STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, May 23, 2016 at 6:35 p.m. a Special Council Meeting was held in the City Hall Auditorium.

II. RECOGNITION OF MEMBERS PRESENT – Mayor Roland Michaud recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Roger Gay, William Doyle, Kevin Roche, Alan Minthorn, Eric Cote and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

V. PUBLIC COMMENT

- Kevin Bunker – Developer at White Rabbit LLC. - Looking forward to purchasing the building. Mr. Bunker is not responsible for what happened with Franklin Fuels and all the jobs they were going to create. What I’m looking to do is to take a building that doesn’t have anything going on right now in two thirds of it and put some jobs in there. Those jobs are in Biddeford and they would move over to Saco. I will own the building for three years and give Maine Textiles International Inc d/b/a Saco River Dye House the option to buy it from me. Franklin Fuels will lease their current space. This TIF will allow Saco River Dye House to be in a better position to better position to succeed.

VI. CONSENT AGENDA

Councilor Minthorn moved, Councilor Doyle seconded to approve consent agenda items #A and #B as follows:

A. Be it ordered that the City Council approve the minutes for May 2, 2016 and May 9, 2016. Further move to approve the Order;
B. Be it ordered that the City Council grant the application for a License to Operate a Game of Chance as follows: Handmade Wheel of Chance on June 18, 2016 as submitted by the Heart of Biddeford. Further move to approve the Order.

The motion passed with seven (7) yeas.

VII. AGENDA

A. INTELLIGENT CONTROLS INC. (NOW KNOWN AS FRANKLIN FUELING) TIF ASSIGNMENT MODIFICATIONS AND EXTENSION – (SECOND & FINAL READING)

In 2008, a TIF was created for the above referenced firm on the commercial real estate located at 34 Spring Hill Road. A couple of years ago, as part of a corporate restructure, the manufacturing that was done at this location was consolidated out of state. Franklin has 23 individuals, mostly engineers who remain working at this facility. These employees would like to stay; however, given that 2/3rds of the building is vacant, the parent company put the building up for sale with the intent of relocating the engineering team to smaller space locally. A local manufacturer, Maine Textiles International, Inc. d/b/a Saco River Dye House with 12 employees is in need of manufacturing space to house new production equipment and was looking to relocate. A deal has been struck with an investor buyer White Rabbit LLC, which is owned by Kevin Bunker, Manager and Traverse Fournier, Member, that will lease a portion of building back to Franklin Fueling - 11k sq. ft. of offices for its engineering staff and the remaining 23k sq. ft. of manufacturing space will be leased back to Maine Textiles International, Inc. d/b/a Saco River Dye House. Maine Textiles will have a first right of refusal option to purchase the building.

The prospective purchaser has asked that the TIF be amended to extend it for 20 years. The building buyers have indicated that there is approximately $250,000 in fit-up of space, equipment set-up, office build-out, as well as electrical infrastructure upgrades needed to accommodate Maine Textiles.

We are proposing a modified change to the TIF, which will need both Council and State of Maine approval, that accommodates the request of the purchaser, protects the existing jobs, moves Maine Textiles into this space, and
provides greater flexibility for the City in using its share of the TIF Revenue Stream. See attached sheet Summary of TIF Modifications Proposed.

The purchaser has requested that the City approval be expedited as they need to close on the purchase in early June – planned for June 2\textsuperscript{nd} so Saco River Dyehouse can accept delivery of significant equipment being shipped from Italy which is planning on arriving the following week (the week of June 6\textsuperscript{th}) here in Maine. The City Council held the workshop and first reading on May 2\textsuperscript{nd}. To be followed by a Public hearing on May 16\textsuperscript{th} and second workshop and second and final reading scheduled for May 23\textsuperscript{rd}.

Councilor Minthorn moved, Councilor Doyle seconded “Be it ordered that the Saco City Council hereby ordains and approves the Second and Final Reading of “Intelligent Controls, Inc. TIF Assignment, Amendment Modification, and Extension”. Further move to approve the order.

AMENDMENT – Councilor Gay moved, Councilor Roche seconded to continue the current existing TIF with Franklin Fuels for an additional 3 years with the current 45/55 split and to allow a sale to occur without negating termination of the existing TIF. The motion failed with two (2) yeas and five (5) nays – Councilors Precourt, Doyle, Minthorn, Cote and Johnston.

Mayor Michaud called for a vote on the main motion. The motion passed with four (4) yeas and three (3) nays – Councilors Gay, Roche, and Johnston.

First Amendment

to City of Saco TIF #8, the Franklin Fuels Municipal Development
Tax Increment Financing District Development Program

The City of Saco on May 21, 2007 created, as its TIF #8, the Franklin Fuels Municipal Development Tax Increment Financing District and approved a municipal development district development program for that District (the “Development Program”). Franklin Fuels was also referred to as Incon or Intelligent Controls, Inc. in the Development Program. The District and Development Program were approved by the Maine Department of Economic and Community Development by letter dated March 24, 2008. The City now desires to amend the District and Development Program in order to provide new employment opportunities in the City, improve and broaden the tax base, and improve the general economy of the City and the State.

Accordingly the District and Development Program are hereby amended for the following purposes:

(a) to extend the term of the Development Program for 20 additional years, as described in Section 1 below;

(b) to provide for an assignment and amendment of the Credit Enhancement Agreement, as described in Section 2 below;

(c) to provide for certain changes to the categories of eligible expenditures of the tax increment revenues from the District by the City as set forth in Section 3 below; and

(d) to provide updated estimates of the tax increment revenues and tax shifts as set forth in Section 5 hereof.

The specifics of this Amendment are set forth in the following sections 1 through 5:

1. Term. The Development Program, as originally approved, was for a term of 10 years, ending with the City’s 2018-2019 fiscal year. The program duration or term of the District as set forth in the Development Program is hereby extended for 20 additional years, with the final year being the City’s 2038-2039 Fiscal Year ending on June 30, 2039.
2. Assignment and Amendment of Credit Enhancement Agreement. Pursuant to the Development Program, the City entered a Credit Enhancement Agreement dated December 22, 2008, with Intelligent Controls, Inc. (now known as Intelligent Controls, LLC) that provided for payment of 45% of the tax increment revenues from the District to Intelligent Controls, Inc. for a period of 10 years. Pursuant to that Agreement, Intelligent Controls constructed a 30,000 square foot facility located at 34 Spring Hill Road in the District. Several years ago as part of a corporate restructure the manufacturing that was done at this location was consolidated out of state. Intelligent Controls employs 20+ individuals, mostly engineers who remain working at this facility. These employees would like to stay in the building; however, given that 2/3rds of the building is vacant, the parent company put the building up for sale with the intent of relocating the engineering team to smaller space locally. A local manufacturer, Maine Textiles International, Inc. d/b/a Saco River Dye House with 15+ employees is in need of manufacturing space to house new production equipment and was looking to relocate.

Intelligent Controls now proposes to sell all of the property in the District to White Rabbit LLC and to assign the Credit Enhancement Agreement to White Rabbit LLC. White Rabbit will lease the entire building to Maine Textiles International, LLC, d/b/a Saco River Dye House (“Maine Textiles”), and Maine Textiles will sublease a portion of building back to Intelligent Controls, consisting of approximately 11,000 square feet of space of offices for its engineering staff. The remaining 23,000 of manufacturing space will be occupied by Maine Textiles. Maine Textiles will have an option to purchase the building. White Rabbit LLC and/or Maine Textiles will invest approximately $250,000 for improvements to the property located in the District as described in Exhibit G, consisting of fit-up, equipment and office build-out and electrical infrastructure upgrades to accommodate Maine Textiles. If Maine Textiles exercises its option to purchase the building, upon exercise ownership of the building will be transferred to Maine Textiles and thereupon the Credit Enhancement Agreement may be assigned to and assumed by Maine Textiles on a form reasonably specified by the City subject to the terms of Section 7.2 of the Credit Enhancement Agreement, without impacting the other terms and validity of this Development Program and without further approval by the City or the Maine Department of Economic and Community Development.
(b) Utility (sewer, water, electric, cable, broadband) improvements in or directly related (within 2 miles of the District) to the District and Development Program.

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<th>Section Reference</th>
<th>Total</th>
<th>Note</th>
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(c) Funding for City Economic Development Department, including funding of the City’s economic development director salary, and other City Economic Development Department salaries, programming and operations.

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<th>Total</th>
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(d) Saco Spirit downtown business promotion, annual support and supplemental business promotion projects. Saco Spirit, also known as Saco Maine Street, Inc. is a non-profit corporation, created by the City, whose mission includes economic development and business promotion.

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<tr>
<th>Section Reference</th>
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<th>Note</th>
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(e) City of Saco share of costs of membership dues of Biddeford & Saco Chamber of Commerce & Industry membership and support including annual operational funding, community business, tourism, and supplemental business promotion projects.

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<thead>
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<th>Section Reference</th>
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<th>Note</th>
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<tbody>
<tr>
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(f) City of Saco share of costs of marketing, staffing salaries, programming and operations and membership dues for regional Biddeford Saco Area Economic Development Corporation, which helps businesses, large or small by providing gap financing for projects that require cash, fixed asset financing, start-up and working capital and real estate acquisition and development.

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<thead>
<tr>
<th>Section Reference</th>
<th>Total</th>
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<tbody>
<tr>
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(g) Shuttlebus-Zoom transit service & signage. Shuttle bus Zoon serves the entire community including the District and adjoining business areas to make business more accessible to the public. Costs are strictly limited capital costs and exclude staffing and operations.

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<thead>
<tr>
<th>Section Reference</th>
<th>Total</th>
<th>Note</th>
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<tbody>
<tr>
<td>30-A MRSA §(C)(7)(a)</td>
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</table>

Total Project Costs: $2,101,073

Note: Category (a) above is common to the City TIF #6 (Saco Island Maine Street) and TIF #9 (Park North). Categories (c) through(g) are common to the City’s TIF #12 (Saco Island Building No. 4)

4. Findings. The City finds that this Amendment and the projects described herein and in the Development Program will either directly or indirectly provide or encourage new employment opportunities within the City or encourage and promote economic development that will broaden the City’s tax base and improve the general economy of the City. The City further finds and determines that this Amendment and the designation of the
District, as amended, and pursuit of the Development Program will make a contribution to the economic growth or well-being of the City and the betterment of the health, welfare or safety of its inhabitants, including employment opportunities, broadened and improved tax base and any adverse economic effect on any existing business is outweighed by the contribution made by the District and the Development Program to the economic growth or well-being of the City and the betterment of the health, welfare and safety of its inhabitants. The City finds that the projects described herein will provide or encourage new employment opportunities within the City or encourage and promote economic development that will broaden the City’s tax base and improve the general economy of the City.

5. Estimated Tax Increment Revenues and Tax Shifts. The table attached hereto as Exhibit B sets forth: (i) the annual estimates of the Increased Assessed Value of the District resulting from implementation of the Development Program during the extended term of the District; and (ii) the estimated annual Tax Increment Revenues per year on the Increased Assessed Value following implementation of the extended term of the Development Program.

In accordance with Maine statutes governing the establishment of tax increment financing districts, the table set forth in Exhibit B identifies the estimated tax shifts which will result during the extension of the term of the District from the establishment of the District, which tax shifts are further detailed in Exhibit B hereto. A summary of the methodology and calculations utilized in calculating such estimated tax shifts is attached hereto as Exhibit C.

6. Notice of Public Hearing and Approval of Amendment. A copy of the Notice of Public Hearing published in the Journal Tribune, a newspaper of general circulation in the City of Saco on May 6, 2016, is attached hereto as Exhibit D. A public hearing pursuant to such Notice was held on May 16, 2016. The minutes of the public hearing are attached hereto as Exhibit E. The minutes of the City Meeting approving this Amendment are attached hereto as Exhibit F, amending the Development Program as set forth herein.

List of Exhibits

Exhibit A: Assignment of and Amendment to Credit Enhancement Agreement
Exhibit B: Estimated Tax Increment Revenues and Tax Shifts.
Exhibit C: Tax shift calculation methodology
Exhibit D: Notice of Public Hearing
Exhibit E: Minutes of Public Hearing (attested)
Exhibit F: City Council orders and minutes of meeting
Exhibit G: Scope of work

Exhibit A
ASSIGNMENT OF AND FIRST AMENDMENT TO CREDIT ENHANCEMENT AGREEMENT

This Assignment of and First Amendment to Credit Enhancement Agreement, dated as of June __, 2016, between the City of Saco (the “City”), a municipal body corporate and politic and a political subdivision of the State of Maine, and Intelligent Controls, LLC, formerly known as Intelligent Controls, Inc.(a/k/a Franklin Fuels), a Maine limited liability company (the “Original Developer”) and White Rabbit LLC, a Maine limited liability company (the “New Developer” or the “Company”) hereby amends the Credit Enhancement Agreement, dated December 22, 2008 between the City and the Original Developer, a copy of which is attached hereto:

WITNESSETH THAT:

WHEREAS, the City on May 21, 2007 created, as its TIF #8, the Franklin Fuels Municipal Development Tax Increment Financing District (the “District”) and approved a municipal development district development program for that District (the “Development Program”); Franklin Fuels was also referred to as Incon or Intelligent
Controls, Inc. in the Development Program; and the District and Development Program were approved by the Maine Department of Economic and Community Development by letter dated March 24, 2008; and

WHEREAS, the City and the Original Developer on December 22, 2008 entered the Credit Enhancement Agreement attached hereto as Exhibit A (the “Agreement”);

WHEREAS, simultaneously with the execution of this Assignment and First Amendment, the Original Developer has sold all property located in the District to the New Developer; and

WHEREAS, in connection with the Development Program, as amended, and as contemplated thereby, the City, the Original Developer and the New Developer have agreed to execute and deliver this Assignment and First Amendment (hereinafter called the “Amendment”); and

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree to amend the Agreement as follows:

Section 1. Assignment and Assumption. The Original Developer hereby sells, transfers, conveys, grants and assigns to the New Developer, its successors and assigns, all right, title and interest of Original Developer in and to the Agreement. The New Developer hereby accepts such assignment and assumes all obligations of the Original Developer under the Agreement. This Assignment and Amendment shall be binding upon the Original Developer and shall bind inure to the benefit of the New Developer. The New Developer acknowledges and agrees to accept all obligations of the Original Developer under the Agreement and to be bound by all provisions of this Agreement. The City hereby consents to such assignment and assumption. The City and the Original Developer each represents to the best of its knowledge that there are no defaults existing under the Agreement as of the date of this Assignment and First Amendment. The City agrees that the New Developer shall have no liability for any defaults or any obligations under the Agreement arising, or relating to events occurring, prior to the date hereof.

Section 2. Term and Credit Enhancement Payments. Section 3.1(a) of the Agreement is hereby amended in its entirety to provide:

Section 3.1. Credit Enhancement Payments. (a) The term of this Agreement commenced on July 1, 2009 and shall end on the earlier of (i) June 30, 2039, or (ii) any earlier expiration or termination of this Agreement in accordance with the terms of this Agreement, or (iii) in any event the term of the Agreement shall end on the date on which the total payments of Tax Increment (Company’s Share) by the City to the New Developer, its successors or assigns, pursuant to this Amendment for the portion of the term of the Agreement on and after July 1, 2016 equal $125,000, determined on a cumulative basis.

Commencing with the first Fiscal Year and continuing until the expiration or termination of this Agreement, the City agrees to pay to the Company within 45 days following each Calculation Date, payments equal to the Tax Increment (Company’s Share) actually received by the City as of such Calculation Date, subject to the limitations set forth in this Agreement, for each such Fiscal Year during the term of this Agreement, provided that such payments by the City shall not be due and payable unless the Company, on or before the date on which such payment is due from the City to the Company or simultaneously therewith, has paid to the City the amounts due under Section 3.1(b) and under Section 3.8 of this Agreement. The Tax Increment (Company’s Share) for each Fiscal Year of the term of this Agreement shall be calculated as follows: First, the amount of the Tax Increment shall be determined as follows: First, the amount of the Tax Increment shall be determined by subtracting the real Property Taxes for such Fiscal Year on the Original Assessed Value from the total real Property Taxes for such Fiscal Year on the Current Assessed Value for such Fiscal Year; Second, if there is a positive amount remaining (the “Tax Increment”), then the Company Percentage, as hereafter defined, shall be multiplied by the Tax Increment, and the product thereof shall constitute the Tax Increment (Company’s Share) for such year.

The “Company Percentage” shall mean (a) except as otherwise hereinafter provided, 45% for the year beginning July 1, 2016 and ending June 30, 2017; (b) except as otherwise hereinafter provided, 30% for all years during the term of this Agreement beginning on or after July 1, 2017; (c) notwithstanding the foregoing, the Company Percentage and the Tax Increment (Company’s Share) shall be 25% for any period that the number of
Quality Jobs, as hereinafter defined, in the District are between 26 and 29; and shall be 20% for any period that the number of Quality Jobs in the District are between 19 and 25; and shall be zero for any period that there are fewer than 19 Quality Jobs in the District, each such period to be tested semiannually for the period prior to any scheduled payment of Tax Increment revenues to the Company; (d) notwithstanding the foregoing, the Company Percentage and Tax Increment (Company’s Share) shall be zero for any period or periods during the term of the Agreement that the businesses located in the District fail to pay each full-time employee in the District a wage/salary that would qualify as a Qualified Job, as defined below, or fail to offer health insurance benefits of some type to its full-time employees with at least some contribution by the employer; (e) notwithstanding the foregoing, the Company Percentage and the Tax Increment (Company’s Share) shall be zero for any period or periods during the term of the Agreement that the New Developer or the businesses located in the District or any property in the District is in violation of any federal, state or local environmental law, regulation or ordinance (unless such violation is waived by the City in its sole discretion, in which event the City Share shall not be reduced to zero); and (f) notwithstanding the foregoing, the Company Percentage and the Tax Increment (Company Share) shall be zero if the New Developer fails to present evidence to the City by July 1, 2017, that the work identified in Exhibit G to the Amended Development Plan has been completed substantially in accordance with the plans and specifications identified in such Exhibit G. “Quality Jobs” shall mean full time jobs or full time equivalent jobs that pay an hourly wage at least 50% higher than the federal minimum wage or average salary of at least 125% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8.

Notwithstanding any other provision of the Agreement and this Amendment, the total payments by the City to the New Developer, its successors and assigns, pursuant to the Agreement, as amended hereby, determined on a cumulative basis for all periods on and after July 1, 2016, shall not exceed $125,000, and thus as soon as the cumulative amounts of Tax Increment (Company’s Share) equal such $125,000 amount, thereafter the Tax Increment (Company’s Share) shall equal zero (0) and the term of the Agreement as amended hereby shall end.

All of the Tax Increment in excess of the Tax Increment (Company’s Share) shall belong to the City as its share of the captured tax increment and increased assessed value.

Section 3. The first two sentences of Section 3.1(d) are amended to provide:
(d) The Company shall not cease business operations in the District, and shall operate its business in the District substantially as described in the Development Program, as amended by the First Amendment, and as represented in greater detail by the Company to the City, provided, however, that following any assigned permitted under Article VII and consented to by the City, the terms of this paragraph shall apply only to such assignee. Such businesses consists of the business of Intelligent Controls, Inc. (a/k/a Franklin Fuels), including the design and manufacturing of gas and oil tank monitoring equipment and similar monitoring equipment, and the business of Maine Textiles International, Inc. d/b/a Saco River Dye House as described in the First Amendment to the Development Program, and the nature of business operations shall not change without the consent of the City.

Section 4. References to “the Company” contained in Article IV shall be deemed to be references to New Developer effective as of the date of this Assignment and First Amendment.

Section 5. Section 8.7 of the Agreement is amended to provide that the address of the Company for notices is:
White Rabbit LLC
100 Commercial Street, Suite 414
Portland, Maine 04101

Section 6. The New Developer agrees to pay reasonable costs and expenses of the City in connection with this First Amendment and the First Amendment to the Development Program, including the costs of notice and public hearing and all legal fees up to a maximum of $__________.

IN WITNESS WHEREOF, the City, the Original Developer and the New Developer have caused this Agreement to be executed in their respective corporate names all as of the __ day of _____________, 2016.
**Exhibit B**

**Estimated Tax Increment Revenues and Tax Shifts**

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<tr>
<th>TIF Year</th>
<th>Fiscal year</th>
<th>Estimated Mill Rate</th>
<th>OAV</th>
<th>Tax on OAV to General Fund</th>
<th>Estimated CAV</th>
<th>Estimated Tax on CAV</th>
<th>Company Share %</th>
<th>Company Share Captured Increment</th>
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A tax increment financing district will result in certain tax shifts which result because the retained captured assessed value of the District will be excluded from the State Valuation of the property in the City. These tax shifts are noted in three basis formulae which use local property tax valuation as a basis for calculation. These three formulas are:

- State Aid to Education
- Municipal Share of County Taxes
- Revenue Sharing

The following is the process used to derive each of these tax shifts.

**EDUCATION TAX SHIFT**: Computed by comparing State Department of Education Form ED 279 Adjusted Local Share Mill Rate, as set forth on the Department of Education General Purpose Aid for Local Schools, for the City with and without retained CAV.

**COUNTY TAX SHIFT**: In order to compute this shift, we first obtained the most recent County State Valuation from the State Bureau of Taxation. We then determined the average Captured Assessed Value for the District over the life of the District. We then determined the City’s current share of the County Tax by dividing the current City Valuation by the Current County Valuation. We then determined what the City’s Share of the County Tax would be if the new value from the District were added by the City’s Valuation without the creation of the District by dividing the sum of the current City Valuation plus the average new value by the sum of the current County Valuation plus the average new value. The difference is the factor representing the percentage of the County Tax Shift. Next, we determined the estimated average annual county tax over the life of the district. To arrive at this number, the average change in County Tax for the last five years was determined and the percentage increase projected to the middle of the district’s life. This projected tax was then multiplied by the factor developed above to determine the County Tax Shift.

**REVENUE SHARING SHIFTS**: The revenue sharing shift can be determined by adding the CAV to the Maine Projected Revenue Sharing, and comparing the amount of revenue sharing for the City with vs. without the CAV. The first step in determining the Revenue Sharing Tax Shifts was to obtain the total Municipal Revenue Sharing Amount from the State Treasurer. The five steps outlined in the following formula were then applied:

**STEP ONE**: Municipal Population X Local Property Tax Levied = Current Factor

**STEP TWO**: Municipal Population X Local Property Tax Levied = Adjusted Factor

**STEP THREE**: Current Factor = 1.X

M:\2016\cm_2016_05_23.doc 06/01/2016
STEP FOUR: \( 1.0 - 1.0 = .X \)
STEP FIVE: \(.X\) (Total Municipal Revenue Sharing Amount) = Revenue Sharing Shift

The relevant computations are attached hereto as Exhibit H.

Exhibit D
Notice of Public Hearing
(will need tear sheet from newspaper)

CITY OF SACO NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Saco will hold a public hearing on May 16, 2016 at 7:00 p.m. at the City Council Chambers, Saco City Hall, 300 Main Street in Saco for purposes of receiving public comments on the proposed First Amendment to the Saco Franklin Fuels (Incon or Intelligent Controls) Municipal Development Tax Increment Financing District Development Program, pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. A copy of the proposed First Amendment to the Development Program for the District (that makes a number of changes to the Development Program adopted by the City in 2007) is on file with the City Clerk and may be obtained from and reviewed at the offices of the City Clerk during normal business hours. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at the hearing.

Note: To be published in a newspaper of general circulation in the City at least 10 days prior to the public hearing, with an actual copy of published notice to be attached to the application submitted to DECD

Exhibit E
Minutes of Public Hearing
(certified as true copy by City Clerk and dated)

Exhibit F
City Council Orders

Ordered that the City, acting pursuant to the provisions of Title 30-A, Chapter 206 of the Maine Revised Statutes, hereby adopts the First Amendment to the City of Saco TIF #8, the Franklin Fuels (a/k/a Incon or Intelligent Controls) Municipal Development Tax Increment Financing Development Program (the “First Amendment”) as presented to this meeting and as has been on file in the City Clerk’s Office, a copy of which is incorporated herein and made a part of the minutes of this meeting. The Mayor or the City Administrator, acting singly, is hereby authorized and directed, on behalf of the City of Saco to execute and submit to the Commissioner of the Maine Department of Economic and Community Development (“DECD”) such applications and further documentation as may be necessary or appropriate for any necessary final approval of the First Amendment; and the Mayor or City Administrator be, and hereby is, authorized and empowered, at his discretion, from time to time, to make such technical revisions to the First Amendment or to the Development Program for the District as he deems reasonably necessary or convenient in order to facilitate the process for review and approval of the First Amendment by the Commissioner of DECD, so long as such revisions are not inconsistent with the First Amendment or the basic structure and intent of the District or the First Amendment.

Ordered further that the City Administrator or the Mayor, acting singly, be and hereby is authorized and directed to enter into the Assignment of and First Amendment to Credit Enhancement Agreement as contemplated by the First Amendment to the Development Agreement, and in the name of and on behalf of the City, such agreement to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as amended by the First Amendment, as the said Mayor or City Administrator may approve, the Mayor’s or City Administrator’s approval to be conclusively evidenced by execution thereof.
Note: Attested copy of minutes of the public hearing held by the Board of Selectmen and the minutes of the City Meeting approving the amendment shall be attached to the application submitted to DECD

Exhibit G

Scope of Work

34 Spring Hill Road – Tenant Improvements for the Saco River Dyehouse

- Modifications to the building envelope
  - Limited to HVAC and Process Ventilation Penetrations – i.e. louvers and exhaust fans
- Modifications to the building interior
  - Construction of fire rated assembly to house the process steam boiler plant
  - Construction of non load bearing interior partitions to house a new dye mixing lab
  - Modification/Conversion of existing lab and janitor space into a new break room
  - General paint touch ups
- Creation of new process space
  - Installation of 200’ of new trench drain to create a wet perimeter around the washing and dyeing tanks
    - Involves removal of concrete slab, excavation of gravel, installation of preformed trench drain segment, installation of 2000 gallon precast concrete effluent pit, and pouring back of concrete slab on grade
- Installation of new process equipment
  - Installation of new steam and hot water piping, process valves, pumps, and controllers
  - Installation of new combustion air and process ventilation fans and louvers
  - Relocation of existing boiler and equipment from former space in Biddeford
  - Installation of new state of the art dying equipment to supplement existing relocated equipment
  - Interconnection of effluent pit to effluent tank and connection of effluent tank to sanitary sewer
  - Connection of new process steam boiler to existing domestic water service
  - Relocation/Modification of existing trolley crane for batch handling
  - Installation of new jib crane for remote batch handling
  - Equipment transport and rigging from old location to new
  - Installation of steel dunnage supports and concrete housekeeping pads for new equipment
- Electrical Modifications
  - Installation of new 600 amp, 480v, 3 phase service
  - Installation of new 200 amp, 208v, phase sub panels connected to existing electrical service
  - Reconfiguration and installation of new equipment feeders (combination of 480v, 208v, and 120v connections
  - Installation of convenience outlets for break room and dedicated outlets for the dye lab
  - Light reconfiguration as required
  - Installation of lift charging stations
- Other Work
  - Assembly of utility shelving and office furniture
  - Construction of raised personnel platforms for access to process vats
  - Technology installation for conference room and offices

City of Saco Summary of TIF Modifications Proposed (Amended 5.19.16)

Intelligent Controls, Inc. (now known as Franklin Fueling)

Current TIF [45% Credit Enhancement (CE) to Franklin/ 55% to City for Economic Development.] done in 2008 runs out in FY ’18 (two years to go) buyer wants to extend.

The Prospective Buyer of the Real Estate, White Rabbit LLC, has requested an Assignment and Extension of the
TIF. City Staff recommends the following:
- Seek Approvals of City of Saco Economic Development Commission\(^1\) and City Council as well as State of Maine Department of Economic and Community Development (DECD) approval for a First Amendment City of Saco TIF #8, the Franklin Fuels Municipal Development Tax Increment Financing District Development Program including the Assignment/Modification of Credit Enhancement (CE) Agreement. Currently, the CE has a tax revenue split of 45% / 55% split between property owner and City.

To retain /add the following “Quality Jobs”\(^2\) shall mean full time jobs or full time equivalent jobs that pay an hourly wage at least 50% higher than the federal minimum wage or average salary of at least 125% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8.

- 21 Franklin Fueling retained quality jobs,
- 11 Maine Textiles International (d/b/a Saco River Dye House) quality jobs - new to Saco (all retained in Maine.
- 30 Total “Quality Jobs” as of 05 19 16 as well as additional part-time and training positions for Saco River Dye House with an expected 3 to 5 additional quality jobs over the next 12 months.
- Tenants are required to offer a general benefits plan and including a health care plan offering to all full-time employees (they do not necessarily need to have employer contribution). If they want a continued CE they will be required to offer a health care option to employees.

- Extend the term of the TIF for the maximum possible term thru FY 2038
- Cap CE payments after 07/01/16 at $125,000 to Property owner.
- TIF revenue share after FY ‘18 modified to 30%* Credit Enhancement (CE) to White Rabbit that would be assignable to Maine Textiles International, Inc. d/b/a Saco River Dye House – who has a first refusal option to purchase the property)/70% to City of Saco for Economic Development.
- *should the combined building Full time employment of the two tenants drop:
  - below 29 FTE’s as determined based upon submission of copies of year end payroll summary information and company certification in form acceptable to the City of Saco the TIF revenue share rate would be modified to 25% Credit Enhancement (CE) to White Rabbit that would be assignable to Maine Textiles International, Inc. d/b/a Saco River Dye House – who has a first refusal option to purchase the property)/75% to City of Saco for Economic Development.
  - below 25 FTE’s as determined based upon submission of copies of year end payroll summary information and company certification in form acceptable to the City of Saco the TIF revenue share rate would be modified to 20% Credit Enhancement (CE) to White Rabbit that would be assignable to Maine Textiles International, Inc. d/b/a Saco River Dye House – who has a first refusal option to purchase the property)/80% to City of Saco for Economic Development.
  - below 19 FTE’s as determined based upon submission of copies of year end payroll summary information and company certification in form acceptable to the City of Saco the TIF revenue share rate would be modified to 0% Credit Enhancement (CE) to White Rabbit that would be assignable to Maine Textiles International, Inc. d/b/a Saco River Dye House – who has a first refusal option to purchase the property)/100% to City of Saco for Economic Development.

\(^1\) Note: This matter was discussed and a vote to support the recommended changes was obtained form the EDC on May 4, 2016.

\(^2\) “Quality Jobs” shall mean full time jobs or full time equivalent jobs that pay an hourly wage at least 50% higher than the federal minimum wage or average salary of at least 125% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8.
## Estimated Tax Increment Revenues and Tax Shifts

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Notes: 100% Capture; TIF Years 1 to 8 are actual numbers; Other years are estimates; TIF Payments to Company after July 1, 2016 are capped at $125,000

## Tax Shifts

<table>
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<th>TIF Fiscal Year</th>
<th>Estimated</th>
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Avoided Formula Impacts on Municipality from Sheltering of Valuation
### TAX SHIFT COMPUTATIONS METHODOLOGY

A tax increment financing district will result in certain tax shifts which result because the retained captured assessed value of the District will be excluded from the State Valuation of the property in the City. These tax shifts are noted in three basis formulae which use local property tax valuation as a basis for calculation. These three formulas are:

- State Aid to Education
- Municipal Share of County Taxes
- Revenue Sharing

The following is the process used to derive each of these tax shifts.

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<th>Year</th>
<th>CAV</th>
<th>Avoided Loss of State Aid to Education</th>
<th>Avoided Loss of State Municipal Revenue Sharing</th>
<th>Avoided Increase in County Tax</th>
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EDUCATION TAX SHIFT: Computed by comparing State Department of Education Form ED 279 Adjusted Local Share Mill Rate, as set forth on the Department of Education General Purpose Aid for Local Schools, for the City with and without retained CAV.

COUNTY TAX SHIFT: In order to compute this shift, we first obtained the most recent County State Valuation from the State Bureau of Taxation. We then determined the average Captured Assessed Value for the District over the life of the District. We then determined the City’s current share of the County Tax by dividing the current City Valuation plus the average new value by the sum of the current City Valuation and the average new value. The difference is the factor representing the percentage of the County Tax Shift. Next, we determined the estimated average annual county tax over the life of the district. To arrive at this number, the average change in County Tax for the last five years was determined and the percentage increase projected to the middle of the district's life. This projected tax was then multiplied by the factor developed above to determine the County Tax Shift.

REVENUE SHARING SHIFTS: The revenue sharing shift can be determined by adding the CAV to the Maine Projected Revenue Sharing, and comparing the amount of revenue sharing for the City with vs. without the CAV. The first step in determining the Revenue Sharing Tax Shifts was to obtain the total Municipal Revenue Sharing Amount from the State Treasurer. The five steps outlined in the following formula were then applied:

STEP ONE: Municipal Population X Local Property Tax Levied = Current Factor
State Local Valuation

STEP TWO: Municipal Population X Local Property Tax Levied = Adjusted Factor
State Local Valuation + Captured Assessed Value

STEP THREE: Current Factor = 1.X
Adjusted Factor

STEP FOUR: 1.X - 1.0 = .X

STEP FIVE: X (Total Municipal Revenue Sharing Amount) = Revenue Sharing Shift

B. ZONING ORDINANCE AMENDMENTS TO ARTICLES 9, 10 AND 11 – (PUBLIC HEARING)

The Bill Dodge Nissan site plan was approved by the Planning Board on June 25, 2013. An abutting property owner appealed a decision regarding a minor plan amendment, and issuance of the Certificate of Occupancy for the building. Both the Planning Board and the Zoning Board of Appeals determined that they had no jurisdiction over the matter. York County Superior Court upheld the decisions by both boards. The appeal then went to the Maine Supreme Court, which concluded that the appeals should have been heard by both Boards.

The Court also found that the procedures for appeals, and the handling of minor or major changes to approved site plans outlined in the Zoning Ordinance were ambiguous and unclear. The City Attorney has reviewed the existing language related to conditional uses, the ZBA, and site plan review and drafted a number of amendments in response to the Court’s concerns.

The Planning Board reviewed the amendments and held a public hearing on both March 15 and April 5, 2016. The Board recommends that the amendments be adopted as proposed.

Councilor Cote moved, Councilor Johnston seconded to open the Public Hearing to the document titled “Amendments to Articles 9, 10, and 11 of the Zoning Ordinance.” The motion passed with unanimous consent.

There were no comments from the public.

Councilor Cote moved, Councilor Doyle seconded to close the Public Hearing, and further move to set the Second and Final Reading of the document titled, “Amendments to Articles 9, 10 and 11 of the Zoning Ordinance, Amended April 5, 2016” for June 6, 2016. The motion passed with seven (7) yeas.
Section 901. Conditional Uses

901-1. CONDITIONAL USE PERMIT REQUIRED (Amended 11/6/89; 10/4/93)
A building, structure or parcel of land may be employed for a conditional use, as defined in Article 3, if the Planning Office finds the use meets the application standards of Section 901-12 below, or if the Planning Board finds that the use meets the standards of Section 901-4, that it meets any special standards of the zoning ordinance, and is one of the following four types of conditional uses:

1. The conditional use is specifically listed in the regulations governing the zoning district in which the use is proposed; or
2. A parcel or single owner of the effective date of this Ordinance is transected by a zoning boundary line, in which case extensions penetrating no more than 100 feet into a more restrictive zone may be approved as a conditional use in accordance with Section 404-2; or
3. A change from one non-conforming use to another use equally or more appropriate to the zoning district and meeting the standards of Section 503-4 and this Section.
4. Certain conversions of buildings to multifamily use as described in Section 412-6.

901-2. APPLICATION FOR CONDITIONAL USE PERMIT

1. The applicant shall submit building and site plans in ten (10) copies, drawn to a scale of not less than one inch equals twenty feet (1" = 20'). The building plans shall show at a minimum the first floor plan and all elevations, with indication of the proposed construction material. The site plan shall include the following information.
   a. A map of the site with reference to surrounding areas and existing street locations.
   b. The name and address of the owner and conditional use permit applicant, together with evidence of sufficient right, title or interest in the premises to permit the applicant to undertake the use for which conditional use permit approval has been requested.
   c. The names and addresses of the owners of all properties within two hundred (200) feet of the property in question when the property is located in the R-3, R-4, R-5 or MU zones and within six hundred (600) feet when the property in question is located in the conservation zone, any industrial district or the R-1, R-2 and R-4 districts, as shown by the most recent tax records of all municipalities in which such properties lie. (Amended 10/3/11)
   d. A plan of the area showing lot line dimensions, applicable zone or zones, and the normal high water mark, if applicable.
   e. Location of all existing and proposed buildings and structures, streets, easements, driveways, entrances and exits on the site and within one hundred (100) feet thereof.
   f. All setbacks from bodies of water and lot lines.
   g. All existing physical features on the site and within two hundred (200) feet of the site, including streams, watercourses and existing woodlands. Soil conditions as reflected by a medium intensity survey (such as wetlands, rock ledge, areas of high water table) shall be shown, and the Planning Office or Planning Board may require a high intensity soils survey where necessary. The applicant shall provide, as part of the application, a narrative and sketch sufficient to describe trees and other vegetation located on the site. The Planning Office or Planning Board may require mapping of trees proposed to be removed on part of site and landscaping plans presented for approval.
   h. Topography showing existing and proposed contours at five (5) foot intervals for slopes averaging five percent (5%) or greater and at two (2) foot intervals for land of lesser slope. A reference benchmark shall be clearly designated.
   i. Where variations in the topography may affect the layout of buildings and roads, the Planning Office or Planning Board may require that the topographic maps be based on an on-site survey.
   j. Parking, loading and unloading areas shall be indicated with dimensions, traffic patterns, access aisles and curb radii.
   k. Improvements such as roads, curbs, bumpers and sidewalks shall be indicated with cross sections, design details and dimensions.
   l. Location and design of existing and proposed stormwater systems, sanitary waste disposal systems and potable water supply, and methods of solid waste storage and disposal.
   m. Landscaping and buffering plan showing what will remain and what will be planted, indicating botanical and common names of plants and trees, dimensions, approximate time of planting and maintenance plans.
   n. Lighting details indicating type of fixtures, location, radius and intensity of light.
   o. Proposed use of all floor area.

2. The application for conditional use permit review for business, commercial and
industrial uses shall also include:
a. A written description of the proposed operations in sufficient detail to indicate
   the degree to which the operations will create traffic congestion, noise, toxic or
   noxious manner, vibration, odor, heat, glare, air pollution, waste, and other
   objectionable effects, along with engineering and architectural plans for
   mitigating such effects,
b. The proposed number of shifts to be worked and the maximum number of
   employees of each shift,
c. A list of all hazardous materials to be hauled, stored, used, generated, or
   disposed of on the site, and any pertinent state or federal permits required.

3. Where the Planning Board (or the Planning Office in case of minor conditional uses
   as provided below in Section 901-12) finds that, due to special circumstances of a
   particular plan, the submission of required exhibits is not necessary or is
   inappropriate because of the nature of the proposed development, it may waive such
   requirements subject to appropriate conditions. The Planning Board or Planning
   Office may require submission of such additional information as it deems necessary
   for proper review. A written request for such a waiver shall accompany the
   application.

4. The purpose of these provisions is to ensure that all required information is
   presented to the Planning Board or Planning Office when it initially reviews an
   application. However, an application is not deemed to be complete until declared
to be so by decision of the Planning Office in the case of minor conditional use
   applications as provided below in Section 901-12, or by vote of the Planning Board,
   which may, in any case, request additional information and materials beyond those
   described in subscription 1.

901-3. HEARING REQUIRED (Amended 10/4/93)

1. For each application for a conditional use permit except those reviewed pursuant to
   Section 901-12 the Planning Board shall conduct a public hearing.
2. The Planning Board shall cause public notice to be posted and published in both the
city building and at least one newspaper of circulation in the area, of any public
hearing which the Board shall conduct, indicating the property involved, the nature
of the appeal, and the time and place of the public hearing.
3. The Board shall also cause to have notified all property owners of within six
   hundred (600) feet of the property when the applicant's property is located in the
   Conservation District, any Industrial District or R-1, R-2, and R-4 Districts and
   within two hundred (200) feet when the applicant's property is located in the R-3
   District or any Business District. The Board will cause a list of such property
   owners to be drawn from the Assessor's records, and such notices to property
   owners shall be sent by mail at least seven (7) days prior to the date set for the
   public hearing.
4. The Planning Board shall not continue hearings to a future date except for good
   cause. Written notice of the decision of the Board shall be sent to the appellant and
   the Building Inspector.
5. (Reserved)
6. If the development proposal under conditional use permit review is also subject to
   site plan review under Article XI of the ordinance, conditional use permit review
   and site plan review may occur simultaneously.

901-4. STANDARDS FOR A CONDITIONAL USE PERMIT
It is the Applicant's burden to establish that the proposed use or activity meets each of
the following standards:

1. The proposed use will meet the definition and specific requirements set forth in this
   Ordinance and will be in compliance with applicable state or federal laws.
2. The proposed use will provide adequate access to the site, and to the buildings on
   the site, for emergency vehicles and will not create fire safety hazards.
3. The proposed exterior lighting will not create hazards to motorists traveling on
   adjacent public streets, is adequate for the safety of occupants or users of the site
   and will not damage the value and diminish the usability of adjacent properties.
4. The provisions for buffers and on-site landscaping will provide adequate protection
   to neighboring properties from detrimental features of the development.
5. The proposed use will not have a significant detrimental effect on the use and
   peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor,
   dust, glare or other cause.
6. The provisions for vehicular loading and unloading and parking and for vehicular
   and pedestrian circulation on the site and onto adjacent public streets will not create
   hazardous and unsafe conditions.
7. The proposed use will not have a significant detrimental effect on the value of
   adjacent properties that could be avoided by reasonable modification of the plan.
8. The design of the site will not result in significant flood hazards or flood damage
   and will be in conformance with applicable flood hazard protection requirements.
9. Adequate provision has been made for disposal of wastewater and solid waste and
   for the prevention of ground or surface water contamination.
10. Adequate provision has been made to control erosion or sedimentation.
11. Adequate provision has been made to handle storm water run-off and other drainage
    problems on the site.
12. The proposed water supply will meet the demands of the proposed use and for fire
13. Adequate provision has been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law.

14. The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat that could be avoided by reasonable modification of the plan.

15. The use will not cause unreasonable safety hazards for pedestrians, cyclists, and operators of motor vehicles and will not result in a decrease in level of service below LOS D at study area intersections or the project driveway during the design hour. (Levels of service are defined by the latest edition of the Highway Capacity Manual, published by the Transportation Research Board. The design hour is defined as the 30th highest hour of the year for the intersection.) However, (1) at signalized intersections where the level of service is already below LOS D; or (2) at signalized intersections predicted to drop below LOS D where physical improvements cannot be made to attain LOS D; or (3) at unsignalized intersections, where physical improvements cannot be made to improve the level of service to LOS D and provided that warrants for a traffic signal are not met, or signal installation is not desirable; the Board may approve the application if it finds that an adequate level of safety can be attained through imposing conditions of approval such as upgrades in signalization, one-way driveways, prohibiting certain turning movements, construction of turning lanes, sidewalks, bicycle paths, or other improvements, or through a program of Transportation Demand Management measures. (Amended 4/30/07)

16. Existing off-site ways and traffic facilities can safely and conveniently accommodate the increased traffic generated by the development as far away from the development as the effects of the development can be traced with reasonable accuracy. (Amended 10/4/93)

901-3. ADDITIONAL STANDARDS IN RESOURCE PROTECTION, SACO RIVER AND SHORELAND AREAS

For conditional use permit applications within RP, SR, and SO Districts, the Planning Board, in addition to the standards for a conditional use permit, shall find that the proposed conditional use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as in accordance with the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Marine Business and Residential District;
8. Will avoid problems associated with flood plain development and use; and
9. Is in conformance with the provisions of Section 7.1-3 Land Use Standards;
10. If located in a structure, the structure is located in an approved subdivision and will not violate any other local ordinance or regulation or any State law which Saco is responsible for enforcing. (Amended 4/5/02)

901-6. CONDITIONS OF APPROVAL

The Planning Board, and in the case of minor conditional uses the Planning Office, may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation, specified sewage disposal and water supply facilities, landscaping and planting screens, period of operation, operational controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, type of construction, or any other reasonable conditions necessary to fulfill the purposes of this Ordinance.

901-7. LIMITS ON CONDITIONAL USE PERMITS

Requests for extensions shall be approved unless one or more of the following occurs:
The Planning Board shall disapprove the request for an extension unless the Board has become aware of one of the following:

a. Additional information that indicates that the plan does not meet the conditional use standards;
b. failure to meet a condition of approval;
c. an amendment in the Zoning Ordinance that prohibits or alters the proposed conditional use.

901-8. REAPPLICATION

If the Planning Board shall deny a conditional use permit is denied, a second request of a similar nature shall not be resubmitted brought before the Board within two years from the date of the first request, unless in the opinion of the majority of the Planning Board, (or by the Planning Office in the case of minor conditional use) substantial new evidence can be brought forward or unless the Board or the Planning Office finds, in its sole judgment, that an error of law or misunderstanding of facts has been made, or unless amendment has been made to the Zoning Ordinance which changes the status, circumstances, or conditions of the application which was originally submitted which was brought before the Board.

901-9. EXPIRATION DURATION OF CONDITIONAL USE PERMIT

Provided all conditions and standards of approval are met, including Section 901-7 and/or Section 901-12, a conditional use permit issued under this Article authorizes only the particular activity for which it was issued and based upon a plan for such activity which was approved by the Planning Board. The conditional use permit shall automatically expire and cease to be of any force or effect if such use is discontinued for a period of 12 consecutive months. (Amended 9/18/89; 10/4/93)

901-10. APPEALS

Decisions on minor conditional uses made by the Planning Office may be appealed by an aggrieved party to the Planning Board within 30 days of the date of the decision. This review by the Planning Board shall be de novo and may include new evidence and testimony. Any decision by the Planning Board regarding a minor conditional use application or regarding an application for a conditional use permit may be appealed by an aggrieved party in writing to the Zoning Board of Appeals within 30 days of the Planning Board’s decision. The Zoning Board of Appeals may reverse the Planning Board’s decision only upon a finding that there has been an abuse of discretion, an error of law or that there are not substantial facts leading to the record to support the decision of the Planning Board were erroneous. The review shall not be de novo.

Appeals of decisions on minor conditional uses shall be made to the Planning Board within 30 days of the date of the decision. This appeal may include new evidence and testimony.

901-11. NON-CONFORMANCE

Conditional uses are permitted in buildings which are legally non-conforming in respect to the standards of Table 412-1 of this ordinance upon a decision of the Planning Office, or finding by the Planning Board that this non-conformance does not cause the use to violate any of the conditional use standards or special standards of Article 7 for certain conditional uses. (Amended 10/4/93)

901-12. MINOR CONDITIONAL USES

In order to process applications more efficiently, certain conditional uses, due to the limited nature of the proposed use, may be reviewed by the Planning Office, as authorized in M.R.S.A. Title 30-A § 4353. The Planning Office may, however, decline review an application requesting approval for a minor conditional use, and forward such application to the Planning Board. Only uses that meet all of the following applicability standards may be reviewed as minor conditional uses:

1. Applicability
   This article shall apply to:
   a. homes in which there is no point of purchase for retail merchandise at the home. Phone and mail order businesses, wholesale businesses and other similar businesses may be reviewed as minor conditional uses;
   b. homes in which the required number of parking spaces for all uses on the lot does not exceed four (4) spaces;
   c. homes in which there are not significant exterior alterations to the building or site;
   d. two family dwellings (Amended 2/19/02)

2. Administration
   a. Application Contents
      An application for a minor conditional use shall include four (4) copies of the information required under Section 901-2.1, except the items required under paragraphs c. g. h and j. which may be required by the Planning Office if deemed warranted.
   b. Notice and Public Comment
      Upon receipt of an application for minor conditional use, the Planning Office shall send a notice of the application, including the name of applicant, address of the applicant, the nature and address of the proposed use, to all property owners within two hundred (200) feet. The notice shall also include a deadline for comment on the application, to be ten (10) calendar days from the date of the notice.
c. Time Frame for Decisions
The Planning Office shall act upon all applications for minor conditional uses, approval, or referral to the Planning Board, within five (5) days of the close of the public comment period.

3. Criteria for Approval
Minor Conditional Use applications shall be approved, or approved with conditions, by the Planning Office unless the proposed use does not satisfy the approval criteria in Section 901-4, or other relevant sections of the Zoning Ordinance, or other local, State and federal laws. Notice of decisions by the Planning Office shall be provided to those parties detailed above in Section 901-12 (2). If in the opinion of the Planning Office, an application does not meet the approved applicability criteria set out in Section 901-12 (1), then the application shall be referred to the Planning Board for a full conditional use review.

4. Planning Board Jurisdiction
The Planning Board shall review any application for a minor conditional use upon a determination by the Planning Office that the potential impacts from a proposed use warrant a public hearing before the Planning Board. Upon referral to the Planning Board, the applicant shall submit a full application for conditional use.

Section 902. Variances (Amended 11/6/89; 6/17/95; 11/19/07)

902-1. APPLICABILITY
1. A variance, as defined in Article III, is authorized for only the following space and bulk requirements, and for Certificates of Appropriateness, governed by Section 413, Historic Preservation:
   a) minimum lot area;
   b) lot area per dwelling unit;
   c) minimum street frontage;
   d) minimum yards and setbacks;
   e) maximum lot coverage;
   f) maximum height;
   g) on lots divided by district boundaries, the extension of uses allowed in the less restricted zone more than fifty (50) feet into the more restricted zone;
   h) the parking standards in Section 708 of this ordinance;
   i) the curb cut standards in Section 709-1 of this ordinance;
   j) the sign standards in Section 707, except for decisions by the Planning Board under Section 707-5.3 (Amended 6/17/95)
   k) the private road dimensional standards found in Section 724-9 A and 724-9 I of this ordinance. However, this variance shall only be granted if the applicant can present a letter from the Saco Fire Department stating that the variance will result in a private road which is adequate for public safety purposes. (Amended 3/15/04)

2. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming structures in the particular zone or adjoining zones. (Amended 11/6/89)

902-2. APPLICATION FOR A VARIANCE
Application to the Zoning Board of Appeals for a variance shall be submitted to the Code Enforcement Officer on forms provided for that purpose, accompanied by a fee as may be established by the City Council for such applications. The application shall clearly state the location of the property, the relief sought, and, the reason(s) for requesting the variance. (Amended 11/6/89)

902-3. STANDARDS
Prior to voting to grant a variance, the Zoning Board of Appeals shall review the application and find that the following standards have been met:

1. That a literal interpretation of the requirement of this Ordinance will impose an undue hardship on the property owner. The term "undue hardship" shall mean specifically that:
   a) the land in question cannot yield a reasonable return unless a variance is granted; and
   b) the need for the variance is due to unique circumstances of the property and not to the general conditions of the neighborhood, and
   c) the hardship is not the result of action taken by the applicant or a prior owner.
   d) that the granting of the variance will not alter the essential character of the locality.

2. No variance shall be granted merely to relieve inconvenience to the property owner or for economic considerations alone.

3. Any variance granted by the Board of Appeals shall be the minimum variance from the terms of the Ordinance as will relieve the hardship pleaded.
902-4. VARIANCE IN SHORELAND AREAS (Amended 6/29/09)
A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

Prior to voting to grant a variance within the mandated shoreland area, the Zoning Board of Appeals shall, in addition, find that the proposed variance:

1. Will not result in unsafe or unhealthful conditions;
2. Will not result in erosion or sedimentation;
3. Will not result in water pollution;
4. Will not result in damage to spawning grounds, fish aquatic life, bird and other wildlife habitat;
5. Will conserve shoreland vegetation;
6. Will conserve access of public to waters as viewed from public facilities;
7. Will conserve actual points of public access to waters;
8. Will conserve natural beauty; and
9. Will avoid problems associated with flood plain development and use.

The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board’s decision.

902-5. CONDITION OF APPROVAL
The Zoning Board of Appeals may impose such conditions on its approval of a variance as are necessary, in its judgment, to protect surrounding property owners or the city from adverse impacts resulting from the variance.

902-6. LIMITS ON VARIANCES
A variance granted by the Board of Appeals shall expire if the work or change involved is not commenced within six (6) months of the date on which the variance was granted or if the work or change is not substantially completed within a twelve (12) month period, unless extended by the Board.

902-7. REAPPLICATION
If the Board of Appeals shall deny a variance, a second request of a similar nature shall not be brought before the Board within two years from the date of the first request, unless in the opinion of a majority of the Board, substantial new evidence can be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error of law or misunderstanding of facts has been made, or unless amendment has been made to the Zoning Ordinance which changes the status, circumstances, or conditions of the matter which was appealed.

902-8. PRIOR WORK
Any construction activity commenced prior to the granting of a required variance shall be a violation of this Ordinance.

902-9. SPECIAL STANDARDS FOR CERTAIN VARIANCES FOR SINGLE FAMILY DWELLINGS (Amended 7/10/95)

1. Pursuant to 30 A.M.R.S.A. subsection 4853, 4-B, the Zoning Board of Appeals may also grant setback variances for single-family detached dwellings under the alternate definition of “undue hardship” below. Variances granted under this section are limited to the following:
   A. Single-family detached dwellings that are the primary year-round residence of the petitioner.
   B. Variances in front yard or side yard and rear yard as outlined in Table 412-1, Lines D and E. not to exceed 20 percent of the setback requirement.
   C. Variances granted under this subsection shall not cause the area of the dwelling to exceed the maximum lot coverage permitted in the district as outlined in Table 412-1, Line F.
   D. Variances granted under this subsection shall be the minimum variance needed.
   E. Variances granted under this subsection shall not cause the house which receives the variance to be within 15 feet of an occupied building on the adjacent lot.

2. Prior to voting to grant a variance, the Zoning Board of Appeals shall review the application and find that all of the following standards defining “undue hardship” for this subsection only have been met:
   A. The need for the variance is due to unique circumstances of the property and not to the general conditions of the neighborhood;
   B. The granting of a variance will not alter the essential character of the locality;
C. The hardship is not the result of action taken by the applicant or a prior owner;
D. The granting of the variance will not substantially reduce or impair the use of abutting property; and
E. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

**Article 10**

**Board of Appeals**

**Section 1001. Organization**

1001-1. CREATION OF BOARD.

The City of Saco Zoning Board of Appeals, hereinafter the “Board”, is hereby created. The Board shall consist of seven regular members and two alternates, who shall be appointed by the Mayor, subject to confirmation by the City Council, none of whom shall hold any elective office or any other appointive position in the City government. The Board shall elect a chairman and a secretary from its members. (Amended 10/3/88)

1001-2. QUORUM.

A quorum shall consist of four (4) members, at least two of whom shall be regular members. All decisions concerning Board action shall consist of a simple majority vote by the members present at a meeting, but under no circumstances shall fewer than three (3) members constitute a majority vote. Alternates shall vote only in the absence of regular members. In the event of absence of a regular member or member(s) the alternate who has served the longest time shall fill the first vacancy and the alternate who has served the second longest time shall fill the second vacancy. In the event that both alternates shall have served the same period of time, selection of an alternate to fill the vacancy shall be by lot. (Amended 10/3/88)

1001-3. QUALIFICATIONS

1. Only residents of Saco may serve as a member of the Board.
2. There shall be no more than two members on the Board who are residents of the same ward.
3. No City Council member, nor any spouse of a City Council member, may be a member of the Board.

**Section 1002. Terms of Office; Vacancies**

1002-1. TERMS.

The term of the appointive members shall be five years and terms shall be staggered with twelve (12) month intervals. Any vacancy during the unexpired term of an appointive member shall be filled in the same manner for the remainder of the term.

1002-2. VACANCIES

1. Vacancies on the Board shall be created under any of the following circumstances:
   a) a member submits his/her resignation in writing to the Mayor
   b) a member’s official residence is no longer within the City of Saco, in which instance the secretary of the Board shall notify in writing the Mayor
   c) upon expiration of the term of a member
   d) a member fails to attend three or more consecutive hearings/meetings of the Board, without being excused by the Board

2. In the case of vacancies occurring in the manner described in paragraph (d) above, the Chairman of the Zoning Board of Appeals shall first contact the absent member to determine his/her ability to attend future hearings on a regular basis, and the Board shall then recommend appropriate action to the City Council.

3. Any vacancy during the unexpired term of an appointive member shall be filled by a person appointed by the Mayor for the unexpired term.

4. Any member of the Board may be removed for cause by the City Council provided that the member shall first be notified in writing and given the opportunity for a hearing.

**Section 1003. Powers and Duties.**

The Zoning Board of Appeals, after public hearing and by a majority vote of its members, shall have the following powers and duties:
1003-1. ADMINISTRATIVE APPEALS.

To affirm, modify, or set aside the action of the Building Inspector in issuing or denying building permits or certificates of occupancy when it is alleged that the action is based on an erroneous interpretation of this Ordinance.

An aggrieved party may appeal a decision of the Code Enforcement Officer regarding a zoning violation, a building permit or a certificate of occupancy in those cases where it is alleged the Code Enforcement Officer has made an error of law, or has abused their discretion, or the evidence of record compelled a different decision. An aggrieved party may directly appeal to the Board if a permit holder has meaningfully exceeded the authority contained in their building permit or their certificate of occupancy. Any appeal filed hereunder must be provided such appeal is brought within 30 days of the alleged act or failure to act. This provision is intended to effectuate process set out by the Legislature in Title 30-A, Section 269-1 (4). The appeal review shall be de novo as set out below in Section 1004-6. A decision made by the Code Enforcement Officer not to commence or file a land use enforcement action is a non appealable exercise of the Code Enforcement Officer’s pre-cessorial discretion. The Board may affirm or reverse the decision of the Code Enforcement Officer, and that decision may be appealed as set out in Section 1005.

1003-2. PLANNING BOARD APPEALS.

To hear appeals of decisions by the Planning Board on applications for conditional use permits, subject to the limitations of Section 901 of this Ordinance. Pursuant to Section 901-10, the appeal review shall not be de novo. The Zoning Board shall not, however, have jurisdiction or authority to hear appeals from site plan decisions made by either the Planning Board or the City Planner. Pursuant to Section 901-10, the appeal review shall not be de novo. The Board may affirm or reverse the decision of the Planning Board on appeal, or, if it can order, not more than one time, a remand to the Planning Board for further consideration.

1003-3. IN GENERAL: VARIANCES FROM DECISIONS BY CODE ENFORCEMENT.

The Board shall have authority to approve, approve with conditions, or deny applications for variances from decisions made by the Code Enforcement Officer regarding standards of this Ordinance as they relate to the space and bulk requirements of the district regulations, according to the standards set forth in Article IX of this Ordinance. The review conducted by the Board on such variances shall be de novo as set out below in Section 1004-6. Such decisions by the Board may be appealed as set out in Section 1005.

All variances, including those described here, and in Sections 1003-4 and 1003-6 below, shall meet the requirements and conditions set out in Section 902, and to approve, approve with conditions or disapprove appeals for variances under Section 412.12.

(Amended 3/2/87)

1003-4. VARIANCES FROM HISTORIC PRESERVATION CONDITIONS.

The Board shall have authority to approve, approve with conditions, or deny applications for variances as further detailed in Section 413-13 of this Ordinance. The review conducted by the Board shall be de novo as set out below in Section 1004-6 below.

1003-5. APPEALS FROM HISTORIC PRESERVATION COMMISSION.

To hear appeals of decisions made by the Historic Preservation Commission under Section 413-10-5. A decision by the Historic Preservation Commission on an application for a Certificate of Appropriateness may be appealed in writing to the Zoning Board of Appeals within 30 days of the Commission’s decision. The Board of Appeals may affirm the decision, or it may reverse the Commission’s decision only upon a finding that there has been an error of law or that the facts leading to the decision of the Commission were erroneous. The review made by the Board of Appeals shall not be de novo. (Amended 3/2/87; 3/18/91) If the Board reverses the decision of the Commission, it shall be remanded to the Commission for further consideration, but not more than once. Thereafter, the parties shall have their appeal rights as allowed under Section 1005.

1003-6. SHORELAND AND NATURAL RESOURCE DISTRICT VARIANCES

The Board shall have authority to approve, approve with conditions, or deny applications for a variance from Shoreland and Natural Resource standards set out in Section 7.1-1 of this Ordinance. The review conducted by the Board shall be de novo as set out in Section 1004-6 below.

1. Appeal Procedure
a—Making an Appeal from a decision of the Code Enforcement Officer

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from.

(2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
   (i) A concise written statement indicating what relief is requested and why it should be granted.
   (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief sought.
   (iii) A demarcation on the sketch showing low tide and mean high tide and designating the 100 year flood area.

(3) Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision.

(4) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of the receipt of an appeal request.

b—Making an Appeal from the Planning Board.

An appeal of a decision by the Planning Board shall be to Superior Court within thirty (30) days of the date of decision appealed from.

c—Standing and Time for an Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals or the Planning Board may take an appeal to Superior Court in accordance with State laws within thirty (30) days from the date of issuance of a written decision of the Board of Appeals or Planning Board as appropriate. (Amended 4-24-92)

Section 1004. Procedures

1004-1. DENIAL OF BUILDING PERMIT.

All applicants for building permits denied for any reason shall be advised in writing of the right of appeal.

1004-2. APPLICATION FOR A VARIANCE AND FILING OF AN APPEAL.

(1) An appeal or application for a variance shall be commenced as set forth below in Section 1004-1.

(2) Such appeal or application for a variance shall include the following information:
   (i) A concise written statement indicating what relief is requested and why it should be granted.
   (ii) A description of the regulation, ordinance provision, or permit that is subject to review or from which relief is requested.
   (iii) A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief sought.
   (iv) If applicable, a demarcation on the sketch showing low tide and mean high tide and designating the 100 year flood area, any applicable wetlands, shorelines, or other pertinent natural features.
   (v) If applicable, color pictures of the exterior features at issue if the appeal or variance is of or concerns a structure found in the Historic District.

(3) Upon being notified of an appeal or of an application for a variance, the Code Enforcement Officer and the Board Clerk shall arrange to secure and transmit to the Board all of the papers and evidence constituting the record of the decision that is to be reviewed.
1004-32. PUBLIC HEARING REQUIRED

1. For all appeals from decisions of the Code Enforcement Officer/Building Inspector, for all requests for any variance, and for consideration of application for permits authorized by the Zoning Ordinance, or from review of the decisions of the Planning Board on applications for conditional use permits, the Board of Appeals shall hold a public hearing, but the Board shall only take and hear new evidence or testimony in those matters where de novo review is expressly permitted. The Hearing shall be held within 25 days of the receipt of an appeal or application for variance.

2. The Board of Appeals shall cause public notice to be posted and published in both the city building and at least one newspaper of circulation in the area, of any public hearing which the Board shall conduct, indicating the property involved, the nature of the appeal, and the time and place of the public hearing.

3. The Board shall also cause to have notified all property owners of within six hundred (600) feet of the property where the applicant's property is located in the Conservation District, and Industrial District or R-1, R-2, and R-4 Districts and within 200 feet where the applicant's property is located in the R-3 District or any business district. The Board shall cause a list of such property owners to be drawn off from the Assessor's records, and such notices to property owners shall be sent by mail at least seven (7) days prior to the date set for the public hearing.

4. The Board of Appeals shall not continue hearings to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and the Code Enforcement Officer/Building Inspector.

1004-43. TIME FOR APPEAL, FORMS AND FEES.
When a person is aggrieved by a decision of the Code Enforcement Officer/Building Inspector, by a decision of the Historic Preservation Commission, or by a decision of the Planning Board, if an appeal or variance application is authorized elsewhere under this Ordinance, the aggrieved person must file their appeal or variance application within thirty (30) days of the day the decision was rendered. Appeals and applications for variance must be filed with the Clerk of the Zoning Board of Appeals on forms provided for that purpose. The Clerk of the Zoning Board of Appeals, after receiving the application and stamping the date of receipt shall transmit the application to the Board of Appeals.

Any appeal or application for variance to the Board of Appeals shall be accompanied by a fee as established by the City Council. (Amended 4-3-86)

1004-054. RULES OF PROCEDURE.
The Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with this Ordinance and the statutes of Maine. Such rules shall be filed with the Board Secretary and the City Clerk. Any rule so adopted and not mandated by this Ordinance or the statutes of Maine may be waived by the Chairman of the Board for good cause shown.

1004-055. SUBMISSION OF EVIDENCE.
Provided the Board's review is not otherwise limited by this Ordinance including Section 1003-2 and 1003-5, the Board may receive any oral or documentary evidence including new evidence and testimony, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present his own case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

1004-076. PRESENCE OF BUILDING INSPECTOR/CODE ENFORCEMENT OFFICER.
The Building Inspector/Code Enforcement Officer, unless prevented by illness or absence from the state, shall attend all hearings and shall present to the Board of Appeals all plans, photographs or other factual material that is appropriate to an understanding of the appeal.

1004-087. CONFLICT OF INTEREST.
No member of the Board shall vote on a matter in which he has a direct or indirect financial or personal interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is either requesting a decision, or who is being challenged.

1004-098. RECORDS AND DECISIONS
1. The secretary shall maintain a permanent record of all board meetings and all correspondence of the board. The secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the board. All records to be maintained or prepared by the secretary are deemed public, shall be filed in the municipal clerk's office and may be inspected at reasonable times.

2. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions. As the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.

3. Notification of decision. The City Clerk, Planning Board, and Building Inspector shall be notified in writing within seven (7) days of all decisions of the board. Written notice to the appellant shall be sent within seven (7) days after the date of the decision. The notice shall include, as every decision of the board shall include, findings of fact; shall refer to the evidence in the record and the exhibits, plans, or specifications upon which the decision is based; shall specify the reason or reasons for such decision; and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denied.

Section 1005. Appeals.
Decisions of the Zoning Board of Appeals may be appealed to Superior Court in accordance with State Law.

Section 1006. Reapplication.
If the Board of Appeals shall deny an appeal, a second request of a similar nature shall not be brought before the board within two years from the date of the first request, unless in the opinion of a majority of the board, substantial new evidence can be brought forward, or unless the board finds, in its sole and exclusive judgment, that an error of law or misunderstanding of fact has been made, or unless amendment has been made to the Zoning Ordinance which changes the status, circumstances, or conditions of the matter which was appealed.

Article 11
Site Plan Review

Section 1103. Administration

5. The Planning Board shall act to approve, approve with modifications or conditions, or disapprove the site plan within thirty (30) days of the close of the public hearing, or by a date mutually agreeable with the applicant.

6. No application for site plan review shall be considered complete and acted upon by the Planning Board until all conditional uses and/or variances which may be required for the proposed development have been obtained. The Planning Board may conduct its review of a conditional use, shoreland zoning permit, or subdivision application simultaneously with its site plan review.

7. MINOR SITE PLANS. (Amended 2/19/02) In order to process site plans more efficiently, site plans for the following items shall be reviewed by the City Planner rather than the Planning Board:
   a. buildings, structures or additions of less than six thousand (6,000) square feet;
   b. Private Roads;
   c. nonresidential buildings or structures in an approved industrial park, including accessory buildings and structures, having a total floor area of not more than 30,000 square feet.

The City Planner shall approve, approve with modifications or conditions, or deny the site plan within fifteen (15) working days of receiving a complete plan. The City Planner shall consider comments from all applicable City departments during the course of plan review. If the City Planner has not acted within fifteen (15) working days the applicant may seek approval from the Planning Board, rather than the City Planner. Inaction by the City Planner does not constitute approval or disapproval of the plan. If the applicant is not satisfied with the determination of the City Planner, the applicant shall be permitted to have the entire application reviewed by the aggrieved party may appeal the decision to the Planning Board. The City Planner may decline review, for any reason, and forward any minor site plan to the Planning Board for site plan review. Any minor plan that also requires conditional use, subdivision, or any other review by the Planning Board, shall be reviewed by the Planning Board. The City Planner shall within 30 days, inform the Planning Board and abutters after making a determination on a minor site plan. Any appeal from a determination of the City Planner to the Planning Board shall be governed by Section 1114 hereinafter.

8. SITE LOCATION OF DEVELOPMENT AMENDMENT. Once approved and signed by the Planning Board, no changes may be made to approved plans, without an amended approval from the Planning Board in the case of a major amendment, or from the City Planner in the case of a minor amendment. For the purposes of the Site Location of Development reviews, minor amendments can include any of the following, or similar issues: changes in the record owner, altering phases of development, the addition of accessory structures of less than two thousand
C. CREATION OF A SHARED ASSESSMENT DEPARTMENT WITH THE CITY OF BIDDEFORD

Mid April of 2016, the Saco City Assessor took a position with another Maine community. The City Administrator and the City Manager in Biddeford met with the Joint Steering Committee of Saco and Biddeford to consider a shared assessment department. Understanding a merger/shared department would not be about saving money; it would be about showing the community we’re interested in partnering to even greater extent, their recommendation was to move this process forward for each council for a vote.

On May 17, 2016 the Biddeford City Council voted to approve entering into an agreement with the City of Saco. Councilor Precourt moved, Councilor Minthorn seconded “Be it ordered that the City Council create a shared assessment department between Saco and Biddeford and authorize the City Administrator to sign a two (2) year...
agreement with the City of Biddeford to provide assessment services to the two cities.” Further move to approve the Order. The motion passed with six (6) yeas and one (1) nay – Councilor Cote.

AGREEMENT
FOR OPERATION
OF
SHARED ASSESSMENT DEPARTMENT

THIS AGREEMENT is made this XXX day of XXXX, 2016 by and between the CITY OF BIDDEFORD, a Maine municipal corporation existing under the laws of the State of Maine and located in York County (hereinafter “Biddeford”) and the CITY OF SACO, a Maine municipal corporation existing under the laws of the State of Maine and located in York County (hereinafter “Saco”), collectively (“The Parties”).

WHEREAS, pursuant to 30-A M.R.S.A § 2201, et seq., municipalities are permitted to make the most efficient use of their powers by enabling them to cooperate with other municipalities on the basis of mutual advantage; and,

WHEREAS, the Cities are desirous to create efficiencies for the benefit of the citizens and property taxpayers of both communities; and,

WHEREAS, Biddeford is willing and able to provide assessment services through its City Assessor to Saco on a cost sharing basis and pursuant to the terms provided below.

NOW, THEREFORE, Biddeford and Saco agree as follows:

1. Creation of Joint Department: The Cities have, through vote of their respective City Councils on this agreement, voted to create a joint Assessing Department which will be made up of shared employees between the two communities as well as employees that are hired directly by the individual cities to assist the joint efforts.

2. Staffing of Joint Department: The Cities will joint share and employ the chief assessor for both communities. For the purpose of this agreement, one of the Cities will take the lead as the primary employee for the purpose of employment issues. The day to day oversight of the employee will be jointly shared between the Biddeford City Manager and the Saco City Administrator.

   a. For the initial term of this agreement, the Cities agree to appoint Biddeford’s Assessor (Frank Yattaw) to serve in the capacity of chief assessor for the joint department.

   b. Each community will employ a Deputy Assessor which will have primary responsibilities to their respective community. Each deputy shall be appointed by the respective City Manager/City Administrator upon nomination by the shared chief assessor. While the respective deputies will remain as employees of the respective community, each will be expected to assist the chief assessor in any and all issues facing either community as so directed.

   c. The Cities will jointly share and employ an assessor listing agent to assist both communities in determining the values of personal property and real property. For the initial term of this agreement, the person will be an employee of the City of Saco. The parties, through their respective City Manager/City Administrator will agree on the process of filing this new position.

   d. Each community commits to supplying the necessary administrative support for their respective assessing offices. For the purposes of this agreement, this shall be at least 20 hours weekly of dedicated support.

3. Appointment of Biddeford Assessors’ Agent. Saco’s City Council has appointed Frank Yattaw, the current Biddeford Assessor, with the consent of Biddeford, to be the official Saco Assessors’ Agent for all purposes required under law, but subject to the provisions in Paragraph 4 below that he shall at all times remain solely an employee of Biddeford.

4. Scope of Services. The Cities agree to the following scope of services for the two shared positions:

   a. The Biddeford Assessor shall perform all duties and responsibilities imposed by law on Saco Assessors’ Agent, including assessing the April 1st real and personal property taxes and committing the same for collection, management of assessing personnel, hearing and deciding abatement requests, providing information to municipal officials and citizens, state agencies, vendors and other persons with interest in activities pertaining to the assessing functions of Saco including, appearing in any and all administrative and judicial forums to defend challenges to the Saco assessments. Duties of Saco Assessors’
Agent are more clearly defined in the job description, attached as Attachment A. It is expected that over any extended period of time, the chief assessor will spend equal time performing duties for each community. It is the expectation that the Biddeford Assessor will maintain a physical presence in Saco for two (2) days each week and be available via telephone and email and in person, as needed during the regular work week, to address questions or concerns that cannot be addressed by other employees. It is understood that during commitment periods or periods of peak abatement request activity, additional physical attendance and/or time commitment may be required at the office of a particular party, and it is agreed that the Assessor may, in his discretion, allocate his time such that the time demands for one party are met without sacrificing his duties for the other party.

b. It is the expectation that the assessing listing agent will spend an equal amount of time between the two communities over any extended period of time. It will be expected that the assessing listing agent will be in Biddeford City Hall at least two (2) days a week under normal circumstances.

5. **Assessment Data.** The data collected, analyzed and archived for each City shall physically reside in that City, and all data, databases, and other assessment records shall be assembled and stored for each City separately. While the merged use of the data is encouraged, the databases themselves shall remain independent entities, as they exist today, on the day of this agreement and each Party shall be solely responsible for the integrity, protection, and backup of its respective data.

6. **City as Sole Employer.**

   a. The Biddeford Assessor shall remain an employee of Biddeford during the term of this agreement for all administrative purposes including, without limitation, pay, benefits, and worker’s compensation coverage. However, the Assessor shall be subject to the oversight, direction, and control of the party for whom duties are being performed and shall conform to the relevant provisions of any charter, ordinance, or policy of the party for whom duties are being performed.

   b. The assessing listing agent shall remain an employee of Saco during the term of this agreement for all administrative purposes including, without limitation, pay, benefits, and worker’s compensation coverage. However, the employee shall be subject to the oversight, direction, and control of the chief assessor.

7. **Saco Responsibility.** The Biddeford Assessor shall be an agent of the Saco City Administrator for the purposes of statutory authorization and for all functions and duties of the assessing office including, without limitation, establishing taxable valuation assessments, determination of abatement requests, exemption funding, certification of ratios, and listing and, where appropriate, inspecting real and personal property and equipment. Saco shall provide a dedicated workspace for the Biddeford Assessor at Saco’s City Hall, complete with desk, chair, telephone, computer, and internet access and related office supplies to use when working in the City of Saco. Saco will also provide office support, legal counsel and assessment defense costs, independent appraisals, mass valuations and reviews as needed, and funding and physical location for administrative appeals processes for challenges to Saco assessments. Saco shall provide such additional financial and administrative support for mapping, computer systems, printing, mailing, and other necessary resources and functions as Saco shall deem necessary and prudent for the proper administration of the Saco assessing function.

8. **Cost.** The Cities agree to share all employment costs of the chief assessor and assessing listing agent equally. Quarterly, the Cities will meet to determine the amounts owed and payment will be made within thirty (30) days of the determination. During the first year of the agreement, Cities, through their respective City Manager/Administrator will determine the joint budget for the operation of the joint operation. Effective the July 1, 2017 budget, the joint budget will be agreed on by the respective City Council’s through a budget process that the parties will agree on.

9. **Indemnification.** If a claim is brought against either Saco or Biddeford arising out of, or within the scope of the services performed by the Biddeford Assessor or any other agents he may lawfully engage for Saco, then Saco shall defend, indemnify and hold harmless Biddeford and its officials, agents and employees, including, without limitation, the Assessor in his official and individual capacities from and against all such claims, damages, losses and expenses, including reasonable attorney’s fees. This section shall not be interpreted to waive the monetary limits or substantive areas of immunity under the Maine Tort Claims Act.

10. **Term and Termination of Agreement.** The initial term of this Agreement shall be expire on June 30, 2018 and shall commence on the day it is signed by the Biddeford City Manager and Saco City Administrator. This Agreement may be canceled by either party upon written notice to the other party at least 60 days prior to the intended termination date. The Parties agree that any amendment to this Agreement may be upon the mutual written and affirmative action of the City Council for both municipalities.
D. A SIX-MONTH MORATORIUM ON NEW PERMITS FOR MEDICAL MARIJUANA CAREGIVER FACILITIES – (FIRST READING)

The City of Saco has been operating under legal opinion from 2012 that puts the burden of regulation on the state and therefore local government has no authority over them. More recently, the city’s attorney has provided a revised legal opinion that Land Use Regulation does have a role in this matter and local government can have a role in where these facilities would be located.

Currently, there is no explicit use definition for a caregiver facility. An applicable fit could be Personal Service (defined in Exhibit 4), which is not currently a permitted use in an industrial zone.

Councilor Roche moved, Councilor Precourt seconded “Be it Ordered that the City Council does hereby ordain and approve the First Reading for the six-month moratorium on new permits for medical marijuana caregiver facilities, and further moves to a second and final reading on June 6, 2016.” Further move to approve the Order.

AMENDMENT – Councilor Cote moved, Councilor Doyle seconded to have a moratorium on projects in the Industrial Zone until we deal with the electricity issue. The motion failed with one (1) yea and six (6) nays – Councilors Precourt, Gay, Doyle, Roche, Minthorn and Johnston.

Mayor Michaud called for a vote on the main motion. The motion passed with six (6) yeas and one (1) nay – Councilor Cote.
MEMORANDUM

TO: Mayor Michaud and Saco City Council
FROM: Kevin Sutherland, City Administrator
DATE: May 18, 2016
RE: Moratorium on Medical Marijuana Caregiver Facilities

Over the past few months and weeks, the City of Saco has seen a greater interest in Medical Marijuana Caregiver Facilities looking to locate here. Legal opinion from 2012 puts the burden of regulation on the state and therefore local government has no authority over them (5/23/16 Council meeting Agenda Item E, Exhibit 2). This is the legal advice the city has followed for the past several years which has resulted in facilities being put in industrial, business, and residential zones.

The city has received an updated legal opinion due to the topic of medical marijuana continuing to grow in the state, as well as in the City of Saco. The second legal opinion was sought in April 2016, to aid in the increase of inquiries received by the code enforcement office regarding caregiver facilities. The purpose of the second opinion was to create uniform standards for future establishment of these facilities. The updated legal opinion has looked through the zoning code and determined that Medical Marijuana Caregivers Facilities fit best under personal services, (“Establishments engaged in providing services involving the care of the person or personal apparel including but not limited to barber shops, beauty shops and manicurists, tailors, Laundromats, shoe repair shops, tattoo parlors, massage therapists, and photographic portrait studios.”). In addition, the state statutes do not explicitly forbid regulation of care givers through zoning. The previous opinion took language from the statute section regarding dispensaries and applied it broadly to caregivers. The city cannot regulate a caregiver’s business or license more than the state can, but the city does have the power, from the state, to regulate where these facilities are located in the municipality (5/23/16 Council meeting Agenda Item E, Exhibit 3). The location of these facilities is a pressing issue for the city, due to a lack of regulation for the previous 3 years.

Currently the established Medical Marijuana Caregiver Facilities are located primarily in industrial zones. Following the most recent legal advice provided to the city, “personal services” are not permitted or a conditional use in the I-1 zones. The city needs time to determine if “personal services” is the correct definition for these facilities, what zones and locations would be ideal for the city as well as the caregivers, and the changes that would need to occur to the zoning code (conditional uses, zoning overlays, etc.) to further the goals of cohesion between development and the zoning code.

VIII. ADJOURNMENT

Councilor Minthorn moved, Councilor Gay seconded to adjourn the meeting at 7:45 p.m. The motion passed with unanimous consent.

Attest: ________________________________

Michele L. Hughes, City Clerk