

## **TOWN OF BRUNSWICK**

### **SECOND 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 support services for shelter residents; and

**WHEREAS**, the location and operation of shelters in various locations within Brunswick has potential 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”) has recognized the importance of providing temporary housing to those in need but continues to need time to assess and determine the most compatible locations for shelters as well as determine other regulations to protect shelter residents and the neighborhoods in which shelters are located; and

**WHEREAS**, a continued 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 established a Shelter Task Force (“Task Force”) and directed the Task Force to develop proposed amendments to the Zoning Ordinance and Code of Ordinances; and

**WHEREAS**, the Task Force, with professional advice and assistance, reviewed the Zoning Ordinance, Code of Ordinances, and other materials in an effort to determine the land use and other regulatory implications of shelters, and consider what locations and performance standards might be appropriate; and

**WHEREAS**, the Brunswick Planning Board has reviewed the Zoning Ordinance amendments proposed by the Task Force and has made its own recommendations; and

**WHEREAS**, the Town Council finds that developing and enacting Zoning Ordinance amendments and Code of Ordinance amendments cannot be achieved prior to March 24, 2019, the expiration of the Extension of the Moratorium Ordinance; and

**WHEREAS**, on April 17, 2018, the Town Council adopted an “EMERGENCY MORATORIUM ON THE LOCATION OF SHELTERS”, (“Moratorium Ordinance”); and

**WHEREAS**, on September 17, 2018, the Town Council adopted an “EXTENSION OF THE EMERGENCY MORATORIUM ORDINANCE ON THE LOCATION OF SHELTERS” (“Extension of the Moratorium Ordinance”) which will expire on March 24, 2019; and

**WHEREAS**, the Town Council finds that the Moratorium Ordinance and the Extension of the Moratorium Ordinance needs to be extended; and

**NOW, THEREFORE**, be it ordained by the Town Council, that a SECOND EXTENSION OF THE EMERGENCY MORATORIUM ORDINANCE ON THE LOCATION OF SHELTERS ("Second Extension of the Moratorium Ordinance") be enacted, and, in furtherance thereof, the Town Council does hereby declare a continued moratorium on the location of shelters within Brunswick.

For the purposes of the Moratorium Ordinance, the Extension of the Moratorium Ordinance, and this Second Extension of the Moratorium 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 support 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 the Moratorium Ordinance, the Extension of the Moratorium Ordinance, and this Second Extension of the Moratorium Ordinance if fair market rent is not charged, or if housing is not guaranteed for at least one month.

This Second Extension of the Moratorium Ordinance shall take effect once enacted by the Town Council, in accordance with the provisions of the Town Charter, but shall continue to be applicable from the date the original Moratorium Ordinance was enacted and became effective. This Second Extension of the Moratorium Ordinance shall remain in effect until July 1, 2019, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Zoning Ordinance and Code of 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 Second Extension of Moratorium 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 had 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 original 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 original Moratorium Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Second Extension of the Moratorium Ordinance; and

**BE IT FURTHER ORDAINED**, that during the time this Second Extension of the Moratorium 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 Zoning Ordinance or the Code of Ordinances that are inconsistent or conflicting with the provisions of the original Moratorium

Ordinance, the Extension of the Moratorium Ordinance, or this Second Extension of the Moratorium 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 original Moratorium Ordinance, the Extension of the Moratorium Ordinance, or this Second Extension of the Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of those ordinances, 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 the original Moratorium Ordinance, the Extension of the Moratorium Ordinance, or this Second Extension of the 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 Declaration<sup>1</sup>**

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 Second Extension 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, as extended herein, until July 1, 2019.

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<sup>1</sup> 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: February 19, 2019  
Public Hearing: March 4, 2019 (Regular and Emergency)  
Approved: