

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the Sept. 15, 2008 Council Meeting.

I. **CALL TO ORDER** – On Monday Sept. 15, 2008 at 7:02 p.m., a Council Meeting was held in the City Hall Auditorium.

II. **ROLL CALL OF MEMBERS** - Mayor Roland Michaud conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: Margaret Mills, Leslie Smith, Jr. Ronald Morton, Sandra Bastille, Arthur Tardif, Eric Cote and Marston Lovell.

Mr. Richard R. Michaud, City Administrator and Lucette S. Pellerin, City Clerk were also in attendance this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL : *Oil, Energy, and Tax Rebate Expo – September 16, 2008*

Ms. Linda Valentino, State Representative, District 134, spoke briefly about the exposition to be held, in the auditorium, on Tuesday, Sept. 16, 2008. This expo was open to the general public in order to provide information regarding energy programs for our homes, various State of Maine property tax exemptions, etc.

V. APPROVAL OF MINUTES: August 18, 2008

Minutes were approved as written.

VI. AGENDA ITEMS:

A. (Public Hearing) Contract Zone – Cell Tower McKenney Road

U.S. Cellular d/b/a Maine RSA #1, Inc., proposes to erect a 190 foot tower on a 100'X100' portion of the property at 202 McKenney Road. Wireless Telecommunication Facilities are not an allowed use in the C-1 zone. The applicant has identified this location due to its desire to cover the service area in northwest Saco, where coverage is poor or not available. A contract zone is the only option that would allow a cell tower to be built and operated in this location. There is precedent for cell towers being allowed via contract zoning; existing towers off Industrial Park Road, Rte. One and Flag Pond Road were approved as contract zones.

This item was reviewed by the Planning Board on June 17, 2008; and the board forwards a negative finding as to whether the contract zone is proposed for land with an unusual nature or location, determining that insufficient information had been provided to allow for such a finding. The Board made a positive finding on each of the other three standards found in Sec. 1403-6, but voted to make a negative recommendation on the proposed contract zone.

Councilor Mills moved, Councilor Smith seconded, to open the Public Hearing on the contract zone document titled, ‘**Contract Zone Agreement By and between Maine RSA #1, Inc. and the City of Saco**’, dated June 17, 2008’. The motion passed with seven (7) yeas.

There being no comments from the public Councilor Mills moved, Councilor Smith seconded, to close the Public Hearing and Be it Ordered that the City Council set the Second and Final Reading of the Contract Zone document for October 6, 2008. Further move to approve the Order. The motion passed with five (5) yeas, one (1) nay and one (1) abstention. Councilor Mills voted in the negative and Councilor Cote abstained due to professional reasons.

**Contract Zone Agreement
By and between
Maine RSA #1, Inc. and the City of Saco
June 17, 2008**

THE CITY OF SACO HEREBY ORDAINS:

I. That the zoning ordinance of the City of Saco, dated January 2, 1985 as amended through November 19, 2007, is hereby amended by adopting the proposed change in use as further described in the following contract by and between the City of Saco and the U.S. Cellular Corporation.

This contract amends the Saco Zoning Ordinance in order to permit the construction of a Wireless Telecommunication Facility at 202 McKenney Road, identified as Tax Map 125, Lot 10, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. Maine RSA #1, Inc., (the Applicant), and/or its affiliates, proposes to construct a single Wireless Telecommunication Facility in the form of a monopole tower one hundred ninety (190) feet in height at 202 McKenney Road (Subject Property).
2. The record owner of the Subject Property is Linda L. Fenderson. Right, title and interest for the application is demonstrated via an Option to Lease by and between Linda Louise Fenderson, 1018 South Street, Dayton, Maine and Maine RSA #1, Inc., with an address of Attention: Real Estate, 8410 West Bryn Mawr Avenue, Suite 700, Chicago, Illinois 60631, a Maine corporation.
3. Said Option to Lease would grant the right to construct operate and maintain a Wireless Telecommunications Facility, as defined by the City of Saco Zoning Ordinance, on a 100 foot by 100 foot portion (0.23 acre) of the Subject Property.
4. The Subject Property has an area of 8.25 acres, and is a legally nonconforming lot due to having only sixty (60) feet frontage on McKenney Road; two hundred (200) feet of frontage is required in the C-1 zone. A single family dwelling exists on the property.
5. The Subject Property is located in the C-1 zoning district.

6. Wireless Telecommunication Facilities are a conditional use in certain zoning districts in Saco. Said Facilities are not an allowed use in the C-1 district.

7. As stated in a letter dated May 20, 2008 from Robert Gashlin, KJK Wireless, 8 Providence Avenue, Falmouth, Maine, agent for U.S. Cellular, "U.S. Cellular is licensed by the Federal Communications Commission to provide telecommunications service to northwest Saco and the surrounding areas where it lacks adequate coverage and capacity."

8. The Applicant requests that the City of Saco establish a Contract Zone specifically and exclusively for the portion of the Subject Property subject to said Option to Lease in order to allow the construction, operation and maintenance of a Wireless Telecommunication Facility.

II. This contract amends the Saco Zoning Ordinance as follows:

A. Notwithstanding Section 410-14, a single Wireless Telecommunication Facility, as described in the application materials submitted by KJK Wireless on behalf of Maine RSA #1, Inc., to include a one hundred ninety (190) foot monopole tower and supporting infrastructure, antennas, utilities, equipment shelter, back-up power generator, propane tank, associated equipment and an access road from McKenney Road, sited within a fenced enclosure as shown on a site plan submitted by the Applicant, entitled "U.S. Cellular, Site Name: Salmon Falls, Site No.: 853399," shall be regarded as an allowed use on the Subject Property.

III. This Contract Zone is subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. The Wireless Telecommunication Facility is subject to review under the provisions of Section 728, and Article 11, Site Plan Review of the Saco Zoning Ordinance.
2. Except as addressed in this Contract Zone document, the project shall adhere to all other applicable provisions of the City of Saco Zoning Ordinance.
3. All details as shown on the final plan approved by the Planning Board are hereby incorporated into this contract by reference. The site shall be developed in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.
4. This Document and Contract Zone affects only the Subject Property.
5. This contract and its provisions shall apply exclusively to the contract zone request submitted by the Applicant and/or its agents.

6. **This Document and the Contract Zone it creates shall not be transferable prior to development as proposed by the Applicant, unless permission for said transfer or conveyance is approved by the City Council.**
7. Failure of the Applicant to secure site plan approval from the Planning Board, and any and all other permits or approvals that may be required by the City or other regulatory agencies including but not limited to the Maine Department of Environmental Protection and/or Federal Communications Commission within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, this one year deadline may be extended by one year upon written request submitted by the Applicant, subject to approval by the City Council.
8. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract. Said breach of contract shall constitute a zoning violation, subject to enforcement action by the City of Saco.
9. The Applicant shall provide the City of Saco with a co-location position on the proposed tower at an elevation of not less than one hundred forty (140) feet above the base of the tower, and with space in the equipment shelter, at no cost to the City, in order that the City may install or have installed an antenna for wireless telecommunication purposes.
10. It is the intent of the City that towers, structures or similar installations erected as part of a Wireless Telecommunication Facility shall be available to multiple tenants, carriers, and/or providers of wireless telecommunication service. The Applicant shall provide a signed statement obligating the owner of the Facility and its successors and assigns to:
 - a. Respond in a timely, comprehensive manner to any request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the facility by third parties, thereby agreeing to not limit the number of carriers utilizing the Facility to less than the carrying capacity of the Facility;
 - c. Allow shared use of the facility if any applicant agrees in writing to pay reasonable charges for co-location;

Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include , but is not limited to a pro-rata share of the cost of planning project administration, site design, construction, financing,

return on equity, depreciation, and all of the costs of adapting the Facility or equipment to accommodate a

- d. shared user without causing electromagnetic interference.

IV. By vote of the Saco Planning Board on June 17, 2008, and the Saco City Council on _____, 2008, the following findings are hereby adopted:

A. The portion of Map 125, Lot 10 proposed as a site for a Wireless Telecommunication Facility by the Applicant and/or its agents is of an unusual nature and location, for the following reasons:

1. The property is unique because it is located in an area that has substandard or no wireless telecommunications service. Also, US Cellular has determined that this specific location is required to effectively implement its Federal Communications Commission license.
2. U.S. Cellular's intended service area is in northwest Saco where the overwhelming majority of land is zoned Conservation District (C-1). The Ordinance provides that telecommunications facilities are permitted only in the Light Industrial / Business Park District, Highway Business District, Business Park District, and Industrial District. No such districts are located in close enough proximity to U.S. Cellular's intended coverage area to provide adequate service. Accordingly, U.S. Cellular proposes to construct its Facility in the Conservation District pursuant to contract zoning.

B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Part One and Part Two of the *Saco Comprehensive Plan* discusses the origins, trends, and existing socio-economic conditions in Saco. Like many northern New England manufacturing based communities, Saco has recognized the need to transition to a more diverse, dynamic, and contemporary orientation which is a basis for a viable community. Saco has successfully made this transition and the catalyst has been innovation and forward thinking community planning. Wireless telecommunication facilities do provide a stimulus for a diverse, dynamic and contemporary community. For example, currently 85% of all citizens own cell phones and 22% have replaced traditional land based telephones with cell phones as their only means of communications. Many people work from their homes and require adequate cell phone service and broadband (which wireless telecommunications facilities provide). Many people also require cell phone service while they commute to work, while they conduct routine errands, and during emergency situations. Last year up to 30% of all calls for emergency services in Maine came from cell phones. Wireless telecommunications have become a fundamental need in many people's lives and this trend is still evolving.

U.S. Cellular's proposed Facility is also consistent with Part Four of the *Saco Comprehensive Plan* that encourages compatibility with regional plans. Specifically, US Cellular's intent to

provide cellular service to northwest Saco that currently has inadequate or no such service is directly compatible with Governor Baldacci's Wireless

Telecommunications Initiative and the Federal Government's Telecommunications Act of 1996.

The *Saco Comprehensive Plan*, Section 17B, states a goal is "To assure that new commercial and industrial development occurs in a way that is visually and environmentally sound and that protects established residential neighborhoods." The location of the Facility will have a minimal impact on the area because it is located in a relatively remote and forested area on an 8.25-acre parcel that is 200' back from the closest property line and approximately 750' back from McKenney Road. The Facility will produce minimal or no noise, dirt, dust, glare, odor, fumes, smoke, gas, sewerage, refuse, vibration, or danger of explosion or fire.

The *Saco Comprehensive Plan*, Section 17F, states a goal is "To accommodate the growth of commercial and industrial activities in designated growth areas where public services and facilities are or can be provided." The *Saco Comprehensive Plan* has identified northwest Saco as one of the fastest growing areas in Saco. This area currently has substandard or no telecommunications service and the Facility will provide such service that will accommodate the growth of commercial and residential activities.

The *Saco Comprehensive Plan*, Section 17M, states a policy that "The City should continue to pursue economic growth that expands the City's tax base." It is anticipated that the Facility will produce a revenue stream for the City in the form of personal property taxes.

- C. The proposed use is consistent with, but not limited to, existing uses and allowed uses within the C-1 zone. Similar existing uses in the C-1 zone include a Wireless Telecommunication Facility off Flag Pond Road, a cable television tower off Boom Road, and a radio broadcast tower off Simpson Road. Allowed uses include agriculture, single and two-family dwellings, essential services, kennels, timber harvesting, golf courses, hospitals and clinics, extractive industry, etc.
- D. The conditions and restrictions noted above are adequate to the meet intent of the Saco Zoning Ordinance.

Based on the above findings, and the conditions and restrictions listed above, the City Council hereby incorporates this Contract Zone agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by all the conditions and restrictions as contained herein.

Adopted by the Saco City Council on _____, 2008.

City of Saco

Maine RSA #1, Inc.

Richard Michaud, City Administrator

B. (Public Hearing) Code Amendment: Chapter 34 Personnel Ordinance

In January 2008, President Bush signed into law the first expansion of the Family Medical Leave Act ("FMLA") since its enactment in 1993, the National Defense Authorization Act. The amendments focus on leave for caretakers of injured members of the armed forces and provide certain leave for military families.

Three new situations were added (1) family member request for military leave (2) donation of an organ of the employee for a human organ transplant (3) death or serious illness of an employee's family member while the member was member of the United States Armed Forces.

Also, definitions were added to the Family Medical Leave Act for further clarification, along with explanation of usage of any paid leave. Incorporated as well is new definition from the Maine Family Medical Leave Act.

Councilor Morton moved, Councilor Mills seconded, to open the Public Hearing on 'Amendments to Chapter 34 Personnel Ordinance §34-33, §34-34 - Family Medical Leave, dated August 18, 2008'. The motion passed with seven (7) yeas.

There being no comments from the public Councilor Morton moved, Councilor Bastille seconded, to close the Public Hearing and Be it Ordered that the Council set the Second and Final reading of 'Amendments to Chapter 34 Personnel Ordinance §34-33, §34-34 - Family Medical Leave, dated August 18, 2008' for October 6, 2008. Further move to approve the Order. The motion passed with seven (7) yeas.

Amendments to Chapter 34 Personnel Ordinance §34-33 and §34-34- Family Medical Leave Dated August 18, 2008

(~~Strikethrough~~ indicates language to be deleted, while underline represents new language)

§34-33. Family Medical Leave of Absence

A. Purpose

To define the policy and procedure of the City with regard to family leave required by the Family and Medical Leave Act of 1993 (FMLA).

B. Definitions

- (1) **Eligible Employees: An employee who has been employed for at least 12 months and for at least 1250 hours of service during the previous 12 months.**
- (2) **Employment Benefits: All the benefits provided or made available to the employee by the City, including group life insurance, health insurance, disability insurance, sick leave, vacation leave and retirement.**

(3) Health Care Provider:

(a) a doctor of medical or osteopathy who is authorized to practice medicine or surgery (appropriate) by the State of Maine or

(b) any other person determined by the Secretary of Labor to be capable of providing health care services.

(4) Parent: The biological parent of an employee or an individual who stood in local parentis to an employee when the employee was a son or daughter.

(5) Serious Health Condition: An illness, injury or impairment, physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential care facility or (2) continuing treatment by a health care provider.

(6) Son or Daughter: A biological, adopted, or foster child, stepchild, or legal ward, or a child of a person stand in loco parentis who is (1) under 18 years of age or (2) 18 years of age or older an incapable of self-care because of mental or physical disability.

(7) Spouse: A husband or wife, as the case may be.

(8) Active Duty: Duty under a call or order to active duty under a provision of law.

(9) Covered Service Member: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient, or is otherwise on the temporary disability retired list for a serious injury or illness.

(10) Next of Kin: An individual that is the nearest blood relative of that individual.

(11) Family Member: Legal spouse, daughter, son, parent, or step-parent, domestic partner, children of domestic partners and siblings (if the employee and the sibling are jointly responsible for each other's common welfare – evidence by joint financial arrangements.

C. Policy

(1) Employees who have worked for the City for at least twelve (12) months and at least 1,250 hours during the prior twelve (12) months may take up to twelve (12) weeks of unpaid leave (FMLA leave) for the following reasons:

(a) Birth and/or care of a child of the employee;

(b) Placement of a child into the employee's family by adoption or by a foster care arrangement;

- (c) Care of the employee's ~~spouse, child or parent~~ **family member** who has a serious health condition; or
- (d) Inability of the employee to perform the functions of the employee's position due to a serious health condition.
- (e) **Because of any qualifying exigency (as the Secretary of Labor shall, by regulation or determine) arising out of the fact the spouse, son or daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation).**
- (f) **The donation of an organ of the employee for a human organ transplant.**
- (g) **The death or serious illness of an employee's family member while the member was member of the United States Armed Forces.**

D. Procedure

- (1) Applications for family leave of absence must be submitted to the Personnel Officer in writing and signed by the employee's immediate supervisor. Applications should be submitted at least thirty (30) days before the leave is to commence or as soon as possible if thirty (30) days notice is not possible. Appropriate forms must be submitted to the Personnel Officer to initiate a family leave and to return the employee to active status. All necessary forms are available from the Personnel Officer.

Each employee taking leave which meets the requirements for FMLA leave will be provided the "Response to Your Request for Leave" form.

- (2) **Substitution of Paid Leave: FMLA leave is generally unpaid; however, the City requires all employees to substitute any accrued vacation leave, personal leave, floating holidays and employee sick leave and family sick leave for requested FMLA leave. Only when the employee is covered under by the disability plan provided by the City shall the City not require the employee to substitute paid vacation and sick leave.**

E. Recovering Service Member

- (1) **The National Defense Authorization Act provides up to 26 weeks of unpaid leave during a single 12-month period for an employee who is the spouse, son, daughter, parent, or next of kin of a recovering service member for whom the employee is caring. A recovering service member is a member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment or is**

otherwise in need of care due to a serious illness or injury incurred during active duty.

§34-34 Maine Family Medical Leave

A. In accordance with the Maine Family Medical Leave Law, The City provides family leaves of absence without pay to eligible employees who wish to take time off from work duties to fulfill certain family obligations. Employees who have been employed by the City for at least one year are entitled to take up to 10 consecutive weeks of unpaid leave during any 2-year period ~~for~~: Effective September 20, 2007, the Legislature added “domestic partners” to the entitlement to leave, and added a new entitlement to leave for military deaths/injuries. Effective July 18, 2008, the Maine Family Medical Leave Law includes a right to leave for the purpose of caring for a sibling.

- (1) ~~their own serious health condition~~ the birth of the employee’s child or the employee’s domestic partner’s child;
- (2) ~~the birth of their child~~ placement of a child 16 years of age or less with the employee or with the employee’s domestic partner in connection with the adoption of the child by the employee or the employee’s domestic partner;
- (3) ~~adoption of a child 16 years of age or younger~~ a child, a domestic partner’s child, parent, domestic partner, sibling or spouse with a serious health condition; or
- (4) ~~the employees own serious health condition; to care for the employee’s child, spouse, or parent who has a serious health condition.~~
- (5) the donation of an organ of that employee for a human organ transplant;
- (6) the death or serious health condition of the employee’s spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37- B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

G. Domestic Partner Definition:

The partner of an employee who: is mentally competent adult as is the employee; has been legally domiciled with the employee for at least 12 months; is not legally married to or legally separated from another individual; is the sole partner of the employee and expects to remain so; is not a sibling of the employee; and is jointly responsible with the employee for each other’s common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

C. Lifetime Pier Use Waiver for Donald “Roger” Abbott

This matter was not discussed at the meeting.

D. PowerPoint Presentation on Regional School Unit 56 Consolidation Plan

Michael Lafortune, Superintendent of School for Saco and Dayton, presented the Consolidation Plan for Regional School Unit 56 which, if approved, with encompasses Saco, Old Orchard Beach and Dayton.

VII. CONSENT AGENDA:

a. (First Reading) Code Amendment: Solid Waste Ordinance

The City's solid waste ordinance needs to be amended in light of the fact that the city is no longer under contract with Maine Energy Recovery Company. Since the city is no longer required to send waste material to MERC, the ordinance does not need to bind commercial haulers to the MERC facility in Biddeford. Commercial waste haulers are now free to choose where they bring commercial waste generated within the city. The proposed amendment addresses the change within Article II.

The City of Saco hereby Ordains and approves the First Reading of the document titled, 'Amendments to Article II Disposal Facilities dated September 2, 2008', and further moves to schedule the Public Hearing for October 6, 2008.

Amendments to Article II Disposal Facilities, dated September 2, 2008

(~~Strikethrough~~ indicates language to be deleted, while underline represents new language)

ARTICLE II Disposal Facilities

§ 181-3. Containers required; hours for placement and removal; replacement or additional containers; overflow waste.

- C. Residents who have "overflow waste," defined as garbage set out for collection that exceeds the amount contained in the city-provided collection container, may take it to the city's Transfer Station Recycling Center for disposal. Residents may after picking up a disposal permit at City Hall Public Works. With proof of residency, a household may dispose of up to three cubic yards of ~~overflow~~-waste acceptable at the Transfer Station per year at no cost; ~~overflow~~-waste in excess of three cubic yards can be disposed of at the Transfer Station at a rate to be established by the City Council.

§ 181-14. Findings and purpose.

- A. The City has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the City and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge pursuant to 38 M.R.S.A. § 1305, Subsection 1. .

§ 181-15. Definitions.

As used in this article, the following terms have the following meanings, unless the context indicates otherwise:

ACCEPTABLE WASTE — Solid wastes of the type presently accepted at the landfill used by the municipality, including all ordinary household, municipal, institutional and industrial wastes, with the following exceptions:

- A. Demolition or construction debris from building and roadway projects or locations.
- A. Liquid wastes or sludges.
- B. Abandoned or junk vehicles.
- C. Hazardous waste; that is, waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the State of Maine or the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state and local laws, regulations, orders or other actions promulgated or taken with respect thereto.
- D. Dead animals or portions thereof or other pathological wastes.
- E. Water treatment residues.
- F. Tree stumps.
- G. Tannery sludge.
- H. Waste oil.
- I. Discarded white goods, including but not limited to freezers, stoves, refrigerators and washing machines.

COLLECTION FACILITY — A building or container or designated area at which acceptable waste is disposed for transshipment to the energy recovery facility.

DISPOSAL FACILITY — One or more facilities designated by the municipality as the storage and/or disposal site for unacceptable wastes.

ENERGY RECOVERY FACILITY — The facility designated herein which processes and recovers energy and/or useful materials from acceptable waste generated in the City.

MIXED OR SPLIT LOAD — Municipal solid waste generated by two or more municipalities and transported by a single waste vehicle for disposal at a licensed waste handling facility and chargeable to respective municipalities.

MUNICIPALITY — The City of Saco, Maine.

UNACCEPTABLE WASTE — All solid waste of the type municipalities are required to regulate by 38 M.R.S.A. § 1305, as amended, which specifically excludes industrial and sewage treatment plant sludge and is not included in the definition of acceptable waste.

B. (First Reading) Zoning Ordinance Amendment: Accessory Apartments

The City Council identified housing affordability as a goal in January's biennial goal setting session. The Council's Housing Committee has been meeting since February, exploring ways to increase housing opportunities in Saco. The committee has reviewed housing data and housing techniques, met with several housing providers, met with developers and reviewed some of Saco's policies.

The Committee recently reviewed the Zoning Ordinance provisions related to accessory apartments and is proposing amendments to the zoning ordinance to permit Accessory Apartments in additional districts and other minor amendments to the standards for accessory apartments, in Section 727, as well as one minor amendment to the definition.

Accessory apartments are now permitted in the R-1b, B-2A, B-2b, and BP districts. The proposal would add accessory apartments as a permitted use in all R (residential), C (conservation –rural), and B (business) districts. The Committee thinks that this is a low cost, effective method to add housing stock and to allow family, friends, and others to obtain less expensive housing which blends well with the community. The City has permitted accessory apartment for six years, but has seen very few.

The Planning Board reviewed the proposal on July 15, 2008 and on August 5, 2008 held a public hearing. The Board unanimously recommends the amendments.

(The Housing Committee members are: Councilors Cote, Morton and Tardif. Peter Morelli staffs the committee.)

Be it Ordered that the City Council approve the First Reading of the document titled, ‘Proposed Amendments - Saco Zoning Ordinance Related to Accessory Apartments, dated August 5, 2008’, and further move to schedule the Public Hearing for October 6, 2008.

**Proposed Amendments -
Saco Zoning Ordinance Related to Accessory Apartments
August 5, 2008**

(underline represents new language, while ~~strikethrough~~ represents language to be deleted)

(Article 3, Definitions) Accessory apartment in a single family dwelling: A small apartment with more than four hundred (400) but less than eight hundred (800) square feet of gross floor area that meets the standards of Section 727 and is located within and is accessory to a an owner occupied single family dwelling. An accessory apartment shall not be considered to be a dwelling unit even if it allows fully independent living. (Amended 6/18/2001)

Section 727. Standards for an Accessory Apartment in a Single Family Dwelling (Amended 6/18/01)

An accessory apartment is a small apartment that is accessory and subordinate to the principal use of a property as a single family dwelling. These standards are intended to allow the addition of an accessory apartment to a single family dwelling only if such addition will preserve the single family residential character of the property. The following standards shall be met to create and maintain an accessory apartment in a single family dwelling:

1. An accessory apartment in a single family dwelling must be an allowed use in the District in which the property is located.

2. The single family home and the accessory apartment must be located entirely outside of the Shoreland Zone.
3. The single family dwelling must be located on a lot that conforms to the minimum lot area requirement for the district in which it is located but in no case shall the lot be less than seven thousand five hundred (7,500) square feet in area if served by public sewerage or forty thousand (40,000) square feet in area if served by on site sewage disposal. For the purposes of this section, the accessory apartment shall not be considered to be a second dwelling unit for determining the required minimum lot area.
4. If the lot is served by public sewerage, both the single family dwelling and the accessory apartment must be connected to the sewer system. If the lot is served by on-site sewage disposal, the owner must demonstrate that lot complies with the State of Maine Minimum Lot Size law and the sewage disposal system(s) for both the single family dwelling and the accessory apartment complies with the Maine Subsurface Wastewater Disposal rules.
5. Following the creation of the accessory apartment, the single family dwelling must have a gross floor area of at least nine hundred (900) square feet.
6. The accessory apartment shall be located within ~~the existing~~ a single family dwelling with or without addition to the building.
7. Either the single family dwelling or the accessory apartment must be occupied by the owner of the property as his/her primary residence. Both units shall be occupied as primary residences and neither unit may be rented for less than a monthly basis.
8. Any exterior alteration of the single family dwelling or accessory buildings shall preserve the single family appearance, architectural style, and character of the original structure and shall be in harmony with the general appearance of the neighborhood. Any alteration shall preserve the front entrance of the original structure to preserve the single family character. A separate entrance for the accessory apartment may be created but shall not be located on any facade that faces a public street or private road or on the facade of the building where the main entrance is located, except for houses with double or triple frontage. ~~Only one electrical meter enclosure shall be permitted.~~
9. At least three off street parking spaces shall be provided in accordance with Section 708. At least one space shall be available for the occupant(s) of the accessory apartment. The parking shall be located and designed to minimize the impact on adjacent properties and shall be buffered by landscaping and/or fencing from abutting residential uses if located in the side or rear yard.

Amend the following use lists by adding the words One accessory apartment in a single family dwelling to the permitted use lists at:

410-1, R-1 Low Density District

410-2, R-2 Medium Density District
410-3, R-3 High Density District
410-4, R-4 General Residential District
410-5, B-1 General Business District
410-6 B-2c and B-2d Highway Business District
410-7, B-3 Downtown Business District
410-9, B-5 Marine Business and Residential
410-9A, B-6 Highway Business and Commercial District
410-9-B, B-7 Limited Business/Residential District
410-14, C-1 Conservation District

C. Approve Order for Ballot Question – School Administrative Reorganization

To approve the Notice of Election for the General/Referendum Election scheduled for November 4, 2008.

Councilor Cote Moved, Councilor Lovell seconded to approve the Consent Agenda. The motion passed with seven (7) yeas.

VIII. ADJOURNMENT

Councilor Tardif moved, Councilor Bastille seconded, to adjourn. The motion passed with seven (7) yeas. TIME: 8:40 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk