

**South Berwick Town Council
Public Hearing**

November 8th Ballot Referendums

October 25, 2022

Chair Mallory Cook opened the hearing at 6:30pm. Councilors present included John James and Jeff Minihan. Town Manager Tim Pellerin and Assistant Town Manager Jennifer Janelle were also in attendance. Jessica Cyr participated by Zoom. Mr. Kareckas was not present.

The purpose of the hearing was to receive public comment on the two questions on the November 8, 2022 Municipal Election Ballot:

Question 1: To see if the Town will vote to appropriate \$250,000 from the Undesignated Fund to assist the Great Works Regional Land Trust purchase 71 acres of property on the Salmon Falls River Tidal Waters located at Map 6 Lots 14, 14A and 29A, such property to be used for public uses, and the appropriation of such funds will not affect the current mil rate?

Question 2: To see if the Town will accept the ownership of land purchased by the Great Works Regional Land Trust on the Salmon Falls River Tidal waters, such property located at Map 6 Lots 14, 14A and 29A?

-Cliff Cleary, Spillane Hill, asked about the affect on the tax rate, use of the overlay to replace the funds in the next budget, amount of taxes lost if the Town owns the property, liability insurance, and maintenance & upkeep of the properties. He also expressed his concerns with the lack of citizen outreach.

-There is no affect on the current tax rate. The overlay will not be used to replenish the undesignated fund if question 1 passes. Mrs. Cook stated that if the Town does take ownership of the land, we would lose about \$7000 in tax revenue and should not add to our cost for liability insurance. Tin Smith, Land Trust project manager, stated that the Land Trust is trying to raise the funds that would cover the expenses of upgrades for trails, parking, and accessibility. If the Town takes ownership of the land, those funds would be available to the Town. [Some grants may require the Town to own the land to receive the funds]

-Jean Demetracopoulos, Oldfields Rd, stated that this should have had a higher profile and been better advertised by the Council. Mrs. Demetracopoulos went on to give a brief history of the efforts made by prior Councils (and as noted in the Comp Plan) to preserve open space. It has been the center of life in South Berwick since the time of the Native Americans. Not only would the project help preserve a scenic waterway, aid in wildlife habitats; it would help protect water quality throughout the watershed.

-Melissa Costella, Boyd's Corner Rd, asked who the author of the ballot questions was. Response, town attorney. Mrs. Costella stated that the questions are vague and poorly written; the attorney should apologize to the Town.

-Brett Cropp, Liberty St, asked if the transfer of funds is contingent on the Land Trust buying the properties. Mr. Pellerin stated that the Council can put stipulations on when the Town would payout the money.

-Pat Robinson, Brattle St, and Land Trust member, asked about the status of the undesignated fund. Mrs. Janelle explained that the current balance in the fund is \$5,850,000. We are obligated to keep three months of expenses in the fund, about \$3.2 million.

-Tin Smith, Land Trust project manager, stated that the Trust has already raised \$545,000. The Trust would not take the Town's money if the project falls through. He added that most grant applications require municipal support. The best support a Town can provide would be financial.

-Jack Kareckas, Parent St, stated that he does not believe the choice to put the questions on the ballot was rushed. We have done our diligence; the process began several months ago.

-Jessica Cyr, Academy St, stated that the Council has discussed the Land Trust's Salmon Falls Project at several meetings; March 22nd, April 12th, July 26th, and again on August 9th.

The hearing was closed at 6:59pm.

Attest:

Barbara Bennett, CCM

[Clerk's note: Due to a Clerk error, the first 5-10 minutes of the hearing was not recorded. Mr. Cleary was gracious enough to ask his questions a second time so they could be heard/viewed on the recording]

**South Berwick
Town Council Meeting
October 25, 2022**

Chair Mallory Cook called the meeting to order at 6:00pm. Councilors present included John C. Kareckas, and Jeff Minihan. Town Manager Tim Pellerin and Assistant Town Manager Jennifer Janelle were also in attendance. Jack Kareckas and Jessica Cyr joined the meeting after the executive session. Ms. Cyr joined by zoom; all votes taken by roll call.

EXECUTIVE SESSION

1 On a motion by Mr. Minihan, seconded by Mr. James, it was unanimously voted to enter executive session at 6:01pm pursuant to MRSA §405.6A, to discuss a personnel issue.

On a motion by Mr. Minihan, seconded by Mr. James, it was unanimously voted to end the executive session at 6:19pm.

On a motion by Mr. James, seconded by Mr. Minihan, it was unanimously voted to recess the Council meeting at 6:19pm to accommodate a scheduled public hearing.

The Council reconvened at 7:00pm.

Presentation

Retiring Councilor John C. Kareckas was presented with a plaque and heritage rocking chair to commemorate his 37 years of service to the Town. Jack has served on the Planning Board, Zoning Board of Appeals, Comprehensive Plan Committees, and the Town Council. Several department heads were present to thank Jack for his service and support. His knowledge and dedication to the community will be greatly missed.

Approval of Minutes

1. Town Council 10-11-22: On a motion by Mr. Kareckas, seconded by Mr. James, it was unanimously voted to adopt the minutes as written

2. Public Hearing 10-11-22: On a motion by Mr. Kareckas, seconded by Mr. Minihan, it was unanimously voted to adopt the minutes as written.

Treasurer's Warrant

1. On a motion by Mr. Kareckas, seconded by Mr. Minihan, it was unanimously voted to sign the warrant dated October 20, 2022 in the amount of \$361,041.56.

Public Comment

1. Pat Robinson, Brattle St, reminded everyone of the Keep South Berwick Warm Soup Supper on November 2nd. Volunteers are still needed.'

2. Brett Cropp, Liberty St, asked the Council if it would be possible to place a blow-up Menorah near the Home for the Holidays tree on the Town Hall front lawn. Ms. Cyr recommended that he contact or attend the Home for the Holidays committee meeting on Monday.

Unfinished Business

1. The Council, by consensus, agreed to discuss the Solar Farm ordinance at the same workshop already scheduled with the Planning Board on November 29th.

Melissa Costella, Boyd's Corner Rd, suggested that the language regarding buffering plants be revisited. She recommended that the Town use a landscape consultant so appropriate planting are used as buffers.

2. Jean Demetracopoulos, Oldfields Rd, addressed the Council regarding the sale of the property. She reminded everyone of the issues with various parcels on tax maps 2,3, 4, and 5; they may not actually exist and remain as 'holes' on our maps. It was clarified that the Town does have a warranty deed for the property.

There were no bids received by the deadline. However, an abutter from York, has offered to pay the minimum bid for the property.

On a motion by Mr. Kareckas, seconded by Mr. James, it was unanimously voted pursuant to the Tax Acquired Policy, A158-2A(2), to issue a quitclaim deed for the sale of the lot on Bennett Road, Map 3 Lot37A, to John Watts of York Maine, for \$16,366.85. The sale is made with no guarantees of lot size, metes & bounds, and is based on the information on file with the Town at the time of conveyance.

3. Manager Pellerin stated that there were approximately 80 people present at the Sebago Technics traffic study meeting. A number of issues were raised, and now is the time that the Council can make changes to the requested data and the area the study will encompass.

It was agreed to add the following neighborhoods/areas to the study: Norton Street, Young/Parent/Sewall, Highland Ave/Berwick Academy, and Vine & Liberty Streets. Mr. Pellerin will submit the request to Sebago Technics so they can work up an estimate for the added cost.

Brett Cropp, Liberty St, asked if the State would cover any of the cost. No.

New Business

1. Mr. Pellerin made note that Berwick has had some changes and chose to break the contract we had with them for shared code enforcement and planning positions.

2. The Council and Manager discussed the Town Planner position and the change from shared with Berwick to a full-time South Berwick employee.

On a motion by Mr. Kareckas, seconded by Mr. Minihan, it was unanimously voted to fund the full-time Town Planner position from the TIF account, in the amount of \$49,808 for the remainder of the current fiscal year.

3. No action on holding a straw poll at the polling place on Election Day.

Town Manager's Report

-Highway: Paving is complete, fall clean-up is underway, and winter equipment prep has begun. Hoping to have line striping done by weeks end.

-Police: Attended 9 accidents and made 50 traffic stops. Sgt. Moore and Officer Malatak were praised for their professionalism during a recent zoom motor vehicle court hearing. Chief Ruger has set up a COVID vaccine clinic at the Community Center on November 2nd. Lt. Upton has completed ICS400 training. Det. Sgt. Stephens and Officers Malatak & MacLeod have attended a 3-day class involving interview skills.

-Fire: 23 calls, 346 year-to-date. Fire Prevention week was a great success. Currently working on a financial plan for equipment.

-Code Enforcement: Have issued 5 building permits, 2 plumbing permits, and conducted 23 inspections. 1 home occupation permit has been revoked.

-Planning: Southern Maine Planning & Development has been chosen for the 3rd party review of 406 Main Street. It is expected that the 5-lot subdivision will get approved at the Wednesday Planning Board meeting.

-Library: The Friends of the Library book sale has raised \$1200. The Tri-Berwicks are holding a reading contest from January 1st to February 28th; the winner will receive gift cards to Barnes & Noble or Amazon. There will be a family Halloween party from 10a-2pm.

-Recreation: After school programs are filling fast. Adult yoga is going well. The new ice rink has been ordered. The Trick or Treat parade will be on Sunday at 5:30pm.

-Assessing: We continue to receive applications for the Tax Stabilization program. The final valuation report has been sent to the state.

-Town Clerk: Election preparations are ongoing. We have issued well over 1000 absentee ballots so far.

- Transfer Station: A new hire starts next week. Trash levels have decreased and evened out.
- Economic Development: Working on TIF zone maps. We have been receiving calls from people interested in bringing businesses to town.
- Finance/HR: Only 5 homes are in risk of foreclosure on December 1st. Working on enrollments for 2023 insurances. Training grants, up to \$1200/person are available to all staff. The Highway Department has received two grants, totaling \$5500, for cameras at the garage and dump locks. Starting to work on templates for next year's budget.
- Administration: Management & leadership training will begin for all department heads in November. Website upgrade is on step 5 of 8. Working on a training policy for Council, Planning Board, and ZBA. Working on the RFP for the town hall project.

Councilor Comments

1. Ms. Cyr:

- Reminded everyone of the Great Works School Veteran Day celebration.
- Asked about SoBo Arts placing a banner on the town hall front lawn.

2. Mr. James:

- Wished the candidates good luck at the upcoming election.
- Thanked Jack for his service, mentoring, and sharing his knowledge and insights. It has been an honor to serve with him. The Town has been lucky to have him.

3. Mr. Minihan:

- Commented that it was nice to see so many people enjoying the GWRLT hike in the Town Forest.
- Thanked Jack for his service and vast knowledge.

4. Mrs. Cook:

- Reminded everyone of the Election on November 8th and wished the candidates good luck.
- Stated that Jack has been a fabulous mentor and she has been lucky to serve with him.

5. Mr. Kareckas:

- Thanked everyone for their kind words.
- Commented that being on the Council is really a self-test under public scrutiny. The Council has always worked together to solve problems and conduct business in a gentle fashion; respectful and without personal attacks. He encouraged the Council to continue the practice of keeping it civil.
- Thanked the staff for all the support he has received.

Adjournment

On a motion by Mr. Kareckas, seconded by Mr. James, it was unanimously voted to adjourn the meeting at 8:pm.

Attest:

Barbara Bennett, CCM

A / P Warrant

South Berwick
10:17 AM

Bank: KENNEBUNK - Operating

11/10/2022
Page 1

Type	Check	Amount	Date	Wrnt	Payee
P	45579	22,091.21	10/21/22	28	0132 BUREAU OF MOTOR VEHICLES
P	45580	1,870.00	10/27/22	28	0674 DAMIAN J PRODUCTS, LLC
P	45581	17,004.53	10/28/22	28	0132 BUREAU OF MOTOR VEHICLES
P	45582	184.84	10/31/22	28	1176 TREASURER STATE OF MAINE
P	45583	37,608.35	11/02/22	28	0273 HARVARD PILGRIM HEALTH CARE
P	45584	151.14	11/02/22	28	0048 Capital One
P	45585	131.79	11/02/22	28	0058 AMAZON
P	45586	525.80	11/02/22	28	0142 COLONIAL LIFE & ACCIDENT INS.
P	45587	728,737.74	11/02/22	28	0129 MAINE SAD 35
P	45588	184.84	11/07/22	28	1176 TREASURER STATE OF MAINE
P	45589	27,176.36	11/07/22	28	0132 BUREAU OF MOTOR VEHICLES
R	45590	2,045.00	11/10/22	28	0891 2-Way Communications Services, Inc.
R	45591	250.00	11/10/22	28	0980 A HOUSE FOR ME
R	45592	639.32	11/10/22	28	0787 ADVANTAGE TRUCK GROUP
R	45593	64.00	11/10/22	28	0417 AFFILIATED HEALTHCARE MANAGEMENT
R	45594	3,140.00	11/10/22	28	0002 ALLIED EQUIPMENT LLC
R	45595	145.50	11/10/22	28	0516 APPLIED INDUSTRIAL TECHNOLOGIES, INC.
R	45596	905.42	11/10/22	28	0869 Arundel Ford
R	45597	160.65	11/10/22	28	0103 ASHLINE, KERA
R	45598	2,674.32	11/10/22	28	0054 BAKER & TAYLOR
R	45599	36.26	11/10/22	28	0686 Beauregard Equipment, INC.
R	45600	349.87	11/10/22	28	0060 BENNETT, BARBARA
R	45601	171.82	11/10/22	28	0011 BERGERON PROTECTIVE CLOTHING LLC
R	45602	2,697.50	11/10/22	28	0012 BERNSTEIN, SHUR, SAWYER & NELSON
R	45603	15,237.37	11/10/22	28	0384 BERWICK, TOWN OF
R	45604	467.30	11/10/22	28	0062 BUSINESS EQUIPMENT UNLIMITED
R	45605	6,243.13	11/10/22	28	0182 CARD MEMBER SERVICE
R	45606	323.00	11/10/22	28	0399 CARDIO PARTNERS, INC.
R	45607	4,018.45	11/10/22	28	0183 CENTRAL MAINE POWER
R	45608	28.56	11/10/22	28	0833 Central Maine Power-GA
R	45609	1,403.94	11/10/22	28	1026 CHADWICK-BAROSS
R	45610	320.89	11/10/22	28	1150 CHAPPELL TRACTOR
R	45611	503.37	11/10/22	28	1158 CINTAS CORP
R	45612	2,749.87	11/10/22	28	0181 CONSOLIDATED COMMUNICATIONS
R	45613	2,000.00	11/10/22	28	1177 CUSI IING, WENDY
R	45614	200.00	11/10/22	28	1184 DOYLE, JEFF
R	45615	900.00	11/10/22	28	1124 DRAGONFLY NEST CREATIONS
R	45616	220.00	11/10/22	28	0156 DRAKE, NICOLE
R	45617	1,720.00	11/10/22	28	0109 ELECTION SYSTEMS & SOFTWARE
R	45618	76.99	11/10/22	28	0108 ELIOT SMALL ENGINE REPAIR, INC.
R	45619	112.00	11/10/22	28	0164 FASTENER WAREHOUSE
R	45620	1,540.00	11/10/22	28	0741 Fisher James Company, Inc.
R	45621	117.58	11/10/22	28	0293 GALLS LLC
R	45622	2,035.00	11/10/22	28	0337 GENEST PRECAST
R	45623	200.00	11/10/22	28	0030 GINO'S PLUMBING & HEATING
R	45624	32.74	11/10/22	28	0526 GRAINGER
R	45625	217.96	11/10/22	28	1169 GREAT WORKS INTERNET-GWI
R	45626	550.00	11/10/22	28	0045 GROUP DYNAMIC, INC.

A / P Warrant

South Berwick
10:17 AM

Bank: KENNEBUNK - Operating

11/10/2022
Page 2

Type	Check	Amount	Date	Wrnt	Payee
R	45627	79.21	11/10/22	28	0052 HAMEL, NICHOLAS
R	45628	196.73	11/10/22	28	0168 HOME DEPOT CREDIT SVCS
R	45629	1,097.69	11/10/22	28	0695 Howard P. Fairfield, LLC
R	45630	2,587.50	11/10/22	28	0077 HUSSEY EXCAVATION INC
R	45631	75.00	11/10/22	28	0699 JANELLE , JENNIFER
R	45632	100.00	11/10/22	28	1095 LEXISNEXIS RISK SOLUTIONS
R	45633	62,778.77	11/10/22	28	0080 LIBBY SCOTT INC.
R	45634	200.00	11/10/22	28	1183 LOU'S CUSTOM EXHAUST
R	45635	145.00	11/10/22	28	0169 M W GRENIER ENTERPRISES LLC
R	45636	1,440.00	11/10/22	28	0092 MAD SCIENCE OF MAINE
R	45637	638.50	11/10/22	28	0179 MAINE DEPARTMENT OF INLAND FISHERIES AND WILD LIFE
R	45638	72.91	11/10/22	28	0127 MAINE MUNICIPAL ASSOCIATION
R	45639	267.60	11/10/22	28	0193 MAINE OXY
R	45640	344.35	11/10/22	28	0082 MAINE RESOURCE RECOVERY
R	45641	120.00	11/10/22	28	0396 MAINE TOWN & CITY CLERKS ASSOC MTCCA
R	45642	480.00	11/10/22	28	0595 MAINE TREASURER
R	45643	35.00	11/10/22	28	1080 MAINE WELFARE DIRECTORS ASSOCIATION
R	45644	3,384.59	11/10/22	28	0084 MICK BODYWORKS INC
R	45645	460.00	11/10/22	28	1180 MILLER, CAMERON
R	45646	122.50	11/10/22	28	1119 MOREAU, DAWN
R	45647	285.18	11/10/22	28	0243 MOTOROLA SOLUTIONS
R	45648	2,390.00	11/10/22	28	0410 MUNICIPAL PEST MANAGEMENT SERVICES, INC.
R	45649	87.50	11/10/22	28	0284 NEPTUNE UNIFORMS & EQUIPMENT
R	45650	398.75	11/10/22	28	1167 NORTHERN FORESTS LLC
R	45651	120.30	11/10/22	28	0044 OFFICE OF INFORMATION TECH A/P
R	45652	520.00	11/10/22	28	1179 OPEN CONCEPTS CONTRACTING
R	45653	51.66	11/10/22	28	0944 O'REILLY FIRST CALL
R	45654	584.43	11/10/22	28	0088 P GAGNON & SONS INC
R	45655	75.00	11/10/22	28	1071 PELLERIN, TIMOTHY
R	45656	750.00	11/10/22	28	0136 PHOENIX MANAGEMENT
R	45657	364.80	11/10/22	28	0089 PIKE INDUSTRIES INC
R	45658	223.28	11/10/22	28	0915 PINE STATE ELEVATOR COMPANY
R	45659	17,925.63	11/10/22	28	0572 PINE TREE WASTE, INC
R	45660	50.00	11/10/22	28	0802 POPE MEMORIAL HUMAN SOCIETY
R	45661	54.50	11/10/22	28	0307 QUALITY FIRE PROTECTION
R	45662	153.89	11/10/22	28	0204 READY REFRESH
R	45663	75.00	11/10/22	28	0167 REDIMARKER, JAY
R	45664	346.49	11/10/22	28	0252 REDS SHOE BARN
R	45665	200.00	11/10/22	28	1178 RICHARDS, MICHELLE
R	45666	94.50	11/10/22	28	0483 SEACOAST PRINTING INC.
R	45667	5,035.00	11/10/22	28	1171 SEBAGO TECHNICS
R	45668	475.76	11/10/22	28	1182 SNAP-ON
R	45669	6,000.00	11/10/22	28	0368 SOUTH BERWICK CEMETERY ASSOCIATION
R	45670	966.60	11/10/22	28	0184 SOUTH BERWICK SEWER DISTRICT
R	45671	208.00	11/10/22	28	0203 SOUTH BERWICK WATER DISTRICT
R	45672	185.00	11/10/22	28	0350 SOUTHERN MAINE DISTRICT 1 TRAINING COUNCIL
R	45673	770.00	11/10/22	28	0195 SOUTHERN MAINE PLANNING & DEVELOPMENT, INC

A / P Warrant

South Berwick
10:17 AM

Bank: KENNEBUNK - Operating

11/10/2022
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Type	Check	Amount	Date	Wrnt	Payee
R	45674	850.00	11/10/22	28	0546 ST. PIERRE, JON
R	45675	268.35	11/10/22	28	0936 STAPLES-LIBRARY ACCOUNT
R	45676	1,709.83	11/10/22	28	0095 STELLAR NETWORKS
R	45677	2,333.15	11/10/22	28	1056 SUNBELT RENTALS INC.
R	45678	45.00	11/10/22	28	0143 TREASURER OF STATE-CONCEALED FIREARMS
R	45679	75.00	11/10/22	28	0594 TREASURER STATE OF MAINE
R	45680	28.80	11/10/22	28	0581 TRI-CITY MASONRY SUPPLIES
R	45681	2,035.84	11/10/22	28	1089 VILLAGE MOTORS
R	45682	25,992.50	11/10/22	28	0568 WASTE ZERO
R	45683	255.75	11/10/22	28	0152 WB MASON
R	45684	927.33	11/10/22	28	1175 WELCH OIL, LLC
R	45685	2,728.52	11/10/22	28	0100 WEX BANK
R	45686	8,191.50	11/10/22	28	0102 YORK AMBULANCE ASSN INC
R	45687	4,250.00	11/10/22	28	0441 YORK PARKS AND RECREATION DEPARTMENT
R	45688	230.00	11/10/22	28	1181 YORK REGION CHAMBER OF COMMERCE
Total		1,053,102.60			

Count

Checks	110
Voids	0

This is to certify that there is due and chargeable to the appropriations listed above the sum set against each name and you are directed to pay unto the parties name in this schedule as signed by the Town Council below:

Melissa Costella _____ John James _____

Jeff Minihan _____ Jessica Cyr _____

Mallory Cook _____

APPROVED _____

DATE _____

TOWN MANAGE _____

DRAFT

§ 140-67.3 Performance Standards and Local Licensing Requirements for Medical Marijuana Cannabis Registered Caregiver.

Purpose and Authority:

Maine municipalities are authorized to regulate registered caregivers under 22MRS §2429-D. *Local Regulation.*

Registered caregivers as defined under prevailing laws and rules:

State of Maine Title 22: HEALTH AND WELFARE, Subtitle 22: HEALTH, Part 5 FOOD AND DRUGS, Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT §2422. Definitions 11. Registered Caregiver pursuant to §2425-A,

MAINE MEDICAL USE OF MARIJUANA PROGRAM RULE 18-691, CODE OF MAINE RULES 18 Department of Administrative and Financial Services, 691 Office of Marijuana Policy Chapter 2: Maine Medical Use of Marijuana Program Rule, Chapter 2 (formerly 10-144 ch. 122)

Registered caregivers shall apply and operate under local license and performance standards listed in this chapter.

Purpose and Authority: This ordinance is enacted pursuant to authority granted 30-A M.S.A. § 3001, 22 M.R.S. § 2423-A (14) and 28-B M.R.S. § 402. The purpose of this ordinance is to set forth *procedures* and standards for the issuance of local licenses for Medical Marijuana Registered Caregivers in-order to protect public health, safety and welfare.

Registered Caregiver: See definitions section §140-9

Disqualifying drug offense: See definitions section §140-9

Move to §140-9 Definitions

Definitions:

Registered Caregiver: "Registered Caregiver" means a caregiver who is registered by the State of Maine Department of Administrative and Financial Services, Office of Marijuana Cannabis Policy pursuant to 22 M.R.S. §2425-A.

Disqualifying drug offense: "Disqualifying drug offense" means conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, but does not include (1) An offense for which the sentence, including any term of term of probation, incarceration or supervised release, was completed 10 or more years earlier;

or (2) An offense that consisted of conduct that would have been permitted under the Maine Medical Use of Marijuana Act.

Administration:

License Requirement: Effective 30-days following enactment of the Ordinance ("the effective date", a Medical ~~Marijuana~~ Cannabis Registered Caregiver ("MM-CRC") shall not begin or continue operations unless it has received and is in possession of a license pursuant to this Ordinance. MM-CRC that holds an approved ~~lined~~ special use permit and/or are operating as of the effective date shall submit a completed application within 30 days of the effective date but shall have a grace period of 60 days after the effective date to receive a license, which may be extended by order of the Council if justified due to the anticipated timeline of the review process.

Licensing Authority: All MM-CRC license applications, ~~whether new or~~ all renewals, shall be reviewed and may be approved by the Town Clerk-Planner. All other new license applications shall be reviewed and may be approved by the Town Council after public hearing. Application shall be made in writing using a form prepared by the Town ~~of~~ for the purpose and must include all information required by this Ordinance and by the form. The Town Clerk shall give notice of any public hearing held by the Town Council by publication in a newspaper of general circulation in the Town of South Berwick at least seven (7) days prior to action.

Review Procedures: The review procedures described below shall be the same for initial license applications as well as renewals, unless otherwise indicated. In reviewing these license applications, the Licensing Authority, and any consulting Town officials, may consider the approval standards under this Ordinance as well as any other additional applicable local, State or federal laws and, for license renewals, the Licensee's record of compliance with the same.

- A. The Town Clerk Planner shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance and to obtain recommendations from other Town officials as required.
- B. The ~~Licensing Authority~~ Town Council shall have the authority to impose any conditions on a license that may be reasonably necessary to ensure compliance with the requirements of this Ordinance or to address concerns about operations. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and of this Ordinance.
- ~~C. No license shall be granted~~ No license shall be granted by the Licensing Authority until the Police Chief, Fire Chief, ~~Health Officer~~ and Code Enforcement Officer all made positive recommendations regarding the Applicant's ability to comply with this Ordinance or any other applicable Town ordinance or state or federal law enforced by such local officials. ~~The Town Clerk Planner shall provide a copy of the license application to each official~~

~~along with a form upon which the official shall note their findings and conclusions, as well as any recommended conditions of approval. The Town Clerk Planner shall automatically include any conditions of approval recommended by the officials on an application to be issued for which the Clerk Council is the licensing authority. The Council shall have discretion to attach any conditions it deems necessary to any license it awards. The applicant is responsible for ensuring the submission of documentation from the Code Enforcement, Fire Chief, Police Chief and director of Public Works.~~

- D. For renewal licenses, the application, review process and reviewing authority shall be the same as for initial licenses. All renewal applications for Medical Marijuana Cannabis Registered red Caregivers shall be reviewed by the Town Council, which shall issue a renewal license only upon a finding that the MM-CRC has in the past license term been operating in accordance with this Ordinance as well as the MM-CRC previously submitted Operations Plan.
- E. Licenses shall be approved only for the type of MM-CRC identified in the application. A Licensee who intends to expand or convert Licensed Premises to a type of marijuana cannabis business this is not specifically approved in a license must obtain a new license for that use.
- F. Any Licensee that is required to obtain approval from the State of Maine shall provide the Code Enforcement Officer and Town Clerk copies of all necessary approvals prior to operating the licensed business.
- G. Any Authorized municipal official with authority to make recommendations, grant licenses or enforce this or other municipal ordinances regarding MM-CRC operations shall have the authority to enter the Licensee's or Applicant's premises without notice to make any inspection reasonably necessary to ensure compliance.

Application Requirements: Each applicant for MM-CRC license shall complete and file an application form provided by the Town Clerk Planner, together with applicable license fee. The Application fee is non-refundable. Two paper copies and one electronic copy of the application and supporting materials shall be provided.

- A. A copy of the Applicant's State License application and supporting documentation.
- B. Evidence of all State approvals or conditional approvals required to operate as a MM-CRC including, as applicable, State caregiver registration, Food and Fuel License application and certificate.
- C. If not a proprietor business, include any articles of incorporation, by-laws, partnership agreement or articles of association governing the entity that will own and/or operate the MM-CRC business.
- D. A release for each Applicant and for each officer, owner, member, manager or partner of the MM-CRC applicant seeking a license allowing Town of South Berwick

officials to obtain criminal records and other background information related to the individual(s).

- E. Evidence of all land use approvals required to operate as MM-CRC, including, but not limited to, building permit(s), site plan review approval and change of use permit.
- F. Evidence of all other local approvals required to operate as MM-CRC, including any applicable food or victualer's license.
- G. A description of the premises for which the license is sought, including a plan of the premises.

If the Town Clerk Planner determines the submitted application is incomplete, they shall notify the applicant of additional information required. Supplemental requested information must be submitted within thirty (30) days of the Clerk's Planner's request or the application shall be denied.

License Issuance and Renewal:

- A. Each license issued under this Ordinance shall be valid for term of the license granted by the State License Authority ("the license year") or otherwise for one (1) year from the date of issuance. Applications for renewal licenses shall be submitted ~~between 60 and 90 days~~ prior to the expiration of the existing term to allow for timely processing. Any MM-CRC which fails to obtain a renewal license prior to expiration of the existing term shall not have the authority to operate until an license is granted.
- B. Applications for Medical Marijuana Cannabis Registered Caregiver will be processed as received and, if applicable for renewals, forwarded to the Council for action. If additional documents or information is needed, the Clerk Planner will contact the applicant to inform them of the deficiency.

Denial, Suspension or Revocation of a License: A license application for MM-CRC shall be denied by the Town and an existing license may be suspended or revoked by the Town Council after notice and hearing, if the Applicant, ~~or any Owner of the Applicant~~ or any owner of the property or Licensee:

- A. Fails to meet the requirements of this Ordinance.
- B. Is not 21 years of age.
- C. Has a license required for MM-CRC suspended or revoked by the Town, by a municipality in the State of Maine, or by the State.
- D. Is in violation of this or any other Ordinance or has unpaid penalties assessed by a court related to ~~marijuana~~ cannabis business.
- E. Has not acquired all necessary state and local approvals prior to issuance of the license.

- F. Fails to meet zoning or other land use, shoreland, resource protection ordinances.
- G. Has been convicted of a criminal violation arising out of operation of a cannabis business.
- H. Has provided false or misleading information in connection with the license application.
- I. Odor must be mitigated in the allotted 5 days after being notified by the Code Enforcement Officer.

Approval and Operating Requirements:

In order to obtain a license pursuant to this ordinance, the applicant shall demonstrate to the Town Council or its designee the following requirements shall be met. A license holder shall comply with all of these requirements during the term of the license.

- A. Fixed Location: All licensed premises shall be fixed, permanent locations. License holders shall not be permitted to operate other marijuana operations or establishments in other than the licensed premises, excluding for example, farmer's markets, farm stands or kiosks.
- ~~B. Display of License: The municipal license shall be displayed in a conspicuous location in the place of sale or distribution and visible to qualifying patients served by the Registered Caregiver.~~
- C. Security: The licensed premises shall have lockable doors and windows and shall be served by an alarm system.
- D. Ventilation: The licensed premises shall comply with all odor and air pollution standards established by statute or ordinance, or as a condition of approval by the Planning Board.
- E. Waste Disposal: the licensed premises shall not dispose of waste and/or residue from the growth, cultivation, processing of medical marijuana in an unsecured waste receptacle not in its possession or control. All waste receptacles on site must have a metal cover and be locked at all times with proper security.
- F. Lighting: (requirements required)
- G. Parking: (On street and off-street requirements required)
- H. Signage: (requirements required)
- I. External Facing Window Displays, Lighting or Lit or Unlit Wall Signage Prohibited.
- J. Hours of Operation: 8:00am to 8:00pm (suggested)
- K. Provisions to prevent loitering on the premises.
- L. ~~MARC~~ shall meet all operating and other requirements of prevailing State and Local law.
- M. Notification of changes in business operations.

Transfer of Ownership of Change of Location: Licenses issued under this Ordinance are not transferable to a new owner. Licenses are limited to the premises for which they are issued and shall not be transferable to a different location. A licensee who seeks to operate in a new location shall acquire a new license for that location.

Appeals:

- ~~A. The following appeals may be decided by the Town Council upon hearing in which they will hear evidence on the application, make its their own findings of fact and conclusions of law:~~
- ~~1. Appeal of the Town Clerk's Town Council's denial of an application.~~
 - ~~2. Appeal by any aggrieved party having legal standing of any decision by the Town Clerk Town Council to grant a license under this Ordinance.~~
 - ~~3. Appeal by the applicant of any permit granted by the Town Clerk Town Council with conditions to which the applicant/licensee objects.~~
- ~~B. Appeals must be filed with the Town Clerk within thirty (30) days of the date of decision subject to appeal. The Town Council shall hold a hearing on the appeal and render a decision within thirty (30) days of the date of appeal, unless all parties consent to a delay.~~
- ~~C. Appeals of final determinations issued by the Town Council pursuant to this Ordinance shall be made to York County Superior Court within thirty (30) days of the date of decision being appealed.~~

Any party may take an appeal, within 45 days after the decision is rendered by the Town Council to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B.

Enforcement and Penalties: For Operations of ~~M~~MCRC business without the required license ~~of in violation~~ of this Ordinance shall be a violation of this Ordinance. The Town of South Berwick or its designee shall enforce the provisions of this subsection.

Severability: The provisions of the Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Other Laws: In the event of a conflict between the provisions of this Ordinance and the provisions of other law or ordinance the more restrictive shall apply.

Move to Fee Schedule: Appendix A

DRAFT

Performance Standards and Local Licensing Requirements

Medical Marijuana Registered Caregiver

October 24, 2021, Rev. August 26, 2022; Rev. September 13, 2022; Rev. November 2, 2022

Medical Marijuana Cannabis Registered Caregiver Licensing Ordinance Schedule of Fees

Medical Marijuana Cannabis Registered Caregiver License-

No Cultivation on-site

~~\$150~~ \$1,500

Medical Marijuana Cannabis Registered Caregiver License-

Cultivation conducted on-site

~~\$300~~ \$3,000

Medical Cannabis Registered Caregiver License

Exchange / Conversion Application

\$750

Move to §140-9 Definitions

Cannabis: Cannabis means the leaves, stems, flowers, and seeds of all species of plant genus cannabis, whether growing or not. It does not include mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

Cannabis Cooperative: Two or more Medical Cannabis or Adult Use Cultivators claiming a location as a primary residence in order to conduct cannabis home production. Cannabis cooperatives are considered Adult Use Cannabis Production Facilities if cannabis is grown by an Adult Use Caregiver and considered a Medical Cannabis Production Facility if grown by a Medical Cannabis caregiver.

Cannabis Caregiver Home Production: Cultivation, Delivery, Selling and/or storing of Medical Cannabis at a person's primary year-round residence. This use shall meet the Home Occupation requirements **(insert Section when identified)**

Cannabis, Adult Use: Cannabis that is cultivated, manufactured, distributed, or sold by a Cannabis establishment for adults 21+ as defined by Maine Title 28-B.

Cannabis Caregiver Retail Store: A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer cannabis plants or harvested cannabis for sale to qualifying patients.

Cannabis Cultivation Facility, Adult Use: A facility licensed under this chapter to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package

adult use cannabis; to sell adult use cannabis to product manufacturing facilities, to cannabis stores and to other cultivation facilities; and to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores.

Cannabis Dispensary, Medical: An entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Cannabis Establishment: A cultivation facility, a products manufacturing facility, a testing facility or a cannabis store licensed by the State of Maine.

Cannabis Manufacturing, Adult Use: The production, blending, infusing, compounding or other preparation of cannabis and cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

Cannabis Store, Adult Use: A facility licensed under Maine Title 28-B to purchase adult use cannabis, immature cannabis plants and seedlings from a cultivation facility, to purchase adult use cannabis and adult use cannabis products from a products manufacturing facility and to sell adult use cannabis, adult use cannabis products, immature cannabis plants and seedlings to consumers.

Cannabis Testing Facility: A facility licensed by the State of Maine to research and test cannabis, cannabis products and other substances.

Medical Marijuana Cannabis Registered Caregiver/s: Registered Medical Marijuana Cannabis Caregiver means a home-based facility used by a maximum of two (2) registered caregivers for cultivating, processing, and/or storing of medical marijuana at a registered caregiver's primary year-round residence. This definition also includes cultivating marijuana, harvesting marijuana, drying marijuana, and the packaging and transportation of the product from the premises or for limited client pick-up. The use is to be for growing medical marijuana for personal use and for medical cardholding patients / clients. The use is subject to Town licensing requirements and all other activities authorized by State Law. Only marijuana grown on the premises shall be allowed on the property at any time with the exception of the Caregiver's personal use. No marijuana grown or produced products manufactured off the premises shall be transported to, stored at, sold, packaged, or processed at the property. The property may not be utilized for commercial resale. No more than 500 designated square feet per licensed caregiver or, where two (2) registered caregivers are growing on / within the same property, a maximum of 1,200 1,000 (per OCP regs) designated square feet of cumulative square feet is permitted.

Drug Store:

Medical Cannabis: Cannabis that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical Cannabis Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of cannabis in accordance with Maine State Law. A person who is a medical cannabis caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Cannabis Production Facility: A facility used for cultivating, ethanol extraction, and/or storing medical cannabis by a medical cannabis caregiver at a location which is not the medical cannabis caregiver's primary year-round residence or their patient's primary year-round residence. Butane extraction is considered an Industrial Use. **(Insert Industrial Use Section, if necessary)**

Medical Cannabis Caregiver Home Occupation

The below uses constitute a Major Home Occupation which must conform to the following

1. Medical ~~Marijuana~~ Cannabis Registered Caregiver Home Occupation:

a) Medical Cannabis Registered Caregivers as a home occupation shall not include the employment of any persons not residing on the premises in the performance of the occupation. SEE DEFINITION "Cannabis Cooperative".

b) There shall be no outdoor storage of materials or products on the premises, associated with the business, on the premises. All outdoor waste disposal receptacles must have a metal cover and be locked at all times.

c) Municipal Approval Required: Major Home Occupations shall be reviewed and, if all applicable standards are met, approved by the Town's Code Enforcement Officer (CEO). If the CEO determines that the application does not meet the adopted standards the CEO may work with the Applicant towards bringing the application / proposal into full compliance with the standards

(curtailing the operations etc.) or the Applicant may bring the matter to the Zoning Board of Appeals to challenge the CEO's determination.

d) Square Footage Limitations: A marijuana caregiver home occupation shall be carried on wholly within the principal building or within a building or other structure accessory to it and shall utilize, at a maximum, no more than 500 designated square feet per licensed caregiver or, where two (2) registered caregivers are growing on / within the same property, a maximum of 1,200 designated square feet of cumulative square feet is permitted

e) Odor Control / Mitigation:

1) No use shall emit product odor across the lot lines in such quantity as to be readily detectable at any point along the lot lines.

2) Odor Control Plan: An Odor Control Plan shall be submitted to the Town's Code Office specifying the engineering and administrative controls the Caregiver will use to prevent odors from being detected offsite. The plan shall provide a list of all odor control measures, equipment and cleaning / maintenance for all existing and new odor control equipment; and must include carbon filtration and a negative pressure environment or sealed rooms. This Maintenance Log shall be shown to the Town's Building and Fire inspectors upon request. Any noted deficiencies shall be corrected within the timeline provided by the enforcement authority.

3) After the Fact Mitigation: If responding to odor complaints emitting from a caregiver's property, with or without, an approved odor control plan which is insufficient, as determined by the Town's Code Enforcement Officer (CEO), the CEO may work with the operator to bring the property into full compliance. Any noted deficiencies shall be corrected within the timeline provided by the enforcement authority. Should the odor issues be unable to be resolved, to the Town's satisfaction, the CEO may begin an enforcement action and / or seek Town Council revocation of required licensing.

f) Major home occupations shall not have any business-related signage visible from the exterior of the property.

1) No goods may be sold from the property which were not produced on-site. Items such as soil, fertilizers, etc., utilized by the caregiver for the operation of their home occupation or normal household products, utilized on site are not included in this prohibit

2) Client visits / product sales from the property shall be comply to with the following:

a. All sales shall be transacted within the interior of the premises.

b. Client visits shall be appropriately scheduled to prevent/minimize client overlap. Client visits by appointment only.

c. No traffic shall be generated in greater volumes than would normally be expected by a residential use

1. Hours of operation: Client product pick-up times shall be limited to the following:

a. Monday through Friday from 7:30 am to 6:00 pm.

b. Saturday and Sunday from 9:00 am to 3:00 pm.

2. Sufficient off-street parking shall be provided for one (1) client parking space. If existing parking is sufficient, as determined by the CEO, no additional parking is required. In all cases parking shall resemble parking at a typical residential home.

3. Pick-up windows and/or drive-through service are strictly prohibited.

4. Exterior Lighting: All exterior lighting shall be residential in nature installed to reduce light spillage into surrounding properties. This condition does not prohibit, time limited, motion activated security lighting.

5. No nuisance such as waste discharge, offensive noise, vibration, smoke, dust, heat or radiation shall be generated.

6. A copy of the building layout must be provided to the Chief of Police and the Chief of Fire to ensure the safety of first responders.



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300

(Office Use Only)

Application Received Date: _____ Application Number: _____

Application Completion Date: _____ Map _____ Lot _____ Zone _____

Town of South Berwick Cannabis Licensing Application

Each cannabis license issued shall be effective for one year from date of issuance. Renewal applications must be submitted at least 90 days prior to expiration of the annual license. If the cannabis license has expired, the application shall be treated as a new license application.

- ☐ Medical Cannabis Registered Caregiver License- Cultivation On-Site \$3,000
- ☐ Medical Cannabis Registered Caregiver License- No Cultivation On-Site \$1,500
- ☐ Exchange/Conversion Application- \$750

☐ Limited Liability Company ☐ Partnership ☐ Corporation

Name of Business: _____

Mailing Address: _____

Telephone Number(s): _____

E-mail Address: _____

Project Address: _____

Map: _____ Lot: _____ Zone: _____

Applicant(s) Information
Complete one form for each applicant

Full Legal Name: _____

Mailing Address: _____

Physical Address: _____

Telephone Number(s): _____

Date of Birth: _____ ☐ Applicant is 21 years of Age

Email Address: _____

☐ Attach a copy of any state cannabis licenses to this form (Caregiver Card, ETC)

☐ Attach a photocopy of a recent Passport, Driver's License or State ID

Has the applicant listed above ever been convicted of a felony in a federal, state, or other court? ☐ YES ☐ No

If yes, please provide the following information:

Name and Location of Court: _____

Charge Convicted of: _____

Date of Sentencing: _____

Last Date of Incarceration, Parole, Probation: _____

By signing this form, it is understood that the Town of South Berwick has the right to verify all information is valid and up to date.

Applicant Signature: _____ **Date:** _____

Property Owner
Complete one form for each owner

Full Legal Name: _____
Mailing Address: _____
Physical Address: _____
Telephone Number(s): _____
Email Address: _____

- ☐ Attach most recent deed listing owner name
☐ Attach a photocopy of a recent Passport, Driver's License or State ID

By signing this form, it is understood that the Town of South Berwick has the right to verify all information is valid and up to date.

Applicant Signature: _____ **Date:** _____

Do swear/affirm under penalty of law that you are the designated agent and have permission to execute this application.

State of Maine, County of York

Name of Notary: _____

Notary Public State of Maine

Signature of Notary: _____ **My Commission Expires:** _____

Has any establishment in which an applicant has had an influential interest in the last five years been subject to either of the following:

- ☐ Been declared by a court of law to be a nuisance?
- ☐ Been subject to a court order of closure?

Has any applicant been denied an application for a medical cannabis license by another municipality?

- ☐ Yes ☐ No If yes, please explain

Has any applicant ever had a cannabis license suspended or revoked by another jurisdiction?

- ☐ Yes ☐ No If yes, please explain

List below the names and addresses of the owners of abutting property and those with property on the opposite side of street within 250 feet of the business property lines.

Name	Address	Map and Lot
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

For consideration of this application, please submit documentation for the following-

- ☐ Attach all state licensing; and
- ☐ Attach a copy of the Town of South Berwick's tax map for the subject property, depicting the property lines and any structures containing existing Cannabis businesses within 500 feet (measured by G.I.S.); also, 1,000 Feet for public and private schools, daycares, religious institutions, designated recreational area for children up to 18 years of age; and
- ☐ Attach a description of plan for developing and operating a medical cannabis business, include blank layout, security plan, odor mitigation and parking plan (including number of spaces for site) Please sketch the plan drawn to scale with marked dimensions; and
- ☐ Attach a sample of the logo and labeling that will be used for signs, on products and in advertising; and
- ☐ Attach application for Knox Box for Town of South Berwick's Fire Department; and
- ☐ Attach letters from Fire Chief, Police Chief, Director of Public Works to ensure security plan, traffic flow, driveway entrances/exits, and life safety measures are met for application; and
- ☐ Attach Planning Board's approvals and Findings of Fact; and
- ☐ Attach approved building permit from the Code Enforcement Office; and
- ☐ Attach the Food License from Department of Agriculture (if applicable); and
- ☐ Attach Hours of Operation in daily format; and
- ☐ Attach letter for method of sewage disposal and water supply for proposed site. Schedule of Septic pumping for 5 years must be included if private system; and
- ☐ Attach an affidavit that identifies all owners, officers, members, managers, or partners of the applicant, their ownership interests, and their places of residence at the time of the application and for the immediately preceding two years; and
- ☐ Other: _____

For Cannabis Stores Only

Describe how you will ensure that the Cannabis Store will not sell, give, distribute, or deliver Cannabis or Cannabis products to underage (under twenty-one), or to persons who appear to be under the influence of an alcohol, inhalants, or other controlled substances



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL: 207-384-3300
FAX: 207-384-3303

Cannabis Establishment License

Date License Issued: _____ Date License Expires: _____

Name: _____

Business or DBA Name: _____

Physical Address: _____

This license granted is subject to all local and state laws, ordinances and regulations that are all being met. The Town of South Berwick reserves the right to revoke this license if the standards are not being met in accordance to the Town of South Berwick Zoning Ordinance.

This license is not transferable and must be posted in a conspicuous place.

Town Council Chair

Town Seal



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

November 15, 2022

Executive Summary Report for the Town Council Sebago Technics Traffic Study Update

- It would not add much value to the traffic study to add the cut through neighborhoods (Norton St with all side streets coming from Portland St., Main St. extended to Rollinsford all the way to Seawall Rd., Highland/Academy/Union, and Liberty/Vine St.) as once there are lights to help with traffic flow, we should see less people taking the sides streets as the lights help guarantee traffic movement.
Brad recommends fixing the issues on Route 236 first and then doing a secondary study on the neighborhoods to see if this is still an issue.
It is something that should be acknowledged and added to the report.
- Norton Street/Main Street will be added to the scope of the study for an additional \$6000, including conducting a 12-hour turning movement counts at this location. This will not impact the timeline for completion.
- Parking utilization needs to be addressed. Tim and Jen will continue to observe the parking spots from the Town Hall to Norton Street at various times throughout the day for the next 30 days. Brad will mention this in the report at some capacity.
- Denise will visit all businesses in the block this week or next asking 4-5 questions to get their opinion on store front parking and whether they feel it helps their business or not.
- Brad will be reaching out to Chief Hamel to have a discussion about the traffic impacting their call response times coming out of Norton Street and talk about ITS solutions . The FD currently has no transom system.
- Brad would like to have the traffic study completed by mid-January, present the final report to the Town Council in late January and have the Town Council set a public hearing date for February.

Timothy Pellerin, Town Manager

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: 11/15/2022	NB #1
Agenda Item: Administrative Policy- Town Council, Planning Board & ZBA	
Department Head Recommendation:	
Adopt an Administrative Policy for Town Council, Planning Board, and Zoning Board of Appeals members in order to set the training expectations so they can become familiar with their job duties and responsibilities.	
Town Manager's Recommendation	
Motion & vote to accept a new Administrative Policy- Training for Town Council, Planning Board & Zoning Board of Appeals..	
Requested Action	
Town Council to pass motion as stated above.	
Vote	

Administrative Policy

Town Council

Purpose

The purpose of this policy is to set the training expectations for the South Berwick Town Council members so they can become familiar with their job duties and responsibilities.

Definitions

Code- The Code is a set of rules and standards of behavior for the Town of South Berwick. The Town Council adopted the Code on 3/10/1971. The Code includes three parts; Part I Administrative Legislation, Part II General Legislation and the Appendix.

Charter- A municipal charter is the basic document that defines the organization, powers, functions and essential procedures of the town government. The charter is the most important legal document of the town.

Maine Municipal Association (MMA)- The Maine Municipal Association is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine. MMA is a non-profit, non-partisan organization governed by an Executive Committee elected from its member municipalities. Founded in 1936, MMA is one of 49 state municipal leagues that, together with the National League of Cities, are recognized at all governmental levels for providing valuable services and advocating for collective municipal interests.

The Maine Municipal Association has a core belief that local government is a fundamental component of a democratic system of government. MMA is dedicated to assisting local governments, and the people who serve in local government, in meeting the needs of their citizens and serving as responsible partners in the intergovernmental system.

Policy

All Town Council members will receive council orientation by the Town Manager and the Town Attorney annually. Training will be done in the form of informal training from the Town Manager and formal training from MMA.

Section A

Informal Training

Training from the Code will include:

- 1) Chapter 3 Administrative Code, Article I Town Council*
 - a) § 3-16 rules of procedure
 - b) §3-17 Rules of Council
 - c) §3-17.1 Remote participation policy
- 2) Chapter 14 Code of Ethics, Article II Conflict of Interest Policy*
 - a) § 14-3 General provisions
 - b) § 14-4 Voting members
 - c) § 14-5 Officials and employees
 - d) § 14-6 Responsibility for enforcement
 - e) § 14-7 Training provided by the Town
 - f) § 14-8 Sanctions
- 3) Chapter 31 Personnel Policies*
 - a) § 31-65 Standards of Conduct
 - b) § 31-65.1 Favors and gratuities
- 4) Town Charter in its entirety.*

Town Council members will be asked to sign an acknowledgment stating they have read and understand these specific Code sections and the Charter. The Acknowledgement Form will be kept in the council members file located in the Assistant Town Manager's office.

Section B

Formal Training

Formal training will be completed by attending MMA's Roles of Elected Officials and Municipal Managers Workshop.

Section C

Training Requirements

Within 6 months of election or as soon as applicable Town Council members will participate in the Elected Official workshop provided by MMA.

Administrative Policy

Planning Board & Zoning Board of Appeals

Purpose

The purpose of this policy is to set the training expectations for the South Berwick Planning Board and Zoning Board of Appeals members so they can become familiar with their job duties and responsibilities.

Definitions

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The Maine Municipal Association has a core belief that local government is a fundamental component of a democratic system of government. MMA is dedicated to assisting local governments, and the people who serve in local government, in meeting the needs of their citizens and serving as responsible partners in the intergovernmental system.

Policy

Planning Board and Zoning Board of Appeals members will receive orientation by the Town Manager annually. Training will be done in the form of informal training from the Town Manager and formal training from MMA.

Section A

Informal Training

Training from the Code will include:

Planning Board

1) Chapter 31 Personnel Policies

- a) § 31-65 Standards of Conduct
- b) § 31-65.1 Favors and Gratuities

2) Chapter A148 Planning Board Bylaws

- a) § A148-1 General
- b) § A148-2 Officers
- c) § A148-3 Meeting, organization and rules
- d) § A148-4 Amendment of bylaws
- e) § A148-5 Duties and powers

Board members will be asked to sign an acknowledgement stating they have read and understand these specific Code sections. The Acknowledgement Form will be kept on file in the Assistant Town Manager's office.

Zoning Board of Appeals

1) Chapter 31 Personnel Policies

- a) § 31-65 Standards of Conduct
- b) § 31-65.1 Favors and Gratuities

2) Chapter 140 Zoning Article VI Administration

- a) § 140-76 Board of Appeals; appeal procedures.

Board members will be asked to sign an acknowledgement stating they have read and understand these specific Code sections. The Acknowledgement Form will be kept on file in the Assistant Town Manager's office.

Section B

Formal Training

Formal training will be completed by attending the Local Planning Boards & Boards of Appeal workshop provided by MMA within 6 months of election or as soon as applicable.

Section C

Training Requirements

If any member fails to comply with this training policy within 1 year of appointment could result in removal from the board.

Chapter 3. Administrative Code

Article I. Town Council

§ 3-16. Rules of procedure.

The Town Council, at its first meeting after the annual election, shall enact its rules and order of business as provided under Article II, Section 8, of the Town Charter.

§ 3-17. Rules of Council.

- A. The Town Council will meet according to a schedule adopted by resolution from time to time.
[Amended 8-26-1991]
- B. Special meetings may be called by the Chairman and, in case of his absence, disability or refusal, may be called by three members of the Town Council. Notice of such meeting shall be served in person or left at the residence of each member of the Town Council at least 24 hours before the time for holding said special meeting unless all members of the Council sign a waiver of said notice. The call for said special meeting shall set forth the matters to be acted upon at said meeting, and nothing else shall be considered at such special meeting. Nothing in this section shall authorize any meeting which would violate the Freedom of Access Law.
[Amended 8-26-1991]
- C. A majority of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.
[Amended 8-26-1991]
- D. The Town Council shall act only by ordinance, order or resolve. All ordinances, orders, and resolves shall be confined to one subject, which shall be clearly expressed in the title.
- E. All bylaws passed by the Town Council shall be termed "ordinances," and the enacting style shall be: "Be it ordained by the Town Council of the Town of South Berwick, Maine, in Town Council assembled."
- F. In all votes of command, the form of expression shall be "ordered," and, of opinions, principles, facts or purposes, the form shall be "resolved."
- G. Every ordinance, order or resolve shall have a first reading unless the reading is dispensed with by the unanimous vote of those present, in which case reading shall be by title only.
- H. The yeas and nays shall be taken upon the passage of all ordinances and entered upon the record of the proceedings of the Town Council by the Clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member of the Town Council. Every ordinance, order and resolve shall require, on final passage, the affirmative vote of three members of the Town Council.

- I. No ordinance shall take effect and be in full force until 30 days from and after it shall have been enacted as required by Article II, Section 11, of the Charter.
- J. Orders or resolves shall take effect immediately upon passage.
- K. No ordinance, order or resolve shall be in order for action at any meeting of the Town Council unless such ordinance, order or resolve shall be filed in the office of the Town Clerk on or before 12:00 noon of the business day next prior to the day of the Town Council meeting.
[Amended 8-26-1991]
- L. The Chairman shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business.
- M. The Chairman shall preserve decorum and order, may speak to points of order in preference to other members and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided.
- N. The Chairman shall declare all votes, but if any member doubts a vote, the Chairman shall cause a recount of the members voting in the affirmative and in the negative without debate.
- O. When a vote is passed, it shall be in order for any member who voted in the majority or in the negative on a tie vote, to move a reconsideration thereof at the same or the next stated meeting, but not afterwards, and when a motion of reconsideration is decided, that vote shall not be reconsidered.
- P. Upon the motion for the previous question being made and seconded, the Chairman shall put the question in the following form: "Shall the main question be suspended until the motion for the previous question shall be decided?" After the adoption of said motion for the previous question by a majority vote, the sense of the Council shall be forthwith taken upon all pending amendments and then upon the main question.
- Q. No debate shall be allowed on a motion for the previous question. Neither is it susceptible to amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal is made from the chair or not.
- R. When a member is about to speak, he shall respectfully address the Chairman, confine himself to the question under debate and avoid personalities.
- S. No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.
- T. Every member present when a question is put shall give his vote unless the Council, for special reasons, shall excuse him. Application to be so excused must be made before the Council is divided or before the calling of the yeas and nays and decided without debate.
- U. Every motion shall be reduced to writing if the Chairman shall so direct.
- V. Any member may require the division of a question when the sense will admit it.
- W. A motion for referral to a committee or administrative officers, until it is decided, shall preclude all amendments of the main question.
- X. All questions relating to priority of business to be acted upon shall be decided without delay.
- Y. The rules shall not be dispensed with or suspended unless four of the members of the Council consent thereto. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.
- Z. Any person wishing to address the Town Council will be given an opportunity to do so in accordance with the following procedure:

- (1) Persons wishing to address the Council on an item which appears on the agenda shall wait until the Chairman announces consideration of such item, at which time they may address the Council on that particular item. However, once the Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item, and any person desiring to further address the Council on such item must wait to do so until all items on the agenda have been completed.
 - (2) Any person wishing to address the Council shall signify his desire by raising his or her hand, and, when recognized by the Chairman, such person shall thereupon request permission to address the Council, giving his or her name and address, then designating the subject matter on which he or she desires to address the Council.
 - (3) Persons present at Council meetings are requested not to applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.
- AA. At the commencement of the municipal year following Council election or as soon thereafter as possible, the Town Council shall choose a Chairman and appoint all officials or members of committees within their Charter responsibility.
[Amended 8-26-1991]
- BB. The Chairman of the Council shall be an ex-officio member of every standing committee.
- CC. The Chairman of the Council may appoint members of the Council and/or citizens of the Town to special committees as authorized by the Council. No committee shall have the power of executive action unless specifically authorized and shall report back to the Council for action on its recommendations or proposals.

§ 3-17.1. Remote participation policy.

[Added 7-27-2021]

- A. Pursuant to 1 MRS § 403-B, and after public notice and hearing, the above-named body adopts the following policy to govern the participation, via remote methods, of members of the body and the public in the public proceedings or meetings of the body.
- B. Members of the body are expected to be physically present for meetings except when not practicable, such as in the case of an emergency or urgent issue that requires the body to meet via remote methods, or an illness or temporary absence of a member that causes significant difficulty traveling to the meeting location. The chair or presiding officer of the body, in consultation with other members if appropriate and possible, will make a determination that remote methods of participation are necessary in as timely a manner as possible under the circumstances. A member who is unable to attend a meeting in person will notify the chair or presiding officer of the body as far in advance as possible.
- C. Remote methods of participation may include telephonic or video technology allowing simultaneous reception of information and may include other means necessary to accommodate disabled persons. Remote participation will not be by text-only means such as e-mail, text messages, or chat functions.
- D. The public will be provided a meaningful opportunity to attend via remote methods when any member of the body participates via remote methods. If public input is allowed or required at the meeting, an effective means of communication between the body and the public will also be provided. The public will also be provided an opportunity to attend the meeting in person unless there is an emergency or urgent issue that requires the entire body to meet using remote methods.
- E. Notice of all meetings will be provided in accordance with 1 MRS § 406 and any applicable charter, ordinance, policy, or bylaw. When the public may attend via remote methods, notice will include the means by which the public may access the meeting remotely and will provide for a method for disabled persons to request necessary accommodation to access the meeting. Notice will also

identify a location where the public may attend the meeting in person. The body will not restrict public attendance to remote methods except in the case of an emergency or urgent issue that requires the body to meet using remote methods of attendance.

- F. The body will make all documents and materials to be considered by the body available, electronically or otherwise, to the public who attend remotely to the same extent customarily available to the public who attend in person, provided no additional costs are incurred by the body.
- G. All votes taken during a meeting using remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the body and the public. A member of the body who participates remotely will be considered present for purposes of a quorum and voting.
- H. This policy will remain in force indefinitely unless amended or rescinded.

Chapter 14. Code of Ethics

Article II. Conflict of Interest Policy

[Adopted 1-25-1988]

§ 14-3. General provisions.

In order to merit the respect and confidence of the general public, all employees and elected and appointed municipal officials of the Town of South Berwick must constantly be governed by the highest ideals of honor and integrity in all their public relationships. Employees shall conduct themselves in such a manner as to avoid even the appearance of impropriety. All employees are urged to familiarize themselves with the state and federal laws relating to prohibited conduct of public employees.

§ 14-4. Voting members.

- A. Any elected or appointed member to a Town board or committee who has a direct pecuniary (financial) interest in any question on which he or she must decide in an official capacity must make full disclosure of that interest on the record and must abstain from voting or attempting to influence a decision in his/her capacity as a board member.
- B. Board members shall avoid even the appearance of a conflict of interest in order to maintain the public's confidence in the board's work.
- C. A board member shall disqualify him/herself if a situation requires that board member to make a decision involving a person to whom the board member is related by blood or marriage within the sixth degree (parents, grandparents, great-grandparents, great-great-grandparents, brothers, sisters, children, grandchildren, great-grandchildren, aunts, uncles, great-aunts/uncles, great-great-aunts/uncles, first cousins, nephews, nieces, grandnephews/nieces and great-grandnephews/nieces).
- D. A member shall abstain from discussion and voting if he/she is biased against an applicant or project such that he/she could not make an impartial decision.

§ 14-5. Officials and employees.

- A. Town officials/employees shall conduct their official and personal affairs in such a manner so as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.
- B. Town officials/employees shall maintain a reputation for serving equally and impartially all members of the municipality they serve.
- C. Town officials/employees shall not directly or indirectly solicit, accept or receive any gift, whether it be money, services, loans, merchandise, travel, entertainment, hospitality, promise or any other form, when it can be reasonably inferred that the gift was intended to influence them in the official

performance of their duties or that the gift was intended to serve as a reward for any official action on their part.

- D. Town officials/employees shall not disclose to others or use to further their personal interest confidential information acquired by them in the course of their official duties.

§ 14-6. Responsibility for enforcement.

Individual department heads under the supervision of the Town Manager are responsible for enforcing the policy for Town employees. Each board or committee is responsible for examining conflict-of-interest issues of each of their members in accordance with guidelines established herein and by state and federal laws. It is recommended that boards adopt a practice of examining agenda items on the record at the start of meetings to determine if a conflict of interest situation exists.

§ 14-7. Training provided by Town.

The Town of South Berwick shall provide periodic training for board members to assist them in recognizing conflicts of interest and to familiarize them with state and federal laws.

§ 14-8. Sanctions.

Sanctions may be imposed in accordance with the laws of the State of Maine and of the United States government upon Town officials/employees who are found to have violated this policy.

§ 31-63. Purpose.

- A. Disciplinary action from a superior is never experienced by most employees in any organization. This is because the work relationship usually is a mutually satisfying one. An employee is expected essentially to be present at work on a regular and timely basis and to perform the duties for which he has been hired and to do so at levels of performance that are acceptable. Since practically every job involves contact with other people (fellow workers or the public), an employee for the Town of South Berwick is expected to conduct himself in these relations in a fashion which enhances the effectiveness of the work team and which presents a positive image to the public being served. In exchange for this, employees are justified in expecting from the Town reasonable working conditions, evenhanded application of work rules, and a way by which problems or grievances may be addressed.
- B. The primary purpose of discipline is to reestablish positive, productive work patterns, as far as possible, whenever these have deteriorated. It is, therefore, primarily intended to be a developmental tool. Such corrective measures, whenever used, should, therefore, be geared to the seriousness of the difficulty being addressed. Evenhandedness is an essential ingredient, and under no circumstances should corrective action be used with intent of degrading an employee in the eyes of coworkers.

§ 31-64. Authority.

The Town Manager and each department head are responsible for ensuring adherence to these rules and applicable work rules established for the Town or each department and for ensuring that reasonable standards of work quality and personal conduct are met. To ensure that these ends are met, the Town Manager and each department head are authorized to take disciplinary measures and to delegate that authority to supervisory personnel. However, the Town Manager and each department head shall not delegate their authority to suspend, and only the Town Manager shall have the authority to dismiss from service.

§ 31-65. Standards of conduct. [Added 1-9-2006¹]

- A. Certain guidelines, procedures, rules and regulations regarding employee behavior while at work are necessary for the efficient operation of the Town and for the benefit and protection of the rights and safety of all employees, residents, and visitors. Conduct which interferes with the Town's operations, brings discredit on the Town, or is offensive to residents or fellow employees will not be tolerated. All employees are expected and required to treat the public with promptness, patience, courtesy and respect. Information about members of the public, gained from their positions, is to be considered confidential. Employees of the Town shall comply with all federal, state and local laws and regulations. Failure to comply may result in disciplinary action.

1. Editor's Note: This ordinance also replaced former § 31-65, Reasonable cause.

- B. Written departmental regulations will supplement these guidelines and will be binding on the employees of the individual departments. In case of conflict between this policy and the departmental regulations, the more restrictive wording shall take precedence.
- C. This section shall not apply to employees otherwise provided for by contractual agreement and shall not be deemed to be inconsistent therewith.
- D. Employees of the Town shall maintain high standards of cooperation, efficiency, and economy in their work. Town employees shall cooperate with the public and employees in other Town departments to the fullest extent practical. Department heads and supervisors shall organize and direct the work of their subordinates so as to achieve these objectives.
- E. Under emergency situations, when an employee's supervisor or department head is not available, the employee shall perform such duties as shall be assigned by the department head or designee present or overseeing the emergency situation.
- F. If an employee fails to live up to his or her obligation, appropriate disciplinary actions may be taken by the supervisor.
- G. Examples of conduct giving rise to discipline.
 - (1) It is not possible to establish a rule dealing with every violation of good practices. Therefore, the following is a noninclusive list of the types of conduct which may give rise to discipline for any reason, even if not specifically set forth in the following standards:
 - (a) All employees are expected to conduct themselves and behave in a manner which is conducive to the efficient operation of the Town. Such conduct includes, but is not limited to:
 - [1] Complying with all the Town's safety and health regulations;
 - [2] Reporting to work punctually as scheduled and ready for work, at the assigned starting time;
 - [3] Notifying the supervisor or department head when the employee will be absent from work, or unable to report for work on time;
 - [4] Wearing clothing appropriate for the work being performed;
 - [5] Performing assigned tasks efficiently;
 - [6] Maintaining work area cleanliness and orderliness;
 - [7] Being polite, courteous, prompt and attentive to every resident; and
 - [8] Refraining from behavior or conduct deemed by the Town to be offensive, disruptive, or undesirable, or which is subject to disciplinary action.

- (b) The following conduct will not be tolerated and may subject the individual employee involved to disciplinary action up to and including termination, in the judgment of the Town:
- [1] Being at work while in a condition not suitable for performing the job, or which represents a danger to oneself, to other employees or residents.
 - [2] Being impaired or under the influence of alcohol, controlled substances such as drugs or narcotics, or any other agents while at work, or the unauthorized possession of any of these agents on Town property at any time.
 - [3] Indecent or immoral personal conduct, including the use of abusive language; displaying offensive pictures, screen savers, etc.
 - [4] Fighting or provoking a fight on the Town's property or at Town-sponsored events or while performing duties for the Town of South Berwick.
 - [5] Theft, misuse, willful destruction or abuse of the Town's, another employee's or a resident's property.
 - [6] Removal of materials or supplies from the Town premises without permission.
 - [7] Threatening, coercing, intimidating or interfering in any way with the work or safety of other employees or residents.
 - [8] Engaging in illegal activities on the Town's premises at any time.
 - [9] Falsifying a Town record or report, such as an application for employment, a work record or time record.
 - [10] Failure to give complete and accurate information on any forms or other Town documents where data is required or requested from the employee.
 - [11] Making false or malicious statements about the Town or any of its employees or residents.
 - [12] Entering into or engaging in any activity which affects the Town's business in a detrimental way or otherwise brings it discredit.
 - [13] Disclosing confidential information about the Town or its residents without the Town's approval.
 - [14] Leaving the premises during scheduled work time without approval of a supervisor or department head.
 - [15] Violation of personnel rules and regulations.

[16] Criminal activity.

[17] Insubordination.

[18] Failure to correct poor work habits.

[19] Disruptive behavior.

[20] Violation of municipal statutes, rules or regulations.

(c) The possession, sale, or use of a controlled substance, other than a drug prescribed by a physician, is detrimental to the health of employees, to their job performance, and to the reputation of the Town. For this reason the following is applicable:

[1] Any employee found to be selling or distributing drugs will be subject to immediate termination.

[2] In situations of drug or alcohol abuse, management may consider the employee's work record and their willingness to undergo treatment before deciding whether termination is required.

[3] The examples above are illustrative of the type of behavior which will not be permitted. These examples are not intended to be all-inclusive. Any questions in connection with this guideline should be directed to the Town Manager.

§ 31-65.1. Favors and gratuities. [Added 6-7-2005; amended 1-9-2006]

- A. The employees of the Town shall not solicit or accept gratuities, favors, entertainment, or gifts from anyone with a business association with the Town. This includes contractors, suppliers of equipment and services and individuals or groups with pending applications before any Town authority. In addition to any penalties which may be provided by law, any employee violating this policy will be subject to appropriate disciplinary action.
- B. Acceptance of nominal gifts, such as food and refreshments, pens, note pads, calendars, or other items of nominal intrinsic value accepted in the ordinary course of business meetings, or in keeping with special occasions, such as marriage, retirement and holidays, is permitted.

CHARTER¹

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- Sec. 1. Number, election, term.**
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¹ Editor's Note: This title page, list of sections and history is added for reference purposes by the publisher and is not part of the Charter as adopted.

SOUTH BERWICK CODE

- Sec. 3. Budget establishes appropriations.**
- Sec. 4. Budget establishes amount to be raised by property tax; certification to town assessor.**
- Sec. 5. Budget summary.**
- Sec. 6. Expenditures and departmental revenue.**
- Sec. 7. Proposed budget; allotments.**
- Sec. 8. Transfer of appropriations.**
- Sec. 9. Interim expenditures.**
- Sec. 10. Grants and gifts.**
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ARTICLE V Tax Administration

- Sec. 1. Assessors.**
- Sec. 2. Board of Assessment Review: appointments and vacancies.**
- Sec. 3. Board of Assessment Review: powers and duties.**

ARTICLE VI Nominations and Elections

- Sec. 1. Municipal elections.**
- Sec. 2. Nominations.**
- Sec. 3. Conduct of municipal elections.**
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ARTICLE VII The Town Meeting

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- Sec. 3. Town meeting—method of abolishing.**

ARTICLE VIII Initiative and Referendum

- Sec. 1. Petition for overrule of action of council.**
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- Sec. 7. **Existing contracts not invalidated, unless inconsistent.**
- Sec. 8. **Charter amendment.**
- Sec. 9. **Separability clause.**
- Sec. 10. **Short title.**
- Sec. 11. **Repealing clause.**

[HISTORY: Approved by the Governor 4-9-1969; adopted at referendum 11-4-1969. Amendments noted where applicable.]

ARTICLE I
Grant of Powers to the Town

Sec. 1. Incorporation. The inhabitants of the Town of South Berwick shall continue to be a body politic and corporate by the name of the Town of South Berwick, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said town as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable bylaws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof, not exceeding \$100 in any one case, to be recovered for such uses as said bylaws, regulations or ordinances shall provide.

Sec. 2. Powers and duties. The administration of all the fiscal, prudential and municipal affairs of said town, with the government thereof, except the general management, care, conduct and control of the schools of said town, and also except as otherwise provided by this charter, shall be and are vested in one body of 5 members, which shall constitute and be called the town council, all of whom shall be inhabitants of said town, and shall be sworn in the manner hereinafter prescribed.

The members of the town council shall be and constitute the municipal officers of the Town of South Berwick for all purposes required by statute and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers under the laws of this State.

All other powers now or hereafter vested in the inhabitants of said town and all powers granted by this charter, except as herein otherwise provided, shall be vested in said town council.

ARTICLE II
Town Council

Sec. 1. Number, election, term. The town council shall be composed of 5 members, each of whom shall be elected by the registered voters of the entire town. Each member shall be elected for a term of 3 years and until his successor is elected and qualified, except that, at the first election after the adoption of this charter, the 2 members-elect receiving the most votes shall serve 3 years, the 2 members-elect receiving the next highest number of votes shall serve 2 years, and the one member-elect receiving the next highest number of votes shall serve for one year. In the case of an equal number of votes, the relative position of the members-elect shall be determined by lot.

Sec. 2. Qualifications. Council members shall be qualified voters of the town and shall reside in the town during their term of office. They shall hold no office of emolument or profit under the town charter or ordinances. In case of a vacancy caused by death, resignation, removal from town or removal from office as hereinafter provided, of any member of the town council more than 6 months prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired portion of the term. In the event such vacancy occurs less than 6 months prior to the next regular municipal election, the vacancy may be filled by a special election for the unexpired portion of the term. Such election shall be called and held and nominations made as in regular municipal elections. **[Amended 11-3-2009]**

Any member of the town council who shall be convicted of a felony or a misdemeanor involving moral turpitude while in office shall, after due notice of no less than 14 days and hearing before the town council and the production of the records of such conviction, forfeit his office.

Sec. 3. Enumeration of powers. Without limitation of the foregoing, the council shall have the power to:

- I. Appoint and remove the town manager and the town attorney, all of whom shall serve at the will of the appointing power. **[Amended 11-3-1992]**
- II. The council shall serve as overseer of the poor. **[Amended 11-3-1992]**
- III. Provide for an annual audit.
- IV. Appoint the planning board and the board of zoning appeals and the board of assessment review. **[Amended 11-9-1994]**
- V. By ordinance create, change and abolish offices, departments and agencies, other than those offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

- VI. Make, alter and repeal ordinances, including the power to enact ordinances providing for the grant of licenses and permits for the conduct of any business, as set forth in the statutes of the State of Maine, for such periods of time and in accordance with such rules and regulations not inconsistent with law and upon payment by the licensee of such fees as the town council may establish in such ordinance.
- VII. Inquire into the conduct of any office, department or agency of the town and make investigation as to municipal affairs.
- VIII. Recommend the annual budget to the town meeting.
- IX. Adopt and modify maps of the town.
- X. The council shall constitute the board of assessors and shall act as the division of assessment. **[Added 11-9-1994]**

Sec. 4. Compensation. Council members shall receive such compensation as may be voted by an article contained in the warrant for said purpose at the town meeting. The town council by order shall fix the salaries of officials appointed by the town council, including the salary of the town manager for his services as such and for all other services rendered by him. Salaries of the appointees of the town manager shall be fixed by the town manager, subject to approval of the council. **[Amended 11-3-2009]**

Sec. 5. Induction of council into office. The town council shall meet at the usual place for holding meetings within 7 days following the regular town election, and at said meeting council members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk. **[Amended 11-3-2009]**

Sec. 6. Council to be judge of qualifications of its members. The council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require production of records, but the decision of the council in any such cases shall be subject to review by the courts.

Sec. 7. Regular meetings. The town council shall, at its first meeting or as soon as possible thereafter, establish by resolution a regular place and time for holding its regular meetings, and shall meet regularly at least once a month. It shall also provide a method for calling special meetings.

Sec. 8. Rules of procedure; journal. The council shall determine its own rules and order of business. It shall keep a record of its proceedings, including all votes, and the record shall be open to public inspection.

Sec. 9. Chair. At its first meeting, or as soon thereafter as practicable, the council shall elect, by majority vote of the entire council, one of its members as chair for the ensuing year and the council may fill, for an unexpired term, any vacancy in the office of chair that may occur. The chair shall preside at the meetings of the council, and shall be recognized as head of the town government for all ceremonial purposes, and by the Governor for purposes of military law, but he shall have no regular administrative duties. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. At its first meeting, the council shall elect a vice chair, who shall serve as necessary during the temporary absence or disability of the chair and shall exercise the powers of the chair during such times. **[Amended 11-3-2009]**

Sec. 10. Quorum. A majority of the town council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Sec. 11. Public hearings on ordinances. At least one public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having circulation in said town, shall be held by the council before an ordinance shall be passed, but nothing contained herein shall be deemed to require publication of the ordinance itself. Any such ordinance shall not be effective until 30 days after such passage.

The town council may, by vote of 4 of its members, pass emergency ordinances to take effect at the time indicated therein. Such emergency ordinances shall contain a section in which the emergency is set forth and defined. The declaration of such emergency by the town council shall be conclusive.

Sec. 12. Town clerk. In addition to the statutory duties required of the town clerk, whose place of business shall be the town office, the town clerk shall act as clerk of the council and shall keep a public record of all proceedings of the council, including all votes. The Town of South Berwick shall provide for a salary to be paid to the clerk as full compensation, in which case all fees accrue to said town.

Sec. 13. Independent annual audit. Prior to the end of each fiscal year, the council shall designate the State Department of Audit or private certified accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the town government and shall submit their report to the council, the town meeting and the town manager. Such accountants shall not maintain any accounts or records of the town business, but shall post-audit the books and documents kept by any office, officer, department or agency of the town government.

ARTICLE III
Town Manager

Sec. 1. Appointment; qualifications; powers and duties. The town manager shall be chosen by the town council solely on the basis of his character and his executive and administrative qualifications, and may or may not be a resident of the Town of South Berwick or of the State of Maine at the time of his appointment. In addition to his duties as town manager, he shall be road commissioner, tax collector, town treasurer and agent for the overseers of the poor. No council member shall receive appointment to the office of town manager during the term for which he shall have been elected nor within one year after the expiration of his term, nor shall any member of the town council act in that capacity. The town manager shall give bond for the faithful discharge of his duties to the Town of South Berwick in such sum as the town council shall determine and direct, and with surety or sureties to be approved by the town council. The premium on his bond shall be paid by the town. He shall be the administrative head of the town and shall be responsible to the town council for the administration of all departments assigned to him. **[Amended 11-3-2009]**

His powers and duties shall be as follows:

- I. Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all officers and employees of the town appointed by him. Such action shall be subject to review by the council.
- II. Prepare the budget annually, submit it to the council and be responsible for its administration after adoption.
- III. Prepare and submit to the council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the town for the preceding year, and cause such annual report to be published and made available to the public as promptly as possible after the close of the fiscal year.
- IV. Attend the meetings of the council, except when his removal is being considered, and keep the council advised of the financial condition and future needs of the town and make such recommendations as may seem to him desirable.
- V. See that all laws and ordinances governing the town are faithfully administered.
- VI. Act as purchasing agent for all departments of the town with the advice of the individual department heads and utilizing cooperative purchasing arrangements where feasible.
- VII. Perform such duties as may otherwise be prescribed by this charter or required of him by the council, not inconsistent with this charter.
- VIII. Prepare an administrative code, submit it to the council and be responsible for its administration after adoption.

Sec. 2. Removal. The town manager may be removed for cause by the council. **[Amended 11-3-2009]**

Sec. 3. Department heads. All statutory officers and department heads, other than those listed in Article II, section 3, subsection I, shall be appointed by the town manager, subject to confirmation by the town council, and the same shall be subject to removal for just cause.

Sec. 4. Council not to interfere in appointments or removals. Neither the council nor any of its members shall direct or request the appointment of any person to or his removal from office by the manager or by any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager, and neither the council nor any member thereof shall give orders to any of his subordinates.

Sec. 5. Vacancy in office of town manager. During any vacancy in the office of town manager, and during the absence or disability of the town manager, the town council shall designate a properly qualified person to perform the duties of manager and fix his compensation. While so acting, he shall have the same powers and duties as those given to and imposed on the town manager. Before entering his duties, he shall give bond to the Town of South Berwick in a sum and with surety or sureties to be approved by the town council. The premium on said bond is to be paid by the town.

ARTICLE IV Budget

Sec. 1. Fiscal year. The fiscal year of the town government shall begin the first day of July and shall end on the 30th day of June of each calendar year, or such other fiscal year as the council may from time to time, by ordinance, determine. The fiscal year shall constitute the budget and accounting year as used in this charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Sec. 2. Preparation and submission of the budget. The town manager shall at least 90 days prior to the beginning of each budget year, submit to the council a budget and an explanatory budget message. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks, the forms of which shall be designated by the manager. This budget shall contain:

- I. Exact statement of the financial condition of the town.
- II. An itemized statement of appropriations recommended for current expenses, and for permanent improvements, with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated.

- III. An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.
- IV. Such other information as may be required by the town council.

The proposed budget prepared by the manager shall be reviewed by the town council which shall approve the budget with or without amendments. The complete town budget as approved by the town council shall be published and the town council shall fix the time and place for holding a public hearing for the budget, and shall give public notice of such hearing. The council shall then review the budget and recommend it, with or without change, to the annual town meeting.

Sec. 3. Budget establishes appropriations. From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies and purposes therein named.

Sec. 4. Budget establishes amount to be raised by property tax; certification to town assessor. From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the manager and filed by him with the town assessors, whose duty it shall be to levy such taxes for the corresponding tax year.

Sec. 5. Budget summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property taxes, and shall be itemized also by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

Sec. 6. Expenditures and departmental revenue. The budget for all departments shall include all proposed expenditures; and the town meeting shall make a gross appropriation for each department for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded except by consent of the council.

Sec. 7. Proposed budget; allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the town manager a proposed budget for the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments in the light of the functions and duties of the office, department or agency concerned as described in the Administrative Code and the job descriptions of the employees within the office, department or agency, and may revise, alter or change such allotments before approving same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year. [Amended 11-3-2009]

Sec. 8. Transfer of appropriations. At the request of the manager and within the last 3 months of the budget year, the council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between general classification of expenditures within a budget warrant article, and such transfer shall not require town meeting approval under Article VII, section 2. **[Amended 11-3-2009]**

Sec. 9. Interim expenditures. In a period between the beginning of the fiscal year and the appropriation of funds, the council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year when made, in amounts sufficient to cover the necessary expenses of the various departments.

Sec. 10-A. Grants. Notwithstanding the provisions of Article VII, Sections 1 and 2, or the other provisions of this Article IV, the Council may apply for any federal, state, county, regional, or private grants. Expenditures from any federal, state, county, regional, or private grants must be authorized by the Town Council. Any such grant which requires the Town to expend \$10,000 or more in matching funds shall require approval at a Town Meeting pursuant to Article VII, Section 2. **[Added 11-5-1996; amended 11-8-2005]**

Sec. 10-B. Gifts. The Town Council may accept any gifts in the name of the Town of South Berwick. Any expenditures of or from such gifts must be approved by the Town Council. **[Added 11-5-1996; amended 11-8-2005]**

Sec. 11. Non-Tax Revenue Accounts. Notwithstanding the provisions of Article VII, Sections 1 and 2, or the other provisions of this Article IV, the Council may establish administrative or special accounts to be used for specific programs which generate revenues from user fees, donations, or similar sources. The Council may allow such revenues to be entered into such accounts and may approve expenditures from such accounts to operate the programs for which the accounts were established. Any expenditures from such accounts must be approved by the Town Council. **[Added 11-5-1996; amended 11-8-2005]**

ARTICLE V

Tax Administration

[Amended 11-3-1992; 11-9-1994]

Sec. 1. Assessors. The members of the town council shall be the assessors and shall exercise the same powers and be subject to the same duties and liabilities as assessors under the laws of the State.

Sec. 2. Board of Assessment Review: appointments and vacancies. There shall be a board of assessment review to consist of 5 members and 2 alternates who shall be appointed by the town council for a term of 3 years, staggered terms of the members having been established initially. Compensation, if any, to such members shall be determined by the town council. Vacancies in the membership of such board shall be filled by appointment by the town council for the unexpired term. Members of the town council shall not serve on the board of assessment review. Alternates may attend all meetings and participate in proceedings of the board of assessment review, but

may vote only when designated by the chair of the board to act for a member who is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chair.
[Amended 11-3-2009]

Sec. 3. Board of Assessment Review: powers and duties. The Board of Assessment Review shall:

- I. Hear appeals from the decisions of the assessors regarding applications for abatements to property taxes and make determinations with respect to assessments in accordance with the general laws of the State of Maine. Three members of the board shall constitute a quorum for the purpose of hearing and voting upon a matter presented to the board. An appeal can be granted only by a majority vote of those members present and voting.
- II. In carrying out its functions, have the power to administer oaths, take testimony, and hold hearings as may be required.
- III. Have the power to adopt, subject to the approval of the town council, rules and regulations for the transaction of its business.
- IV. Annually choose a chair, a vice chair and a secretary from its membership. The secretary shall keep a complete, accurate record of all votes taken at the next meeting of the board.
[Amended 11-3-2009]

ARTICLE VI Nominations and Elections

Sec. 1. Municipal elections. The regular election for the choice of members of the town council and board of school directors shall be held on the Tuesday following the first Monday in November of each year. [Amended 7-1-1982]

Sec. 2. Nominations. Any qualified voter of the town may be nominated for the council or board of school directors in accordance with the statutes of the State of Maine.

Sec. 3. Conduct of municipal elections. The provisions of the statutes of the State of Maine relating to the qualifications of voters, the registration of voters, the nomination for any office, the manner of voting, the duties of the election officers and all other particulars relative to preparation for conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this charter.

Sec. 4. Voting places. The voting places for municipal elections shall be those which have been established for state elections.

Sec. 5. Election officials. The town clerk shall, 10 days before any election, appoint a warden and clerk, in addition to the regular ballot clerks, for each voting place. [Amended 11-3-2009]

ARTICLE VII The Town Meeting

Sec. 1. Town meetings. Town meeting for the consideration of the budget and the transaction of other town business as may come before a town meeting shall be held at least 14 days prior to the beginning of each fiscal year. Town meetings shall be called by the council in a manner provided for calling town meetings in accordance with the provisions of the statutes of the State of Maine. [Amended 7-1-1982]

Sec. 2. When action by town meetings required. The annual budget, any appropriation of \$10,000 or more in addition to or supplementary to the annual budget appropriation, the issuance of bonds or notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued, shall become effective only after it has been adopted at a town meeting by the vote of a majority of those voting at such meeting. The town meeting shall not increase the amount of any appropriation above the amount recommended by the council nor make any appropriation not recommended by the council and shall not increase the amount of any bond issue above the amount recommended by the council. [Amended 11-3-1992; 11-5-1996]

Sec. 3. Town meeting – method of abolishing. At any time after the adoption of this charter, not less than 10% of the registered voters of the town may petition, over their personal signatures, for a special town meeting to vote upon the question of submitting to a referendum vote on the ballot at a special town election the proposition of abolishing the town meeting. The council shall call a public hearing to be held within 30 days from the date of the filing such petition with the town clerk, and shall within 14 days after said public hearing call a special town meeting for the purpose of submitting to a referendum vote the question of abolishing the town meeting in the Town of South Berwick. If at such special election a majority of the voters of the town voting on the question shall vote for the abolition of the town meeting of the Town of South Berwick, the powers heretofore vested in the town meeting shall be conferred upon and exercised by the town council. Notwithstanding any of the provisions of this section, the council shall not call any special town meeting within 30 days of the date of the annual town meeting.

ARTICLE VIII Initiative and Referendum

Sec. 1. Petition for overrule of action of council. All ordinances, resolutions or votes, except those making appointments or removals or regulating exclusively the internal procedure of the council, shall be subject to overrule by a referendum as follows:

If, within 10 days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than 10% of the registered voters of the Town of South Berwick is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk and shall, within 14

days after said public hearing, call a special town meeting for the purpose of submitting to a referendum vote the question of adopting such ordinance, resolution or vote. Pending action by the town meeting, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received a vote of the majority of the voters on said question.

Sec. 2. Petition for enactment of ordinances. Subject to the provisions of section 1, not less than 10% of the registered voters of the town may at any time petition, over their personal signatures, for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the town clerk. The council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall within 30 days after said public hearing call a special town meeting for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call of said town meeting, such ordinance shall be enacted by the council. Such ordinance shall take effect on the 10th day after the conclusion of such referendum provided a majority of those voting thereon shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the town attorney before being submitted to referendum. The town attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, unconstitutional provisions, and to assure accuracy in its text and references and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

Sec. 3. Form of ballot. The form of the ballot for the proposed ordinance, resolution, vote or charter amendment shall be substantially as follows:

“Shall the proposed ordinance (resolution, vote or charter amendment), a copy of which is printed herein or attached hereto, be adopted?”

FOR THE ORDINANCE

☐

AGAINST THE ORDINANCE

☐

The voter shall write a cross or check mark in the appropriate box.

ARTICLE IX
General Provisions

Sec. 1. Summons before town council. The clerks of the Supreme Judicial and Superior Courts may issue a summons for witnesses to attend and produce books, documents and papers at any meeting of the town council for the Town of South Berwick at which a hearing is had on any matter regarding any alleged dereliction of duty by town officers or employees. On complaint of failure to obey summons filed with any Justice of the Superior Court, said justice, if he finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than \$10 nor more than \$100, or imprisonment for not more than 30 days, or both.

Sec. 2. Oath of office. Every officer of the town shall, before entering upon the duties of his office take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the charter and ordinances of the Town of South Berwick and statutes of the State of Maine, and will faithfully discharge the duties of the office of _____."

Sec. 3. Ordinances not inconsistent continue in force. All ordinances of the Town of South Berwick in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Sec. 4.² [Deleted 11-3-2009]

Sec. 5. Continuance of present administrative officers. All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuation of such office.

Sec. 6. Expiration of term of present elected officials. The terms of office of those elected officials of the town holding office on the effective day of these amendments shall expire at the regular municipal election held in the month of November prior to the current date of expiration of their current term; provided, however, that said officials shall remain in office until their successors are elected and qualified. **[Amended 7-1-1982]**

Sec. 7. Existing contracts not invalidated, unless inconsistent. All rights, actions, proceedings, prosecutions and contracts of the town or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

² Editor's Note: Former Sec. 4 was entitled "Removal of officers and employees."

Sec. 8. Charter amendment.**1. Proposal of amendment.** Amendments to this charter may be framed and proposed:

- A. In the manner provided by law, or
- B. By ordinance of the town council containing the full text of the proposed amendment and effective upon adoption, or
- C. By the registered voters of the town, or
- D. By report of a charter commission created by ordinance.

Proposal of an amendment by the registered voters of the Town of South Berwick shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VIII for initiative petitions until such time as a final determination as to the sufficiency of the petitions is made. The petition must be signed by registered voters of the town equal in number to at least 20% of the combined vote cast in the last preceding gubernatorial election.

- 2. Election.** Upon passage of an ordinance, or upon receipt of a petition finally determined sufficient, or upon receipt of the report of a charter commission, proposing an amendment pursuant to subsection I, the town council shall submit the proposed amendment to the voters of the town at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one or more newspapers of general circulation in the town at least 30 days prior to the date of election. The election shall be held not less than 60 days and not more than 120 days after the adoption of the ordinance or the final determination of sufficiency of the petition or report proposing the amendment. The form of the ballot shall be as specified in Article VIII, section 3.

Sec. 9. Separability clause. If any portion of this Act shall be held to be invalid such decision shall not affect the validity of the remaining portions thereof.

Sec. 10. Short title. This charter shall be known and may be cited as the "Council-Manager Charter of the Town of South Berwick." The clerk shall cause it to be printed and made available to the public promptly.

Sec. 11. Repealing clause. All Acts and parts of Acts of the private and special laws of Maine relating to the Town of South Berwick, inconsistent with the provisions of this charter, are repealed.

Referendum; effective date; certificate to Secretary of State. This Act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the Town of South Berwick at any special town meeting or state-wide election held before January 2, 1970, and warrants shall be issued for such town meeting in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said town to meet in said town, there to cast their ballots on the approval or rejection of this Act.

The town clerk shall prepare the required ballots, on which he shall reduce the subject matter of this Act to the following question: "Shall 'An Act to Grant a Charter to the Town of South Berwick', passed by the 104th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This Act shall take effect for the purpose of nominating and electing officers hereunder immediately upon its acceptance by a majority of the legal voters voting at said election, and for all other purposes this Act shall take effect immediately following the first election held under the provisions of this charter at the annual meeting in March, 1970.

The result of the vote shall be declared by the municipal officers of the Town of South Berwick and due certificate thereof shall be filed by the town clerk with the Secretary of State.



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL: 207-384-3300
FAX: 207-384-3303

CHARTER AND CODE ACKNOWLEDGMENT

The undersigned hereby acknowledge receipt of the Town of South Berwick's Charter and Codes pertaining to Town Council including; Chapter 3 Rules of Procedures, Rules of Council and Remote Participation Policy, Chapter 14 Code of Ethics-Article II, and Chapter 31 Personnel Policies.

This acknowledgement also verifies the undersigned has read and understands the Charter and Code policies.

Council Member Print Name

Date

Council Member Signature

Date

This document will be kept in council members file located in the Assistant Town Manager's office.

§ 31-63. Purpose.

- A. Disciplinary action from a superior is never experienced by most employees in any organization. This is because the work relationship usually is a mutually satisfying one. An employee is expected essentially to be present at work on a regular and timely basis and to perform the duties for which he has been hired and to do so at levels of performance that are acceptable. Since practically every job involves contact with other people (fellow workers or the public), an employee for the Town of South Berwick is expected to conduct himself in these relations in a fashion which enhances the effectiveness of the work team and which presents a positive image to the public being served. In exchange for this, employees are justified in expecting from the Town reasonable working conditions, evenhanded application of work rules, and a way by which problems or grievances may be addressed.
- B. The primary purpose of discipline is to reestablish positive, productive work patterns, as far as possible, whenever these have deteriorated. It is, therefore, primarily intended to be a developmental tool. Such corrective measures, whenever used, should, therefore, be geared to the seriousness of the difficulty being addressed. Evenhandedness is an essential ingredient, and under no circumstances should corrective action be used with intent of degrading an employee in the eyes of coworkers.

§ 31-64. Authority.

The Town Manager and each department head are responsible for ensuring adherence to these rules and applicable work rules established for the Town or each department and for ensuring that reasonable standards of work quality and personal conduct are met. To ensure that these ends are met, the Town Manager and each department head are authorized to take disciplinary measures and to delegate that authority to supervisory personnel. However, the Town Manager and each department head shall not delegate their authority to suspend, and only the Town Manager shall have the authority to dismiss from service.

§ 31-65. Standards of conduct. [Added 1-9-2006¹]

- A. Certain guidelines, procedures, rules and regulations regarding employee behavior while at work are necessary for the efficient operation of the Town and for the benefit and protection of the rights and safety of all employees, residents, and visitors. Conduct which interferes with the Town's operations, brings discredit on the Town, or is offensive to residents or fellow employees will not be tolerated. All employees are expected and required to treat the public with promptness, patience, courtesy and respect. Information about members of the public, gained from their positions, is to be considered confidential. Employees of the Town shall comply with all federal, state and local laws and regulations. Failure to comply may result in disciplinary action.

1. Editor's Note: This ordinance also replaced former § 31-65, Reasonable cause.

- B. Written departmental regulations will supplement these guidelines and will be binding on the employees of the individual departments. In case of conflict between this policy and the departmental regulations, the more restrictive wording shall take precedence.
- C. This section shall not apply to employees otherwise provided for by contractual agreement and shall not be deemed to be inconsistent therewith.
- D. Employees of the Town shall maintain high standards of cooperation, efficiency, and economy in their work. Town employees shall cooperate with the public and employees in other Town departments to the fullest extent practical. Department heads and supervisors shall organize and direct the work of their subordinates so as to achieve these objectives.
- E. Under emergency situations, when an employee's supervisor or department head is not available, the employee shall perform such duties as shall be assigned by the department head or designee present or overseeing the emergency situation.
- F. If an employee fails to live up to his or her obligation, appropriate disciplinary actions may be taken by the supervisor.
- G. Examples of conduct giving rise to discipline.
 - (1) It is not possible to establish a rule dealing with every violation of good practices. Therefore, the following is a noninclusive list of the types of conduct which may give rise to discipline for any reason, even if not specifically set forth in the following standards:
 - (a) All employees are expected to conduct themselves and behave in a manner which is conducive to the efficient operation of the Town. Such conduct includes, but is not limited to:
 - [1] Complying with all the Town's safety and health regulations;
 - [2] Reporting to work punctually as scheduled and ready for work, at the assigned starting time;
 - [3] Notifying the supervisor or department head when the employee will be absent from work, or unable to report for work on time;
 - [4] Wearing clothing appropriate for the work being performed;
 - [5] Performing assigned tasks efficiently;
 - [6] Maintaining work area cleanliness and orderliness;
 - [7] Being polite, courteous, prompt and attentive to every resident; and
 - [8] Refraining from behavior or conduct deemed by the Town to be offensive, disruptive, or undesirable, or which is subject to disciplinary action.

- (b) The following conduct will not be tolerated and may subject the individual employee involved to disciplinary action up to and including termination, in the judgment of the Town:
- [1] Being at work while in a condition not suitable for performing the job, or which represents a danger to oneself, to other employees or residents.
 - [2] Being impaired or under the influence of alcohol, controlled substances such as drugs or narcotics, or any other agents while at work, or the unauthorized possession of any of these agents on Town property at any time.
 - [3] Indecent or immoral personal conduct, including the use of abusive language; displaying offensive pictures, screen savers, etc.
 - [4] Fighting or provoking a fight on the Town's property or at Town-sponsored events or while performing duties for the Town of South Berwick.
 - [5] Theft, misuse, willful destruction or abuse of the Town's, another employee's or a resident's property.
 - [6] Removal of materials or supplies from the Town premises without permission.
 - [7] Threatening, coercing, intimidating or interfering in any way with the work or safety of other employees or residents.
 - [8] Engaging in illegal activities on the Town's premises at any time.
 - [9] Falsifying a Town record or report, such as an application for employment, a work record or time record.
 - [10] Failure to give complete and accurate information on any forms or other Town documents where data is required or requested from the employee.
 - [11] Making false or malicious statements about the Town or any of its employees or residents.
 - [12] Entering into or engaging in any activity which affects the Town's business in a detrimental way or otherwise brings it discredit.
 - [13] Disclosing confidential information about the Town or its residents without the Town's approval.
 - [14] Leaving the premises during scheduled work time without approval of a supervisor or department head.
 - [15] Violation of personnel rules and regulations.

- [16] Criminal activity.
- [17] Insubordination.
- [18] Failure to correct poor work habits.
- [19] Disruptive behavior.
- [20] Violation of municipal statutes, rules or regulations.
- (c) The possession, sale, or use of a controlled substance, other than a drug prescribed by a physician, is detrimental to the health of employees, to their job performance, and to the reputation of the Town. For this reason the following is applicable:
 - [1] Any employee found to be selling or distributing drugs will be subject to immediate termination.
 - [2] In situations of drug or alcohol abuse, management may consider the employee's work record and their willingness to undergo treatment before deciding whether termination is required.
 - [3] The examples above are illustrative of the type of behavior which will not be permitted. These examples are not intended to be all-inclusive. Any questions in connection with this guideline should be directed to the Town Manager.

§ 31-65.1. Favors and gratuities. [Added 6-7-2005; amended 1-9-2006]

- A. The employees of the Town shall not solicit or accept gratuities, favors, entertainment, or gifts from anyone with a business association with the Town. This includes contractors, suppliers of equipment and services and individuals or groups with pending applications before any Town authority. In addition to any penalties which may be provided by law, any employee violating this policy will be subject to appropriate disciplinary action.
- B. Acceptance of nominal gifts, such as food and refreshments, pens, note pads, calendars, or other items of nominal intrinsic value accepted in the ordinary course of business meetings, or in keeping with special occasions, such as marriage, retirement and holidays, is permitted.

Chapter 140. Zoning

Article VI. Administration

§ 140-76. Board of Appeals; appeal procedures

A. Board of Appeals.

- (1) Establishment. A Board of Appeals is hereby established in accordance with 30-A M.R.S.A. § 2691 and the provisions of this chapter.
- (2) Appointment and composition.
 - (a) The Board of Appeals shall be appointed by the municipal officers and shall consist of five members and two alternate members, all of whom shall be legal residents of the municipality, serving staggered terms of at least three years and not more than five years. Neither a municipal officer nor his spouse may be a member of the Board. Alternate members may attend all meetings and participate in proceedings of the Board of Appeals, but may vote only when designated by the Chairman to act for a member who is unable to act because of interest, physical capacity, absence from the state or any other reason satisfactory to the Chairman. The Board shall elect annually Chairman, Vice Chairman and Secretary from its membership.
[Amended 10-26-2009]
 - (b) The Chairman shall call meetings of the Board as required. The Chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the municipal officers. A quorum of the Board necessary to conduct any official Board business shall be three members. The Chairman shall preside at all meetings of the Board and be the official spokesman of the Board.
[Amended 10-26-2009]
 - (c) The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The Secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records to be maintained or prepared by the Secretary are deemed to be public, shall be filed in the Municipal Clerk's office and may be inspected at reasonable times.
 - (d) Any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, excluding the member who is being challenged.

B. Powers and duties.

- (1) Administrative appeals. The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this chapter. Such hearing shall be held in accordance with Subsection C below. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this chapter by the concurring vote of a majority of the votes cast.
- (2) Variance appeals.
 - (a) A variance may be granted by the Board only where strict application of the chapter or a provision thereof to the petitioner and his property would cause undue hardship. The words "undue hardship," as used in this section, mean:
 - [1] That the land in question cannot yield a reasonable return unless a variance is granted.
 - [2] That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
 - [3] That the granting of the variance will not alter the essential character of the locality.
 - [4] That the hardship is not the result of action taken by the applicant or a prior owner.
 - (b) Within the Shoreland Zone, the Board of Appeals may grant a variance by first making a finding of undue hardship as in Subsection B(2) above. If undue hardship has been found, the Board of Appeals must also make a finding that the proposed use would meet the specific criteria outlined in § 140-77E(1) through (19).
- (3) A variance is authorized only from the dimensional requirements of Tables B and C of this chapter.^[1] Establishment or expansion of a land use otherwise prohibited shall not be allowed by variance. The Board of Appeals may grant a variance only by the concurring vote of a majority of the votes cast and, in doing so, may prescribe conditions as are appropriate under this chapter. A tie vote shall constitute a denial of the variance appeal.

[1] *Editor's Note: Tables B and C are included at the end of this chapter.*

- (4) A copy of all variances granted by the Board of Appeals in the Resource Protection or Floodplain and Shoreland Slope District shall be submitted to the Department of Environmental Protection.

C. Appeal procedure.

- (1) In all cases, a person aggrieved by a decision of the Code Enforcement Officer or the Planning Board shall commence his appeal within 30 days after a decision is rendered. The appeals shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved applicant shall specifically set forth the grounds for the appeal. The appellant, at the time of filing, will be charged a fee as determined by the Town Council, plus the cost of notifying, by certified mail and return receipt, all abutters.
- (2) The Board of Appeals shall schedule a public hearing to be held within 30 days of the receipt of an application.
- (3) The Board of Appeals shall notify, by certified mail, return receipt requested, the appellant and the abutters, at least seven days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing thereon.
- (4) The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
- (5) At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
- (6) The Code Enforcement Officer or his designated alternate will attend all hearings and will present to the Board of Appeals all plans, photographs or other material the Board deems appropriate for an understanding of the appeal.
- (7) The Board shall provide by rule, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Chairman upon good cause shown.
- (8) The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- (9) The transcript of testimony, if any, and exhibits, together with all appeals and requests filed in the proceeding, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
- (10) Within 10 days of the public hearing, the Board of Appeals shall reach a decision as defined in Subsection C(9) above on the appeal, and a copy of the decision shall be mailed or hand delivered to the appellant, his representative or agent, the Code Enforcement Officer, the Planning Board, the Municipal officers and abutters appearing of record at the public hearing within seven days of the Board's decision.
- (11) Upon notification of the granting of an appeal by the Board of Appeals, the affected authority shall issue any necessary permits in accordance with the conditions of the approval.
- (12) Rehearing. The Zoning Board of Appeals may decide to rehear an appeal only if all parties to the original appeal agree, in writing, to a rehearing or if the appellant can demonstrate to the satisfaction of the Zoning Board of Appeals that they have sufficient new evidence to present of a type which would constitute a new appeal or if there has been a change in the chapter which affects the appeal.
- (13) Any party may take an appeal, within 45 days after the decision is rendered, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B.



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

CODE ACKNOWLEDGMENT

The undersigned hereby acknowledge receipt of the Town of South Berwick's Code Chapter 31 Personnel Policies and Chapter 140 Zoning.

This acknowledgement also verifies the undersigned has read and understands the Code policies.

Board Member Print Name

Date

Board Member Signature

Date

This document will be kept on file in the Assistant Town Manager's office.

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: November 15, 2022	NB #3
Agenda Item: Code Chapter 130 Vehicles & Traffic Article III Parking, Standing & Stopping	
Staff Recommendation:	
Town Manager's Recommendation:	
To allow the staff to update the ordinance and make language improvements and bring forward to the council.	
Requested Action:	
Vote to: allow the staff to update the ordinance and make language improvements to bring forward for the Council's Review.	
Vote	

P. Gagnon Inspection Meeting

11/7/2022

1:45 PM

Tim's Office

Meeting called by: Timothy Pellerin

Type of meeting: Informational

Attendees: Tim Pellerin, Jennifer Janelle, Dawn Moreau, and Brian -Tech for P. Gagnon & Sons.

Minutes

Agenda item: Boiler Inspection

Discussion:

Both boilers show internal water deterioration. You can run them but they are on their last leg.

Boiler #2-closest to the window is actively leaking and as this gets worse you will see more and more water on the floor.

Boiler #1-is rusty and can start leaking at any time.

When boiler #2 fails, boiler #1 will heat what we need for as long as it can and then it will fail as well.

Replacement is a major operation with all hands-on deck. The boilers need to be dismantled to get out of the building and new system installed. Looking at 2 days up to 1 week for completion.

Brian will bring back this information to P. Gagnon and get the Town a quote within a couple of days. Looking for all options with oil and propane.

Conclusion:

New boilers or another type of heating system needed. A.S.A.P.

<i>Action items</i>	<i>Person responsible</i>	<i>Deadline</i>
Quote for heating system/options	P. Gagnon	11/11
Pictures of boiler-internals to Jen/Tim	Brian	11/7



