Draft Zoning Ordinance for Planning Board Review

Executive Summary

The Town of Brunswick, Maine

Clarion Associates and the Brunswick Zoning Ordinance Rewrite Committee

June 2016

Table of Contents

PART 1. PROJECT OVERVIEW 4

Background 4

Project Overview 4

Assessment of the Current Zoning Ordinance 6

PART 2. ANNOTATED OUTLINE AND HIGHLIGHTS OF ORDINANCE CHANGES 8

Chapter 1 – General Provisions 9

1.1 Title, Scope, and Authority 9
1.2 Purposes 9
1.3 Planning Areas 9
1.4 Zoning District and Map 9
1.5 Nonconformities 9
1.6 Definitions and Rules of Construction 10

Chapter 2 – Zoning Districts 10

2.1 Summary Table 10
2.2 Growth Area Base Zone Districts 13
2.3 Rural Area Base Zone Districts 13
2.4 Overlay Zone Districts 13

Chapter 3 – Property Use Standards 13

3.1 General 14
3.2 Growth Area Permitted Use Table 14
3.3 Rural Area Permitted Use Table 14
3.4 Supplementary Use Standards 15

Chapter 4 – Property Development Standards 15

4.2 Dimensional Standards 15
4.3 Natural and Historic Resources 16
4.4 Flood Hazard Areas 17
4.5 Basic and Municipal Services 17
4.6 Landscaping Requirements 17
4.7 Residential Recreation Requirements 17
4.8 Circulation and Access 17
4.9 Parking and Loading 18
4.10 Outdoor Lighting 19
4.11 Architectural Compatibility Standards 19
4.12 Neighborhood Protection Standards 19
4.13 Signs 19
4.14 Performance Standards 19
4.15 Site Feature Maintenance 20
4.16 Financial and Technical Capacity 20
4.17 Administrative Adjustments / Alternative Compliance 20

Chapter 5 – Administration **20**
5.1 General Provisions 20
5.2 Specific Procedures 21
5.3 Violations, Enforcement and Penalties 23
Appendices **23**

Part 1. OVERVIEW

Background

The Town of Brunswick is located on the scenic Maine coast just 30 miles north of Portland. Known for its picturesque views, small-town character, beautiful river and waterfronts, and excellent college, Brunswick has long been popular with long-term residents, tourists, and college students.

Under Maine law, Brunswick is required to complete periodic planning for both the rural areas and the growth areas of the Town, and it has done so. Although the most recent update to the Brunswick Comprehensive Plan was adopted in 2008, the Town's 1997 Zoning Ordinance was not updated to reflect the new Comprehensive Plan. During the intervening years, the Town gained a major new redevelopment opportunity with the closure of Brunswick Naval Air Station and the completion of a separate planning process for the Brunswick Landing area. Although the Town adopted new land use controls for Brunswick Landing, those zoning regulations were not integrated with the remainder of the Zoning Ordinance.

Project Overview

In the fall of 2013, the Town of Brunswick retained Clarion Associates to prepare a rewrite of the Brunswick Zoning Ordinance that will:

- Reflect the planning directions established in both the Comprehensive Plan and the Brunswick Landing planning process.
- Make the document more user-friendly for Town residents, potential investors, and other ordinance users;
- Simplify the structure of zone districts and uses;
- Better integrate the zoning controls for Brunswick Landing with those for the rest of the Town;
- Include best zoning practices that have emerged since the 1997 Zoning Ordinance was drafted; and
- Ensure that the ordinance complies with Maine law.

The Town established a Zoning Ordinance Rewrite Committee (ZORC) to guide the rewrite process. The ZORCs membership includes three members of the Brunswick Planning Board (Charlie Frizzle, Chair, Margaret Wilson, Vice-Chair, and Richard Visser, member) and three Town staff involved in planning and

zoning administration (Anna Breinich, FAICP, Director of Planning and Development, Jared Woolston, Town Planner, and Jeffrey Hutchinson, Codes Enforcement Officer).

Since its inception the ZORC has held well over 100 televised public work sessions, and public forums in addition to meeting with various stakeholder groups. All materials discussed at the work sessions were posted on the Town's website prior to each session. A Facebook page was also established for public dissemination on a limited basis. To date, staff has received written public comment in excess of 100 emails/letters.

Generally, the process in developing the draft Zoning Ordinance was accomplished as follows:

Ordinance Review, Analysis and Direction

Clarion Associates staff reviewed the adopted plans and current Zoning Ordinance, as well as preliminary drafts of revised Zoning Ordinance chapters prepared by the Planning Board over the past several years. In December, 2013, Clarion staff visited Brunswick to meet with the ZORC, stakeholders, and citizens and to hold a public educational session and public input meeting. Town staff conducted additional public input sessions later in December. Following this first round of input sessions, Clarion staff prepared a detailed outline of the revised Zoning Ordinance structure – including initial recommendations for changes which was presented and disseminated in January 2014 for public review and comment. The ZORC approved outline served as the outline for the draft zoning ordinance.

Staff Review Draft of Zoning Ordinance

Clarion Associates staff prepared and presented a Staff Draft of the draft Brunswick Zoning Ordinance in the spring of, 2014, to Brunswick staff, the Rewrite Committee, and Planning Board and conducted additional stakeholder interviews. Initial discussions were held with Town staff and the Rewrite Committee regarding potential zoning map changes.

Zoning Ordinance Public Draft #1

The first Public Draft of the Brunswick Zoning Ordinance was prepared and posted on the Town's web site in July 2014. Changes to the current ordinance were footnoted throughout the document. Clarion and Town staff presented the first Public Draft and Zoning Map at a public meeting as well to other stakeholder groups.

Zoning Ordinance Public Draft #2

Based on input received, a second Public Draft Zoning Ordinance was prepared by Clarion and Town staff and posted on the Town's web site in July 2015. Changes to the current ordinance as well as first draft revisions were footnoted throughout the document. Additional public meetings and review work sessions were held by the Zoning Ordinance Rewrite Committee through June 2016.

Zoning Ordinance Planning Board Review Draft

After extensive review and revision by Town Staff and the Zoning Ordinance Rewrite Committee during public work sessions a draft ordinance and map for Planning Board review was presented to the Planning Board on June 14, 2016, excluding revisions related to Stormwater Management, Shoreland

Protection Overlay Zone and Signs. ZORC will continue to hold public work sessions over the next two months to complete these revised ordinance sections and provide to the Planning Board.

A 2-3 month review period by the Planning Board is anticipated with up to three public forums being held and other stakeholder meetings as needed, ending with a public meeting and hearing of the Planning Board Draft as revised. The Planning Board will then make their recommendation regarding the draft ordinance to Town Council.

Town Council Zoning Ordinance Review/Adoption

The Town Council will conduct a review of the Planning Board recommended draft Zoning Ordinance and may hold additional public forums or stakeholder meetings. The Town Council will then hold a public hearing and consider ordinance adoption.

Comments from the public, stakeholders, or other interested parties continue to be accepted and should be directed to Anna Breinich, Director of Planning and Development at abreinich@brunswickme.org.

Assessment of the 1997 Brunswick Zoning Ordinance

Background

Clarion Associates first conducted an overall assessment of the 1997 Brunswick Zoning Ordinance. Their report was as follows:

The current Brunswick Zoning Ordinance dates from 1997 and had been amended numerous times. In general, these amendments made the ordinance longer, more complex, and more difficult to use. More specifically:

- The number of base zoning districts – 45 – is fairly high for a Town this size. There appears to have been an attempt to draft individual zone districts for each neighborhood, street, or portion of a street. But a proliferation of zone districts makes it difficult to apply regulations on parking, landscaping, signage, and other quality measures consistently (as well as leading to significant repetition and often internal inconsistencies in the ordinance).

- Some of the topics addressed through overlay districts – for example medical uses and telecommunications devices – are normally addressed through Special Permits rather than separate zoning districts. Proliferation of overlay zone districts also creates problems, because when more than one overlay is involved it becomes difficult to determine which of the varying overlay provisions trump other (potentially inconsistent) provisions.

- Like many older ordinances, almost all of the regulations focus more on what uses are allowed in each district than on the form of development and how well it fits in with its neighbors. Most new ordinances allow more flexibility in uses while including more detailed controls on building form – particularly in downtown and commercial areas.

- Although Maine state law requires a clear distinction in planning and regulating conservation and growth areas, the distinction between the districts applicable to each of those areas is not very clear in the Zoning Ordinance.

- The structure of the ordinance is quite outdated. Originally, it attempted to outline the permitted uses and basic dimensional standards (lot size, building height, setbacks, etc.) separately in each district. Most other types of controls were grouped in Chapter 3 (Specific Dimensional and Use Provisions), which became the "catchall" chapter for substantive controls other than uses and dimensions. As newer and more complex districts were added, this approach became confusing, and regulations addressing similar topics became widely separated.

- There is significant overlap and potential inconsistency between the Specific Dimensional and Use Provisions in Chapter 3 and the Development Review Plan Standards in Chapter 5.

- Provisions for administration of the Zoning Ordinance (i.e., who needs a permit or approval? who grants the permit or approval? and on what terms?) are scattered in Chapters 4, 5, and 7. Most modern zoning ordinances group them together, so that all questions regarding procedures and enforcement can be found in a single chapter.

Current Zoning Ordinance Structure

1. General Provisions

2. Zoning Districts and Overlay Zones

3. Specific Dimensional & Use Provisions

4. Development Review

5. Development Review Plan Standards

6. Sign Regulations

7. Administration and Enforcement

Appendices

1. Planning Areas

2. Street Standards

3. BNAS Reuse District

4. BNAS Conservation District

5. College Use/Town Conservation District

6. Contributing Historic Structures

- The ordinance contains almost no graphics, tables, illustrations, or flowcharts to convey information visually – even though many of the included standards lend themselves to visual communication.

During the initial public process, specific comments about what should and should not be changed in the Zoning Ordinance rewrite were received before, during and after the many public and stakeholder meetings in December 2013 and those that followed. Those comments were integrated into the rewrite work. Since that time, the televised ZORC public working review sessions have been an interactive process with attendees.

Part 2. Annotated Outline and Highlights of Zoning Ordinance Changes

Based on Clarion Associates' assessment of the current Brunswick Zoning Ordinance and comments received during the rewrite process, the following Zoning Ordinance outline was suggested and approved by the Zoning Ordinance Rewrite Committee. Highlights of significant ordinance changes are provided by Chapter and Section of the proposed Zoning Ordinance.

Current Structure (1997 Zoning Ordinance)	Proposed New Structure (Public Draft #2)
1 – General Provisions • Title, Scope, Authority, Purposes • Planning Areas • Zoning Districts and Map • Rules of Ordinance Structure • Nuisance • Miscellaneous • Definitions	**1 – General Provisions** • Title, Scope, Authority, Purposes • Planning Areas • Zoning Districts and Map • Lots in Two Zone Districts • Nonconformities • Definitions and Rules of Construction
2 – Zoning Districts and Overlay Zones • Base Districts • Overlay Districts	**2 -- Zoning Districts** • Growth Area Base Districts • Rural Area Base Districts • Overlay Districts **3 – Property Use Regulations** • Growth Districts Use Table • Rural Districts Use Table • Supplementary Use Standards
3 – Specific Dimensional and Use Provisions • Density • Mixed Use and Unit Ownership • Lots in Two Zone Districts • Nonconformity • Supplementary Dimensional Regulations and Administrative Exceptions • Supplementary Use Regulations • Conventional Subdivision • Open Space Developments • Development Proposals for 2+ Lots • Affordable Housing Developments	**4 – Property Development Standards** • Applicability of Property Development Standards • Dimensional Standards • Supplementary Dimensional and Density Standards and Exceptions • Natural and Historic Resources • Flood Hazard Areas • Basic and Municipal Services • Landscaping Requirements • Residential Recreation Requirements • Circulation and Access • Parking and Loading • Lighting • Architectural Compatibility • Neighborhood Protection Standards • Signs • Performance Standards • Site Feature Maintenance • Financial and Technical Capacity • Administrative Adjustments and Alternative Equivalent Compliance

Current Structure (1997 Zoning Ordinance)	Proposed New Structure (Public Draft #2)
4 – Development Review **5 – Development Review Plan Standards** **6 – Sign Standards** **7 – Administration and Enforcement**	**5 – Administration** • General Provisions • Specific Procedures • Violations, Enforcement and Penalties
Appendices	**Appendices**
Appendix 1 – Planning Areas Appendix 2 – Street Standards Appendix 3 – BNAS Reuse District Appendix 4 – BNAS Conservation District Appendix 5 – College Use/Town Conservation Appendix 6 – Contributing Structures	Appendix A – Planning Areas Appendix B – Street Standards Appendix C – Contributing Historic Structures Appendix D – Summary of Application Requirements Appendix E – Glossary of Acronyms Used Appendix F – Residential Recreation Impact Fee Methodology Appendix G – BNAS Soils and Groundwater Management Maps and US Navy Land Use Controls Implementation Plan

This restructuring of the draft Zoning Ordinance, and substantive changes proposed for each section, are highlighted below.

Chapter 1 – General Provisions

1.1 Title, Scope, and Authority

No substantive changes proposed to Sections 101, 102, or 103 of the 1997 Zoning Ordinance.

1.2 Purposes

The text of current Section 104 is revised to reflect the goals and objectives of the 2008 Comprehensive Plan and the Brunswick Naval Air Station Reuse Master Plan (Brunswick Landing).

1.3 Planning Areas

Revised to reflect new planning areas established by the 2008 Comprehensive Plan.

1.4 Zoning District and Map

The text of current Section 106 is revised to reflect the new classification/organization of zoning districts and to integrate regulations from current Section 302 (Mixed Uses and Unit Ownership) and Section 303 (Lots in Two Zoning Districts).

1.5 Nonconformities

Nonconformity regulations from current Chapter 3 have been relocated here, as well as from Section 210.9 (Nonconformities in the APZ district). The complete rewrite specifically addresses standards that

were not adequately detailed in the current ordinance to now allow for easier interpretation by landowners and the Code Enforcement Officer.

In line with emerging best practices, the text was revised to provide that any structures, uses, or lots made nonconforming by an amendment to the Zoning Ordinance or other government action, and that do not create threats to public health or safety, may be expanded, restarted, or rebuilt either the same as conforming properties or, if having greater neighborhood impact, through Special Permit. Traditional rules preventing expansion, restarting, or rebuilding nonconforming uses or structures apply only to those nonconformities that create risks to public health or safety.

Nonconformity regulations affecting properties within the Shoreland Protection Overlay District (current Natural Resource Protection Zone) have been updated in accordance with amendments to 38 M.R.S.A., §§ 435-449 (Maine Mandatory Shoreland Zoning Act).

1.6 Definitions and Rules of Construction

Materials from Chapter 1 on Rules of Ordinance Structure and Definitions are consolidated here. All definitions scattered throughout the current ordinance are now integrated into this section. In addition, a definition for each permitted use listed in new Chapter 3 (Property Use Regulations) is included. A significant number of new definitions to provide consistency in interpretation and enforcement have been added. Where applicable, definitions contained in Maine laws are included.

Chapter 2 – Zoning Districts

This is a major area of change in the draft Brunswick Zoning Ordinance, and reflects a shorter and more flexible menu of zoning districts. Instead of including the permitted, special, and prohibited uses and dimensional standards for each zoning district sequentially (and repetitively), this Chapter only lists each district, its purposes and relationship to Growth and Rural planning areas, and any regulations unique to that zoning district. A listing of permitted, conditional, and prohibited uses for each district and supplementary standards as applicable appears in new Chapter 3 (Property Use Standards), and regulations on dimensional and density standards appear in Chapter 4 (Property Development Standards). Chapter 2 is divided into sections for Growth Districts, Rural Districts, and Overlay Districts (distinctions that are unclear in the current ordinance) as shown in the table below. The summary table, labeled 2.1) links the current with proposed zoning districts, in which:

- Those zones that permit both residential and non-residential development are designated as "mixed use" districts.
- All districts designed for the Growth Area begin with a "G", all districts designed for application in the Rural Area begin with an "R", and all overlay zone districts end in an "O" for "overlay".

Table 2.1: Summary Table of Zoning Districts

Old Zoning Districts		New Zoning Districts	
Growth Area Zoning Districts			
Growth Residential Districts			
R-R	BNAS Reuse - Residential	GR1	Growth Residential 1
R1	Residential Extended Neighborhood-1 (Longfellow)	GR2	Growth Residential 2
R2	Residential Extended Neighborhood-2 (Meadowbrook-	GR3	Growth Residential 3

Table 2.1: Summary Table of Zoning Districts			
Old Zoning Districts			**New Zoning Districts**
	Parkview)		
R3	Residential Extended Neighborhood-3 (Maquoit Rd.)	GR4	Growth Residential 4
R4	Residential Extended Neighborhood-4 (Meredith Dr.-West McKeen St.)		
R5	Residential Extended Neighborhood-5 (River Rd.)		
R6	Residential Extended Neighborhood-6 (Cooks Corner)		
CR2	Country Residential 2 (Old Bath Road Area In Growth Area)		
R7	Residential Extended Neighborhood-7 (McClellan-Garrison)	GR5	Growth Residential 5
TR1	Intown Residential Neighborhood 1 (Inner Pleasant St.)	GR6	Growth Residential 6
TR2	Intown Residential Neighborhood 2 (Federal St.)	GR7	Growth Residential 7
TR3	Intown Residential Neighborhood 3 (Water St.)	GR8	Growth Residential 8
TR4	Intown Residential Neighborhood 4 (Jordan Acres)		
TR5	Intown Residential Neighborhood 5 (Columbia Ave.-Spring St.)	GR9	Growth Residential 9
R-8	Residential Extended Neighborhood-8 (College Park)	GR10	Growth Residential 10
Growth Mixed Use Districts			
MU2	Mixed Use 2 (Intown Railroad Corridor)	GM1	Growth Mixed-Use 1
MU3	Mixed Use 3 (Upper Harpswell Rd.)	GM2	Growth Mixed-Use 2
MU6	Mixed Use 6 (Lower Harpswell Rd.)		
MU4	Mixed Use 4 (Fox Run)	GM3	Growth Mixed-Use 3
I1	Large Scale Business, Industrial, & Institutional 1 (Industry Rd. Industrial Park)		
I4	Large Scale Business, Industrial, & Institutional 4 (Exit 28)		
CC	Commercial (Cooks Corner Center)	GM4	Growth Mixed-Use 4
MU1	Lower Old Bath Road Area		
HC1	Highway Commercial 1 (Outer Pleasant St.)	GM5	Growth Mixed-Use 5
HC2	Highway Commercial 2 (Inner Bath Rd.)		
TC1	Town Center 1 (Maine Street)	GM6	Growth Mixed-Use 6
TC2	Town Center 2 (Fort Andross)		
TC3	Town Center 3 (Lower Park Row)		
R-CMU	BNAS Reuse - Community Mixed Use	GM7	Growth Mixed-Use 7
MUOZ	Medical Use Overlay Zone	GM8	Growth Mixed-Use 8
Growth Special Purpose Districts			
CU1	College Use 1 (Campus Center)	GC1	Growth College 1
CU2	College Use 2 (Pickard Field)		
CU3	College Use 3 (College St.)		
CU5	College Use 5 (Brunswick Apts.)	GC2	Growth College 2
CU6	College Use 6 (Cleaveland St.-Bath Rd.)		
CU4	College Use 4 (Bowdoin Pines)	GC3	Growth College 3
CU7	College Use 7 (Longfellow)		
CU/TC	College Use/Town Conservation (former West Side BNAS)	GC4	Growth College 4
R-AR	BNAS Reuse – Aviation Related	GA	Growth Aviation
I2	Large Scale Business, Industrial, & Institutional 2 (Church Rd. Ind. Park)	GI	Growth Industrial
I3	Large Scale Business, Industrial, & Institutional 3 (E. Bath Rd.-Harding Plant Area)		
R-B&TI	BNAS Reuse – Business and Technology Industries		
R-R&OS	BNAS Reuse – Recreation and Open Space	GO	Growth Outdoor Recreation
BCN	BNAS Conservation (growth area part)	GN	Growth Natural Resources
R-PO	BNAS Reuse – Professional Office		Combined earlier with RCMU

Table 2.1: Summary Table of Zoning Districts			
Old Zoning Districts		**New Zoning Districts**	
Rural Area Base Districts			
BCN	BNAS Conservation (rural area part)	RN	Rural Natural Resources
FF1	Farm and Forest 1 (Durham-Hacker Rd. Area)	RF	Rural Farm and Forest
CR1	Country Residential 1 (Northwest Brunswick)		
CR2	Country Residential 2 (Old Bath Rd. Area Outside Growth Area)	RR	Rural Residential
MU1	Mixed Use 1 (Lower Old Bath Rd. Area Outside Growth Area)		
CP1	Coastal Protection 1 (Mere Point Area)	RP1	Rural Protection 1
FF3	Farm and Forest 3 (New Meadows River Area)		
CP2	Coastal Protection 2 (Raymond Rd. Area)	RP2	Rural Protection 2
MU5	Mixed Use 5 (Portland Rd. Area)	RM	Rural Mixed Use
Overlay Zoning Districts			
APZ1	Aquifer Protection Zone 1	APO1	Aquifer Protection 1
APZ2	Aquifer Protection Zone 2	APO2	Aquifer Protection 2
APZ3	Aquifer Protection Zone 3	APO3	Aquifer Protection 3
NRPZ	Natural Resource Protection Zone (Shoreland Area)	SPO	Shoreland Protection Overlay
NRPZ	Natural Resource Protection Zone (Special Flood Hazard Area)	FPO	Flood Protection Overlay
RBSGO	Rural Brunswick Smart Growth Overlay – Wildlife Habitat Block	WPO	Wildlife Protection Overlay
RBSGO	Rural Brunswick Smart Growth Overlay – Wildlife Corridor		
MHZ	Mobile Home Park Zone	MHO	Mobile Home Park Overlay
FPZ1	BNAS Flight Path Zone 1 (Clear Zone)	AAO	Airport Approach Overlay
FPZ2	BNAS Flight Path Zone 2 (Noise/Accident Zone)		
TCZ1	Telecommunication Zone 1	TCO	Telecom Overlay
TCZ2	Telecommunication Zone 2		
VRZ	Village Review Zone	VRO	Village Review Overlay

The proposed zone district consolidations were accomplished using the following principles:

- When two or more districts are currently identical or almost identical, they are consolidated.
- Zoning districts that apply to a very small area of land are generally consolidated, with use or location-specific controls to prevent the potential impacts that led to the creation of the current small district.
- When two or more districts have almost identical uses, but differing dimensional and density standards, they are consolidated. Dimensional and density standards are generally adjusted to current conditions and/or guidance provided within the 2008 Comprehensive Plan.
- When two or more districts have similar dimensional and density standards but slightly differing permitted or special uses, the districts are consolidated and the uses generally permitted subject to standards to prevent adverse impacts on adjacent properties.
- Where two or more districts differ only because a few uses are permitted or permitted as special permit uses, and the reason for allowing those uses was to avoid creating nonconformities, the districts are consolidated and the nonconformities section revised to consider them as conforming development (e.g. Fort Andross).

Highlighted district consolidations include those affecting the current College Use Districts, Farm and Forest 3 (New Meadows area) with Coastal Protection 1 with lot size exemptions for existing properties

built in, and Highway Commercial HC1 with HC2. In addition, the former BNAS lands are now with the same zoning districts used throughout Brunswick.

A detailed comparison of land uses and dimensional/density standards between current and proposed zoning districts is available.

2.2 Growth Area Base Zoning Districts

This section contains a list of the new Growth Area Base Zoning Districts listed in the table above, as well as a purpose statement for that district.

2.3 Rural Area Base Zoning Districts

This section contains a list of the new Rural Area Base Zoning Districts listed in the table above, as well as a purpose statement for that district.

2.4 Overlay Zoning Districts

This section contains the specific standards for each Overlay Zoning District as listed in the previous table. Highlighted revisions are as follows:

- A solar energy collection facility is now a permitted use in all Aquifer Protection Overlay Districts.
- Shoreland Protection Overlay District is under additional revision for compliance with 38 M.R.S.A., §§ 435-449 (Maine Mandatory Shoreland Zoning Act).
- Wildlife Protection Overlay: (1) Now only exempts maintenance of agricultural clearings and consider "enlargements" as new development. (2) The burden of documenting and calculating all disturbances to the original parcel since 4/5/06 shall be on the applicant.
- The Airport Approach Overlay (text and mapping) is adjusted to accommodate a general aviation airport.
- The Telecommunications Overlay: (1) Reflects new federal regulations and case law regarding "eligible facilities" as defined in the Telecommunications Act and Middle Class Tax relief and Job Creation Act (2012), as amended and interpreted by the federal courts. (2) Removes annual tower inspection requirement as no other use is required to be annually inspected.

Chapter 3 – Property Use Standards

As noted above, this chapter consolidates tables listing updated permitted, conditional, and prohibited uses in each of the zoning districts listed in Chapter 2. Existing tables contained in the current zoning ordinance, as well as those contained in current BNAS Districts in Appendices III, IV and V, are reorganized into two tables – one for the Growth Area Base Zoning Districts, and one for the Rural Area Base Zoning Districts. In addition, supplementary standards attached to specific uses are integrated into this chapter.

Broader land use categories have been developed where development impacts are same or similar. For example, professional office, medical office, business office and college office are now included in the definition of the use "office." The current ordinance lists "florist" separately from other retail uses, while most communities would not list it separately. Similarly, the current ordinance lists "media studio" separately from "photographer/artist studio", but most zoning ordinances would include them in a more general "studio" use. The permitted use listing originally applicable only to the Brunswick Landing area has been integrated. Each change from the current use table was footnoted in Drafts 1 and 2 of the proposed zoning ordinance available online.

The consolidated tables were extensively reviewed by the Zoning Ordinance Rewrite Committee for internal consistency (for example, the unintentional exclusion of a use from very similar districts, or the inadvertent inclusion of a use that does not fit the character of the district). It should also be noted that special permit uses are now limited to only those uses either omitted or unclassified in the zoning ordinance (as is currently specified in the 1997 Zoning Ordinance but never handled as such) and conditional uses are now those that require additional standards to be satisfied prior to permitting the use within a neighborhood.

Finally, the lists of permitted uses in the current ordinance mix together "primary ", "accessory" and "temporary" uses of property, which can create confusion for both property owners and neighbors. An accessory use is one that is permitted as a "secondary and subordinate" use provided that there is another approved primary use of the property (for example, a car repairs being permitted as part of a car dealership in a district where a car repair shop would not be permitted by itself). The use table now clearly defines and distinguishes between those three categories of uses.

3.1 General

This section explains the structure of the permitted use table and how to use it. It also includes general restrictions on permitted uses, including compliance with all existing covenants and deed restrictions in conveyance documents issued by the US Navy, in addition to compliance with the Land Use Controls Implementation Plan to be adopted by the US Navy.

3.2 Growth Area Permitted Use Table

This section includes the permitted use table for the Growth Area zoning districts, including a column for Supplementary Use Standards, as shown in Section 3.2 of the draft zoning ordinance.

Based on input received through public forums, ZORC work sessions and staff experiences with applicants, recommendations were made to update and expand use categories including, but not limited to: allowing for artisan manufacturing/food uses in the downtown area, adding renewable energy generating uses, urban agriculture, farmer's markets, park or conservation areas and aquaculture.

3.3 Rural Area Permitted Use Table

This section includes a similar table for the Rural Area Base Zoning Districts (Section 3.3).

3.4 Supplementary Use Standards

This section includes Supplementary Use Standards cross-referenced in the right-hand column of the two permitted use tables in the preceding sections. It includes new and/or updated and refined regulations currently contained in Sections 306 (Supplementary Use Regulations) and 307 (Supplementary Use Regulations) of the 1997 Zoning Ordinance, but reorganized. New standards are provided for (1) Principal Uses subsection which now contains current College Use use-related additional requirements contained in Section 204.3 of the 1997 Zoning Ordinance; (2) urban agriculture; (3) Canopies for Motor Vehicle Fueling Stations and Other Drive-Through Uses; (4) Industry 1 and 2 in the proposed GM3 Zoning District; (5) Marine Activity; (6) Renewable Energy Generating Facility (PLEASE NOTE: Solar Energy Collection Facilities subsection is under further revision to regulate based on size of facility versus whether primary or accessory use.); (7) Accessory Apartments (expanded to permit with commercial use); (8) Home Occupations; (9) Outdoor Sales and Outdoor Storage; and (10) Current Coastal Protection 1 and 2 standards regarding the use of fertilizers and pesticides will be more appropriately placed in the Brunswick Code of Ordinances. A number of other standards have been revised or updated as needed.

Chapter 4 – Property Development Standards

This new chapter contains most of the substantive content of the Brunswick Zoning Ordinance relating to permitted structures and development in each zone district (rather than the uses occurring on the property). It incorporates many of the standards located in current Chapters 3, 4 and 5 and are newly applicable to single and two-family dwellings as indicated in proposed Section 4.

4.2 Dimensional and Density Standards

4.2.3 Growth Area Dimensional and Density Standards

This section includes a dimensional and density table consolidating zoning district standards for lot size, required setbacks, lot frontage, building footprint, building height, impervious coverage and density currently contained in each of the Growth Area Base Zoning District chapters and the BNAS Reuse District and CU/TC District appendices. In the case of the new GM6 district (consolidating the current TC districts) new standards addressing maximum building setbacks and minimum building height are included. Where applicable, regulations from current Section 305 (Supplementary Dimensional Standards and Administrative Exceptions) are also incorporated in the table.

A significant revision to highlight is the elimination of minimum lot size throughout the growth area in order to provide the flexibility needed to obtain maximum density standards when developing single-family dwellings. Lot area is now established based on satisfying all other dimensional and density standards.

Maximum district densities are increased within what are currently R1-R5; R8; TR2-5; CU 2, 3 and 6; MU2 and 3; and HC1 and 2.

Tables comparing current and proposed dimensional and density standards are available by zoning district.

4.2.4 Rural Area Dimensional Standards

This section includes a dimensional and density table consolidating zoning district standards for lot size, required setbacks, building height, and density with minimal changes from current standards contained in each of the Rural Area Base Zone District chapters and the BNAS Conservation District appendices. Where applicable, regulations from current Section 305 (Supplementary Dimensional Standards and Administrative Exceptions) are incorporated in the table.

4.2.5 Supplementary Dimensional and Density Standards and Exceptions

Highlighted revisions to Supplementary Dimensional and Density Standards include: (1) a refined Net Site Area Calculation standard; (2) allowances for setback reductions and encroachments; (3) setback and height requirements for Growth College 1 and 2 Districts, as presently existing in current Section 204.3 (College Use Districts – Additional Requirements); (4) increase in maximum building footprint within the GM4 (Cooks Corner) Zoning District to reflect current development patterns; (5) specific acceptance criteria for open space/conservation lands, including limiting density bonuses only for conservation of otherwise developable land; (6) updated affordable housing standards consistent with HUD criteria; and (7) one subsection addressing all density bonuses instead of interspersed through the ordinance.

4.3 Natural and Historic Resources

Sections 4.3 through 4.16 serve as development review criteria (General and Specific Standards) and the basis for findings of fact. As noted previously, in some instances these property development requirements apply to new construction (single and two-family dwellings) not triggering development review. As presented, each section is consistent with Maine Subdivision Law.

4.3.1 Natural and Historic Areas

This section includes standards for mapping; pollution; protection of natural vegetation; protection of significant plant and animal habitat; steep slopes; erosion and sedimentation control; groundwater; surface waters, wetlands and marine resources; and historic and archeological resources. Generally these standards were first developed by staff and Planning Board in 2011 and have been revised and updated by the consultant and ZORC to be compatible with the proposed zoning ordinance format.

Highlighted revisions include: (1) a new mapping requirements section based on Maine Subdivision Law; (2) required consultation with Maine Historic Preservation Commission (MHPC) for development sites including or adjacent to known archeological artifacts or resources based on information available to the Town from MHPC; (3) required compliance with the US Navy Land Use Controls Implementation Plan for development within the former BNAS; and (4) the maintenance of existing vegetative buffering of 25 feet along existing roads in Rural Area Zoning Districts and Scenic Areas identified in the Brunswick Parks, Recreation and Open Space Plan is based on current Section 501.1 (Natural Features) and the proposed text for protection of natural vegetative buffers from the Planning Board recommendations for Chapter 5.

4.4 Flood Hazard Areas

This section has been updated as needed. No significant revisions.

4.5 Basic and Municipal Services

4.5.1 Sewage Disposal

This section includes standards for municipal sewer and on-site subsurface wastewater disposal. Requirement accommodation of sea level rise in the design of on-site systems located within the Shoreland Protection Overlay District is included.

4.5.2 Water Supply

This section provides standards for public and private water supply connections and water quality. Highlighted revisions are: (1) statement prohibiting groundwater extraction on the former BNAS lands unless authorized by the US Navy, in accordance with their Land Use Controls Implementation Plan; and (2) that if a reliable water supply for firefighting purposes is not available within one-half mile to a proposed development, the applicant shall be responsible for providing adequate fire protection water supply.

4.5.3 Solid Waste Disposal

No revisions to this section.

4.5.4 Stormwater Management

PLEASE NOTE this subsection is under further revision.

4.6 Landscaping Requirements

This section contains enhanced standards for general site landscaping, street trees, buffers and landscaping for parking lot and entrances. Required maintenance of landscaping is now included.

4.7 Residential Recreation Requirements

This section significantly revises current requirements and bases fees on the number of bedrooms in a dwelling unit and not value of the land. A significant change is the applicability of these standards to all new dwelling units constructed, not just those included in a subdivision or condominium.

4.8 Circulation and Access

4.8.1 Street Standards

Street design and dedication shall now be completed in accordance with the adopted Brunswick Street Acceptance and Standards Ordinance, as amended. Compliance with the Maine Department of Transportation (DOT Complete Streets Policy is required for any new road projects funded in whole or in part by Maine DOT. In addition, street design is required to be based upon multimodal user needs (pedestrian, bicycles, vehicles, and transit).

Street interconnectivity is required but may be waived if community character is negatively impacted. In addition, a connectivity restriction from GC1 and GC2 into adjacent neighborhoods is included as currently stated in the College Use Zoning District Additional Requirements (Section 204.3).

Sidewalk standards are more clearly stated to require sidewalks for all growth area residential developments greater than 25 units, with possible exceptions noted.

4.8.2 Curb Cuts and Street Access

This section is rewritten for clarity with no substantive changes.

4.8.3 Pedestrian and Bicycle Access

This new section requires increased connectivity internal to a development and between neighboring developments.

4.8.4 Access for Persons with Disabilities

This section now includes a historic architecture compatibility requirement for properties located within the Village Review Overlay.

4.8.5 Shoreline Access

This new section includes proposed requirements for preservation of shoreline access.

4.9 Parking and Loading

4.9.1 Minimum and Maximum Automobile Parking Requirements

This section updates and simplifies the provisions of current Sections 512.1 and 512.2, but with revisions to align those requirements with the new list of permitted uses in Chapter 2, with reductions in parking requirements where possible, and with exemptions for small lots and reductions for shared parking, in particular within the GM6 (Town Center) Zoning District. Maximum parking area limits are included for permitted uses that sometimes provide large areas of parking used only once or twice a year in areas where large parking areas reduce walkability.

4.9.2 Minimum Bicycle Parking Requirements

This section replaces the subjective standards of current Section 512.5 with specific bicycle parking standards based on the number of vehicle parking spaces provided.

4.9.3 Design, Construction and Maintenance of Parking Areas

This section now includes minimum dimensional standards for parking spaces and specific standards for rear placement of parking lots within the Village Review Overlay Zone and GM6 (Town Center) District. Perimeter and interior landscaping is also required.

4.9.4 Parking Alternatives

This revised section provides more detailed standards for shared parking, off-site and satellite parking lots.

4.9.5 Minimum Off-Street Loading Requirements

This section provides specific minimum required off-street loading spaces for non-residential development. An exemption for businesses located on smaller lots and/or within existing buildings for the GM6 (Town Center) Zoning District is now provided.

4.10 Outdoor Lighting

This new section replaces subjective review criteria in the current Zoning Ordinance with objective lighting standards designed to minimize uplighting and prevent glare and light trespass onto adjacent properties.

4.11 Architectural Compatibility Standards

This new section applies minimum architectural standards for new or redeveloped structures over 10,000 square feet in total floor area located outside of Brunswick Landing, Village Review Overlay Zone and GM4 (Cooks Corner). New standards address materials, textures and colors, facades, roof shapes and street orientation. Applicable areas include GM8 (former Medical Use Overlay), Bath Road and Outer Pleasant Street.

4.12 Neighborhood Protection Standards

This new section contains standards to protect properties near the boundaries of the new consolidated zoning districts from developments of inappropriate scale or character on adjacent properties. Transitional controls include additional buffering requirements, additional building or parking area setbacks, reduced light pole heights, increased light shielding, and restrictions on layout and orientation of drive-through, circulation, or storage areas.

4.13 Signs

PLEASE NOTE this section is under further revision to comply with federal case law.

4.14 Performance Standards

This section includes the content of current Sections 109 (Nuisances) and 524 (Noise and Dust) addressing noise, particulate matter, smoke, dust, fumes, odors, vibrations, outdoor lighting, outdoor parking of motor vehicles and watercraft restrictions, and the prohibiting of certain demolition, construction, or drilling on stated holidays.

4.15 Site Feature Maintenance

This new section requires that if landscaping and site features required to be installed pursuant to the Zoning Ordinance or as a condition of an approval are damaged or destroyed, they must be maintained or replaced

4.16 Financial and Technical Capacity

This section continues the current requirements for adequate financial capacity and adds a new requirement for technical capacity to meet the standards of the proposed development.

4.17 Administrative Adjustments / Alternative Compliance

This new section lists which development standards can be adjusted administratively, the maximum amount of adjustment permissible, and the criteria to be applied to requests for administrative adjustment. The section also permits applicants to present alternative proposals to some development standards, including landscaping, lighting, circulation, open space, and parking standards.

Chapter 5 – Administration

This final chapter of the Brunswick Zoning Ordinance brings together all materials related to development applications, review, permitting, amendments, and enforcement – materials that are distributed between Chapters 4, 5, and 7 of the current ordinance. It is now the single place where ordinance users can find answers to questions "do I need a permit or approval to do this?", "who will approve the application?", and "what are the criteria that will guide the review and approval of my application?"

5.1 General Provisions

This section provides those standards related to more than one review or approval process, eliminating the need to duplicate for each specific procedure.

5.1.1 Reviewers and Decision-Makers

This new section outlines the various Town entities involved in implementing the Zoning Ordinance and their respective responsibilities, including Town Council, Planning Board, Zoning Board of Appeals, Staff Review Committee, Village Review Board, Director of Planning and Development and Code Enforcement Officer.

5.1.2 Pre-application Meetings

This section clarifies what types of applications are subject to a pre-application meeting requirement.

5.1.3 Applications Required

This section highlights application submission, public notice required and public comment submittal.

5.1.4 Determination of Completeness

This section is revised to provide for determination of completeness to be established at the staff level per the request of the Planning Board.

5.1.5 Fees Required

This section references fees to be submitted at time of application.

5.1.6 Fiscal Capacity and Performance Guarantees

This section now specifies what is acceptable as performance guarantee and procedure to release the guarantee.

5.1.7 Property Owners Associations

This section carries forward the provisions of current Section 522 (Homeowners/Property Owners Associations) requiring that these types of organizations be responsible for management and maintenance of private roads, lands, and facilities, and that entities with the powers to do so be created before development approval.

5.2 Specific Procedures

This section includes review procedures for each type of application or required by the Zoning Ordinance. Earlier revisions completed by the Planning Board were updated and simplified.

5.2.1 Permits

This section clarifies the building permit application process and its relationship to development review, Cooks Corner design review and Village Review Board applications. When a change of use permit is required is also clarified.

5.2.2 Conditional Use Permit

This new section outlines the review procedure and specific criteria for approval for conditional uses. All Conditional Uses will be reviewed and approved by Planning Board.

5.2.3 Special Permits for Unclassified and Omitted Uses

This section newly states that the standards contained in the current Section 701 now only apply to unclassified and omitted uses. As is the current procedure, reviews are conducted by Planning Board and forwarded to Town Council for their decision to exercise jurisdiction should they so desire.

5.2.4 Special Permits for Nonconforming Building Footprint Expansions

This new section provides standards to utilize the Special Permit process for the expansion of a building footprint that is legally nonconforming so long as the expansion satisfies neighborhood protection standards and all other dimensional and density standards.

5.2.5 Flood Hazard Development Permit Requirements

This section carries over the standards of current Section 211.3.

5.2.6 Appeals of Administration Decisions and Variances

This section has been updated to reflect changes in Maine law.

5.2.7 Village Review Overlay Design Review

This section will be reviewed by the Village Review Board in light of their experience with the overlay rewrite adopted in 2013. It is anticipated that the review will start shortly but will not be completed prior to the adoption of the Zoning Ordinance.

5.2.8 Development Review

This section includes standards first drafted by the Planning Board in 2011 and revised as part of the zoning ordinance rewrite process.

New development review thresholds by zoning districts are proposed based on the principle that the more restrictive zoning districts (e.g. Residential Districts) have lower development review thresholds than those less restrictive (e.g. Industrial Districts). Initial reoccupancy of a structure existing at the time of BNAS closure and still vacant continues to be exempt from development review if certain criteria are satisfied. Added to the criteria is the required compliance with all covenants and deed restrictions issued by the US Navy in the conveyance documents, as well as compliance with restrictions contained in the Land Use Controls Implementation Plan adopted by the US Navy.

Procedures for Major and Minor Development Review are outlined and illustrated with no significant changes in process.

A new streamlined development review process, combining Sketch and Final Plan submissions, is included for major development review proposals for lands located within the Growth Area. Preapplication meetings with staff are required as well as complete applications at the time of submittal. Otherwise, the streamlined process request is denied and the major development review process is then followed.

Common Development Plan standards for designation and post-designation are clarified, now allowing for the modification of dimensional standards of the underlying zoning district as part of the designation process. Common Development Plan may now only be requested for the development of multiple buildings on one or more lots.

Site Plan approval is extended from two years to three years.

5.2.9 Revisions to Approved Development Plans

This section clarifies the current process for requesting minor modifications or amendments to approved development plans.

5.2.10 Ordinance Text or Map Amendment

This section clarifies the procedure for amending the Brunswick Zoning Ordinance or Zoning Map consistent with the requirements of Maine law and current Section 108 (Amendments).

5.3 Violations, Enforcement and Penalties

This section has been updated with no significant revisions to content.

Appendices

Appendix A: Planning Areas

Planning Areas are updated in accordance with the 2008 Comprehensive Plan.

Appendix B: Street Standards

New public streets are now required to be designed and constructed in accordance with the Brunswick Street Acceptance and Standards Ordinance. Additional standards are provided for private streets and those to be located in Brunswick Landing.

Appendix C: Contributing Historic Structures

New federally-designated historic district properties (Brunswick Commercial Historic District) are added.

Appendix D: Summary of Application Requirements

New appendix listing all submission requirements by type of application.

Appendix E: Glossary of Acronyms Used

New appendix.

Appendix F: Recreation Facilities Impact Fee Methodology, as amended

New appendix to be provided by Department of Parks and Recreation upon final review.

Appendix G: BNAS Soils and Groundwater Management Maps and US Navy Land Use Controls Implementation Plan

New appendix to include the referenced material upon completion of the review process and approval by the US Navy.