

**STATE OF MAINE**

**COUNTY OF YORK**

**CITY OF SACO**

**I. CALL TO ORDER** – On Monday, December 3, 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, Arthur Tardif, Eric Cote and Marston Lovell. City Administrator Rick Michaud was also present.

**III. PLEDGE OF ALLEGIANCE**

**IV. GENERAL**

**V. AGENDA**

**A. CONGRESSIONAL RECORD PRESENTED TO THE CITY OF SACO FOR 250<sup>TH</sup> CELEBRATION**

Cathy Goodwin, State Office Manager for the Biddeford Office for Senator Susan Collins presented a proclamation and the following ‘Congressional Record’ to the City of Saco in honor of their 250<sup>th</sup> anniversary, on behalf of Senator Susan Collins:

Mr. President, today I wish to commemorate the 250th anniversary of the City of Saco, ME, one of the oldest communities in New England and one that exemplifies the determination and resiliency of its people. In 1617, 3 years before the Pilgrims landed at Plymouth, the English explorer Richard Vines established a test winter settlement along a sheltered cove on the coast of Maine. That settlement where the Saco River meets the sea, grew, prospered, and eventually was incorporated in 1762.

The name “Saco” is derived from the Abenaki word for “mouth of the tidal stream,” and the sheltered cove, known today as Biddeford Pool, had been a thriving center of Native American villages and cultivated fields dating back to prehistoric times. Although some 37 English families--fishermen, traders, lumberjacks, and farmers--relocated there within 20 years of Mr. Vine's exploration, growth was stifled by frequent armed conflicts with the French during those early colonial times.

The conflicts subsided and in 1716 a young merchant named William Pepperrell purchased 5,000 acres along the Saco River for a lumber operation. The small village began to prosper. In 1752, Sir William Pepperrell, by then a war hero and the first person born in America to be made an English baronet, donated a parcel to be a village common, burial ground, and site for a meetinghouse. Ten years later, the settlers incorporated as the town of Pepperrellborough, in honor of their benefactor.

In 1805, the long name was replaced with the much shorter Abenaki word, but the vision and energy of William Pepperrell lived on. First with water power and then with steam, Saco and its sister city across the river, Biddeford, became leading manufacturing centers of the industrial age in North America. At Saco Falls, 17 sawmills supplied Maine's shipbuilders. On Factory Island, Saco Iron Works opened in 1811, followed shortly by foundries, harness makers, and machine shops. With the arrival of the railroad came the great engine of the community's economy--vast, bustling textile mills.

That Saco is a city built by the skilled hands of past generations is evident in the fine architecture cherished by the residents of today. Nine properties are listed on the National Register of Historic Places, including the First parish Congregational Church, City Hall, and many homes in the Georgian, Federal, Greek Revival, and Victorian styles.

The decline of American manufacturing in the late 20th century presented Saco with one of the greatest challenge

in its history. It is a challenge that is being met with the same strength demonstrated by its early settlers. The abandoned mills on Factory Island are undergoing a transformation with residential, educational, and business uses, bringing an economic renaissance to the downtown. Today, Saco is a center for tourism, education, and the arts. Its skilled workers keep the city on the forefront of high-tech manufacturing, including invaluable contributions to our Nation's security in the defense industry. A community that once used waterfalls to power sawmills now uses clean, renewable wind energy to light its beautiful passenger rail station.

Mr. President, the yearlong celebration now underway is not merely about the passing of time. It is about human accomplishment. We celebrate the people who for more than 2 1/2 centuries have pulled together, cared for one another, and built a great community. Thanks to those who came before, Saco, ME, has a wonderful history. Thanks to those here today, it has a bright future.

-----End of Congressional Record-----

Mayor Johnston asked that the Proclamation and Congressional Record be presented to Councilor Doucette and Lovell, in recognition of their work on the 250<sup>th</sup> Committee and he also thanked Johanna Hoffman and Nadeen DeSilva for all their work on this successful event.

Mayor Johnston also noted that the city received a letter from the Maine Historic Preservation Commission and the Old Fire Station will be considered for the National Register of Historic Places.

## **B. REGIONAL MARKETING PLAN**

In January 2012 the Council approved an update to the December 2010 Economic Development Strategy. Both strategies included calls for improved economic development marketing. The Council emphasized the goal again in the spring of 2012 by approving a \$9000 increase in the economic development budget.

Meanwhile six Greater Portland towns and cities have developed a joint economic development group for marketing purposes. These are communities in the old Greater Portland Building Fund, and the grouping has been recognized by the Legislature.

In order to achieve the kind of scale needed for any kind of marketing program to succeed, the City has banded together with the Biddeford Saco Chamber of Commerce, the Biddeford and Saco Economic Development Corporation, Saco Spirit, and the Heart of Biddeford. The process involved ten meetings with the steering committee. These meetings not only helped direct the project from the beginning, they have also helped focus the ideas since the overall proposal.

During a three-day program of roundtable discussions, public input from many groups was gathered. The different roundtable groups were: High School and College Students; the Creative Economy; Arts, Culture, and Tourism; Communitywide Economic/Business Development; Downtown Business and Property Owners, residents, and Investors; and, Waterfront, and Outdoor Recreation. In addition to the roundtable groups, there were also two public meetings to gather more input. Public participation was high at all of these events.

Arnett Muldrow & Associates provided several products, including a branding statement capturing the diverse natures of the two communities was offered. Logos for participating organizations, including the city economic development departments, were created. These logos shared a common theme, so as to visually connect the organizations and communities. The Biddeford and Saco branding logo, along with the tagline, "No matter how you say it" was another design product. This logo and tagline are to be used when marketing the region. Finally, there were examples of how this logo might be used in a marketing campaign.

The Committee met about 10 times over the summer and fall. Councilor Blood participated in some of the meetings. Chamber Director Craig Pendleton and Will Armitage described the program and reviewed the various

logos.

### C. DOWNTOWN ZONING – (PUBLIC HEARING)

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.

The Council discussed this item in Workshop on November 5, 2012, and the First Reading was November 19, 2012.

#### ❖ Summary of Proposed Downtown Zoning Map Changes

1. **B-1 to R-3** – involving 12 parcels on the north side of Temple Street that are currently lumped into the B-1 zone, this change recognizes that these properties are all residential currently and are perhaps more correctly part of the adjacent (south side of Temple, west side of Spring Street) R-3 district.
2. **B-1 to R-3** – this parcel at 96 Pleasant Street, a single family residence, lies between the existing B-1 to the east along Elm Street and the existing R-3 to the west. With no frontage on Elm Street, probably more appropriate being "absorbed" into the neighboring R-3 district.
3. **B-3 to R-3** – five parcels bounded by the B&M railroad line, Front Street and Wharf Street include RR property, a two-family dwelling, 2 single family dwellings and a vacant lot.
4. **R-3 to B-3** – this is a portion of the Most Holy Trinity Catholic Church parcel at 255-271 Main Street. The existing B-3 zone on each side of Main Street would be maintained but reconfigured under this batch of changes, and extended one parcel further to the north with this change.
5. **R-3 to B-3** -- a portion of the parking lot at City Hall; City Hall is in the B-3 zone and would remain so.

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

There were no comments from the public.

Councilor Cote moved, Councilor Smith seconded to close the Public Hearing for '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 Be it Ordered that the City Council set the Second and Final Reading for December 17, 2012 Further move to approve the Order. The motion passed with seven (7) yeas.

### D. CODE AMENDMENT CHAPTER 118 COASTAL WATERS – (PUBLIC HEARING)

#### **"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**

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.**

**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-----

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

There were no comments from the public.

Councilor Blood moved, Councilor Doucette seconded to close the Public Hearing on the document titled, 'Amendments to Chapter 118 Harbor, River and Waterfront, dated November 5, 2012', and Be it Ordered that the City Council set the Second and Final Reading for December 17, 2012.' The motion passed with seven (7) yeas. Further move to approve the order.

**E. CHAPTER 219 VICTUALER'S LICENSE – (SECOND & FINAL READING)**

**"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 Tripp seconded “The City Council hereby Ordains and Approves the Second and Final Reading of the document titled, ‘Amendments to Chapter 219 Victualers’ Licenses, dated September 17, 2012’.” Further move to approve the order. The motion passed with seven (7) yeas.

**VI. CONSENT AGENDA**

Councilor Smith moved, Councilor Blood seconded to approve Consent Agenda items # 1 and #2 as follows:

1. Approve the Councilor Minutes for: November 5, 2012 and November 19, 2012;
2. Approve with reference to Superior Court Docket #CR-12-923-**Criminal Forfeiture**, of the transfer of the Defendant(s) in Rem, namely \$2,448.00.00, or any portion thereof, pursuant to 15 M.R.S.A. §5824(3) and/or §5826(6).

Further move to approve the Order. The motion passed with seven (7) yeas.

Note: The Item Commentary for Consent Agenda item #2 is listed below.

**2. POLICE DEPARTMENT ASSET FORFEITURE**

The Office of the Attorney General requires the legislative body of the municipality involved in any asset forfeiture to publicly vote to approve the acceptance of the assets each and every time the courts make them available for disposal.

This matter, State v. Randy Scott Monroe, involves the potential forfeiture of cash in an amount of up to \$2,448.00. The exact amount will be determined by the courts.

**VII. RECESS THE MEETING –**

Mayor Johnston recessed the meeting at 7:37 p.m. with the unanimous consent of the Council.

**VIII. CONVENE THE WORKSHOP**

**IX. AGENDA ITEMS**

- A. SISTER CITY AFFILIATION**
- B. GA MAXIMUM INCREASES FY 12/13 – (FIRST READING)**
- C. CODE AMENDMENT SEPARATING THE WATER RESOURCE RECOVERY DIVISION FROM PUBLIC WORKS – (FIRST READING)**
- D. AUTHORIZATION TO WRITE-OFF FORECLOSED SEWER LIEN ACQUIRED PROPERTIES**
- E. AUTHORIZATION TO WRITE-OFF FORECLOSED TAX ACQUIRED PROPERTIES**

**X. ADJOURN THE WORKSHOP AND RECONVENE THE MEETING**

Mayor Johnston adjourned the Workshop and Reconvened the Meeting at 8:45 p.m. with the unanimous consent of the Council.

## **XI. EXECUTIVE SESSION**

Councilor Cote moved, Councilor Lovell seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 188, Subchapter 1, §405 (6) (A)] move to enter into Executive Session to discuss: Reappointment of the City Administrator. He motion passed with passed with six (6) yeas and one (1) nay – Councilor Cote. TIME: 8:50 p.m.

### **A. REPORT FROM EXECUTIVE SESSION**

Mayor Johnston moved from Executive Session with the unanimous consent of the Council at 9:30 p.m.

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, Arthur Tardif, Eric Cote, and Marston Lovell. City Administrator Rick Michaud was also present.

There was no report this evening.

## **XII. ADJOURNMENT**

Mayor Johnston adjourned the meeting at 9:33 p.m. with the unanimous consent of the Council.

Attest: \_\_\_\_\_  
Michele L. Hughes, City Clerk