

City of Hallowell
City Clerk's Office

*One Winthrop Street
Hallowell, Maine 04347*

*Diane D Polky, City Clerk
Daniel P Kelley, Deputy City Clerk*

TEL: (207) 623-4021 – FAX: (207) 621-8317

City Process and Forms for Liquor License Approval

In 2003 the 121st Legislature amended Title 28-A §653 to make a Public Hearing for new and relocation liquor licenses optional rather than required. The City of Hallowell has continued to hold a Public Hearing for applications for a new liquor license or changes to an existing license. Applicants are required to insert a Legal Notice of the Public Hearing in the Kennebec Journal.

Under Title 28-A §653 a Public Hearing has been optional for liquor license renewals for many years. For license renewals without any changes, the City Clerk follows the procedure established by the City Council on July 24, 1992. The City Council minutes for that meeting are attached. The City Clerk sends a memo to the Police Department and the Code Enforcement Office asking if either department has an objection to the renewal of the license. A copy of the form is attached. If neither department objects, the City Clerk signs the application on behalf of the City Council.

Please note that the application form for a Liquor License is a state form issued by the Bureau of Alcoholic Beverages Division of Liquor Licensing and Enforcement. The form has not yet been updated to reflect the change in 2003.

SPECIAL CITY COUNCIL MEETING MINUTES OF JULY 24, 1992

PRESENT: MAYOR HARVEY COUNCILORS MORIARTY, WEBBER, HAYES, BABBITT,
CITY MANAGER, & CITY CLERK

Mayor Harvey called meeting to order.

The City Clerk presented an application for an Off Premises Catering License for Knights of Columbus for a wedding at Maple Hill Farm on July 25, 1992.

Hayes - Babbitt - Motion to approve the application.

Unanimously approved

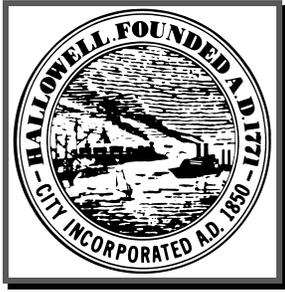
Councilor Hayes told the Council that he had asked the City Clerk to check with Augusta City Hall to see how Augusta handles renewal liquor licenses and off premises licenses. He stated that they authorize the City Clerk to sign for the Council all renewals and off premise licenses that she feels comfortable with. According to Title 28A a public hearing "may" not "shall" be held for renewals. All new liquor licenses the City Clerk would bring to the Council. She would check with the Police Department and the CEO Officer, and if there is not a problem, she would sign them on behalf of the Council.

Hayes - Boynton - Motion to authorize the City Clerk, and in her absence the City Manager, to sign all renewal liquor licenses and off premise licenses.

Unanimously approved

Meeting adjourned.

Deanna M. Hallett,
City Clerk



CITY OF HALLOWELL
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One Winthrop Street
HALLOWELL, MAINE 04347

TEL: (207) 623-4021 FAX: (207) 621-831
Deanna Mosher Hallett, City Clerk

INTEROFFICE MEMO

TO: CEO & POLICE
FROM: CITY CLERK
RE: LIQUOR LICENSE
DATE:

_____ has applied for an off premise permit.

Purpose of event _____ at

_____ on _____ at _____.

Do you know of any reasons or violations that would hinder the approval of this Liquor License?

Please fill out this memo as soon as possible and return it to me, thank you.

_____ This Department finds no reason(s)/violation(s) for this applicant.

_____ This Department finds the following reason(s)/violation(s) for this applicant.

CEO

Date

POLICE

Date

Legal

NEW ON-PREMISES LICENSES: HEARINGS NOW OPTIONAL

For many years, State law required a local public hearing for any new on-premises liquor license and any relocation of an existing on-premises license (see 28-A M.R.S.A. § 653(1)). But with little notice, the law has changed.

Section 653(1) now says the municipal officers (selectmen or councilors) "may" hold a hearing for new or relocated on-premises licenses. In other words, hearings are now optional for new and relocation licenses. This change makes the procedures for these licenses consistent with the procedures for renewal licenses, for which public hearings have long been optional. Where a new or relocation license is uncontroversial, local officials now have the discretion to approve it without the necessity and expense (payable by the applicant) of holding a public hearing.

The change was made by PL 2003, c. 213, § 1, effective Sept. 13, 2003. (By R.P.F.)

TWO NEW POVERTY ABATEMENT CASES

The Maine Supreme Court has issued two new important poverty abatement decisions.

In *Sager v. Town of Bowdoinham*, 2004 ME 40, the issue was not whether property tax rebates under the Maine Residents Property Tax ("Circuit Breaker") Program can be considered in poverty abatement cases but how. The statute that created the circuit breaker expressly states that tax rebates under the program "may be considered for purposes of determining eligibility for [poverty abatements]" (36 M.R.S.A. § 6216). But it does not say precisely how this calculation is to be made.

In *Sager*, both the Selectmen and, on appeal, the County Commissioners abated all but the amount of the taxpayer's rebate, which they first deducted directly from taxes owed. The taxpayer argued that this was not what the statute meant and that the rebate can only be counted as income, not as a direct set-off against taxes owed. The Law Court, however, disagreed, noting that the poverty abatement statute (36 M.R.S.A. § 841(2)) grants authorities "considerable discretion" and that they had not abused their discretion by applying a *per se* rule requiring a set-off in all cases.

The lesson from *Sager* is that while State circuit breaker rebates may be set off directly against taxes owed under appropriate circumstances, this should not automatically be the rule in every case – each application must be evaluated on its own facts.

In *Hustus v. Town of Medway*, 2004 ME 41, the issue was whether a poverty abatement is available for taxes associated with nonresidential property. The taxpayer owned a mobile home to which was physically attached a building from which she operated a used clothing store. The property was assessed as a whole, but only a partial abatement was granted on the theory that the poverty abatement statute (36 M.R.S.A. § 841(2)) did not include taxes on commercial property. On appeal, though, the Law Court held that

nothing in the text of the law or its legislative history supported the Town's argument that only residential property is eligible for a poverty abatement.

Although the retail store in *Hustus* was physically attached to the residence, nothing in the Court's decision suggests that the result would have been any different had the two uses been separate. It is worth noting, however, that eligibility for a poverty abatement is still dependent on the applicant's proving poverty.

For a full discussion of poverty abatements, including how to determine eligibility, see MMA Legal Services' "Information Packet" on the subject, available free of charge to members on MMA's web site at www.memun.org. (By R.P.F.)

OVERESTIMATE OF ACREAGE IS ERROR IN VALUATION WITH ONE-YEAR ABATEMENT LIMIT

Question: We have a taxpayer who has been assessed since 1974 for more acreage than he actually owns. He wants an abatement for the full 30 years. We think we are limited to the three-year abatement for illegalities, errors or irregularities in assessment. Who is correct?

Answer: Neither one of you. Tax abatements of this variety are strictly governed by 36 M.R.S.A. § 841(1),

Municipal Calendar

MAY — Municipal officers shall meet as the "licensing board" to license innkeepers and tavernkeepers during the month of May (30-A MRSA §3812)

MAY 1 — Licenses for bowling alleys, pool rooms, shooting galleries, etc., issued during the previous 12 months expire (8 MRSA §2).

ON OR BEFORE MAY 7 — Town clerks who are agents of the Commissioner of Inland Fisheries and Wildlife shall forward to the Commissioner funds collected and a monthly report of all hunting and fishing licenses issued during the previous calendar month.

ON OR BEFORE MAY 15 — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333 (22 MRSA §4311).

Vendor's Machines May 31
4 Vendors fee
MAY 31 — (Last Monday in May) Memorial Day observed. A legal holiday (4 MRSA §1051); a school holiday (20-A MRSA §4802). Municipal officers shall direct the decoration of veterans' graves. (30-A MRSA §2901).

The opinions printed in this Legal section are written with the intent to provide general guidance as to the treatment of issues or problems similar to those stated in the opinion. The reader is cautioned not to rely on the information contained therein as the sole basis for handling individual affairs but he/she should obtain further counsel and information in solving his own specific problems.