

Current as of January 1, 2008

PART I

BRUNSWICK TOWN CHARTER*

* **Editors Note:** Printed herein is the Charter of the Town of Brunswick, Maine adopted on November 5, 1969 and effective on January 2, 1970. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section.

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ARTICLE I.

**GRANT OF POWERS
TO THE TOWN**

Section 101. Incorporation.

The inhabitants of the Town of Brunswick shall continue to be a municipal corporation called the Town of Brunswick, Maine.

Section 102. Powers of the town.

(a) The town shall have, exercise and enjoy all the rights, immunities, powers and privileges of municipal corporations incorporated under the laws of the State of Maine. It shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon such municipal corporations.

(b) The town may enact by-laws, regulations and ordinances consistent with the Constitution and laws of the State of Maine and establish penalties for the breach thereof as provided by the laws of the State of Maine.

Section 103. Construction.

(a) The powers of the town under this Charter shall be construed liberally in favor of the town; these powers shall include all those that are necessary and convenient to conduct its municipal affairs, including all powers pursuant to the Constitution and laws of the State of Maine.

(b) As used in this Charter, the word "council" shall refer to the town council.

(c) As used in this Charter, the word "councilor" shall refer to a member of the town council.

(d) As used in this Charter, the word "manager" shall refer to the town manager.

(e) The provisions of this Charter which apply to departments of the town apply as well to offices or agencies of the town.

(f) This charter is intended to be gender neutral.

(Amended November 8, 1994--Effective January 1, 1995)

ARTICLE II.

TOWN COUNCIL

Section 201. Composition, eligibility, election and terms.

(a) There shall be a town council of 9 members. Two members shall be elected by the voters of the town at large, and one member shall be elected by the voters of each of the 7 districts, as provided in section 202 of this article.

(b) Only voters, or persons eligible to be voters, who reside in the town shall be eligible to hold

office of councilor.

(c) Each member shall be elected for a term of 3 years and shall serve until a successor is elected and qualified. The terms of office shall be staggered and shall be initially elected as follows:

For the regular annual election held in 2006:

District 2--A one year term

District 5--A two year term

District 7--A two year term

At large expiring in 2006--A two year term.

For the regular annual election held in 2007:

District 1--A three year term

District 2--A three year term

District 3--A two year term

District 4--A two year term

District 6--A three year term

At large expiring in 2007--A two year term

(Amended November 6, 1990; amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-1)

Section 202. Establishment of voting districts and qualifications; review of district boundaries.

(a) There are 7 districts in the Town of Brunswick which shall continue with their current boundaries until they are adjusted according to subsection (b). District members of the Council and School Board shall reside in the districts from which they have been elected.

(b) District boundaries shall be adjusted pursuant to Title 30-A, Section 2503 of the Maine Revised Statutes, as that section may be amended from time to time.

(Amended November 6, 1990; amended November 3, 1998--Effective January 1, 1999)

Section 203. Powers and duties.

All the powers of the town shall be vested in the council, except as otherwise provided by law or this Charter. The council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the town by law.

Section 204. Prohibition.

(a) No councilor shall hold any other town office or town employment during the term for which the councilor was elected to the council; further no public school teacher shall be eligible to serve on the council.

(b) Neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any administrative officers or employees whom the manager or any of the manager's subordinates are empowered to appoint. The council, however, may express its views and fully and freely discuss with the manager anything pertaining to the appointment and removal of such officers and employees.

(c) Except for the purpose of inquiry, the council and its members shall deal with the administrative officers solely through the manager. Neither the council nor any member thereof shall give orders to any subordinates of the manager, either publicly or privately.

(Amended November 8, 1994--Effective January 1, 1995)

Section 205. Vacancies; forfeiture of office; filling of vacancies.

(a) The office of a councilor shall become vacant upon the death, resignation, removal from office in any manner authorized by law, forfeiture of the office, or permanent physical or mental disability resulting in decreased ability to perform the duties, all as determined by the council.

(b) A councilor shall forfeit the office if the councilor fails at any time during the term of office to maintain any qualification for the office prescribed by this Charter or by law.

(c) If a seat on the council becomes vacant for any reason, the council shall call a special election to fill the vacancy for the unexpired term.

(1) Exception. If the remainder of the unexpired term is less than 6 months, the council shall appoint a qualified person to fill the vacancy.

(d) If the vacancy is in a district seat, the person elected or appointed to fill the vacancy must be a resident of that district.

(Amended June 19, 1972; amended November 8, 1994--Effective January 1, 1995)

Section 206. Induction of council into office.

On the first Monday in January, unless that Monday is a holiday, in which case it shall be the next business day, the newly elected councilors shall be inducted into office by being sworn to the faithful discharge of their duties by the town clerk or the town clerk's designee.

(a) Exception. A member-elect may be sworn in at a later date, if necessary.

(Amended June 19, 1972; amended November 8, 1994--Effective January 1, 1995; amended November 4, 1997)

Section 207. Regular meetings.

(a) The council shall at its first meeting:

(1) Elect one of its members as chair and another as vice-chair.

(2) Establish by resolution a regular place and time to hold its meetings, which shall take place at least once a month.

(3) Provide a method for calling special meetings.

(b) All meetings of the council shall be open to the public, except as may otherwise be provided by the laws of the State of Maine.

(c) A majority of the council shall constitute a quorum. A majority of a quorum is sufficient for a valid vote.

(Amended November 8, 1994--Effective January 1, 1995)

Section 208. Compensation.

(a) The council may determine its compensation by ordinance, but no ordinance increasing such compensation shall become effective until the commencement of the term of councilors elected at the next regular election.

(b) Councilors shall be paid on a quarterly basis for services performed in the preceding quarter. Councilors elected to fill an unexpired term on the council shall be paid on a pro-rata basis for the time they shall actually serve.

(c) Initially, the annual compensation of councilors shall be \$1,000.

(Amended November 8, 1994--Effective January 1, 1995)

Section 209. Rules of procedure; journal.

The council shall determine its own rules and orders of business. It shall maintain a journal of its proceedings which shall be open to public inspection.

Section 210. Ordinances.

In addition to such acts of the council as are required by law or by this Charter to be by ordinance, every act establishing a fine or other penalty shall be by ordinance.

Section 211. Public hearing on ordinances.

(a) Before an ordinance is enacted, amended or repealed, the council shall hold a public hearing, notice of which must be published in a newspaper having general circulation in the town at least 10 days before the hearing date. The text of the intended act must be included in the notice where it is reasonable to do so, in the opinion of the council. Otherwise, the notice must contain a reasonable summary of the purpose of the

intended act. In either case, a reasonable number of copies of the intended act must be made available to the public at the office of the manager for at least 10 days before the hearing date.

- (b) An ordinance shall not become effective until at least 30 days after passage.

Section 212. Emergency ordinances.

(a) To meet a public emergency affecting life, health, property or the public peace, the council may enact one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money.

(b) An emergency ordinance shall be plainly designated an emergency ordinance and, after the enacting clause, it shall contain a declaration stating the existence of an emergency, which shall be described in clear and specific terms.

(c) An emergency ordinance may be enacted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 6 councilors shall be required for enactment. After its enactment the text of the ordinance shall be published and printed in a newspaper having a general circulation in the community, where it is reasonable to do so in the opinion of the council, and posted in at least 2 public places. Otherwise, the notice must contain a reasonable summary of the enacted ordinance. It shall become effective upon enactment, but it shall automatically stand repealed as of the 50th day following the date on which it was enacted unless it had been enacted as a regular ordinance according to sections 210 and 211 of this article at the time it was adopted as an emergency ordinance.

(d) An emergency ordinance may be repealed by the enactment of a repealing ordinance in the same manner specified in this section for the enactment of emergency ordinances. An emergency ordinance may become a regular ordinance by its reenactment according to sections 210 and 211 of this article.

(Amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

Section 213. Independent annual audit.

Prior to the end of each fiscal year, the council shall designate the State Department of Audit or a certified public accountant who, as of the end of the fiscal year, shall make an independent audit of all town accounts and financial transactions and submit a report to the council.

Section 214. Town clerk.

The town clerk shall have custody of the journal of the proceedings of the council; shall authenticate all ordinances and resolutions by signature and record them in a book kept for the purpose; and shall perform such other duties as are prescribed by the laws of the State of Maine.

(Amended February 24, 1977; amended November 8, 1994--Effective January 1, 1995)

Section 215. Town attorney.

The council shall appoint and determine the compensation of the town attorney. The term of office of

the Town Attorney starts on the first business day in January and continues for one year and until a successor is appointed and qualified. If there is a vacancy in the office for any reason, the Town Council shall appoint a successor to serve for the balance of the term.

(Amended February 24, 1977; amended November 8, 1994--Effective January 1, 1995)

Section 216. Town treasurer.

The Town Treasurer shall have custody of the financial records of the Town and shall perform such other duties as are prescribed by the laws of the State of Maine.

(Amended February 24, 1977; amended November 8, 1994--Effective January 1, 1995)

ARTICLE III.

TOWN MANAGER

Section 301. Appointments; qualifications; compensation.

The council shall appoint a town manager for an indefinite term and fix the manager's compensation. The manager shall be appointed solely on the basis of character and executive and administrative qualifications. The manager need not be a resident of the town or the State of Maine at the time of appointment but may reside outside the town while in office only with the approval of the council.

(Amended November 8, 1994--Effective January 1, 1995)

Section 302. Powers and duties of the town manager.

The manager shall be the chief administrative officer of the town. The manager shall be responsible to the council for the administration of all town affairs placed in the manager's charge or under this Charter. The manager shall have the following powers and duties:

- (a) Shall, with the consent of the council, appoint, prescribe the duties of, and, when necessary, remove department heads of the town;
- (b) Shall appoint, prescribe the duties of, and, when necessary, remove other employees of the town except as otherwise provided herein, and except as the manager may authorize the head of a department to appoint and remove subordinates in such department;
- (c) Shall direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this Charter or by law and except that the manager shall have neither appointive power nor administrative duties with regard to the Department of Education;
- (d) Shall attend council meetings, except when the manager's removal is being considered, and shall have the right to take part in discussions but may not vote;
- (e) Shall prepare annually a proposed budget, submit it to the council, and be responsible for its administration after enactment;

- (f) Shall each year prepare an annual report for public distribution, which report shall include detailed statements on the finances and administrative activities of all departments of the town for the preceding year;
- (g) Shall maintain accounts in such a manner as to show fully at all times the financial condition of the town;
- (h) Shall keep the council advised as to future needs, financial or otherwise, and make such recommendations as the manager may deem desirable;
- (i) Shall see that all ordinances are enforced;
- (j) Shall be responsible for the collection of all taxes, special assessments, license fees and other revenues of the town or for whose collection the town is responsible and receive all money receivable by the town from the State or Federal Government, or from any office or department or agency of the town;
- (k) Shall perform such other duties as may be prescribed by this Charter or required by the council, not inconsistent with this Charter.

(Amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

Section 303. Absence of town manager; acting town manager.

To perform the manager's duties during a temporary absence or disability, the manager may, with the consent of the council, designate by letter filed with the town clerk a qualified administrative officer of the town. In the event of the failure of the manager to make such a designation, the council may by resolution appoint any officer of the town to perform the duties of the manager until the manager shall return or the disability shall cease.

(Amended November 8, 1994--Effective January 1, 1995)

Section 304. Removal of town manager.

The council may remove the manager from office for cause in accordance with the following procedure:

- (a) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.
- (b) Within 5 days after a copy of the resolution is delivered to the manager, the manager may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than 15 days or later than 30 days after the request is filed. The manager may file with the council a written reply not later than 5 days before the hearing.
- (c) The council may adopt a final resolution of removal by affirmative vote of a majority of all its

members at any time after 5 days from the date that a copy of the preliminary resolution was delivered to the manager, if the manager has not requested a public hearing, or at any time after the public hearing if one has been requested.

- (d) When adopted, a final resolution of removal may be made immediately effective.
- (e) The manager shall continue to receive a salary until the effective date of a final resolution of removal.

(Amended November 8, 1994--Effective January 1, 1995)

ARTICLE IV.

ADMINISTRATIVE DEPARTMENTS

Section 401. General provisions.

(a) Creation of departments. The council may establish town departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, be assigned to any other department, office or agency.

(b) Direction by town manager. All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of the council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of 2 or more of them.

(Amended November 8, 1994--Effective January 1, 1995)

Section 402. Personnel system.

(a) Merit principle. All appointments and promotions of town officers and employees, subject to the direction and supervision of the manager, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(b) Personnel director. The manager or the manager's appointee shall be the personnel director.

(c) Personnel board. There shall be a personnel board of 5 regular members and 2 alternate members. The term of office of a regular member and an alternate member is 3 years and until a successor is appointed and qualified. When a regular member is absent, the chair may appoint an alternate member as acting a regular member; but only those regular and alternate members who sit on a particular matter may participate in the discussion and determination of it. A member or alternate member of the board may hold no town employment. The personnel director shall provide necessary staff assistance for the board.

(d) Personnel rules. The manager or the manager's appointee shall prepare personnel rules. The manager shall submit such rules to the council, which rules the council shall adopt by ordinance with or without amendment. These rules shall provide for:

- (1) The classification of all town positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (2) A pay plan for all town positions;
- (3) Methods for determining the merit and fitness of candidates for appointment or promotion, demotion or dismissal;
- (4) Policies and procedures regulating reduction in force and removal of employees;
- (5) A retention and retirement plan for town employees;
- (6) Hours of work, attendance regulations and provisions for sick and vacation leave;
- (7) Policies and procedures governing persons holding provisional appointments;
- (8) Policies and procedures governing relationships with employee organizations;
- (9) Policies regarding in-service training programs;
- (10) Grievance procedures including procedures for the hearing of grievances by the personnel board, which board may render advisory opinions to the manager based on its findings, with a copy provided to the aggrieved employee; and

(11) Other practices and procedures necessary to the administration of the town personnel system.
(Amended November 6, 1984; amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

ARTICLE V.

FINANCIAL PROVISIONS

Section 501. Fiscal year.

The fiscal year is a twelve-month period commencing July 1st.
(Amended December 5, 1977)

State Law References: Fiscal year, 30-A M.R.S.A. § 2001(12).

Section 502. The budget.

(a) Not later than May 1st of each year, the manager shall submit to the Council a budget and an explanatory budget message. This budget shall be compiled from detailed information furnished by the administrative offices and boards of the town, including the department of education. The budget shall contain:

- (1) An exact statement of the financial condition of the town.

- (2) An itemized statement of appropriations recommended for current expenses and for permanent improvements, together with comparative statements in parallel columns of expenditures for the current and the preceding fiscal year. Any increase or decrease in any item shall be indicated.
- (3) An itemized statement of estimated revenue from all sources other than taxation; and a statement of taxes required, with comparative figures given for the current and the preceding year.

(b) Copies of the proposed budget shall be available to the general public not later than 2 weeks after its submission to the council. The council shall thereafter fix a time and place for holding a public hearing on the proposed budget, and shall give public notice thereof. The hearing or any adjournment thereof shall be held at least 10 days before the final adoption of the budget by the council.

(Amended December 5, 1977; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

Section 503. Increase in the budget.

If the council inserts additional items, or makes other changes which increase the total proposed expenditures, it shall also increase the total anticipated revenue for the fiscal year to at least equal the total proposed increased expenditures.

Section 504. Adoption and amendment of the budget.

The budget for each fiscal year shall be acted upon by the Council not later than June 15th.

Upon the recommendation of the Town Manager, the Town Council may amend the budget. The Council shall hold a public hearing at least 10 days prior to the adoption of any amendment. Any amendment that seeks to increase the amount of the total budget appropriations for the year shall only be made from unappropriated available revenue.

(Amended December 5, 1977; amended November 8, 2005--Effective January 1, 2006, Exh. A-2)

Section 505. Budget appropriations established.

The adoption of a budget for a fiscal year shall constitute appropriations of the amounts specified therein which shall be and become appropriated to the several departments and offices and purposes named therein for that fiscal year.

Section 506. Certification of the budget to the town assessor.

From the date of the adoption of the budget, the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount to be levied for the purposes of the town in the corresponding tax year. A copy of the budget as finally adopted by the council shall be certified by the manager and shall be filed by him with the town assessor, whose duty it shall be to levy such taxes as are necessary for the corresponding tax year.

Section 507. Town treasurer.

The town treasurer shall have custody of all public funds of the town and of any of its offices, departments and agencies. The town treasurer shall have custody of all investments and invested funds of the town or in the possession of the town in a fiduciary capacity except for those investments held in a custodial agreement authorized by the town council. The town treasurer shall make payments and disbursements from public funds but only when directed by warrant signed by the town manager, the chair of the town council or, in the absence or disability of the chair, the vice chair, or their designee, and one other member of the town council.

(Amended November 8, 1994--Effective January 1, 1995; amended November 4, 1997)

Section 508. Limits on expenditures; transfers of appropriations.

(a) No department, including the department of education, shall expend in any one year a larger sum than its gross appropriation, except by vote of the council. However, the manager may at any time transfer any unencumbered appropriation balance, or portion thereof, between general classification of expenditures within an office, department or agency.

(b) 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, from one office, department or agency to another.

Section 509. Borrowing in anticipation of taxes.

In anticipation of the collection of taxes, the council may authorize borrowing by the issuance of notes, which notes may be renewed, but all such notes or renewals thereof shall mature and be paid no later than at the end of the current fiscal year.

Section 510. Emergency appropriations.

To protect the public health, safety and welfare of the town in a case of emergency, the council may, for other than a regular or recurring requirement, transfer from unappropriated available revenue such amounts as the council may deem necessary to meet the emergency. Such transfers shall be by resolution adopted by a majority of the members of the council and shall be made only upon the recommendation of the manager.

Section 511. Lapse of appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

Section 512. Capital improvements or acquisitions; issuance of bonds or notes.

The making of contracts for capital improvements or capital acquisitions, to be financed solely or partly by the issuance of bonds or notes, the making of contracts for capital improvements or capital acquisitions exceeding \$1,000,000, and the making of contracts for capital improvements or capital acquisitions which irrevocably obligate the town to raise or appropriate, in a future fiscal year, funds to pay for all or part of the improvement or acquisition must be authorized by ordinance.

(Amended November 16, 1971; amended February 24, 1977; amended November 4, 1997; amended November

8, 2005--Effective January 1, 2006, Exh. A-3)

ARTICLE VI.

CAPITAL PROGRAM

Section 601. Capital program.

The manager shall prepare and submit to the council a 5-year capital program at the same time as the submission of the annual budget. The capital program shall include:

- (a) A clear, general summary of its contents;
- (b) A list of all capital improvements which are proposed to be undertaken during the 5 fiscal years next ensuing, with appropriate supporting information as to the necessities for such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement;
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed and acquired.

(Amended November 8, 1994--Effective January 1, 1995)

Section 602. Revision and extension of capital program.

- (a) Each year the capital program shall be reviewed and extended with regard to capital improvements contemplated, still pending or in process of construction or acquisition.
- (b) The council shall fix a time and place for holding a public hearing on the capital program, and shall give public notice of such hearing.
- (c) The council shall adopt the capital program with or without amendments after such public hearing, but nothing in this article shall be deemed to prevent the authorization by the council of bonds or notes of the town to finance a capital improvement not included in the capital program.

ARTICLE VII.

TAX ADMINISTRATION

Section 701. Town assessor.

The Town Assessor shall have custody of the assessment records of the Town and shall perform such other duties as are prescribed by the laws of the State of Maine.

(Amended November 8, 1994--Effective January 1, 1995)

Section 702. Board of assessment review; appointments; vacancies.

- (a) There shall be a board of assessment review to consist of 5 members who shall be appointed by the council for a term of 3 years, except that of those first appointed 2 shall be for a term of 2 years and one for a term of one year.
- (b) The members of the board shall be residents of the town. If a member of the board ceases to be a resident of the town, the office shall immediately become vacant.
- (c) Any vacancy on the board shall be filled by appointment by the council for the unexpired term.
- (d) Annually the board shall 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 meetings of the board.
- (e) Three members of the board of assessment review shall constitute a quorum for the purpose of hearing and voting upon a matter presented to the board. Any members having a financial interest, direct or indirect, in a matter presented to the board shall disqualify themselves and in such event the remaining members of the board shall constitute the board of assessment review.
- (f) Repealed.
(Amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

Section 703. Board of assessment review; powers; duties.

The board of assessment review shall have the same powers that are granted to such boards by the laws of the State of Maine. It shall adopt such regulations as may be necessary for it to carry out its functions of assessment review, which regulations shall be published annually in a newspaper having a general circulation in the town.

ARTICLE VIII.

PLANNING AND ZONING

Section 801. Town planning board.

There shall be a town planning board as provided for by the laws of the State of Maine.

Section 802. Zoning ordinances.

There shall be a zoning ordinance as provided for by the laws of the State of Maine.

Section 803. Zoning board of appeals.

- (a) There shall be a Zoning Board of Appeals composed of 5 members and 4 associate members who shall be appointed by the council for terms of 3 years.

(b) The members and associate members of the Board must be residents of the Town. If a member or an associate member ceases to be a resident, the office shall immediately become vacant.

(c) Neither a member of the council nor spouse may be a member or associate member of the Board.

(d) Any vacancy on the Board shall be filled by appointment by the council for the unexpired term.

(e) Annually, on or about May 1, the Board shall choose a Chair, Vice-Chair, and Secretary from its membership.

(f) When a member is unable to act because of conflict of interest, physical or mental incapacity, absence, or for any reason, the Chair shall designate an associate member to act. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members, except the member who is being challenged.

(g) A quorum consists of 5 members, which may include associate members.

(h) The Board shall hear appeals from the zoning ordinance.

(i) The Chair shall call and preside at meetings of the Board as necessary. The Chair shall also call meetings of the Board when requested to do so by a majority of the members of the Board or by the council. The Chair is the official spokesperson of the Board.

(j) The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The Secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records prepared or maintained by the Secretary are public records. They shall be filed in the Town Clerk's office. They may be inspected at reasonable times.

(k) The Board may 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 Chair upon good cause shown.

(l) The Board may receive any oral or documentary evidence. It shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present a 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.

(m) The transcript of testimony, if any, and exhibits, together with all papers 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 material issues of fact, law or discretion presented and the appropriate order, relief, or denial thereof. Within 7 days after a decision is made, notice thereof shall be mailed or hand-delivered to the petitioner, or petitioner's representative, the Planning Board and the Town Council.

(n) Within 45 days after the decision is rendered, an appeal may be taken by any party to Superior Court in accordance with the Maine Rules of Civil Procedure. Rule 80B.

(Amended November 7, 1978; amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

Section 804. Board of appeals; municipal codes.

(a) There shall be a Codes Appeal Board for matters relating to municipal codes other than zoning, composed of 5 members and 4 associate members, who shall be appointed by the council for a term of 3 years.

(b) The members and associate members of the Board must be residents of the Town. If a member or an associate member ceases to be a resident, the office shall immediately become vacant.

(c) Any vacancy on the board shall be filled by appointment by the council for the unexpired term.

(d) Annually at its first meeting following the date of appointment of members, the board shall choose a chair, vice-chair, and secretary from its membership.

(e) When a member is unable to act because of conflict of interest, physical or mental incapacity, absence, or for any other reason, the Chair shall designate an associate member to act.

(f) A quorum consists of 5 members or associate members.

(Amended June 19, 1972; amended November 8, 1994--Effective January 1, 1995; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

State Law References: Board of appeals, 30-A M.R.S.A. § 2691.

Sec. 805. Codes appeal board; powers and duties.

(a) The Codes Appeal Board shall hear appeals for variances from the municipal codes other than zoning.

(b) The board shall replace the municipal officers in hearing appeals from building, housing and fire prevention codes, and any other code enacted under the authority of the Revised Statutes, Title 30, section 2151, subsection 4, paragraphs A and B [M.R.S.A. 30-A]. In enacting these codes, the council may provide for any necessary rules of procedure to be followed by the board.

(Amended June 19, 1972)

ARTICLE IX.

DEPARTMENT OF EDUCATION

Section 901. School board.

The Department of Education shall be administered by a School Board composed of 9 members, one member of which shall be elected by the voters of each of the 7 districts, as provided in section 202 of Article II of this Charter, and two members shall be elected by the voters of the town at large. Each member shall serve for 3 years and until a successor is elected and qualified.

The terms of office shall be staggered and shall be initially elected as follows:

For the regular annual election held in 2006:

District 3--A three year term

District 4--A three year term

District 5--A two year term

At large expiring in 2006--A two year term

For the regular annual election held in 2007:

District 1--A three year term

District 2--A three year term

District 6--A three year term

District 7--A one year term

At large expiring in 2007--A two year term

(Amended June 19, 1972 and November 6, 1990; amended November 8, 1994--Effective January 1, 1995; amended November 3, 1998--Effective January 1, 1999; amended November 8, 2005--Effective January 1, 2006, Exh. A-1)

Section 902. Ex officio member.

(Council representative to School Board)
(Repealed January 16, 1973)

Section 903. Qualifications.

Members of the School Board shall be voters or persons eligible to become voters of the town and they shall reside in the districts from which they have been elected during their terms of office, except the two members elected by the voters of the town at large shall only be voters or persons eligible to become voters of the town. They shall hold no other town office nor be town employees. If a member of the School Board shall cease to possess any of these qualifications, the office shall immediately become vacant.

(Amended November 6, 1990; amended November 8, 1994--Effective January 1, 1995; amended November 3, 1998--Effective January 1, 1999)

Section 904. Vacancies; forfeiture of office, filling of vacancies.

(a) The office of a member of the School Board shall become vacant upon death, resignation, removal from office in any manner, authorized by law, forfeiture of office, or permanent physical or mental disability resulting in decreased ability to perform the duties, all as determined by the School Board.

(b) A member of the School Board shall forfeit the office if the member fails at any time during the term of office to maintain any qualification for the office prescribed by this Charter or by law.

(c) If there is a vacancy in the membership of the School Board for any reason, the Town Council shall call a special election to fill the vacancy for the unexpired term.

(1) Exception. If the remainder of the unexpired term is less than 6 months, the School Board shall appoint a qualified person to fill the vacancy.

(Amended June 19, 1972; amended November 8, 1994--Effective January 1, 1995)

Section 905. Induction into school board office and organization.

The School Board shall meet contemporaneous with the Council's first meeting in January. At such meeting members-elect shall be inducted into office by being sworn to the faithful discharge of their duties by the Town Clerk or the Town Clerk's designee. The School Board shall elect its own chair at that meeting.

Five members of the School Board eligible to vote in its proceedings constitute a quorum for the transaction of business.

(1) Exception. A member-elect may be sworn in at a later date, if necessary.

(Amended June 19, 1972; amended November 8, 1994--Effective January 1, 1995; amended November 4, 1997; amended November 3, 1998--Effective January 1, 1999)

Section 906. Powers and duties.

The school board shall have all the powers conferred by law and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the town, except as otherwise provided in this Charter. The school board shall prepare budget estimates in detail of the several sums required during the ensuing fiscal year for the support of the public schools and shall furnish copies of such estimates to the manager on or before the beginning of such fiscal year.

Section 907. Meetings.

The school board shall hold at least one meeting a month, except during July and August. All meetings of the school board shall be open to the public, except as may otherwise be provided by the laws of the State of Maine.

Section 908. Compensation.

(a) The council may determine the compensation of the members of the school board.

(b) Initially, the annual compensation of school board members shall be \$300.

Section 909. School capital program.

The school board shall prepare and submit to the council a 5-year school capital program at the same time that it submits its annual budget. The school capital program shall be prepared and revised in the same manner that is required of the manager under Article VI of this Charter.

ARTICLE X.

NOMINATIONS AND ELECTIONS

Section 1001. Municipal elections.

The regular annual election of the Town Council and the School Board shall be held on the first Tuesday following the first Monday of November.

(Amended June 19, 1972)

Section 1002. Nomination.

(a) All persons nominated for the Town Council or the School Board shall be voters of the town or persons eligible to be voters of the town.

(b) Nominations shall be by petition, which shall be signed by at least 100 voters, except that in the case of a nomination for district membership on the Council and district membership on the School Board, the petition shall be signed by at least 25 voters residing in such district.

(c) No voter shall sign more than one petition for each office to be filled, and should a voter do so, the signature shall be void except as to the first petition filed. With each signature there shall be stated the place of residence of the signer giving the street and the number, if any.

(d) Nominating petitions must be filed with the Town Clerk not more than 100 days nor less than 60 days before the date of election.

(e) Unless a candidate files with the Town Clerk not more than 100 days nor less than 60 days before the date of election the candidate's written consent to accept nomination, agreeing not to withdraw, and if elected, to qualify, the nomination if invalid.

(Amended November 3, 1981; amended November 6, 1990; amended November 8, 1994--Effective January 1, 1995; amended November 4, 1997)

Section 1003. Election provisions.

Provisions of the laws of the State of Maine relating to the qualifications of voters, voter registration, the manner of voting, the duties of election officers and all other matters relating to the preparation for, and the conducting and management of elections, so far as they are applicable, shall govern all municipal elections, except as otherwise provided in this Charter.

Section 1004. Voting places.

The voting place or places for municipal elections shall be the same as those established for state

elections. The Council may consolidate or change polling locations for a special municipal election once a public hearing is held at least thirty days prior to the election and with notice of the change published in a newspaper having general circulation in the community at least ten days before the election.

(Amended November 8, 2005--Effective January 1, 2006, Exh. A-4)

ARTICLE XI.

INITIATIVE AND REFERENDUM

Section 1101. Power of referendum.

The following shall be subject to overrule by referendum:

(a) All ordinances enacted by the Town Council.

(Amended November 16, 1971; amended January 16, 1973)

Section 1102. Referendum procedures.

(a) Any 5 voters may begin referendum proceedings by a written request made to the town clerk for the appropriate petition blanks. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the ordinance, sought to be reconsidered. The petition shall be signed only by voters of the town and each voter's signature shall be followed by an address.

(b) Each paper of the petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.

(c) If, within 20 days after the enactment of an ordinance by the Town Council, the appropriate petition signed by not less than 5% of the registered voters of the town is filed with the town clerk requesting its submission 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. Within 14 days after such a public hearing, the council shall call a special municipal election for the purpose of submitting to a referendum vote the question of affirming the enactment of the ordinance.

(Amended January 16, 1973; amended November 8, 1994--Effective January 1, 1995)

Section 1103. Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the town clerk, the ordinance enacted by the Town Council sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(a) The ordinance shall have received an affirmative vote of the majority of the voters voting on the question, or

(b) There is a final determination of the insufficiency of the petition, or

(c) The council repeals the ordinance.

(Amended January 16, 1973)

Section 1104. Ordinances, orders or resolves submitted to popular vote.

The council may submit on its own initiative a proposition for the enactment, repeal or amendment of any ordinance, order or resolve, except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the affirmative votes cast thereon at such election, such ordinance, order or resolve shall be enacted, amended accordingly, or otherwise repealed. The proposition shall be so stated that an affirmative vote is for the passage of the ordinance, order or resolve, and a negative vote is against its passage.

Section 1105. Enactment of ordinances by initiative.

Police Power Ordinances may be enacted by the following initiative procedure.

- (a) Any 5 voters may begin initiative proceedings by a written request made to the town clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. The petition shall be signed only by voters of the town and each voter's signature shall be followed by an address.
- (b) Each paper of the petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed ordinance.
- (c) Upon receipt by the town clerk of the appropriate petition signed by not less than 5% of the voters of the town, the council shall call a public hearing to be held within 30 days from the date of the filing of the petition. Within 30 days after the public hearing the council shall call a municipal election for the purpose of submitting to a vote the question of enacting the ordinance, unless it has been enacted by the council prior to the call for the election. The ordinance shall be enacted when a majority of those voting thereon have voted in the affirmative, and it becomes effective 10 days from the date of the election.

Any such proposed ordinance shall be examined by the town attorney before being submitted to the voters to assure accuracy in its text and references, and clearness and preciseness in its phraseology, but the town attorney shall not materially change its meaning and effect.

The Town Council shall appoint a standing committee of five (5) members to include two (2) Town Councilors and two (2) Brunswick citizens, with the fifth committee member to be a citizen designated by the original petitioners after the petition is presented to the Town Clerk.

The Committee shall meet and no later than thirty (30) days after the public hearing shall prepare and submit to the Council a brief written summary of the substance of the proposed ordinance. Upon receipt of the Committee's recommendation, the Council shall have final authority to modify or adopt the written summary of the proposed ordinance to appear on the ballot or determine no summary is necessary.

- (d) An ordinance enacted by initiative as provided in this Section may not be amended or repealed by initiative or referendum as provided in Sections 1101--1105 for 6 months after its enactment.

(Amended November 16, 1971; amended January 16, 1973; amended November 8, 1994--Effective January 1, 1995; amended November 6, 2007 – Effective January 1, 2008)

Section 1106. Publication.

When an ordinance, order or resolve is required to be submitted to the voters of the town by initiative or referendum, the council shall have its complete text published in a newspaper having general circulation in the town at least 15 days before the date of election, unless it would be unreasonable to do so in the opinion of the council. The manager shall make a reasonable number of copies available to public inspection at least 15 days before the date of election.

Section 1107. Form of referendum question on ballot.

The form of referendum question for the affirmation of an ordinance shall be stated on the ballot substantially as follows:

Shall the ordinance (title of ordinance) enacted by council on (date of enactment) be affirmed?

The form of referendum question for enactment of an ordinance shall be stated on the ballot substantially as follows:

Shall the ordinance (title of ordinance) be enacted?

(Amended November 16, 1971; amended November 8, 2005--Effective January 1, 2006, Exh. A-5)

ARTICLE XII.

GENERAL PROVISIONS

Section 1201. Short title.

This charter shall be known and may be cited as "The Charter of the Town of Brunswick." The town clerk shall cause it to be printed and made available to the public promptly.

Section 1202. Repealing clause.

All acts and parts of acts of the private and special laws of Maine relating to the Town of Brunswick that

are inconsistent with the provisions of this Charter are repealed.

Section 1203. Separability clause.

If any portion of this Act shall be held to be invalid, such decision of invalidity shall not affect the validity of the remaining portions thereof.

Section 1204. Existing contracts validated.

All rights, actions, proceedings, prosecutions and contracts of the Town of Brunswick or any of its departments, pending when this Charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun and executed hereunder.

Section 1205. Expiration of terms of present officials.

The terms of present members of the board of selectmen shall expire at 7:30 p.m. on the first business day of January, 1970. The terms of present members of the superintending school committee shall expire at 8 p.m. on the first business day of January, 1970.

Section 1206. Continuance of present administrative officers.

All persons holding administrative office at the time this Charter takes effect shall continue in office until other provision is made in accordance with this Charter for the performance of such duties.

Section 1207. Ordinances not inconsistent remain in force.

All ordinances and bylaws of the Town of Brunswick in force at the time this Charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Section 1208. 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 Brunswick, and will faithfully discharge the duties of the office of _____."

Section 1209. Application of Municipal Law.

Except as otherwise provided in this Charter, or where the application would obviously be inconsistent with it, the Statutes of the State which apply to municipalities in general apply to the Town of Brunswick as well, and the powers and duties of the Selectmen and the Town Meeting are delegated to and incumbent upon the Town Council.

(Section added February 24, 1977)

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 voters of the Town of Brunswick at any special town election held before November 5, 1969, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of the said town to vote 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 New Charter to the Town of Brunswick', 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 voters voting at the said election. For all other purposes of this Act shall take effect the first business day of January, 1970.

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

(THIS CHARTER BECAME EFFECTIVE JANUARY 2, 1970)