

**An Ordinance to Amend
Chapters 140-Zoning
of the South Berwick Town Code
To Regulate Outdoor Sales of Food and Merchandise**

Note: The symbol of “ * * * *” indicates that there is missing text that will remain unchanged, which has been left out of this document for the purpose of brevity. Underlines indicate proposed language to add, and ~~strikeouts~~ indicate proposed removals of language.*

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Article II. Construction of Language; Definitions

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§ 140-9. Definitions.

In this chapter, the following terms shall have the following meanings:

* * * * *

RESTAURANT

An establishment, located in an enclosed building, which may provide additional outdoor seating, where meals are prepared on the premises and served to the public for consumption on the premises; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not encouraged by the design of the physical facilities, by advertising or by the servicing or packaging procedures to take out food or beverages for consumption ~~outside the off of the premises -enclosed building.~~

RESTAURANT, TAKE-OUT/FAST-FOOD

An establishment, located in an enclosed building, which may provide additional outdoor seating, where food is prepared on the premises and where the normal operation of the business is described substantially by the following factors:

- A. The establishment offers both "eat-in" and "take-out" service.
- B. Customers place their orders at a counter or window (including drive-up windows) rather than at a table served by a waiter or waitress.
- C. The predominant method of delivery is that customers pick up their own orders at a counter or window and then either carry the orders to a table or seating area within the restaurant or take the orders out of the restaurant for consumption outside of the building (table service by the

establishment's staff during limited hours or occasional delivery of food items to a customer table or seating area will not be deemed to be the predominant method of delivery).

D. The manner in which the food is prepared, presented and packaged is essentially the same whether the customer chooses "eat-in" or "take-out."

RETAIL BUSINESS

A business establishment operating from an enclosed building on the premises, engaged in the sale, rental or lease of goods or services to the consumer for personal use or household consumption and not for resale.

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Article VA. Performance Standards for Specific Uses

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§ 140-58. Restaurants and take-out restaurants

A. The application for a permit shall state the maximum seating capacity of the restaurant, including outdoor seating, if any is proposed. Any expansion or enlargement over the stated capacity shall require a new permit.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface wastewater disposal is probed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the Maine State Subsurface Wastewater Disposal Rules.

C. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, berms or any combination, forming a visual barrier not less than six feet in height.

D. Rest room facilities for the patrons shall be provided on the premises

E. Restaurants and take-out restaurants shall operate from an enclosed building on the premises.

[Note: Insert the following after section 140-58:]

§ 140-58A Outdoor Sales of Food or Merchandise

A. Restaurants, Take Out/Fast Food Restaurants, and Retail Businesses, as defined by this Chapter, shall operate and sell food or merchandise only from an enclosed building located on the premises. The building in or from which said items of food or merchandise are sold, shall be

so constructed as to be permanently attached to the land on which it is located and not of a movable or portable nature.

B. The use of vacant lots, streets, sidewalks, public properties and parks for sales and displays of food or merchandise shall be prohibited.

C. Exceptions. The following types of outdoor sales of food and merchandise shall be exempted from the provisions of Subsections A and B above:

1. Outside seating at approved restaurants or take out/fast food restaurants on private property so long as such seating complies with all other codes, ordinances and laws.
2. Outdoor sales of merchandise from displays located outside of a building, on the premises of an approved retail business.
3. Sales of food and merchandise at special events or festivals authorized by the Town Council of South Berwick.
4. Outdoor vending machines accessory to a commercial use.
5. Seasonal sale of produce including but not limited to eggs, beef, poultry, and any product(s) made from such, and grown locally, plants and other agricultural related products

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Vaughan Fund April 23, 2013

Chairman David H. Webster called the meeting to order at 6:30pm. Trustees present included Gerald W. MacPherson, Sr., Jean Demetracopoulos, and John C. Kareckas. Town Manager Perry Ellsworth was also present. Russell Abell was not in attendance.

Approval of Minutes

1. 10-16-12: On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to adopt the minutes as written.

New Business

1. The Trustees reviewed the applications for grants.

-Vaughan Woods Memorial State Park requesting \$1307.00 for a swing set for the playground:

Glenn Dochtermann explained that the swing set would complete the playground. The set is made in Maine and there are volunteers ready to help with the installation.

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously **voted to approve a \$1307.00 grant to Vaughan's Wood Memorial State Park for a swing set.**

-SoBo Central is requesting \$3,000 for Lantern Fest:

Ginny Alterio and Nicole St. Pierre explained how well Lantern Fest has been received by the community and has created a significant increase in attendance. The funds requested will help buy lantern making supplies, safety equipment, posters, and additional marketing materials that can be reused yearly.

On a motion by Mr. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to approve a \$3,000.00 grant to Sobo Central for Lantern Fest.

Fern Houliares, Town accountant, reminded the Trustees that they needed to vote to withdraw and expend the funds to cover the approved grants.

On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to withdraw and expend \$4307.00 from the Fidelity account.

A brief discussion ensued regarding the Fund's policy that allows for only 2 consecutive disbursements to the same applicant. Note was made that the Trustees do have the latitude to override the policy. Mrs. Demetracopoulos expressed her concerns that the Fund was not to be used to provide any groups with their operating budget.

ADJOURNMENT

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to adjourn the meeting at 6:57pm.

Attest:

Barbara Bennett, CCM
Town Clerk

South Berwick Town Council April 23, 2013

Chairman Gerald W. MacPherson, Sr. called the meeting to order at 6:58pm. Councilors present included Jean Demetracopoulos, David H. Webster, and John C. Kareckas. Town Manager Perry Ellsworth was also in attendance. Russell H. Abell was not present.

Approval of Minutes

1. Public Hearing 4-09-13: On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to adopt the minutes as written.
2. Council 4-09-13: On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to adopt the minutes as written.
3. Board of Assessors 4-16-13: On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes after amending them by capitalizing the J in Jack in items 3 & 4 and to change the date of April 6th to April 1st in item 4.

Treasurer's Warrant – April 23, 2013

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to sign the warrant in the amount of \$187,598.25.

Public Comment

1. Audrey Fortier commented that the literature left by the Eastern Trail should be reviewed carefully, especially the map of the route. She commented that there appears to be more bridges planned than are necessary.

Town Manager's Report

- Commented that the mixed paper is now being taken to the Kittery Transfer Station instead of being trucked to Massachusetts. Mr. Ellsworth also commented that all residents should be aware that the paper bin is for clean paper only; no trash. If trash is mixed with the paper we lose our ability to sell it.
- Reminded everyone that the Elected Officials training workshop was Wednesday. Note was made that Mr. Abell was to attend, but will not due to his vacation.
- Commented that the road construction project is going very well.
- Informed Council that he has spoken with Mike Gallo about Mr. Gallo's wish to donate a couple acres of land to the Town in the Town Forest for parking.** The donation is conditional upon the Town installing a gate to keep vehicles from entering further than the designated parking. Council consensus was to have the Manager move forward with the proposal.
- Informed Council that the Great Works Regional Land Trust has expressed interest in purchasing a Town owned property.
- Made note that he attended a ceremony at Berwick Estates honoring Dorothy Irene Howard on her 100th birthday.
- Reminded everyone that Senator Hill and Representative Beavers will be holding a forum here on Saturday from 9-11.
- Made note that the Building Committee will hold a meeting tomorrow to discuss the new charge given by the Council.
- Made note that we are still in mediation with the unions.

New Business

1. On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the Budget for Fiscal Year 2014, sign the warrant for Town Meeting on May 21, 2013 and order it posted.
2. On a motion by Mr. Kareckas, seconded by Mr. Webster, it was unanimously voted to accept the 2013 CIOT Seat Belt Campaign Grant.

3. On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to accept the Conservation/Open Space Plan dated December 2012 with thanks to the committee and Southern Maine Regional Planning Commission (SMRPC) for their work on the project.

On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to append the Open Space Plan to the Comprehensive Plan. [No public hearing was held for the change to the Comprehensive Plan]

4. On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to hold a joint public hearing with the Planning Board on May 14th at 6:30pm to receive comment on the proposed amendments to the Zoning Ordinance (regarding the outdoor sales of food and merchandise).

5. On a motion by Mr. Kareckas, seconded by Mr. Webster, it was unanimously voted to hold a public hearing on May 28, 2013 at 6:30pm to receive comment on the proposed amendment to the Administrative Code Article XIII §3-56 [regarding the number of members on the Library Advisory Board].

Council Member Comments

1. Mrs. Demetracopoulos:

-Commented that she would like to see the 2 memorial benches installed in front of the Town Hall before Strawberry Festival. Mr. Ellsworth stated that should not be a problem; Sobo is buying one and the Town is buying the other.

2. Mr. Webster:

-Asked when grinding the roads will begin. Mr. Ellsworth stated that it is scheduled for July, but could start in May or June.

3. Mr. Kareckas:

-Complimented the Manager and staff for a relatively painless budget season.
-Stated that Powderhouse Ski Hill had a good season; they were open 39 times.

4. Mr. MacPherson:

-Commented on the budget season "this is probably one of the least exciting regarding participation".

Adjournment

On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to adjourn the meeting at 7:30pm.

Attested:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00032412	022503 SHARON BRASSARD	05/14/2013	-189.03
00032592	230915 WHITED TRUCK CENTERS	05/14/2013	-350.60
00032594	191330 HANNAFORD'S	05/14/2013	100.00
00032595	022503 SHARON BRASSARD	05/14/2013	179.03
00032596	141090 NH DEPT HEALTH & HUMAN SER	05/14/2013	83.88
00032597	132500 SECRETARY OF STATE M/V	05/14/2013	16,680.04
00032598	132500 SECRETARY OF STATE M/V	05/14/2013	22,467.65
00032599	189999 REFUNDS	05/14/2013	470.41
00032600	189999 REFUNDS	05/14/2013	200.00
00032601	010336 AGGREGATE RECYCLING CORP	05/09/2013	2,667.87
00032602	010490 ALGONQUIN PRODUCTS CO	05/09/2013	44.28
00032603	011250 TREASURER, STATE OF MAINE	05/09/2013	63.00
00032604	011495 ATLANTIC RECYCLING EQUIP LLC	05/09/2013	292.50
00032605	020225 BAKER & TAYLOR	05/09/2013	599.44
00032606	231320 GH BERLIN WINDWARD	05/09/2013	1,093.94
00032607	021300 BERNSTEIN SHUR	05/09/2013	1,704.00
00032608	021576 JANETTE BIRCH	05/09/2013	40.26
00032609	021668 BLOW BROS	05/09/2013	51.98
00032610	021900 ALA/BOOKLIST	05/09/2013	147.50
00032611	022150 BOSTON CO.	05/09/2013	1,665.00
00032612	022240 GARY BOUCHER	05/09/2013	48.46
00032613	022300 BOWS AND BALLOONS BY BRINA	05/09/2013	65.00
00032614	022503 SHARON BRASSARD	05/09/2013	10.00
00032615	030500 CENTRAL MAINE POWER/CREDIT, COLL	05/09/2013	344.00
00032616	030510 CENTRAL MAINE POWER	05/09/2013	5,513.82
00032618	030725 CITIZENS BANK (CHG)	05/09/2013	165.00
00032619	030920 CLEAN-O-RAMA	05/09/2013	220.26
00032620	031350 COLLINS SHEET METAL INC.	05/09/2013	20.00
00032621	031425 COLONIAL LIFE & ACCIDENT INS.	05/09/2013	1,341.58
00032622	031579 CONSTELLATION NEW ENERGY	05/09/2013	1,537.57
00032623	040130 BOB DEARBORN	05/09/2013	40.00
00032624	040300 DEMCO	05/09/2013	96.86
00032625	040520 DIGITAL INK PRINTING	05/09/2013	305.00
00032626	040530 DEDE DIONNE	05/09/2013	71.89
00032627	032710 D.J.'S MUNICIPAL SUPPLY	05/09/2013	114.97
00032628	050500 KAREN EGER	05/09/2013	35.00
00032629	141000 FAIRPOINT COMMUNICATIONS	05/09/2013	1,337.63
00032631	061500 FOSTER'S DAILY DEMOCRAT	05/09/2013	40.25
00032632	061530 FREEPORT COMMUNITY LIBRARY	05/09/2013	10.00
00032633	070200 P GAGNON & SON INC	05/09/2013	542.78
00032634	070205 GALE	05/09/2013	19.50
00032635	070565 GORHAM LEASING GROUP	05/09/2013	96.56
00032636	071050 GREAT FALLS CLEANERS	05/09/2013	256.00
00032637	071307 GULF/FLEET FUNDING	05/09/2013	40.00
00032638	191330 HANNAFORD'S	05/09/2013	268.23
00032639	080248 HANSCOM'S TRUCK STOP INC	05/09/2013	13,558.12
00032640	080450 HARVARD PILGRIM HEALTH CARE	05/09/2013	24,833.12
00032641	080500 BEVERLY HASTY	05/09/2013	50.28
00032642	080998 HOME DEPOT	05/09/2013	321.80
00032643	087001 IAAO/MAINE CHAPTER	05/09/2013	35.00
00032644	090120 INLAND FISHERIES & WILDLIFE	05/09/2013	4,337.25
00032645	090138 INVOICE CLOUD	05/09/2013	65.00
00032646	100150 JANETOS MARKET	05/09/2013	55.72
00032647	100175 JENKINS FUEL INC	05/09/2013	1,920.73
00032648	100675 DIANNA KANDALAKIS	05/09/2013	300.00
00032649	100820 FRED KEEN	05/09/2013	75.00

Check Number	Account	Date Paid	Amount
00032650	100870 KENNEBUNK SAVINGS BANK	05/09/2013	42,100.00
00032651	110219 KID'S DISCOVER	05/09/2013	23.95
00032652	120170 LACAL EQUIPMENT INC	05/09/2013	50.32
00032653	120600 JEFF LEE	05/09/2013	784.00
00032654	125975 MAD SCIENCE OF MAINE	05/09/2013	1,380.00
00032655	132700 MAINE STATE FEDERATION	05/09/2013	296.00
00032656	132400 MAINE SAD #35	05/09/2013	548,800.67
00032657	134300 MAINE MUNICIPAL EMPLOYEES	05/09/2013	2,072.50
00032658	127000 CORRINE J MAHONY	05/09/2013	1,620.00
00032659	134754 MORIN STEEL INC	05/09/2013	44.00
00032660	135130 MTCCA/MMA	05/09/2013	55.00
00032661	135200 MULTI-LINK INC	05/09/2013	114.36
00032662	140105 NAPA OF SOMERSWORTH	05/09/2013	146.43
00032663	140790 NATIONAL AUTO RESEARCH	05/09/2013	224.00
00032664	140800 NEW ENGLAND BALING WIRE INC	05/09/2013	551.00
00032665	141400 NORTHERN DATA SYSTEMS INC	05/09/2013	371.59
00032666	150025 OAKWOODS LUMBER INC	05/09/2013	3,290.00
00032667	150930 M H PARSONS & SONS LUMBER CO	05/09/2013	1,250.00
00032668	200700 PIKE INDUSTRIES INC	05/09/2013	2,183.75
00032669	160320 PINE TREE WASTE INC	05/09/2013	4,113.69
00032670	160692 POLAND SPRING	05/09/2013	72.81
00032671	161265 PORTSMOUTH FORD	05/09/2013	331.03
00032672	161280 THE PORTSMOUTH HERALD	05/09/2013	269.00
00032673	161325 PRIORITY DISPATCH	05/09/2013	39.00
00032674	162000 PSYCHOTHERAPY ASSOCIATES INC	05/09/2013	400.00
00032675	170000 QUILL CORPORATION	05/09/2013	328.79
00032676	180400 RED'S SHOE BARN INC	05/09/2013	90.00
00032677	180431 RELYCO	05/09/2013	52.00
00032678	210420 RESERVE ACCOUNT	05/09/2013	2,500.00
00032679	190094 SANEL AUTO PARTS CO	05/09/2013	2,294.90
00032680	132500 SECRETARY OF STATE M/V	05/09/2013	20,943.83
00032681	192900 SO BERWICK WATER DISTRICT	05/09/2013	127.30
00032682	192940 SOBO CENTRAL	05/09/2013	3,000.00
00032683	192650 SO BERWICK SEWER DISTRICT	05/09/2013	1,112.00
00032684	193410 SO MAINE REGIONAL PLANNING CM	05/09/2013	2,551.80
00032685	193605 SOUTHWORTH-MILTON INC	05/09/2013	31.61
00032686	193640 STAPLES	05/09/2013	553.11
00032687	194300 SUNOCO/FLEET SERVICES	05/09/2013	34.15
00032688	194570 SWAN ISLAND PRESS	05/09/2013	116.00
00032689	201130 TOWN HALL STREAMS	05/09/2013	250.00
00032690	201140 MEREDITH TOWNE	05/09/2013	361.95
00032691	133105 TREASURER OF STATE/C.WPNS	05/09/2013	215.00
00032692	133035 TREAS/STATE OF MAINE/LICENSING	05/09/2013	160.00
00032693	133150 TREAS:STATE OF ME:SAFETY	05/09/2013	7.50
00032694	133107 TREAS,STATE OF MAINE/DEP	05/09/2013	141.00
00032695	210242 TRI STATE FLAG	05/09/2013	524.16
00032696	201300 TWO-WAY COMMUNICATION SERV INC	05/09/2013	1,182.28
00032697	211000 VAUGHAN WOODS STATE PARK	05/09/2013	1,307.00
00032698	230300 WALMART COMMUNITY BRC	05/09/2013	117.67
00032699	230915 WHITED TRUCK CENTERS	05/09/2013	160.34
00032700	240900 YORK COUNTY REGISTRY OF DEEDS	05/09/2013	13.00
Total Not Prepaid			715,220.64
Total Prepaid			39,641.38
Grand Total			754,862.02

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: May 14, 2013	Agenda Item NB # 1
Subject	
Meeting date of June 11, 2013	
Information	
In June the first Council meeting of the month usually falls on Election Day. The polls on Election Day are open from 8:00am to 8:00pm. As the Registrar of Voters I am required by law to be present at the polling place the entire time the polls are open.	
Staff Comments/Recommendation	
Cancel meeting of June 11 th or reschedule to June 4 th .	
Requested Action	
Reschedule or cancel June 11 th meeting to accommodate Election Day.	
Vote	

**WARRANT AND NOTICE OF ELECTION CALLING
SCHOOL ADMINISTRATIVE DISTRICT NO.35
BUDGET VALIDATION REFERENDUM
(20-A M.R.S.A. §1305-B and §§1352 - 1353)**

TO: Randy Stewart, a resident of Maine School Administrative District No. 35 composed of the Towns of Eliot and South Berwick, State of Maine.

In the name of the State of Maine, you are hereby ordered to serve upon the municipal clerks of each of the municipalities within the Maine School Administrative District No. 35, namely, the Towns of Eliot and South Berwick, an attested copy of this warrant and notice of election. Service shall be in hand within three (3) days of the date of this warrant and notice of election. The municipal clerks of the above municipalities shall immediately notify the respective municipal officers, who shall post the following warrant and notice of election:

**TOWN OF SOUTH BERWICK
DISTRICT BUDGET VALIDATION REFERENDUM
WARRANT AND NOTICE OF ELECTION**

York ss.

State of Maine

TO: Barbara Bennett, Town Clerk of South Berwick: you are hereby required in the name of the State of Maine to notify the voters of this municipality of the election described in this warrant and notice of election.

TO THE VOTERS OF THE TOWN OF SOUTH BERWICK:

You are hereby notified that a District budget validation referendum election will be held at the South Berwick Town Hall, 180 Main Street in the Town of South Berwick on Tuesday, June 11, 2013 for the purpose of determining the following referendum question:

Question 1: Shall the Maine School Administrative District No. 35 budget for the 2013 – 2014 school year that was adopted at the District Budget Meeting on May 29, 2013 be approved?

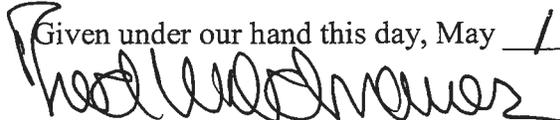
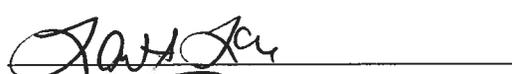
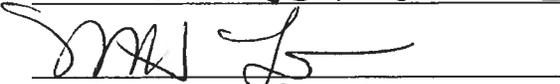
Question 2: Do you wish to continue the budget validation referendum process in Maine School Administrative District No. 35 for an additional three years?

The polls will be opened at 8:00 A.M. and closed at 8:00 P.M.

The Registrar of Voters shall hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments.

A person who is not registered as a voter may not vote in any election.

Given under our hand this day, May 1, 2013 at South Berwick, Maine.

A majority of the Board of Directors of Maine School Administrative District No. 35

A true copy of the Warrant and Notice of Election, Attest:



Dr. Mary C. Nash, Superintendent
Maine School Administrative
District No. 35

Counter signed this _____ day of May 2013 at South Berwick, Maine

_____	_____
_____	_____
_____	_____

A majority of the municipal officers of the Town of South Berwick, Maine.

A true copy of the Warrant and Notice of Election, Attest:

Barbara Bennett
Town Clerk
Town of South Berwick