

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, April 6, 2009 at 7:03 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 E. Morton, Arthur Tardif, Eric Cote and Marston Lovell. Councilor Sandra Bastille was excused this evening. City Administrator Rick Michaud was also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

PROCLAMATION: LOUIS R. “RED” SOUCY – KEY TO THE CITY

Mayor Michaud read the Proclamation for Louis R. “Red” Soucy, stating that on this 6th day of April 2009, we hereby proclaim Patriot’s Day April 20, 2009 – Louis R. “Red” Soucy Day in Saco, to honor not only “Red” but all our armed forces members for their commitment to our liberty. Also, the Mayor presented a Key to the City to Mr. Soucy in honor of his lifelong service and commitment to his country and his community.

Mayor Emetrius William Johnson spoke of his friendship with Mr. Soucy and also read a letter of recognition from Sandy Ellingsworth from the New England Rehabilitation Center in Portland.

Post Commander for Owens Davis Post 96 in Saco James Harper recognized the various Legion mates from the Owens David Post 96 that were present, as well as the State Chairman of the Dirigo Chapter of Gold Star Wives Sandy Taylor, and Amvets Post 1 in Biddeford member and Chairman of the Biddeford/Saco Twin City Veterans Council Gene Foster. Mr. Harper read several letters of recognition to Louis R. “Red” Soucy from the following: General Wallace Nutting, Post Chapelin of Post 96 Benny Woodbury, Chairman of the Biddeford/Saco Twin City Veterans Council J.E. Gene Foster, Post Sargent at Arms Owens Davis Post 96, and himself.

A copy of the complete proclamation is on page 4 as Attachment A.

PROCLAMATION: FERRY BEACH ECOLOGY SCHOOL – 10TH YEAR ANNIVERSARY

Mayor Michaud read the proclamation for the Ferry Beach Ecology School – 10th Year Anniversary, stating that on this 6th day of April 2009 that we hereby extend our congratulations on reaching this milestone and wish to express our appreciation to the Ferry Beach Ecology School for their valuable contributions to our community.

A copy of the complete proclamation is on page 5 as Attachment B.

STATE OF MAINE PUBLIC WORKS 2008 LEADER OF THE YEAR AWARDED TO MIKE BOLDUC, SACO PUBLIC WORKS DIRECTOR

On April 2, 2009 at the Spring Meeting of the Maine Chapter of American Public Works Association, Public Works Director Michael Bolduc was presented the State of Maine Public Works 2008 Leader of the Year Award, in recognition of his dedicated service & outstanding contributions to the Public Works Profession. City officials, employees and members of Mr. Bolduc’s family attended the presentation ceremony. Mayor Michaud presented the plaque that Mr. Bolduc was awarded and congratulated him on this great achievement.

V. APPROVAL OF MINUTES

VI. AGENDA ITEMS

A. GRIDSOLAR POWER PRESENTATION

Mr. Richard Silkman, owner and operator of GridSolar, LLC did a presentation to the City as follows:

Grid Solar – Who We Are:

- Maine company based in Portland.
- GridSolar will be a utility regulated by the Maine Public Utilities Commission.
- More cost-effective and environmentally friendly alternative than high-voltage transmission lines to ensure the CMP's electric grid remains reliable as peak load grows over the next decade.

GridSolar Proposal:

- Provide grid reliability service to CMP.
- Install sufficient distributed solar generation to meet actual (not projected) peak loads
- For those hours where solar will not meet peak loads:
 - Install propane/natural gas fired distributed generation.
 - Demand-response using interruptible loads.
 - Battery backup as the technology improves.
- Solar Generation will operate passively to meet peak loads within each region, thereby reducing loads placed on the bulk power system.
- Back-up Generation/Load Response will be actively operated and called upon whenever imports off the bulk power system into a region exceed a defined critical level.

Option to Lease Proposal:

1. Parcels – Landfill Site, plus others at discretion of City of Saco.
2. Term – 5 Years to exercise.
3. Lease – 20-40 Years on commercially reasonable terms, with annual lease payment of \$1,000 adjusted by inflation.
4. Improvements – Responsibility of GridSolar.
5. Property Taxes – Responsibility of GridSolar.

Benefits to City of Saco

1. Avoided Transmission Lines – Grid Solar is in lieu of CMP transmission lines. With distributed generation, increases in load are served by local generation.
2. Property Tax Revenues – Personal Property installed on Landfill Parcel will have an investment value of between \$4 and \$8 million and higher if other parcels are included.
3. City Services – GridSolar imposes no service requirements on the City of Saco – no children, no sewers, no potable water, no police, fire or emergency services.

Mayor Michaud asked that City staff and Energy Committee members discuss this further, and that City Administrator Rick Michaud begin developing a negotiated agreement that can be brought back before the Council.

B. NEW APPLICATION FOR LIQUOR LICENSE ZYACORP ENTERTAINMENT, LLC D/B/A CINEMAGIC

Zyacorp Entertainment I, LLC d/b/a Cinemagic has applied for a Liquor License for a term of one year.

The applicant has paid all applicable permit fees and the clerk has properly advertised the public hearing in accordance with M.R.S.A., Title 28-A, Subsection 653 and in accordance with Saco City Code, Chapter 93, and Entertainment sub-section 93-2.

Councilor Ron Morton moved, Councilor Smith seconded to open the Public Hearing. The motion passed with unanimous consent.

There were no comments from the public.

Councilor Morton moved, Councilor Smith seconded to close the Public Hearing and grant the application submitted by the Cinemagic for a New Liquor License upon issuance of an occupancy permit by the Code Officer, for the period of one year. Further move to approve the Order. The motion passed with six (6) yeas

VII. CONSENT AGENDA

Councilor Cote moved, Councilor Smith seconded to adopt the following Consent Agenda -The City of Saco hereby:

- A. Ordains and approves the First Reading of the document titles ‘Amendments to Chapter 118: River, Harbor and Waterfront, dated March 4m 2009, and further move to schedule the Public Hearing for April 27, 2009;
- B. Confirm the Mayor’s appointment of Councilor Marston Lovell to the Shuttlebus Transit Committee, completing Councilor Sandy Bastille’s 3-year term which expires on December 9, 2009.

The motion passed with six (6) yeas.

The item commentaries are listed below.

A. CODE AMENDMENT CHAPTER 118; RIVER, HARBOR AND WATERFRONT (FIRST READING)

Sections of Chapter 118 have been updated to address issues pertaining to mooring requirements, pier use agreements, headway speed only zones, and the use of the new beaching piles installed at Camp Ellis. These changes were made during workshops between Public Works staff and members of the Coastal Water Commission. The Commission voted unanimously on March 4, 2009 to recommend the council approve the changes to Chapter 118.

The City Council discussed this item in Workshop on March 16, 2009.

A copy of the complete Code Amendment to Chapter 118; River, Harbor and Waterfront is on page 6 as Attachment C.

B. CONFIRM THE MAYOR’S APPOINTMENT OF COUNCILOR MARSTON LOVELL TO THE TRANSIT COMMITTEE

The Transit Committee is an outside agency of which Saco is represented by three members of a nine member committee. The purpose of the Committee is to establish, maintain and implement a short and long-range bus transit development program, and to apply for, receive and administer Federal and State grants-in-aid for mass transit on behalf of the municipalities of Biddeford, Old Orchard Beach, and Saco to provide adequate and efficient bus mass transit for the Biddeford, Old Orchard Beach, Saco area.

VIII. ADJOURNMENT

Councilor Mills moved, Councilor Smith seconded to adjourn at 8:15 p.m. The motion passed with unanimous consent.

Attest: _____
Michele L. Hughes, Deputy City Clerk

CITY OF SACO
PROCLAMATION: Patriot's Day April 20, 2009
Louis R. "Red" Soucy Day

- WHEREAS:** The City of Saco has always honored the sacrifice of the men and women in the Armed Forces; and
- WHEREAS:** There are more than 25 million living veterans who served in times of peace and war, many who willingly entered harm's way to fight for our freedoms; their service kept America strong, and they protected our way of life for more than two centuries; and
- WHEREAS:** Louis "Red" Soucy, a member of what has been called the greatest generation and a 47 year member of Saco's American Legion Owen-Davis Post 96 has faithfully and caringly carried out his duties as Commander, vice Commander and chaplain for countless parades and events recognizing the contributions of our veterans; and
- WHEREAS:** Red has served as a long time community ambassador as the owner and operator of "Red's" barbershop.

NOW, THEREFORE, Be it resolved by the City Council and the Mayor of the City of Saco, on this 6th day of April, 2009, that we hereby proclaim **Patriot's Day April 20, 2009 – Louis R. "Red" Soucy Day in Saco**, to honor not only "Red" but all our armed forces members for their commitment to our liberty.

Signed this 6th day of April, 2009

*SACO CITY COUNCIL &
Mayor Roland Michaud*

Official City Seal Affixed Here

CITY OF SACO
PROCLAMATION: Ferry Beach Ecology School
10th Year Anniversary

- WHEREAS:** The Ferry Beach Ecology School, founded by Drew Dumsch, is an outstanding organization that is an integral part of our community; and
- WHEREAS:** The Ferry Beach Ecology School is celebrating their ten year anniversary; and
- WHEREAS:** The school, over the past ten years has developed and presented programs in science and ecology that bring these sciences to life for our children; and
- WHEREAS:** the school has served over sixty five thousand children and adults; and
- WHEREAS:** they have trained and employed more than one hundred and fifty ecology naturalist and have published a national recognized ecological teaching curriculum; and
- WHEREAS:** they have provided over one hundred thousand dollars in program scholarships to children in our local community.

NOW, THEREFORE, Be it resolved by the City Council and the Mayor of the City of Saco, on this 6th day of April, 2009, that we hereby extend our congratulations on reaching this milestone and wish to express our appreciation to the Ferry Beach Ecology School for their valuable contributions to our community.

Signed this 6th day of April, 2009

*SACO CITY COUNCIL &
Mayor Roland Michaud*

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**Amendments to CHAPTER 118
RIVER, HARBOR AND WATERFRONT ORDINANCE**

Dated: March 4, 2009

(Please note that underline represents new language while ~~strikethrough~~ represents language to be deleted).

ARTICLE I

General Regulation of Waters

- | | |
|--|------------------------------------|
| § 118-1. Title and Purpose. | § 118-16. Beach Restrictions |
| § 118-2. Scope and Enforcement. | § 118-17. Headway Speed Only Zones |
| § 118-3. Violations, Penalties, Manner and Method of Service | § 118-18. Use of Dune Area |
| § 118-4. Definitions. | § 118-19. Harbor Patrol |
| § 118-5. Coastal Waters Commission | § 118-20. Waste and Refuse |
| § 118-6. Harbor Master; Duties | § 118.21. Storage |

ARTICLE II

Prohibited or Restricted Actions

- § 118-7. Waterskiing and Aircraft
- § 118-8. Derelict Vessels.
- § 118-9. Obstructing a Wharf, Dock or Pier
- § 118-10. Diving, Swimming, Fishing on or near Wharves, Docks, Landings, Piers or Within the Channel Prohibited
- § 118-11. Obstructing Channel or Inner Harbor
- § 118-12. Operation of a Vessel Without Proper Safety Equipment
- § 118-13. Imprudent Operation of a Vessel
- § 118-14. Failing to Report Collision or

ARTICLE III

Rentals and Rental Agents

- § 118-22. Definitions
- § 118-23. Licensing and Rental Agreement
- § 118-24. Prohibited Acts
- § 118-25. Agent Negligence; City's Right to Recovery of Costs

ARTICLE IV

Camp Ellis Pier, Parking Lot and Public Landing Regulations

- § 118-26. Title
- § 118-27. General Regulations
- § 118-28. Camp Ellis Pier and Parking Lot Fund
- § 118-29. Traffic & Parking Regulations

Accident

§ 118-15. Endangerment of Life or Property

[HISTORY: Adopted by the City Council of the City of Saco: Art. I: 4-18-1995; Art. II, 4-18-1995; Art. III, 5-1-1995 as Ch. XX, Sec. 20-7 of the 1994 Code. Amendments noted where applicable; Amended 5-15-2006]

GENERAL REFERENCES

Animals on beaches - See Ch. 64, Art. I.

ARTICLE I

General Regulation of Waters

[Adopted 4-18-1995; Amended 5-15-2006]

§ 118-1. Title and Purpose.

This article shall be known as the "Saco River, Harbor and Waterfront Ordinance." This Ordinance is hereby adopted by the City of Saco to ensure the proper operation of recreational and commercial watercraft, and to promote the safe enjoyment and recreational use of the City's waters, including waterways, tidal areas, rivers and beaches.

§ 118-2. Scope and Enforcement.

No provision of this Ordinance shall be interpreted as conflicting with federal and state laws applicable to the coastal waters, tidal rivers and harbors of this State, but shall be read as supplementing said laws where applicable. This Ordinance shall be enforced by the City through its designated Harbor Master, Harbor Patrol and other subordinates or designees.

§ 118-3. Violations, Penalties, Manner and Method of Service

A. Penalties - Whoever violates any of the provisions of this Ordinance is guilty of a separate offense for each day, part of a day, or event during which the violation is committed, continued, or permitted. Unless stated for elsewhere, each offense, upon conviction, is punishable by a civil penalty of not less than \$100 and not more than \$2500.

B. Violations:

(1) Derelict Vessel §118-8 - A violation of section D or E shall have a mandatory minimum fine of \$250 that may not be suspended.

(2) Operation of a Vessel without Proper Safety Equipment §118-12 - A violation of this section shall have a mandatory minimum fine of \$150 that may not be suspended and a citation may be issued for each piece of equipment that is missing, not in proper working order or in poor condition.

Each day, if the offense is repeated, shall constitute a separate violation. If the violation relates to damages caused, said party, if found responsible, shall bear reasonable costs of repair in addition to any fines and fees assessed hereunder.

C. Manner and Method of Service - Notice to owner or to persons responsible for a violation of this order shall be made in the following manner and method.

At the discretion of the acting authority, a warning may be issued verbally or in writing, so long as such warning is recorded and made available for future reference.

If, in the discretion of the acting authority, a citation is deemed necessary, such citation will be issued in the following manner:

- (1) The citation includes the name of the responsible person and/or owner, the date and time of the violation, a general reference location for the violation, a description of the violation and the location of and date of appearance at the local court having jurisdiction;
- (2) The citation used is authorized and accepted by the District Court of the State of Maine;
- (3) Service of the citation is made upon the violator by a person authorized under law to make such service; and
- (4) The completed citation is properly recorded in the District Court of the State of Maine having jurisdiction over the violation.

§ 118-4. Definitions.

For the purposes of this article, the following definitions shall apply, unless the context clearly indicates another meaning:

BEACH – Refers to that shoreline area directly adjacent to bodies of water, which is customarily comprised of sand, ledge, or loose rock.

BEACHING PILINGS- Pilings installed adjacent to the landing for purpose of pier user permit holders' boat maintenance.

BERTH – The place where a vessel lies when at anchor, on a mooring or at a wharf.

CAMP/CAMPING – The building of and/or occupation of any shelter, tent, lean-to, or other structure or vehicle intended to provide its occupants refuge from the weather.

CHANNELS – Areas of the harbor and river kept open for navigation or other purpose by rule or regulation of the City Council, the Department of the Army Corps of Engineers, the Harbor Master or other regulatory or legislative body.

COMMERCIAL USER – The owner of a commercial vessel.

DOCK – The slip or waterway extending between two piers or projecting wharves or cut into land for the reception of vessels.

FLOAT – A platform that floats and is anchored at or near shore, used for landing or other purposes.

HARBOR – The tidal waters within the geographical limits of the City from the high tide watermark to the 3-nautical-mile line shown on the most recently published Federal Government nautical chart. It shall specifically include Saco Bay and all portions of the Saco River.

HARBOR MASTER – The officer appointed by the Director of Public Works to enforce this Ordinance, and oversee the jurisdiction area of the River and Harbor.

HEADWAY SPEED – Refers to the minimum amount of power necessary to allow your vessel to navigate safely through the water. Depending on the size, composition and design of the vessel, headway speed may vary.

INNER HARBOR – Refers to the area from green can buoy #7 to the area known as the Lower Narrows and encompasses all of Camp Ellis.

LANDING – A place for landing and discharging persons or things, as from a vessel.

MOORING – Is the means of securing a vessel to a particular location in City waters, other than temporarily by anchor. Dock, pier, wharf or float tie-ups are not moorings. A vessel is moored if at anchor for more than 48 consecutive hours.

PIER – Means a structure extending into navigable water for use as a landing place or to protect or form a harbor. This definition will include breakwaters, jetties and commercial locations used for the loading and unloading of cargo.

PIER USE AGREEMENT- Documents the proper care and use of the Camp Ellis pier facilities and must be signed by the prospective permit holder prior to issuance of a pier use permit.

PORT – Includes Saco Bay, the City wharves at Saco, together with all known landings and any other public landings or wharves that might be acquired by the City of Saco.

RENTAL AGENT - Any person, firm, proprietorship or corporation that rents canoes, kayaks, sailboats under 20 feet in length, personal watercraft and/or motorized watercraft under 22 feet in length to the general public for a fee.

SAFETY EQUIPMENT – Includes, but is not limited to, signals, flares, horn, fire extinguisher and personal flotation devices as defined in federal law per the Federal Boat Safety Act of 1971, Public Law 92-75, as amended.

VESSEL – Includes boats of all sizes, propelled by sail, machinery or hand; scows, dredges, shellfish cars and craft of any kind, including:

- A. **COMMERCIAL VESSEL** - Any vessel that is used in an activity that produces income.
- B. **RECREATIONAL VESSEL** - Any vessel used strictly for pleasure and that does not produce any income.
- C. **COMMERCIAL VESSEL PIER USE** – Allows vessels paying the appropriate fee use of the floats, pier, hoists and fuel facility.
- D. **RECREATIONAL VESSEL PIER USE** – Allows vessels paying the appropriate fee use of the floats. Limited occasional use of the pier, hoists, and fuel facility is allowed with the permission of the Harbor Master.

WATERS – Shall mean Saco Bay and its surrounding coastal waters and beaches, the Saco River and its surrounding tidal areas, as well as those port and landing facilities owned and/or managed by the City.

WHARF - A structure of timber, masonry, cement, earth or other material, built on the shore of a harbor, river, canal or the like, especially one extending parallel to the shoreline, so that vessels may lie close alongside to receive and discharge passengers and cargo.

§ 118-5. Coastal Waters Commission.

A. Purpose and duties.

- (1) Establishing policy and procedures. The Saco Coastal Waters Commission exists for the general purpose of studying and evaluating public usage of and boating access to coastal waters under the jurisdiction of the City of Saco and planning for its future use; to advise the City Council on policy and procedure matters; and to propose to the City Council regulations concerning the Saco River and the City's coastal waters. The proposed regulations and policies shall be consistent with federal and state law.
- (2) Further duties. In addition, the Commission shall review and cooperate in maintenance and care of City-owned waterfront facilities with the Harbor Master and Public Works Department and plan harbor improvements in conjunction with the City, state and federal authorities. The Commission shall sit as a Board of Appeals to hear an appeal from any person aggrieved by any decision, act or failure to act of the Harbor Master. The Commission shall regularly inform the City Council and other boards, committees, commissions or officials of the City as is appropriate of its activities.
- (3) The Commission shall review, evaluate and make a recommendation to the Director of Public Works on the new appointment of the Harbor Master.

B. Organization.

- (1) The Coastal Waters Commission shall consist of seven members, appointed by the Mayor and confirmed by the City Council.
- (2) Neither a municipal officer nor his or her spouse may be a member of the Commission.
- (3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the Commission's members, except the member who is being challenged.
- (4) Commissioners may be removed by the City Council for cause, after notice and hearing. A Commissioner shall forfeit his membership on the Commission if he fails to attend three consecutive regular meetings of the Commission without being excused by the Commission. The Chairman of the Commission shall notify the Mayor of the forfeiture of office by a Commissioner.
- (5) The term of office of a member shall be three years. Members may be appointed for a maximum of two three-year terms, but may be appointed again after one year off the Commission. Each commissioner shall be a resident of the City, shall be persons qualified to perform the duties of such office and shall serve without compensation.

C. Procedure.

- (1) A Chairman and Secretary shall be elected by the Board in April of each year.
- (2) The Chairman or City Administrator shall call meetings of the Commission as required. The Chairman shall also call meetings of the Commission when requested to do so by a majority of the members or by the Mayor. The Commission shall meet at least twice per year, semiannually, to conduct official business. A quorum of the Commission necessary to conduct an official Commission meeting shall consist of at

least four members. The Chairman shall preside at all meetings of the Commission and shall be the official spokesman of the Commission.

- (3) The Secretary shall assure that a permanent record of all Commission meetings and all correspondence of the Commission is maintained. The Secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Commission. All records to be maintained or prepared by the Secretary are deemed public and shall be filed in the Municipal Clerk's office and may be inspected at reasonable times. The City Administrator may assign secretarial help to do minutes and other clerical work of the Commission.
- (4) The Commission shall adopt rules of procedure, which will be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Commission upon good cause shown.

D. Procedure for appeals from decision of the Harbor Master.

- (1) Jurisdiction. The Coastal Waters Commission shall hear any appeal by any person affected directly or indirectly from any decision, order, rule, act or failure to act of the Harbor Master. In deciding any appeal, the Commission shall hear and approve, approve with modifications or conditions or disapprove the decision, order, rule, act or failure to act of the Harbor Master from which the appeal is made. The Commission's decision shall be made within 30 days of the filing of the appeal.
- (2) The Commission may receive any oral or documentary evidence but shall provide, as a matter of policy, for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- (3) The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons and/or basis therefor. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, agency or office, the City Administrator, City Clerk, Mayor and City Council within seven days of its decision.
- (4) An appeal may be taken from any act or decision of the Coastal Waters Commission by appeal to the City Council.

E. Interlocal cooperation. The municipal officers of the City of Saco recognize the aesthetic beauty and environmentally sensitive condition of the Saco River, its harbors and the coastal waters of Saco Bay and fully recognize its obligation to the citizens of Saco and future generations to protect such a natural resource. The City Council further recognizes that the City of Biddeford also has an obligation to its citizens to protect these natural resources and, in the spirit of cooperation, hereby authorizes that the Coastal Waters Commission of Saco join with a similar Commission created by the City of Biddeford to address and incorporate community needs and wishes. The Commission shall have no police powers or authority to create regulations and ordinances or to commit funds, but shall exist for the general purposes enumerated in Subsection A(1), Establishing policy.

§ 118-6. Harbor Master; Duties.

There shall be a Harbor Master appointed by the Director of the Department of Public Works. The Harbor Master will be under the direction of the Director of Public Works who will act as his/her immediate supervisor. He or she shall also have those duties and liabilities of that office as prescribed by state law, municipal ordinances and regulations adopted by the municipal officers, Coastal Water Commission or such other bodies empowered to regulate municipal harbors and specifically assigned herein including the proper designation of channels, assignment and location of anchorages, the assignment and monitoring of moorings, maintenance and placement of buoys, and other defined tasks, all as herein set forth below.

A. Channels. Channels for the passage of boats shall be designated on the plans of the Saco River, dated November 5, 1963, and filed with the City Clerk, and as updated from time to time. Said plans are hereby incorporated by reference as part of this Article.

B. Anchorage. Vessels shall be anchored in the harbor in such places or areas as the Harbor Master shall designate. The Harbor Master may at any time order any vessel at anchor to change position when, in his opinion, such vessel is so anchored as to impede navigation or to endanger other vessels.

C. Moorings.

(1) Assignment of moorings.

(a) No mooring shall be set within City waters except by permission of the Harbor Master. Any person wishing to place a mooring in City waters or to relocate an existing mooring shall submit a Mooring Permit Application to the City and request such permission in advance from the Harbor Master. The Harbor Master shall then assign a location for such mooring and shall advise the applicant concerning the requirements of these rules and regulations. In the assignment of moorings, the Harbor Master shall, insofar as the same may be done consistently with these rules and regulations and with due regard for the safety of other vessels and of navigation, give consideration to the choice of the applicant. However, where mooring rights of individuals are claimed to be invaded and protection is sought of the Harbor Master, the Harbor Master shall assign and indicate to the masters or owners of the vessels the location which they may occupy for said mooring, and the Harbor Master shall assign mooring privileges in all cases where individuals who own or have an interest in the shore rights are complainants and shall locate suitable mooring privileges temporarily or permanently, fronting their lands if so requested, but not so as to encroach upon the natural channel or channels established by this article. Moorings shall be set by July 30th of each year.

(b) City Hall shall maintain a waiting list, with a registration fee established by the City Council after a public hearing. [Amended 4-18-2000; 4-7-2003]

(c) The Harbor Master based, upon the waiting list, shall authorize moorings on a first-come-first-served basis, except that commercial harbor users may be given priority for facilities developed for commercial users with federal funds. The Harbor Master will provide the updated lists to the City Clerk on May 1, July 1 and October 1 each year and at other times when requested. The lists shall be provided to any member of the public who requests them. If there is a dispute about mooring assignments, the Saco Coastal Waters Commission shall hear appeals from the decisions of the Harbor Master.

(2) Application for Mooring permits.

(a) Applications for mooring permits for any one-year period must be filed with the City Clerk by March 15 of the current year, on forms prescribed by the Saco Coastal Waters Commission.

The City of Saco Mooring Permit Application form contains additional rules and regulations regarding use and placement of moorings.

(c) Permits shall be good for one year (March 15 to March 14).

- (d) Moorings that are not used for any consecutive three-month period between May 1 and September 30 shall be presumed to be abandoned and be removed at the owner's expense, and the location shall be reallocated.
 - (e) The annual application fee for the waiting list shall be established by the City Council after a public hearing. [Amended 4-7-2003]
 - (f) Moorings are not transferable except as provided by M.R.S.A. Title 38 section 3-A. [Amended 12-21-1998]
- (3) Adequacy of moorings. All existing moorings hereinafter to be set shall be of sufficient size to hold the vessel for which they are used. All moorings shall have approved buoys and must be visible at all times.
- (4) Inspections of moorings. The Harbor Master or their designee shall inspect moorings biannually. [Amended 4-18-2000]

All mooring requirements will be determined by the Harbor Master. Guidelines on mooring block weight, attachment requirements and chain link size are listed on the mooring permit application.

| (feet) | (gross pounds) | (pounds) | (inches) |
|---------|----------------|----------|----------|
| 12 | 500 | 350 | 3/8 |
| 20 | 1,500 | 750 | 3/8 |
| 25 | 5,000 | 1,500 | 1 |
| 30 | 8,000 | 1,800 | 1 |
| 35 | 12,000 | 2,500 | 1 |
| 40 | | 3,500 | 5/8 |
| Over 40 | | | |

- (5) Manner/Condition of Moorings:
- (a) All mooring floats shall meet United States Coast Guard regulations.
 - (b) The float attached to the mooring line shall be of sufficient size to remain afloat when not attached to the vessel.
 - (c) The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in the case of an emergency, he shall notify the owner of his intention to examine the mooring and request the presence of the owner during such examination. Any cost of examination shall be borne by the owner of the mooring.
- (6) Vessels moored as to impede navigation or to endanger other vessels. All moorings, whether now existing or hereinafter set, shall be so located or relocated that the vessels secured thereby will not impede navigation within City waters nor endanger other vessels moored therein. If the Harbor Master shall find that any vessel is so moored as to impede navigation or to endanger other vessels, he may require that the owner of the mooring or of the vessel secured thereby take such steps, whether by shortening the scope of the mooring lines or by the use of additional mooring or mooring lines, as will prevent such impeding of navigation or endangering of other vessels; or, in the alternative, he may order

that the mooring be removed and relocated. In requiring the removal of a mooring because of its danger to other mooring last set shall be the first ordered to be removed. Any person so ordered by the Harbor Master acting under this subsection shall remove a vessel within 48 hours after order; provided, however, that if the Harbor Master shall find an emergency requiring immediate action to prevent injury to life or damage to property, he or she may cause said mooring and any vessel attached thereto to be removed and relocated or re-moored without advance notice to owner. Any expense involved shall be borne by the owner of the mooring or vessel.

- (7) Interference with Moorings. Except by direction of the Harbor Master acting in an emergency or with permission of the owner, no person shall move or interfere with any mooring or vessel in the harbor.
 - (8) Removal. A mooring shall be removed after September 30, unless it is still in use by its owner. If not removed by its owner, the Harbor Master shall see to its removal at the expense of the mooring owner. The mooring and ground tackle shall not be returned to its owner until such bill is paid.
 - (9) Violations as to Moorings.
 - (a) Upon a first violation of this article relating to moorings, the Harbor Master shall issue a written warning to the owner of the mooring, and to any operator if applicable.
 - (b) Any subsequent violation by any person receiving a warning shall be subject to those penalties as set forth in Section 118-3.
 - (c) In addition to any fines sought and/or paid, the City, by and through the Harbor Master, shall retain the unilateral right to remove moorings that are in channels or otherwise obstruct navigation or that remain in violation of this article, provided that a written warning has first be given to the owner. Any such removal shall be at the expense of the owner. The Harbor Master may place a lien on any mooring and related tackle that he removes under this article to secure his claim for expenses.
- D. Buoys other than for mooring vessels. No buoy of this type shall be placed in channels leading to wharves, nor shall such buoys be placed less than three vessel lengths from a mooring buoy for that vessel. The Harbor Master is empowered, in the interest of public safety, to require the removal of any buoys.

ARTICLE II

Prohibited or Restricted Actions

§ 118-7. Waterskiing and Aircraft.

- A. Vessels towing water-skiers and aquaplanes. There shall be no waterskiing in congested mooring areas, anchorage areas or in speed-limit areas. No person shall operate a vessel while towing water-skiers, aquaplanes or similar devices unless there is present in said vessel, in addition to the vessel operator, another person in a position to observe and assist the person or appurtenance being towed. The operator of such a vessel will be held responsible for compliance with the navigating rules for both the vessel and the person or appurtenance being towed. Except in connection with water carnivals and exhibitions authorized by the City Council, no such activity may be conducted during the period between 1/2 hour after sunset and 1/2 hour before sunrise. Special waterskiing areas will be designated by the City Council.
- B. Hours regulated. No person shall engage in surfing or waterskiing or the use of surfboards or water skis or jet skis in the tidewaters along the shore in Saco Bay from Goose Fair Brook, along the ocean, including the shore at Kinney Shores, Bay View, Ferry Beach and Camp Ellis, so called, from June 1st of each year to September 10th of the same year, during the period commencing at 9:00 a.m. and ending at 5:00 p.m., except in connection with water carnivals and exhibitions authorized by the City

Council. No such activity may be conducted during the period commencing 1/2 hour after sunset and ending 1/2 hour before sunrise.

- C. Water-ski jumps. No person shall locate or use on the public waters under the jurisdiction of this Council a water-ski jump without first obtaining the approval of the City Council or its duly authorized representative.
- D. Aircraft. Aircraft shall be governed by the appropriate rules and regulations of the Maine Aeronautics Commission, excepting that they shall observe the same mooring and anchorage rules and regulations that apply to vessels.

§ 118-8. Derelict Vessels.

An owner, captain or operator of a vessel allows that vessel to become derelict if:

- A. The vessel lacks any license or registration, the prerequisite of which is required by state or local authority to allow operation of such vessel in the harbor;
- B. Is submerged to a level substantially above its normal water line and remains so for a period greater than 48 hours;
- C. Is damaged to the extent that it cannot be moved under its own power; or
- D. The owner, captain or operator of the vessel has failed or refused to comply with the lawful orders of the harbormaster, assistant harbormaster or a law enforcement officer. A violation of this section will have a mandatory minimum fine of \$250 that may not be suspended;
- E. The owner of the vessel has failed or refuses to pay any applicable license fee, excise tax, harbor usage fee, mooring fee, dock or landing fee or any other service fee imposed by the city or Harbor Master. A violation of this section will have a mandatory minimum fine of \$250 that may not be suspended.
- F. Disclosure of Vessel Ownership –This section requires the disclosure of ownership of any vessel operating within the statutory limits of the City of Saco and further requires all corporate, partnerships, trusts and any other non-individual, including those persons undisclosed, anonymous or otherwise unidentifiable principals, responsible for the maintenance of property and vessels and accountable with respect to violations of this ordinance.
- G. Order of Disposal; Abatement of Violation by the City and Recovery of Costs
 - (1) When the Harbor Master, after notice in writing to the owner of any derelict vessel by regular mail or by publication in a newspaper in the county three weeks successively, and after a hearing on such matter, adjudge that such vessel was or is derelict, dangerous or a nuisance, they may make and record an order prescribing what disposal shall be made thereof. The city clerk shall deliver a copy of such order to a constable or deputy sheriff, who shall serve such owner, if the owner is a resident of the state, with an attested copy thereof, and make return of his actions thereon to the clerk forthwith. If the owner or part owner is unknown or resides outside this state, such notice shall be given by publication in a paper published in the county for three successive weeks.
 - (2) If no application is made to the superior court, as is provided in this section, the city council shall cause such vessel to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the city within 30 days after demand, or may be recovered of such person by an action for money paid.

- (3) Any owner aggrieved by an order made pursuant to this section may, within 30 days after such order is so made and filed, apply to the superior court which shall forthwith, after notice and hearing, affirm, annul or alter such order.
- (4) If the court affirms an order made pursuant to this section, costs shall be recovered by the city; if it wholly annuls such order, the applicant shall recover costs; and if it alters it in part, the court may render such judgment as to costs as justice requires.

Note: §118-3 Penalties, Violations, Manner and Method of Service outlines the fine for violations of this section.

§ 118-9. Obstructing a Public Wharf, Dock, Landing or Pier.

No person shall obstruct a wharf, dock, landing or pier by intentionally or knowingly:

- A. Obstructs, by any means whatsoever, the free use of any public wharf, dock, landing or pier and is not actively engaged in the loading or unloading of persons, product or cargo; or
- B. Allows a vessel under that persons control or ownership to remain tied, moored or affixed to a public wharf, dock, landing or pier without legal authorization from the City or payment of docking fees.

§ 118-10. Diving, Swimming, Fishing on or near Public Wharves, Docks, Landings, Piers or Within the Channel Prohibited.

- A. No person shall dive from or swim within 50 feet of any public wharf, dock, landing or pier. This restriction does not govern or limit special events sanctioned by the City, nor commercial divers and emergency personnel or others who have been granted special permission by the Harbor Master. At no time, other than for emergency purposes, may anyone swim within the channel.
- B. No person shall fish from city wharves.

§ 118-11. Obstructing Channel or Inner Harbor Prohibited.

No person, firm, or organization may intentionally, knowingly or recklessly obstruct a channel or the inner harbor by:

- A. Setting any commercial fishing gear within the inner harbor or a channel; or
- B. Place or set any lobster traps, including buoys, within 100 feet of a mooring; or
- C. Place, stop, or anchor any vessel within a channel without providing for adequate room for a vessel of any reasonable size to navigate safely around in both directions simultaneously.
- D. Knowingly or willfully obstruct the free use of any channel or waterway within the harbor.

§ 118-12. Operation of a Vessel Without Proper Safety Equipment.

§ 118-13. Imprudent Operation of a Vessel.

A person may not intentionally, knowingly or recklessly operate a vessel in violation of State Law (Title 12).

§ 118-14. Failing to Report Collision or Accident.

The owner, captain or operator of a vessel involved in a collision with another vessel, a wharf, pier, landing, dock or other fixed object within the harbor; a fire on-board; or an accident as defined by the United States Coast Guard, must report such collision to local law enforcement or the Harbor Master by quickest means.

Failing to report such collision, fire or accident, regardless of visible damage or injury, constitutes a violation of this section.

§ 118-15. Endangerment of Life or Property.

A person is guilty of endangerment of life or property if that person:

- A. Operates a vessel and fails to have a proper lookout while towing a water-skier; or
- B. Operates a vessel and fails to require a water-skier to wear a personal flotation device (PFD); or
- C. Operates a vessel and permits a passenger to ride on the swim platform; or
- D. Operates a vessel and engages in “teak surfing”, “drag surfing” or otherwise allows someone to physically hang onto the stern, transom, swim platform or gunnels of a vessel; or
- E. Water-skis without wearing a personal flotation device (PFD); or
- F. Rides or physically hangs onto the stern, bow, transom, swim platform or gunnels of a vessel while underway.

The provisions of this section do not apply to emergency personnel in the performance of their duties; emergency situations in which this activity could not be avoided; or the use of approved recreational equipment designed to be towed behind a vessel as long as the distance behind the vessel is adequate to prevent injury from moving parts, fuels and/or carbon monoxide gases.

§ 118-16. Beach Restrictions

- A. **Alcoholic Beverages** - The consumption or possession of alcoholic beverages is prohibited on any beach. For the purposes of this section, any person found within reasonable reach of an alcoholic beverage is deemed to be in possession.
- B. **Vehicles Prohibited on Beach** - No motorized or vehicular traffic of any kind may enter or use the beach for any purpose, with the exception of public safety vehicles and those City vehicles designated for public works purposes.
- C. **Overnight Camping on Beaches Prohibited** - No person or group may camp or otherwise set up temporary, overnight shelter on a beach for any purpose. Overnight is defined as any time following sunset and before sunrise.

Camp Fires or Burning on Beaches Prohibited - No Person or group may have a camp fire or otherwise burn on a beach for any purpose.

§ 118-17. Headway Speed Only Zones

- A. Headway speed only zones shall be established by the Coastal Waters Commission for the tidal areas of the Saco River and Saco Bay.
- B. headway speed only zones will be marked appropriately with buoys, signs or other reasonable markers likely to come to the attention of boaters. All types and locations of markers or buoys placed into the river or harbor will be approved by the authority having jurisdiction over navigable waters.
- C. Once approved, buoys will be placed in the designated areas by the Harbormaster, Assistant Harbormaster, or by an independent contractor hired by the City with the recommendation of the Harbormaster and Coastal Waters Commission. Placement of buoys or markers within the areas shall be at the discretion of the Harbor Master.
- D. These zones will be reviewed periodically to ensure that they do not conflict with state or local law and reflect the needs of the citizens of Saco.

§ 118-18. Use of Dune Area.

No traffic of any kind, vehicular or pedestrian, may enter or use any area of the beach wherein so-called dune grass is growing. It shall also be a violation of this section to burn, crush, uproot, poison or in any other manner kill, injure or remove any dune grass or any other vegetation growing on the beach.

For the purposes of this section, subsequent violations will have been committed for each square foot of dune grass damaged, injured or destroyed.

§ 118-19. Harbor Patrol

- A. Recognizing the increase in recreational boating traffic and other activities within the Saco River and Saco Bay, the City of Saco hereby establishes the Harbor Patrol, which shall be operated under the supervision of the Chief of Police.
- B. The Harbor Patrol will be responsible for ensuring that safe boating practices are used within our waterways and for the enforcement of City Ordinances and State Law.
- C. Members of the Harbor Patrol will be law enforcement officers as defined under Title 25, section 2801-A(5). The Chief of Police may appoint such members of the Police Department as Harbor Patrol members as shall from time to time be necessary.
- D. The Harbor Patrol will typically operate from Memorial Day weekend to Labor Day weekend or longer, as determined by available resources and the Chief of Police.

§ 118-20. Waste and Refuse.

No person or vessel shall discharge, deposit, throw, sweep or cause to be deposited or swept into or upon the waters of Saco or into waters adjacent thereto any gas, fuel, coolant, oil, bilge water, human waste, ashes, dirt, stone, gravel, mud, logs, planks or any object or substance tending to pollute or obstruct the harbor or waters adjacent thereto or to shoal the depth of said waters. No person or vessel shall discharge, dump or dispose of any refuse, garbage, offal, gas, oil, fuel, coolant, waste, fish waste, or any other object or substance tending to pollute upon any shore of the City of Saco.

§ 118-21. Storage.

Personal property, such as lobster pots, automobiles, cradles, boats, etc., shall not be stored on city wharves or landings. Exemptions to this rule shall be considered on an individual basis when submitted, in writing, to the Harbor Master. The hauling-out area at Camp Ellis will be under the jurisdiction of the Harbor Master.

ARTICLE III Rentals and Rental Agents

§ 118-22. Definitions.

Rental Agent is defined as any person, firm, proprietorship or corporation who specifically rents canoes, kayaks, sailboats under 20 feet in length, personal watercraft and/or motorized watercraft under 22 feet in length to the general public for a fee.

§ 118-23. Licensing and Rental Agreement.

Licensing - All Rental Agents are to acquire and maintain a current business license through the City of Saco, and secure all pertinent State and Federal licenses as necessary. Furthermore, Rental Agents must abide by all requirements or provisions issued by the Code Enforcement Officer, Planning Board, Zoning Board or other City official.

Rental Agreement - A rental agent must provide, to any person whom they know to be operating a canoe, kayak, sailboat, personal watercraft (PWCs) or motorized watercraft:

- A. The occupant capacity and weight limits of the craft being rented and operated.
- B. Proper operational instruction and safety education for the craft being used.
- C. Personal Flotation Devices (PFDs) of adequate size and proper working order for all intended occupants of the craft.
- D. Verify, by way of demonstrated ability, the operator's knowledge of the craft and equipment and ability to control and maneuver the craft safely.
- E. Written information pertaining to local and state laws governing the body of water in which they will be operating and a brief description of the so-called rules of the road. For PWCs or motorized watercraft, the information will also include the laws pertaining to headway speed violations and a map indicating "headway speed only" areas.

For subsection "B", the rental agent may use an audio/visual presentation in lieu of personal instruction, however, the sole use of written instruction will not satisfy the requirements of this section.

For subsection "D", the rental agent may accept a watercraft license issued from another state or from the United States Coast Guard as proof of demonstrated ability. The rental agent may also waive the requirements of subsection "D" if the person renting has previously rented and demonstrated their ability, with that type of equipment, within the last 30 days.

§ 118-24. Prohibited Acts.

The following violations, in addition to the fines outlined in section 118-3, will also result in the immediate suspension of all City business licenses and/or permits.

No Rental Agent may continue to operate until the violations have been corrected and the City is satisfied with those corrections.

- A. Failing to Provide Safety Instruction: A rental agent is guilty of failing to provide safety instruction if they fail to comply with all the requirements of section 118-23.
- B. Failing to Maintain Records: The rental agent must maintain written records showing that the requirements of section 118-23 were followed. If a waiver of subsection "D" is allowed, a photocopy of the watercraft license, USCG license or previous rental agreement and demonstrated ability must be included. Rental agents may not destroy these records in the event of a watercraft accident, drowning or other incident involving the rented equipment. Records may otherwise be destroyed six months following the date of rental.
- C. No License / Violation of Licensing Agreement: Any Rental Agent who fails to obtain or maintain a current City business license; or who fails to abide by the requirements of section 118-23 is guilty of this violation.

§ 118-25. Agent Negligence; City's Right to Recovery of Costs.

When a Rental Agent fails to follow the provisions of this division and an accident or incident occurs that requires the use of City services, or requires the City to hire or fund private businesses or other government agencies as a result of the accident or incident, the Rental Agent shall be responsible for reimbursement of all associated costs.

These services include, but are not limited to: police, fire, rescue, or other emergency services; divers; water recovery specialists; engineers; environmental or hazardous materials specialists or companies; product inspectors, investigators, private consultants, attorneys, and/or legal expenses.

ARTICLE IV
Camp Ellis Pier, Parking Lot and Public Landing Regulations
[Adopted 4-18-1995]

§ 118-26. Title.

This article shall be known as "Camp Ellis Pier Regulations."

§ 118-27. General Regulations.

- A. No person who owns, leases or operates a commercial or recreational boat or vessel shall use a public wharf, dock or pier unless they shall first obtain a permit therefore, as is hereinafter provided. A pier use agreement must be signed prior to the issuance of a user permit.
- B. No person who owns, leases or operates a commercial or recreational vessel shall store said boat or vessel on any public wharf, dock, pier or parking lot.
- C. All said pier use and mooring fees should be paid to the City of Saco through City Hall and a receipt for same presented to the Harbor Master. [Amended 4-18-2000]
- D. User fees, mooring fees and parking fees are to be established annually by the City Council, by resolution, after a public hearing, as recommended by the Coastal Waters Commission.
- E. Commercial Fisherman have priority use of the hoists for loading and unloading perishable products.
- F. Use of the beaching piles located adjacent to the public landing will be available to pier use permit holders. The maximum size boat to use the piles shall not exceed 20,000 pound displacement. Proper support must be installed under a berthed boat prior to allowing people to go into the boat fall area. Boats may only be berthed

on the north side of the piles to maintain access to the public landing at all times. Berthed boats may remain at beaching piles for one full tide cycle.

§ 118-28. Camp Ellis Pier and Parking Lot Fund.

- A. Purpose. The City of Saco operates and maintains a parking and docking facility at Camp Ellis for the benefit of the general public. The purpose of this section is to create a special revenue fund into which all the proceeds derived from the pier and parking lot shall be deposited. A transfer of funds to this account shall be budgeted each year by the City, in whatever amount is suitable for the maintenance and expansion of public facilities at the Camp Ellis pier, parking lot, and other marine related uses as deemed necessary by the Coastal Waters Commission.
- B. Source of revenues. All revenues derived from the pier and parking lot, including but not limited to fees for parking cars and fees for mooring and docking, shall be deposited into this account.
- C. Use of revenues. Funds in the Camp Ellis Pier and Parking Lot account shall be used for the expansion and maintenance of the Camp Ellis parking lot, pier, floats, City-owned moorings, waterways and other marine-related uses, as recommended by the Saco Coastal Waters Commission and approved by the Saco City Council.

§ 118-29. Traffic and Parking Regulations.

A. The City of Saco has constructed a launching ramp and parking lot, for use by the public, on the shore of the Saco River at Bay Avenue in Camp Ellis, between the extension of North Avenue and East Avenue. There are no existing ordinances to control traffic and regulate parking for the public good and safety of the public which will be using these facilities. The following rules and regulations are hereby adopted, and the Chief of Police is hereby authorized and directed to erect the proper signs and controls to enable the enforcement of these rules and regulations.

B. Public lot and public landing rules and regulations shall be as follows:

- (1) Diagonal parking only.
- (2) No parking after 1:00 a.m. until 5:00 a.m. from May 1 through September 30 and from 10:00 p.m. to 5:00 a.m. from September 30 through May 1, except for pier users with permits.
- (3) Five-miles-per-hour speed limit.
- (4) No parking in front of launching ramp.
- (5) No throwing of rocks and debris in the river.
- (6) Boat trailers are to be parked in designated areas.
- (7) Camping is not permissible.
- (8) Parking violators shall be towed away at the owner's expense.
- (9) All cars and trucks parked in the parking lot shall prominently display a current pier user sticker or seasonal parking sticker issued by the city, unless they are paying the daily parking fee. A seasonal parking permit or the elderly residents permit is only transferable to other vehicles registered in the city by the resident. A commercial user permit stays with the permit holder and is transferable to another vehicle.

