

State of Maine

County of York

City of Saco

I. CALL TO ORDER – On Monday, October 1, 2012 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

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

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

V. AGENDA

A. Accept Donation to the City for Energy Efforts

Councilor Cote moved and Councilor Smith seconded and “On behalf of the citizens of Saco, and the City Council, Be it ordered that the City Council accept the personal donation check to the City of Saco for \$15,000.00 from Mark Johnston to be used for Energy Conservation projects.” Further moved to approve the order.

Councilor Tripp stated that he was offended by the list of items read as part of the background to this, and that he has an issue with the format: That it sounds like a political statement.

Councilor Lovell moved to amend the motion so that the funds received would be placed under the control of the Energy Committee.

Mayor Johnston explained that these funds came from a settlement that was reached between himself and Casella Waste Management Systems, and that part of that settlement included an agreement that these funds be used for conservation projects that had been approved by the Mayor.

Mayor Johnston then polled the Council for a vote on the issue. The motion passed with six (6) yeas and one (1) nay, Councilor Tripp voting in the minority.

B. (Public Hearing) Zoning Ordinance Amendment: Section 707-1.9 Official Business Directional Signs (OBDS)

Councilor Lovell moved and Councilor Smith seconded to open the Public Hearing on the document titled, “Proposed Amendments to Section 707-1.9 of the Saco Zoning Ordinance, August 14, 2012”.

There was no comment from the public.

Councilor Lovell moved and Councilor Smith seconded to close the Public Hearing and be it ordered that the City Council set the second and final reading for October 15, 2012. The Motion passed with seven (7) yeas.

C. Industrial Park Land Purchase

Councilor Smith moved, seconded by Councilor Blood, “ Be it Ordered that the City Council authorize the City Administrator to purchase 26.8+- acres of land identified on city Tax Map 74, Lot 1 for a price of \$25,000.00.” Further moved to approve the order. The Motion passed with seven (7) yeas.

VI. CONSENT AGENDA

Councilor Lovell requested that Item #2 be voted on separately.

Councilor Lovell moved, seconded by Councilor Smith, to approve consent agenda items #1 and #3 as follows:

1. “Be it ordered that the City Council approve the minutes for September 17, 2012”. Further move to approve the order.

3. “Be it ordered that “The City Council hereby Ordains and Approves the First Reading of the document titled, “**Amendment to Add Car Washes to the I-2 Use List, Dated September 11, 2012**”, and further moves to set the Public Hearing for October 15, 2012.”

The Motion passed with six (6) yeas and one (1) nay, Councilor Tardif voting in the negative.

The Complete Item Commentaries are listed below.

Item #2. **“Amendments to Chapter 219 VICTUALERS' LICENSES, dated September 17, 2012” – (First Reading)**

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

[HISTORY: Adopted by the City Council of the City of Saco 12-21-1998. Amendments noted where applicable.]

GENERAL REFERENCES

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

§ 219-1. Purposes.

- A.** The City of Saco has historically regulated victualers doing business within the City by licensing pursuant to specific legislative authority found at 30-A M.R.A. § 3811 et seq. The State of Maine Legislature recently repealed that part of 30-A M.R.S.A. § 3811 concerning victualers. The City Council believes that given the necessity of protecting public health and safety, and assuring public confidence in the sale of food, food stuff and food products by local merchants, that it is prudent to enact a supplementary licensing ordinance to regulate victualers.
- B.** Therefore, pursuant to Saco's Home Rule authority (see also 30-A M.R.S.A § 3001), as well as the inherent police powers of the City to protect public health, safety and welfare of its citizens, Saco enacts the following ordinance provisions.

§ 219-2. License required; applicability.

- A.** Any person, business, entity, corporation or association who or which offers to sell, prepare, promote or otherwise provide to the public any food, food stuff, food product or other edible materials must first secure a license from the City Clerk to do so.
- B.** Undertaking the sale, promotion or providing of materials described above in Subsection [A](#) without a license is a violation of this chapter punishable by a fine of \$100 for each and every day such violation occurs. The City will treat each day as a separate violation, if additional and/or subsequent violations occur.
- C.** This chapter applies to any person, business, entity, corporation, etc., whether for profit or nonprofit, which or who operates within the City of Saco and its boundaries. Full-time businesses, such as franchises (McDonalds, Pizza Hut, etc.), as well as seasonal businesses, (Fun Town, clam shacks, drive-ins, etc.) must all secure victualer's licenses. as well as s-Nonprofit organizations including, but not limited to (Sidewalk Arts Festival, LaKermesse, etc.) that dispense food and nonalcoholic beverages at not more than 12 public events in any calendar year or sell pre-packaged products as part of a fundraising event such as Girl Scout cookies or candy bars regardless of duration are exempt from obtaining a license. The duration of operation is irrelevant to the obligation to secure a license.

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

§ 219-3. Standards for issuance.

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

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

~~**(a)** Pest and animal control;~~

~~**(b)** Proper garbage disposal;~~

~~**(c)** Fire safety;~~

~~**(d)** Appropriate refrigeration;~~

~~**(e)** Ventilation; and~~

~~**(f)** Lavatories.~~

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

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

[Amended 4-7-2003]

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

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

§ 219-4. Revocation or suspension of license.

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

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

~~(8) The license holder fails to adequately and sufficiently control garbage or pests, has provided or maintained improper or insufficient ventilation or refrigeration, has not provided adequate lavatories or otherwise presents a health or safety risk to the public.~~

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

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

§ 219-5. Term of license.

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

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

§ 219-6. License conditions.

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

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

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

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

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

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

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

§ 219-7. Appeals.

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

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

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

§ 219-8. Assignment of licenses.

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

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

§ 219-9. Display.

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

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

§ 219-10. Enforcement.

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

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

§ 219-11. Registration.

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

Councilor Lovell moved, seconded by Councilor Smith to return Item 2 to Workshop, citing 219-2 as being too broad in its explanation, and that the First Reading move to November 5, 2012. The Motion passed with six (6) yeas and one (1) nay, Councilor Cote voting in the negative.

Item #3. ‘Amendment to Add Car Washes to the I-2 Use List, Dated September 11, 2012’ – (First Reading)

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

410-12. I-2 INDUSTRIAL BUSINESS DISTRICT (ed. note: includes I-2b district at former Maine Turnpike Exit 5) (Amended 8/1/88, 9/19/88, 3/2/92, 3/16/92, 4/1/91, 6/4/91, 7/6/93, 7/6/93, 2/28/94, 2/19/02, 5/21/12)

PERMITTED USES

1. Hotels and motels
2. Retail uses (I-2b only)
3. Accessory uses, including eating establishments associated with hotels and motels
4. Teen Center
5. Financial institutions
6. Business offices
7. Business services

8. Hospitals and clinics for humans
9. Research and testing labs
10. Light Industry
11. Any use permitted in the Resource Protection District
12. Essential services
13. Municipal Uses
14. Recycling center
15. Nursery School
16. Adult day care center, Type 1 and 2
17. Municipal animal incinerator
18. Enclosed Sports Arena
19. High Voltage Transmission Lines (Amended 12/15/08)
20. Commercial School
21. Elder/Disability Housing Facility-Limited Service (5/21/12)
22. Elder/Disability Care Facility – Full Service (5/21/12)
23. Elder/Disability Housing Facility (in conjunction with uses 21 or 22) (5/21/12)
24. Places of Worship (Amended 7/16/12)

CONDITIONAL USES

1. Self-service storage units (Amended 10/2/86)
2. Distribution (including not more than 10% of gross floor space for retail purposes)
3. Public and private schools
4. Day Care Centers
5. Registered dispensary, grow-only (Amended 7/19/10)
6. Addiction Treatment Facility (Amended 12/6/10)
7. Car washes in I-2 only (not to include I-2b)

VII. ADJOURN THE MEETING

Councilor Lovell Moved, Seconded by Councilor Doucette to adjourn the Meeting. Motion to adjourn passed with seven (7) yeas.

Meeting adjourned at 7:24 p.m.

Attest: _____
William T. Rankin, Deputy City Clerk