

**BRUNSWICK TOWN COUNCIL**  
**Agenda**  
**October 17, 2016**  
**6:00 P.M. -- Executive Session**  
**7:00 P.M. – Regular Meeting**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

Roll Call of Members

Acknowledgement of Meeting Notice

**Executive Session: [1 M.R.S.A. §405(6)(D) Labor negotiations, 1 M.R.S.A. §405(6)(E) Consultation with legal counsel, and 1 M.R.S.A. §405(6)(C) acquisition/disposition of real property]**

Pledge of Allegiance

Adjustments to Agenda

**CONSENT AGENDA**

- a) Adoption of “Small Business Saturday” Proclamation

Public Comments

Correspondence

**COMMITTEE REPORTS**

- Teen Center Advisory Committee

**MANAGER’S REPORT**

- a) Financial update
- b) Election and absentee ballot reminder
- c) Revaluation update

**NEW BUSINESS**

- 114. The Town Council will discuss options for selling 946 Mere Point Road, and will take any appropriate action. (Manager)

**ACTION**

- 115. The Town Council will consider setting a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 11 “Marine Activities, Structures and Ways” including new definitions, changes in license categories and opening and closing of coastal waters, and will take any appropriate action. (Manager)

**ACTION**

116. The Town Council will consider setting a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 12 “Personnel Ordinance” to provide for an alternate process to hire current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers, and will take any appropriate action. (Manager)

**ACTION**

117. The Town Council will consider setting a public hearing for November 7, 2016, on amendments to the General Assistance Maximums, and will take any appropriate action. (Manager)

**ACTION**

118. The Town Council will consider setting a public hearing for November 7, 2016, on amendments to Code of Ordinance, Chapter 13 “Solid Waste” to, by contract, allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick, and will take any appropriate action. (Manager)

**ACTION**

**INDIVIDUALS NEEDING AUXILIARY AIDS FOR EFFECTIVE  
COMMUNICATION SHOULD CONTACT  
THE TOWN MANAGER’S OFFICE AT 725-6659 (TDD 725-5521)**

**Brunswick Town Council Agenda**  
**October 17, 2016**  
**Council Notes and Suggested Motions**

**Executive Session: [1 M.R.S.A. §405(6)(D) Labor negotiations, 1 M.R.S.A. §405(6)(E) Consultation with legal counsel, and 1 M.R.S.A. §405(6)(C) acquisition/disposition of real property]**

*Suggested Motion:*

Motion to go into executive session to discuss labor negotiations per 1 M.R.S.A. §405(6)(D), consultation with legal counsel on rights and duties per [1 M.R.S.A. §405(6)(E), and acquisition/disposition of property per 1 M.R.S.A. §405(6)(C).

**CONSENT AGENDA**

- a) This proclamation is part of a nationwide event to support the local businesses that create jobs, boost the economy and preserve neighborhoods. The date for this event is November 26, 2016. A copy of the proclamation is included in your packet.

*Suggested motion:*

Motion to approve the Consent Agenda.

**CORRESPONDENCE**

This is the opportunity for Councilors to share any correspondence they may have.

**COMMITTEE REPORTS**

- Teen Center Advisory Committee

The Councilor representing the Council on the committee above that has recently met will provide a brief update. If there are any Committee updates beyond those listed, Councilors may also share them with the Council and public.

**MANAGER'S REPORT**

- a) Financial update: Manager Eldridge will update the Council on the Town's financial picture to date for the current fiscal year. Copies of financial reports are included in your packet.
- b) Election and absentee ballot reminder: Town Clerk Fran Smith will remind citizens that absentee ballots are now available for the November 8th Election. Starting October 17<sup>th</sup>, the Clerk's office will be open 8:00 a.m. to 6:00 p.m., business days. There will be Saturday hours on the 22<sup>nd</sup> and 29<sup>th</sup> from 8:00 a.m. to 12 noon. Absentee ballots will be available upon request or to vote in person up to Thursday, November 3<sup>rd</sup>, and that day the Clerk's office will be open until 7:00 pm All voting on Election Day will be at the junior high school, 65 Columbia Avenue, with the polls open 7:00 a.m. to 8:00 p.m
- c) Revaluation update: This is the monthly update on the revaluation. Approximately 7,660 residential homes have been visited. Data collection will continue through February of 2017, data entry through March of 2017, and month long callbacks scheduled for late Spring. Notices are scheduled to be mailed in July of 2017 and hearings will be conducted from July to August 2017.

## NEW BUSINESS

114. This item is for the Council to discuss options for selling 946 Mere Point Road. Copies of memos from Preti Flaherty and Manager Eldridge are included in your packet.  
(Manager)

Suggested motion:

There is no suggested motion as the Council will need to determine the next steps and process prior to a motion being made.

115. The Town Council will consider setting a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 11 “Marine Activities, Structures and Ways”, including new definitions, changes in license categories, and opening and closing of coastal waters. Copies of memos from Manager Eldridge and Dan Devereaux, Marine Resource Officer, as well as the proposed ordinance amendments, are included in your packet.

Suggested motion:

Motion to set a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 11 “Marine Activities, Structures and Ways”.

116. This item is for the Council to consider setting a public hearing for November 7, 2016, on amendments to the Personnel Ordinance to allow Full-Time Academy Certified Officers to be “fast-tracked.” The hiring of highly desirable officers who have already completed training at the police academy, in order to not lose out to other towns able will be allowed to move more quickly. A thorough hiring process will still be conducted, and the members of the Personnel Board are in support of this change. A copy of a memo from Commander Waltz and the proposed amendments are included in your packet.

Suggested motion:

Motion to set a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 12 “Personnel Ordinance” to provide for an alternate process to hire current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers.

117. This item is to set a public hearing for November 7, 2016, to change the current General Assistance maximums, as required by state law. This is the annual adoption of the limits, with changes to GA overall and housing maximums. Copies of a memo and current and proposed Overall Maximum levels are included in your packet.

Suggested motion:

Motion to set a public hearing for November 7, 2016, on amendments to the General Assistance Maximums.

118. This item is for the Town Council to consider setting a public hearing for November 7, 2016, on amendments to Code of Ordinance, Chapter 13 “Solid Waste” to allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of

Brunswick by contract only. Copies of a memo from Manager Eldridge and the proposed ordinance amendments with the highlighted changes are included in your packet.

*Suggested motion:*

Motion to set a public hearing for November 7, 2016, on amendments to Code of Ordinance, Chapter 13 “Solid Waste” to allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick by contract only.

*Suggested Motion:*

Motion to adjourn the meeting.

# CONSENT AGENDA - A BACK UP MATERIALS

# Town of Brunswick, Maine



## *Proclamation*

**Whereas**, the Town of Brunswick celebrates our local small businesses and the contributions they make to our local economy and community, and

**Whereas**, small businesses employ over nearly half of the business employees in the United States; and

**Whereas**, small businesses contribute positively to the local community by supplying jobs and generating tax revenue; and

**Whereas**, consumers agree that small businesses are critical to the overall economic health of the United States; and

**Whereas**, consumers agree that it is important for people to support the small businesses that they value in their community; and

**Whereas**, Town of Brunswick supports our local businesses that create jobs, boost our local economy, and preserve our neighborhoods; and

**Whereas**, organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

**Now, Therefore**, the Town Council of Brunswick does hereby proclaim, November 26, 2016 as Small Business Saturday; and

Encourages the residents of our community to support small businesses and merchants on Small Business Saturday and throughout the year.

*Proclaimed by the Brunswick Town Council this  
17th day of October 2016.*

# MANAGER'S REPORT - A BACK UP MATERIALS

FOR 2017 03

	ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
<u>00 Fill</u>							
19000 General Fund Transfers Out	1,453,828	1,453,828	1,493,828.00	1,493,828.00	.00	-40,000.00	102.8%
TOTAL Fill	1,453,828	1,453,828	1,493,828.00	1,493,828.00	.00	-40,000.00	102.8%
<u>10 General Government</u>							
11000 Administration	606,061	606,061	123,349.69	56,561.84	.00	482,711.31	20.4%
11100 Finance Department	733,405	733,405	178,162.25	76,890.04	.00	555,242.75	24.3%
11150 Technology Services Dept	371,032	371,032	111,179.11	28,201.05	-1,101.00	260,953.89	29.7%
11200 Municipal Officers	90,665	90,665	4,192.00	1,112.32	.00	86,473.00	4.6%
11210 Munic Bldg - 85 Union	212,281	212,281	42,329.40	17,141.55	7,413.69	162,537.91	23.4%
11230 Risk Management	529,827	529,827	141,715.50	-4.16	.00	388,111.50	26.7%
11240 Employee benefits	0	0	-51,617.38	-19,892.64	.00	51,617.38	100.0%
11250 Cable TV	67,269	67,269	16,613.37	8,075.07	-929.15	51,584.78	23.3%
11300 Assessing	315,863	315,863	74,210.36	31,402.04	3,018.00	238,634.64	24.4%
11600 Town Clerk & Elections	347,453	347,453	66,970.24	30,985.31	4,092.55	276,390.21	20.5%
11900 Planning Department	498,664	498,664	113,262.59	51,275.94	.00	385,401.41	22.7%
11950 Economic Development Dept	120,071	120,071	25,241.67	11,868.31	.00	94,829.33	21.0%
TOTAL General Government	3,892,591	3,892,591	845,608.80	293,616.67	12,494.09	3,034,488.11	22.0%
<u>20 Public Safety</u>							
12100 Fire Department	3,238,027	3,238,027	787,387.49	341,200.81	56,276.13	2,394,363.38	26.1%
12150 Central Fire Station	41,258	41,258	10,012.49	4,349.45	-2,441.45	33,686.96	18.4%
12160 Emerson Fire Station	51,200	51,200	8,494.05	3,287.98	10,810.50	31,895.45	37.7%
12200 Police Department	3,745,376	3,745,376	931,557.72	441,040.59	92,199.83	2,721,618.45	27.3%
12210 Police Special Detail	0	0	8,000.65	5,655.73	.00	-8,000.65	100.0%
12220 Emergency Services Dispatch	817,420	817,420	179,817.34	79,695.13	.00	637,602.66	22.0%
12250 Police Station Building	104,892	104,892	24,750.52	10,932.71	.00	80,141.48	23.6%
12280 Marine Resources	189,911	189,911	43,766.75	20,366.75	.00	146,144.25	23.0%
12310 Streetlights	215,000	215,000	48,499.01	16,632.60	.00	166,500.99	22.6%
12320 Traffic Signals	31,600	31,600	1,568.82	521.11	.00	30,031.18	5.0%
12330 Hydrants	465,000	465,000	5,508.64	.00	.00	459,491.36	1.2%
12340 Civil Emergency Preparedness	2,000	2,000	.00	.00	.00	2,000.00	.0%
TOTAL Public Safety	8,901,684	8,901,684	2,049,363.48	923,682.86	156,845.01	6,695,475.51	24.8%

FOR 2017 03

30	Public Works	ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
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30	Public Works							
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13100	Public Works Administration	492,640	492,640	102,861.80	46,647.50	2,304.75	387,473.45	21.3%
13110	PW General Maintenance	1,720,179	1,720,179	316,089.91	154,090.03	14,804.77	1,389,284.32	19.2%
13130	Refuse Collection	629,847	629,847	114,389.96	56,245.23	297,692.97	217,764.07	65.4%
13140	Recycling	331,644	331,644	53,410.15	26,911.79	269,091.01	9,142.84	97.2%
13150	PW Central Garage	724,456	724,456	120,024.30	53,941.70	27,099.67	577,332.03	20.3%
	TOTAL Public Works	3,898,766	3,898,766	706,776.12	337,836.25	610,993.17	2,580,996.71	33.8%
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40	Human Services							
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14100	General Assistance	173,351	173,351	31,987.60	15,193.56	3,752.64	137,610.76	20.6%
14120	Health & Social Services	2,766	2,766	704.63	.00	.00	2,061.37	25.5%
	TOTAL Human Services	176,117	176,117	32,692.23	15,193.56	3,752.64	139,672.13	20.7%
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45	Education							
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14500	School Department	37,695,535	37,695,535	5,057,826.51	2,904,455.65	.00	32,637,708.49	13.4%
	TOTAL Education	37,695,535	37,695,535	5,057,826.51	2,904,455.65	.00	32,637,708.49	13.4%
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50	Recreation and Culture							
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15000	Recreation Administration	431,115	431,115	114,244.66	50,531.79	732.93	316,137.41	26.7%
15050	Rec Buildings and Grounds	723,726	723,726	164,392.27	69,549.13	9,223.00	550,110.73	24.0%
15250	Rec Building 211	175,585	175,585	8,929.43	3,691.57	-1,375.96	168,031.53	4.3%
15300	Teen Center	16,000	16,000	16,000.00	.00	.00	.00	100.0%
15310	People Plus	123,200	123,200	117,310.93	110.93	.00	5,889.07	95.2%
15400	Curtis Memorial Library	1,373,500	1,373,500	339,625.03	113,208.33	.00	1,033,874.97	24.7%
	TOTAL Recreation and Culture	2,843,126	2,843,126	760,502.32	237,091.75	8,579.97	2,074,043.71	27.1%
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60	Intergovernmental							

FOR 2017 03

60	Intergovernmental	ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
16000	County tax	1,410,855	1,410,855	.00	.00	.00	1,410,855.00	.0%
	TOTAL Intergovernmental	1,410,855	1,410,855	.00	.00	.00	1,410,855.00	.0%
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70	Unclassified							
17000	Promotion and Development	171,699	171,699	125,392.61	15.00	1,125.00	45,181.39	73.7%
17010	Additional School Assistance	10,000	10,000	.00	.00	.00	10,000.00	.0%
17020	Cemetery Care	7,000	7,000	3,250.00	1,250.00	.00	3,750.00	46.4%
17030	Wage Adjustment Account	158,000	158,000	.00	.00	.00	158,000.00	.0%
	TOTAL Unclassified	346,699	346,699	128,642.61	1,265.00	1,125.00	216,931.39	37.4%
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80	Debt Service							
18020	2006 CIP G/O Bonds	236,000	236,000	.00	.00	.00	236,000.00	.0%
18030	2011 GO CIP Bonds	226,135	226,135	.00	.00	.00	226,135.00	.0%
18040	Police Station Bond	394,625	394,625	.00	.00	.00	394,625.00	.0%
	TOTAL Debt Service	856,760	856,760	.00	.00	.00	856,760.00	.0%
	GRAND TOTAL	61,475,961	61,475,961	11,075,240.07	6,206,969.74	793,789.88	49,606,931.05	19.3%

\*\* END OF REPORT - Generated by Julie Henze \*\*

FOR 2017 03

			ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
10 Taxes								
111190	41101	Property Taxes	39,011,578	39,011,578	39,304,687.62	39,290,386.95	-293,109.62	100.8%
111190	41103	Deferred Property Tax	-200,000	-200,000	.00	.00	-200,000.00	.0%
111190	41104	Tax Abatements	-75,000	-75,000	-4,560.58	-4,560.58	-70,439.42	6.1%
111190	41105	Interest on Taxes	65,000	65,000	20,693.04	1,523.30	44,306.96	31.8%
111190	41106	Tax Lien Costs Revenu	15,000	15,000	14,771.32	.00	228.68	98.5%
111190	41107	Tax Lien Interest Rev	15,000	15,000	17,444.67	.00	-2,444.67	116.3%
111190	41109	Payment in Lieu of Ta	225,000	225,000	32,563.83	32,563.83	192,436.17	14.5%
111190	41197	BETE reimbursement	572,325	572,325	.00	.00	572,325.00	.0%
111190	41198	Homestead exemption r	671,317	671,317	511,262.00	.00	160,055.00	76.2%
111190	41199	Miscellaneous tax adj	4,279	4,279	.00	.00	4,279.00	.0%
111191	41110	Excise Tax - Auto	2,965,000	2,965,000	940,080.88	307,586.85	2,024,919.12	31.7%
111191	41111	Excise Tax Boat/ATV/S	25,000	25,000	2,604.80	88.60	22,395.20	10.4%
111191	41112	Excise Tax - Airplane	3,000	3,000	.00	.00	3,000.00	.0%
		TOTAL Taxes	43,297,499	43,297,499	40,839,547.58	39,627,588.95	2,457,951.42	94.3%
		TOTAL REVENUES	43,297,499	43,297,499	40,839,547.58	39,627,588.95	2,457,951.42	
20 Licenses & Fees								
121111	42207	Passport Fees	11,000	11,000	3,625.00	1,125.00	7,375.00	33.0%
121111	42209	Passport Picture Reve	4,000	4,000	1,245.00	345.00	2,755.00	31.1%
121411	42100	Building Permits	145,000	145,000	39,805.28	8,553.03	105,194.72	27.5%
121411	42101	Electrical Permits	34,000	34,000	10,912.29	2,557.68	23,087.71	32.1%
121411	42102	Plumbing Permits	23,000	23,000	8,382.50	3,607.50	14,617.50	36.4%
121611	42200	Hunting & Fishing Lic	1,200	1,200	160.30	47.30	1,039.70	13.4%
121611	42201	Dog License Fee	2,550	2,550	126.00	27.00	2,424.00	4.9%
121611	42202	Vital Statistics	48,000	48,000	14,773.80	4,922.40	33,226.20	30.8%
121611	42203	General Licenses	20,770	20,770	2,150.00	1,750.00	18,620.00	10.4%
121611	42204	Victulars/Innkeepers	19,425	19,425	3,450.00	950.00	15,975.00	17.8%
121611	42205	Shellfish Licenses	17,950	17,950	450.00	25.00	17,500.00	2.5%
121611	42206	Neutered/Spayed Dog L	4,670	4,670	174.00	44.00	4,496.00	3.7%
121611	42210	Mooring fees	21,700	21,700	200.00	50.00	21,500.00	.9%
121911	42300	Planning Board Appl F	25,000	25,000	7,152.28	3,955.60	17,847.72	28.6%
122121	42400	Fire Permits	2,000	2,000	255.00	.00	1,745.00	12.8%
122221	42500	Conc Weapons Permits	400	400	145.00	45.00	255.00	36.3%
122221	42501	Parking Permit fee	425	425	100.00	25.00	325.00	23.5%
123131	42600	Public Works Opening	6,000	6,000	1,895.00	720.00	4,105.00	31.6%
		TOTAL Licenses & Fees	387,090	387,090	95,001.45	28,749.51	292,088.55	24.5%
		TOTAL REVENUES	387,090	387,090	95,001.45	28,749.51	292,088.55	

FOR 2017 03

			ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
<u>30 Intergovernmental</u>								
131122	43505	FD EMPG grant	15,000	15,000	.00	.00	15,000.00	.0%
131132	43103	Highway Grant Fund	199,000	199,000	.00	.00	199,000.00	.0%
131142	43104	State General Assista	35,000	35,000	1,761.86	1,761.86	33,238.14	5.0%
131190	43102	State Tax Exemption R	42,000	42,000	.00	.00	42,000.00	.0%
131192	43101	State Revenue Sharing	1,109,837	1,109,837	268,660.67	89,951.18	841,176.33	24.2%
131192	43106	Snowmobile Receipts	1,400	1,400	.00	.00	1,400.00	.0%
134546	43120	State Education Subsi	10,976,063	10,976,063	2,411,435.35	803,535.72	8,564,627.65	22.0%
TOTAL Intergovernmental			12,378,300	12,378,300	2,681,857.88	895,248.76	9,696,442.12	21.7%
TOTAL REVENUES			12,378,300	12,378,300	2,681,857.88	895,248.76	9,696,442.12	
<u>40 Charges for services</u>								
141111	44110	Agent Fee Auto Reg	50,000	50,000	14,755.00	4,744.00	35,245.00	29.5%
141111	44111	Agent Fee Boat/ATV/Sn	1,500	1,500	319.00	48.00	1,181.00	21.3%
141211	44121	Rental of Property	1,200	1,200	300.00	100.00	900.00	25.0%
141611	44131	Advertising Fees	0	0	604.58	351.31	-604.58	100.0%
142121	44155	Ambulance Service Fee	850,000	850,000	237,364.35	96,092.90	612,635.65	27.9%
142121	44166	Special Detail - Fire	1,000	1,000	1,349.92	1,349.92	-349.92	135.0%
142221	44161	Witness Fees	1,000	1,000	316.16	16.16	683.84	31.6%
142221	44162	Police Reports	4,500	4,500	665.00	.00	3,835.00	14.8%
142221	44163	School Resource Offic	86,000	86,000	.00	.00	86,000.00	.0%
142221	44165	Special Detail - Poli	3,000	3,000	9,773.00	6,893.00	-6,773.00	325.8%
142221	44167	Dispatch Services fee	143,760	143,760	44,229.71	11,500.00	99,530.29	30.8%
143431	44175	Recycling Revenue	20,000	20,000	4,438.80	3,145.70	15,561.20	22.2%
144545	44100	School Tuition, etc	83,339	83,339	2,532.75	2,532.75	80,806.25	3.0%
145051	44121	Rental of Property	1,000	1,000	1,450.00	.00	-450.00	145.0%
TOTAL Charges for services			1,246,299	1,246,299	318,098.27	126,773.74	928,200.73	25.5%
TOTAL REVENUES			1,246,299	1,246,299	318,098.27	126,773.74	928,200.73	
<u>50 Fines &amp; Penalties</u>								
151611	45108	Gen License Late Pena	175	175	225.00	100.00	-50.00	128.6%
151611	45109	Mooring Fee Late Pena	1,250	1,250	150.00	.00	1,100.00	12.0%
151611	45110	Victualers Lic Late P	225	225	850.00	200.00	-625.00	377.8%

FOR 2017 03

	ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
151611 45111 Shellfish License Lat	600	600	.00	.00	600.00	.0%
151621 45103 Unlicensed Dog Fines	6,000	6,000	400.00	125.00	5,600.00	6.7%
152121 45104 False Alarm Fire	1,000	1,000	.00	.00	1,000.00	.0%
152221 45100 Ordinance Fines	600	600	46.00	.00	554.00	7.7%
152221 45101 Parking Tickets	30,000	30,000	5,995.00	1,840.00	24,005.00	20.0%
152221 45102 Leash Law Fines	200	200	150.00	.00	50.00	75.0%
152221 45105 False Alarm Police	10	10	45.00	35.00	-35.00	450.0%
TOTAL Fines & Penalties	40,060	40,060	7,861.00	2,300.00	32,199.00	19.6%
TOTAL REVENUES	40,060	40,060	7,861.00	2,300.00	32,199.00	
60 Interest earned						
161193 46100 Interest Earned	60,000	60,000	5,728.04	.00	54,271.96	9.5%
TOTAL Interest earned	60,000	60,000	5,728.04	.00	54,271.96	9.5%
TOTAL REVENUES	60,000	60,000	5,728.04	.00	54,271.96	
70 Donations						
171952 47000 BDC Contrib to Econ D	30,000	30,000	.00	.00	30,000.00	.0%
TOTAL Donations	30,000	30,000	.00	.00	30,000.00	.0%
TOTAL REVENUES	30,000	30,000	.00	.00	30,000.00	
80 Use of fund balance						
181100 48000 Unapprop General Fund	600,000	600,000	.00	.00	600,000.00	.0%
184500 48004 School Balance Forwar	2,599,363	2,599,363	.00	.00	2,599,363.00	.0%
TOTAL Use of fund balance	3,199,363	3,199,363	.00	.00	3,199,363.00	.0%
TOTAL REVENUES	3,199,363	3,199,363	.00	.00	3,199,363.00	
90 Other						
191111 49000 Finance Miscellaneous	4,000	4,000	305.00	643.53	3,695.00	7.6%

FOR 2017 03

			ORIGINAL ESTIM REV	REVISED EST REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE	REMAINING REVENUE	PCT COLL
191111	49101	Workers Comp Dividend	0	0	14,751.00	.00	-14,751.00	100.0%
191111	49104	Property & Casualty D	0	0	9,926.00	.00	-9,926.00	100.0%
191192	49100	Cable Television	245,000	245,000	.00	.00	245,000.00	.0%
191194	49150	Gen Govt Asset Sales	0	0	36,602.98	76.13	-36,602.98	100.0%
191611	49000	Town Clerk Miscellane	1,350	1,350	455.00	160.50	895.00	33.7%
191911	49000	Planning Miscellaneou	1,000	1,000	29.00	2.50	971.00	2.9%
192121	49000	Fire Miscellaneous	1,000	1,000	11.76	.00	988.24	1.2%
192221	49000	Police Miscellaneous	6,000	6,000	125.00	.00	5,875.00	2.1%
192294	49153	Police Vehicle Sales	0	0	482.00	-18.00	-482.00	100.0%
193131	49000	Public Works Miscella	2,000	2,000	49.00	.00	1,951.00	2.5%
194141	49103	General Assistance Re	0	0	9.45	9.45	-9.45	100.0%
194545	49000	School Miscellaneous	63,000	63,000	1,052.63	690.00	61,947.37	1.7%
195051	49000	Recreation Miscellane	0	0	1,737.60	37.60	-1,737.60	100.0%
199980	48100	General Fund Transfer	514,000	514,000	.00	.00	514,000.00	.0%
TOTAL Other			837,350	837,350	65,536.42	1,601.71	771,813.58	7.8%
TOTAL REVENUES			837,350	837,350	65,536.42	1,601.71	771,813.58	
GRAND TOTAL			61,475,961	61,475,961	44,013,630.64	40,682,262.67	17,462,330.36	71.6%

\*\* END OF REPORT - Generated by Julie Henze \*\*

**MANAGER'S REPORT - B  
NO BACK UP MATERIALS**

**MANAGER'S REPORT - C  
NO BACK UP MATERIALS**

ITEM 114

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

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## MEMORANDUM

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TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: October 13, 2016

SUBJECT: Sale of Tax Acquired Property  
946 Mere Point Road

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At the September 19<sup>th</sup> meeting the Town Council approved two motions related to 946 Mere Point Road:

- "...to sell the property, including a deed restriction for a grave, and with the understanding that the Council will consider a walk-in right-of-way for shellfish harvesters."<sup>1</sup>
- "...to have any funds from the sale proceeds go back to fund water access needs after back taxes are paid."<sup>2</sup>

To move ahead with the property sale, the Town Council will need to determine what it wishes to do about quieting the title and what deed restrictions it wishes to impose. As we have said throughout this process, the Town is much more likely to get market value for the property if it first quiets the title to the property. There are two ways to quiet the title, and we'll be prepared to talk to the Council on Monday about the costs and time requirements of each alternative. The Council will also need to decide whether it wants to reserve a right-of-way for shellfish harvesters. We believe that reserving a right-of-way will negatively impact the value of the property.

The Town Council could also sell the property without quieting the title. We have done that recently through a sealed bid process. Our experience with those properties supports the idea that the Town will receive substantially less than market value if it does not quiet the title.

A memo from the Town Attorney is attached.

Attachment

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<sup>1</sup> Town Council Meeting Minutes September 19, 2016

<sup>2</sup> Town Council Meeting Minutes September 19, 2016

Stephen E.F. Langsdorf  
slangsdorf@preti.com  
Direct Dial: 207.791.3291

## **M E M O R A N D U M**

**TO:** Town Council, Town of Brunswick

**FROM:** Stephen E.F. Langsdorf

**DATE:** October 14, 2016

**RE:** **946 Mere Point Road – Title options**

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Now that the Council has decided to sell the tax-acquired property at 946 Mere Point Road, it must decide whether it is sensible to take action to clear title to the property in the hopes of securing a higher purchase price.

The Town appears to have correctly followed all of the statutory procedures to acquire title to the property. However, even where the foreclosure process was done correctly, banks are usually not willing to lend money on tax-acquired properties and title insurance companies are usually not willing to issue policies on them. A purchaser is therefore likely to offer a significantly lower price for the property than if title were officially clear.

If the Town wishes to clear title to the property in order to obtain a higher purchase price, either of the following two options may be pursued:

1. The Town could seek to obtain a quitclaim deed from the prior owner, Mr. Nudd, disclaiming any further interest in the property. We do not know how much Mr. Nudd would expect to be paid to give such a deed. However, if he did provide the town with a deed, it would give the Town the full title status he held prior to the foreclosure. The Town could then market and sell the property with clear title, likely at a higher price.
2. The Town could pursue a “quiet title” action in court. This type of action is designed to bring out any people who may have an ownership interest in the property and allow them to prove that their title is superior to the Town’s. In this case, there is only one person (Mr. Nudd) who could claim title, and to do so, he would have to show that the process used by the Town was defective in some way. We do think such an action would be relatively quick, concluding in approximately 2-3 months. It would likely cost around \$3,000 to \$5,000 in legal fees. Once we had an order confirming the Town’s title, the property could be marketed with clear title.

Of the two options described above, the deed from Mr. Nudd is the quickest and simplest method to clear title.

SEFL:kmc

ITEM 115

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

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## MEMORANDUM

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TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: October 13, 2016

SUBJECT: Marine Activities, Structures and Ways  
Municipal Code of Ordinances Chapter 11

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Attached is a memo from Marine Resource Officer Dan Devereaux, accompanied by proposed amendments to the Municipal Code of Ordinance Chapter 11 – Marine Activities, Structures and Ways. Officer Devereaux’s memo summarizes proposed changes that were approved by the Marine Resources Committee at its meeting on October 5<sup>th</sup>.

Absent from the proposal is staff’s recommended increase in license fees. My understanding is that the Committee felt that consideration of the fee increase required more information and discussion. As the fees are now separate from the body of the ordinance, we recommend that the Town Council schedule a public hearing on the ordinance changes while staff and the Committee continue to review the fees.

Attachments



# Town of Brunswick, Maine

INCORPORATED 1739  
MARINE RESOURCES & HARBOR MANAGEMENT  
85 PLEASANT STREET  
BRUNSWICK, MAINE 04011  
TELEPHONE 207-725-5521 FAX 207-725-6663  
Email – ddevereaux@brunswickpd.org



Daniel R. Devereaux  
Marine Resource Officer  
Harbormaster

## MEMO

TO: Fran Smith, Town Clerk  
FROM: D. Devereaux MRO/HM  
DATE: 10/12/2016  
RE: Chapter 11 Article III proposed changes

Fran,

Thank you for your consideration of the proposed changes to the attached ordinance *Chapter 11 Marine Activities Structures and Ways*. I will go line by line and explain the Marine Resource Committee's reasoning behind the suggested edits.

The Rivers and Coastal Waters Commission are currently in the middle of working on updates to their portion of *Chapter 11 Article 1 Harbor, coastal, tidal and navigable fresh waters*. The suggested edits will be sent to the Town Clerks Office at a later date.

This memo strictly addresses the Brunswick Marine Resources Committee's immediate concerns of *Chapter 11 Article III Shellfishing*.

Proposed Changes:

**Article III Sec 11-71 Definitions:** Because aquaculture has never been mentioned in the ordinance, and the Brunswick Marine Resources Committee has recently engaged in the promotion and education of local shellfish propagation. The BMRC has proposed a definition of aquaculture in the local chapter.

Bull Raking definition. Bull raking has become a predominate method to harvest shellfish that are submerged under the water at high tide or within the subtidal areas. The BMRC felt the need to define this newer type of harvesting method and provide a local control over it. The remaining changes to this section of the ordinance are routine technical changes to spelling and grammar.

**Article III Sec 11-96 Established, members, etc:** Since 2009 the BMRC has designated seats to all the committee members. For instance the BMRC seats include certain qualifications a member must have to occupy that seat; these qualifications currently apply to the alternates as well. Because it is getting increasingly difficult to find shellfishermen to volunteer to occupy those seats' designated for commercial shellfishermen, the BMRC has proposed that we release the designators of the alternate members category. This will still hold designated seat for shellfishermen but open up the alternate seats to anyone (resident) having interest and experience in Marine Resources.

**Article III Sec 11 - 132 Categories:** This is the section that discusses the 7 types of licenses the Town currently issues. License Category (3) & (4) Resident and non-resident recreational had to be changed to accommodate a recent state law changes in the recreational shellfish harvest amounts being switched to allow for only 1 peck of shellfish in any given 24 hour period. Resident and non-resident student shellfish license time frames have been changed to allow students to harvest shellfish from June 15<sup>th</sup> - September 1<sup>st</sup> and on all weekends and holidays. The Bushel license category was also changed to indicate that harvest amounts apply on a per tide basis, unlike the state recreational laws, which is 1 24 hour period. Bushel licenses are considered commercial licenses and are not held to the same recreational standards. The BMRC also would like to work out the parameters of providing day recreational licenses at some point in the near future.

**Article III Sec 11 - 133 Qualifications of licensee.** (1) Resident Commercial (2) Non-resident Commercial: The BMRC feels that if an local commercial shellfish harvester's state shellfishing license is under suspension for any reason during the Town licensing period those harvesters should not be provided a local Brunswick commercial shellfishing licenses.

**Article III Sec 11 - 133 Sub Sec. B Conservation Time:** The BMRC has found it increasingly difficult to provide opportunity to obtain the 20 conservation credits to commercial shellfishermen. Conservation time went from 10 point requirement to a 20 point requirement in 2012/13/14, shortly after the Green Crab predation problems that impacted Brunswick's annual harvest for the last 3 years. This predation event has subsided. Local shellfishermen over the last three years have conducted many predator control techniques with netting/fencing/trapping. Currently there is no need to have the extra hours from the harvesters as natural and wild stocks are returning to many of the heavily devastated growing areas around Brunswick. The BMRC proposes to return to the traditional 10 points accrual system. Other Changes in this section are of routine technical.

**Article III Sec 11 - 136 Fees:** All fees were removed from the chapter and placed in the Town's fee schedule. The committee did have concerns with increasing any fees and has asked staff to look into other town's shellfish license and provide a comparison. The comparison indicates that Brunswick is on the higher end of most coastal towns. With this being said it was also brought to the committee's attention what other local business licensing fees are, such as the vendors on the Brunswick Mall.

**Article III Sec 11 - 140 (b) (4) Limitation on number of licenses:** In 2015 the town implemented a late fee for any shellfishermen missing the letter of intent deadline. The BMRC proposes that this same late fee and accompanying 5 day late window to the actual license purchase date as well. It also makes changes that bump forward the license

lottery dates if there is need for a lottery on any particular license year. Sub section (e) also removes the public notification to a trade or newspaper reporting the date when recreational licenses go on sale. It allows the Town to use a more streamlined and less costly notification process by using the Town's web pages.

**Article III Sec 11 - 161 Opening and closing of coastal waters:** Due to recent notification changes made in the Maine Department of Marine Resources Chapter 7 Municipal Shellfish Programs the BRMC proposes that the current notice of public hearing needs to be stricken and replaced with notification of the actual opening and closing 5 days in advance in a local newspaper. This eliminates the need to advertise a public hearing each and every time the committee makes a proposal for an opening or closure of local growing areas. Each opening or closure will be discussed in an open forum as an agenda item during the committee's meeting the month before any proposed opening or closure date. BRMC is required to take action on each proposal and then make notice of their outcome in a newspaper at least 5 days in advance of the action. Each closure must be reviewed by the Maine Department of Marine Resources and the committee must be giving prior authorization to close or open an area. In each case the BRMC must make a finding of fact on whether or not the actions are necessary for the best interest of the public and shellfish resource.

**Article III Sec. 11 - 162 Shellfish size and Tolerance of harvest:** These are routine technical changes to bring the ordinance in line with recent law changes made by the Department of Marine Resources.

**Article III Sec. 11 - 165 Sunday Shellfish Harvesting:** The BRMC has provided more harvesting opportunity on Sunday by changing the restriction from May 1<sup>st</sup> to June 1<sup>st</sup> through October 15<sup>th</sup> to October 1<sup>st</sup>.

**Article III Sec 11 - 166 Automatic Closures and Openings:** This section is currently obsolete because of changes in

notification of openings and closures at the Maine Department of Marine Resources. Each closure and opening must be reviewed by the department, automatic closures and openings are no longer allowed. The section was replaced with harvesting methods to address the concerns of bull raking at high tide within the Town's jurisdictional boundaries. It also indicates that any area being bull raked must first be designated as a bull raking area by the BMRC.

**Article III Sec 11 - 168 Intertidal Shellfish Aquaculture**

**(NEW)**: This section just reiterates the current state shellfish aquaculture requirements that anyone wishing to farm shellfish in the intertidal zone on an individual basis must first obtain the BMRC and other permitting agencies approval.

If you have any questions or concerns please feel free to contact me.

Regards,

Daniel R. Devereaux MOR/HM

Cc Mark Latti Chair

## Chapter 11 - MARINE ACTIVITIES, STRUCTURES AND WAYS<sup>[1]</sup>

Footnotes:

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**Cross reference**— Conservation commission, § 2-76 et seq.; buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 7; housing, Ch. 8; solid waste, Ch. 13; streets, sidewalks and other public places, Ch. 14; discharge of sewerage into surface waters prohibited, § 16-26; zoning and subdivision of land, App. A; marine construction, App. A, § 407.

**State Law reference**— Waters and navigation, 38 M.R.S.A. § 1 et seq.

## ARTICLE I. - HARBOR, COASTAL, TIDAL AND NAVIGABLE FRESH WATERS<sup>[2]</sup>

Footnotes:

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**Editor's note**—Ord. of 2-23-2015(1) amended Art. I in its entirety to read as herein set out. Former Art. I, §§ 11-1—11-13, pertained to similar subject matter and derived from Ord. of 4-4-05, Ord. of 4-7-08(1), Ord. of 6-20-11(1).

### Sec. 11-0. - General.

- (a) *Purpose.* To establish the boundaries of channels in harbors and to regulate other activities in the harbors, coastal, tidal, and navigable waters within the Town of Brunswick, Maine in order to ensure safety to persons and property, to promote availability, preservation, and use of a valuable public resource, and to create a fair and efficient framework for administration of the resource.
- (b) *Authority.* This article is adopted pursuant to the authority granted by 38 M.R.S.A §§ 1-13, 30-A M.R.S.A § 3001, and the Constitution of Maine, Article VIII, Part 2.
- (c) *Severability.* If any section, subsection, sentence, clause or other portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Ord. of 2-23-15(1))

### Sec. 11-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as set forth in this section, except where the context clearly indicates a different meaning:

*Anchorage* means all navigable waters defined within the municipal boundaries of the Town of Brunswick.

*Association* means an organization of residential property owners, whether in the form of a homeowner association, subdivision association, condominium association, road association, unit owner

association, planned unit development, residential real estate management association, or similar ownership arrangement or structure, where the organization assists with maintaining and improving Association property or property that is commonly held by its members.

*Boat yard* means a place adjacent to coastal waters, where, as a business or gainful occupation, watercraft are hauled, stored, repaired and/or constructed.

*Channels* means those paths designated by this chapter for navigation in or access to the harbor, coastal, tidal and navigable fresh waters of Brunswick.

*Commercial mooring* means a mooring used with profit as a primary aim. Commercial moorings require Army Corps of Engineers approval.

*Commercial use* means a use with profit as a primary aim.

*Haul off mooring* means a mooring or tether system for a dinghy or watercraft which allows the dinghy or watercraft to be hauled to and from a mooring block or anchor to the shore by a system of lines secured at the shore.

*Houseboat* means a raft, hull, barge or vessel, designed primarily to be used as a commercial establishment or living quarters, rather than for navigation.

*Marina* means an all-tide waterfront facility, whose activities may include sales, storage, and maintenance of watercraft, and which provides slips or moorings for permanent, rental or transient berthing, and sells fuel, and supplies for watercraft and provides vehicle parking.

*Mooring* is a means of securing a single watercraft to a particular location, other than a pier or dock; an underwater device, either helix, granite block, or mushroom, which tethers watercraft. A temporary mooring is one which is constructed to be hauled out of the water seasonally. A permanent mooring is one which is constructed to winter over in the water. A flats mooring is one which is located on the mud flats at low tide.

*Multi-use mooring* is a registered, non-commercial mooring that hosts more than one watercraft over the course of a season for personal use only. Personal use includes, but is not limited to, use by a visiting family member. Multi-use moorings cannot be rented or leased and owners of multi-use moorings must inform the harbor master regarding what watercraft will use the mooring each season. No more than one (1) watercraft may be moored at a time.

*Nonresident.* All persons not residents of the Town of Brunswick are classified as nonresidents.

*Private mooring* means any mooring that is not a commercial mooring or rental mooring.

*Rental mooring.* Rental moorings are considered commercial moorings and require Army Corps of Engineers approval.

*Resident* means a person who occupies a dwelling for more than six (6) months in a calendar year within the Town of Brunswick, a Brunswick real estate tax payer, or a registered voter in the Town of Brunswick.

*Town wharfs* means any floats or structures located at town-owned or operated boat launches.

*Watercraft* means any type of vessel, boat, barge, float, or craft used on the water.

*Yacht club* means a private association, corporation or other legal entity organized to promote recreational boating.

(Ord. of 2-23-15(1))

Sec. 11-2. - Channels.

(a) *Establishment of channels.* Two (2) channels are established, described as follows:

- (1) Commencing at the Old Bath Road bridge as it crosses the New Meadows River, thence following the high water mark of the New Meadows River southerly to the southerly tip of Howard Point, thence easterly to the town line between Brunswick and West Bath, thence following the town line northerly to the Bath Road bridge, thence westerly along the Bath Road bridge to the point of beginning.
  - (2) Commencing at the mean high water line on the Mere Point Boat Launch ramp surface and extending approximately three hundred fifty (350) feet to the southeast between buoys marking the fifty-foot wide approach lane to the ramp.
- (b) *Passage of vessels.* A person shall not use any watercraft or any other device or structure within the described channels so as to interfere with or impede the passage of vessels in the channel in any manner.
  - (c) *Mooring.* A person shall not place, anchor, or moor any watercraft within the described channels without the permission of the harbor master.

(Ord. of 2-23-15(1))

Sec. 11-3. - Harbor master.

- (a) *Appointment.* The town shall appoint a harbor master every three (3) years (or upon vacancy) on May 1 for a period of three (3) years. Pursuant to 38 M.R.S.A. § 1-A, a person appointed or reappointed as harbor master must complete a basic harbor master training course offered by a statewide harbor masters association within one (1) year after being appointed or reappointed, unless that person has previously completed such a course.
- (b) *Duties.* The harbor master shall have the following responsibilities and duties:
  - (1) To the extent of jurisdiction, enforce any and all federal, state and local laws, ordinances, codes, rules or regulations relating to the management and control of the Town of Brunswick's harbor, coastal, tidal and navigable fresh waters, shores, coastline, boat launch facilities, and wharfs;
  - (2) Provide information or seek input as appropriate from any source, including the rivers and coastal waters commission, the marine resources committee, marine wardens, town manager, town council, or town attorney;
  - (3) Approve and control the placement of all moorings within the harbor, coastal, tidal, and navigable fresh waters of the Town of Brunswick pursuant to the provisions of this article;
  - (4) Maintain accurate records of all registered moorings; and
  - (5) Serve as staff to the rivers and coastal waters commission (the "commission"), regularly attend commission meetings, inform the commission of his/her activities and provide such information as may be requested by the commission for the execution of its duties. The harbor master shall also report to the town council regarding his/her activities and the activities of the commission.
- (c) *Authority to carry a weapon and make arrests.* Pursuant to 38 M.R.S.A. § 1, a harbor master may not make arrests or carry a firearm unless the harbor master has successfully completed the training requirements prescribed in 25 M.R.S.A. § 2804-I. A harbor master who has completed this training shall be assigned to a division under the police department.

(Ord. of 2-23-15(1))

Sec. 11-4. - Moorings.

- (a) *Mooring assignments.* Mooring privileges in the Town of Brunswick shall be assigned pursuant to 38 M.R.S.A. §§ 3 and 11. Consequently, mooring assignments are available to individuals who are the

owners or masters of a watercraft and who own shore rights to a parcel of land, which is defined as a lot that satisfies applicable minimal buildable lot size requirements and includes at least one hundred (100) feet of shoreline frontage. Notwithstanding the foregoing, mooring assignments are also available to individuals who, prior to January 1, 1987, owned shore rights of at least one hundred (100) feet of frontage regardless of the size of the lot. Only one (1) mooring may be assigned to any shorefront parcel of land under this privilege.

- (b) *Grandfathered moorings.* Notwithstanding subsection (a) of this section, mooring privileges in lawful existence on the effective date of the ordinance from which this article was derived shall be preserved. Nothing in this subsection shall be construed as a limitation on the authority of the harbor master with respect to use and location of the moorings.
- (c) *Transferability of mooring assignments.* Pursuant to 38 M.R.S.A. §§ 3 and 3-A, mooring assignments may not be transferred unless the mooring is used for commercial fishing purposes. Transfer of a mooring assignment used for commercial fishing purposes is permitted only at the request or death of the mooring owner, only to a member of the mooring owner's family, and only if the mooring assignment will continue to be used for commercial fishing purposes. A member of the mooring owner's family means a parent, child, or sibling, by birth or adoption, including a relation of the half blood, or the mooring owner's spouse.
- (d) *Registration.* Owners of parcels that qualify under subsection (a) of this section who desire a mooring assignment and owners of grandfathered mooring assignments must submit a mooring registration form to the harbor master each year.

In the year 2015, the harbor master shall no later than two (2) weeks after enactment of this article by the town council send via U.S. mail or email a notice to all registered mooring owners informing them of the June 1 deadline for submission of the annual mooring registration form. Each year thereafter, the harbor master shall no later than January 31 send via U.S. mail or email a notice to all registered mooring owners informing them of the May 1 deadline for submission of the annual registration form. Notice of the registration deadline shall also be posted in the town hall and on the Town of Brunswick's website no later than January 31.

Mooring registration forms may be downloaded from the Town of Brunswick's website or obtained from the town clerk or the harbor master.

Registration forms shall require the following information:

- (1) Description of the watercraft to be moored, including state and/or federal registration numbers, make and model, color, length, propulsion, draft, and weight;
  - (2) The applicant's name (or names, in the event the mooring is to be held jointly by adult members of the same household), residence address or local business address, mailing address (designated by the applicant as the address where the applicant will accept notices under this article), home or cell phone number, and email address;
  - (3) Type and weight of mooring;
  - (4) Type and size of bottom and top chains;
  - (5) A name, address, and telephone number of an emergency contact, whom the mooring owner authorizes to make decisions surrounding the mooring in his or her absence;
  - (6) GPS location (or proposed location) of the mooring;
  - (7) The signature of the applicant, or the applicant's designee, and the date of the application; and
  - (8) Dates of installation and of the most recent inspection.
- (e) *Fees.* The annual mooring registration fees shall be charged in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.
  - (f) *Mooring inspection required.* Every two (2) years, each registered mooring shall be inspected by the mooring owner at the mooring owner's expense and must be determined by the mooring owner to be

in a safe condition. The date of inspection must be recorded on the mooring registration form. The mooring owner is responsible for the adequacy and performance of all mooring gear, tackle, and maintenance thereof. The harbor master has the authority to inspect at any time any mooring and to require any necessary maintenance or replacement of parts or the whole mooring, tackle and/or gear, for which the mooring owner shall be responsible for all costs incurred.

The Town of Brunswick assumes no liability whatsoever for the actual performance or adequacy of any mooring system employed by a mooring owner.

(g) *Placement standards.* The harbor master shall approve the location of all moorings in the harbor, coastal, and tidal waters of Brunswick. All moorings shall meet the following standards:

- (1) Moorings shall be adequate for the size, weight, and windage of the watercraft.
- (2) Moorings shall be located in areas that do not interfere with navigation.
- (3) Moorings shall not encroach into the channels of Brunswick.
- (4) Moorings shall be located in areas that do not cause unreasonable adverse impacts on natural resources. Conditions that may result in an unreasonable adverse impact on natural resources include, but are not limited to:
  - a. The presence of eel grass or other submerged vegetation;
  - b. The presence of a significant shellfish habitat, or important recreational or commercial fishing ground;
  - c. The proposed location is within mapped significant shorebird feeding or roosting habitat (based on Maine Department of Inland Fisheries and Wildlife and Maine Department of Environmental Protection Maps);
  - d. The proposed location is within mapped tidal waterfowl and wadingbird habitat (based on Maine Department of Inland Fisheries and Wildlife and Maine Department of Environmental Protection Maps);
  - e. The proposed location is within habitat for listed rare, threatened, or endangered species, and regular use of a mooring in that location would unreasonably adversely impact the species; or
  - f. The proposed location would cause unreasonable adverse impacts to a saltmarsh.

Nothing in this subsection shall be construed to limit the authority of the harbor master to consider other factors and make determinations on unreasonable adverse impacts to natural resources on a case-by-case basis. Where practicable, the harbor master shall work with the mooring owner to evaluate and select placement and tackle alternatives in order to mitigate unreasonable adverse impacts on natural resources.

- (5) The harbor master's authority under this section shall not be inconsistent with Army Corps of Engineers and Maine Department of Environmental Protection approvals governing existing commercial moorings in mooring fields.
- (6) Where practicable, the harbor master shall, if so requested, locate the mooring within reasonable proximity of the mooring owner's property.

All moorings that meet the above standards but are not placed in the location approved by the harbor master shall be moved by the owner at his or her own expense in accordance with the instructions of the harbor master. In the event of a mooring owner's failure to comply with the relocation and/or removal instructions of the harbor master, the harbor master shall move or remove the improperly located mooring and the cost shall be borne by the owner of the mooring. Before removing a mooring, the harbor master shall notify the owner, if ownership can be determined, by mail at the owner's last known address, or by email. The notice shall inform the owner of the desired action and of the fact that the mooring will be removed at the expense of the owner if the owner does not comply. If the matter is not settled to the

harbor master's satisfaction within two (2) weeks after notice was given, the harbor master may then move or remove the mooring.

- (h) *Identifying numbers.* Identifying numbers shall be issued to mooring owners, and mooring balls and buoys must be clearly marked with the issued number. Numbers shall be a minimum of four (4) inches and visible at all times. Replacement mooring balls and buoys shall maintain the originally assigned number. An annual mooring registration sticker, issued by the harbor master upon completion and approval of the mooring registration, shall be affixed to the top of the mooring buoy for which it was assigned.
- (i) *Ownership of moorings.* All mooring assignments (with the exception of marina moorings) shall be used exclusively for the use of the mooring owner and solely for the watercraft (or in the case of a multi-use mooring, multiple watercraft) listed in the application.
- (j) *Termination.* All persons who had been assigned a mooring and whose mooring assignment is to be terminated by the harbor master for reasons of noncompliance with this article or any other reason shall receive written notification from the harbor master. This notice shall state the fact of the termination and the reason for termination, and list the appeal procedures designated in section 11-14 of this chapter.
- (k) *Associations.* Associations may establish and manage moorings plans on behalf of association members, subject to input and approval by the harbor master. Mooring areas controlled by associations shall be subject to the following requirements:
  - (1) The association manages moorings in designated areas;
  - (2) The association provides oversight of member mooring use, including inspections; and
  - (3) The association is registered with the harbor master and provides member/mooring holder rosters and mooring location plans.

Nothing in this subsection shall be construed as a limitation on the ability of the harbor master to carry out his responsibilities and duties as set forth in this chapter.

(Ord. of 2-23-15(1); Ord. of 11-16-2015(2))

#### Sec. 11-5. - Operation of watercraft.

No watercraft shall be operated within two hundred (200) feet of shore and within established mooring fields or moorings placed in a designated area in accordance with section 11-4(k) of this chapter at a speed in excess of five (5) knots or that causes a wash, wake or waves that disturbs or damages any wharf, float or anchored or moored dock, or watercraft or that endangers any person or property.

(Ord. of 2-23-15(1))

#### Sec. 11-6. - Town launch facilities.

- (a) Use of town launch facilities consistent with the provisions of this article shall be permitted.
  - (1) Commercial uses of town launch facilities require a special activity permit from the town clerk.
- (b) The following activities are prohibited at town launch facilities:
  - (1) Storage of bait or catch for unreasonable periods of time, as determined by the harbor master.
  - (2) Processing of seafood products. For the purposes of this section, "processing" does not include washing clams by repeated submersion of bushel bags in the water.
  - (3) Anchoring or mooring.

- (4) Tying up to wharfs for more than thirty (30) minutes.
- (5) Swimming or fishing except in designated areas.
- (6) Power loading or unloading, watercraft washing, watercraft painting, and bilge draining.

(Ord. of 2-23-15(1))

Sec. 11-7. - Disruptive conduct.

No person shall disrupt safe and lawful activities, or in any way threaten the public safety, in or around town launch facilities, wharfs, and harbors, coastal, tidal and navigable waters of the Town of Brunswick.

(Ord. of 2-23-15(1))

Sec. 11-8. - Menaces to navigation.

The harbor master is authorized to take whatever action is necessary and appropriate to remove any menace to navigation within the harbor, coastal, tidal and navigable fresh waters of the Town of Brunswick. This shall include, but is not limited to, contracting for removal of the menace by the authorities of the State of Maine, federal government, or a private contractor at the expense of either the Town of Brunswick, some other governmental entity, or the private entity or individual responsible for the creation of the menace.

(Ord. of 2-23-15(1))

Sec. 11-9. - Dumping of sewage prohibited.

No person may discharge, spill or permit to be discharged sewage, garbage, or other pollutants from any watercraft into the harbor, coastal, tidal and navigable fresh waters of the Town of Brunswick or onto the ice or banks thereof in such a manner that the same may fall or be washed into such waters or in such a manner that the drainage may flow into such waters.

(Ord. of 2-23-15(1))

Sec. 11-10. - Failure to obey order of the harbor master.

As provided by 38 M.R.S.A. § 13, a person is guilty of failure to obey an order of the harbor master if the person intentionally, knowingly or recklessly fails to obey any lawful order of the harbor master authorized pursuant to 38 M.R.S.A. § 1 et seq. Failure to obey an order of the harbor master is a class E crime.

(Ord. of 2-23-15(1))

Sec. 11-11. - Forfeiture.

Any watercraft, skiff, float, dock, fishing gear, or wharf left tied to a town wharf without proper identification, or left sunk or awash, for a period exceeding forty-eight (48) hours shall be deemed abandoned for the purposes of this section. Any abandoned property shall be impounded by the harbor master and disposed of according to the procedure outlined in M.R.S.A. Title 25, Chapter 401. The town

shall not be liable for any damage to abandoned property that is impounded in accordance with this section.

(Ord. of 2-23-15(1))

Sec. 11-12. - Enforcement.

This chapter shall be enforced pursuant to the provisions of 38 M.R.S.A § 1 et seq. and 30-A M.R.S.A. § 4452. Any person found in violation of this article shall, after notice and hearing, lose his or her mooring privileges and all rights to use the town launch facilities and wharfs. In addition, the town shall have available all other remedies provided by law.

(Ord. of 2-23-15(1))

Sec. 11-13. - Boat storage.

No boat, vessel, raft, barge, or other watercraft shall be stored overnight in or on any navigable waters within the town without being licensed or permitted to do so. A person found in violation will be subjected to the cost of removing the vessel, boat, raft, barge, or watercraft and be fined in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.

(Ord. of 2-23-15(1); Ord. of 11-16-2015(2); Ord. of 11-16-15(3))

Sec. 11-14. - Appeals.

- (a) Any person directly aggrieved by a decision, order, rule, or action by the harbor master may appeal said decision, order, rule or action to the rivers and coastal waters commission.
- (b) Such appeal shall be made in writing within thirty (30) calendar days of the decision, order, rule, or act from which the appeal is taken. It must state with specificity the decision, order, rule, or act from which the appeal is taken and the reason for the appeal. The commission at its next regular meeting, or pursuant to a specially called meeting, shall consider the appeal. The decision on appeal by the commission shall be written and state the reasons and basis for the decision.
- (c) Any decision, order, rule, or act by the harbor master concerning the location of moorings, as a result of which location there is an immediate danger to life or property, shall not be stayed pending the appeal.
- (d) Any party directly aggrieved by the decision of the commission may appeal within thirty (30) days to the superior court in accordance with the Maine Rules of Civil Procedure.

(Ord. of 2-23-15(1))

Sec. 11-15. - Rivers and coastal waters commission.

- (a) *Purpose.* The rivers and coastal waters commission works toward harbor improvement and management, consistent with the objectives and priorities of the town's harbor management plan (HMP). The commission will bring recommendations for policy, oversight and/or action(s) to the town council, as appropriate. The town council will have ultimate authority over adopting the commission's recommendations.

- (b) *Administrative matters.* The commission will meet bimonthly, quarterly, or other frequency as determined by the commissioners and staff. The commission will elect its slate of officers, at an interval deemed most appropriate to its membership.
- (c) *Appeals.* The rivers and coastal waters commission also sits as a board of appeals to hear appeals from any person aggrieved by any order, rule, or action by the harbor master as set forth in section 11-14 of this chapter.
- (d) *Staffing and membership.* The primary staff to the commission shall be the harbor master. The commission will be composed of seven (7) voting members; two (2) ex-officio non-voting members; two (2) alternates; and one (1) non-voting primary staff member, as described in the town council charge adopted April 28, 2014, as amended from time to time.

(Ord. of 2-23-15(1))

Secs. 11-16—11-25. - Reserved.

ARTICLE II. - RESERVED<sup>[3]</sup>

Footnotes:

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**Editor's note**—An ordinance of April 4, 2005, repealed art. II, divs. 1 and 2, §§ 11-26, 11-51—11-53, in its entirety. Formerly, said article pertained to harbor, as enacted by an ordinance adopted April 1, 1974; as amended. The user is directed to art. I of this chapter for similar provisions enacted by the ordinance of April 4, 2005.

Secs. 11-26—11-70. - Reserved.

ARTICLE III. - SHELLFISHING<sup>[4]</sup>

Footnotes:

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**Cross reference**— Conservation Commission, § 2-76 et seq.; parks and recreation areas, § 14-96 et seq.

**State Law reference**— Municipal Shellfish Conservation Programs, 12 M.R.S.A. § 6671 et seq.

DIVISION 1. - GENERALLY

Sec. 11-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Aquaculture** means the cultivation of shellfish under controlled conditions.

**Bull Rake** a long handled rake with basket attached. Bull rakes are designed to harvest shellfish that are beneath the surface of the water

*Bushel* means a measurement consisting of four (4) pecks or thirty-two (32) quarts of shellfish.

*Certified municipal shellfish conservation warden* means the law enforcement officer appointed by the town council to enforce this chapter.

*Coastal waters* means all waters of the town within the rise and fall of the tide and within the marine limits of the jurisdiction of the town.

*Commercial shellfish harvester* means a person who harvests shellfish with profit as a primary aim.

*Immediate family* means spouse and children.

*Lot* means the total number of softshell clams in bulk pile. Where softshell clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

*Notification* means, unless otherwise stated herein and for the purposes of hearing notices under this article, mailing by certified mail to the last known address.

*Possession* means to have in one's custody or control, either personally or by another who is under one's control anywhere within the municipal boundaries.

*Resident* means a person who has physically resided at a fixed, permanent, and principal home in the town for at least three (3) months next prior to the time his claim of residence is made.

*Shellfish* means softshell clams (*Mya arenaria*), quahogs (*Mercenaria mercenaria*), razor clams (Ensis **directus** ~~directus~~), American oysters (***Crassostrea virginica*** ~~*Crassostrea virginica*~~), and European oysters (*Ostrea edulis*).

*Take* means to remove or attempt to remove a shellfish from its natural habitat.

(Ord. of 3-6-89, § 104; Ord. of 2-5-90, § 104; Ord. of 2-18-92, Ord. of 4-5-93, Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 4-7-14)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 11-72. - Authority.

This article is enacted in accordance with 12 M.R.S.A. § 6671.

(Ord. of 3-6-89, § 101; Ord. of 2-5-90, § 101; Ord. of 2-18-92; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-73. - Purpose.

The purpose of this chapter is as follows:

- (1) To regulate the harvesting of shellfish in the town.
- (2) To provide management programs in the town for the sustainability of shellfish in a manner consistent with the production of a reasonable yield to sustain commercial shellfish harvesters.

(Ord. of 3-6-89, § 102; Ord. of 2-5-90, § 102; Ord. of 2-18-92; Ord. of 1-16-96; Ord. of 3-16-99; Ord. of 2-6-01(1); Ord. of 12-7-09)

Sec. 11-74. - Conservation, management of resources.

It is hereby determined as follows:

- (1) The coastal waters of the town are a very valuable shellfish resource which is important to the local economy.
- (2) These marine resources are not an inexhaustible resource, and, therefore, they must be prudently managed in order to remain viable.
- (3) As part of the management process, it is deemed vitally necessary to undertake efforts to enhance the propagation of shellfish and to restrict the taking of shellfish by limiting shellfish licenses; restrict the size and quantity of shellfish which may be harvested; and, take other measures as outlined in this chapter.

(Ord. of 3-6-89, § 103; Ord. of 2-5-90, § 103; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 12-7-09; Ord. of 12-1-14(1))

Sec. 11-75. - Enforcement.

The chapter shall be enforced by the certified municipal shellfish conservation warden, or by any municipal shellfish conservation warden appointed by the town, who within one (1) year of appointment must be certified by the commissioner of marine resources.

(Ord. of 3-6-89, § 501; Ord. of 2-5-90, § 501; Ord. of 2-18-92; Ord. of 4-5-93, Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-76. - Penalty.

A person who violates this chapter shall be punished as provided in 12 M.R.S.A. § 6671.

A person who takes or possesses shellfish in violation of a municipal ordinance commits a violation with significant fines and license suspensions.

(Ord. of 3-6-89, § 502; Ord. of 2-5-90, § 502; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 12-7-09)

Sec. 11-77. - Amendment.

A certified copy of an amendment to this article shall be filed with the commissioner of marine resources within twenty (20) days of its adoption to preserve its validity.

(Ord. of 3-6-89, § 504; Ord. of 2-5-90, § 504; Ord. of 2-18-92, Ord. of 4-5-93; Emergency Ord. of 8-5-96; Ord. of 8-19-96; Ord. of 3-16-99; Ord. of 11-3-03; Ord. of 12-7-09)

Secs. 11-78—11-95. - Reserved.

DIVISION 2. - MARINE RESOURCE COMMITTEE<sup>[5]</sup>

Footnotes:

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**Cross reference**— Boards, committees, commissions, § 2-51 et seq.

Sec. 11-96. - Established, members, etc.

There is hereby established a marine resource committee consisting of seven (7) members and two (2) alternates to be appointed by the town council. The members must include three (3) town licensed resident commercial shellfish harvesters, three (3) residents of the community who do not possess a town or state shellfish license and one (1) town licensed resident recreational shellfish harvester. ~~One (1) alternate must be a town licensed resident commercial shellfish harvester and one (1) alternate must be a member of the community who does not possess a town or state shellfish license.~~ **The Two (2) alternate members can be from any category and** ~~In the absence of a member either alternate may fill the a vacancy to constitute a quorum, however that alternate may only vote in the category in which he/she has been appointed.~~ Members and alternates shall be appointed for three-year terms. The town council shall appoint a person to fill a vacancy for the unexpired term. The committee shall choose a chairman, vice-chairman and secretary. The chairman shall preside at all meetings of the committee. The vice-chairman shall preside in the chairman's absence. Minutes of each meeting shall be filed with the town clerk. Any committee member who has three (3) or more unexcused absences from committee meetings in a year may be removed and replaced with a new member by the town council

(Ord. of 3-6-89, § 201; Ord. of 2-5-90, § 201; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 9-5-95; Ord. of 1-16-96; Emergency Ord. of 8-5-96; Ord. of 8-19-96, Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09; Ord. of 12-1-14(1))

Sec. 11-97. - Powers and duties.

The marine resource committee shall have the following powers and duties:

- (1) To administer and coordinate the shellfish sustainability program.
- (2) To recommend to the town council how the money appropriated for shellfish sustainability programs should be spent.
- (3) To survey the coastal waters to obtain and maintain current information on shellfish resources, including:
  - a. The determination of size frequency.
  - b. The determination of growth rate.
  - c. The estimation of the available standing crop.
  - d. The estimation of potential yield.
  - e. The identification of sources of harmful pollution.
  - f. The identification of other resource problems, such as green crab predation and mussel competition.
- (4) To determine the current level of use of the shellfish resources.

- (5) To cooperate with the Department of Marine Resources and others in carrying on experimental programs.
- (6) To prepare and promulgate a shellfish sustainability plan in cooperation with the Department of Marine Resources based on the results of the shellfish survey, recommending area rotation, seeding, transplanting, predator control, and the opening and closing of the coastal waters.
- (7) To collect harvest data documenting local values of shellfish resources.
- (8) To make an annual written report to the town and the Department of Marine Resources detailing funds available, expenditures made, shellfish population data, results of all conservation and experimental programs, enforcement activities, and sources of pollution, predation, competition and other resource problems.
- (9) To establish annually in conjunction with the Department of Marine Resources the number of commercial shellfish harvesting licenses to be issued.

(Ord. of 3-6-89, § 202; Ord. of 2-5-90, § 202; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 12-7-09)

Secs. 11-98—11-110. - Reserved.

#### DIVISION 3. - SHELLFISH REGIONAL ADVISORY COMMISSION<sup>[6]</sup>

Footnotes:

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**Editor's note**—Former Div. 3, §§ 11-111—11-114, relative to the shellfish advisory commission, was deleted by an ordinance adopted Aug. 15, 1994, due to no remaining reciprocal agreements. The provisions of former Div. 3, derived from §§ 401—404 of an ordinance of March 6, 1989; §§ 401—404 of an ordinance of Feb. 5, 1990; an ordinance of Feb. 18, 1992; an ordinance of April 5, 1993; and an ordinance of Feb. 22, 1994.

Secs. 11-111—11-130. - Reserved.

#### DIVISION 4. - LICENSE<sup>[7]</sup>

Footnotes:

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**Cross reference**— Licenses and business regulations, ch. 10.

Sec. 11-131. - License required.

A person shall not take or possess shellfish from coastal waters of the town without first obtaining a license from the town clerk or the town clerk's designee.

(Ord. of 3-6-89, § 301; Ord. of 2-5-90, § 301; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93, Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-132. - Categories.

(a) There are seven (7) types of licenses as follows:

- (1) *Resident commercial shellfish license.* This license entitles the licensee to harvest any amount of shellfish from the coastal waters of the town where and when it is otherwise lawful to do so.
- (2) *Nonresident commercial shellfish license.* This license entitles the licensee to take or possess any amount of shellfish from the coastal waters of the town where and when it is otherwise lawful to do so.
- (3) *Resident recreational shellfish license.* This license is available to residents and nonresident owners of real estate within the town as well as immediate family members of nonresident real estate owners within the town and entitles the licensee to take or possess no more than one (1) peck of shellfish **per tide in any one (1) twenty-four-hour period** from the coastal waters of the town, not for sale, but for the use of the harvester and the harvester's immediate family, where and when it is otherwise lawful to do so.
- (4) *Nonresident recreational shellfish license.* This license entitles the licensee to take or possess no more than (1) peck of shellfish **per tide in any one (1) twenty-four-hour period** from the coastal waters of the town, not for sale, but for the use of the harvester and the harvester's immediate family, where and when it is otherwise lawful to do so.
- (5) *Resident student shellfish license.* This license allows the licensee to harvest one (1) bushel of shellfish **per tide from June 15 (inclusive) to September 1 (inclusive) from the coastal waters of the town to where and when it is otherwise lawful to do so. From June 15<sup>th</sup> to September 1<sup>st</sup> and throughout the remainder of the license year during weekends and holidays until June 14<sup>th</sup>.**
- (6) *Nonresident student shellfish license.* This license allows the licensee to harvest one (1) bushel of shellfish **per tide from June 15 (inclusive) to September 1 (inclusive) from the coastal waters of the town where and when it is otherwise lawful to do so. From June 15<sup>th</sup> to September 1<sup>st</sup> and throughout the license year during weekends and holidays until June 14<sup>th</sup>.**
- (7) *Bushel license.* This license allows the licensee to harvest one (1) bushel of soft shell clams and one (1) bushel of quahogs **per tide** ~~in any one (1) twenty-four-hour period that begins at midnight throughout the year.~~

(b) The town shall provide ten (10) percent of the resident commercial, recreational and student licenses to nonresidents.

(c) Any license issued under this division is subject to the partial or total closing of coastal waters under section 11-161 of this chapter.

(Ord. of 3-6-89, § 304; Ord. of 2-5-90, § 304; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 1-16-96; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09; Ord. of 4-1-13)

Sec. 11-133. - Qualification of licensee.

(a) *Residency and other qualifications.*

- (1) An applicant for a resident commercial shellfish license shall be a resident of the town whose municipal and state shellfish license is not currently under suspension for a second closed area conviction pursuant to this chapter and whose state shellfish license is not currently under suspension.
  - (2) An applicant for a nonresident commercial shellfish license is any person who is not a resident of the town whose municipal and state shellfish license is not currently under suspension for a closed area conviction pursuant to this chapter, and whose state shellfish license is not currently under suspension.
  - (3) An applicant for a resident recreational shellfish license must be either a resident of the town or nonresident owner of real estate within the town or immediate family member of nonresident owner of real estate within the town and whose municipal and state shellfish license is not currently under suspension.
  - (4) An applicant for a nonresident recreational shellfish license is any person who is not a resident of the town and whose municipal and state shellfish license is not currently under suspension.
  - (5) The place of residence of an applicant as stated on any other license is not determinative of the applicant's true place of residence. Where necessary, the town clerk shall require the applicant to produce evidence of his residence before issuing the license.
  - (6) An applicant for a resident student shellfish license shall be a resident of the town who has attained his or her thirteenth birthday but has not yet attained his or her twenty-first birthday as of March 1 of the year of application and whose shellfish is not under suspension pursuant to this chapter. The applicant shall be enrolled full-time in a primary or secondary school or educational program.
  - (7) An applicant for a nonresident student shellfish license shall be a nonresident of the town who has attained his or her thirteenth birthday but has not yet attained his or her twenty-first birthday as of March 1 of the year of application and whose shellfish license is not under suspension pursuant to this chapter. The applicant shall be enrolled full-time in a primary or secondary school or educational program.
  - (8) A qualified applicant for a bushel license shall be an individual who has reached the age of sixty (60) and has previously held a commercial license for the last eight (8) out of ten (10) years, or held a bushel license in the prior year. An applicant who applies for and receives a bushel license will lose all credit for having held a commercial license in prior years for purposes of any future application for a commercial license. A recipient of a bushel license will be guaranteed a bushel license in future years if all other requirements of this chapter are met.
- (b) *Conservation time.* A licensed commercial shellfish harvester must obtain a total of ten (10) twenty (20) conservation credit points between May 1 and February 15 in order to remain eligible to obtain a license for the next licensing year. Bushel license holders are exempt from any conservation time requirements. Student shellfish license holders and commercial license holders over the age of sixty-two (62) as of the date of the application deadline set forth in section 11-134 are exempt from any conservation credit requirements.
- (1) *Conservation credit activities.* Participation in any of the following activities results in the granting of conservation credit as specified:  
 Participation in any one (1) of the following activities shall deem a harvester eligible to receive two (2) conservation credit points per event attended:
    - a. Documented attendance at a Brunswick Marine Resource Committee meeting or Brunswick Marine Resource Committee public hearing.
    - b. Documented attendance at a regional or state shellfish management committee meeting.
    - c. Documented attendance at a shellfish conference (i.e., fisherman's forum).

Participation in any one (1) of the following activities shall deem a harvester eligible to receive five (5) conservation credit points per event attended:

- a. Participation in a Brunswick Marine Resource Committee sponsored shellfish reseeded project.
- b. Participation in a Brunswick Marine Resource Committee sponsored experimental shellfish enhancement project.
- c. Participation in Town of Brunswick annual shellfish surveys.
- d. Participation in Town of Brunswick **shellfish growing area** water quality monitoring event.
- e. Participation in an organized **coastal or environmental shellfish growing area restoration** event **cleanup along** within the Town of Brunswick.
- f. Participation in non-point pollution identification or remediation project within the Town of Brunswick.
- g. Participation in a Town of Brunswick shellfish predation control project or habitat restoration effort.

A currently licensed harvester who does not complete the required conservation time credit will not receive a license for the next license year.

The accumulation of conservation credit must be completed by February 15 of the current license year.

- (2) *Documentation of conservation credit.* Participation in any of the conservation credit activities specified in this section must be documented. Documentation shall be in the form of a signature on an event sign in sheet, name appearing as an attendee in official meeting minutes, receipt of conference registration, or records maintained by the Brunswick Marine Warden **or designee**, in order for conservation credit points to be awarded.

All records and conservation credit logs will be maintained by the marine warden and will be held in the shellfish warden's office.

- (3) *Determination of conservation credit completion.* By the second Monday in March, the marine warden shall compile documented conservation time of each individual harvester and forward a list of those harvesters determined to have satisfied the conservation credit requirement to the town clerk.

Harvesters included on the list submitted by the **shellfish marine** warden shall be eligible for a commercial license for the upcoming license year if a notice of intent has been filed by the deadline.

- (4) *Approved absence from conservation credit requirement.* Harvesters who have not completed a full ~~twenty (20)~~ **ten (10)** points of conservation credit in a given license year are only eligible for a license if their absence from participation in conservation credit activities are approved by the marine resource committee.

Approved absences may include an extended and documented illness, or an extended illness of an immediate family member that is under the immediate care of the harvester.

Requests for a determination of approved absence must be made in writing to the shellfish warden and must be submitted to the marine resource committee no later than February 10. The request shall include evidence to support an approval of absence determination. The marine resource committee will rule on the absence at its March meeting.

If the absence is approved, the harvester will be required to make up the remaining conservation credit points during the next license year.

(Ord. of 3-6-89, § 307; Ord. of 2-5-90, § 307; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 1-16-96; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 11-2-05(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 4-7-14; Ord. of 12-1-14(1))

Sec. 11-134. - Application.

- (a) The application for a license required under this chapter shall be in the form of an affidavit. It shall contain the applicant's name, physical location of residence, mailing address, period of residence, date and place of birth, height, weight, eye and hair color, and such other necessary information as the town clerk may require. The resident address shall be the physical location of the residence. The mailing address shall be such that the applicant utilizes to receive mail from the U.S. Postal Service. It must be signed by the applicant and acknowledged by the town clerk. The town clerk shall note on the application the date the license was issued. The town clerk shall file the application with the records.
- (b) An application for a student shellfish license shall also be in the form of an affidavit, which shall include:
  - (1) Proof that the applicant has attained his or her thirteenth birthday but has not yet attained his or her twenty-first birthday as of March 1 of the license year.
  - (2) Proof of residency.
  - (3) Proof of enrollment in a school or state approved educational program.
  - (4) A letter of recommendation from the superintendent or equivalent official in the school or educational program.

An application for a student shellfish license shall include a statement in bold print: **THE RECEIPT OF A STUDENT SHELLFISH LICENSE OR LICENSES PROVIDES NO CREDIT IN THE COMMERCIAL LICENSE SELECTION PROCESS.**

(Ord. of 3-6-89, § 308; Ord. of 2-5-90, § 308; Ord. of 2-18-92; Ord. of 2-22-94; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 2-6-01(1); Ord. of 11-3-03; Ord. of 12-7-09)

Sec. 11-135. - Misrepresentation; change of residence.

- (a) It shall be a violation of this article for any person to falsify or give false information in connection with a shellfish license application. In addition to any criminal penalties which may result from a violation of this chapter, the shellfish license granted to any person who gives false information on a shellfish license application shall be void after notice and hearing.
- (b) A person holding a resident commercial shellfish license or a resident student shellfish license shall physically reside at a fixed, permanent, and principal home in the town during the license period, or shall surrender the license. If a person does not do so, the license shall be void after notice and hearing.
- (c) A person holding a resident recreational shellfish license shall physically reside at a fixed, permanent, and principal home in the town or be a nonresident owner of real estate within the town or immediate family member of nonresident real estate owner within the town during the license period, or shall surrender the license. If a person does not do so, the license shall be void after notice and hearing.

(d) A person applying for, or holding a shellfish license under this chapter, shall notify the town clerk within ten (10) business days of an address change, regardless of whether the address change is also a change of residency.

(Ord. of 3-6-89, § 310; Ord. of 2-5-90, § 310; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 1-16-96; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 2-6-01(1); Ord. of 4-7-08(1); Ord. of 12-7-09)

#### Sec. 11-136. - Fees.

The applicant for a license under this chapter shall pay a fee in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.

PROPOSED BY STAFF= 500.00 resident commercial 750 nonresident commercial Student License 100.00 nonresident 150.00 resident recreation 50.00 nonresident recreation 75.00 Day licenses 15.00

(Ord. of 3-6-89, § 305; Ord. of 2-5-90, § 305; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 2-6-01(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 11-16-2015(3))

#### Sec. 11-137. - Exhibition of license.

When any person is engaged in any activity which is licensed under this chapter, that person shall, on request of a certified municipal shellfish conservation warden, exhibit his license.

(Ord. of 3-6-89, § 301 (1), (2); Ord. of 2-5-90, § 301(1), (2); Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 12-7-09)

#### Sec. 11-138. - Consent to inspection for shellfish.

A certified municipal shellfish conservation warden, within the warden's jurisdiction, has all the search powers of a marine patrol officer under Title 12, Section 6025(4). Those powers currently include the power to search without a warrant, upon probable cause, any watercraft or container containing marine organisms possessed or taken in violation of law.

(Ord. of 3-6-89, § 301 (3); Ord. of 2-5-90, § 301 (3); Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 12-7-09)

#### Sec. 11-139. - Stopping for inspection.

It shall be unlawful for the operator of a motor vehicle, boat, vessel, or conveyance of any kind, or any person:

- (1) *Stopping.* To fail or refuse to stop immediately upon request or signal of any certified municipal shellfish conservation warden in uniform.
- (2) *Remaining stopped.* After he has so stopped, to fail to remain stopped until the certified municipal shellfish conservation warden in uniform reaches his immediate vicinity and makes known to that operator the reason for the request or signal.
- (3) *Standing by.* To fail or refuse to stand by immediately for inspection on request of any certified municipal shellfish conservation warden in uniform.

- (4) *Throwing or dumping items.* Who has been requested or signaled to stop by a certified municipal shellfish conservation warden in uniform to throw or dump into any coastal waters any shellfish, or any pail, bag, barrel or other container of any type or the contents thereof before the certified municipal shellfish conservation warden in uniform has inspected the same.

(Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 12-7-09)

**Editor's note**— Former § 11-139, relative to a prohibition on night shellfish harvesting, was amended in its entirety by an ordinance adopted Feb. 18, 1992. The provisions of former § 11-139 derived from § 301(4) of an ordinance adopted March 6, 1989 and § 301(4) of an ordinance adopted Feb. 5, 1990.

Sec. 11-140. - Limitation on number of licenses.

- (a) The shellfish resources are limited. A commercial, recreational, bushel or student shellfish harvester can be expected to harvest a certain volume of shellfish per year; therefore, the number of shellfish harvesters must be controlled to preserve the shellfish resource. The number of available shellfish licenses of each type will vary from year to year according to the findings and estimates of the marine resource committee and the state marine resource regional biologist based on data concerning resource capabilities and management requirements consistent with proper resource utilization as determined by shellfish population surveys conducted pursuant to section 11-97. Prior to the first Friday in March, the marine resource committee will set the number of recreational licenses. Commencing with the first Monday of April, the town clerk shall issue resident recreational licenses until the allotted numbers have been issued. Commencing with the first Monday in April, the town clerk shall maintain a chronological list of nonresidents seeking recreational shellfish licenses. When the number of resident recreational shellfish licenses reaches a number where a nonresident recreational shellfish license may be issued, the town clerk shall by telephone and U.S. mail attempt notification of the applicant with the highest priority on the list. That person shall purchase the license within seven (7) business days from the date notification is attempted. If the purchase is not made in that time period, that person loses their priority and the town clerk shall attempt notification of the next person on the list using the same process.
- (b) The following procedure will be followed to control commercial and bushel license availability:
  - (1) Prior to January 15 of each year, the town clerk will make available a notice of intent. The notice shall also be published in a trade or industry publication or in a newspaper or combination of newspapers with general circulation which the municipal officers consider effective in reaching persons affected no later than by January 15 and shall be posted in the municipal offices no later than January 15 until the end of business on the second Friday of March.

Any person who does not complete and return to the town clerk by 4:30 p.m. on the second Friday of March a fully completed notice of intent on the form prepared by the town clerk along with two (2) proofs of residency, shall not be eligible to be an applicant for a resident or nonresident commercial license in the next coming license period, provided, however, that any person having missed the filing deadline of the second Friday of March may pay a nonrefundable late fee of six hundred dollars (\$600.00) by the third Friday of March and the late fee shall be accompanied by the notice of intent form and two (2) proofs of residency. The late fee shall be in addition to those fees required under section 11-136. Any person who does not file a notice of intent for two (2) successive license periods, shall not be considered as previously having held a Brunswick resident or nonresident commercial shellfish license.

Any person who does not complete and return to the town clerk by 4:30 p.m. on the second Friday of March a fully completed notice of intent on the form prepared by the town clerk along with two (2) proofs of residency, shall not be eligible to be an applicant for a bushel license in the next coming license period and shall not be considered as previously having held a bushel

license, provided, any person having missed the filing deadline of the second Friday of March may pay a nonrefundable late fee of four hundred dollars (\$400.00) by the third Friday in March and the late fee shall be accompanied by the notice of intent form and two (2) proofs of residency. The late fee shall be in addition to those fees required under section 11-136.

The notice of intent must be delivered in person, and must be received by the town clerk by 4:30 p.m. on the second Friday of March, or, in the case of payment of a late fee, must be delivered in person and received by the town clerk by the third Friday of March. In the event the Brunswick municipal offices are closed during any portion of the normal office hours on either of these dates, the deadline for submitting a notice of intent shall be extended to the close of business on the next normal business day the municipal offices are open.

An applicant on active military duty, whether because of enlistment or activation by a proper authority, may preserve, but not advance, that applicant's status in the commercial license selection process by returning a notice of intent to the town clerk by the second Friday of March. The active duty applicant need not deliver the notice of intent in person. The active duty applicant must include proof from a military authority that the applicant is on active duty and that the applicant is a resident of Brunswick, Maine, as defined in this chapter. The applicant is not required to participate further in the commercial license selection process, and the applicant shall not be reduced in the commercial license classes in any year the applicant complies with this paragraph.

- (2) Prior to the first Friday in March, the marine resource committee will establish the number of commercial shellfish licenses and bushel licenses to be made available.

The Brunswick Marine Resource Committee shall use the following protocols in order to determine the number of resident commercial shellfish licenses and bushel licenses:

- a. Shellfish population surveys, conducted in accordance with the Maine Department of Marine Resources Municipal Shellfish Management Program. A complete shellfish inventory including all growing areas within the Town of Brunswick jurisdiction shall be completed every two (2) years, or upon the recommendation of the marine resources officer or the marine resources committee.
  - b. Standing crop analysis, as determined by the shellfish population surveys.
  - c. License availability, based on the standing crop analysis.
  - d. Historical harvest data, as determined by the Maine Department of Marine Resources Municipal Shellfish Management Program.
  - e. Harvester and public input.
  - f. The committee must take into account all of the above factors in determining the number of resident commercial shellfish licenses to be made available. However, the final number of licenses made available shall not vary more than fifteen (15) percent from the number determined solely by the standing crop analysis under criterion (c) above.
- (3) The marine resources committee will notify the town clerk in writing prior to the second Friday of March of the number of shellfish licenses, by type and class, to be made available for issue.

If the town is notified by the Maine Department of Marine Resources of an impending closure or opening of harvestable acreage after the second Friday in March, the committee shall recalculate the number of commercial shellfish licenses made available, and notify the town clerk in writing prior to the first Monday in April.

The town clerk will prepare a list of the persons eligible for licenses in classes A through K in subsection (4) and those persons eligible for any bushel licenses. The public notification of license availability shall include a statement that the list is posted at the town office. No shellfish licenses may be reserved and licenses cannot be transferred or resold by applicants. Applicants

for a shellfish license who meet the requirements of this article must obtain the shellfish license in person unless the applicant has filed with the town clerk a notarized statement designating a certain other person to obtain the license on the applicant's behalf or unless medically unable to do so. A person medically unable to obtain the shellfish license may send another person who shall present to the town clerk written authorization and a written statement from a physician regarding the applicant's condition.

- (4) The town clerk shall issue resident commercial and nonresident commercial licenses according to the selection process described below. Resident applications and nonresident applications shall be segregated in each class. The classes shall be followed in descending order. A number equivalent to ten (10) percent of the total number of resident commercial licenses, regardless of class, shall be issued to nonresident commercial applicants. The classes are:

## RESIDENT

- a. Applicants who have held resident commercial licenses for ten (10) of the last ten (10) years.
- b. Applicants who have held resident commercial licenses for nine (9) of the last ten (10) years.
- c. Applicants who have held resident commercial licenses for eight (8) of the last ten (10) years.
- d. Applicants who have held resident commercial licenses for seven (7) of the last ten (10) years.
- e. Applicants who have held resident commercial licenses for six (6) of the last ten (10) years.
- f. Applicants who have held resident commercial licenses for five (5) of the last ten (10) years.
- g. Applicants who have held resident commercial licenses for four (4) of the last ten (10) years.
- h. Applicants who have held resident commercial licenses for three (3) of the last ten (10) years.
- i. Applicants who have held resident commercial licenses for two (2) of the last ten (10) years.
- j. Applicants who have held resident commercial licenses for one (1) of the last ten (10) years.
- k. Applicants who have held resident commercial licenses for zero (0) of the last ten (10) years.

## NONRESIDENT

- a. Applicants who have held nonresident commercial licenses for ten (10) of the last ten (10) years.
- b. Applicants who have held nonresident commercial licenses for nine (9) of the last ten (10) years.
- c. Applicants who have held nonresident commercial licenses for eight (8) of the last ten (10) years.
- d. Applicants who have held nonresident commercial licenses for seven (7) of the last ten (10) years.

- e. Applicants who have held nonresident commercial licenses for six (6) of the last ten (10) years.
- f. Applicants who have held nonresident commercial licenses for five (5) of the last ten (10) years.
- g. Applicants who have held nonresident commercial licenses for four (4) of the last ten (10) years.
- h. Applicants who have held nonresident commercial licenses for three (3) of the last ten (10) years.
- i. Applicants who have held nonresident commercial licenses for two (2) of the last ten (10) years.
- j. Applicants who have held nonresident commercial licenses for one (1) of the last ten (10) years.
- k. Applicants who have held nonresident commercial licenses for zero (0) of the last ten (10) years.

On the first Wednesday of April, the town clerk shall issue licenses to the classes in which licenses are available for each applicant. The licenses shall be purchased by the end of business on the tenth business day after issuance. **In the case a licensee fails to pick up their designated license within the above time frame. The licensee will have an additional five (5) business days to purchase the license at double the amount of the license fee.**

After the issuance of licenses to the classes in this subsection (4) in which licenses are available for each applicant, the remaining classes shall be issued licenses by lottery. The lottery shall apply to the classes alphabetically. If there is at least one (1) applicant in excess of the number of available licenses in a class, the town clerk shall also hold a lottery for the next class. The lottery shall be held on the fourth Tuesday of April. As applicant names are drawn by lottery, a list will be compiled showing order of eligibility. Licenses will be available for purchase after the lottery during regular town office business hours until the end of the first business day following the lottery. If, at the end of the first business day following the lottery, one (1) or more licenses remain in a class, the next eligible applicant(s) in that class will have two (2) days to purchase the license(s).

If licenses remain after the issuance of licenses to each applicant in the classes in this subsection (4) during the first ninety (90) days of the issuance process, the town clerk shall issue licenses to residents or nonresidents according to the following process:

The town clerk shall prepare public notification of license availability which shall be published in a newspaper of general circulation in the area by the second Friday of May and posted at the town office. The notification shall inform prospective applicants to file a lottery participation notice to seek a resident or nonresident commercial shellfish license. The lottery participation notice shall be on the form prepared by the town clerk, and available at the town clerk's office.

Any person who does not complete and return the lottery participation notice to the town clerk by 4:30 p.m. on the Friday following publication shall not be eligible to be an applicant.

The town clerk shall prepare a list of the persons eligible to compete for a license in this category. The list shall be posted at the town office. Resident applications and nonresident applications shall be segregated.

On the **second** Monday immediately following the return deadline, the town clerk shall hold a lottery to select the applicant or applicants who shall receive licenses. Licenses shall be purchased by the end of business on Tuesday, the next day. If the licenses are not purchased by that time, they shall be offered to the next succeeding person or persons in the lottery who shall have two (2) business days after notification to purchase the license.

If licenses remain after the first ninety (90) days of the issuance process, they shall be equally available to residents and nonresidents.

If a license becomes available because it is suspended to or past the end of the license year, void or surrendered during the license year, it shall be offered to the next succeeding person, if any, identified in the initial lottery process according to the category of the license suspended, void or surrendered, resident or nonresident. That person shall have seven (7) business days after attempted telephone and U.S. mail notification to purchase the license. If no person remains from the initial lottery process, or if there was no initial lottery process, the license shall not be reissued.

Nothing in this subsection shall be interpreted to restore or expand any other rights or waive any qualification provisions under this article. For the following license year, a person who held licenses in some or all of the proceeding ten (10) years and who qualified for a license during the period of issuance but did not receive a license, shall be in the class determined by this lottery license and previous licenses. A person who receives a license in this lottery and who has held no licenses for the preceding ten (10) years shall be in a class J for the following license year.

If the Brunswick municipal offices are closed during any portion of the normal office hours on the first day set above for issuing licenses to a class, any remaining licenses for that class must be issued and purchased prior to closing of the municipal offices on the next normal business day the municipal offices are open. If the Brunswick municipal offices are closed during any portion of the normal office hours on the second day set above for issuing licenses to a class, any remaining licenses for that class must be issued and purchased prior to noon on the next normal business day the municipal offices are open.

For the purposes of the above selection process, a license does not remain for a class in the descending order if a person in the class above is issued a license but does not purchase the license within the required time, and others in the class above did not obtain a license because the number of persons in the class above exceed the number of available licenses. Rather, the license shall be issued to the persons in the class above who did not obtain a license, by lottery if necessary.

For the purpose of the above selection process, a person who was a Brunswick resident and subsequently established residency in another place outside the Town of Brunswick and obtained a resident commercial shellfish license in that place, shall not be considered as previously having a Brunswick resident commercial shellfish license.

For the purposes of the above selection process, a person who is issued a license but does not purchase the license within the required time for two (2) successive license years shall not be considered as previously having a Brunswick commercial shellfish license.

(5) The town clerk or the town clerk's designee shall begin to issue resident and nonresident recreational shellfish licenses on the first Monday in April.

(c) Reserved.

(d) The following procedure will be followed to control student shellfish license availability:

(1) Prior to the first Friday in March, the marine resource committee will establish the number of student shellfish licenses to be made available. Not less than ten (10) percent of the student shellfish licenses shall be made available to nonresidents, except that if the number established is five (5) or fewer, none is required to be made available to nonresidents, and if the number is more than five (5) but fewer than ten (10), at least one (1) is required.

The marine resources committee will notify the town clerk in writing prior to the second Friday of March of the number of student licenses to be made available for issue.

(2) Notice of intent application for student licenses will be available on the first Friday in April at the Town Clerk's Office, 28 Federal Street, Brunswick. The town clerk shall publish a notice of

availability of student notice of intent applications for shellfish harvesting in a newspaper of general circulation no later than the first Friday of April. Student harvesters must deliver a completed notice of intent to the town clerk's department, in person, no later than 4:30 p.m. on the first Friday of May. If there are more applicants than there are licenses available, the selection process shall be by lottery. On the second Friday in May, the town clerk shall hold a lottery if needed to select the applicant or applicants who shall receive licenses. Licenses shall be purchased by the end of business on the third Friday of May. If the licenses are not purchased by that time, they shall be offered to the next succeeding person or persons in the lottery who shall have seven (7) business days after the town clerk by telephone and U.S. mail notifies the person or persons to purchase the license.

If student shellfish licenses remain after the first ninety (90) days of the issuance process, they shall be equally available to residents and nonresidents.

- (3) Student shellfish license holders will need to appear in person at the time they purchase their licenses to have their pictures taken for their licenses. The town clerk's office will mail out licenses to student license holders by June 10.
- (4) Before taking shellfish on June 15, the student shellfish licensees shall provide the certified municipal shellfish conservation warden, or his or her designee, proof that the information in the application remains correct.
- (e) Notice of the dates, places, times and the procedures for the recreational license sales shall be posted on the Towns Web Page, ~~published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than ten (10) days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the commissioner of marine resources.~~

(Ord. of 3-6-89, § 309; Ord. of 2-5-90, § 309; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 1-16-96; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Emergency Ord. of 3-16-98; Ord. of 3-16-98, Ord. of 3-16-99; Emergency/Regular Ord. of 7-6-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 2-6-01(1); Ord. of 12-2-02; Ord. of 11-3-03; Ord. of 2-22-05; Ord. of 10-24-05; Ord. of 11-2-05(2); Ord. of 11-15-06(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 12-1-14(1))

#### Sec. 11-141. - Suspension.

- (a) *Violation of article.* The town marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article if a person is convicted in court of violating any section of this article.
- (b) Suspension based on conviction in a town closed conservation area. The marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article when the license holder has been convicted in court of harvesting shellfish from a town closed conservation area. The suspension shall be one hundred eighty (180) days for a first conviction; and the remainder of the shellfish year for a second conviction. In addition, a person with a second conviction shall not qualify as an applicant for five (5) years from the date of the second conviction.
- (c) Suspension based upon violation of recreational license or bushel license requirement. The marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article when they find the harvester has violated the requirements of this article for recreational, student or bushel licenses. The suspension shall be twelve (12) months for the first finding. The suspension shall be for the balance of the license year for the second finding and, in addition, a harvester with a second finding shall not qualify as an applicant for a recreational, student or bushel license for five (5) years from the date of the second finding.

- (d) The marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article, if the license holder refuses to allow inspection or seizure under section 11-138. This suspension may not exceed two (2) years.
- (e) *Length of suspension where otherwise not specified.* The suspension of a license may not exceed the following:
  - (1) Ninety (90) days for the first conviction.
  - (2) The remainder of the license year for the second conviction.

In addition, a harvester with a second conviction in a twelve-month period arising out of separate events shall not qualify as an applicant for a license for one (1) year.
- (f) *Applicable standards.* Any conviction for violations occurring more than five (5) years before the most recent date of violation resulting in a conviction shall not be counted in determining lengths of suspension.

(Ord. of 3-6-89, § 311; Ord. of 2-5-90, § 311; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09; Ord. of 4-1-13)

Sec. 11-142. - Aiding and abetting.

A harvester holding a commercial license or bushel license who aids or abets the harvest of shellfish in violation of this article shall be subject to the same penalties as the person he has assisted.

(Ord. of 3-6-89, § 312; Ord. of 2-5-90, § 312; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 12-7-09; Ord. of 4-1-13)

Sec. 11-143. - Suspension based on state shellfish license being suspended.

The marine resource committee shall, after notice and hearing, suspend any and all licenses issued by this article when the license holder's State of Maine Department of Marine Resources Shellfish License is suspended. The suspension shall remain in effect until the license holder's State of Maine Department of Marine Resources Shellfish License is reinstated.

(Ord. of 3-6-89, § 313; Ord. of 2-5-90, § 313; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-144. - Hearing.

If the certified municipal shellfish conservation warden presents to the marine resource committee evidence that any licensee has been convicted of violating this article or the licensee's State of Maine Department of Marine Resources Shellfish License has been suspended, the marine resource committee shall give the licensee seven (7) day's notice of the suspension of the license, stating the reason for the suspension. The licensee has the right to meet with the marine resource committee during that seven-day period to review the evidence of convictions or suspension in the marine resource committee's possession and to present any evidence showing the licensee does not have the convictions or the suspension.

(Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-145. - Expiration.

Resident commercial shellfish and nonresident commercial licenses and bushel licenses issued under authority of this article shall expire on the fourth Friday of April in the following calendar year. Resident student shellfish and nonresident student shellfish licenses issued under the authority of this article shall expire September 1. Resident recreational and nonresident recreational licenses issued under authority of this article shall expire on the day before the first Monday of April.

(Ord. of 3-6-89, § 306; Ord. of 2-5-90, § 306; Ord. of 2-18-92; Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-2-02; Ord. of 11-3-03; Ord. of 12-7-09; Ord. of 4-1-13)

Secs. 11-146—11-160. - Reserved.

DIVISION 5. - REGULATIONS

Sec. 11-161. - Opening and closing of coastal waters.

- (a) The marine resource committee, with the approval of the commissioner of marine resources, and the direct consent of the town council, and this consent to be given by the town council on an annual basis at their first regular meeting after the organization meeting, may open and close coastal waters. ~~Any opening or closing of coastal waters must be noticed at least 5 days in advance in a newspaper of common circulation to the area. Except for emergency closures, or openings, the marine resource committee shall call a public hearing and shall send a copy of the notice to the Department of Marine Resources. At the hearing, the staff shall present evidence obtained from its survey and other sources, and members of the public may present evidence in support or refutation of the evidence presented by the staff. In the event of an emergency closure, or openings, the marine resource committee shall hold a public hearing as soon as practical, considering the need for adequate public notice and participation.~~
- ~~The chair may determine that an opening or closing shall be placed on the agenda and shall direct staff to give notice of the hearing. Notice shall be posted at the town office, and published in a newspaper of general circulation no less than seven (7) days before the date of the hearing.~~
- (b) ~~After the hearing is closed,~~ the marine resource committee shall make findings of fact on the relevant evidence presented ~~by town and/or department of marine resource staff and the public.~~ They shall then make a conclusion based on those findings of fact as to whether opening of coastal waters as requested is warranted by the recovery of the resource; or the freedom from predation, competition or other resource problem. If so, the marine resource committee with the concurrence of the department of marine resources shall order the coastal waters opening and shall set such time limitations and other harvesting conditions as are consistent with good conservation practices. If the request is to close the coastal waters, the marine resource committee shall make a conclusion based on their findings of fact as to whether closing the coastal waters is warranted by depletion of the shellfish, destruction of existing seed; or predation, competition or other resource problem. If so, the marine resource committee shall order the coastal waters closed until further request for opening by the staff. ~~Any~~ ~~All~~ proposals for opening or closing of coastal waters shall be approved by the commissioner of marine resources prior to enactment.
- (c) When the marine resource committee opens or closes the coastal waters, the committee's action may be reviewed at a regularly or specially scheduled town council meeting. The town council may uphold, reverse or amend the opening or closing decision of the marine resource committee.

(Ord. of 3-6-89, § 203; Ord. of 2-5-90, § 203; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09)

Sec. 11-162. - Shellfish size and tolerance of harvest.

A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot; quahogs which are less than one (1) inch in width to the amount of five (5) percent of any lot; razor clams which are less than four (4) inches or oysters which are less than three (3) inches in length.

(Ord. of 3-6-89, § 302; Ord. of 2-5-90, § 302; Ord. of 2-18-92; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 4-7-08(1); Ord. of 12-7-09)

Sec. 11-163. - Method of determining tolerance.

The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the entire lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.

(Ord. of 3-6-89, § 303; Ord. of 2-5-90, § 303; Ord. of 2-18-92; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-164. - Night shellfish harvesting prohibited.

It is unlawful to harvest, take or possess shellfish from one (1) hour after sunset until one (1) hour before sunrise. The time table prepared by the Nautical Almanac Office of the U.S. Navy for Augusta, Maine will be the official time.

(Ord. of 1-16-96; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-165. - Sunday shellfish harvesting prohibited.

It is unlawful for any commercial harvester to harvest or take shellfish from the coastal waters of the town on Sundays between ~~May 1st and October 15<sup>th</sup>~~ June 1<sup>st</sup> and October 1<sup>st</sup>.

(Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 2-6-12)

Sec. 11-166. Harvesting Methods ~~Automatic closures and openings.~~

It shall be unlawful for a person to harvest shellfish using a bull rake from the coastal waters of Brunswick in areas that have not been designated for by the Brunswick Marine Resources Committee as a bull rake harvest area. Upon notification by the Maine Department of Marine Resources that a shellfish growing area within the town's jurisdiction is placed in a prohibited or restricted status, an automatic conservation closure shall go into effect immediately and shall stay in effect until two weeks after legal notification by the Maine Department of Marine Resources that the shellfish growing area has returned to approved standards and is open for public harvest or until the Brunswick Marine Resources Committee holds a public hearing to open the area, whichever is sooner. The exception to this rule is that the Brunswick Marine Resources Committee can designate an area that is in a restricted status for deputation harvest only. This section does not apply to seasonal openings and closings.

~~(Ord. of 12-7-09)~~

Sec. 11-167. - Leaving unguarded ice holes.

- (a) Any person who removes ice or causes its removal from any stream, pond, lake, or coastal waters, within the jurisdictional boundaries of the Town of Brunswick, thereby leaving an opening that exceeds one and one-half (1½) feet in width or exceeds four and one-half (4½) feet in length, shall place a fence around the entire perimeter of the opening made by such removal as described below:
  - (1) Wooden stakes or poles, no more than one and one-half (1½) inches in width and at least three and one-half (3½) feet in height above the surface of the ice shall be properly spaced around the perimeter of the opening.
  - (2) Safety tape, no less than two (2) inches in width, shall be displayed in such a manner that it will enclose the entire perimeter of the opening in the ice. Safety tape shall have the name of the person responsible for creating the ice hole, along with that person's phone number and address, clearly printed in one-inch block letters.
  - (3) The safety tape shall be suspended not less than three and one-half (3½) feet above the surface of the ice.
  - (4) It shall be the responsibility of the person who removes the ice and erects the fence to retrieve the fence and tape when the opening has safely frozen over or before the melting of the ice at the end of the winter season.
- (b) Any person who removes ice or causes its removal from any stream, pond, lake, or coastal waters within the jurisdictional boundaries of the Town of Brunswick, thereby leaving an opening that is less than one and one-half (1½) feet in width and less than four and one-half (4½) feet in length, shall place a visual warning device of pine or evergreen boughs or any natural biodegradable debris such as tree limbs or brush around the entire perimeter of the opening made by such removal; provided, however, that an opening that is less than twelve (12) inches in diameter is exempt from the requirements of this section.

(Ord. of 3-1-10(1))

**Sec 11-168. Intertidal Shellfish Aquaculture**

**A person shall not engage in intertidal shellfish aquaculture without first obtaining the written approval of the Brunswick Marine Resource Committee and other pertinent permitting agencies.**

ITEM 116

BACK UP MATERIALS

## Memorandum

**To: TM Eldridge**

**From: Cmdr. Waltz**

**Re: Proposed Change to Personnel Ordinance for Full-Time Academy Certified Officers**

**Date: October 7, 2016**

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As you are aware, our hiring process for police officers is governed by Article XVIII of the Town's Personnel Ordinance. The processes currently in place result in a hiring process which takes a minimum of 2-3 months from the decision to advertise to the hiring of an officer. Once a list is established, it may have to "sit around" for a time as we wait for slots in the Maine Criminal Justice Academy for training.

Candidates who have already been to the full-time police academy (either in Maine or another state) are often some of the most desirable candidates because they can patrol "on their own" with as little as two months of field training after hiring. This also makes them highly sought after. In order to increase our chances of hiring these officers, we'd like to provide the Chief with an option which can be used to both "fast track" their evaluation and hire them even if there is a current list of candidates whose hiring awaits slots in the criminal justice academy. Just this past week we lost out to Augusta on an academy-certified candidate we had been courting because they were able to move quicker.

Our proposed changes for Town Council consideration are in yellow highlighting on the attached copy of Article XVIII. You'll note that we still intend to do a thorough hiring process and will not be skipping any steps. The role of the personnel board will change slightly, however, because they will not have multiple candidates to interview. They will simply interview the candidate to be considered and inform us if they support hiring or not.

We propose this as an alternate process at the option of the Chief because if we have a regular process ongoing to establish a hiring list we may decide to process the candidate with everyone else. However, if we have a particularly desirable currently certified candidate and feel that our ability to hire him/her is time sensitive, the Chief can elect the alternate process.

I have discussed our proposed changes with Chair Locke and the members of the personnel board who conducted oral boards for patrol officer candidates this week and they are in support of our proposed change.

## ARTICLE XVIII. - POLICE AND FIRE DEPARTMENTS

### Sec. 12-181. - Applications.

Applications for employment for positions in the police and fire departments must be filed on forms prescribed by the town and meet the specified requirements as advertised. Such forms may require whatever information is deemed necessary, and applications must be signed by the person applying unless the applicant is physically unable to do so.

The fire department accepts applications only when an eligibility list needs to be established. The police department accepts applications on an on-going basis and will hold applications for a one-year period. The department will notify applicants at such time as a position opening is available or an eligibility list needs to be established. At that time, updated information may be required from the applicant.

(Ord. of 6-5-95, § 18(A))

### Sec. 12-182. - Qualifications of applicants.

An applicant for appointment to the fire department or police department must have the following qualifications:

- (1) *Citizenship.* Applicant must be a U.S. citizen (police only).
- (2) *Age.* Applicant must be at least eighteen (18) years of age.
- (3) *Height and weight.* Applicant's weight, height and body frame must be proportional.
- (4) *Physical condition.* Applicant must be physically, mentally and emotionally fit to carry out the essential functions of the position.
- (5) *Education.* Applicant shall have high school education or equivalent.
- (6) *Character.* Applicant shall be of good moral character.
- (7) *Substance abuse.* Applicant shall not be a substance abuser which would tend to substantially impair physical, mental or emotional fitness.
- (8) *Criminal record.* Applicant shall not have been convicted of a felony.
- (9) *Operator's license.* Applicant shall have a valid motor vehicle operator's license.

(Ord. of 6-5-95, § 18(B))

### Sec. 12-183. - Examinations.

Examination may include any or all of the following:

- (1) *Written examination:* The personnel director shall arrange for written examinations to be given to all eligible applicants.
- (2) *Oral examination:* The personnel board shall provide for an oral examination in such form as to test the abilities and aptitudes of candidates for the duties to be performed.
- (3) *Physical agility:* Testing shall be conducted by staff of the department for which an eligibility list is being established.
- (4) *Pre-employment physical examination:* After a conditional offer is made to an applicant, a physical examination shall be conducted by the town's health care provider. Such testing shall

include an assessment of the applicant's ability to perform the essential functions of the position.

- (5) *Psychological testing:* After a conditional offer is made to an applicant, psychological testing shall be conducted.
- (6) *Drug testing:* After a conditional offer is made, drug testing shall be conducted in accordance with a policy approved by the Department of Labor.
- (7) *Polygraph testing:* Polygraph testing shall be conducted either pre or post offer of employment for police candidates only.
- (8) And any other tests which may be required by the department.

(Ord. of 6-5-95, § 18(C))

Sec. 12-184. - Eligibility list.

After written, oral and agility testing has been conducted, the personnel director shall compile the scores for each applicant and rank the applicants in order of their combined scores on the examinations.

The appointing authority shall review test results and determine the minimum acceptable standards for each individual test as well as the combined score. Applicants whose scores fall below these minimum standards shall not be considered for employment.

- (1) *Expiration.* An eligibility list expires one (1) year after the examination on which it was based.
- (2) *Layoff and reinstatement.* An applicant appointed from an eligibility list who is laid off because of lack of work or insufficient appropriation must be placed at the top of the eligibility list and must be offered reinstatement before any new appointments are made from the list.
- (3) *Public record.* The list of the names of the applicants in their order of standing on the examination is a public record.

(Ord. of 6-5-95, § 18(D))

Sec. 12-185. - Appointment process.

- (a) [Appointments generally.] The personnel director shall provide the appointing authority the names of the three (3) persons ranked highest on the eligibility list who have indicated a willingness to accept appointment. When more than one (1) vacancy is to be filled, the number of names submitted must equal the number of vacancies plus two (2). If there are less than the required number of eligible applicants, the appointing authority may accept the eligible applicant(s) or it may request the personnel director to readvertise the position, which the personnel director shall do.

All offers of employment shall be conditioned upon satisfactory performance on the required physical, psychological, polygraph (unless done pre-offer), drug test and any other tests required by the department which may be done only after a conditional offer of employment has been made.

- (1) *Probation period.* All appointed and promoted employees in the police and fire departments are subject to a probation period. The probation period shall be one (1) year from the date of hire or promotion except in the case of newly appointed police officers whose probation period shall be the longer of one (1) year from the date of hire or one (1) year after graduation from the Maine Criminal Justice Academy or the date the Board of Trustees of the Academy waives the basic training requirement.

During the probation period, the appointing authority may reject an employee who does not meet expectations. Written notification of such rejection shall be stated in writing to the employee and to the personnel board reporting the name of the person rejected, and the date of

rejection and the reason for the rejection. Any rejected employee is permanently separated from the probation position and may be separated from the position previously held. The appointing authority is encouraged to restore a rejected promoted employee to the employee's former position whenever possible. A rejected promoted employee who has completed the probation period for the position he/she had previously held shall have the right to file a written reply with the appointing authority and the personnel board within fifteen (15) days from the date of the rejection. If such employee files a reply and requests a hearing within the prescribed period, the procedures and rights regarding hearings before and finding of the personnel board, as set forth in the personnel policy [, shall apply].

- (2) *Appointment.* If the appointee successfully completes the probation period, he/she becomes a regular employee, as defined in the Personnel Policy.
- (3) *Special police officers.* The chief of police may appoint special police officers without examination. Their term of office expires on the first day of April following their appointment. Special police officers shall be considered on-call employees.
- (4) *Call firefighters.* The fire chief may appoint call firefighters without examination to serve at the chief's pleasure.

(b) Alternate Process for Current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers (or equivalent certification from another state). If the Chief of Police deems it necessary to fill an immediate vacancy, the Chief of Police may at any time process the application of a candidate who is currently certified as a full-time law enforcement officer by the Maine Criminal Justice Academy or who possesses an equivalent certification from another state. The applicant shall be tested as outlined in this Article. Despite the fact that there are no other applicants to rank the candidate against, the personnel board will still convene to interview the applicant, and will determine whether or not it supports hiring the candidate. If the personnel board supports hiring the applicant, the Chief of Police may consider the candidate for an immediate offer of employment. If at the conclusion of the testing process the Chief of Police chooses to appoint the candidate, the appointment shall supersede any outstanding eligibility list.

~~(b)~~ (c) *Special appointments permitted.* Upon certification to the council by the town manager or the town manager's designee that, despite making reasonable efforts to obtain a qualified applicant for a particular position, the town manager or the town manager's designee has been unable to do so, the council may permit the appointing authority to fill the vacancy by a special appointment. The appointing authority shall utilize so much of the process outlined in article XVIII in filling positions with qualified personnel as it deems in the best interest of the Town of Brunswick.

(Ord. of 6-5-95, § 18(E); Ord. of 3-7-07)

Sec. 12-186. - Promotions.

- (a) All promotions within the fire department and within the police department must be made by the chief of the department from a promotion eligibility list which shall be based on efficiency, seniority, and fitness-for-service ratings in addition to oral interview and written examination scores. At the request of the appropriate chief, the personnel director shall submit the names of the three (3) persons ranked highest on the promotion eligibility list. If there are less than three (3) names on the promotion eligibility list, all names must be submitted to the chief.
- (b) All applicants for promotion must have served a minimum of two (2) years in the department.
- (c) The ranking of a participant on a promotion eligibility list shall be made available to the participant in the examination upon request.

(Ord. of 6-5-95, § 18(F))

Sec. 12-187. - Physical and mental examinations.

Annually, in accordance with respective contract provisions, each member of the respective department shall submit to a thorough physical examination; and at any other time, the chief of the respective department or the board may require a member of the department to submit to a physical or mental examination. The examination is performed at the expense of the town by a physician approved by the personnel director. If the results of the examination show that the member involved does not have the physical or mental ability to perform the essential function of the position, with or without an accommodation, this shall be considered cause for disciplinary action, up to and including termination. The employee involved may submit evidence relevant to the employee's physical or mental condition for the consideration of the chief before discharge becomes final.

(Ord. of 6-5-95, § 18(G))

ITEM 117

BACK UP MATERIALS

Date: September 30, 2016  
To: John Eldridge, Finance Director  
From: Judy Hardy-Goddard, GA Administrator  
Re: Adoption of GA Maximums  
Appendix A

### The Adoption Process

The municipal officers (i.e., selectpersons/council) adopt the local General Assistance Ordinance and yearly Appendices, even in town meeting communities. The law requires that the municipal officers adopt the ordinance and/or Appendices after notice and hearing. Seven days posted notice is recommended, unless local law (or practice) provides otherwise.

At the hearing, the municipal officers should:

- 1) Allow all interested members of the public an opportunity to comment on the proposed ordinance;
- 2) End public discussion, close the hearing; and
- 3) Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.

### **Filing of GA Ordinance and/or Appendices**

Please remember that General Assistance law requires each municipality to send DHHS a copy of its ordinance once adopted. In addition, any changes or amendments, such as new Appendices, must also be submitted to DHHS. DHHS will accept the enclosed "adoption sheet" as proof that a municipality has adopted the current GA maximums. This signed form may be scanned and emailed to [generalassistance.DHHS@maine.gov](mailto:generalassistance.DHHS@maine.gov); faxed to Robin Reed at 287-3455; or sent by US mail to: DHHS/General Assistance, 19 Union Street, 11 State House Station, Augusta, ME 04333.

Appendix A- Overall Maximums

**Persons in Household**

2015/2016	1	2	3	4	5
Cumberland County	638	773	1025	1466	1747

New Maximums

**Persons in Household**

2016/2017	1	2	3	4	5
Cumberland County	750	796	1058	1542	1759

Appendix B-Food Maximums

There was no change in the Food Maximums

**Persons in Household**

	1	2	3	4	5
Cumberland County	194	357	511	649	771

Appendix C - Housing

Appendix C is a listing of the maximum levels of assistance for housing (both heated and unheated). These maximum levels were developed by MMA using 2009-2010 HUD Fair Market Rent values that include utility costs. Because the FMR numbers include utility and heating costs, the applicable average utility and heating allowances, as developed by the Maine State Housing Authority (MSHA), are subtracted from the FMR to obtain a pure "housing" cost.

	2015/2016		2016/2017		
# Bedrooms	UnHeated	Heated	# Bedrooms	Unheated	Heated
1	574	703	1	817	941
2	783	943	2	1079	1233
3	1175	1371	3	1410	1598
4	1399	1637	4	1730	1959

Appendix D – Utilities

There was no change in the Utilities

**1) Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses **excluding** electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.70	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

**NOTE:** For each additional person add \$7.50 per month.

**2) Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses **excluding** heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.08	\$86.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
6	\$41.00	\$176.00

**NOTE:** For each additional person add \$10.00 per month.

Appendix E

There was no change in fuel

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

Appendix F

There was no change in Personal and Household Supplies

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

**NOTE:** For each additional person add \$1.25 per week or \$5.00 per month.

# GENERAL ASSISTANCE ORDINANCE APPENDICES A-D 2016-2017

The Municipality of \_\_\_\_\_ adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2016—September 30, 2017. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the \_\_\_\_\_ (day) of \_\_\_\_\_ (month) \_\_\_\_\_ (year)  
by the municipal officers:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

ITEM 118

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

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## MEMORANDUM

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TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: October 13, 2016

SUBJECT: Solid Waste Ordinance  
Graham Road Landfill

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As you know we are in conversations with the Maine Department of Environmental Protection (MDEP) about an accelerated closure of the Graham Road Landfill. Part of this discussion involves amending Brunswick's MDEP solid waste license to allow the town to accept, at Graham Road, solid waste generated beyond the boundaries of Brunswick. Even if MDEP were to amend the solid waste license, Brunswick would need to amend its solid waste ordinance. The current ordinance limits disposal at Graham Road to solid waste originating within the corporate limits of the Town.

Attached is a proposed amendment to the Town's Solid Waste ordinance that would allow the Town Council to authorize the Town Manager to enter contracts with Solid Waste Collectors to accept solid waste originating beyond the corporate limits of the Town, provided such waste is permitted in accordance with the licenses issued by the Maine Department of Environmental Protection.

We recommend that the town Council authorize a public hearing on the amendment.

Attachment

(Ord. of 3-1-93)

Sec. 13-58. - Revocation of permits.

- (a) After notice and hearing, the public works director may suspend or revoke the permit of any permit holder for violation of any provision or provisions of Chapter 13 including the failure to pay, upon demand, any disposal fee for which credit had been extended. Suspension or revocation of the permit may be in addition to any penalty or relief the municipality may seek under Article VIII of Chapter 13.
- (b) In determining the length of suspension or revocation of a permit, the public works director shall consider the nature and severity of the Chapter 13 violation(s). If the suspension or revocation is for nonpayment of fees, the suspension shall remain in force until the fees are paid in full.
- (c) A notice stating the alleged violation(s) of Chapter 13 shall be mailed to the licensee via certified mail return receipt at least thirty (30) days prior to the hearing date.
- (d) The public works director shall conduct the hearing in accordance with guidelines approved by the town attorney and shall cause a record to be made of the hearing.
- (e) Unless the permit holder agrees in writing to an extension, the public works director shall render a decision within thirty (30) days of the hearing.

(Ord. of 3-1-93)

Sec. 13-59. - Appeals of permit suspension or revocation.

- (a) Decisions of the public works director may be appealed to the town manager within thirty (30) days of the public works director's decision.
- (b) The town manager shall conduct an appeals hearing within thirty (30) days of its receipt of a request for an appeal.
- (c) The appeal hearing shall be conducted in accordance with guidelines approved by the town attorney. The town manager shall cause a record to be made of the appeal hearing.
- (d) Unless the appellant agrees to an extension in writing, the town manager shall render a decision on the appeal within thirty (30) days of the appeal hearing.

(Ord. of 3-1-93)

Secs. 13-60—13-68. - Reserved.

#### ARTICLE VI. - MUNICIPAL DISPOSAL AREAS AND FEES

Sec. 13-69. - Brunswick solid waste ~~facilities~~only.

- (a) ~~Except as provided in subsection (c) below,~~ Only solid waste originating within the corporate limits of the Town of Brunswick may be disposed of at any municipal disposal facility operated by the Town of Brunswick. Upon demand, those delivering solid waste must identify:
  - (1) The composition of the material to be disposed.
  - (2) Where in town the material comes from.

- (3) The name and telephone number of a person to confirm the information provided in (1) and (2) above.
  - (4) The expected quantity of the waste to be delivered.
- (b) The failure to provide the above information shall prevent access to the municipal disposal facilities. Delivering waste not originating within the corporate limits of the Town of Brunswick or providing false information to gain access to a municipal disposal facility shall be a violation of this chapter.
- (c) The Town Council may authorize the Town Manager to enter contracts with Solid Waste Collectors to accept solid waste originating beyond the corporate limits of the Town, provided such waste is permitted in accordance with the licenses issued by the Maine Department of Environmental Protection.

(Ord. of 3-1-93)

Sec. 13-70. - Unacceptable waste.

The following shall be unacceptable at any municipal waste disposal facility:

- Atomic Waste
- Bio-Medical Waste
- Tree stumps
- Hazardous Waste
- Special Waste without approval of MDEP
- Liquid or Flowing wastes

(Ord. of 3-1-93)

Sec. 13-71. - Disposal of solid waste.

- (a) All users of the municipal disposal facilities shall place waste in the area designated by the facility attendants or be in violation of this chapter.
- (b) There is to be no sorting or removal (dump picking) of materials or items from the municipal disposal facilities without the permission of the public works director or the solid waste program director.

(Ord. of 3-1-93)

Sec. 13-72. - Graham Road Landfill.

The Graham Road Landfill is a Maine Department of Environmental Protection approved Secure Landfill located on Graham Road in Brunswick, Maine.

- (1) Acceptable materials at the Graham Road Landfill.
  - a. The following waste classifications are acceptable for disposal at the Graham Road Landfill:  
Brown goods;