

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Tuesday April 17, 2012 at 7:03 p.m. a Council Meeting was held in the City Hall Auditorium.

II. 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.

III. PLEDGE OF ALLEGIANCE

VI. CONSENT AGENDA

Councilor Smith, Councilor Tripp seconded to adopt Items A, B, C, D and E. The City of Saco hereby:

- A. Approves the Minutes of: April 2, 2012;
- B. Ordains and approves the First Reading of the document titles, ‘Code Amendment to Chapter 45 Shoreline Commission Ordinance, dated April 2, 2012’, and further moves to set the Public Hearing for May 7, 2012; and
- C. Approves the First Reading of the document titled, ‘Recommended Amendments to Chapter 106 Floodplain Management, dated April 2, 2012’, and further moves to set the Public Hearing for May 7, 2012; and
- D. Approves the First Reading of the document titled, ‘Amendment to Add Commercial School to the I-2 Use List, dated April 2, 2012’, and further move to set the Public Hearing for May 7, 2012; and
- E. Approves the Nomination of Election Clerks as presented in the document titled, ‘Republican Election Clerks for 2012-2013 by the Republican Political Party.

The motion passed with seven (7) yeas.

Below are the Consent Agenda Item Commentaries.

- A. **APPROVAL OF MUNITES: APRIL 2, 2012**
- B. **CODE AMENDMENT CHAPTER 45 – SHORELINE COMMISSION – (FIRST READING)**

CODE AMENDMENT TO CHAPTER 45. SHORELINE COMMISSION ORDINANCE

Dated: April 2, 2012

(Please note that ~~strikethrough~~ indicates deletion while underline represents new language.)

Chapter 45. CHAPTER 4. ADMINISTRATIVE CODE – ARTICLE VII. BOARDS, COMMISSIONS AND COMMITTEES - 4-39.2 SHORELINE COMMISSION

[HISTORY: Adopted by the City Council of the City of Saco 4-6-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Floodplain management — See Ch. 106.

Harbor and waterfront — See Ch. 118.

§ 45-1. Powers and duties.

- A. 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.

B. The Commission shall review and advise the City on issues relating to the Saco shoreline, including but not limited to maintenance and the care of City-owned waterfront facilities. In addition, the Commission shall advise on all dredging issues related to the mouth of the Saco River.

C. The Commission shall participate in planning efforts and review plans affecting the shoreline as required by City, state or federal rules or regulations.

D. The Commission shall make recommendations to the City Council regarding the implementation or amendment of the Camp Ellis Beach Erosion Study Committee Report of October 1997.

E. The Commission shall participate in local, regional or state coastal planning efforts.

F. The Commission shall perform other such advisory duties as are assigned to it by ordinance or by the City Council .

G. The Commission shall regularly inform the City Council and other boards, committees, commissions or officials of the City, as is appropriate, of its activities.

§ 45-2. Organization and membership; conflicts and removal; terms.

A. Saco Shoreline Commission shall consist of nine members, appointed by the Mayor and confirmed by the Council. Each Commissioner shall be a resident of the City and shall serve without compensation.

B. Neither a municipal officer nor his/her spouse may be a member of the Commission.

C. 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 members, except the member who is being challenged.

D. Commissioners may be removed by the City Council for cause, after notice and hearing. A Commissioner shall forfeit his/her membership on the Commission if he/she 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.

E. The term of office of a member shall be three years, except the initial appointments, which shall be as follows: three members for three-year terms; three members for two-year terms; and three members for one-year terms.

§ 45-3. Officers; administrative procedures.

A. A Chair, Vice Chair and Secretary shall be elected by the Commission annually.

B. The Commission shall meet at least monthly, except that the Chairperson or City Administrator may call special 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. A quorum of the Commission necessary to conduct an official Commission meeting shall consist of at least five members. The Chairman shall preside at all meetings of the Commission and shall be the official spokesman of the Commission. A simple majority of members present and voting shall be sufficient for passage of a motion.

C. The Secretary shall maintain a permanent record of all Commission meetings and all correspondence of the Commission. The Secretary shall be responsible for maintaining those records which are required as a 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 Planning Office and may be inspected at reasonable times.

D. The Commission shall adopt rules of procedure, which shall 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.

E. The Commission shall provide public notice of Commission meetings by posting agendas at City Hall at least 24 hours in advance of a meeting. All meetings shall be open to the public. The Commission may hold hearings at its discretion, upon published notice in a newspaper of general circulation at least seven days prior to the hearing.

§ 45-4. Interlocal cooperation.

The municipal officers of the City of Saco recognize the aesthetic beauty and environmental sensitivity of the ocean front and fully recognize the City's obligation to the citizens of Saco and future generations to protect such a natural resource. The City Council further recognizes that Saco's beach front, as part of the Saco Bay system, is integrally connected with beach systems in Old Orchard Beach and Scarborough and that these towns have an obligation to their citizens to protect these natural resources and, in the spirit of cooperation, hereby authorizes that the Saco Shoreline Commission join with similar commissions, committees, organizations or individuals established by the Towns of Old Orchard Beach and Scarborough to address and incorporate community needs and wishes. The Commission shall have no police powers nor authority to create regulations or ordinances or to commit funds but shall exist for the general purpose enumerated in § 45-1, Powers and duties.

§ 45-5. Definitions.

" Shoreline" shall mean that portion of Saco's waterfront affected by daily tides, excluding the portions of the shoreline within the Saco River or between the jetties at the mouth of the Saco River.

C. CODE AMENDMENT – CHAPTER 106 – FLOODPLAIN MANAGEMENT (SLAWG) – (FIRST READING)

‘Recommended Amendments to Chapter 106. Floodplain Management, dated April 2, 2012’

(Note: Language proposed to be inserted is indicated by underlining. Language proposed to be removed is indicated by a ~~strikeout line~~. All other portions of the ordinance are proposed to remain unchanged. The symbol “* * * *” indicates that a portion of the ordinance, which is not proposed to be changed, is not shown below, in order to save space.)

Chapter 106. FLOODPLAIN MANAGEMENT

[HISTORY: Adopted by the City Council of the City of Saco 3-3-1998; amended in its entirety 12-5-2005. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 73.

Cost recovery — See Ch. 83.

Mobile homes — See Ch. 143.

Sewers — See Ch. 176.

§ 106-1. Purpose and establishment.

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§ 106-2. Permit required.

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§ 106-3. Application for permit.

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§ 106-4. Application fee and expert's fee.

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§ 106-5. Review of standards for flood hazard development permit applications.

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§ 106-6. Development standards.

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All development. All development shall:

- (1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) Use construction materials that are resistant to flood damage.
- (3) Use construction methods and practices that will minimize flood damage.
- (4) Use electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (5) Include the total cost of all improvements, modifications, additions and reconstruction projects. All costs shall be accrued over the lifetime of the structure. Once the total cost of the project reaches 50% of the building's market value at the time of the first permit application following the effective date of November 7, 1983, the project is considered a substantial improvement. See the definition of "substantial improvement" in section 106-14 below.

B. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

C. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.

D. On-site waste disposal systems. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse carrying capacity. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood-carrying capacity of any watercourse.

F. Residential. New construction or substantial improvement of any residential structure located within:

- (1) Zones A1-30 and AE shall have the lowest floor (including basement) elevated to at least ~~one foot~~ three feet above the base flood elevation.
- (2) Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
- (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - (a) At least ~~one foot~~ three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
 - (b) At least three feet if no depth number is specified.
- (4) Zone A shall have the lowest floor (including basement) elevated to at least ~~one foot~~ three feet above the base flood elevation utilizing information obtained pursuant to §§ 106-3H(1)(b), 106-5B or 106-9D.
- (5) Zones V1-30 and VE shall meet the requirements of § 106-6P.

G. Nonresidential. New construction or substantial improvement of any nonresidential structure located within:

- (1) Zones A1-30 and AE shall have the lowest floor (including basement) elevated to at least ~~one foot~~ three feet above the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - (a) Be floodproofed to at least ~~one foot~~ three feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - (c) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 106-3K and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- (2) Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
- (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - (a) At least ~~one foot~~ three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map;
 - (b) At least three feet if no depth number is specified; or
 - (c) Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of § 106-6G(1).

- (4) Zone A shall have the lowest floor (including basement) elevated to at least ~~one foot~~ three feet above the base flood elevation utilizing information obtained pursuant to §§ 106-3H(1)(b), 106-5B or 106-9D; or, together with attendant utility and sanitary facilities, meet the flood proofing standards of § 106-6G(1).
- (5) Zones V1-30 and VE shall meet the requirements of § 106-6P.

H. Manufactured homes. New or substantially improved manufactured homes located within:

(1) Zones A1-30 or AE shall:

- (a) Be elevated such that the lowest floor (including basement) of the manufactured home is at least ~~one foot~~ three feet above the base flood elevation;
- (b) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and
- (c) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

[1] Methods of anchoring may include, but are not limited to:

- [a] Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or
- [b] Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

[2] All components of the anchoring system described in § 106-6H(1)(c)[1][a] and [b] shall be capable of carrying a force of 4,800 pounds.

- (2) Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
- (3) Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
- (a) At least ~~one foot~~ three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
- (b) At least three feet if no depth number is specified; and
- (c) Meet the anchoring requirements of § 106-6H(1)(c).

(4) Zone A shall:

- (a) Be elevated on a permanent foundation, as described in § 106-6H(1)(b) such that the lowest floor (including basement) of the manufactured home is at least ~~one foot~~ three feet above the base flood elevation utilizing information obtained pursuant to §§ 106-3H(1)(b), 106-5B or 106-9D; and
- (b) Meet the anchoring requirements of § 106-6H(1)(c).

(5) Zones V1-30 and VE shall meet the requirements of § 106-6P.

I. Recreational vehicles. Recreational vehicles located within:

(1) Zones A1-30 and AE shall either:

- (a) Be on the site for fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions; or
- (c) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in § 106-6H(1).

(2) Zones V1-30 and VE shall meet the requirements of either § 106-6I(1)(a) or (b) or § 106-6P.

J. Accessory structures. Accessory structures, as defined in § 106-14, located within Zones A1-30, AE, AO, AH and A, shall be exempt from the elevation criteria required in § 106-6F and G above, if all other requirements of § 106-6 and all of the following requirements are met:

- (1) Be 500 square feet or less and have a value of less than \$3,000;
- (2) Have unfinished interiors and not be used for human habitation;
- (3) Have hydraulic openings, as specified in § 106-6L(2), in at least two different walls of the accessory structure;
- (4) Be located outside the floodway;
- (5) When possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of the flooding than is the primary structure; and
- (6) Have only ground fault interrupt electrical outlets. The electrical service disconnect shall be located above the base flood elevation and, when possible, outside the special flood hazard area.

K. Floodways.

- (1) In Zones A1-30 and AE riverine areas, encroachments, including fill, new construction, substantial improvement and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) In Zones A1-30, AE, and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement and other development shall not be permitted in the floodway as determined in § 106-6K(3) unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - (a) Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

(b) Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors (FEMA 37/January 1995, as amended).

(3) In Zones A1-30, AE and A, riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones A1-30, AE, AO and A that meets the development standards of § 106-6, including the elevation requirements of § 106-6F, G or H, and is elevated on posts, columns, piers, piles, stilts or crawlspaces may be enclosed below the base flood elevation requirements, provided that all the following criteria are met or exceeded:

(1) Enclosed areas are not "basements," as defined in § 106-14.

(2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:

(a) Be engineered and certified by a registered professional engineer or architect; or

(b) Meet or exceed the following minimum criteria:

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

[2] The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and

[3] Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the entry and exit of floodwaters automatically without any external influence or control such as human intervention, including the use of electrical and other nonautomatic mechanical means.

(3) The enclosed area shall not be used for human habitation.

(4) The enclosed areas are useable solely for building access, parking of vehicles or storage.

M. Bridges. New Construction or substantial improvement of any bridge located within Zones A1-30, AE, AO, AH, A, V1-30 and VE shall be designed such that:

(1) When possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least ~~one foot~~ three feet above base flood elevation; and

(2) A registered professional engineer shall certify that:

(a) The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of § 106-6K; and

(b) The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment walls. New construction or substantial improvement of any containment walls located within:

(1) Zones A1-30, AE, AH, A, V1-30 and VE shall:

- (a) Have the containment wall elevated to at least ~~one foot~~ three feet above the base flood elevation;
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 106-3K.

(2) Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide the floodwater away from the proposed walls.

(3) Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:

- (a) At least ~~one foot~~ three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
- (b) At least three feet if no depth number is specified; and
- (c) Shall meet the requirements of § 106-6N(1)(b) and (c).

O. Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, A1-30, AE, AO, AH, V1-30 and VE, in and over water and seaward of the mean high tide if the following requirements are met:

- (1) Wharves, piers, and docks shall comply with all applicable local, state and federal regulations; and
- (2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal floodplains.

(1) All new construction located within Zones A1-30, AE, A, V1-30 and VE shall be located landward of the reach of mean high tide except as provided in § 106-6P(6).

(2) New construction or substantial improvement of any structure located within Zones V1-30 or VE shall:

(a) Be elevated on posts or columns such that:

- [1] The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to ~~one foot~~ three feet above the base flood elevation;
- [2] The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
- [3] Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

(b) Have the space below the lowest floor:

[1] Free of obstructions;

[2] Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting piles or columns; or

[3] Constructed with nonsupporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

(c) Require a registered professional engineer or architect to:

[1] Develop or review the structural design, specifications and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA-55/June, 2000); and

[2] Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of § 106-6P(2).

(3) The use of fill for structural support in Zones A1-30, AE, A, AO, V1-30 and VE is prohibited.

(4) Human alteration of sand dunes within Zones V1-30 and VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

(5) The area below the lowest floor may be used solely for parking vehicles, building access and storage.

(6) Conditional use. Lobster sheds and fishing sheds located seaward of mean high tide shall be exempt from the elevation requirement in § 106-6G and are permitted as a conditional use only upon review and approval by the Planning Board, as provided in § 106-7, and if all the following requirements and those of § 106-6A, K, and L are met:

(a) The conditional use shall be limited to low-value structures, such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

(b) The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(c) The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

(d) The structure shall have unfinished interiors and shall not be used for human habitation.

(e) Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or flood proofed to ~~one foot~~ three feet above the base flood elevation.

(f) All electrical outlets shall be ground-fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible, outside the special flood hazard area.

§ 106-7. Conditional use review.

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§ 106-8. Certificate of compliance.

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§ 106-9. Review of subdivision and development proposals.

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§ 106-10. Appeals and variances.

The Board of Appeals of the City of Saco may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this chapter. The Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;
 - (3) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and
 - (4) A determination that failure to grant the variance would result in undue hardship, which in this section means that:
 - (a) The land in question cannot yield a reasonable return unless a variance is granted;
 - (b) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (c) The granting of a variance will not alter the essential character of the locality; and
 - (d) The hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements or other development for the conduct of a functionally dependent use, provided that:
 - (1) Other criteria of §§ [106-10](#) and [106-6K](#) are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation or restoration of historic structures upon the determination that:

- (1) The development meets the criteria of § 106-10A through D above; and
- (2) The proposed repair, reconstruction, rehabilitation or restoration will not preclude the structure's continued designation as an historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of § 106-10A through E shall be notified by the Board of Appeals, in writing, over the signature of the Chairman of the Board of Appeals that:

- (1) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
- (2) Such construction below the base flood level increases risks to life and property; and
- (3) The applicant agrees, in writing, that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Reconstructed buildings in areas governed by this Floodplain Management Ordinance, may exceed the maximum height requirements of the zoning ordinance, without the need for a variance, only if the requirements of section 504-2A of the Zoning Ordinance are met.

G H. Appeal procedure for administrative and variance appeals.

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after the receipt of a written decision of the Code Enforcement Officer or Planning Board.
- (2) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (3) The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.
- (4) The person filing the appeal shall have the burden of proof.
- (5) The Board of Appeals shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
- (6) The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(7) Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Board of Appeals.

§ 106-11. Enforcement; violations and penalties.

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§ 106-12. Validity and severability.

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§ 106-13. Conflict with other ordinances.

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§ 106-14. Definitions.

Unless specifically defined below, words and phrases used in this chapter shall have the same meanings as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

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LOCALLY ESTABLISHED DATUM

For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the ~~National Geodetic Vertical Datum (NGVD)~~ North American Vertical Datum (NAVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

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MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the ~~National Geodetic Vertical Datum (NGVD) of 1929~~ North American Vertical Datum of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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NATIONAL GEODETIC VERTICAL DATUM (NGVD)-NORTH AMERICAN VERTICAL DATUM (NAVD)

The ~~national geodetic~~ North American vertical datum, whose standard was established in ~~1929~~ 1988, and adopted by the National Geodetic Survey in 1991 to replace the NGVD 1929 datum. NAVD 1988 which is used by the National Flood Insurance Program (NFIP), and has been used on Saco's Flood Insurance Rate Maps since 2006. ~~NGVD was based upon mean sea level in 1929 and also has been~~ NAVD 1988 can also be called "1929 Mean Sea Level (MSL)."

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SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure and a variance is obtained from the community's Board of Appeals.

C. Any completed project to elevate a building or structure, to a height of one (1) foot or more above the base flood elevation, for which a building permit was issued after November 7, 1983 and prior to May 1, 2012.

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Zoning Ordinance: Article 5 - Nonconformance

Section 501. Purpose

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Section 502. Nonconforming Lots

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Section 503. Nonconforming Uses

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Section 504. Nonconforming Structures

504-1. MAINTENANCE AND ENLARGEMENT

1) A structure in existence as of the effective date of this Ordinance which does not meet the lot and yard requirements in Section 412 may be repaired, maintained and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that the enlargement or accessory structure itself meets the setback and height requirements of the district in which it is located and that the enlargement or accessory structure in combination with the existing structure does not exceed the prescribed maximum lot coverage.

2) The following activities shall not constitute an enlargement or creation of a nonconforming structure, and may encroach into front, side or rear yard setbacks, without the need for a variance from the Board of Appeals, if any of the following conditions are present:

a) the addition of an open patio with no structure elevated above ground level, ~~except in~~ and the addition is outside of the Mandatory Shoreland Zone;

b) the addition of steps from the first floor to the ground level in any zone;

c) the placing of a foundation below a nonconforming structure in any zone.

Note: The Maine DEP Shoreland Zoning reviewer has tentatively agreed to these above amendments, as well as to section 504-2A below. Any amendments affecting Shoreland Zoning must be submitted to DEP for approval after adoption by Council.

3) FURTHER LIMITATIONS IN SHORELAND ZONES (Amended 6/29/09)

Except as otherwise provided in this Article, a non-conforming condition shall not be permitted to become more non-conforming. Further limitations and exceptions in the Shoreland Zones:

a. After January 1, 1989 if any portion of a structure is less than the required setback from a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of

Section 504-2 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 504-4. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with this section, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

c. No structure which is less than the required setback from the normal highwater line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

d. Two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of the Shoreland provisions in this Ordinance shall be considered one lot.

(Amended 4/21/92)

504-2. RECONSTRUCTION

Any non-conforming building or structure which is removed, damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with all dimensional requirements of this Ordinance to the greatest extent practical as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 504-1(3) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 504-4.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction or removal.

504-2A. RECONSTRUCTION IN FLOODPLAINS

Any building in existence prior to January 1, 2012, which is located in an area of special flood hazard and which is thereafter substantially improved, as defined in Chapter 106 of the Saco City Code, may be elevated pursuant to the standards of Chapter 106, and may be allowed to exceed the height limits of this ordinance without need for a variance from the Board of Appeals, as long as all of the following standards are met.

- a. If the building, prior to reconstruction, had a height of 30 feet or greater, as defined by this ordinance, upon reconstruction, the vertical distance from the top of the building to the level of the base floor elevation may be maintained or lowered, but in no event shall it be increased.
- b. If the building, prior to reconstruction, had a height of 30 feet or greater, as defined by this ordinance, the overall height of the reconstructed building, as defined by this ordinance, may exceed the required height in

the zone in which it is located without the need for a variance, but by no more than the distance that the base floor elevation is raised above its existing position during reconstruction.

- c. If the building, prior to reconstruction, had a height of less than 30 feet, as defined by this ordinance, the building shall not be allowed to be reconstructed higher than the maximum height requirement, unless a variance is applied for and granted by the Board of Appeals.
- d. Any reconstructed building shall meet all of the requirements of the Department of Environmental Protection Sand Dune Act and Regulations, if it is located in a designated Dune Area.

D. ZONING ORDINANCE AMENDMENT: COMMERCIAL SCHOOL IN I-2 DISTRICT – (FIRST READING)

‘Amendment to Add Commercial School to the I-2 Use List, Dated April 2, 2012’

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

410-12. I-2 INDUSTRIAL BUSINESS DISTRICT (ed. note: includes I-2b district at former Maine Turnpike Exit 5) (Amended 8/1/88, 9/19/88, 3/2/92, 3/16/92, 4/1/91, 6/4/91, 7/6/93, 7/6/93, 2/28/94, 2/19/02)

PERMITTED USES

1. Hotels and motels
2. Retail uses (I-2b only)
3. Accessory uses, including eating establishments associated with hotels and motels
4. Teen Center
5. Financial institutions
6. Business offices
7. Business services
8. Hospitals and clinics for humans
9. Research and testing labs
10. Light Industry
11. Any use permitted in the Resource Protection District
12. Essential services
13. Municipal Uses
14. Recycling center
15. Nursery School
16. Adult day care center, Type 1 and 2
17. Municipal animal incinerator
18. Enclosed Sports Arena
19. High Voltage Transmission Lines (Amended 12/15/08)
20. Commercial School

CONDITIONAL USES

1. Self-service storage units (Amended 10/2/86)
2. Distribution (including not more than 10% of gross floor space for retail purposes)
3. Public and private schools

4. Day Care Centers
5. Registered dispensary, grow-only (Amended 7/19/10)
6. Addiction Treatment Facility (Amended 12/6/10)

E. NOMINATION OF ELECTIONS CLERKS 2012-2014

Republican Election Clerks for 2012-2014				
Name	Mailing Address	City	Zip Code	Phone
Barbara Prentiss	154 Loudon Rd	Saco	04072	282-0310
Carol Patterson	105 New County Road	Saco	04072	282-0601
Lawrence Patterson	105 New County Road	Saco	04072	282-0601
Edna Leary	269 Flag Pond Rd	Saco	04072	282-0001
James Leary	269 Flag Pond Rd	Saco	04072	282-0001
Joanne Leary	65 Ricker Road	Saco	04072	284-6963
Midge Sanborn	36 North Avenue	Saco	04072	
Barbara Field	16 Charles St.	Saco	04072	282-2656
Jan Clark	221 Ferry Road	Saco	04072	282-2083
Richard Clark	221 Ferry Road	Saco	04072	282-2083
Louise Hughes	412 Buxton Road	Saco	04072	284-5878

V. AGENDA

A. PROCLAMATION – PRESCRIPTION DRUG ABUSE PREVENTION WEEK

The Northern York County Prescription Drug Coalition is coordinating a Prescription Drug Abuse Prevention Campaign. The campaign will provide information and education for health care professionals, educators, law enforcement officers, patients and the general public, while advocating for a community-wide safe medication disposal program.

Prescription drug abuse is an issue that affects the lives of Saco’s residents and visitors, and the most effective tool against prescription drug abuse and addiction is prevention through education, collaboration, policy change and changing the environment in which the behavior occurs.

Got Drugs? On Saturday, October 29th from 10 a.m. – 2 p.m. you can turn in you unused, unwanted or expired medications for safe disposal. This includes prescription, over-the-counter or veterinary pills, drops and ointments.

Mayor Mark D. Johnston proclaimed April 22-28, 2012 as ‘York County Prescription Drug Abuse Prevention Week’.

Councilor Tardif moved, Councilor Smith seconded to accept the proclamation. The motion passed with seven (7) yeas.

IV. GENERAL

WATER ENVIRONMENT FEDERATION WILLIAM D. HATFIELD AWARD – HOWARD CARTER, DEPUTY DIRECTOR OF THE WASTEWATER TREATMENT PLANT

Mayor Johnston announced that at the New England Water Environment Association 2012 Annual Conference – Howard Carter, WWTP Deputy Director was presented with the prestigious ‘William D. Hatfield Award for 2012’ for Outstanding Performance and Professionalism in the Operation of a Wastewater Treatment Facility.

The William D. Hatfield Award is given to operators of wastewater treatment plants who through their outstanding performance and professionalism deserve commendation. The Member Associations control the process of selection but the Federation has set up a general system of criteria. These include a successful system of reports from the operator to his superiors that fulfill the informational requirements of his supervisors and provide the operator with a forum for suggestions for improvements. Consideration is given to the financial acumen of the candidate and use of a good public relations program. Finally, the nominee should have contributed to the dissemination of information concerning advancements in the field.

Howard Carter, WWTP Deputy Director just turned over the “President” reigns, having served as NEWEA President for one year. At the recent convention, Howard facilitated a presentation titled, “Improvements at Saco WWTP” – the presentation focused on the recent upgrade of our facility and highlighted the energy conservation measures taken. Additional information was also presented with regard to the treatment plant’s renewable energy systems that have been utilized throughout not only the treatment plant but encompassing the entire city infrastructure.

VII. ADJOURN THE MEETING

Councilor Blood moved, Councilor Tardif seconded to adjourn the meeting at 7:15 p.m.

ATTEST: _____
Michele L. Hughes, City Clerk