within the constraints of this section, and shall not be disclosed to any third part unless permitted by affirmative vote of such body.

200.4: Gifts and Favors. No Town Councilor shall accept any gift in excess of $50, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor: (1) accept any gift, favor or thing that tends to influence him/her in the discharge of his/her official duties; or (2) grant in the discharge of his/her official duties any improper favor, service or thing.

200.5: Use of Town Property. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established.

200.6: Disclosure of Interest in Agenda Items. Any Town Councilor who believes he/she or a member of his/her immediate family, has a financial or special interest, other than an interest held by the public generally in any proposed order, ordinance or resolve on the agenda of the Scarborough Town Council, shall disclose the nature and extent of such interest, and have it recorded by the Clerk on the Town records of such item.

200.6a: Once such disclosure has been made, such Town Councilor shall refrain and shall be relieved, in the discretion of the other members of the Council, from voting or otherwise participating in the deliberations and decision making process on such item.

200.6b: Nothing herein shall be construed to prohibit any Town Councilor from representing his/her own personal interest in any such item.

200.7: Disclosure Statement by Town Councilors. Every Town Councilor shall file with the Town Clerk within thirty (30) days after the effective date of this Section, and during the month of April during each calendar year thereafter, a written statement under oath containing the following information, to the best of his/her knowledge and belief:

200.7a: The name of each person or business doing business with the Town in an amount in excess of one thousand dollars ($1,000.00) during the preceding calendar year from which such Councilor, or a member of his/her immediate family, has received money or other thing of value in an amount in excess of one thousand dollars ($1,000.00) during the preceding calendar year, including campaign contributions.

200.7b: For purposes of this Code, a list prepared by the Finance Officer of those persons or businesses doing business with the Town in amount in excess of one thousand dollars ($1,000.00) for the preceding calendar year shall be determinative for purposes of reporting under this section.

200.7c: Income from, and financial investments in, policies of insurance, and deposits and accounts from commercial or savings banks, savings and loan associations, or credit unions shall not be considered to be a financial interest within the meaning of this section.

200.8: Political Activities. No Town Councilor shall participate in any political activity which would be in conflict or incompatible with the performance of his/ her official functions and duties for the Town. In conjunction therewith:
200.8.a: No Town Councillor may use his/her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he/she solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes. No Town Councillor may distribute pamphlets or handbills while he/she is performing their official functions and duties with the Town. Nothing herein shall be construed to prohibit any Town Councillor from participating in the political process in their capacity as private citizens.

200.9: Penalties. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted in private by the Town Council or if otherwise requested in writing by the Councillor to conduct the hearing in public session. A majority of the Scarborough Town Council shall conduct such proceedings.

200.10: Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

Thomas Hall,  
Scarborough Town Manager

Town of Scarborough  
259 U.S. Route 1  
P.O. Box 360  
Scarborough, ME 04070-0360  
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Confidentiality notice: the email message contained herein is intended only for the individual to whom or entity to which it is addressed as shown at the beginning of the message and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or if the employee or agent responsible for delivering the message is not an employee or agent of the intended recipient, you are hereby notified that any review, dissemination, distribution, use, or copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately by return email and permanently delete this message and your reply to the extent it includes this message. Thank you for your cooperation.

Please note that my email has changed to thall@scarboroughmaine.org
City of Presque Isle

CODE OF ETHICS AND CONDUCT POLICY

Purpose. The purpose of the Code of Ethics and Conduct Policy is to provide a guiding policy document for reference by City Councilors, City employees and citizens who serve on City boards and committees. The citizens of the City of Presque Isle have every right to expect that their government be accountable to them and that the officials they entrust to manage the affairs of government be guided by the highest standards of honor, personal integrity and fortitude in all of their activities. It is intended to be used to provide guidance on ethical conduct to instill confidence in the overall operations of the City. It is not intended to be used as a disciplinary tool replacing other City ordinances, polices and practices.

1. Be guided by the highest standards of honor and personal and professional integrity in all City of Presque Isle (City) activities.

2. Be guided by the highest standards of honor and personal integrity in all personal and professional conduct.

3. Strive to inspire confidence and trust in the City of Presque Isle.

4. Perform all direct and indirect activities related to the City in accordance with the highest standards of responsibility and fiduciary duty.

5. Serve the citizens of the City with respect, concern, courtesy and responsiveness.

6. Strive for professional excellence and encourage professional development in order to provide effective and responsible service to the citizens of the City being guided at all times by the fact that the City's primary purpose is to provide the best possible and most cost effective service to the constituencies of the City.

7. Approach organizational and operational duties with a positive attitude and constructively support open communications, cooperation, creativity, dedication, and compassion.

8. Avoid any interest or activity that is in conflict with or gives the appearance of being in conflict with official City responsibilities. Serve in a manner as to avoid inappropriate personal gain resulting from the performance of official duties.

9. Respect and protect the privileged information to which there is access in the course of official City duties.
10. Accept as a personal duty the responsibility to be informed of emerging issues and to administer the City's business with professional competence, fairness, impartiality, efficiency, and effectiveness.

11. Respect and value the work done by the City Council, employees of the City, and members of boards and committees.
Food Sovereignty in Maine

Maine's 2017 food sovereignty law does not impact farmers' markets

An Act to Recognize Local Control Regarding Food Systems, LD725, took effect on November 1, 2017. LD725 applies to sales conducted at farms and homes (i.e. where the food was produced) in towns that have formally declared food sovereignty. The law was amended in October to exclude meat and poultry processing, and to exclude sales at farmers' markets or other public venues. LD725 applies to sales that take place directly between the producer and consumer at the producer's farm/residence. LD725 only applies in towns that have declared food sovereignty, and exclusively applies to food produced and sold within food sovereign towns.

Find the law here (LD725)

Find the amendment to the law here (LD1648)

Prior to taking effect on November 1, 2017, the law was amended to exclude meat and poultry processing. The amendment states that the law pertains to sales of food at the “site of production” within a food sovereign town. The intention of the committee was that the law only apply to sales of food at farms and homes; the law does not apply to food sold at farmers’ markets. (According to Rep. Craig Hickman, “At the site of production’ is generally understood to mean on a premise controlled by the producer where the food or food products are produced, such as a farm, homestead, or in a home kitchen.”) Click here for more information on the evolution of the food sovereignty law in Maine.

MFFM statement on food sovereignty:

The Maine Federation of Farmers' Markets supports farmers and their ability to earn a living. MFFM helps farms and food vendors in learning about, understanding, and complying with state and federal regulations for products sold at farmers’ markets. MFFM also works in cooperation with the Department of Agriculture, Conservation, and Forestry to learn about,
understand, and develop policy that is compatible with the needs of market farmers. MFFM takes no position on transactions conducted at venues other than farmers’ markets.

Maine Department of Agriculture, Conservation, and Forestry:

“Only prepared foods from licensed facilities may be sold at farmers’ markets, restaurants or other off-site locations. Farm stands and farmers’ markets offering fresh produce for sale remain exempt from licensing as food establishments under 22 MRS section 2152(4-A) (D).” – Ch 314 Food Sovereignty Law Guidance

Frequently Asked Questions about LD725 and Food Sovereignty

What is “food sovereignty”?

Here’s the Wikipedia definition:

Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems.

In Maine the Department of Agriculture, Conservation, and Forestry (DACF) has been the primary arbiter of food safety standards and requirements, as well as the primary educators for producers wishing to learn more. The DACF fields questions about food safety, sends staff to homes, farms, and businesses to train producers and answer questions, and provides the licenses that are typically required to sell food in retail and direct-to-consumer settings.

In towns that have declared food sovereignty, the local municipality has shouldered the responsibility for ensuring that food sold within its territory is safe, with a goal of making it easier for area residents to buy and sell local foods. Prior to the new law, technically producers in food sovereign towns still had to abide by state law. Once the new law takes effect this fall, local, municipal laws in food-sovereign towns will supersede state laws.

When did the new law take effect?

November 1, 2017.

What does Maine’s new food sovereignty law, LD725, mean for farmers’ markets?

This law does not affect farmers’ markets, because it exclusively applies to sales at homes and farms.

The amendment to the Act made some changes to the law. How does that impact farmers’ markets?

According to Rep. Craig Hickman, “The MFSA actually reads ‘at the site of production,’ a term of art that appears in ordinances, laws, rules, and regulations all across the country. ‘At the site of production’ is generally understood to mean on a premise controlled by the producer where the food or food products are produced, such as a farm, homestead, or in a home kitchen.” Rep.
Hickman also noted, “In order to dispel any confusion, please inform people that the Maine Food Sovereignty Act does not relate to farmers’ markets at all” (email correspondence 12/13/18).

If I produce and sell in a food sovereign town, does it make sense for me to stop adhering to state food safety guidelines?

Even if you are producing and selling within the municipal boundaries of a food sovereign town, there are a few things to keep in mind:

- If you want to sell at any venue outside of your food sovereign municipality, you'll still need proper state certification.
- Be sure to check with your insurance agent to make sure you liability insurance will still protect you should you choose not to follow state requirements.
- Many consumers consider food safety a priority, and will be looking for certified vendors. It may be worth it to pursue state certification to remain competitive in some markets.

Is it difficult and/or expensive for food producers to obtain the licenses/permits required by the state?

Produce farmers do not need any permits. The costs of other inspections varies, and obtaining a home kitchen license requires having the home well water tested.

Jessie Dowling, president of the Maine Cheese Guild, discussed the food sovereignty issue in a Portland Press Herald interview (with reporter Mary Pols):

Dowling wants to encourage beginning cheesemakers. If you’ve got one cow milking and you want to sell a few gallons of milk or farmstead cheese as surplus to neighbors, via word of mouth, more power to you, she says. “I don’t think the feds should come down on you.” But getting into commercial sales? Liability issues stop her from endorsing that. Along with how easy the state of Maine makes it. “I cannot stress how easy it is to get a license in Maine.” She’s done it twice, in Unity and in Whitefield, on a shoestring budget and says the technical advice and testing that comes along with the $25 licensing fee can’t be beat. “They are like, ‘Cool, I will come out and walk you through everything and give you pointers.’ They are all about working with you and where you are at. I am not usually a proponent of states’ rules in anything, but we get a lot for that license.”

Is Maine the first state in the nation to pass such a law?

No. Wyoming passed a similar law about 5 years ago. (MFFM has tried to reach farmers’ markets there for feedback, but couldn't reach anyone willing to comment “on the record.”) North Dakota passed a food freedom law in early 2017.

Has this issue been examined by the courts?
The only previous related case was this: the Maine Supreme Judicial Court on State of Maine v. Dan Brown

Does LD725 abrogate USDA regulations about meat & poultry production?

No. The Maine Legislature dictates state laws, which do not supersede or nullify federal laws. The United States Department of Agriculture is a federal entity. Also according to Mike Fitzpatrick, CIC, LUTCF, All Points Insurance, Brewer, on liability insurance and food sovereignty:

“To be covered under any type of insurance policy, meat for sale to the general public must have been processed in a USDA or state-licensed facility. Insurers have zero tolerance for home butchering.”

For this reason, the Maine Legislature was forced to amend the law to exclude meat and poultry processing in October. See the list of meat processors in the state here: Contact Info for State and USDA Inspected Establishments

Which towns have declared sovereignty so far?

This is the list of the towns we know of; there may be more.

1. Auburn
2. Alexander
3. Appleton
4. Bingham
5. Blue Hill
6. Brooklin
7. Brooksville
8. Canton
9. Chapman
10. Freedom
11. Greenwood
12. Hope
13. Isle Au Haut
14. Jonesport
15. Liberty
16. Livermore
17. Madison
18. Montville
19. Moose River
20. Moscow

http://www.mainefermersmarkets.org/food-sovereignty/
21. Mt. Vernon
22. Parkman
23. Penobscot
24. Plymouth
25. Rockland
26. Sedgewick
27. Solon
28. Starks
29. Trenton
30. Westmanland

What is the difference between USDA inspected, state inspected, and custom meat processing facilities?

This article, by Ben Hartwell in the *Maine Wire*, explains the differences between the types of facilities and why state and custom facilities were in jeopardy until the Legislature amended LD725.
LEGAL NOTES

Food Sovereignty Revisited

Since we first reported on the new Maine Food Sovereignty Act a few months ago (see "Local Food Sovereignty," Maine Townsmen, Legal Notes, December 2017), we’ve received a number of requests for a sample food sovereignty ordinance.

As we wrote then, MMA does not have and does not anticipate preparing a one-size-fits-all model ordinance, in part because different communities are apt to have differing ordinance objectives. Instead, we recommended (and still do) that interested municipalities work with local legal counsel to draft an ordinance that both meets local objectives and conforms to the statute.

On this last point, we’ve seen a number of food sovereignty ordinances enacted before the new law took effect. We’ve also seen several sample food sovereignty ordinances posted on food sovereignty websites. None of the ordinances we’ve seen so far comply with the limitations in the Maine Food Sovereignty Act. Moreover, municipalities have no legal authority to exceed these limitations.

Specifically, the Act excludes meat and poultry products (see 7 M.R.S.A. § 285). Municipalities cannot legally exempt meat or poultry sales from State food safety laws, and any ordinance that purports to do so is legally invalid in that respect.

Also, the Act applies only to face-to-face sales between producer and consumer and only at the site of production of the food or food product (see 7 M.R.S.A. § 282(1)). In other words, only direct sales between producer and consumer at the farm or facility where the food or food product was produced can be exempted from State food safety laws. Farmers’ markets and other non-farm venues such as fairs, festivals and so forth do not qualify for the exemption. Again, any ordinance that purports to exempt any type or situs of sales other than those expressly authorized by the Act is legally invalid to that extent.

It is critical that local food sovereignty advocates and anyone drafting a food sovereignty ordinance understand these statutory limitations. It is also crucial that they be incorporated into the ordinance, preferably by citations to the Act itself. The failure to understand and incorporate these limitations in the ordinance will likely lead to broad misconceptions about the law and to widespread non-compliance. It will also likely result in intervention and enforcement action by State food safety authorities.

For those municipalities that adopted food sovereignty ordinances before the current law was enacted, we strongly recommend that these ordinances be updated by amendment to comply with the Act’s limitations.

The Maine Food Sovereignty Act can be found at 7 M.R.S.A. §§ 281-286. (By R.P.F.)

New Road Weight Limits

Info Packet Now Available

Just in time for March and mud season in Maine, a newly revised Information Packet on road weight limits and seasonal road closings is now available from MMA Legal Services.

The revised packet includes a new sample Ordinance Restricting Vehicle Weight on Posted Ways and an updated publication from MDOT’s Local Roads Center with practical suggestions for posting local ways.

All of our Information Packets and Guides – over 65 of them, from A (Aircraft excise tax) to Z (zoning variances) – are available free to members in the Member Center of our website at www.memun.org. (By R.P.F.)

Defective Notice Is Curable

A recent Maine Supreme Court decision illustrates that even if required notice of a land use proceeding is not given, such procedural defects can be cured and the decision salvaged.

In Bryant v. Town of Wiscasset, 2017 ME 234, abutters appealed the planning board’s site plan approval of a fireworks storage building to the appeals board. The appeals board denied the appeal but remanded the case to the planning board for further findings. The planning board then held two hearings but failed to give the abutters personal notice of either. The abutters again appealed, claiming a violation of their right to procedural due process and demanding a reversal of the planning board’s approval.

Despite the pending appeal, the planning board held yet another hearing after giving the abutters personal notice. The board reaffirmed its approval after hearing the abutters’ objections for the second time. According to the Law Court, this remedial action by the planning board, and the resulting lack of prejudice to the abutters, cured the procedural defect. The Court accordingly upheld the board’s decision.

The Bryant decision is also noteworthy because it upholds the right of a board member to represent himself if he has a conflict of interest, provided he has declared his interest and recused himself from voting. (The applicant in this case was also a member of the planning board.) The Court wrote that any other reading of the conflict of interest law would deprive board members of the right to present their own applications and “would discourage capable people from serving as members of municipal boards." (By R.P.F.)

MUNICIPAL CALENDAR

APRIL 1 – Municipal assessment due or filed by this date (20 M.R.S.A. § 202).

APRIL 1 – Local town’s triennial expenditure statement and claim for General Assistance reimbursement due to the Department of Human Services, General Assistance Claims Unit, DHS P.O. Box 11, Augusta, ME 04333 (22 M.R.S.A. § 243).

APRIL 16 – Patriots’ Day (third Monday in April, observed holiday) (20 M.R.S.A. § 151).

ON OR BEFORE APRIL 21 – Every employee required to deduct and withhold state and federal income tax quarterly file a withholding return and remit payment, as prescribed by the State Tax Assessor (36 M.R.S.A. § 2591).

PROFESSIONAL DIRECTORY

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Homestead

Food sovereignty continues to pick up steam around the state

By Julia Bayly, BDN Staff • March 10, 2018 7:00 am
Updated: March 10, 2018 8:59 am

Since 2011, 21 Maine towns have adopted food sovereignty ordinances. This spring, another 44 are set to consider the ordinance allowing face-to-face exchanges of food and farm products free of state regulations.
All Isaac Nelson wants is the right to sell home processed pickles from time to time without having to navigate what he believes are onerous and unnecessary state food regulations.

That’s why the Chapman farmer said he is pushing for his municipality to join 21 others around the state that have already adopted a legislative approved local food sovereignty ordinance.

**Common sense approach**

Forty-four other towns around the state have expressed interest in the local food ordinance with some placing it on town meeting agendas this spring, including the northern Maine municipality Chapman.

“I’ve done a lot of research on food regulations,” said Nelson, who operates Baird Farms in Chapman. “To me, this ordinance is just common sense.”

**Approved by the legislature last summer,** the law allows towns to adopt an ordinance granting it the authority to regulate the direct, producer-to-consumer exchanges, food processing and distribution free from state regulatory control.

Signed by Gov. Paul LePage in June, the **law was amended in October** to exclude meat and poultry products after the United
States Department of Agriculture stepped in saying if the state failed to regulate those products, the federal government would take over those food inspection programs.

Supporters of food sovereignty, like Nelson, want local food producers to be exempt from state licensing and inspections governing the selling of food as long as the transactions are between the producers and the customers for home consumption or when the food is sold and consumed at community events such as church suppers.

Towns in Maine began adopting food sovereignty ordinances as far back as 2011, but it was only with passage of last summer’s legislation that the state was required to recognize those local ordinances.

“We’ve made pickles, jams and all kinds of stuff for years but are not allowed to sell it,” Nelson said. “I’m legally allowed to give you a jar of pickles without having to be inspected or approved or certified by the state, but I can’t sell you that same jar.”

Moreover, Nelson said he can take that same jar of homemade pickles and give it to a non-profit group who, under current Maine food laws, can then turn around and sell it as a fundraiser — no certification or inspection needed.

“How can the non-profit legally sell it and how can I legally give it to you, but if you give me a dollar for them, it’s potentially hazardous?” Nelson said.

According to those charged with maintaining the integrity of Maine’s food supply, it’s all about safety and protecting the Maine brand,
something they say is common sense and there is no need for food sovereignty laws in Maine.

“We believe [the food sovereignty ordinance] is not good for the health of Maine people or for Maine agriculture,” said Maine Commissioner of Agriculture, Conservation and Forestry Walt Whitcomb. “These ordinances will just increase the possibility that folks will purchase food that will make them sick.”

State certification, Whitcomb said, assures the consumer that the food producer’s entire operation is safe, sanitary and accountable.

Protecting consumers

“We have a good food system with basic, fundamental laws,” said Ron Dyer, the department’s Agriculture, Food and Rural Resources Bureau director. “Our job is to protect Maine people and the Maine brand and there is a lot of risk if something goes wrong [and] we are hoping the towns that do approve the food sovereignty ordinances will do something to protect food safety.”

That argument makes no sense to food sovereignty advocates like Richard Loring King who has worked with local food groups to
develop an **ordinance template** for communities interested in adopting it.

"Nobody is trying to say they don’t want food safety," King said. "But food has been traded as long as there has been food [and] local people know the local food producers and trust each other."

No one in the state agriculture department is anti-local food producers, Dyer said. But at the same time he said steps must be taken to insure consumers are getting safe products.

According to the **Centers for Disease Control**, there were 4,943 cases of foodborne illness in Maine from 1997 to 2017 and none attributed directly to a farm or dairy. The records did not indicate if the sources were from products grown or made inside or outside the state. Nor does the Maine Department of Agriculture have that specific information.

Without state inspections and licensing, Dyer fears that statistic could change with producers preparing food items in facilities not meeting basic sanitary or health standards leading to increased instances of diseases such as E.coli, listeria, botulism or salmonella.

"We are focused on prevention," Dyer said, saying his department wants to prevent food from unsanitary facilities from reaching the consumer.

"We don’t want a case where someone gets sick," he said. "And we do find instances that could turn your stomach."

The help and support is available for those who need it, Dyer said.
“The state as a whole has produced a wide support structure for food producers,” he said. “The University [of Maine] is a big partner [and] we provide all that support for a nominal fee.”

For an annual fee of $25, the department issues a license that covers food preparation and processing including commercial kitchens, maple syrup production, honey, meal and poultry processing, dairy products and retail sales.

In return the license holder has access to state food experts’ expertise, laboratories and advice.

“Licensed producers use our services multiple times a year and get thousands of dollars in services for that $25 fee,” Whitcomb said. “It’s easier to ‘work ahead’ than to deal with sick people [and] it’s a better use of public funds to help producers than to run around and pull unsafe products that have to be recalled.”

Producers over politics

As far as Heather Retberg, food sovereignty advocate who helped craft the ordinance, is concerned, state licensing of food production is more politics than safety.

“Policies didn’t change because there were food safety problems with local food production at all,” Retberg said. “The [Maine Department of Agriculture, Forestry and Conservation] and food industry lobby have spent years painting farmers without licenses as ‘un-farmers’ [who are] either ignorant or incompetent of safe food production, albeit well meaning.”
That notion, she said, never took hold in Maine, where people have been selling or bartering for food on the local level for generations — often in secret so as not to risk being caught violating state regulations.

“When a town adopts the local food ordinance people who buy food and people who produce food are taking responsibility for how that exchange happens,” Retberg said. “What’s changed is that now those exchanges can happen legally [and] farmers don’t have to operate off the radar anymore and people in towns can buy the food they choose from their farm of choice.”

There is a segment of Maine’s population that prefers locally grown and produced food and these people trust the producers, King said.

Dyer noted there are thousands of licensed food producers in the state with more applying for licenses all the time.

“We don’t turn people down — we work with them,” Dyer said. “We can get people where they need to be for certification with low-cost options.”
Whitcomb said he is a believer in Mainers having access to Maine-produced food, but that food has to be safe.

All it takes, Whitcomb said, is **one cheese-borne** or similar illness in the state to destroy the entire industry.

“There are so many unknowns with the food sovereignty ordinance [and] we are not sure if anybody will even be watching for food safety if they don’t have inspections or licenses,” Whitcomb said. “In a system as critical as the food system, these producers need our support and the help we provide.”

Nelson is not convinced.

“The state makes it seem like they are looking out for us, so you can go into a store and just because something is ‘state certified’ you are supposed to think it is safe,” Nelson said. “That is not always the case [and] food sovereignty is about getting to know who you are buying your food from and that trust that is there.”

**Local yes, sovereign no**

The state may not want to get behind food sovereignty, Retberg said, but thanks to the legislation they have no choice and the movement continues to pick up steam.

“We could see all along that the idea of community self-governance over local food made sense to people,” she said. “Now that the state will will recognize local control over food produced in our communities exchanged between individuals, people aren’t afraid to articulate self-determination over their own food needs in their towns.”
As far as Nelson is concerned, if you can’t trust your neighbor to sell you healthy, safe food, free from regulatory control, who can you trust?

“It’s a face to face transaction,” he said. “You are buying from your neighbors and friends and chances are you just had a glass of their water yesterday, but the tate says they have to come in and certify them before you can buy their pickles?”

In that case, Whitcomb said, it really comes down to buyer beware, as his department is taking a wait and see approach to the ordinances.

“We have been told if anyone calls us for legal advice on what to do with regards to how a [food sovereignty] ordinance works in their town, we are not to comment,” Whitcomb said. “We at the agriculture department continue to believe in farmers and what they produce, but we also believe [food sovereignty] is the wrong direction pushed by some really selfish people.”
Correction: The original version of this story incorrectly stated all 44 towns had placed the item on an upcoming town meeting warrant.

Have feedback? Want to know more? Send us ideas for follow-up stories.
Title 7: AGRICULTURE AND ANIMALS
Chapter 8-F: MAINE FOOD SOVEREIGNTY ACT

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§281. SHORT TITLE

This chapter may be known and cited as "the Maine Food Sovereignty Act." [2017, c. 314, §1 (NEW).]

SECTION HISTORY
2017, c. 314, §1 (NEW).

§282. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2017, c. 314, §1 (NEW).]

1. Direct producer-to-consumer transaction. "Direct producer-to-consumer transaction" means a face-to-face transaction involving food or food products at the site of production of those food or food products.

[2017, c. 314, §1 (NEW).]

2. Food or food products. "Food or food products" means food or food products intended for human consumption, including, but not limited to, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, cider or juice, acidified foods or canned fruits or vegetables.

[2017, c. 314, §1 (NEW).]

3. State food law. "State food law" means any provision of this Title or Title 22 that regulates direct producer-to-consumer transactions.

[2017, c. 314, §1 (NEW).]

SECTION HISTORY
2017, c. 314, §1 (NEW).

§283. STATEMENT OF POLICY; LOCAL CONTROL AND RURAL ECONOMIC DEVELOPMENT

It is the policy of this State to encourage food self-sufficiency for its citizens. The department shall support policies that: [2017, c. 314, §1 (NEW).]

1. Local control. Through local control, preserve the ability of communities to produce, process, sell, purchase and consume locally produced foods;

[2017, c. 314, §1 (NEW).]

2. Small-scale farming and food production. Ensure the preservation of family farms and traditional foodways through small-scale farming and food production;

[2017, c. 314, §1 (NEW).]
3. Improved health and well-being. Improve the health and well-being of citizens of this State by reducing hunger and increasing food security through improved access to wholesome, nutritious foods by supporting family farms and encouraging sustainable farming and fishing;

[ 2017, c. 314, §1 (NEW). ]

4. Self-reliance and personal responsibility. Promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise and sell foods directly to customers intended solely for consumption by the customers or their families; and

[ 2017, c. 314, §1 (NEW). ]

5. Rural economic development. Enhance rural economic development and the environmental and social wealth of rural communities.

[ 2017, c. 314, §1 (NEW). ]

SECTION HISTORY
2017, c. 314, §1 (NEW).

§284. HOME RULE AUTHORITY

Pursuant to the home rule authority granted to municipalities by Title 30-A, section 3001 and by the Constitution of Maine, Article VIII, Part Second, and notwithstanding any provision of state food law to the contrary, except as contained in section 285, a municipality may adopt ordinances regarding direct producer-to-consumer transactions and the State shall recognize such ordinances by not enforcing those state food laws with respect to those direct producer-to-consumer transactions that are governed by the ordinance. [2017, c. 314, §1 (NEW).]

SECTION HISTORY
2017, c. 314, §1 (NEW).

§285. DEPARTMENTAL AUTHORITY; LIVESTOCK AND POULTRY

Notwithstanding any provision in this chapter to the contrary, the department shall implement and enforce all provisions of Title 22, chapter 562-A and the rules adopted thereunder that are necessary to ensure that the requirements of the State's meat and poultry products inspection and licensing program are at least equal to the applicable requirements specified under applicable federal acts, as defined by the United States Department of Agriculture or other federal agencies, without exception. [2017, c. 314, §1 (NEW).]

SECTION HISTORY
2017, c. 314, §1 (NEW).

§286. COMPLIANCE WITH FOOD SAFETY REGULATIONS

An individual who grows, produces, processes or prepares food or food products for purposes other than direct producer-to-consumer transactions in a municipality that adopts or amends an ordinance pursuant to section 284 shall grow, produce, process or prepare the food or food products in compliance with all applicable state and federal food safety laws, rules and regulations. [2017, c. 314, §1 (NEW).]

SECTION HISTORY
2017, c. 314, §1 (NEW).
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MEMORANDUM

TO: William R. Bridgeo, City Manager

FROM: Chief Jared J. Mills

DATE: June 1, 2018

RE: City Ordinance Parking Amendment

The traffic calming committee has discussed the regular and repeated illegal parking that occurs on Middle Street between Spruce Street and East Chestnut Street. After a comprehensive review of the location, the committee has determined that due to the recent overlay and road upgrades of the area in question, there would be no adverse impact on traffic/public safety if some of the parking restrictions were eliminated on Middle Street.

I respectfully request that the following proposed changes to the parking section of the City Ordinances be presented to the City Council for their consideration at their next scheduled informational meeting:

BE IT ORDAINED, By the City Council of the City of Augusta, as follows:

That Chapter 18, section 73 Schedule of no parking, restricted parking areas, of the Revised Code of Ordinances 1990, as amended, be further amended by adding the following:

Middle Street
No parking between the hours of 7:00 a.m. and 4:00 p.m. on the westerly side beginning at the intersection of Spruce Street southerly for a distance of 184 feet to Caldwell Road

No parking on either side from Stone Street to Spruce Street and no parking on the easterly side from Spruce Street to Chestnut Street and from Caldwell Road south to Eastern Avenue

Restricted handicap parking from a point beginning 30 feet from the intersection
of Middle Street and East Chestnut Street northerly on the west side of Middle Street for 20 feet.

No parking on the east or west side from the intersection of Caldwell Road southerly for a distance of 428 feet.