

Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

MEMORANDUM

TO: Town Council

FROM: John Eldridge
Town Manager

DATE: August 31, 2018

SUBJECT: Extension of Moratorium on
Emergency Housing Shelters

At its August 29, 2018 meeting, the Shelter Task Force authorized me to forward its recommendation to extend, for no more than six months, the moratorium ordinance on the location of emergency shelters that was adopted by the Town Council on April 17, 2018. The effective date of that ordinance was March 29, 2018. In accordance with State law and the provisions of that ordinance, that moratorium will expire on September 25, 2018.

The Task Force believes it is nearing the completion of its assignment. However, any zoning recommendations it makes will need review by the Planning Board before those recommendations can be adopted by the Town Council. The Task Force believes that its recommendations and the Planning Board's review can be completed in fewer than six months.

Attached please find a copy of a proposed extension ordinance, a public hearing notice, and an estimated timeline for adoption.

Attachments

TOWN OF BRUNSWICK
EXTENSION OF THE EMERGENCY MORATORIUM ORDINANCE
ON THE LOCATION OF SHELTERS

WHEREAS, the Zoning Ordinance and the Code of Ordinances of the Town of Brunswick (“Town Ordinances”) do not define shelters nor do they include any regulations related to the zoning or operation of shelters in the town of Brunswick (“Brunswick”); and

WHEREAS, the unregulated location and operation of shelters within Brunswick raises legitimate and substantial questions about the impact of such facilities on Brunswick, including questions about the compatibility of such uses with residential or commercial uses, and the availability of transportation and supportive services for shelter residents; and

WHEREAS, the location and operation of shelters in various locations within Brunswick has potentially serious implications for the health, safety and welfare of those areas and their residents, as well as the residents of shelters; and

WHEREAS, the Town Council of the Town of Brunswick (the “Town Council”) recognizes the importance of providing temporary housing to those in need but requires time to assess and determine the most compatible locations for shelters as well as the need to adopt other regulations to protect shelter residents and the neighborhoods in which shelters are located; and

WHEREAS, the Town Ordinances have uncertain applicability to shelters and are insufficient to prevent serious public harm that could be caused by the unregulated development of shelters; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public services and facilities that are reasonably foreseeable as the result of the unregulated location of shelters within Brunswick; and

WHEREAS, the Town Council, with the professional advice and assistance of the Town Manager, Town Attorney, Planning Board, Planning Department, Police Department, Fire Department, and others shall study the Town Ordinances to determine the land use and other regulatory implications of shelters and consider what locations and approval and performance standards, if any, might be appropriate for such uses; and

WHEREAS, the Town Council established a Shelter Task Force (“Task Force”) and directed the Task Force to develop proposed amendments to the Town Ordinances; and

WHEREAS, the Task Force Reports that will soon be completing its recommendations; and

WHEREAS, any amendment to the Zoning Ordinance requires a recommendation from the Brunswick Planning Board (Planning Board”); and

WHEREAS, the “EMERGENCY MORATORIUM ON THE LOCATION OF SHELTERS”, adopted by the Town Council on April 17, 2018 (“Moratorium Ordinance”) will expire on September 25, 2018; and

WHEREAS, the Town Council finds that the work of the Task Force and the recommendation of the Planning Board cannot be obtained prior to the expiration of the Moratorium Ordinance; and

WHEREAS, the Town Council finds that the Moratorium Ordinance needs to be extended for a period not exceeding one hundred and eighty 180 days;

NOW, THEREFORE, be it ordained by the Town Council, that the following Extension of the Moratorium Ordinance on the Location of Shelters (“Moratorium Extension Ordinance”) be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location of shelters within Brunswick.

For the purposes of this Moratorium Extension Ordinance, the term “shelter” is defined as a facility providing temporary or transient accommodations to individuals in a dormitory style or per-bed arrangement. Such facility may or may not provide other supportive services to residents. A facility meeting the definition of a “boarding house” under the Zoning Ordinance shall be considered a “shelter” for the purposes of this Moratorium Extension Ordinance if fair market rent is not charged, or if housing is not guaranteed for at least one month.

This Moratorium Extension Ordinance shall take effect once enacted by the Town Council, in accordance with the provisions of the Town Charter, but shall be applicable as of September 25, 2018. The moratorium shall remain in effect for one hundred and eighty (180) until March 24, 2019, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of shelters with existing and permitted uses in residential, commercial and industrial zoning districts; the potential adverse effects of shelters on the community if not properly regulated, and the potential increased burden on the public safety agencies serving Brunswick in responding to the same; and the adequacy of the Town’s infrastructure to accommodate the additional pedestrian traffic and/or population that may result from the presence of shelters in Brunswick.

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Moratorium Extension Ordinance, when enacted, shall govern any proposed shelters for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been granted final approval by the Code Enforcement Officer, Planning Board or other Town official or board prior to March 29, 2018, the applicability date of the Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a shelter within the Town after the March 29, 2018 applicability date of the Moratorium Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Extension Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Extension Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to the establishment of a shelter; and

BE IT FURTHER ORDAINED, that those provisions of the current Town Ordinances that are inconsistent or conflicting with the provisions of the Moratorium Ordinance and this Moratorium Extension Ordinance are hereby repealed to the extent that they are applicable for the duration of

the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if shelters are established in violation of the Moratorium Extension Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Moratorium Extension Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Emergency Declaration¹

The Town Council declares the existence of an emergency because the Town Ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of shelters, thereby necessitating a moratorium to provide an opportunity for the Town to review and to amend the Town Ordinances to mitigate the potential impact and harm on the Town and the residents of Brunswick.

In accordance with Section 212 of the Town Charter, this Moratorium shall be enacted as both an emergency and a regular ordinance. It shall be effective immediately upon enactment and applicable as of March 29, 2018. It shall remain in effect for one hundred eighty (180) days from the date of applicability.

¹ Section 212. - Emergency ordinances.

- (a) To meet a public emergency affecting life, health, property or the public peace, the council may enact one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money.
- (b) An emergency ordinance shall be plainly designated an emergency ordinance and, after the enacting clause, it shall contain a declaration stating the existence of an emergency, which shall be described in clear and specific terms.
- (c) An emergency ordinance may be enacted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 6 councilors shall be required for enactment. After its enactment the text of the ordinance shall be published and printed in a newspaper having a general circulation in the community, where it is reasonable to do so in the opinion of the council, and posted in at least 2 public places. Otherwise, the notice must contain a reasonable summary of the enacted ordinance. It shall become effective upon enactment, but it shall automatically stand repealed as of the 50th day following the date on which it was enacted unless it had been enacted as a regular ordinance according to sections 210 and 211 of this article at the time it was adopted as an emergency ordinance.
- (d) An emergency ordinance may be repealed by the enactment of a repealing ordinance in the same manner specified in this section for the enactment of emergency ordinances. An emergency ordinance may become a regular ordinance by its reenactment according to sections 210 and 211 of this article.

Proposed: September 4, 2018
Public Hearing: September 17, 2018 (proposed)
Approved:



**TOWN OF BRUNSWICK
NOTICE OF PUBLIC HEARING**

The Town Council will hold a public hearing on Monday, September 17, 2018, at 6:30 p.m. in the Council Chambers of Brunswick Town Hall, 85 Union Street, to consider the following:

**An “EXTENSION OF THE EMERGENCY MORATORIUM ORDINANCE
ON THE LOCATION OF SHELTERS”**

To be adopted on an emergency and regular basis.

The text of the proposed ordinance is too extensive to be included with this notice. Anyone having questions about the proposed amendments wishing to obtain copies of it should contact the Brunswick Town Clerk's or Town Manager's Office during regular office hours.

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

Frances M. Smith
Town Clerk of Brunswick, Maine

Time Record –



MEMORANDUM

TO: Town Council
FROM: Fran Smith, Town Clerk
SUBJECT: Tentative schedule for adopting ordinance changes for shelter locations
DATE: 9/4/2018

Below is a possible schedule for adoption of ordinance changes regarding shelter locations

October 1 st	The Town Council hears recommendations from the Shelter Task Force, and then sends them, or a form of them, to the Planning Board.
October 9 th	The Planning Board holds a workshop/special meeting to set a public hearing on proposed Zoning Ordinance changes.
October 23 rd	The Planning Board holds a public hearing and makes recommendations to send back to the Town Council.
November 5 th	The Town Council hears recommendations from the Planning Board and sets a public hearing on ordinance amendments they wish to be considered.
November 19 th	The Town Council holds the public hearing on changes. (Per Council rules unless you vote to suspend Council Rules, the Council will not take action at this meeting)
December 3 rd	The Town Council can adopt ordinance amendments.
January 2 nd	The ordinance amendments go into effect.