

**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.*

\*\*\*\*\*

Article II. Construction of Language; Definitions

\*\*\*\*\*

§ 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

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 and plants grown locally, at farm stands, farmers markets, and the like

\* \* \* \* \*

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.

\* \* \* \* \*

#### Article VA. Performance Standards for Specific Uses

\* \* \* \* \*

#### § 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



## **South Berwick Town Council November 25, 2014**

Chairman John C. Kareckas called the meeting to order at 6:38pm. Councilors present included Jean Demetracopoulos, Russell H. Abell, Laura Leber, and John James. Town Manager Perry Ellsworth was also in attendance.

### **Approval of Minutes**

1. Council 11-10-14: On a motion by Mr. Abell, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes as written.

### **Treasurer's Warrant**

1. On a motion by Mrs. Demetracopoulos, seconded by Mrs. Leber, it was unanimously voted to sign the warrant dated November 20, 2014 in the amount of \$269,205.02.

### **Public Comment**

None

### **Reports & Presentations**

1. Dr. Mary Nash, MSAD #35 Superintendent, addressed the Council in regard to the fireworks being shot off at high school football games. Dr. Nash gave a brief synopsis of how Mr. Tsakiris of Patriot Fireworks had offered to shoot off fireworks at the 2013 homecoming game and proposed that either the District or a booster organization pay for future displays. Dr. Nash clearly explained, "MSAD #35 does not support or endorse fireworks displays on or about school, period, and no one, including the Board of Directors or myself believes that taxpayer money should be used for these purposes." [Dr. Nash's complete statement is attached to these minutes in the official record]

Mr. Kareckas commented that state law allows for home rule on consumer fireworks, but has no authority to regulate the use or sale of commercial/display grade fireworks.

### **Town Manager's Report**

- The annual audit is complete.
- The documents for the Avesta closing are not yet ready. A special meeting is scheduled for Tuesday, December 2nd to sign the necessary paperwork to complete the sale.
- He will soon be putting together the budget schedule.
- He will be back to full duties on Monday, December 1st.

### **Unfinished Business**

1. The Council discussed the proposed fireworks moratorium. The Town's Attorney has confirmed that a municipality may institute an ordinance regulating consumer grade fireworks but has no authority to place regulations on commercial/display grade fireworks.

Rob Harper, Tamarack Dr, questioned the need for a moratorium. Mr. Kareckas stated that it would give the Council time to research the issues and determine the best course of action.

Kevin Sarzynski, Tamarack Dr, stated that he and many others support the fireworks for the high school games.

Sam Tibbetts, Pine St, stated that consumer and display grade fireworks should not be lumped together. He added that he was not in favor of banning fireworks, but would be in favor of regulating them for fire safety.

Kim Dailey, Emery's Bridge Rd, received clarification that the only 'noise ordinance' is in the Zoning Ordinance and is specific to the industrial zones only.

On a motion by Mrs. Demetracopoulos, seconded by Mr. James, it was unanimously voted to table the fireworks moratorium and request the Manager to pursue potential ordinance language and enforcement issues.

2. On a motion by Mr. Abell, seconded by Mrs. Demetracopoulos, it was unanimously voted to hold a public hearing on Tuesday, December 9, 2014 at 6:30pm to receive comment on the proposed changes to sections 140-9, Definitions, and 140-58, Restaurants, and new 140-58A, Outdoor Sales of Food & Merchandise.

3. The Council briefly discussed Code Chapter 119 Street Acceptance, Chapter 121 Subdivisions, and Chapter 140 Zoning. The proposed changes were discussed in a workshop with the Planning Board on November 18th. Southern Maine Regional Planning and Development are doing an additional review of the changes.

4. Mr. Kareckas updated that Council on the current activities of the Parking Committee. The Committee is actively seeking public input and has developed a questionnaire. The Council gave unanimous consent to post the questionnaire on the Town's website.

### **New Business**

1. On a motion by Mrs. Leber, seconded by Mr. Abell, it was unanimously voted to appoint Greg Tuano and Veronica Salyer to the Conservation Commission with terms to expire June 30, 2017.

3. On a motion by Mr. Abell, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the amendments deleting section 31-72, B & C of the Personnel Policy. The change would allow only full time employees access to the Town's health insurance plan. (There are currently no employees affected by the change).

### **Council Member Comments**

Each Councilor in turn wished everyone a happy & safe Thanksgiving.

1. Mrs. Leber:

-She commented that she liked the Home for the Holidays flyer.

2. Mrs. Demetracopoulos:

-She congratulated the Marshwood Hawks football team.

3. Mr. Abell:

-He informed everyone of the upcoming Eagle Scout Court of Honor for Philip Hourihan.

-He informed the Council that he would not be able to attend the meeting on December 2nd.

4. Mr. James:

-He congratulated the Marshwood Hawks

5. Mr. Kareckas:

-Read a letter of sentiment congratulating Philip Hourihan on his obtaining his Eagle Scout Badge.

Mr. Kareckas received consensus to sign and send Mr. Hourihan the letter.

### **Adjournment**

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Leber, it was unanimously voted to adjourn the meeting at 8:20pm.

Attested:

Barbara Bennett, CCM

TOWN OF SO. BERWICK  
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00035962	189999 REFUNDS	12/09/2014	200.00
00035963	011250 TREASURER, STATE OF MAINE	12/09/2014	78.00
00035964	011342 ARMORPOXY INC	12/09/2014	907.60
00035965	021096 B&C ENGINEERING, INC.	12/09/2014	8,390.00
00035966	020225 BAKER & TAYLOR	12/09/2014	65.34
00035967	021200 BERGERON PROTECTIVE CLOTHING	12/09/2014	1,475.20
00035968	021510 TOWN OF BERWICK	12/09/2014	8,008.75
00035969	022300 BOWS AND BALLOONS BY BRINA	12/09/2014	65.00
00035970	030500 CENTRAL MAINE POWER/CREDIT, COLL	12/09/2014	212.40
00035971	030510 CENTRAL MAINE POWER	12/09/2014	1,303.22
00035972	030582 CHILDREN'S MUSEUM OF NH	12/09/2014	300.00
00035973	030670 CHRISTY MACHINE CO	12/09/2014	30.00
00035974	030725 CITIZENS BANK (CHG)	12/09/2014	250.00
00035975	030954 ROGER CLEMENT	12/09/2014	40.00
00035976	031355 TERRIE COLLINS	12/09/2014	100.00
00035977	031425 COLONIAL LIFE & ACCIDENT INS.	12/09/2014	1,206.03
00035978	031485 COMMUNICATION TECHNOLOGIES INC	12/09/2014	230.00
00035979	031579 CONSTELLATION NEW ENERGY	12/09/2014	1,610.56
00035980	033900 W.S.DARLEY & CO	12/09/2014	615.37
00035981	040555 DIVERSIFIED INSPECTIONS INC	12/09/2014	1,138.97
00035982	041000 DOVER MOTOR MART FM	12/09/2014	175.60
00035983	141000 FAIRPOINT COMMUNICATIONS	12/09/2014	1,345.52
00035985	070200 P GAGNON & SON INC	12/09/2014	3,223.91
00035986	070800 W.W.GRAINGER INC.	12/09/2014	20.72
00035987	071307 GULF/FLEET FUNDING	12/09/2014	65.00
00035988	191330 HANNAFORD'S	12/09/2014	160.98
00035989	080248 HANSCOM'S TRUCK STOP INC	12/09/2014	7,557.67
00035990	081305 HARRISON SHRADER ENTERPRISES	12/09/2014	514.98
00035991	080998 HOME DEPOT	12/09/2014	157.75
00035992	089050 INDUSTRIAL PROTECTION SERVICES	12/09/2014	42.00
00035993	090120 INLAND FISHERIES & WILDLIFE	12/09/2014	205.06
00035994	090138 INVOICE CLOUD	12/09/2014	50.00
00035995	100150 JANETOS MARKET	12/09/2014	100.64
00035996	120250 DAVID LANGWAY	12/09/2014	140.00
00035997	120350 NORMAND LAUZE	12/09/2014	775.00
00035998	120510 LAWSON PRODUCTS INC.	12/09/2014	314.70
00035999	071170 M W GRENIER ENTERPRISES LLC	12/09/2014	22.99
00036000	131640 MAINE ANIMAL CONTROL ASSOC	12/09/2014	35.00
00036001	130670 MAINE RESOURCE/RECOVERY	12/09/2014	485.15
00036002	132400 MAINE SAD #35	12/09/2014	611,389.62
00036003	133285 MARKET BASKET	12/09/2014	43.30
00036004	133358 W.B.MASON	12/09/2014	19.84
00036005	133795 MICK BODYWORKS	12/09/2014	742.52
00036006	134900 MORTON SALT	12/09/2014	3,458.85
00036007	140797 NATURE'S WAY MARKET	12/09/2014	39.47
00036008	140600 NEPTUNE INC	12/09/2014	1,168.05
00036009	141400 NORTHERN DATA SYSTEMS INC	12/09/2014	375.00
00036010	160230 PERMA-LINE CORP	12/09/2014	326.75
00036011	200700 PIKE INDUSTRIES INC	12/09/2014	678.52
00036012	160320 PINE TREE WASTE INC	12/09/2014	2,039.18
00036013	170000 QUILL CORPORATION	12/09/2014	197.07
00036014	180477 RICE'S AUTOMOTIVE CENTER	12/09/2014	154.20
00036015	190065 SAIL ON 89 LLC	12/09/2014	105.00
00036016	132500 SECRETARY OF STATE M/V	12/09/2014	35,395.41
00036017	191500 MAURICE ROBERGE	12/09/2014	600.00
00036018	191530 SIRCHIE FINGER PRINT LAB INC	12/09/2014	190.85



**TOWN COUNCIL**  
**Agenda Information Sheet**

<b>Meeting Date: December 09, 2014</b>	<b>Item # UF 1</b>
<b>Agenda Item: AVESTA sales Agreements</b>	
<b>Department Head: Town Manager</b>	
<b>Town Manager's Recommendation:</b>	
<p>The closing of the sale of property to AVESTA is scheduled for December 12. There are multiple documents, agreements and easements that will need to be signed in order for the AVESTA project to move to financing</p>	
<b>Requested Action: Motion to sign each agreement contingent on the closing of the loan and payment made to the Town of South Berwick</b>	
<b>Vote</b>	



**TOWN COUNCIL**  
**Agenda Information Sheet**

<b>Meeting Date: December 09, 2014</b>	<b>UB Item # 2</b>
<b>Agenda Item: Accept Construction Bid</b>	
<b>Department Head: Town manager</b>	
<b>Town Manager's Recommendation:</b>	
<b>Requested Action: Motion to accept Young Street (AVESTA) construction bid and authorize the Town Manager to administer the bid pending the closing of the sale and leasing of property to AVESTA Housing.</b>	
<b>Vote</b>	



TOWN COUNCIL

*Agenda Information Sheet*

<b>Meeting Date:</b> December 9, 2014	<b>NB #1</b>
<b>Subject:</b> Fogarty's Restaurant liquor license	
<b>Information:</b>	
Fogarty's current liquor license expires December 25th and has requested renewal.	
<b>Staff Comments/Recommendation:</b>	
Chief Lajoie has no concerns to report.	
<b>Requested Action:</b>	
Motion to approve the renewal of Fogarty's liquor license.	
<b>Vote:</b>	

**BUREAU OF ALCOHOLIC BEVERAGES  
DIVISION OF LIQUOR LICENSING & ENFORCEMENT  
164 STATE HOUSE STATION  
AUGUSTA, ME 04333-0164**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY	
LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	

PRESENT LICENSE EXPIRES 12/25/2014

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

**INDICATE TYPE OF LICENSE:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)       |
| <input type="checkbox"/> HOTEL-OPTINONAL FOOD (Class I-A)          | <input type="checkbox"/> HOTEL (Class I,II,III,IV)          |
| <input type="checkbox"/> CLASS A LOUNGE (Class X)                  | <input type="checkbox"/> CLUB-ON PREMISE CATERING (Class I) |
| <input type="checkbox"/> CLUB (Class V)                            | <input type="checkbox"/> GOLF CLUB (Class I,II,III,IV)      |
| <input type="checkbox"/> TAVERN (Class IV)                         | <input type="checkbox"/> OTHER: _____                       |

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Lawrence A. Fogarty</u> DOB: <u>10/17/60</u>			2. Business Name (D/B/A) <u>FOGARTY'S RESTAURANT + BAKERY</u>		
DOB:			Location (Street Address) <u>471 MAIN STREET</u>		
DOB:			City/Town, State, Zip Code <u>SO. BERWICK, ME 03908</u>		
Address <u>35 Beaver Dam Rd.</u>			Mailing Address <u>Same</u>		
City/Town <u>So. Berwick,</u>		State <u>ME</u>	City/Town		State <u>ME</u>
Zip Code <u>03908</u>		City/Town	State		Zip Code
Telephone Number <u>207-384-8361</u>		Fax Number <u>207-384-2009</u>	Business Telephone Number <u>207-384-8361</u>		Fax Number <u>207-384-2009</u>
Federal I.D. # <u>01-0464888</u>			Seller Certificate #		

3. If premises is a hotel, indicate number of rooms available for transient guests: —
4. State amount of gross income from period of last license: ROOMS \$ — FOOD \$ 1.9m LIQUOR \$ 52,000
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES  NO
7. If manager is to be employed, give name: Linda Brown, Pat Hall, Logan Franklin
8. If business is NEW or under new ownership, indicate starting date: \_\_\_\_\_

Requested inspection date: \_\_\_\_\_ Business hours: \_\_\_\_\_

9. Business records are located at: 471 MAIN ST. SO. BERWICK, ME 03908

10. Is/are applicants(s) citizens of the United States? YES  NO
11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Linda Brown	11/21/62	DOVER, NH.
Pat Hall	2/5/56	Hartford, CT
Logan Franklin	2/24/93	YORK, ME

Residence address on all of the above for previous 5 years (Limit answer to city & state)

① SO BERWICK, ME    ② BERWICK, ME    ③ SO BERWICK, ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_  
 Offense: \_\_\_\_\_ Location: \_\_\_\_\_  
 Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?  
 Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) \_\_\_\_\_  
FULL SERVICE RESTAURANT

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?  
 YES  NO  Applied for: \_\_\_\_\_

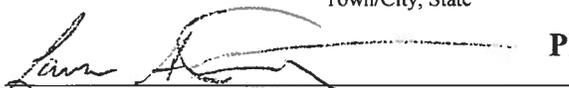
19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1/4 mi Which of the above is nearest? CHURCH

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO   
 If YES, give details: KENNEDYBANK SAVINGS (LOANS)

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

**NOTE:** "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: SO. Berwick, ME on NOV 17<sup>th</sup>, 20 14  
Town/City, State Date

  
 Signature of Applicant or Corporate Officer(s)  
Lawrence A. Fucarty  
 Print Name

Please sign in blue ink

\_\_\_\_\_  
 Signature of Applicant or Corporate Officer(s)  
 \_\_\_\_\_  
 Print Name

STATE OF MAINE

Dated at: South Berwick, Maine York ss
City/Town (County)
On: 12-09-14
Date

The undersigned being: Municipal Officers County Commissioners of the
City Town Plantation Unincorporated Place of: South Berwick, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A,
Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

- 1. Hearing. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses.
A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau.
2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]
B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]
E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c730, §27 (amd).]

- 3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. No license to person who moved to obtain a license. (REPEALED)

- 5. (TEXT EFFECTIVE 3/15/01) Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

**NOTICE – SPECIAL ATTENTION**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

**THIS APPROVAL EXPIRES IN 60 DAYS.**

**FEE SCHEDULE**

<b>Class I</b>	Spirituos, Vinous and Malt .....	\$ 900.00
	<b>CLASS I:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
<b>Class I-A</b>	Spirituos, Vinous and Malt, Optional Food (Hotels Only) .....	\$1,100.00
	<b>CLASS I-A:</b> Hotels only that do not serve three meals a day.	
<b>Class II</b>	Spirituos Only .....	\$ 550.00
	<b>CLASS II:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
<b>Class III</b>	Vinous Only .....	\$ 220.00
	<b>CLASS III:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
<b>Class IV</b>	Malt Liquor Only .....	\$ 220.00
	<b>CLASS IV:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
<b>Class V</b>	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) .....	\$ 495.00
	<b>CLASS V:</b> Clubs without catering privileges.	
<b>Class X</b>	Spirituos, Vinous and Malt – Class A Lounge .....	\$2,200.00
	<b>CLASS X:</b> Class A Lounge	
<b>Class XI</b>	Spirituos, Vinous and Malt – Restaurant Lounge .....	\$1,500.00
	<b>CLASS XI:</b> Restaurant/Lounge; and OTB.	

**FILING FEE**..... \$ 10.00

**UNORGANIZED TERRITORIES** \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the **Treasurer of Maine**. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 164 State House Station, Augusta ME 04333-0164. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.



**TOWN COUNCIL**  
***Agenda Information Sheet***

<b>Meeting Date: December 9, 2014</b>	<b>Agenda Item NB #2</b>
<b>Agenda Item: New Liquor License for Rob Miller – El Sobos Tacos</b>	
<b>Department Head Recommendation:</b>	
<p>This is a request for a new liquor license.</p> <p>Note from the Police Chief:</p> <p>.....we have no criminal or direct liquor issues with his establishments, It appears we need to continue to monitor. Good to go for now Dana</p>	
<b>Town Manager’s Recommendation</b>	
<b>Requested Action</b>	
Council wishes	
<b>Vote</b>	

**BUREAU OF ALCOHOLIC BEVERAGES  
DIVISION OF LIQUOR LICENSING & ENFORCEMENT  
164 STATE HOUSE STATION  
AUGUSTA, ME 04333-0164**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.  
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY	
LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	

PRESENT LICENSE EXPIRES \_\_\_\_\_

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

INDICATE TYPE OF LICENSE:

<input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV)	<input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)
<input type="checkbox"/> HOTEL-OPTINONAL FOOD (Class I-A)	<input type="checkbox"/> HOTEL (Class I,II,III,IV)
<input type="checkbox"/> CLASS A LOUNGE (Class X)	<input type="checkbox"/> CLUB-ON PREMISE CATERING (Class I)
<input type="checkbox"/> CLUB (Class V)	<input type="checkbox"/> GOLF CLUB (Class I,II,III,IV)
<input type="checkbox"/> TAVERN (Class IV)	<input type="checkbox"/> OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <i>Robert E. Miller</i> DOB: <i>8/3/74</i>		2. Business Name (D/B/A) <i>El Sobos Tacos</i>	
DOB:		Location (Street Address) <i>12 Portland St.</i>	
Address <i>338 Diamond Hill Rd.</i>		City/Town <i>So. Berwick</i> State <i>ME</i> Zip Code <i>03908</i>	Mailing Address <i>12 Portland St.</i>
City/Town <i>Berwick</i> State <i>ME</i> Zip Code <i>03901</i>	City/Town <i>So. Berwick</i> State <i>ME</i> Zip Code <i>03908</i>	Business Telephone Number _____ Fax Number _____	
Telephone Number <i>207 752-2854</i> Fax Number _____	Seller Certificate # <i>1106234</i>		
Federal I.D. # <i>46-4102573</i>			

3. If premises is a hotel, indicate number of rooms available for transient guests: *N/A*
4. State amount of gross income from period of last license: ROOMS \$ *N/A* FOOD \$ *100147.75* LIQUOR \$ *26629.65*
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO
- If YES, complete Supplementary Questionnaire
6. Do you permit dancing or entertainment on the licensed premises? YES  NO
7. If manager is to be employed, give name: \_\_\_\_\_
8. If business is NEW or under new ownership, indicate starting date: \_\_\_\_\_  
Requested inspection date: \_\_\_\_\_ Business hours: *12 pm - 9 pm*
9. Business records are located at: *12 Portland St So. Berwick, ME 03908*

10. Is/are applicant(s) citizens of the United States? YES  NO

11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

Name in-Full (Print Clearly)	DOB	Place of Birth
Robert Miller	8/3/74	Dover, NH

Residence address on all of the above for previous 5 years (Limit answer to city & state)  
338 Diamond Hill Rd. Berwick, ME 03901

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: Robert Miller Date of Conviction: May 23, 2011  
Offense: Domestic Violence Location: York County  
Disposition: off probation May 24, 2012

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?  
Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: Jim Flynn  
169 Main St. So. Berwick, ME 03908

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) full service  
restaurant and bar

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?  
YES  NO  Applied for: \_\_\_\_\_

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? over 300 ft Which of the above is nearest? School

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO   
If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: So. Berwick, ME on 12/11, 20 14  
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)  
Robert Miller / owner  
Print Name

Signature of Applicant or Corporate Officer(s)  
\_\_\_\_\_  
Print Name

**NOTICE – SPECIAL ATTENTION**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

**THIS APPROVAL EXPIRES IN 60 DAYS.**

**FEE SCHEDULE**

<b>Class I</b>	Spirituos, Vinous and Malt .....	\$ 900.00
	<b>CLASS I:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
<b>Class I-A</b>	Spirituos, Vinous and Malt, Optional Food (Hotels Only) .....	\$1,100.00
	<b>CLASS I-A:</b> Hotels only that do not serve three meals a day.	
<b>Class II</b>	Spirituos Only .....	\$ 550.00
	<b>CLASS II:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
<b>Class III</b>	Vinous Only .....	\$ 220.00
	<b>CLASS III:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
<b>Class IV</b>	Malt Liquor Only .....	\$ 220.00
	<b>CLASS IV:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
<b>Class V</b>	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) .....	\$ 495.00
	<b>CLASS V:</b> Clubs without catering privileges.	
<b>Class X</b>	Spirituos, Vinous and Malt – Class A Lounge .....	\$2,200.00
	<b>CLASS X:</b> Class A Lounge	
<b>Class XI</b>	Spirituos, Vinous and Malt – Restaurant Lounge .....	\$1,500.00
	<b>CLASS XI:</b> Restaurant/Lounge; and OTB.	
<b>FILING FEE</b> .....		\$ 10.00

**UNORGANIZED TERRITORIES** \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: **TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164.** Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

**STATE OF MAINE**

Dated at: \_\_\_\_\_, Maine \_\_\_\_\_ SS

City/Town

(County)

On: \_\_\_\_\_

Date

The undersigned being:                     ف Municipal Officers             ف County Commissioners                    of the  
ف City     ف Town     ف Plantation     ف Unincorporated Place    of: \_\_\_\_\_, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS APPROVAL EXPIRES IN 60 DAYS**

**NOTICE – SPECIAL ATTENTION**

**§ 653. Hearings; bureau review; appeal**

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]

2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]

C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]

E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all license requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. **No license to person who moved to obtain a license. (REPEALED)**

5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.



**TOWN COUNCIL**  
**Agenda Information Sheet**

<b>Meeting Date: December 09, 2014</b>	<b>Item # NB 3</b>
<b>Agenda Item: Sale of used fire truck</b>	
<b>Department Head: Town Manager</b>	
<b>Town Manager's Recommendation:</b>	
Sell used fire truck	
<b>Requested Action: Motion to allow the Town manager to sell one (1) 1988 Custom e-One Hurricane Pumper and associated equipment</b>	
<b>Vote</b>	



**TOWN COUNCIL**  
**Agenda Information Sheet**

<b>Meeting Date: December 09, 2014</b>	<b>Item # NB 4</b>
<b>Agenda Item: Sale of Surplus Police Cruisers</b>	
<b>Department Head: Town Manager</b>	
2004 Ford CrownV – Parts missing – junk 2006 Crownv – Will not pass inspection – Junk 2006 CrownV – Runs well/ transmission slipping	
<b>Town Manager’s Recommendation:</b>	
Try to sell as lot or declare all junk and sell as such	
<b>Requested Action: Motion to allow the Town Manager to dispose of three surplus police cruisers</b>	
<b>Vote</b>	



**TOWN COUNCIL**  
***Agenda Information Sheet***

<b>Meeting Date: December 9, 2014</b>	<b>NB #5</b>
<b>Subject</b>	
Registrar of Voters.	
<b>Information</b>	
Title 21A §101.2 states that the Municipal Officers of each municipality <u>shall</u> appoint a qualified registrar, in writing, by January 1st of each odd-numbered year.	
<b>Staff Comments/Recommendation</b>	
<b>Requested Action</b>	
Appoint Barbara M. Bennett as Registrar of Voters with a term to expire December 31, 2016.	
<b>Vote</b>	