STATE OF MAINE
COUNTY OF YORK

I. CALL TO ORDER – On Monday, September 18, 2017 at 6:30 p.m. a 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 RECOGNITION OF SANDY SHAW – SEPTEMBER 19, 2017

Mayor Michaud noted that tomorrow morning at 11:00 a.m. on Front Street there will be an recognition of Sandy Shaw who has served on the Conservation Commission, Planning Board and other commissions in our community. A American Chestnut tree will be planted in her honor.

V. PUBLIC COMMENT

There were no public comments.

VI. CONSENT AGENDA

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

A. MINUTES - Be it ordered that the City Council approve the minutes of August 21, 2017, and September 5, 2017”. Further move to approve the order. The motion passed with seven (7) yeas.

B. CDBG WORKFORCE DEVELOPMENT GRANT ACCEPTANCE - Be it resolved that the City Council accept the Community Development Block Grant for the Hoarding Services Workforce Development program in partnership with Shalom House, Inc.

The motion passed with seven 7 yeas.

VII. AGENDA

L. CUTTS AVENUE

Cutts Avenue, LLC has a Contract Zone with the City of Saco. The city is being asked to allow an Assignment of the Contract Zone Agreement it has with Cutts Avenue, LLC to Cutts Acquisition, LLC (during the construction phases of the redevelopment of 16-28 Cutts Avenue), and ultimately to 199 Main St. LLC following the completion of construction.

Councilor Johnston moved, Councilor Minthorn seconded “The City Council hereby authorizes the City Administrator to resign ‘Contract Zone Agreement by and between Cutts Avenue, LLC and the City of Saco,’ dated October 4, 2016 under its construction phase name Cutts Acquisition, LLC and ultimately 199 Main St. LLC following the completion of construction.” The motion passed with seven (7) yeas.

Contract Zone Agreement
By and between
Cutts Avenue, LLC (to be Cutts Acquisition, LLC and then further in the future 199 Main Street, LLC) and the City of Saco September _____, 2017

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended
through May 2, 2016 (the “Ordinance”), be amended as further described in this Contract by and between the City of Saco and Cutts Avenue, LLC (to be Cutts Acquisition, LLC and then further in the future 199 Main Street, LLC) [Applicant].

a. The Applicant proposes to renovate the existing church building and develop and construct up to 80 units of residential housing in three (3) phases on parcels located at 16-18, and 28 Cutts Avenue, City of Saco, County of York, and State of Maine (the “Subject Property”). The Subject Property is identified as Tax Map 38, Lots 105 and 106 on the City of Saco Tax Maps.

b. The Subject Property is the site of the former Notre Dame de Lourdes Roman Catholic Church, which includes the former church, school, and rectory, as well as an adjacent parking lot.

c. The Applicant has established right, title and interest with the submittal of a Contract for the Sale of Commercial Real Estate dated July 15, 2016, as the same may be amended, wherein the Roman Catholic Church of Portland will sell the Subject Property to the Applicant.

d. The Subject Property is located within the B-3 Downtown Business District (the “B-3 District”), which includes in its permitted uses Multifamily dwellings and Elder/Disability Housing Facility. The Subject Property is across the street from the R-3 High Density District.

e. The Subject Property has an area of 27,504 square feet. The minimum lot area requirement in the B-3 District is 7,500 square feet.

f. The Subject Property has 300 feet of frontage on Cutts Avenue. The minimum frontage requirement for a parcel in the B-3 District is fifty (50) feet. The minimum side and rear setback in the B-3 District is ten (10) feet.

g. The minimum lot area per dwelling unit is 1,500 square feet.

h. The parking requirement for a mix of multifamily residential housing and multifamily residential housing restricted to elderly is approximately 46.5 parking spaces for 80 units of housing under the Ordinance.  

1 For multifamily residential, 1.5 parking spaces are required per one-bedroom unit of housing. See Table 708-2. For multifamily residential restricted to elderly, one parking space for every two units is required (.5 per unit). See Table 708-2. However, Section 708-2 of the Ordinance reduces both requirements by 50% for the B-3 District north and west of the Boston and Maine Railroad, which would mean .75 parking spaces per one-bedroom unit of multifamily residential and .25 parking spaces per one-bedroom unit of multifamily residential restricted to elderly. Id.

i. The applicant proposes to renovate the existing church building and develop and construct up to 80 units of residential housing in three (3) phases, and requests that certain lot, depth, and parking requirements found in Article 4 of the Ordinance be amended as follows:

   i. That the 1,500 square feet minimum lot area per dwelling unit in the B-3 District be reduced to 340 square feet minimum lot area per dwelling unit to permit up to eighty (80) dwelling units on the Subject Property.

   ii. That the ten (10) foot minimum side and rear yard setback be reduced to five (5) feet.

   iii. That the maximum number of parking spaces on the Subject Property for up to eighty (80) one-bedroom residential dwelling units be thirty-three (33) parking spaces, down from approximately 46.5 parking spaces currently required under the Ordinance.

j. The Zoning Ordinance provides no authority for either the Planning Board or City staff
to deviate from the stated lot, depth, and parking requirements.

k. Accordingly, this Contract Zone Agreement is proposed by the Applicant to permit differing land uses and development for the Subject Property, while maintaining the current character of the Subject Property through renovations of the existing church.

II. This Contract Zone Agreement Amends the Saco Zoning Ordinance as follows:

   a. The minimum lot area per each dwelling unit on the Subject Property shall be 340 square feet.
   b. The minimum depth side & rear yard on the Subject Property shall be five (5) feet.
   c. The maximum number of parking spaces on the Subject Property shall be thirty-three (33).

III. This Contract Zone is subject to the following conditions and restrictions, as provided for in Section 1403 of the Ordinance:

   a. The provisions of this Contract Zone shall become effective only in the case of a subdivision application being submitted by the Applicant, or an agent thereof on behalf of the Applicant. Should no subdivision plan application be submitted to the Planning Office of the City of Saco within two (2) years of the date of approval of this Agreement, then the provisions herein shall become null and void.
   b. Minimum lot per dwelling and setback requirements established in Table 412-1 of the Ordinance shall be reduced in accordance with Section II(a)-(b) above. The parking requirements in Table 708-2 shall be reduced in accordance with Section II(c) above.
   c. The Subject Property shall be served by public sewer and public water.
   d. Except as addressed in this Contract Zone Agreement, the project shall adhere to all other applicable provisions of the Ordinance and subdivision regulations.
   e. This Contract Zone Agreement applies only to the Subject Property.
   f. Failure of the Applicant, its successors and assigns, to submit an application for a residential subdivision as proposed to the Planning Office for review and approval by the Planning Board within two (2) years of the approval of this Contract Zone Agreement shall render this Agreement null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, its successors and assigns, this deadline may be extended by one (1) year upon written request submitted by the Applicant.
   g. This Contract Zone Agreement and Contract Zone it creates shall not be transferable prior to the development as proposed by the Applicant unless said transfer is approved by the City Council.
   h. Breach of these conditions, restrictions and/or Contract Zone Agreement by the Applicant shall constitute a breach of the contract and a zoning violation, subject to enforcement action by the City of Saco.

IV. Pursuant to authority found in 30A M.R.S.A. §4352(8), and the Ordinance, Section 1403, and by vote of the Saco Planning Board on ____________________________, and the Saco City Council on __________________________, the following finds are hereby adopted:

   a. The Subject Property is a parcel of unusual nature and location for the following reasons:
      i. The Subject Property is the site of the former Notre Dame de Lourdes Roman Catholic Church, which includes the former church, school, and rectory buildings.
      ii. The Applicant is interested renovating the existing church building and construct additional buildings to permit residential housing, while maintaining the character of the neighborhood as it currently exists.
      iii. The Applicant proposes to construct a new residential building over the existing paved parking area to add much needed single bedroom units to Saco’s housing stock.
   b. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the
following goals:

i. **Population and Demographics.** To accommodate growth in a manner that maintains the character of the City. To assure that a diversity of people is able to continue to live in Saco. As a result, the City should continue to provide for the construction of a wide range of types of house at a variety of densities and types to assure that a diversity of people can continue to live in the City, including younger people.

ii. **The Local Economy.** To maintain the vitality of Downtown Saco and expand its role as a commercial, office, retail, educational and cultural **residential** and service center.

iii. **Utilities.** The City should allow residential development in higher densities in those areas where water (and sewer) service is available than in those areas where service is not available.

iv. **Transportation.** The City should review the parking requirements in the Downtown area and consider reducing the requirements if reasonable.

v. **Housing.** To provide a diversity of housing to meet the needs of a wide variety of residents. To that end the City should consider relaxing the standards for parking and other regulations governing housing development in Intown neighborhoods to ensure that these requirements do not adversely affect development proposals.

c. The proposed use is consistent with the existing uses and the permitted uses within the B-3 District, which includes multifamily dwellings. Additionally, the Subject Property is located across the street from the R-3 High Density Residential District, which allows land to be developed “more intensively” due to its proximity to the business area and the availability of utilities.

d. The conditions proposed are sufficient to meet the intent of Section 1403, Contract Zoning of the Ordinance.

V. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zone into the Saco Zoning Ordinance by reference.

By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on this day of _____________, 2017.
Signed this ___ day of _____________, 2017.

WITNESS
___________________________

CITY OF SACO
By: ___________________________
Print: _________________________
Its: ___________________________

WITNESS
___________________________

CUTTS AVENUE, LLC
(to be Cutts Acquisition, LLC and then further in the future 199 Main Street, LLC)

By: ___________________________
Print: _________________________
Its: ___________________________

A. **CONTRACT ZONE – 994 PORTLAND ROAD – (PUBLIC HEARING)**

Applicants Bill Koch and Sandra Murray dba The Village at Pine Meadows propose to establish an Elder/Disability Housing Facility at 994 Portland Road. Similar related uses such as “Adult Care Services” and “Elderly Congregate Housing” are allowed in the MU-3 zone, but neither fully addresses the concept that the applicants have in mind.
Elder/Disability Housing Facility is defined by the Zoning Ordinance as “…housing in dwelling units for senior households in which a head of household is at least 55 years old or for disabled persons regardless of age.”

The Planning Board held a public hearing on this proposal at its July 11, 2017 meeting, and voted to forward a positive recommendation.

Councilor Doyle moved, Councilor Minthorn seconded to open the public hearing of the document entitled ‘Contract Zone Agreement by and Between The Village at Pine Meadows, LLC and the City of Saco’ dated July 11, 2017. The motion passed with seven (7) yeas.

Mayor Michaud asked Deputy Mayor Precourt to take over the podium so he could address the Council.

Mayor Michaud – In looking at the proposal there are four findings that need to be made. One of which is the property is unique. Candidly I’m perplexed how one could look at this property and determine it to be unique. Perhaps the use is a little different but the property itself is just another piece of property on Route 1. Also, I question if the furthest reach from our community is the best location for high density housing. All I can say is that if you are going to make a left turn coming out of there and going to Scarborough you better do some praying because on a summer day you are going to have a heck of a time. I understand why the applicant wants to make the proposal because there is obviously better marketing for this type of housing. But the community needs to look at the proposal and say “is this the best place” for elderly housing. But more importantly does this really meet the test of the uniqueness of the property in the community. Contract Zones should be held to the standards that are in there. I looked at the Planning Board findings and I didn’t see anything in particular that noted any of the standards in making this decision that this parcel in unique unlike any other parcels on Route 1.

Mayor Michaud returned to the podium.

Don Pilon, 1 Meadow Lane – My understanding is this came up from the Planning Board and it was approved unanimously by the Planning Board. To the Mayor’s concerns this is almost to the Scarborough town line and the traffic is pretty light coming out of that area as opposed to coming into the city limit. So, your comment about trying to make a left hand turn coming out of there it is not as difficult as it would be if you were in the city limits. So I’m a little confused at your position on this when the Planning Board was in support of the project. Mayor Michaud stated that the value of having democracy is that we can all disagree at times. Mr. Pilon stated that we also know collectively that we do hand out contract zones readily in this town. This is on the outskirts of town and is serving a need for 55 and older facilities and I would certainly support this project.

Phil Koch, Project Applicant – Mr. Koch responded to the comment about the traffic. I have a letter here that I believe was circulated that next year Chamberlain intends to install at Waterfall Drive a traffic light. There are times that traffic can be heavy on Route 1, there is no question. But, the current property that we have there one is able to get in and out in a relatively efficient way. But, as an adjunct to that I didn’t know whether this letter ever got to the Council from Ginny Dolloff. Mayor Michaud asked Mr. Koch to share the letter with the Council. Mr. Koch read the letter as follows: The confirmation for a traffic light to be installed during 2018 at the intersection of Waterfall Drive, Saco and Portland Road. Said light will be across the street from the entrance of the building. Mayor Michaud noted that he believed the Council has seen the letter. As for the uniqueness of the property I would argue distinctly that this is an extremely unique property. Aesthetically I have had a long conversation with Tim Leary. We are surrounded on two sides by the Leary Farm. He is very, very, supportive of the project and in fact he is granting us some easements relative to the project. He also has 6 sons with 2 of them presently working with him on the farm. They are growing the farm as a active working not dairy farm any longer because that was a liability is not there for dairy. But, he is intent is generationally to continue as an expanding truck farm, the Leary Farm. We have 2 acres that are extremely unique. Mr. Koch showed some photos of the unique vista and building concepts. Mr. Koch inquired whether everyone got the synopsis of the research. Mayor Michaud confirmed it was in the packet. Mr. Koch said he was asked to do some research relative to the whole concept we are talking about here. We came up with some very interesting information. From the Saco area community survey which we speak about at the beginning of this document to the Maine Affordable Housing Coalition survey which we speak about in the middle section and the National Trans Healthy Agency survey which is he last portion. From the survey that the Saco Area Community survey was taken and that I believe you may have advocated for says “A large

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percentage of Saco seniors are looking for a smaller or more accessible home. Nine out of ten of those folks drive their own cars so they can get around town and I think they are proud to be able to get around town to be honest. Those were folks who were 70-79 as respondents.

Councilor Doyle moved, Councilor Minthorn seconded to close the public meeting and further move to set the second and final reading of the document entitled ‘Contract Zone Agreement by and Between The Village at Pine Meadows, LLC and the City of Saco’ dated July 11, 2017 for October 2nd, 2017 the motion passed with seven (7) yeas.

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through February, 2017 is hereby further amended by adopting this Contract Zone Agreement by and between the City of Saco and The Village at Pine Meadows, LLC, (“Applicant”)

1. The Applicant proposes to establish an Elder/Disability Housing Facility, as defined in the Zoning Ordinance, at 994 Portland Road (“Subject Property”).

2. The Subject Property is identified as Tax Map 63 Lot 5 on City of Saco tax maps and is located in the MU-3 zoning district.

3. Subject property as it exists includes a two-family dwelling, and seven detached cabins. It has been utilized in the past as guest cabins. The Subject property is currently subject to a Planning Board approval for a “Motel” use, which is effective through May 19, 2018.

4. Right, title and interest is demonstrated with the Applicant’s submission of a fee ownership deed as recorded in the York County Registry of Deeds Book 16914 Page 44.

5. The proposed Elder/Disability Housing Facility is not an allowed use in the MU-3. The MU-3 zone does include “Adult Care Services” as a permitted use, and does include “Elderly Congregate Housing” as a permitted use if part of a Master Planned Development. However, neither is specific to the applicant’s objective.

6. As stated in Section 1403-1 of the Zoning Ordinance, “Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas and at the same time recognize the effects of change.”

7. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow an Elder/Disability Housing Facility to be established on the Subject Property.

II. This Contract Zone, specifically and exclusively for the Subject Property, would allow the Applicant to establish an Elder/Disability Housing Facility as proposed on the Subject Property, subject to the following conditions, as provided for in Section 1403 of the Saco Zoning Ordinance.

1. An Elder/Disability Housing Facility shall be allowed to operate as a permitted use on the Subject Property.

2. Said Elder/Disability Housing Facility shall be fully serviced by public utilities, including water and sewer.

3. The Applicants propose a metal bulkhead basement access at the rear of the proposed individual dwellings. The setback from side and rear property lines for said access structures shall be fifteen (15) feet, while the setbacks for the dwellings shall be twenty (20) feet. Said access structures shall be of metal construction, shall be limited to the rear of individual dwellings, and shall not be allowed on the sides of dwellings.

4. All other standards and requirements applicable to development in the MU-3 zone shall apply.
5. Upon approval of this contract by the City Council, the Applicant shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicant to secure site plan approval from the Planning Board within one (1) year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, this one (1) year deadline may be extended by one (1) year upon written request to the City Council.

6. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be “major” shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall be required to obtain City Council approval of the changes.

7. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. A change in ownership prior to completion of the terms of this Contract may necessitate review and approval by the City Council. Determination of such shall be made by the Planning Office.

8. Failure of the Applicant to suitably construct the Elder/Disability Housing Facility as described in the application materials for this Contract Zone within (2) years of the date of approval shall render this agreement null and void. Said two (2) year period may be extended for a period of one (1) year upon written request to the Planning Office prior to termination of said two (2) year period.

9. Breach of these conditions and restrictions by the owner shall constitute a breach of the contract, and the owner may be required to apply for a contract modification. Failure to apply for, or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. A. The parcel identified as Tax Map 63 Lot 5 is a parcel of an unusual nature and location, for the following reasons:

1. The property is the site of a former “motor court,” catering to those seeking transient lodging, generally on a seasonal basis. Popular with the motoring public in the mid-20th century, such uses are slowly disappearing as other forms of overnight accommodations take their place.

2. The property operates today as a motel, based on the May 19, 2015 approval granted by the Planning Board, that would allow an expansion of the existing two-family dwelling and seven cabins with an additional twenty-nine cabins, swimming pool, stormwater management system, and extension of the public sewer system so as to service the project.

B. The proposed rezoning is consistent with the 2011 Saco Comprehensive Plan, based on the following goals:

Chapter 5. Community Goals and Policies

The City should continue to provide for the construction of a wide range of types of housing at a variety of densities and types to assure that a diversity of people can continue to live in the City including younger households.

G. Housing

The City should continue to allow housing for the elderly to be built at higher densities than other types of housing in recognition of the lower impact that this type of housing has on the community.

The City should continue to work with nonprofit organizations and private developers to expand the supply of housing that is affordable to lower and moderate income households. The City should consider offering economic and/or regulatory incentives for such affordable housing developments and, if appropriate, continue using contract zoning and similar techniques to allow case-by-case consideration of proposals for new affordable housing.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone.

The MU-3 zone was established in July, 2013 “…to allow for the development of high-quality mixed-use neighborhoods on either side of Route One with a wide range of both residential and non-residential uses.” (Sec. 405A-3, Zoning Ordinance) Existing uses found in the MU-3 zone include residential dwellings, amusement park, mobile home park, self-storage, financial institution, retail businesses, drive-in theater and others. Permitted uses in the MU-3 zone include Health and Fitness Clubs, Day Care Centers, Adult Care Services, Mobile Home parks in designated Mobile Home Park Overlay Districts, and Eating Establishments, among several others.

D. The conditions proposed are sufficient to meet the intent of Section 1403, Contract Zoning, of the Saco Zoning Ordinance.
B. ZONING MAP AMENDMENT – 47 FERRY ROAD - (PUBLIC HEARING)

Mark and Judy Thayer of 47 Ferry Road have initiated this request, asking that the City consider changing the zoning for their 0.34 acre parcel at the corner of Ferry and Pine Ridge Road from R-1a to R-2. The Thayer’s have a single-family dwelling, and would like the ability to create two additional residential units in the attached barn.

The parcel has an area of 14,810 s.f., while 5,000 s.f. per unit is required for a multi-family dwelling in the R-2 zone. They mention the possibility of acquiring some additional land from an abutter. At this time, however, their parcel falls 190 s.f. short of supporting the proposed 3-unit dwelling.

The Planning Board held a public hearing for this request on August 8, 2017, and voted to recommend to the City Council that the request not be approved.

Councilor Roche moved, Councilor Doyle seconded to open the public hearing on the proposed amendments to the Zoning Map that rezones the parcel identified as Tax Map 22, Lot 28, from R-1a to R-2. The motion passed with seven (7) yeas.

William (Bill) Soucy, Pine Ridge Road – Mr. Soucy owns the abutting property. I have questions and concerns. My wife and I built the first house on that street in 1968 when it was nothing but a dirt road and very few services. Pine Ridge Development dates back to 1968 when we bought our lot for Mr. & Mrs. Ronald Boutet and we were assured it would be low density single family homes in our R1A zone. That has always been the case. The entire development is made up of single family homes and has been one of the most sought after residential areas in the city. Now, the request to reclassify one lot as a R2 zone ad I want to know what that means to us in terms of property value, access in and out of the street which is rather hectic at this point, parking. The R1 zone extends the entire length of the Ferry Road to Camp Ellis and Route 9 to Bay View to Goosefare Brook on the Old Orchard Road. If this change is made to a R2 zone what would be allowed if the current and future owners wish to do something at the 47 Ferry Road property? I have no problems with the current neighbors. We have been friends for about 30 years. My concern is in the event of a sale of the property which I understand is a definite potential in the year ahead. What restrictions would the new or current owners have in terms of future construction for further development of the property with lot size, set-backs, height and type of construction so forth? I do not want to live next to an apartment house.

Roy Lafortune, 13 Pine Ridge Road – I agree with all the points that Bill made. The one thing that I would like to add to what he said is that most cities have a long range vision for development of properties. As I have read the vision the Pine Ridge Road area and the rest of the Ferry Road in the long range vision of the city it is to remain as it is, single family homes. So changing the zone for that piece of property runs diametrically to the long range plan of the city. In the near term I’m real concerned. My wife and I have been in this house for over 40 years. We bought the piece of property for the same reasons that Bill Soucy just mentioned. We want to remain in a residential neighborhood of single family homes that is why we bought it year ago. My recommendation and hope is for this City Council view on this proposal is to turn it down.

Roland Gagne, 8 Thunder Road – Like Bill Soucy I’m a pioneer of Thunder Road like Bill is the pioneer on Pine Ridge Road. We bought our house back in 1976 thinking and under the understanding that it would be single family dwellings. Well all of a sudden his proposal comes up and we attend the Planning Board meeting. We
describe as to what kind of an impact this would be for that development. The meeting took about 1-2 hours. But here is the point. It was unanimously voted down. One of the most I think meaningful things was said by Peter Scontras. He said ‘If you do that that is the front door to that development. When someone comes to your front door and it is not very appealing guess what they may conclude is on the inside”. I thought that comment really nailed it. We really don’t need that. We don’t want that. All of my neighbors here are supportive of the fact that we love the development and we love the way it is. I was a little concerned so I called the Mayor and I asked the Mayor “Look the Planning Board has unanimously rejected this and what are the chances that the Council will probably overturn it”? He says it has happened before. Please come to the meeting. That is why we are here. Then when I described the situation he says “you know Roland there must be a compelling reason for this to happen. Unless there is a compelling reason, Saco is not very receptive to zoning changes”. So I ask you to please support the Planning Board’s decision and reject this.

Charles Thompson, 1 Thunder Road – 1) Primarily, and first and foremost this decision will impact 38 homes. Because everyone that lives on Harriman, Pine Ridge and Thunder Drive by that house. That is our only means of egress to our homes. That is the prime reason. 2) I can think of no compelling reason to do this. 3) Right across the street is a bus stop. Our children wait at the bus stop. It is already problematic with the traffic that comes in that location. And, nextly to consider this, when I first heard this I was appalled because my first thought was “she came to Bob Hamblen and said I want to propose this and he said well you need so many square foot, and they don’t have the square footage”, so quite frankly I’m surprised that it got to this point. Quite frankly I don’t feel happy about being here and going through this for a second time. Also, I was at the last Planning meeting and I asked three times for the board to notify everyone that lives on Harriman, Pine Ridge and Thunder and to my knowledge that did not happen. So my feeling is those other 36 home owners were not notified and if they were I surely think that they would be here tonight with me and my neighbors. Lastly, if this house gets rezoned you are opening up the door to allot of other rezoning issues. I own 2 ½ acres and if this goes through maybe I will come to the city and say I want to build condos in my backyard. If you go ahead and accept this and pass it that is exactly what is going to happen. You are going to open the door for allot of other problems my colleagues and neighbors have already stated tonight. We all live in a single family neighborhood and that is the way we want it to stay.

Councilor Roche moved, Councilor Precourt seconded to close the public meeting and further move to set the second and final reading the proposed amendments to the Zoning Map that rezones the parcel identified as Tax Map 22, Lot 28, from R-1a to R-2 for October 2nd, 2017. The motion passed with five (5) yeas and two 2) nays – Councilors Doyle and Gay.
C. AMENDMENT TO CHAPTER 186, ARTICLE III, BUILDING AND STREET NUMBERING – (PUBLIC HEARING)

In accordance with the State of Maine E911 system, the city is concentrating on the growing number of private roads and driveways with more than 2 houses, which do not have a name. The citizens who live on these unnamed private roads, etc., have addresses located on the main road, making finding them in an emergency harder to accomplish.

The goal going forward is to have these private roads/ROW’s/ and driveways with more than 2 houses be given a name and number whether it be at the Planning Board stage or the Building Permit Stage. In order to provide guidance in this area, Chapter 186 of City Code is being updated with proposed language to fulfill this mission.

Councilor Minthorn moved, Councilor Precourt seconded to open the Public Hearing on the Amendment to Chapter 186, Article III, Building and Street Numbering. The motion passed with seven (7) yeas.

There were no public comments.

Councilor Minthorn moved, Councilor Doyle seconded to close the Public Hearing and further move to set the Second and Final Reading on the Amendment to Chapter 186, Article III, Building and Street Numbering for October 2, 2017. The motion passed with seven (7) yeas.

Proposed Language: Chapter 186: Streets and Sidewalks, Article III, Building and Street Numbering §186-46

(please note underline represents new language, while strikethrough is language to be deleted.)

If there are three or more developed parcels that abut a private lane or way, the owners of those lots, with a consensus of opinion, may petition the City E911 Addressing Officer to name the private way. The Assessor will then issue street numbers for that road. The name of the private way cannot conflict with or sound similar to existing road names. It will be the sole responsibility of the owners to purchase a street sign from the Department of Public Works, and maintain the street sign at the entrance to the private way in accordance with public works standards for public and private road signs. The name of the private way cannot conflict with or sound similar to existing road names. The City will then issue street numbers for that road.

D. ACCEPTANCE OF 880’ OF THE PREVIOUSLY ABANDONED PROTION OF BERRY ROAD AS A PUBLIC ROAD

The City of Saco received a petition from several property owners abutting the abandoned portion of Berry Rd requesting that the City accept as a public road in its current condition. Since then, Council received an additional letter from Saco Terrace Inc. by Linda Valentino.

This item was discussed at the September 11, 2017 Workshop.

Councilor Precourt moved, Councilor Doyle seconded “Be it ordered that the City of Saco accept the 880’ of previously abandoned Berry Road, in “as is” condition as a public street, and hereby waive any applicable, existing street standards.” The motion failed with one (1) yea and six (6) nays – Councilors Precourt, Doyle, Roche, Minthorn, Cote and Johnston.

E. CHAPTER 171: SINGLE-USE PLASTIC BAGS AND UTILIZATION OF SECTION 106 – EXEMPTIONS

Chapter 171 of Saco City Code was adopted on April 3rd, 2017 banning plastic film bags with carrying handles from being provided at businesses in Saco. The current language within the ordinance has created some confusion as to whether or not re-usable plastic bags are allowed to be provided by a business in Saco.

This item was discussed at the September 11, 2017 Workshop.
It was suggested that the City Administrator, under Section 106 of Chapter 171 not enforce the ban on the re-usable bags with plastic content through its Code Enforcement department until July 1st, 2018. This will give City staff, Council, and the organizations effected by this ordinance time to consider changes to better meet the needs of the community while continuing to explore ways to protect the environment.

Councilor Minthorn moved, Councilor Doyle seconded “Be it ordered that the City Council supports the City Administrator’s use of Chapter 171: Single-Use Plastic Bags Section 106: Exemptions to not enforce the ban on the re-usable bags with plastic content until July 1st 2018.” The motion passed with seven (7) yeas.

F. CONTRACT ZONE – 319 MAIN STREET – (SECOND & FINAL READING)

Applicants Don and Jan McGarva own and operate the Saco Bay Creamery ice cream parlor at 319 Main Street thanks for the Nov. 18, 2013 contract zone approval granted by the Council. At the time, Eating Establishments were not an allowed use in the B-7 zone.

The applicants request that the contract zone for the property be terminated, in that “Eating Establishments’ are a conditional use in the B-7 zone as of February 6, 2017. The McGarvas were scheduled for conditional use review by the Planning Board on Sept. 5th however they did not have quorum. This has been rescheduled for September 19th.

In that a contract zone is recognized as an amendment to a zoning ordinance, then terminating a contract zone is also an act of amending an ordinance. This request was reviewed at the Planning Board meeting on July 11, 2017 and the board recommended the termination of the contract zone.

Councilor Johnston moved, Councilor Doyle seconded “Be it ordered that City Council terminates the ‘Contract Zone Agreement By and Between Don and Janet McGarva and the City of Saco, dated September 17, 2013.’” The motion passed with seven (7) yeas.
7. An Eating Establishment is not an allowed use in the B-7 zone.

8. Therefore, the Applicants seek approval from the City for an Eating Establishment in order to provide customers the option of on-premise consumption. Approximately 432 square feet of floor area within the carriage house would be devoted to the Eating Establishment.

9. As stated in Section 1403-1 of the Zoning Ordinance, “Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change.”

10. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Eating Establishment to be established and to operate on the Subject Property.

II. This Contract Zone, specifically and exclusively for the parcel at 319 Main Street, would allow the Applicants to operate an Eating Establishment as proposed on the Subject Property, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. An Eating Establishment as proposed and described by the Applicants shall be allowed to operate as a permitted use on the parcel identified herein as the Subject Property: Tax Map 31, Lot 2.

2. The Applicant shall adhere to all other applicable provisions of the B-7 zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations.

3. All details as shown on the submitted plans and included in the submitted application are hereby incorporated into this contract by reference. The proposed use shall be operated substantially in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.

4. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. Accordingly, this contract and the contract zone it creates shall not be transferable without approval by the City Council.

5. Failure of the Applicants to open the proposed Eating Establishment within one (1) year from the date of approval shall render this approval and Contract null and void. A one (1) year extension may be granted by the Planning Office upon written request prior to the initial one year expiration date.

6. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for, or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

7. As specified in Section 1403-9 of the Zoning Ordinance, all applications for contract zoning are subject to site plan review.

8. There shall be no storage of Recreational Vehicles on the Subject Property due to existing parking limitations.

III. Pursuant to authority found in 30-A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on September 17, 2013 and the Saco City Council on November 18, 2013, the following findings are hereby adopted:

A. City Tax Map 31, Lot 2 is a parcel of an unusual nature and location, for the following reasons:

   a. The residence at 319 Main Street is a historically significant structure located in the B-7 zoning district and the City's Historic Preservation District.

   b. The property was developed in 1856 by Dr. Jeremiah Mason, a dentist. The brick structure is in the Greek Revival style, with granite lintels and sills. The proposed use would take place in a portion of the first floor of the 2.5 story carriage house.
B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Chapter 3, Section B. Local Economy.

- Saco’s downtown is a major economic asset for the region. The City should continue its efforts to strengthen it.

Part 2. Goals and Policies

Local Goals:

- To maintain the vitality of Downtown Saco and expand its role as a commercial, office, retail, educational and cultural, residential, and service center.

B. The Local Economy

4. Maintaining Downtown Saco as a prosperous core of the community will require that the City play an active role in revitalizing this area. To accomplish this, the City, in conjunction with Downtown business and property owners and Saco Spirit should continue a comprehensive and coordinated program to revitalize Downtown Saco as a viable specialty retail and service center as set out in the 2008 Downtown Plan.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Limited Business/Residential (B-7) zone, the purpose of which is “...to provide an area for a mix of residential and low impact business uses appropriate to a traditionally residential area adjacent to the central business district.” (Zoning Ordinance, Section 405-7.) Among the permitted and conditional uses allowed in the B-7 zone are single, two-family and multi-family housing, bed and breakfast establishments, home occupations, and financial institutions.

D. The conditions proposed are sufficient to meet the intent of Section 1403.

Contract Zoning, of the Saco Zoning Ordinance.

Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on November 18, 2013.

by Richard Michaud
City Administrator

by Don and Janet McGarva
Applicants

G. CHAPTER 135: MARIJUANA CULTIVATION AND DISTRIBUTION – (SECOND & FINAL READING)

This ordinance creates a process by which marijuana growing, cultivation, handling and processing, etc becomes a trigger for the requirement to secure a license.

The requirement to license arises regardless of the type (medical or recreational) being grown, cultivated, etc. Growing, cultivating, etc. for third parties without proper knowledge and inspection by local authorities can lead to the risk of fire, electrical injury, and death.

This ordinance does not have an impact on personal use of marijuana. Suggested change to move the fees section to the fee schedule and have the code reference the fee schedule are included as an amendment by staff.

After the public hearing on August 21st, 2017, staff, council, and a member of the public have met to further discuss and amend the ordinance which was presented at the Council workshop on September 11th, 2017. What is included as part of the packet is a revised ordinance which includes those further changes.

Councilor Precourt moved, Councilor Gay seconded “Be it ordered that the City Council adopt Chapter 135: Marijuana Cultivation and Distribution and further amend the Fee Schedule to include the attached fees”. Further move to approve the order.
Amendment – Councilor Cote moved, Councilor Doyle seconded that in section 135-4-E to strike the word “two” in the second to last sentence. The motion passed with seven (7) yeas.

Amendment – Councilor Cote moved that in section 135- 4 to add a letter #H to read: “All lighting must be energy efficient lighting”. The motion was not considered due to a lack of a second.

Amendment – Councilor Cote moved, Councilor Roche seconded that in section 135-5- E to strike item #E and change item #F to #E. The motion passed with seven (7) yeas.

Amendment – Councilor Cote moved that in section 135-5-New item #E (formally #F) to delete the new item #E. The motion was not considered due to a lack of a second.

Amendment – Councilor Cote moved that in section 135-6-B-3 to strike item #3. The motion was not considered due to a lack of a second.

Amendment – Councilor Cote moved, Councilor Minthorn seconded that in section 135-15 to eliminate present item #E and rename item #F to #E. The motion passed with seven (7) yeas.

Mayor Michaud noted a scribner’s error in section 135 – 13-E - 2nd sentence with the word “if” which should be “in”.

Mayor Michaud called for a vote on the main motion with the amendments. The motion passed with seven (7) yeas.

CHAPTER 135

MARIJUANA CULTIVATION AND DISTRIBUTION

§ 135-1. Title.
§ 135-2. Findings; Purpose.
§ 135-3. Licenses Required.
§ 135-4. Permitted locations.
§ 135-5. Violations.
§ 135-6. Applications.
§ 135-7. Fees.
§ 135-8. Investigation.

§ 135-9. Decision; Standards for Denial.
§ 135-10. Appeals.
§ 135-12. Reserved.
§ 135-15. Enforcement; Penalties.

§ 135-1. Title.
This chapter shall be known as the "Marijuana Cultivation and Distribution Ordinance".

§ 135-2. Findings; Purpose.
The State of Maine has recently enacted laws allowing greater cultivation, handling, storing, packaging, processing and distribution of marijuana plants and products. In addition, the citizens of the State in a recent referendum have voted to allow for and decriminalize personal or so called recreational use of marijuana. Additional State laws and regulations are anticipated regarding recreational marijuana. These are not policy decisions of the City, but the City has become aware of certain adverse effects from these recent legislative undertakings, and it proposes to address potential issues that have arisen.

Specifically, the City has learned through its Code Enforcement Office, through its Electrical Inspector, as well as through other public officials including its police and fire departments, that individuals are rapidly installing throughout the City cultivation facilities without City knowledge, without proper City inspection and review and in some cases in areas not zoned for such use. Of particular concern is the installation of energy intensive lighting that can pose significant risk of injury, death and of fires within residential structures. The City Council has received information regarding structure fires in other communities caused by heat intensive lighting used for cultivation and growing equipment.
The Council is also aware that not all states have decriminalized marijuana, and this community’s easy highway access and close proximity to the border, may make Saco an attractive location for those who intend to traffic marijuana as part of a criminal enterprise.

It is evident that businesses and citizens desire to commercialize and otherwise avail themselves of opportunities presented by these new laws. However, doing so in an unregulated, and in some cases surreptitious fashion, poses substantial risk of criminal activity, physical harm, even death. These conditions have created an emergency for the community.

This emergency ordinance, enacted pursuant to City Charter Provision 2.10, seeks to assure the safety of Saco citizens while allowing properly reviewed and regulated use as permitted under State Law. It is enacted pursuant to Home Rule Authority under both Maine’s Constitution and 30-A MRS Section 3001, et seq.

§ 135-3. License Required.

A. All persons and parties who grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana, or any marijuana product, or material or medication derived thereon (“marijuana products”), from or within the City of Saco, must register with the City and must secure and maintain a valid license at all times. A license is not required for personal use of any marijuana within one’s own premises provided there is no associated growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products

B. All businesses, commercial enterprises, as well as any not for profit entity, that grows, cultivates, harvests, manages, processes, transfers, exchanges or distributes marijuana, or any marijuana products, from or within the City of Saco, must register with the City of Saco and must secure and maintain a valid license at all times.

C. To register means to complete and submit to the City Clerk of Saco the forms created by that office, and to pay the fees set forth therein. No registration shall be approved, and no license granted, until the required fees have been paid, and all applicable reviews and inspections have been completed.

D. Once all applicable reviews have been fully and properly completed, and the applicant has been found qualified, the Clerk shall thereupon issue a license to the Applicant.

E. All licenses shall run for one year (365 Days), and may be renewed as set forth herein. No license shall be issued, denied, or revoked by the City Clerk except as expressly provided in this Ordinance.

F. In the absence of the City Clerk, the City Administrator will assume all authority and responsibility of the Clerk as designated herein.

§ 135-4. Permitted locations.

A. A resident of a single family structure who holds a license may grow, cultivate and harvest marijuana for their own personal use, and for the personal use of a resident family member, regardless of the Zone the structure is located.

B. The limit as to the number of permitted marijuana plants and ounces of harvested marijuana for each person in single family structure shall be set by State Law.

C. In no event may any person owning or residing in a single family structure increase their home electrical service beyond 200 amps.

D. In no event may a person renting, owning or occupying a single family structure grow, cultivate, distribute, harvest, manage, process, transfer, exchange, or distribute any amount of marijuana or marijuana products for a third party, except for a resident family member living in the same structure as permitted in Subsection A above.

E. All parties who grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana or marijuana products for any other third party may do so provided they operate from a structure or premises found within the City of Saco’s Zone approved zones. No growing, cultivation, harvesting, managing, processing, transferring, exchanging or distribution of marijuana or marijuana products shall be allowed outside the boundaries of these two zones of the City. Such activity shall be a violation of this Ordinance.

F. No other properties outside of the Zone approved Zones may be used or licensed for growing, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products for any party’s personal use except for personal use as permitted in subsection A above.

G. No license issued by the City may be transferred, sold or assigned by the license holder to any other person or entity.
§ 135-5. Violations.

A. No person or entity shall grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana or marijuana products without having registered with the Clerk and without having obtained a valid, in force and effect, license as required herein.

B. Every license holder shall exhibit their license in a conspicuous place on the premises, visible to the public. The failure to display the issued license at all times is a violation of this Ordinance. Upon discovering that a person, party or entity has not displayed its license, the City shall deliver a written warning. The failure to display a license after written warning shall constitute a violation of this Ordinance.

C. No person, party or entity may sell, transfer or assign their license. Any attempt to sell, transfer or assign will confer no rights, and will render the license immediately void. The sale, assignment or transfer of a license is a violation of this Ordinance.

D. It is violation of this Ordinance to grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana, or any marijuana product, in any structure or zone not otherwise allowed as set out in Section 135-4 (A) and (E).

E. It is a violation of this Ordinance for any third party, including but not limited to contractors, plumbers, carpenters, electricians, tradesmen to assist, aid, abet, promote or otherwise suffer any person, applicant or license holder to violate any provision of this Ordinance. It shall be a violation for any person, party or entity to provide assistance, advice, skills, work effort or cooperate, with the installation of facilities, equipment or materials, or otherwise provide service, education or support, that aids or advances the unlicensed growing, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products.

F. It is a violation of this Ordinance for any license holder to traffic, transport, mail, distribute, transfer, or otherwise assist in the trafficking, transporting, mailing, distribution or transfer of marijuana or marijuana products outside the boundaries of this State. It is a violation of this Ordinance for any agent, employee or officer of the license holder to do the same.

§ 135-6. Applications.

A. All registrations for personal use shall be made in writing on a form provided by the Clerk. Each registration shall state the applicant’s name, address, telephone number, and e-mail, and such additional information as deemed necessary by the Clerk, including the map and lot number property where the license will be posted.

B. All registrations to grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana or marijuana products for any third parties shall be made in writing on forms provided by the Clerk. Each registration shall state the applicant’s name, address, telephone number and e-mail. In addition, applicant shall:

1. Identify its estimated yearly production of marijuana;
2. Whether it will ship or distribute any marijuana outside of the State of Maine;
3. Identify all individuals and entities to whom it will contract for delivery of marijuana and include the amounts expected to be delivered monthly and annually.
4. If a caregiver, the names of all patients, as well as a copy of all applicable State licenses.

C. All registrations submitted by an entity applicant shall contain the information set out above in Subsection A or B (as applicable) and shall also include the following:

1. Federal Tax ID #
2. Type and State of Organization
3. Names, addresses and date of birth of all principal officers, owners and managers
4. Whether the entity is for profit or non-profit entity, and confirmation thereof
5. Proof of Insurance upon the proposed premises in the name of the license holder
6. Name and address of Clerk or Registered Agent for Service of Process
D. If the applicant is seeking a license for family use, the applicant shall list separately the names and the address of each family member for which the license holder will grow, cultivate, harvest, manage or distribute such marijuana or marijuana products.

E. No employee, officer, or appointed or elected official of the City of Saco shall have any beneficial interest in an issued license, or license holder.

F. Copies of all registrations and materials shall, upon completion, be transmitted to the Code Enforcement Officer, Electrical Inspector, and the City of Saco Fire and Police Departments for the following purposes:

1. Review compliance: that the applicant license holder is permitted to operate in each and every location (map and lot number) where specified; and

2. To record such information into any existing Code Enforcement Officer management program ("Code Enforcement Pro") for use and review; and

3. To perform a Criminal Background Check including "NCIC" Review; and

4. Site inspection by Code Officer, Electrical Inspector and Fire Department at any and all applicable location(s) used for growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products; and

5. To allow inspection of plan drawings detailing nature of site, location of utilities and how utilities such as electrical power will be used; and such other factors deemed necessary or advisable by City staff; and

6. For a follow-up inspection between 30-60 days after issuance of license to inspect any facilities related to marijuana growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products.

7. To determine if the applicant needs or has a duly issued State license for the state use/undertaking, and to determine that applicant is in compliance with all State of Maine requirements.

G. The City of Saco will treat all licenses and registration materials collected, under all circumstances, as public records under Maine law.

§ 135-7. Fees.

Fees shall be established annually by the City Council following a public hearing.

§ 135-8. Investigations.

A. Registration. The Clerk shall accept and maintain an applicant’s registration forms and all supporting material. The Clerk shall submit all registration materials to City staff for review as set out in Section 135-6 (F). All findings and conclusions of City staff shall be reported to the Clerk within 30 days.

B. Licenses. Upon receipt of an application for renewal of license, the Clerk shall inquire of City Officials, whether a license may be renewed in compliance with the provisions of this Ordinance. City staff shall have 30 days to complete their investigation.

C. Only upon satisfaction of the Clerk, and after review by all appropriate departments, and only upon full compliance with all conditions set forth in this Ordinance, shall the Clerk issue a license.

D. The Clerk shall complete his or her review promptly and grant or deny a license or license renewal subject to the additional terms found in Section 135-13.

§ 135-9. Decision; Standards for Denial.

A. Notice. The Clerk shall issue all decisions in writing, and subject to the same time period set out in Section 135-13.

B. Grounds. A license, and the renewal of a license may be denied, or revoked, upon a one or more of the following grounds:

1. Failure to fully complete the application forms; knowingly making a false or incorrect statement of a material nature on such form; failure to supply any requested information reasonably necessary to determine whether such license may be issued; or failure to pay any fee required hereunder;

2. The person or party applicant, license holder, officers, or managers of license holders has caused a significant breach of the peace, has been convicted of more than one misdemeanor, or has been convicted of any felony;
3. There is a clear danger to the public if the license is issued, including significant risk of injury or fire;

4. The parties or persons patronizing the license holder will adversely affect the peace and quiet of the neighborhood, whether or not residential;

5. The person, party or entity has violated a provision of this Ordinance or other ordinance of the City of Saco, including its Zoning Ordinance;

6. The occurrence of any event subsequent to issuance of the license, which event would have been a basis for denial of the license, shall be grounds for revocation thereof;

7. Real or personal property taxes or legal judgments that are due and owing to the City and are determined to be in arrears as of the date of the license request or license renewal; or

8. The licensee has received more than one public complaint filed with the Clerk; or

9. Such other acts or conduct found to be detrimental to the citizens or community, including but not limited to suffering a fire or significant injury arising from growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products after the issuance of a license;

10. A principal, officer or manager of the license holder is convicted of, or found to have a criminal conviction of any kind, or is known to associate with others convicted of criminal offenses.

C. Hearings.

1. Except as expressly provided in this chapter, no license may be revoked without prior notice to the person, party or entity, and only after a hearing.

2. In the case of the revocation of a license, a hearing shall be given to the individual or entity and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Failure of the person, party or entity to appear at the hearing shall be deemed a waiver of the rights to said hearing.

3. All revocations shall be upon substantial evidence, and all hearings shall be conducted with substantial fairness. Rules of evidence shall not apply in such hearing.

D. Fairness. The Clerk shall not arbitrarily deny any registration or license renewal but must base their decision upon substantial and credible evidence of one or more of the grounds described above.

E. 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 City Clerk and may be considered when and if a licensee seeks a renewal of their license in any succeeding year.

§ 135-10. Appeals.

A. Procedure. An appeal of the Clerk’s decision to the City Council may be taken by any person aggrieved by the denial, or revocation of a license by filing a notice of appeal within thirty (30) days of the decision with the City Administrator. Every appeal should be in writing and shall state the basis for the appeal. The City Council shall hear the appeal within thirty (30) days after the filing of the appeal and may affirm, reverse or modify the decision appealed from.

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

C. Status or operations pending municipal appeal. During the pendency of an appeal to the City Council, the person, business or entity aggrieved by the decision of the City Clerk may operate without risk of fine if they have an existing license and the Clerk has revoked or denied a renewal of the license. However, if the person, business or entity has been denied its initial license, then any operation prior to a decision by the City Council will be subject to the civil penalties set forth herein.

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


A. Content. Whenever a hearing is required, the Clerk shall give written notice of the time and place of the hearing, to the license holder, and the City Administrator. Notice shall also be posted in two prominent public locations.

B. Service. Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least five days in advance of the hearing date.

§ 135-12. Reserved


A. Each year, a license holder must submit a renewal application on the forms provided by the Clerk. The required fee set out in Section 135-7 must be provided or the Clerk will stay review.
B. The Clerk shall submit to City staff the current license and registration materials in the Applicant’s file, as well as copies of any complaints and letters received by the Clerk regarding the renewal applicant.

C. City staff shall conduct those reviews set out in Section 135-6 (F) and Section 135-8 expect City staff may use their discretion to reduce the scope and depth of investigation if circumstances of the renewal warrant.

D. The Clerk shall issue their decision within 30 days unless City staff are unable, in good faith, to finalize their investigation and review, but in no event shall the license renewal decision take more than 60 days.

E. License holders who do not submit their renewal applications at least 30 days before expiration of their license, are at risk if the event the Clerk is unable to complete their review within 30 days and in such case, if the license expires during such review without a renewal having been yet granted, the license holder must cease growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products.


The City Council, due to the importance of life-safety to all, and because a number of individuals are surreptitiously growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products within its boundaries, expressly intends that this Ordinance be applied retroactively to January 1, 2016. Any party who commenced growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products after January 1, 2016 but prior to the date of the enactment of this Ordinance must register for a license but fees for their first license will be waived if the party can substantially establish that they were engaged in growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products prior to enactment of this ordinance.


A. Lack of License. Any person or entity that grows, cultivates, harvests, manages, processes, transfers, exchanges or distributes marijuana or marijuana products without a valid license shall be subject to the following fines:

- $2,500 First violation
- $5,000 Second violation
- $10,000 Each subsequent violation

B. The failure to publically display a license shall be $500.00 per offense.

C. The fine for selling, transferring or assigning a license in violation of Section 135-5 (C) shall be $5,000.00.

D. The fine for violating Section 135-5 (D) shall be $2,500.00 for the first offense and $5,000.00 for each occurrence thereafter.

E. The fine for parties violating Section 135-5 (E) shall be $5,000.00 per offense.

F. Violation of Section 135-5 (F) (Transporting or Trafficking) shall result in permanent loss of license.


If any portion of this Ordinance is held to be invalid, the remainder of the Ordinance shall remain in full force and effect, it being the City Council’s intention that these provisions be severable to the greatest extent allowed by law.

Amended Fee Schedule

A. The fee for an initial application/registration for personal use shall be $500.00. This fee is non-refundable in all circumstances.

B. The fee to renew a license for personal use shall be $250.00. This fee is non-refundable under all circumstances.

C. The fee for an initial application/registration for any premises in the I-1 or I-2 Zones, where cultivation, growing, handling, storage, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products shall be on a larger scale and for third parties, the initial registration fee is $1,000.00 due to the significant time and effort involved in life-safety review by the Code Office, Electrical Inspector, Fire and Police Departments.

D. The fee to renew a license for applicant/license holders in the I-1 and I-2 Zone is $500.00.
H. SCHOOL REVOLVING RENOVATION FUND LOAN FORGIVENESS GRANT FINANCING
AND AUTHORIZATION FOR HEALTH, SAFETY, AND COMPLIANCE REPAIRS TO THE
SACO MIDDLE SCHOOL

On January 31, 2017, Saco Public Schools obtained approval from the Maine Department of Education for a School Revolving Renovation Fund project for health, safety and compliance repairs to the Saco Middle School. That approval offered the City a 0% interest, 10-year loan in the principal amount of up to $979,706 to finance the project, but of which $389,041 of principal has been forgiven (the “Grant Financing”).

To obtain the Grant Financing, the City must enter into a loan agreement with the Bond Bank for the unforgiven $590,665 portion of the loan and must show evidence that borrowed principal with general obligation securities (bonds). However, because Saco Public Schools has already agreed to pre-pay the $590,665 portion of the loan, the Bond Bank agrees that the bonds will be paid and satisfied, and will so indicate on the bonds.

Please refer to the attached exhibits, including the order to authorize the School Revolving Renovation Fund loan forgiveness grant financing, for further details. Also of relevance, the City of Saco Council approved a similar approach in November of 2016 to meet ADA requirements on stairway and acquired legal opinion at that time to indicate that this approach did not need to go to the voters for approval. (See pages 24-28 in the 11/7/16 Council packet).

Councilor Minthorn moved, Councilor Doyle seconded to open the public hearing on the Order to authorize School Revolving Renovation Fund loan forgiveness grant financing for health, safety and compliance repairs to Saco Middle School. The motion passed with seven (7) yeas.

There were no public comments.

Councilor Minthorn moved, Councilor Doyle seconded to close the public hearing and to adopt the Order to authorize School Revolving Renovation Fund loan forgiveness grant financing for health, safety and compliance repairs to Saco Middle School. The motion passed with seven (7) yeas.

ORDER AUTHORIZING SCHOOL REVOLVING RENOVATION FUND LOAN
FORGIVENESS GRANT FINANCING
FOR HEALTH, SAFETY AND COMPLIANCE REPAIRS TO SACO MIDDLE SCHOOL

BE IT ORDERED by the City Council of the City of Saco, Maine, as follows:

1. That, under and pursuant to a Maine Department of Education School Revolving Renovation Fund Project Eligibility Certificate dated January 31, 2017, issued to assist the City of Saco (the “Governmental Unit”) in the financing of health, safety and compliance repairs to Saco Middle School (the “Project”), and all other applicable law, the Mayor and the Treasurer of the Governmental Unit be authorized in the name and on behalf of the Governmental Unit to execute and deliver a Loan Agreement between the Maine Municipal Bond Bank (the “Bond Bank”) and the Governmental Unit to effect a loan from the Bond Bank to finance the Project in the principal amount of up to $979,706.00, but of which amount $389,041.00 of principal is forgiven by the Bond Bank (the “Loan Agreement”); and that the Loan Agreement be substantially in the form presented at this meeting, with such changes therein not contrary to the general tenor thereof as the Mayor and the Treasurer may approve, the execution and delivery thereof to be conclusive evidence of such approval; provided, however, that the Loan Agreement shall provide that, if the Governmental Unit has prepaid all of the borrowed principal which has not been forgiven and which has been evidenced by bonds, the Bond Bank agrees that the bonds are paid and satisfied.

2. That under and pursuant to sections 5953-E and 6006(F) of the Maine Municipal Bond Bank Act and all other applicable law, the Mayor and the Treasurer be authorized to borrow in the name and on behalf of the Governmental Unit the sum of up to $590,665.00 from the Bond Bank to finance the Project; that in connection therewith, the Mayor and the Treasurer be authorized to issue general obligation securities (bonds or notes) of the Governmental Unit in an original principal amount of up to $590,665.00, payable WITH NO INTEREST in ten (10) equal annual installments of principal, and to execute and deliver such general obligation bonds or notes (as so executed and delivered, the "Bond") in registered form under the seal of the Governmental Unit and attested by the City Clerk of the Governmental Unit; and that the Bond be in substantially the form presented to this meeting, with such changes therein not contrary to the general tenor thereof as the Mayor and the Treasurer may approve, the execution and delivery thereof to be conclusive evidence of such approval; provided, however, that the Treasurer shall have prepaid the Bond on or before delivery thereof, and that such payment and satisfaction shall be indicated on the Bond by the Bond Bank.
I. SACO MIDDLE SCHOOL BOILER – (BUDGET AMENDMENT)

In November of 2015, the public voted to approve an energy bond for $450,000 to assist the city in upgrading and enhancing our energy efficiency in municipal and school buildings. The energy committee met and voted to allocate $130,000 for the Police Department facility, $100,000 for LED lighting throughout the city, and $220,000 for the Saco Middle School (SMS) Boiler.

The preliminary estimate for the SMS Boiler was well below the actual work needed. School staff has worked to apply for a grant/loan forgiveness program for up to $979,706. Pending Council approval after a public hearing (scheduled for September 18th), Saco will be awarded 40% forgiveness after all vendors are paid and the total amount is submitted to the Bond Bank. Since the first reading of the budget amendment, final costs for the project have come in at $839,270 or $46,270 above what the initial budget amendment suggested.

Utilizing the $220,000 from the Energy Bond and moving the $619,270 from the general fund balance to a Capital Program project account would provide enough funding to cover the initial cost of the project. The 40% reimbursement would fall back to the general fund at the end of the fiscal year.

Councilor Gay moved, Councilor Minthorn seconded “Be it ordered that the City Council approve Budget Amendment #1 FY2018.”

Amendment – Councilor Gay moved, Councilor Minthorn seconded to increase the capital program line by an additional $46,270 and increase the use of fund balance by an additional $46,270. The motion passed with seven (7) yeas.

Mayor Michaud called for a vote on the main motion with amendment. The motion passed with seven (7) yeas.

J. REMAPPING OF SAWYER BROOK – (BUDGET AMENDMENT)

During the budget process in spring of 2017, the Council approved $15,000 one-time use of fund balance to cover
the estimated cost to re-study the boundaries of the special flood area of Sawyer Brook. Since then, the City has advertised for and received two bids which were significantly higher than what we had budgeted for. The low bid came in at $34,250 from Sebago Technics with a completion date of March 2018. The second bid came from D.M. Roma Consulting Engineers for $37,000 with a completion date of 90 days from the date of authorization to proceed, approximately December 2017.

If the Council wishes to proceed, they will need to appropriate additional funds for this purpose. The first reading of the budget amendment occurred on September 5th.

Councilor Gay moved, Councilor Doyle seconded “Be it ordered that the City Council approves Budget Amendment #2 FY2018.” The motion passed with six (6) yeas and one (1) nay – Councilor Roche.

K. PAPER STREETS – MOVING SYLVAN AVE. TO PAPER STREET LIST – (RECONSIDERATION)

MEMORANDUM

TO: Mayor Michaud and City Council
FROM: Kevin Sutherland, City Administrator
DATE: September 14, 2017
RE: Paper Street Reconsideration

There has been a lot of recent discussion around Sylvan Avenue since the September 5th Council meeting where Council voted to move this street to an expired status as a paper street.

Because of recent inquiry, the amount of additional information that has been gathered, and that this has not yet been recorded with the registry of deeds, Administration is suggesting this particular street (as part of the larger paper street discussion) be reconsidered at the September 18th Council meeting.

The parliamentary procedure:

A vote from the majority (which was a 7-0 in favor, so anyone) would make a motion to reconsider the paper streets action.

“I make the motion to reconsider the vote to have the City Clerk record the “Notice to Extend Rights in Paper Streets” dated September 5, 2017 in the York County Registry of Deeds in order to include Sylvan Avenue as part of Attachment A.”

Once this action is seconded, the Council can vote on the reconsideration. If approved, Council will then need to amend the list to include Sylvan Avenue.

“I move that Sylvan Avenue be placed on Attachment A and Appended to a “Notice to Extend Rights in Paper Street, City of Saco” pursuant to 23 MRSA §3032.”

Approved or denied, the final step will be to have the City Clerk record the “Notice to Extend Rights in Paper Streets” dated September 18, 2017 in the York County Registry of Deeds.

“I move that the City Clerk record the “Notice to Extend Rights in Paper Streets” dated September 18, 2017 in the York County Registry of Deeds forthwith.”

Reconsideration - Councilor Roche moved, Councilor Johnston seconded to reconsider the vote to have the City Clerk record the “Notice to Extend Rights in Paper Streets dated September 5, 2017 in the York County Registry of Deeds in order to include Sylvan Avenue as part of Attachment A. The motion passed with seven (7) yeas.

Councilor Roche moved, Councilor Johnston seconded that Sylvan Avenue be placed on Attachment A and Appended to a “Notice to Extend Rights in Paper Street, City of Saco” pursuant to 23 MRSA §3032. The motion passed with seven (7) yeas.
Councilor Roche moved, Councilor Johnston seconded that the City Clerk record the “Notice to Extend Rights in Paper Streets” dated September 18, 2017 in the York County Registry of Deeds forthwith. The motion passed with seven (7) yeas.
VIII. COUNCIL DISCUSSION AND COMMENT

➢ Councilor Minthorn – There is apparently some confusion in the education community here in Saco that the City Council has some ability to impact how the Superintendent and School Board make their decisions. We do not have that ability. We have very limited authority in the budget where we can impact one of the 11 or 12 line items that are designated in state law for RSU’s we can impact those. We suggested at the time that if we reduced the school budget by $200,000 that there would be no impact to the children. Unfortunately the parties that be chose to ignore Council’s wishes on that and it was a rather lengthy discussion in the Finance Committee last week and at the School Board meeting last week. I have received allot of e-mails and I know other Councilors have received e-mails voicing concerns. We emphasize with the situation. I do personally. That wasn’t our intent. Unfortunately the powers that be chose to go in another direction. I appreciate all your e-mails but I wish you would direct them to your School Board representative who is the proper person to receive them.

➢ Councilor Roche – Schools - One follow-up to our City Administrator. Kevin I would really like to give our Superintendent a little reminder chat that it is not appreciated in their meetings and discussions that somehow it is Council’s fault that a literacy coach is not being filled at Young School. There was no direction from Council on that. That is absurd. We gave suggestions in the $200,000 cut which was one fourth of what the Superintendent, himself put forward that did directly affect the classrooms. So enough. We are one city not blaming each other. We are supposed to be meeting, directing and helping with the school administration and staff and I’m getting tired of it. You are welcome school administration for the boiler fix. Saco Island West – The Planning Board had scheduled for tomorrow Saco Island West to be one the agenda to possibly vote on and starting in October to work on the mezzanine. The applicant pulled themselves off the agenda for tomorrows. The reasons given where that they had gotten great response from the city on all sides but there was one question that I think was reserved for you but you were out of town. Is the project moving forward okay? City Planner Bob Hamblen noted that there was communication going back and forth last week between the city and applicant. The reasons given where that they had gotten great response from the city on all sides but there was one question that I think was reserved for you but you were out of town. Is the project moving forward okay? City Planner Bob Hamblen noted that there was communication going back and forth last week between the city and applicant. The applicant’s project engineer is out of town for a few weeks. I think they are more comfortable coming back to the Planning Board with Mr. Buck by their side. My understanding is this is the only thing that has side lined this for a couple of meetings. They should be back by the second meeting in October. Mayor Michaud noted that he had asked previously that all agendas for the Planning Board be shared with the Mayor and Council. They have been remiss at times. Particularly the Unit 91if you have communications going back and forth and it relates to Saco West share it with the Council and it would not be detrimental because it does interface what we are doing.

➢ Councilor Precourt – What does this do to unit 91? We are funding it to the end of September correct? City Planner Bob Hamblen stated they were meeting in October.

IX. EXECUTIVE SESSION

Councilor Minthorn moved, Councilor Doyle seconded “Be it Ordered that the City Council enter into executive session. Pursuant to [M.R.S.A. Title 1, Chapter 13, Subchapter 1, §405(6)]

A. 1. Personnel and employee relation matters
A. 3. Real Estate and Economic Development Negotiations – Unit 91, 110 Main Street
A. 4. Discussion of the City Administrator’s contract

And

F. Pursuant to Title 36 M.R.S.A §841(2) - Mayor Michaud noted that this item has been postponed.

E. Hearing and proceedings

Further move to approve the order. The motion passed with seven (7) yeas. Time: 8:13 p.m.

X. REPORT FROM EXECUTIVE SESSION

Councilor Gay moved, Councilor Minthorn seconded to move from the Executive Session. The motion passed with unanimous consent. Time: 9:13 p.m.

Mayor Michaud conducted a roll call of the members and determined that the Councilors present constituted a

There was no report this evening.

XI. ADJOURNMENT

Councilor Minthorn moved, Councilor Precourt seconded to adjourn the meeting at 9:14 p.m. The motion passed with unanimous consent.

Attest:____________________________
   Michele L. Hughes, City Clerk