

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, March 5, 2012 at 7:00 p.m. a joint City Council and Planning Board Workshop was held in the City Hall Auditorium.

A. JOINT WORKSHOP WITH THE PLANNING BOARD ON COMPREHENSIVE PLAN IMPLEMENTATION AND ZONING ORDINANCE AMENDMENTS:

- a. REVIEW IMPLEMENTATION PROCESS
- b. VERTICAL EXPANSION NON-CONFORMING STRUCTURES
- c. CREATION OF B-9 ZONING DISTRICT, INDUSTRIAL PARK ROAD AREA
- d. B-2 AND B-2D AMENDMENTS (OUTER NORTH STREET)
- e. DOWNTOWN REMAINING AMENDMENTS
- f. MIXED USE 3 AND MIXED USE 4 (OUTER RTE 1 AND BOOM ROAD)
- g. ELDER AND DISABILITY HOUSING
- h. PARKING STANDARDS
- i. CITY COUNCIL OBJECTIVES

II. ADJOURN THE WORKSHOP AND CONVENE THE MEETING:

Mayor Johnston adjourned the Workshop and convened the Council meeting at 8:35 p.m., with the unanimous consent of the Council.

III. ROLL CALL OF MEMBERS – Mayor Mark Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Marie Doucette, Philip Blood, Arthur Tardif, Eric Cote and Marston Lovell. City Administrator Rick Michaud was also present.

IV. PLEDGE OF ALLEGIANCE

V. GENERAL

VI. AGENDA:

- A. CONTRACT ZONE – 416 AND 418 BUXTON ROAD, HERVE THIBODEAU, APPLICANT – (PUBLIC HEARING)**

**Contract Zone Agreement By and Between
Herve C. Thibodeau, Trustee of the Thibodeau Family Property Trust
and the City of Saco
February 14, 2012**

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through November 16, 2011 is hereby further amended by adopting this contract by and between the City of Saco, and applicant and landowner Herve C. Thibodeau, Trustee of the Thibodeau Family Property Trust:

1. Herve C. Thibodeau, Trustee of the Thibodeau Family Property Trust (“Applicant”) has submitted an application for a contract zone for portions of two parcels located at 416 and 418 Buxton Road (“Subject Property”).
2. The Subject Property is owned by the Thibodeau Family Property Trust pursuant to deeds

recorded at Book 5490, Page 180 and at Book 8017, Page 336 of the York County Registry of Deeds.

3. The Subject Property is identified as a portion of the parcels identified as Tax Map 116, Lots 6 and 6-1 on City of Saco tax maps, and is delineated on a plan titled, "Proposed Contract Zone" by Paul P. Gadbois Engineering submitted by the Applicant.

4. The portion of the property for which the contract zone would be applicable is in the C-1 District.

5. Thibodeau's Ice Cream Distributing Co., a family business, has operated since the early 1940's upon the Subject Property and Applicant's other parcel across Route 112 at 419 Buxton Road identified as Tax Map 116, Lot 9 on City of Saco tax maps, also in the C-1 District. The current commercial uses of these properties which are not permitted uses within the C-1 District predate adoption of the Zoning Ordinance and thus are lawfully nonconforming uses under Section 503. The lawfully non-conforming uses include the following uses which are defined terms under Section 302 of the Zoning Ordinance: *business office, distribution, light industry and wholesale trade and warehousing*. The structures on the Subject Property are lawfully non-conforming as to front and side setbacks within the C-1 District. The Subject Property is also currently used for the following permitted uses in the C-1 District: *agriculture, two-family dwellings, and accessory uses*.

6. The operations of Thibodeau's Ice Cream Distributing Co. on the Subject Property and the property at 419 Buxton Road require truck loading, truck refueling, and parking for employees, business clients and apartment residents within or immediately adjacent to the Route 112 right of way on both sides of the highway. Employees and vendors frequently must cross Route 112 between the office, equipment shop and fueling station at 419 Buxton Road and the distribution facilities, freezers, and garages on the Subject Property.

7. The Maine Department of Transportation has exercised eminent domain to take portions of the Subject Property and 419 Buxton Road in order to widen Route 112. Reconstruction of the highway will further reduce existing building setbacks, significantly limit vehicle access, and entirely prevent truck loading that is essential to the operation of the business. The Applicant proposes to construct a new loading and storage facility to the rear of the Subject Property attached to the existing freezer/distribution/apartment building, which will allow the relocation of offices and an equipment shop from 419 Buxton Road to the Subject Property, greater efficiency of business operations, elimination of pedestrian and vehicular crossings of Route 112, and increased public safety and aesthetic value. The Applicant also proposes to expand truck parking and relocate truck fueling and resident parking to the rear of the Subject Property, eliminating three of the seven driveways for the Subject Property.

8. As stated in Section 1403-01 of the Zoning Ordinance, "Occasionally competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits and alteration to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change."

9. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicant hereby makes application for a Contract Zone that would allow the existing lawfully non-conforming use of the Subject Property as business offices, distribution, light manufacturing, wholesale trade and warehousing to continue upon the Subject Property as legally conforming uses, and to allow the

existing lawfully non-conforming setbacks of the buildings to be treated as lawfully conforming until such time as redevelopment occurs.

II. This Contract Zone Agreement amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the Subject Property as identified above, would allow the Applicant to continue the historical uses of business offices, distribution, light manufacturing, and wholesale trade and warehousing within expanded and reconfigured facilities at 416 and 418 Buxton Road lying within approximately 551 feet of Route 112 (the "Contract Zone"), as provided for in Article 14 of the Saco Zoning Ordinance:

- a. "Business offices, distribution, light manufacturing, and wholesale trade and warehousing," shall be permitted uses within the Contract Zone, in addition to all permitted uses and conditional uses otherwise allowed in the C-1 District.
- b. Minimum side and rear setbacks of 50' shall be required for all structures in the Contract Zone measured from boundaries which define the perimeter of the Contract Zone.
- c. Minimum side and rear setbacks of 25' shall be required for structures in the Contract Zone measured from boundaries of other parcels within the Contract Zone. Accordingly, the property boundary between 416 Buxton Road and 418 Buxton Road shall be promptly relocated to comply with this requirement.
- d. Minimum front setbacks shall be required in the Contract Zone equal to the front setback of existing structures, subject to the condition that upon any voluntary relocation of existing structures to which such front setback applies, replacement structures shall be located so as to comply with the least-restrictive minimum front setback within the C-1 District or other then-current zoning district(s) applicable to abutting properties.
- e. Upon completion of expanding loading facilities to the rear of existing structures, no regular loading operations shall be permitted along the Route 112 frontage within the Contract Zone.
- f. Municipal site plan review requirements shall remain in effect with respect to anticipated or future expansion or relocation of structures within the Contract Zone.
- g. Completion of proposed driveway closures, reconfiguration of the property boundary between 416 Buxton Road and 418 Buxton Road, and the relocation of loading operations away from the Route 112 frontage in the Contract Zone shall be coordinated with completion of the construction schedule for Route 112 improvements.
- h. Notwithstanding Section 709-1 of the Zoning Ordinance, the Applicant shall be allowed to reconfigure and maintain, as illustrated on the submitted Proposed Contract Zone Plan, no more than four (4) curb cuts/driveways along the Route 112 frontage to serve the additional permitted commercial uses within the Contract Zone, subject to modification related to location and/or width as may be identified during the site plan review process in connection with the Route 112 reconstruction, together with one further existing curb cut/driveway adjacent to the northerly bound of the 418 Buxton Road parcel which provides access to the farm field and woodlot towards the rear of the 418 Buxton Road parcel and will also be used for access to a contractor's construction staging area in connection with the reconstruction of Route 112.

III. This Contract Zone Agreement is subject to the following conditions and restrictions, as provided for in Section 1403-5 of the Saco Zoning Ordinance:

a. The Applicant shall adhere to all other applicable provisions of the C-1 District of the City of Saco Zoning Ordinance.

b. City and the Applicant recognize that the plan submitted for contract zone review is representative of the existing and proposed site layout, but is subject to change as a result of site plan review conducted by the Planning Board. If it is determined that the changes constitute a significant change in the contract, then the developer shall also be required to obtain City Council approval of the change.

c. Upon approval of this contract by the City Council, the Applicant shall submit materials required for site plan review to the Planning Office. Failure of the Applicants to secure site plan approval 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 Applicants, this one year deadline may be extended by one year upon written request to the City Council.

d. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicant as submitted to the City. Accordingly, this Agreement and the Contract Zone it creates shall not be assigned or transferred without review and written approval by the City Council, such consent not to be unreasonably withheld.

e. These amendments affect only that portion of the Subject Property delineated on the "Sketch Plan" by Paul P. Gadbois Engineering submitted by the Applicant, and will not be deemed to bind, condition, or limit the remainder of the parcels at 416 and 418 Buxton Road.

f. Breach of these conditions and restrictions by the Applicant shall constitute a breach of the contract, and the Applicant shall be required to apply for a contract modification. Failure to apply for or to obtain a modification shall constitute a zoning violation, subject to enforcement action,

IV. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on February 14, 2012, and the Saco City Council on _____, 2012, the following findings are hereby adopted:

A. A portion of City Tax Map 116, Lots 6 and 6-1 comprise the Subject Property, which parcels are of an unusual nature and location for the following reasons:

1. The portion of the Subject Property is located in the C-1 District, a rural and predominantly agricultural and open-space zone. The current uses of the Subject Property include lawfully non-conforming commercial uses dating from the 1940's. A premise of zoning is that nonconforming uses are and should be phased out. However, the community has supported the existence and growth of the family business now known as Thibodeau's Ice Cream Distributing Co.'s upon the Subject Property for over seventy years as a natural outgrowth of the historical dairy farming use.

2. The need for reconfiguration of the business operations and relocation and expansion of facilities upon the Subject Property arises not from the actions of the Applicant or Thibodeau's Ice Cream Distributing Co., but rather from the Maine Department of Transportation's expansion and reconstruction of the Route 112 frontage of the Subject Property. The timing of the Route 112 reconstruction, which coincides with the business high season, requires prompt municipal action to maintain the viability of the business operations.

3. The primary existing structures on the Subject Property are designed for loading product on Route 112 frontage from freezers in the rear of the facility, and will have little or no continued economic value without rearward expansion that allows for an air lock between new loading docks and existing freezer facilities. Neither the Applicant nor Thibodeau's Ice Cream Distributing Co. can bear the high economic cost of relocating operations to an entirely new facility.

4. The existing configuration of structures and operations upon the Subject Property presents an elevated risk of vehicular and pedestrian accidents upon Route 112, which can be eliminated by the proposed consolidation and reconfiguration of loading and parking to the rear of the Subject Property under the Contract Zone.

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

1. The Contract Zone allows continuation of a lawful (if non-conforming) existing commercial use in the C-1 District. Comprehensive Plan Appendix L recognizes the existing commercial use of the Subject Property as among the "scattered commercial uses" West of the Turnpike.

2. The Contract Zone will impose no new burden upon abutting properties in the C-1 District, since the commercial operations upon the Subject Property have existed for over seventy years. The Contract Zone will actually substantially reduce existing impacts upon abutters by relocation of truck loading operations to the rear of the structures in the center of the Contract Zone, the relocation of residential parking off the highway shoulder, and the reduction in driveways onto Route 112 from the Subject Property.

3. The Contract Zone rationalizes and reduces the impact of historical use of the Subject Property, with reasonable room for future growth, and will not allow for intensive new commercial development such as retail shopping or heavy industry, which would generate traffic out of character with historical land use patterns in the C-1 District.

4. The Contract Zone substantially enhances the safety of travel along Route 112 by relocating roadside truck loading and parking to the rear of the buildings, consistent with planning for the historical and projected annual increase in traffic along Route 112 documented in Comprehensive Plan Appendix F.

5. The Contract Zone preserves existing jobs and creates new construction jobs and thereby advances realization of the City Council's Vision articulated in the Comprehensive Plan Chapter 4: "[A] sustainable economy that offers an opportunity for everyone to have rewarding employment and for business to prosper, now and in the future."

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original (existing) zone is the C-1 Conservation District, designated for areas which are agricultural and open-space, with low-density residential use. Allowed uses in the C-1 District which are current uses of the Subject Property include agriculture, two-family residential dwellings, and accessory uses thereto. The historical and existing uses of the Subject Property which are lawfully nonconforming in the C-1 District include business offices, distribution, light manufacturing and wholesale trade and warehousing. The only new uses allowed in the Contract Zone are a continuation of historical and lawfully nonconforming uses of the Subject Property, which will supplement the existing permitted and conditional uses in the C-1 District that will apply to the Subject Property.

D. The conditions proposed are sufficient to meet the intent of Section 1403, Contract Zoning, of the Saco Zoning Ordinance.

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

Adopted by the Saco City Council on _____, 2012.

By: _____

THIBODEAU FAMILY PROPERTY TRUST

CITY OF SACO

By: _____

By: _____

Herve C. Thibodeau, Trustee

Richard Michaud
City Administrator

-----End of Contract Zone document-----

Councilor Smith moved, Councilor Lovell seconded to open the Public Hearing on the document titled, “Contract Zone Agreement By and Between Herve C. Thibodeau, Trustee of the Thibodeau Family Property Trust and the City of Saco, dated February 14, 2012”. The motion passed with seven (7) yeas.

Richard Bryant, Attorney for Herve C. Thibodeau, Trustee of the Thibodeau Family Property Trust – The Maine Department of Transportation (MDOT) is expanding the RT 112 highway, which will eliminate the ability of Thibodeau’s Ice Cream Distributing to continue its historical business uses of the existing buildings, parking areas, loading docks and fuel tank along the frontage on both sides of the highway, as well as limit access for the residential uses at 416 and 418 Buxton Road. Mr. Bryant explained that the proposed Contract Zone is consistent with the Comprehensive Plan and permitted and existing uses within the current C-1 Conservation District zoning for several reasons:

- The Contract Zone allows continuation of what is now a lawfully non-conforming existing commercial use in the C-1 Conservation District. The existing commercial use is among the “scattered commercial uses” west of the Turnpike recognized in the Comprehensive Plan.
- Since the Contract Zone permitted uses have existed for over seventy years, the Contract Zone will impose no new burden upon abutting properties in the C-1 Conservation District. Indeed, the consolidation of the current truck loading operations to the rear of the buildings in the center of the Contract Zone and the relocation of residential parking off the highway shoulder will reduce existing impacts upon abutters.
- The Contract Zone does not allow for intensive new commercial development such as retail shopping or heavy industry, which would generate traffic out of character with historical land use patterns. The Contract Zone merely rationalizes and regulars historical property use.
- The Contract Zone enhances the safety of travel along Route 112 by relocating roadside truck loading and parking to the rear of the buildings, consistent with planning for the historical and projected annual increase in traffic along Route 112 documented in the Comprehensive Plan.
- By preserving existing jobs and creating new construction jobs, the contract Zone meshed with the City Council’s Vision articulated in the Comprehensive Plan.

The applicant is seeking approval from the City Council and then site plan approval from the Planning Board before the project can move forward. MDOT will be starting the RT 112 project in about a couple of months.

Councilor Smith moved, Councilor Lovell seconded to close the Public Hearing and “Be it Ordered that the Council set the Second and Final Reading of the document for March 19, 2012.” Further move to approve the Order. The motion passed with seven (7) yeas.

A. RENEWAL APPLICATION FOR A SPECIAL ENTERTAINMENT PERMIT, ZYACORP ENTERTAINMENT INC. d/b/a CINEMAGIC & IMAX/PREVIEWES GRILL & BAR- (PUBLIC HEARING)

Councilor Doucette moved, Councilor Lovell seconded to open the Public Hearing. The motion passed with seven (7) yeas.

There were no comments from the public.

Councilor Doucette moved, Councilor Blood seconded to close the Public Hearing and “Be it Ordered that the City Council grant the renewal application submitted by Zyacorp Entertainment Inc. d/b/a/ Cinemagic & IMAX/Previews Grill & Bar for a Special Entertainment permit to be concurrent with the establishment’s liquor license. Further move to approve the Order. The motion passed with seven (7) yeas.

B. AMENDMENT TO SACO CODE, CHAPTER 112-GENERAL ASSISTANCE PROGRAM APPENDIXES FOR OVERALL MAXIMUMS THRIFTY FOOD PLAN & HOUSING MAXIMUMS FOR OCTOBER 2011-2012 – (PUBLIC HEARING)

**General Assistance Ordinance Appendixes (A, B, and C),
Proposed Figures dated October 1, 2011.**

Note: The proposed maximums for Appendix B remain unchanged from last year.

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

Appendix A - GA Overall Maximums

# IN HOUSEHOLD	MAXIMUMS	
	Current	New Proposed
1	\$732.00	<u>\$742.00</u>
2	\$816.00	<u>\$827.00</u>
3	\$1029.00	<u>\$1042.00</u>
4	\$1305.00	<u>\$1322.00</u>
5	\$1543.00	<u>\$1563.00</u>
EACH ADDITIONAL	\$75.00	<u>\$75.00</u>

Appendix B - Food Maximums

# IN HOUSEHOLD	WEEKLY MAX.	MONTHLY MAX.
	Current	Current
1	\$46.51	\$200.00
2	\$85.35	\$367.00
3	\$122.33	\$526.00
4	\$155.35	\$668.00
5	\$184.42	\$793.00

6	\$221.40	\$952.00
7	\$244.65	\$1052.00
8	\$279.53	\$1202.00
EACH ADDITIONAL	-----	\$150.00

Appendix C - Housing Maximums

Unheated Units

# BDRMS	MONTHLY	MONTHLY
	Current	Proposed
0	\$542.00	\$635.00
1	\$629.00	\$635.00
2	\$775.00	\$748.00
3	\$1047.00	\$1018.00
4	\$1225.00	\$1048.00

Heated

# BDRMS.	MONTHLY	MONTHLY
	Current	Proposed
0	\$582.00	\$690.00
1	\$682.00	\$696.00
2	\$849.00	\$850.00
3	\$1140.00	\$1145.00
4	\$1338.00	\$1233.00

Councilor Tardif moved, Councilor Lovell seconded to open the Public Hearing. The motion passed with seven (7) yeas.

There were no comments from the public.

Councilor Tardif moved, Councilor Lovell seconded to close the Public Hearing and “Be it Ordered that the City Council set the Second and Final Reading for the amendment to the Saco Code, Chapter 112, General Assistance Program, Appendix A – GA Overall Maximums, Appendix B – Food Maximums, and Appendix C – GA Housing Maximums for March 19, 2012.” Further move to approve the order. The motion passed with seven (7) yeas.

C. AMENDMENT TO CHAPTER 181, SOLID WASTE TIME LIMITS FOR PLACING CONTAINERS ON THE ROADWAY – (PUBLIC HEARING)

‘Amendment to Chapter 181 Solid Waste §181-4, date February 6, 2012’

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

Section 181-4

- A. Each household or business is responsible for preventing accumulation of rubbish. ~~On the designated day of pickup, a~~All residential rubbish must be set out in a City-designated container for garbage collection. Each household or commercial unit ~~should~~ must contain its waste in receptacles as described in § 181-2. Pursuant to § 181-3, each container shall be placed as instructed by the garbage collector along the street, sidewalk or roadside for automated collection. City-designated garbage containers may be set out for collection ~~the evening or day before, and should be removed from the street or roadside after collection no earlier than 2:00 p.m. on the day before the day of collection. All receptacles must be removed from the sidewalk or edge of the roadway shoulder by noon on the day after collection.~~ No person shall cause or permit any accumulation of rubbish which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.

Councilor Doucette moved, Councilor Blood seconded to open the Public Hearing. The motion passed with seven (7) yeas.

There were no comments from the public.

Councilor Doucette moved, Councilor Lovell seconded to close the Public Hearing and “Be it Ordered that the City Council set the Second and Final Reading for the document titled, ‘Amendment to Chapter 181 Solid Waste §181-4, dated February 6, 2012’ for March 19, 2012.” Further move to approve the order. The motion passed with seven (7) yeas.

VII. CONSENT AGENDA

Councilor Smith moved, Councilor Blood seconded to approve items #A, B, and D of the consent agenda as follows:

The City of Saco hereby:

- a. Approval of Minutes: January 23, 2012; February 21, 2012;
- b. ordains and approves the Second and Final Reading of the document titled, ‘Amendments to Chapter 87 Electrical Standards, dated 01/23/2012’;
- d. confirm the following appointments: 2Year term – to expire December 31, 2014, Paul Decoteau; Gil Lauzon; Kathleen Dziadzio.”

The motion passed with seven (7) yeas.

Note: Item #C was voted on separately. The Item Commentaries for the above consent agenda are listed below.

- A. APPROVAL OF MINUTES: JANUARY 23, 2012 & FEBRUARY 21, 2012**
- B. AMENDMENT TO CHAPTER 87 – NATIONAL ELECTRIC CODE – (SECOND & FINAL READING)**

“Amendments to Chapter 87. ELECTRICAL STANDARDS, dated 01/23/2012”

(please note underlined represents new language, while ~~strikethrough~~ represents language to be deleted)

[**HISTORY: Adopted by the City Council of the City of Saco 5-1-1995 as Ch. XII, Sec 12-2, of the 1994 Code; amended in its entirety 2-6-2006. Subsequent amendments noted where applicable.**]

GENERAL REFERENCES

Building construction — See Ch. [73](#).

Fire prevention — See Ch. [102](#).

Floodplain management — See Ch. [106](#).

Mobile homes — See Ch. [143](#).

Property maintenance — See Ch. [163](#).

§ 87-1. Title.

This chapter shall be known and may be cited as the "Electrical Code."

§ 87-1.1. Definitions.

~~As used in this chapter, the following terms shall have the meanings indicated:~~

ELECTRIC FENCE

~~Any fencing or barrier capable of delivering an electric shock to any person or animal coming into contact therewith, but does not include fences erected for enclosing pastures, crops or livestock and does not include underground invisible fencing which controls animals by use of a receiver collar worn by animals.~~

§ 87-2. Adoption of standards by reference.

A. Reference is herewith made to the ~~2008~~ [2011](#) Edition of the National Electrical Code, NFPA 70, as published by the National Fire Protection Association, as amended, to become effective ~~September 1, 2008~~ [April 1, 2012](#), and said code is hereby adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes as found herein. Statutory authority to adopt this code is granted by 30-A M.R.S.A., and 30-A M.R.S.A. § 4171 and shall cover original installations, alterations and additions, both residential and commercial and shall be in effect for the entire City of Saco. At least seven days prior to the public hearing, the purpose of which is to consider changes to this chapter, notice shall be given by regular mail, electronic mail or facsimile to all electricians who have obtained an electrical permit within the six-month period preceding the public hearing date

[~~Amended 8-4-2008~~ [new date inserted here](#)]

B. Additions, insertions and changes. The following are hereby revised as follows:

~~(1) Illumination. All locations containing electrical panels, and switchgear shall have a lighting outlet provided at or near such equipment. Where the main occupancy of the building in which the equipment is located is required by the Building Code to provide emergency lighting, all locations containing electrical panels, and switch gear shall also be provided with emergency lighting.~~ [200.6 Means of Identifying Grounded Conductors.](#)

(D) Grounded Conductors of Different Systems. Where grounded conductors of different systems are installed in the same raceway, cable, box, auxiliary gutter, or other type of enclosure, each grounded conductor shall be identified by system. Identification that distinguishes each system grounded conductor shall be permitted by one of the following means:

- (1) One system grounded conductor shall have an outer covering conforming to 200.6 (A) or (B).
- (2) The grounded conductor(s) of other systems shall have a different outer covering conforming to 200.6 (A) or (B) or by an outer covering of what or gray with a readily distinguishable colored strip other than green running along the insulation.
- (3) Other and different means of identification as allowed by 200.6 (A) or (B) that will distinguish each system grounded conductor.

The means of identification shall be permanently posted where the conductors of different systems originate

(2) 210.5 Identification for Branch Circuits.

(C) Identification for Ungrounded Conductors. Ungrounded conductors shall be identified in accordance with 210.5 (C)(1), (2) and (3).

(3) Posting of Identification Means. The method utilized for conductors originating within each branch-circuit panelboard or similar branch circuit distribution equipment shall be permanently posted at each branch-circuit panelboard or similar branch-circuit distribution equipment.

[Exception deleted under (B)]

[Amended 8-4-2008 *new date inserted here*]

~~(3) Mounting hardware used for grounding. Grounding of all electrical equipment shall not rely on mounting hardware to achieve proper grounding of said equipment.~~ 215.12 Identification of Feeders.

(C) Ungrounded Conductors. Where the premises wiring system has feeders supplied from more than one nominal voltage system, each ungrounded conductor of a feeder shall be identified by phase or line and system at all termination, connection, and splice points. The means of identification shall be permitted to be by separate color coding, marking tape, tagging, or other approved means. The method utilized for conductors originating within each feeder panelboard or similar feeder distribution equipment shall be permanently posted at each feeder panelboard or similar feeder distribution equipment.

~~(4) 210.8(A)(5) addition to exception: A single receptacle supplying a sump pump shall not have to be GFCI protected, provided that a GFCI protected receptacle is located within three feet of the non-GFCI protected outlet.~~ 334.10 Uses Permitted.

(3) Other structures permitted to be of Types III, IV and V construction except as prohibited in 334.12.

[Amended 8-4-2008 *new date inserted here*]

(5) 334.12(A)(2) Uses Not Permitted is deleted and not adopted by the City of Saco.

[Amended ~~8-4-2008~~*new date inserted here*]

(6) 702.5(B)(2) for other than single family dwellings, where automatic transfer equipment is used, and an optional standby system shall comply with (2)(a) or (2)(b). **338.12 Uses Not Permitted.**

(B) Underground Service-Entrance Cable.

(1) For interior wiring of branch circuits and feeders originating and terminating within the same building.

(2) For above-ground installations except where USE cable emerges from the ground and is terminated in an enclosure at a location acceptable to the Authority Having Jurisdiction and the cable is protected in accordance with 300.5(D).

[Amended ~~8-4-2008~~*new date inserted here*]

(7) Electric fence requirements.

(a) Any person proposing to erect an electric fence within the City of Saco shall first obtain a permit in accordance with other provisions of this Code. The Electrical Inspector, prior to issuance of a permit to install an electric fence, shall notify the Police and Fire Departments of Saco of the location of the proposed installation. Acknowledgement of the notification from both the Fire and Police Departments shall be given before any permit to install electrified fences is granted. Failure to comply with any of the design standards found in the manufacturers' installation instructions shall be a basis for denial of a permit application. Exemption: Any electric fence used in association with an agricultural use shall be exempted from this subsection.

(b) Electric fence design standards. Where an electric fence is within 100 feet of a public or private road as defined by the Saco Zoning Ordinance, it shall be posted with signs every 75 feet along the fence line facing toward the road. The signs shall state "Warning, Electric Fence, Keep Back." All warning signs shall be legible from a distance of at least 10 feet away from the electric fence. Any fence that is electrified shall not contain more than 7,000 volts and no more than nine milliamps. All fence charging equipment shall be listed by a recognized testing agency such as Underwriters Laboratories. All persons proposing to install electric fences shall provide plans in sufficient detail to determine compliance with these standards. All electric fences shall be pulse type systems. The point of electrical supply for the fence shall comply with all applicable standards of the main body of the National Electric Code. **702.4 Capacity and Rating**

(B) System Capacity.

(2) Automatic Transfer Equipment. For other than single-family dwellings, where automatic transfer equipment is used, an optional standby system shall comply with (2)(a) or (2)(b)

[Amended ~~8-4-2008~~*new date inserted here*]

(8) Smoke and heat detectors. In addition to smoke detectors required elsewhere in this Code, a smoke or heat detector shall be installed in any new attached residential garage. Installation, including wiring and power

sources for all smoke and heat detectors shall be in accordance with the provisions of the [2007 Edition of NFPA Standard 72, Chapter 11](#).

~~(9) USE cable may be used where it emerges from ground and is terminated in an enclosure at a location acceptable to the authority having jurisdiction.~~ Adoption of utility requirements. The Authority having jurisdiction may, at the request of the electrical utility company, enforce the requirements as found in the Handbook of Standard Requirements for Electric Service and Meter Installations published by Central Maine Power, effective ~~April 25, 2006~~ [January 1, 2009](#), and as amended.

[Amended ~~8-4-2008~~ [new date inserted here](#)]

(10) Removal of old wiring required. All readily accessible cable that is not properly capped and terminated and labeled for future use shall be removed.

[Amended ~~8-4-2008~~ [new date inserted here](#)]

§ 87-3. Supervising official.

The Electrical Inspector who must be licensed by the State of Maine as a Master Electrician is herewith designated as the City official to supervise and enforce this chapter. The Electrical Inspector will be under the direction of the Building Inspector, who will act as his/her immediate supervisor.

§ 87-4. Appeals.

- A.** Any person aggrieved by the decision of the Electrical Inspector with regard to the enforcement of the Electrical Code may take an appeal to the Mayor and City Council.
- B.** An appeal may be taken within 30 days from the date of the decision appealed by filing with the City Council, through its Clerk, a notice of appeal specifying the grounds thereof, except that in the case of a building or structure which, in the opinion of the Electrical Inspector, is unsafe, dangerous and a threat to life safety, the Electrical Inspector may, in his/her order, limit the time for such an appeal to seven days. The Electrical Inspector shall forthwith transmit to the Mayor and City Council all the papers upon which the action appealed from was taken.

§ 87-5. Violations and penalties.

The following provisions shall apply to violations of the laws and ordinances set forth in this chapter, and all monetary penalties shall be civil penalties.

- A.** The minimum penalty for starting construction or undertaking a land use activity without a required permit shall be \$100, and the maximum penalty shall be \$2,500.
- B.** The minimum penalty for a specific violation shall be \$100, and the maximum penalty shall be \$2,500.
- C.** The violator may be ordered to correct or abate the violations. Where the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation, unless the abatement or correction will:

(1) Result in a threat or hazard to public health or safety;

(2) Result in substantial environmental damage; or

(3) Result in substantial injustice.

D. If the City of Saco is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs, as provided by court rule.

E. The maximum penalty may exceed \$2,500 but shall not exceed \$25,000 when it can be shown that there has been a previous conviction of the same party, within the past two years, of the same law or ordinance.

F. All proceedings arising under the provisions of locally administered laws and ordinances shall be brought in the name of the City of Saco, and fines shall be paid to the City of Saco.

§ 87-6. Electrical permits and fee schedule.

Electrical permits shall be administered as provided for in [Informative Annex G H](#), Section 80.19(A) through (C) [and \(F\) through \(H\)](#) of the 2008 [2011](#) National Electric Code. The City Council shall determine fees after a public hearing.

[Amended ~~8-4-2008~~ [new date inserted here](#)]

C. AMENDMENT TO CHAPTER 163 – MAINTENANCE CODE STANDARDS – (SECOND & FINAL READING

‘Amendments to Chapter 163 Property Maintenance, dated 01/23/2012’

(Note that underlined text represents new language, while ~~strikethrough~~ represents language to be deleted.)

[HISTORY: Adopted by the City Council of the City of Saco 5-1-1995 as Ch. XIII of the 1994 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. [73](#).

Fire prevention — See Ch. [102](#).

Solid waste — See Ch. [181](#).

§ 163-1. Title.

[Amended ~~5-3-2004~~ [insert new date here](#)]

This chapter shall be known and may be cited as the "International Property Maintenance Code/~~2003~~ [2009](#) Edition."

§ 163-2. Adoption of standards by reference.

[Amended ~~5-3-2004~~ [insert new date here](#)]

A. Adoption of the International Property Maintenance Code. An ordinance establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings

and structures unfit for human occupancy and use and the demolition of such structures; known as the "Property Maintenance Code"; be it ordained by the City Council of the City of Saco as follows;

B. A certain document, three copies of which are on file in the office of the City Clerk of the City of Saco, being marked and designated as "The International Property Maintenance Code, ~~2003~~2009" as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Saco, in the State of Maine; for control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in the chapter, with the additions, deletions and changes prescribed in § [163-3](#) of this chapter.

§ 163-3. Additions, insertions and changes.

[Amended ~~5-3-2004~~*insert new date here*]

Additions, insertions and changes to the International Property Maintenance Code/~~2003~~ 2009 are set out below:

A. Section 101.1, Title (page 1, second line): insert: "The City of Saco."

B. Section 103.6~~5~~, Fees (page 2): Delete the entire section.

C. Section 106.4, Penalties (page 3): delete everything after the word "Penalty" and insert "See Code of the City of Saco, Chapter [163](#), § [163-6](#)."

D. Section 111.2: "Membership of board"(page 6) Delete "a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction." and replace with "the same body that makes up the Saco City Council and shall operate under the same rules of order it has adopted. The Chair of the Board shall be the Mayor, or in his absence, a member of the council selected by its own membership." Delete Sections 111.2.1 through 111.2.5 in ~~its~~ their entirety and replace with "See Code of the City of Saco, Chapter [163](#), § [163-5](#)."

E. Section 302.4 Weeds (page 11) Insert "12 inches."

F. Section 304.14, Insect screens (page ~~10-13~~): insert "May 1" after "the period from" and insert "October 1" after "to."

G. Sections 502.5 and 505.1 (page 19) Delete the words "International Plumbing Code" and insert the words "State of Maine Internal Plumbing Rules, 144A CMR Chapter 238."

FH. Section 602.3, Heat supply (page ~~17-21~~): insert the words "September 1 to May 15." Add to the end of this section the following: "For all dwellings covered by the scope of this section, the building owner or designated agent shall maintain and provide an adequate source of fuel for the heating equipment required by Section 602.1.unless otherwise provided for in a written lease."

GI. Section 602. 4, Occupiable workspaces (page ~~17-21~~): insert "September 1" after "the period from" and insert "May 15" after "to."

HJ. Insert new Section 602.6 on page ~~17-21~~ as follows: "Failure of owner to provide fuel: In the event of the failure of the owner or his designated agent to comply with Section 602.3, upon determination of the Code Enforcement Officer that an emergency exists, the City shall be entitled to supply the necessary maintenance or fuel. The City shall, in such case, in addition to the penalties provided for herein for violation of this code, be entitled to recover amounts expended hereunder in an action against the owner or agent, together with costs, including reasonable attorney fees."

IK. Chapter 8, Referenced Standards (page ~~21-27~~) delete the following references: "IPC-09 ICC International Plumbing Code" and replace with the following reference: "State of Maine Internal Plumbing Rules, 144A CMR Chapter 238." Delete "IZC-09 ICC International Zoning Code" without replacement. Delete NFPA 70-08 and insert "insert "NFPA-70 National Electric Code ~~2002~~ 2011" in last line.

§ 163-4. Supervisory official.

The Building Inspector/Code Enforcement Officer or his/her representative is herewith designated as the city official to supervise and enforce this chapter.

§ 163-5. Appeals. Reserved

[Amended insert new date here]

~~A. Any person aggrieved by the decision of the Building Inspector with regard to the enforcement of this code may take appeal to the Mayor and City Council.~~

~~B. An appeal may be taken within 30 days from the date of the decision appealed by filing with the City Council, through its Clerk, a notice of appeal specifying the grounds thereof, except that in the case of a building or structure which, in the opinion of the Building Inspector, is unsafe, dangerous and a threat to life safety, the Building Inspector may, in his/her order, limit the time for such an appeal to seven days. The Building Inspector shall forthwith transmit to the Mayor and City Council all the papers upon which the action appealed from was taken.~~

§ 163-6. Violations and penalties.

The following provisions shall apply to violations of the laws and ordinances set forth in this chapter, and all monetary penalties shall be civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit shall be \$100 and the maximum penalty shall be \$2,500.

B. The minimum penalty for a specific violation shall be \$100 and the maximum penalty shall be \$2,500.

C. The violator may be ordered to correct or abate the violations. Where the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation, unless the abatement or correction will:

- (1) Result in a threat or hazard to public health or safety;
- (2) Result in substantial environmental damage; or
- (3) Result in substantial injustice.

D. If the City of Saco is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule.

E. The maximum penalty may exceed \$2,500 but shall not exceed \$25,000 when it can be shown that there has been a previous conviction of the same party within the past two years of the same law or ordinance.

F. All proceedings arising under the provisions of locally administered laws and ordinances shall be brought in the name of the City of Saco, and fines shall be paid to the City of Saco.

----- End of Amendment document-----

The Council inquired as to why section 163-5 “Appeals” was struck from the Ordinance. Code Enforcement Officer Richard Lambert explained that the Council has always been the appeals board, and citizens will still be informed of their right to appeal the Code Enforcement Officer’s decision to the Council.

Councilor Smith moved, Councilor Blood seconded “The City of Saco hereby ordains and approves the Second and Final Reading of the document titled, ‘Amendments to Chapter 163 Property Maintenance, dated 01/23/2012.’” The motion passed with seven (7) yeas.

D. CONFIRM THE MAYORS REAPPOINTMENTS TO THE SHORELINE COMMISSION

The Saco Shoreline Commission exists for the general purpose of studying the continuing effects of erosion on Saco’s shorefront, as well as evaluating public usage of the beaches and other public infrastructure within a coastal

zone under the jurisdiction of the City of Saco and advising the City Council on policy matters relating to coastal erosion and use.

The Mayor has reappointed Paul Decoteau, Gil Lauzon, and Kathleen Dziadzio to the Shoreline Commission.

VII. ADJOURNMENT

Councilor Lovell moved, Councilor Smith seconded to adjourn the meeting at 9:07 p.m.

Attest: _____

Michele L. Hughes, City Clerk