

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, November 19, 2012 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor 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, Eric Cote and Marston Lovell. Councilor Tardif was excused this evening. City Administrator Rick Michaud was also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

A. ELECTION DAY STAFF APPRECIATION

Mayor Johnston thanked all the Departments Heads, their staff and temporary election workers who assisted with the November 6, 2012 Pre Election, Election Day, and Post Election activities, for a well-run election. There were 3,530 absentee ballots cast, 6,581 people who went to the polls to vote and 778 people who registered to vote at the polls.

B. SACO LITTLE LEAGUE STATE CHAMPION CONGRATULATIONS

Mayor Johnston welcomed the Saco Little Leaguer's, Managers, Coaches and families. On behalf of the City Council and the Citizens of Saco, I would like to take this opportunity to recognize the Saco Little League – 10 and 11- year old All Star teams, their coaches and families, for winning the Maine State Little League Championship this past July for the 10 year olds and August for the 11 year olds.

We are proud of both teams who demonstrated exceptional teamwork and commitment in order to achieve their winning results.

Congratulations to the Saco Little League 10 & 11-Year-Old All-Star team, led by Manager Todd Duchaine and Coaches Ryan Chessie and James Searle-Belanger, for their 8 to 5 victory in winning the Championship Game against Westbrook inWaldoboro.

Mayor Johnston presented certificates of recognition to the following players on Manager Duchaine's team:

Zachary Ahmida	Michael Bourgault	Anthony Bracamonte
Luke Chessie	Andrew DeGeorge	Matthew Duchaine
Eric McCallum	Daniel McLeer	Ean Patry
Hunter Penley	Brogan Searle-Belanger	Timmy Smith
Manager Todd Duchaine	Assistant Coach Ryan Chessie	Assistant Coach James Searle-Belanger

Congratulations to the Saco Little League 9 & 10-Year-Old Little League All-Star team, led by Manager Shawn Gaudette and Coaches Bryan Christoforo and Jim Penney, for their 7 to 3 victory in winning the Championship Game against Hampden-Newburgh in Scarborough.

Mayor Johnston presented certificated of recognition to the following players on Manager Gaudette's team:

Samuel Center	Calvin Christoforo	Jackson Cochrane
Grant Dow	Kobe Gaudette	Ben Ham
Luke Ham	William Mitchell	Ryan Penney
Patrick Sawyer	Cameron Schaffer	Ethan Tsomides
Manager Shawn Gaudette	Assistant Coach Bryan Christoforo	Assistant Coach Jim Penney

Manager Gaudette also thanked all the sponsors from Saco, Biddeford & Old Orchard Beach that stepped up and helped out the Saco Little League.

C. POLICE DEPARTMENT COMMENDATION

On July 26, 2012 at approximately 7:30 PM the Hart family of Lyman was visiting the Kia dealership on the Portland Road. At that time, Mr. William Hart collapsed, suffering an apparent heart attack. As his wife Holly called 9-1-1, son Collin quickly put his lifeguard training to use, performing one-person CPR until officers Nicholas Stankevitz & Mathew Yeaton arrived. It's a good thing Collin was there, as Bill had stopped breathing and he was in complete cardiac arrest.

Upon arrival the officers quickly assessed the situation and immediately connected the Automatic External Defibrillator (AED) to Mr. Hart, whose heart was re-started four times at the scene. William Hart has now completely recovered.

The quick reactions of the officers and the teamwork they displayed can be credited with saving the life of William Hart and they are hereby recognized. Also, Collin's cool-headed action during this situation is directly responsible for saving his father's life and he is hereby recognized.

Mayor Johnston presented commendation plaques to Mr. Collin R. Hart, Patrol Officer Nicholas Stankevitz and Patrol Officer Mathew Yeaton.

D. PLAYGROUND EQUIPMENT APPRECIATION

The completion of the Eleanor Clare Paye Memorial Playground has been made possible through the dedication, support, and hard work of the Saco Community. The Parks & Recreation Playground Committee spearheaded the effort with an initial \$15,000 grant award which was then matched by the City along with generous donations from both the business and civic community.

The work of the Saco Playground Committee toward this playground project spanned 18 months. Noted accomplishments include receiving the most votes nationwide in the playground grant contest, hosting a play day event in downtown Saco, and receiving the distinction for Saco as a "Playful City USA" for two years standing. Saco is the first and only community in Maine to have been honored with this recognition by the national non-profit KaBOOM!.

On Saturday October 13th, 2012, the Playground Committee hosted "Build Day at Young School". Community volunteers comprised of parents, grandparents, donor groups, and civic organizations all came together to assemble and install the new playground. The day was both celebratory and emotional as Eleanor Paye's mother Beth Savage spoke of her daughter who has passed and the family's gratitude in preserving her memory in such a joyful way.

On behalf of the City of Saco we'd like to give special thanks to the members of the Parks & Recreation Playground Steering Committee (Chair: Samantha Johnson; Vice-Chair: Michelle Arsenault; Business Representative: Jeanette Garvilles; Municipal Representative: John Sherman; Members at Large: Erika Dube, Shaun Jordan, Heidi Pare, Donna Sewell, and Stephanie Wagner), our donors, the Eleanor Clare Paye family, and all of the many volunteers and food donors who participated in Build Day.

This has been a truly collaborative community experience, one that will benefit generations of Saco children for years to come.

THORNTON ACADEMY TROJANS FOOTBALL TEAM – STATE CHAMPIONS

Mayor Johnston noted that it has been a great week for the City of Saco, particularly for Thornton Academy's Trojan Football Team which did an outstanding job in winning the State Championship.

V. AGENDA

A. REPORT FROM BIDDEFORD SACO WATER COMPANY

Jerry Mansfield from the Biddeford Saco Water Company introduced their new partners: Eric Thornburg from the Connecticut Water Company and Judy Wallingford from the Main Waters Company. These are partners that share our missions and values and bring with them resources that we at the Biddeford Saco Water Company could only dream of ever having on our own.

Connecticut Water Company Representative Eric Thornburg – Our company founded on the premise of service because public water touches everything that we care about. It provides for public health, public safety, economic development and recreation as well. So we approach our responsibility of just that. We need to be good stewards of the water system and provide for the support of the community going forward. We announced our coming together as an organization back in July and we have recently gotten approval from the State of Maine to proceed and we would expect to finalize our partnership in the middle of December and close it by the end of the year.

Maine Water Company President Judy Wallingford – Maine Water Company serves 17 communities around the State. Our companies are very similar in how we approach what we do and our core values are fundamentally how we do what we do each day. Making sure we are serving the customers and being part of the community and making sure that we are stewards of the environment and providing a rewarding career for our employees. The water systems here as are in all of Maine very old with lots of infrastructure that is aging and will eventually need to be replaced. That is one of the reasons why this partnership is happening because we can bring active capital that may have been more difficult for the Biddeford Saco Water company as a stand-alone entity. We are hoping this transition is seem-less for the customers. The 27 employees at the Biddeford Saco Waters Company will all keep their jobs, the office will stay here, and you will continue to call the same numbers for service. A Customer Advisory Committee will be formed with representatives from all 4 communities. The committee will work with us to help us set the future and to set priorities as we go forward. We will also be hiring a Consulting Engineering Firm that will be doing a comprehensive look at the entire water system to give us an assessment and outline what the priorities are.

B. STACKPOLE CREEK BRIDGE AD HOC COMMITTEE RECOMMENDATION

Over the past 11 years, the Public Works Department (DPW) has worked with CLD Consultants, Inc., to provide monitoring, temporary stabilization work, and ongoing evaluation of the structural integrity of the stone arch bridge over Stackpole Creek on the Simpson Road. Following City Council acceptance of CLD's most recent recommendations in February 2012, the committee held a joint meeting with the Buxton Board of Selectmen on March 6 to discuss the bridge and possible solutions.

On March 19, the Council voted to create an Ad Hoc Committee to consider the future of Simpson Road and the Stackpole Creek Bridge.

As directed, the 15 member Committee including Saco and Buxton residents, elected representatives, and staff met twice to review data collected to date and to decide on a recommendation for the Council.

After the first meeting of the committee, a 'Request for Proposals' was circulated and a structural engineering firm with a specialty in historic preservation, 'Structures North', was hired to prepare a report for the committee – recently reviewed at the November 8th committee meeting.

Both the report and the Committee considered all recommendations: the 2007 deGruchy report, the more recent CLD reports, and the Structures North report. The Committee voted unanimously to recommend to the Council that the Structures North plan for restoration of the bridge be accepted and implemented.

Councilor Tripp moved, Councilor Smith seconded “Be it ordered that the City Council accept the report titled, ‘Stackpole Creek Bridge, Saco, dated October 22, 2012 prepared by Structures North Consulting Engineers, Inc.’. Further move to approve the Order. The motion passed with six (6) yeas.

Councilor Tripp thanked Angela Blanchette, Bob Hamblen and all that participated on this project for all their hard work and patience on this long project. He also thanked both the Public Works & Police Departments in Buxton.

C. CODE AMENDMENTS TO CHAPTER 219 VICTUALERS’ LICENSE – (PUBLIC HEARING)

“Amendments to Chapter 219 VICTUALERS’ LICENSES, dated September 17, 2012”

(Please note underline is new language, while ~~strikethrough~~ is deleted language)

GENERAL REFERENCES

License and registration — See Ch. [132](#).

§ 219-1. Purposes.

A. The City of Saco has historically regulated victualers doing business within the City by licensing pursuant to specific legislative authority found at 30-A M.R.A. § 3811 et seq. The State of Maine Legislature recently repealed that part of 30-A M.R.S.A. § 3811 concerning victualers. The City Council believes that given the necessity of protecting public health and safety, and assuring public confidence in the sale of food, food stuff and food products by local merchants, that it is prudent to enact a supplementary licensing ordinance to regulate victualers.

B. Therefore, pursuant to Saco's Home Rule authority (see also 30-A M.R.S.A § 3001), as well as the inherent police powers of the City to protect public health, safety and welfare of its citizens, Saco enacts the following ordinance provisions.

§ 219-2. License required; applicability.

A. Any person, business, entity, corporation or association who or which offers to sell, prepare, promote or otherwise provide to the public any food, food stuff, food product or other edible materials must first secure a license from the City Clerk to do so.

B. Undertaking the sale, promotion or providing of materials described above in Subsection [A](#) without a license is a violation of this chapter punishable by a fine of \$100 for each and every day such violation occurs. The City will treat each day as a separate violation, if additional and/or subsequent violations occur.

C. This chapter applies to any person, business, entity, corporation, etc., ~~whether for profit or nonprofit, which or~~ who operates within the City of Saco and its boundaries unless exempted by 219-2 (D). Full-time businesses, ~~such as franchises (McDonalds, Pizza Hut, etc.), seasonal businesses, (Fun Town, clam shacks, drive ins, etc.)~~ as well as short-term or one-time vendors (~~sidewalk Arts Festival, LaKermesse, etc.~~) must all secure victualer's licenses. The duration of operation is irrelevant to the obligation to secure a license.

D. Any public or private school; any booster group raising funds for school activities or sports programs; any non-profit organization selling food or drink to raise funds for charitable causes, educational activities or public agency programs; or any food sold only through vending machines shall be exempt from the provisions of this ordinance.

D.E. Every person, business, entity, corporation, etc., which meets the applicability of this chapter is herein deemed to require and need a license. The failure to secure a license and the City's failure to detect such violation shall not constitute permissive waiver of any obligation under this chapter by the City.

§ 219-3. Standards for issuance.

A. Review by clerk. The clerk shall review all applications for victualers' licenses. No license shall be granted by the clerk until the applicant has satisfied the following conditions:

- (1)** Completed all requests for information required by the Clerk.
- (2)** All personal property taxes are current and paid.
- (3)** All other City fees or charges such as sewer user fees, etc., are current and paid.
- (4)** The applicant is operating, or proposes to operate, in an area lawfully zoned for such activity
- (5)** Evidence that the victualer and/or facility will assure the public health as concerns fire safety.
 - ~~**(a)** Pest and animal control;~~
 - ~~**(b)** Proper garbage disposal;~~
 - ~~**(c)** Fire safety;~~

 - ~~**(d)** Appropriate refrigeration;~~
 - ~~**(e)** Ventilation; and~~
 - ~~**(f)** Lavatories.~~

(6) The application will comply with the State of Maine Rules for Eating and Lodging Relating to the Administration of Establishments Licensed by the Eating and Lodging Program 10-144 CMR 201 and the Maine Food Code, 10-144 CMR 200 and 01-CMR 331 as prepared and published by the Department of Health and Human Services and as amended from time to time, which rules are adopted herein by reference. Evidence of compliance shall be in the form of a license issued to the applicant pursuant to said rules.

B. Fee and license form. Only upon satisfaction of the above conditions and only upon payment of the license fee established by the City Council after a public hearing shall the Clerk issue a license to the applicant. The fee, if the applicant sells beer and wine, and if the applicant serves alcohol other than beer and wine shall be established by the City Council after a public hearing. The license shall state the legal name of the person, business or entity licensed; the address of their place of business; telephone number; term of license; and a license number. The form of the license shall be uniform among license holders and shall be determined by the Clerk.

[Amended 4-7-2003]

C. Standards for denial. If the Clerk finds substantial and credible evidence that one or more of the above conditions (Subsection **A** above) have not been met by the applicant, then the Clerk shall deny the applicant a license. However, the applicant may request a re-review ~~and inspection~~ after an initial denial of license. If the applicant subsequently corrects, abates, meets or otherwise satisfies the above conditions, the Clerk shall then issue the applicant a victualer's license. ~~If the City reinspects or reviews the applicant's facilities, an additional charge of \$25 shall be paid upon issuance of the license.~~ Under all circumstances, the Clerk shall provide to the applicant all material supporting the decision to deny a license.

D. Time for review. The Clerk shall make a determination under Subsection **A** of this section in a period of ~~21~~ **30** days.

§ 219-4. Revocation or suspension of license.

A. Grounds. A victualer's license may be suspended or revoked upon a determination of the existence of one or more of the following grounds, provided that there are serious and substantial incidents warranting suspension or revocation:

- (1) Knowingly making an incorrect or false statement of a material nature on the application form or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable or failure to pay any fee required hereunder.
- (2) The license holder has caused or suffered more than one serious breach of the peace on the premises;
- (3) The business or persons patronizing the business present a clear danger to the public;
- (4) The license holder has willfully violated a provision of this chapter or other ordinance of the City of Saco;
- (5) Personal property taxes or sewer user, access or hook-up fees are due and owing to the City and are determined to be in arrears as of the date of the license request;
- (6) The license holder has repeatedly violated and/or failed to correct and comply with the standards set forth in the State of Maine ~~Rules on Eating and Lodging as incorporated herein~~ Food Code, 10-144 CMR 200 and 01-CMR 331;
- ~~(7) The license holder has two or more violations of license conditions described in § 219-6 or such other acts or conduct found to be detrimental to the citizens or community, such as, but not limited to, knowingly selling, promoting or providing adulterated, contaminated or illegal food or foodstuff; or~~
- ~~(8) The license holder fails to adequately and sufficiently control garbage or pests, has provided or maintained improper or insufficient ventilation or refrigeration, has not provided adequate lavatories or otherwise presents a health or safety risk to the public.~~

B. Complaints. Any citizen or public official of the City can file and/or initiate a complaint against a license holder. Complaints will be kept and maintained by the Clerk and may be considered when and if a license seeks a renewal of their license in a succeeding year.

C. Standards for suspension or revocation. If the Clerk finds substantial and credible evidence that one or more of the conditions described in § 219-4 ~~A~~ have been met, then the Clerk shall notice the license holder of the problem, and they shall have seven days to correct or abate the situation. ~~The City shall reinspect the premises at the end of seven days.~~ If the license holder has failed to correct or abate the problems cited by the City, then the Clerk shall suspend the license. The Clerk shall provide all materials supporting the decision to the aggrieved party.

§ 219-5. Term of of license.

A. Expiration. All licenses shall expire May 31 of each calendar year.

B. Renewals. License holders may renew their licenses each year but must reapply to the Clerk per § 219-3. The applicant seeking renewal must meet all of the qualifying conditions set forth in §§ 219-3 and 219-6. In processing applications, the Clerk shall give precedence to license renewals over the issuance of new licenses.

§ 219-6. License conditions.

A. A license holder ~~must abide by the State of Maine Rules Relating to the Administration of Establishments Licensed by the Eating and Lodging Program 10-144 CMR 201 and the Maine Food Code, 10-144 CMR 200 and 01-CMR 331~~ will not permit a person with a contagious or communicable disease from working in any area where food, food stuffs or food products are being cooked, assembled or prepared.

~~**B.** A license holder shall provide adequate sanitation of all facilities, work areas, utensils, equipment and supplies and shall keep their premises neat, clean and free of litter and rubbish.~~

~~**C.** Clean lavatories will be provided at all times on the premises and shall be accessible at all times the premises is open unless no lavatories are on site. All lavatories shall provide running water and soap or detergent for hand washing along with adequate drying supplies or equipment. Doors in such lavatories shall come equipped with locks, and the lavatories shall be well lighted and ventilated.~~

~~**D.** All garbage or rubbish shall be stored in closed containers at all times in areas away from food preparation. Garbage shall be disposed of on a regular basis such to prevent a nuisance or unsanitary conditions.~~

~~**E.** Adequate sewage disposal must be provided and maintained at all times.~~

~~**F.** No license holder may refuse to serve a member of the public who has funds and is not disturbing the peace.~~

~~**G.** An applicant requesting a license must permit inspections of the premises at random times determined by the City. Such permission to access all parts of the premises at the time of choosing by the City is a specific condition of the license. *Editor's Note: Former Subsection H, pertaining to advertisement, which immediately followed this subsection, was repealed 8-5-1999.*~~

§ 219-7. Appeals.

A. Time period. An appeal to the City Council may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Clerk by filing a notice of appeal within 30 days of the decision. Every appeal should be in writing and shall state the basis for the appeal. The City Council shall hear the appeal within two weeks after the filing of the appeal and may affirm, reverse or modify the decision appealed from.

B. Evidence. On appeal, the Council shall review the decision of the Clerk to determine whether the decision was based upon substantial evidence and compliance with the standards of the chapter. The Council may take additional evidence with respect to such decision or action and, if additional testimony or evidence is taken, shall determine the appeal upon all of the evidence presented.

C. Appeal from City Council. Any person aggrieved by the Council's decision on appeal may appeal to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

§ 219-8. Assignment of licenses.

A. Assignment. A victualer's license may not be assigned, pledged, sold or otherwise transferred by the license holder to any other person, business or entity. The license belongs solely to the original applicant and shall remain in the applicant's name for the duration of the license.

B. If any person, business or entity transfers or attempts to transfer their license, such act shall result in immediate termination of the license. Any sale, promotion or providing of any materials described in § [219-2](#) thereafter will be a violation of this chapter punishable by a fine of \$100 per day.

§ 219-9. Display.

A. The license holder shall display at all times their license in a place and manner visible to the public for its review.

B. The failure to so display a victualer's license is a violation of this chapter punishable by a fine of \$100 per day for each violation.

§ 219-10. Enforcement.

A. The City shall enforce this ordinance by civil citation and summons deliverable by the Saco Police Department.

B. Any and all fines or penalties secured from violations of this ordinance shall be payable to the City's general fund.

§ 219-11. Registration.

Those persons, businesses, corporations or entities who or which require a victualer's license pursuant to this chapter need not secure a business registration as required under Chapter [132](#) of this chapter. A license issued pursuant to this chapter shall constitute registration as required by Chapter [132](#), and compliance with the terms of this chapter shall constitute compliance with the terms of Chapter [132](#).

-----End of Code Amendment Document-----

Councilor Cote moved, Councilor Lovell seconded to open the Public Hearing. The motion passed with unanimous consent.

There were no comments from the public.

Councilor Cote moved, Councilor Blood seconded to close the Public Hearing and “Be it Ordered that the City Council set the Second and Final Reading of the document titled, ‘Amendments to Chapter 219 Victualers’ Licenses, dated September 17, 2012’, for December 3, 2012.” Further move to approve the order. The motion passed with six (6) yeas.

D. RENEWAL APPLICATION FOR SPECIAL ENTERTAINMENT PERMIT – SACO EAGLES AERIE #3792 – (PUBLIC HEARING)

Saco Eagles Aerie #3792 has applied for a renewal of their Special Entertainment Permit. The permit will be concurrent with the establishment’s liquor license.

The applicant has paid all applicable permit fees and the clerk has properly advertised the public hearing in accordance with the Saco City Code, Chapter 93 - Entertainment §93-2.

Councilor Doucette moved, Councilor Blood seconded to open the Public Hearing. The motion passed with unanimous consent.

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 the Saco Eagles Aerie #3792 for a Special Entertainment permit to be concurrent with the establishment’s current liquor license”. Further move to approve the Order. The motion passed with six (6) yeas.

E. CONFIRM THE CITY ADMINISTRATOR’S PUBLIC WORKS DIRECTOR APPOINTMENT

Mike Bolduc, Public Works Director is leaving employment with the City of Saco after 33 years of dedicated service. His last day of employment is Friday December 7, 2012.

The City Administrator has appointed a new Public Works Director – Pat Fox who is currently the Deputy Director at Public Works to the position.

As required by City Code, the Council is required to confirm the Administrator’s appointment to become effective Monday December 10, 2012.

Councilor Smith moved, Councilor Tripp seconded “Be it Ordered that the City Council hereby confirm the City Administrator’s appointment of Pat Fox as the Public Works Director. “ Further move to approve the Order. The motion passed with six (6) yeas.

VI. CONSENT AGENDA

Councilor Lovell asked that item # 1 Downtown Zoning be voted on separately.

Councilor Tripp moved, Councilor Blood seconded to approve Consent Agenda items #2, 3 and 4. The motion passed with six (6) yeas.

2. Ordains and Approves the First Reading of the document titled, ‘Amendments to Chapter 118 Harbor, River and Waterfront, dated November 5, 2012’, and further move to set the Public Hearing for December 3, 2012;
3. Grant the applications for a License to Operate Beano/Bingo & Games of Chance as follows: Bingo, 1 game from January 1, 2012 to December 30, 2012; Cribbage, Daily Attendance, Pull Tickets, & Queen of Hearts, 1 game of each from January 1, 2012 – March 31, 2012, as submitted by the Biddeford & Saco Elks #1597.;
4. Approve the results of the November 6, 2012 State General/Referendum & RSU #23 Budget Validation Referendum Election as presented.

Further move to approve the Order. The motion passed with six (6) yeas.

1. ZONING ORDINANCE AMENDMENTS - DOWNTOWN ZONING – (FIRST READING)

The City Council adopted the 2011 Update of the Comprehensive Plan on March 8, 2011. Since that time, the Planning Board and staff have been drafting Ordinance language to implement the Plan’s intent. A number of ordinance changes to date have been processed and approved by Council.

Proposed at this time are another six of the remaining list of Ordinance changes. These changes are largely housekeeping in nature and correct longstanding inconsistencies in downtown zones. The proposed changes would affect the B-1, B-3 and R-3 districts.

Included are draft updates to the B-1 zone that would re-name it from the “General Business” district to the “Scamman Street Shopping Center” district and fine-tune the allowed uses. Also proposed, is the realignment of zoning boundaries affecting individual parcels or small clusters of parcels in the downtown.

The Planning Board forwarded these Zoning Ordinance amendments to the City Council on June 22, 2011, and discussed them in a joint workshop with the Council on March 5, 2012.

Councilor Cote moved, Councilor Tripp seconded “The City of Saco hereby ordains and approves the First Reading of the document titled, ‘Amendments to Zoning Ordinance to Implement the Recommendations of the City’s Adopted Comprehensive Plan with Respect to the B-1 Zoning District’, and ‘Proposed Changes Downtown Zoning Map’, dated November 5, 2012, and further moves to set the Public Hearing for December 3, 2012.” The motion passed with six (6) yeas.

2. CODE AMENDMENT CHAPTER 118 HARBOR, RIVER AND WATERFRONT – (FIRST READING)

“Amendments to Chapter 118. HARBOR, RIVER AND WATERFRONT, dated November 5, 2012”

(Please note underline represents new language, while ~~strikethrough~~ is language proposed for deletion)

[HISTORY: Adopted by the City Council of the City of Saco 5-16-2006; Editor's Note: This ordinance also superseded former Ch. 118, Harbor and Waterfront, which was comprised of Art. I, River and Bay Regulations, adopted 4-18-1995, as amended; Art. II, Camp Ellis Pier, Parking Lot and Public Landing Regulations, adopted 4-18-1995, as amended; and Art. III, Traffic on Beach and Dune Areas, adopted 5-1-1995 as Ch. XX, Sec. 20-7 of the 1994 Code. amended in its entirety 5-4-2009. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

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

Article I. General Regulation of Waters

§ 118-1. Title; purpose.

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

§ 118-2. Scope and enforcement.

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

§ 118-3. Violations and penalties; manner and method of service.

A. Penalties. Whoever violates any of the provisions of this chapter is guilty of a separate offense for each day, part of a day, or event during which the violation is committed, continued, or permitted. Unless stated elsewhere, each offense, upon conviction, is punishable by a civil penalty of not less than \$100 and not more than \$2,500.

B. Violations:

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

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

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

C. Manner and method of service. Notice to owner or to persons responsible for a violation of this order shall be made in the following manner and method. At the discretion of the acting authority, a warning may be issued verbally or in writing, so long as such warning is recorded and made available for future reference. If, in the discretion of the acting authority, a citation is deemed necessary, such citation will be issued in the following manner:

(1) The citation includes the name of the responsible person and/or owner, the date and time of the violation, a general reference location for the violation, a description of the violation and the location of and date of appearance at the local court having jurisdiction;

(2) The citation used is authorized and accepted by the District Court of the State of Maine;

(3) Service of the citation is made upon the violator by a person authorized under law to make such service; and

(4) The completed citation is properly recorded in the District Court of the State of Maine having jurisdiction over the violation.

§ 118-4. Definitions.

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COASTAL WATERS

Those waters adjacent to all shorelines within the City of Saco, including beaches and riverfront.

§ 118-6. Harbor Master; duties.

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

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

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

C. Moorings.

(1) Assignment of moorings.

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

(b) City Hall shall maintain a waiting list, with a registration fee established by the City Council after a public hearing.

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

(2) Application for mooring permits.

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

(b) The City of Saco mooring permit application form contains additional rules and regulations regarding use and placement of moorings.

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

(d) Moorings that are not used for any consecutive three-month period between May 1 and September 30 shall be presumed to be abandoned and be removed at the owner's expense, and the location shall be reallocated.

(e) The annual application fee for the waiting list shall be established by the City Council after a public hearing.

(f) Moorings are not transferable except as provided by 38 M.R.S.A. § 3-A.

(3) Adequacy of moorings. All existing moorings hereinafter to be set shall be of sufficient size to hold the vessel for which they are used. All moorings shall have approved buoys and must be visible at all times.

(4) Inspections of moorings. The Harbor Master or his/her designee shall inspect moorings biannually.

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

(5) Manner/condition of moorings:

(a) All mooring floats shall meet United States Coast Guard regulations.

(b) The float attached to the mooring line shall be of sufficient size to remain afloat when not attached to the vessel.

(c) The Harbor Master may at any time examine any mooring or mooring line to determine compliance with this section. Except in the case of an emergency, he shall notify the owner of his intention to examine the mooring, either in writing or verbally, and request the presence of the owner during such examination. Any cost of examination shall be borne by the owner of the mooring.

(6) Vessels moored as to impede navigation or to endanger other vessels. All moorings, whether now existing or hereinafter set, shall be so located or relocated that the vessels secured thereby will not impede navigation within City waters nor endanger other vessels moored therein. If the Harbor Master shall find that any vessel is so moored as to impede navigation or to endanger other vessels, he may require that the owner of the mooring or of the vessel secured thereby take such steps, whether by shortening the scope of the mooring lines or by the use of additional mooring or mooring lines, as will prevent such impeding of navigation or endangering of other vessels; or, in the alternative, he may order that the mooring be removed and relocated. In requiring the removal of a mooring because of its danger to other moorings, last set shall be the first ordered to be removed. Any person so ordered by the Harbor Master acting under this subsection shall remove a vessel within 48 hours after order; whether written or verbal, provided, however, that if the Harbor Master shall find an emergency requiring immediate action to prevent injury to life or damage to property, he or she may cause said mooring and any vessel attached thereto to be removed and relocated or removed without advance notice to owner. Any expense involved shall be borne by the owner of the mooring or vessel.

(7) Interference with moorings. Except by direction of the Harbor Master acting in an emergency or with permission of the owner, no person shall move or interfere with any mooring or vessel in the harbor.

(8) Removal. A mooring shall be removed after September 30, unless it is still in use by its owner. If not removed by its owner, the Harbor Master shall see to its removal at the expense of the mooring owner. The mooring and ground tackle shall not be returned to its owner until such bill is paid.

(9) Violations as to moorings.

(a) Upon a first violation of this article relating to moorings, the Harbor Master shall issue a written warning to the owner of the mooring, and to any operator if applicable. unless, in the sole opinion of the Harbor Master, immediate action is determined necessary to mitigate a hazardous condition and ensure proper navigation and/or public safety. In the event of such determination, a verbal notification is deemed sufficient.

(b) Any subsequent violation by any person receiving a warning shall be subject to those penalties as set forth in § 118-3.

(c) In addition to any fines sought and/or paid, the City, by and through the Harbor Master, shall retain the unilateral right to remove moorings that are in channels or otherwise obstructing navigation or that remain in violation of this article, provided that a written warning has first be given to the owner. except as noted above in paragraph C.9(a). Any such removal shall be at the expense of the owner. The Harbor Master may place a lien on any mooring and related tackle that he removes under this article to secure his claim for expenses.

D. Buoys other than for mooring vessels. No buoy of this type shall be placed in channels leading to wharves, nor shall such buoys be placed less than three vessel lengths from a mooring buoy for that vessel. The Harbor Master is empowered, in the interest of public safety, to require the removal of any buoys.

Article II. Prohibited or Restricted Actions

§ 118-7. Waterskiing and aircraft.

A. Vessels towing water-skiers and aquaplanes. There shall be no waterskiing in congested mooring areas, anchorage areas or in speed-limit areas. No person shall operate a vessel while towing water-skiers, aquaplanes or similar devices unless there is present in said vessel, in addition to the vessel operator, another person in a position to observe and assist the person or appurtenance being towed. The operator of such a vessel will be held responsible for compliance with the navigating rules for both the vessel and the person or appurtenance being towed. Except in connection with water carnivals and exhibitions authorized by the City Council, no such activity may be conducted during the period between 1/2 hour after sunset and 1/2 hour before sunrise. Special waterskiing areas will be designated by the City Council.

~~B. Hours regulated. No person shall engage in surfing or waterskiing or the use of surfboards or water skis or jet skis in the tidewaters along the shore in Saco Bay from Goose Fair Brook, along the ocean, including the shore at Kinney Shores, Bay View, Ferry Beach and Camp Ellis, so called, from June 1st of each year to September 10 of the same year, during the period commencing at 9:00 a.m. and ending at 5:00 p.m., except in connection with water carnivals and exhibitions authorized by the City Council. No such activity may be conducted during the period commencing 1/2 hour after sunset and ending 1/2 hour before sunrise.~~

C. B. Water-ski jumps. No person shall locate or use on the public waters under the jurisdiction of this Council a water-ski jump without first obtaining the approval of the City Council or its duly authorized representative.

D. C. Aircraft. Aircraft shall be governed by the appropriate rules and regulations of the Maine Aeronautics Commission, excepting that they shall observe the same mooring and anchorage rules and regulations that apply to vessels.

-----End of Code Amendment Document-----

3. APPLICATION TO OPERATE GAMES OF CHANCE: BEANO/BINGO ELKS #1597

Biddeford & Saco Elks #1597 has applied for five (5) Licenses to Operate Beano/Bingo & Games of Chance as follows: Bingo, 1 game from January 1, 2012 to December 30, 2012; Cribbage, Daily Attendance, Pull Tickets, & Queen of Hearts, 1 game of each from January 1, 2012 – March 31, 2012.

The applicant submitted their applications in accordance with the provisions of Title 17 M.R.S.A. Chapter 13-A, and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operation of Beano/Bingo or Games of Chance.

4. CERTIFY ELECTION RESULTS

The election results require Council Certification per Section 7.03 b. of the Charter of the City of Saco.

VII. EXECUTIVE SESSION

Councilor Tripp moved, Councilor Doucette seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 18, Subchapter 1 §405 (6) (A)] move to enter into Executive Session to discuss ‘assignment of employees’: Assessing District Study. The motion failed with six (6) nays.

City Administrator Rick Michaud noted that when senior staff retire or move on, the city looks to see if there are ways to perform their functions better? Can we take advantages of economies to scale and are there better ways to do things? Mr. Michaud met with former Assessor Dan Sanborn, Biddeford City Manager John Bubier and Biddeford Assessor Frank Yada several times over the last few weeks to look at the possibility of a shared employee. In the past, the City of Saco and Biddeford have shared a Recycling employee, and Saco had also shared a GIS Officer with the Town of Scarborough for a number of years. So, this is really not a new idea. There may be some economies to scale to be gained in the two Assessing operations, each of which track approximately 8,000 parcels in each community. If we could ultimately merge the offices, we have employees that are strong in personal property, and Biddeford has employees that are strong in listing, so we could augment one another’s expertise. The unique part of this compared to virtually any other of the city Departments, is that the Assessor is an agent of the State. The Assessor performs their duty in compliance with the state law. So in theory the job should be the same in both cities. If the Council chose to move ahead on this I would see sharing the Assessor and asking the Assessor to continue to explore the formation of an Assessing District, which would be the merging of the two operations in the coming year. There may be some savings to doing this as low as \$20,000, or as high as \$80,000 annually. Granted, that assessing is done a little differently in Saco than in Biddeford. The Saco Assessor was able to keep the city at 100%. We just recently went through a major adjustment on that in the last fiscal year. By Charter, the City of Biddeford is not allowed to do that and in talking to the Biddeford Assessor Frank Yada, he stated that he does know how to do this. The two cities also use the same “Vision Assessing” software. The Biddeford Assessor also has an outstanding quality rating in Biddeford.

Councilor Lovell asked the City Administrator to assess what the effect would be on employee morale in the Assessing Department here in Saco? City Administrator Rick Michaud noted as in any case like this, it always makes employees nervous, because they are unsure about the future. The employees are part of a Union so they would be represented throughout the process. Councilor Lovell asked if there would be some difficulty in

supervision and review of employees where there would be two separate offices. City Administrator Rick Michaud noted that in the full extension and implementation of this, the two offices could merge at a central location on Saco Island or some place in the downtown area that is convenient for both communities. In the surrounding area, the Towns of Old Orchard Beach and Sanford share an Assessor, as well as the cities of South Portland and Westbrook.

Councilor Tripp inquired as to how long the Biddeford Assessor has been on the job? City Administrator Rick Michaud stated 17 years. Councilor Tripp asked “When the Assessor in Biddeford retires, who decides who replaces him?” City Administrator Rick Michaud responded that immediately, we would be sharing Biddeford’s City employee, so he would be working for the Biddeford City Manager and Council during the term of this agreement. Should Mr. Yada choose to resign from his job, Biddeford would be in the hiring process and I’m confident that Saco would be sitting at the table with them as that goes on, but the agreement does not address that. What is being presented is the description of a primary Assessing District. It is laid out in State Law and it creates an entity where Saco and Biddeford would be partners and the assessing function would be performed under a joint board which has members from both cities. Councilor Tripp stated that right now if I want to talk to the Tax Assessor, I can go in and talk to him, but under this scenario, there will be input from this committee as to how this functions in the future. Councilor Tripp inquired as to whether the City Council in Biddeford has been approached with this idea? Mayor Johnston stated that this had been discussed in an Executive Session, but not all the members of the Council were present at the meeting. Councilor Tripp noted that before he could just stop in and ask to speak with the Assessor, and now he won’t be able to. City Administrator Rick Michaud noted that this would be a decrease in services for Saco tax payers. If this goes through, and someone wants to speak with the Assessor, they would be given an appointment to come back when the Assessor is in Saco.

Councilor Blood stated that at this point, he needs to know what the loss will be for Saco. City Administrator stated that the “access” to the Assessor would be the main loss. The duties of the current staff would need to be rearranged. He also noted that it not just “one stop” shopping for the residents, but also the rest of the city staff. This would need to be dealt with on a scheduling basis, and work would probably go a little slower.

Councilor Smith noted that our storied past with combining things, you don’t have to look much further back than the RSU to find the discouraging word. There were several occasions with the shared Recycling Coordinator, that when I had questions from the public that I inquired “When can I get a hold of her?”, “Where is she?” There should be more accountability with an Assessor. Sharing stuff such as buses, cameras and trucks, works good. We have a great repoire with our surrounding communities through mutual aid agreements. Somewhere between \$80,000 and \$20,000 saved offset by paying the Assistant more money for additional duties, rent, phone and utilities of a stand-alone neutral ground, I’m just not feeling good about this. If we want to have someone with a job this important to the function of the City of Saco and service to the citizens of Saco, we should be ready to pay for it. Hire a competent person, call them ours and be done.

Councilor Cote stated that he agreed with Councilor Smith.

Councilor Doucette was concerned with the responsibility that the “joint assessor” would have to Saco residents and felt that Saco residents would be at a disadvantage.

Councilor Blood stated that he liked the idea of forming a district but it seems like we are talking about two or three different things at once and it seems if we were going to form a district, that ought to be the first thing on the agenda, then we talk about staffing that district and how to do it and looking at services. I’m afraid that we might do this and never form a district and run into what Councilor Smith was talking about. It would be a part time person who really doesn’t work for us anyway and that would be a concern.

Mayor Johnston inquired as to whether there is a consensus to look into this further? Councilors Tripp, Smith, Doucette and Cote were against it. Councilors Blood and Lovell wanted more information before making a decision.

It was determined that there would be no further discussion at this time, because the service level would decrease for Saco residents.

VIII. ADJOURN THE MEETING

Councilor Tripp moved, Councilor Smith seconded to adjourn the meeting at 8:45 pm. The motion passed with six (6) yeas.

Attest: _____
Michele L. Hughes, City Clerk