

## Chapter 2

### ADMINISTRATION\*

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\* **Charter References:** Powers, § 101 et seq.; town council, § 201 et seq.; town manager, § 301 et seq.; administrative departments, § 401 et seq.; financial provisions, § 501 et seq.; capital programs, § 601 et seq.; tax administration, § 701 et seq.; planning and zoning, § 801 et seq.; department of education, § 901 et seq.; nominations and elections, § 1001 et seq.; initiative and referendum, § 1101 et seq.

**Cross References:** Animals, Ch. 4; registration and licensing of dogs required, § 4-29; cable television, Ch. 6; human services, Ch. 9; general assistance, § 9-26 et seq.; licenses and business regulations, Ch. 10; harbor master appointed, § 11-51 et seq.; personnel, Ch. 12; utilities, Ch. 16.

**State Law References:** Municipal records, 30-A M.R.S.A. § 2751 et seq.; annual reports, 30-A M.R.S.A. § 2801; municipal clerks, 30-A M.R.S.A. § 2651 et seq.

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#### Art. I. In General, §§ 2-1--2-25

#### Art. II. Town Council, §§ 2-26--2-50

#### Art. III. Boards, Committees, Commissions, §§ 2-51--2-103

##### Div. 1. Generally, §§ 2-26--2-50

##### Div. 2. Conservation Commission, §§ 2-51--2-75

##### Div. 3. Recreation Commission, §§ 2-101--2-115

##### Div. 4. Emergency Management Agency, §§ 2-116--2-131

### ARTICLE I.

### IN GENERAL

**Secs. 2-1--2-25. Reserved.**

### ARTICLE II.

### TOWN COUNCIL\*

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\* **Charter References:** Town council, § 201 et seq.; nominations and elections, § 1001 et seq.

**State Law References:** Elections, 21 M.R.S.A. § 1 et seq.; municipal elections, 30-A M.R.S.A. § 2551 et seq.

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#### **Sec. 2-26. Compensation.**

The annual compensation of councilmembers shall be two thousand dollars (\$2,000.00), except that the annual compensation of the council chairman shall be two thousand five hundred dollars (\$2,500.00). (Ord. of 10-29-79, § 1)

**Charter References:** Town council compensation, § 208.

**Secs. 2-27--2-50. Reserved.**

### **ARTICLE III.**

#### **BOARDS, COMMITTEES, COMMISSIONS\***

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\* **Charter References:** Personnel board, § 402(c); board of assessment review, § 702; planning board, § 801; zoning board of appeals, § 803; codes appeal board, § 804; school board, § 901.

**Cross References:** Marine resource committee, § 11-96 et seq.; shellfish regional advisory commission, § 11-111 et seq.; personnel board, § 12-46 et seq.; zoning board of appeals, App. A, Ch. 7; village review board, App. A, § 406.2.

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#### **DIVISION 1.**

##### **GENERALLY**

**Secs. 2-51--2-75. Reserved.**

#### **DIVISION 2.**

##### **CONSERVATION COMMISSION\***

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\* **Cross References:** Marine activities, structures and ways, Ch. 11; shellfishing, § 11-71 et seq.; streets, sidewalks and other public places, Ch. 14; parks and recreation areas, § 14-96 et seq.; zoning, App. A.

**State Law References:** Conservation commission, 30-A M.R.S.A. § 3261.

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#### **Sec. 2-76. Composition.**

There shall be a conservation commission appointed by the town council consisting of seven (7) members, called conservation commissioners as authorized by 30-A M.R.S.A. § 3261.  
(Ord. of 10-3-88, § 101)

#### **Sec. 2-77. Term of office.**

The terms of office initially shall be one (1), two (2) and three (3) years, such that the terms of approximately one-third of the members shall expire each year, or until the appointment of their successors, and their successors shall be appointed for terms of three (3) years each. Any commissioner presently serving a term greater than three (3) years may serve until his term expires. The appointment of his successor shall be for a term of three (3) years.  
(Ord. of 10-3-88, § 101(1))

#### **Sec. 2-78. Prohibition of membership.**

A town councilmember may not be a conservation commissioner.  
(Ord. of 10-3-88, § 101(2))

### **Sec. 2-79. Organization.**

The conservation commission shall elect annually on or about April 1 a chairman, vice-chairman, and secretary from its own membership.  
(Ord. of 10-3-88, § 101(3))

### **Sec. 2-80. Duties.**

The chairman shall call and preside at all meetings of the conservation commission. The vice-chairman shall act in the absence of the chairman. The secretary shall keep the official minutes of the commission.  
(Ord. of 10-3-88, § 101)

### **Sec. 2-81. Powers and duties.**

The conservation commission has the following powers and duties:

- (1) *Research and coordination.* The commission shall conduct research, in conjunction with the planning board, into the local land areas and shall seek to coordinate the activities of conservation bodies organized for similar purposes.
- (2) *Information.* It may advertise, prepare, print, and distribute books, maps, charts, plans, and pamphlets which it deems necessary within the limits of any funds appropriated for that purpose by the town council, or otherwise acquired.
- (3) *Index of open areas.* It shall keep an index of all open areas, publicly or privately owned, within the town, including open marsh lands, swamps, and other wet lands, for the purpose of obtaining information pertinent to proper utilization, protection, development, or use of these open areas and may recommend to the town council or any town body or board, or any body politic or public agency of the state a program for the better utilization, protection, development, or use of these areas, which may include the acquisition of conservation easements.
- (4) *Land acquisition.* It may, with the approval of the town council, acquire land in the name of the town for any of the purposes set forth in sections 2-76 through 2-82.
- (5) *Gifts.* It may, with the approval of the town council, receive gifts in the name of the town for any of its purposes and shall administer the same for such purposes subject to the terms of the gift.
- (6) *Records and annual report.* It shall keep records of its meetings and activities and shall make an annual report to the town to be published as part of the annual town report.

(Ord. of 10-3-88, § 102)

**State Law References:** Similar provisions, 30-A M.R.S.A. § 3261(2), (3).

### **Sec. 2-82. Definition of "open areas".**

For purposes of this division, "open areas" means any space or area the preservation or restriction of the use of which would maintain or enhance the conservation of natural or scenic resources, protect natural streams or water supplies, promote conservation of swamps, wetlands, beaches, or tidal marshes, enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open areas or spaces, affect or enhance public recreation opportunities, preserve historic sites, implement the plan of development adopted by the planning commission of any municipality, or promote orderly urban or suburban development.

(Ord. of 10-3-88, § 103)

**State Law References:** Open areas definition, 30-A M.R.S.A. § 2001(13).

### **Sec. 2-83. Public parks and shade trees excepted.**

The regulation of public parks and shade trees is not within the jurisdiction of the conservation commission.

(Ord. of 10-3-88, § 104)

**Cross References:** Parks and recreation areas, § 14-96.

### **Sec. 2-84. Notice of planning operations.**

Any body politic or public agency of the state conducting planning operations with respect to the open areas within the town shall notify the commission of all plans and planning operations at least thirty (30) days prior to the implementation of any action thereunder.

(Ord. of 10-3-88, § 105)

**Cross References:** Buildings and building regulations, Ch. 5; zoning, App. A.

**State Law References:** Similar provisions, 30-A M.R.S.A. § 261(2)(D)(1).

### **Secs. 2-85--2-100. Reserved.**

## **DIVISION 3.**

### **RECREATION COMMISSION\***

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\* **Cross References:** Parks and recreation areas, § 14-96 et seq.; Coffin Pond Recreation facilities, § 14-161 et seq.; zoning, App. A.

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### **Sec. 2-101. Appointment; terms of office.**

(a) A recreation commission consisting of five (5) members shall be appointed by the town council. All appointees shall be residents of the town. Each member so appointed shall serve for a period of three (3) years. The terms of appointment shall begin on July 1 and shall be staggered so that no three (3) terms coincide. Members of the commission shall be eligible for reappointment by the council. Vacancies on the commission occurring otherwise than by expiration of term shall be filled by the council for the remainder of the unexpired term.

(b) The terms of present members of the recreation commission shall terminate on the date fixed at the time of their appointment. The council may appoint their successors at that time or ask them to serve until

the subsequent term begins on July 1.  
(Ord. of 2-25-85(1), § 1; Ord. of 11-17-97)

**Sec. 2-102. Director of recreation.**

With the consent of the council, and after considering the recommendation of the recreation commission, the town manager shall appoint, prescribe the duties of, fix the compensation of, and, when necessary, remove a director of recreation. The director shall serve for an indefinite term.  
(Ord. of 2-25-85(1), § 2; Ord. of 11-17-97)

**Sec. 2-103. Powers and duties.**

The recreation commission has the following general powers and duties:

- (1) *Meetings.* The recreation commission shall meet at least once a month to review programs and formulate policies related to public recreation in the Town of Brunswick, including the coordination of its programs with those of other municipal departments. It shall be the overall responsibility of the recreation commission to promote, enhance and protect recreational opportunities in Brunswick in order to maintain and further develop the quality of life and objectives set forth in the Comprehensive Plan of the Town of Brunswick.
- (2) *Policies and procedures.* The recreation commission shall be responsible to set forth policies and procedures for all programs operated and administered by the Brunswick Parks and Recreation Department. This subsection shall not be interpreted to limit the ability of the town council to enact regulations or ordinances under Chapter 14, Article 5, or otherwise.
- (3) *Supervision.* The recreation commission shall be responsible for the supervision of all recreational activities conducted by the department on all property owned by or under the control of the town, or on property not owned or under the control of the town. The commission shall communicate with other recreational user groups to coordinate assistance, training, and use of facilities to collectively support extended recreational activities within the Town of Brunswick.
- (4) *Maintenance.* The recreation commission shall develop an appropriate plan of maintenance based on an annual budget and CIP projections for the proper maintenance of the recreation department building(s) and for any other recreational structures or facilities placed under its jurisdiction by the town council.
- (5) *Annual budget.* With the advice and assistance of the recreation commission, the director of recreation shall prepare the recreation department's annual budget and CIP requirements for inclusion in the annual budget of the town manager, submitted to the town council. The director shall be responsible for controlling expenditures against the council approved departmental budget.
- (6) *Annual report.* With the assistance and advice of the director of recreation, the commission shall prepare a report for inclusion in the annual town report outlining the important facts concerning its recreational programs during the preceding year.

(Ord. of 2-25-85(1), § 3; Ord. of 11-17-97)

**Cross References:** Parks and recreation regulations, § 14-121 et seq.

**Secs. 2-104--2-115. Reserved.**

#### **DIVISION 4.**

### **EMERGENCY MANAGEMENT AGENCY\***

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\* **Editors Note:** An ordinance adopted by town council on July 10, 2006, effective Aug. 9, 2006 was not specifically amendatory of the Code and has been included as art. III, div. 4, §§ 2-116--2-131, at the discretion of the editor.

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#### **Sec. 2-116. Purpose.**

It is the intent and purpose of this division to establish an emergency management agency in compliance and in conformity with the provisions of Title 37-B, MRSA, Section 781 et seq., to ensure the complete and efficient utilization of the town's facilities and resources to combat disaster as defined herein.

(Ord. of 8-9-06)

#### **Sec. 2-117. Definitions.**

The following definitions shall apply in the interpretation of this division:

*Director.* "Director" means the director of the Town of Brunswick Emergency Management Agency, appointed as prescribed in this division.

*Disaster.* "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

*Emergency management agency.* "Emergency management agency" means the agency created under this ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, in order to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, public warning and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

*Emergency management agency forces.* "Emergency management agency forces" shall mean the employees, equipment and facilities of all town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained

from volunteer persons or agencies.  
(Ord. of 8-9-06)

**Sec. 2-118. Organization.**

The director shall be responsible for the agency's organization, administration and operation. The director may employ such permanent or temporary employees as he or she deems necessary and prescribe their duties.

The director shall review the existing operational organization to ascertain the agency's ability to cope with its responsibilities and shall prepare the Town's Emergency Operations Plan, which shall be approved, with or without amendments, by the town council.  
(Ord. of 8-9-06)

**Sec. 2-119. Appointment of director; duties and responsibilities.**

The town council shall appoint a director, who shall be supervised and controlled by the town manager, and who shall coordinate the activities of all town departments, organizations and agencies for civil emergency preparedness within the town and maintain a liaison with other emergency management agencies, public safety agencies, and have such additional duties as prescribed by the town manager.  
(Ord. of 8-9-06)

**Sec. 2-120. Rules and regulations.**

The director shall prepare such policies as may be deemed necessary for the administration and operational requirements of the agency, which policies must be approved by the town council prior to becoming effective.  
(Ord. of 8-9-06)

**Sec. 2-121. Emergency proclamation.**

The town manager shall have the power and authority, after consultation with the chairperson of the town council or, in the chairperson's absence, the vice chairperson of the town council, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the town manager is temporarily absent from the town or otherwise unavailable, the person designated by the town manager under Section 305 of the Town Charter may issue the proclamation that an emergency exists. If neither the town manager nor the person designated to act in the town manager's absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: The director, the fire chief, the police chief, and the public works director. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the town clerk. Also within twenty-four (24) hours, a special or emergency meeting of the town council shall be called to consider the proclamation, which meeting must be held within forty-eight (48) hours.

Notwithstanding the above, when consultation with the chairperson of the town council would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the town

manager, or his successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the town.

The town manager and the director shall be responsible for submitting a full report to the town council of all actions taken as a result of the declared emergency as soon as the town council can be convened.  
(Ord. of 8-9-06)

**Sec. 2-122. Termination of emergency.**

When the town manager or his successor as outlined above is satisfied that a disaster or civil emergency no longer exists, he or she shall terminate the emergency proclamation by another proclamation affecting the sections of the town covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the town clerk.

No state of emergency may continue for longer than five (5) days unless renewed by the town council.  
(Ord. of 8-9-06)

**Sec. 2-123. Town manager's duties and emergency powers.**

During any period when an emergency proclamation is in effect, the town manager, with advice from the director, may promulgate such regulations as he or she deems necessary to protect life and property and to preserve critical resources within the purposes of this division. Such regulations may, to the extent permitted by law, include, but are not limited to, the following:

- (1) Regulations prohibiting or restricting the movement of vehicles in areas within or without the town;
- (2) Regulations facilitating or restricting the movement of persons within the town;
- (3) Regulations pertaining to the movement of persons from hazardous areas within the town;
- (4) Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by state statute, town ordinance or the Charter of the Town of Brunswick.

The town manager or his or her designee, with advice from the director, may order the evacuation of persons from hazardous areas within the town.

The town manager or his or her designee, with advice from the director, shall be authorized to request aid or assistance from the state or any political subdivision of the state and may render assistance to other political subdivision under the provisions of Title 37-B, M.R.S.A.

The town manager or his or her designee, with advice from the director, may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property during an

emergency without following normal purchasing or formal bid procedures.

The provisions of this section will terminate at the end of the declared emergency.  
(Ord. of 8-9-06)

**Sec. 2-124. Emergency operations plan.**

The director shall prepare an all hazard Emergency Operations Plan (EOP) for the town, which shall include appropriate mutual aid agreements as set forth in Title 37-B, Section 784, and which shall be submitted to the town council for approval. The EOP shall incorporate the principals of the National Emergency Management System (NIMS) and the Incident Command System (ICS).

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The town plan shall be reviewed periodically by the town manager in conjunction with all the town department heads and the director.  
(Ord. of 8-9-06)

**Sec. 2-125. Immunity from liability.**

All emergency management agency forces, while engaged in emergency management agency activities, shall be immune from liability, as set forth in Title 37-B, Section 822 M.R.S.A.  
(Ord. of 8-9-06)

**Sec. 2-126. Compensation for injuries.**

All emergency management agency forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.  
(Ord. of 8-9-06)

**Sec. 2-127. Violation of regulations.**

It shall be unlawful for any person to violate any provisions of this division or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any emergency management agency forces as herein defined in the enforcement of the provisions of this division or any regulation or plan issued hereunder.  
(Ord. of 8-9-06)

**Sec. 2-128. Enforcement.**

The Brunswick Police Department shall enforce this division. The town may also seek injunctive relief for violations of this division or of the rules or plans promulgated hereunder.  
(Ord. of 8-9-06)

**Sec. 2-129. Penalty.**

Any person, firm or corporation violating any provision of this division or any rule or regulation promulgated hereunder, upon adjudication thereof, shall be punished by a civil penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and shall be liable for costs and attorneys' fees.

(Ord. of 8-9-06)

**Sec. 2-130. Severability.**

Should any provisions of this division be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this division as a whole, it being the legislative intent that the provisions of this division shall be severable and remain valid notwithstanding such declaration.

(Ord. of 8-9-06)

**Sec. 2-131. Conflicting ordinances, orders, rules and regulations suspended.**

At all times when an emergency proclamation is in effect, the orders, rules and regulations made and promulgated pursuant to this division shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.

(Ord. of 8-9-06)