

**BRUNSWICK TOWN COUNCIL**  
**Agenda**  
**August 3, 2020**  
**Executive Session – 6:00 P.M.**  
**Regular Meeting - 6:30 P.M.**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**MEETING VIA ELECTRONIC DEVICES**

*THIS MEETING IS BEING CONDUCTED VIA ELECTRONIC DEVICES  
WITH TOWN COUNCIL MEMBERS PARTICIPATING FROM REMOTE LOCATIONS*

***THERE IS AN OPPORTUNITY FOR THE PUBLIC TO ATTEND THIS MEETING IN PERSON, ALTHOUGH WE STRONGLY ENCOURAGE PARTICIPANTS TO USE THE ZOOM PLATFORM. THE MEETING WILL BE LIMITED TO 20 PUBLIC PARTICIPANTS, WHO SHOULD WEAR MASKS AND MAINTAIN SOCIAL DISTANCING BY USING THE PROVIDED SEATING.***

*THE PUBLIC CAN VIEW OR LISTEN TO THE MEETING ON TV3 (Channel 3 on Comcast)  
or*

*VIA LIVE STREAM FROM THE TOWN'S WEBSITE*  
<http://tv3hd.brunswickme.org/CablecastPublicSite/watch/1?channel=1>

**HOW TO SUBMIT PUBLIC COMMENT**

Public Comments must be submitted through the Zoom platform by dialing +1 646 876 9923 and entering the Meeting ID number 867 4360 7383 and the passcode 126962 when prompted. Please be advised message and data rates may apply. The Council Chair will make an announcement when it is time for public comment.

**All Votes to be Taken Via Roll Call**

Roll Call of Members/Acknowledgement Notice

**Executive Session: Executive Session to Discuss a Personnel Matter per 1 M.R.S.A. §405(6)(A)**

Pledge of Allegiance

Adjustments to Agenda

**Public Comments/Announcements** (for items not on the agenda)

**MANAGER'S REPORT**

a) Nomination papers for Town Council and School Board

**PUBLIC HEARINGS**

107. The Town Council will hear public comments on an amendment to the Marijuana Licensing Ordinance, and will take any appropriate action. (Town Clerk)

**HEARING/ACTION**

108. The Town Council will consider supporting a pass-through grant for the Good Shepherd Food Pantry from the Department of Economic and Community Development for food-relief partners in non-entitlement areas across Maine, and will take any appropriate action. (Town Manager Eldridge)

**HEARING/ACTION**

**NEW BUSINESS**

109. The Town Council will consider the following request for a Sellers of Prepared Food on Public Ways license for a business on the Brunswick Mall, and will take any appropriate action. (Town Manager Eldridge)

**Mr. Tuna**

**ACTION**

110. The Town Council will consider setting a public hearing for August 17, 2020 for adoption of proposed zoning ordinance text amendments regarding Conditional Use Permits, and will take any appropriate action. (Planning Board)

**ACTION**

111. The Town Council will consider setting a public hearing for August 17, 2020 for proposed amendments to the Town Charter, and will take any appropriate action. (Town Manager Eldridge)

**ACTION**

112. The Town Council will consider appointing a member to Maine Municipal Association’s Legislative Policy Committee, and will take any appropriate action. (Town Manager Eldridge)

**ACTION**

113. The Town Council Chair will consider the nomination of an elected or appointed official from the Town of Brunswick’s Senate District to Maine Municipal Association’s Legislative Policy Committee, and will take any appropriate action. (Town Manager Eldridge)

**ACTION**

114. The Town Council will consider a “Resolution Supporting Equitable Health Care for All Maine Residents”, and will take any appropriate action. (Councilor Dan Ankeles)

**ACTION**

115. The Town Council will consider appointments to the Town's Boards and Committees, and will take any appropriate action. (Appointments Committee)

**ACTION**

**CONSENT AGENDA**

- a) Approval of the minutes of July 6 and July 20, 2020

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

To email Town Council: [towncouncil@brunswickme.org](mailto:towncouncil@brunswickme.org)

**Brunswick Town  
Council Agenda  
Regular Meeting - 6:30 P.M.  
August 3, 2020  
Council Notes and Suggested Motions**

**Executive Session: Executive Session to Discuss a Personnel Matter per 1 M.R.S.A. §405(6)(A)**

**MANAGER'S REPORT**

*Please see the Manager's Report memo for information on the items below.*

**a) Nomination papers for Town Council and School Board**

**PUBLIC HEARINGS**

107. **Notes:** This is the public hearing for an amendment to the Marijuana Establishment Licensing Ordinance to remove the requirement that an applicant for a marijuana establishment license be a Maine resident. This is a recommendation from the Town Attorney. A memo from Town Clerk Fran Smith and a copy of the ordinance with the changes are included in the packet.

**Suggested Motion:**

Motion to adopt the proposed amendment to the Marijuana Establishment Licensing Ordinance.

108. **Notes:** The Town of Brunswick would receive funds from the 2020 Community Development Block Grant (CDBG) CV-19 Urgent Need Food Security Program and pass them through to the Good Shepherd Food Bank (GSFB), which will distribute the food to recipients such as the Mid Coast Hunger Prevention Program (MCHPP), during the COVID-19 public health crisis where food insecurity has caused increased need. The subgrant agreement will indemnify the Town, as well as set rights and responsibilities. Sally Costello, Economic and Community Development Director, and Karen Parker, Executive Director of MCHPP, will be available to answer any questions. A copy of a memo from Ms. Costello, the service contract and the Good Shepherd Food Bank's CDBG Need and Budget Explanation are included in the packet.

**Suggested Motion:**

Motion for the Town of Brunswick to enter into a service contract with the State Department of Housing and Community Development to pass through funds from the 2020 CDBG CV-19 Urgent Need Food Security Program to the Good Shepherd Food Bank for distribution to food-relief partners across Maine.

## **NEW BUSINESS**

109. **Notes:** This is a new vendor requesting to use one of the 2 open spaces for food vendors on the Mall. Mr. Tuna is a mobile sushi bar. A copy of the application, a photo of the food truck, and an insurance certificate are included in the packet.

**Suggested Motion:**

Motion to approve Mr. Tuna for a license as a Seller of Prepared Food on Public Ways on the Brunswick Mall.

110. **Notes:** At the request of the Town Council, the Planning Board held a workshop and a public hearing to review and make a recommendation on proposed Zoning Ordinance text amendments relating to Conditional Use Permit, because it was identified that zoning language is often at odds with the intent. At the Planning Board's public hearing, they recommended the inclusion of a criteria pertaining to adverse impact of a use on necessary facilities, and expressed satisfaction with Criteria 2,3 and 4. They are recommending the Town Council set a public hearing for August 17, 2020 for the adoption of the proposed zoning ordinance text amendments. A copy of a memo from Matt Panfil, Director of Planning & Development, the proposed text amendments, other municipalities' review criteria, notes from the American Planning Association and a letter from an attorney at Drummond Woodsum are included in the packet.

**Suggested Motion:**

Motion to set a public hearing for August 17, 2020 for proposed zoning ordinance text amendments regarding Conditional Use Permits.

111. **Notes:** Please see the Town Manager's memo for a list of possible amendments to the Town Charter. Should the Town Council wish to proceed, it would need to set a public hearing for August 17, 2020. A copy of a memo from Town Manager Eldridge and the proposed amendment changes are included in the packet.

**Suggested Motion:**

Motion to set a public hearing for August 17, 2020 on proposed amendments to the Town Charter.

112. **Notes:** The Town Council will appoint a representative to the Maine Municipal Association's (MMA) Legislative Policy Committee (LPC), due by August 27, 2020. Councilor Kathy Wilson has served on this committee for the past two years. A copy of a memorandum from Maine Municipal Association, the ballot, and information about the LPC are included in your packet.

**Suggested Motion:**

Motion to appoint \_\_\_\_\_ as Brunswick's representative to MMA's Legislative Policy Committee.

113. **Notes:** The Council may nominate an additional member of the Council or another elected or appointed official to serve on Maine Municipal Association's Legislative

Policy Committee. There were no nominees from this district, but the Council may write in a candidate. A copy of a memo from Maine Municipal Association is included in your packet.

**Suggested Motion:**

Motion to nominate \_\_\_\_\_ to a position on MMA's Legislative Policy Committee.

114. **Notes:** Councilor Ankeles has requested that the attached resolution be considered by the Town Council. A copy of a memo from Town Manager Eldridge and the draft resolution are included in the packet.

**Suggested motion:**

Motion to adopt "Resolution Supporting Equitable Health Care for All Maine Residents".

115. **Notes:** The Appointments Committee will make nominations to fill vacancies on Town Boards and Committees. A copy of the Appointment Committee's report and the applications are included in your packet.

**Suggested Motion:**

There is no motion required, only nominations and a vote of the Council.

**CONSENT AGENDA**

- a) **Approval of the minutes of July 6 and July 20, 2020:** Copies of the minutes are included in the packet.

**Suggested Motion:**

Motion to approve the Consent Agenda

**Suggested Motion:**

Motion to adjourn

# MANAGER'S REPORT - A 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:** July 30, 2020

**SUBJECT:** Town Manager's Report  
August 3, 2020 - Town Council Meeting

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### *Nomination Papers (a)*

Nomination papers for Council and School Board are available for districts 5, 7, and at-large. Papers need to be returned to the Town Clerk's office by September 4<sup>th</sup>.

ITEM 107  
BACKUP

# Town of Brunswick, Maine

OFFICE OF THE TOWN CLERK

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## MEMORANDUM

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**TO:** Town Council

**FROM:** Fran Smith, Town Clerk

**DATE:** July 16, 2020

**SUBJECT:** Amendment to the Marijuana Establishment Licensing Ordinance

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Please find attached the proposed amendments to this ordinance. Due to a recent court case, the Town Attorney is recommending we remove the requirement that an applicant for a marijuana establishment license be a Maine resident.

The action for this meeting will be to set a public hearing for August 3, 2020.

**Amendments to Marijuana Establish Ordinance**  
**Eliminating requirement to be Maine Resident**  
**Drafted 7-15-2020**

Sec. 10-26. - Required; fees.

- (a) A person or organization may not engage in any of the businesses or occupations listed below without first obtaining a license from the town according to the provisions stated below, with fees paid in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances. In addition, the applicant is responsible for compliance with all pertinent town ordinances and state laws. Except as otherwise stated, the license shall expire on June 30 annually.
- (b) *The fees.* in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances, include an application fee which is nonrefundable if the license is not approved. Unless otherwise designated, the initial license shall be assessed on a semi-annual basis. There will be a late fee assessed to licenses that have expired. The fine will double after the license has been expired for more than thirty (30) days.

(16) *Marijuana establishments.*

- h. *Denial, suspension or revocation of a license.* A license application for a marijuana establishment shall be denied by the licensing authority, and an existing license may be suspended or revoked by the town council after notice and hearing, if the applicant, or any owner of the applicant or licensee:
  - i. Fails to meet the requirements of this subsection.
  - ii. Is not at least twenty-one (21) years of age.
  - ~~iii. Is not a resident of the State of Maine.~~
  - ~~iv.~~ iii Has had a license for a marijuana establishment revoked by the town or by the state.
  - iv. Has not acquired all necessary state and local approvals prior to issuance of the license.
  - vi. Has been convicted of a criminal violation arising out of operation of a marijuana establishment.
  - ~~vii.~~ Has provided false or misleading application in connection with the license

ITEM 108  
BACKUP



# Town of Brunswick, Maine

INCORPORATED 1739

ECONOMIC AND COMMUNITY  
DEVELOPMENT

85 UNION STREET

BRUNSWICK, MAINE 04011-2418

TELEPHONE 207-721-0292

FAX 207-725-6663

## MEMORANDUM

**TO:** Town Council  
**FROM:** Sally Costello, Economic Development Director  
**SUBJECT:** Public Hearing - 2020 CDBG-CV Grant Agreement  
**DATE:** July 23, 2020

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The State Department of Housing and Community has requested that the Town of Brunswick enter into a service contract to receive grant funds in the amount of \$2.2 million for the 2020 CDBG CV-19 Urgent Need Food Security Program, addressing food insecurity by providing funding for operating expenses, program supplies, and food distribution activities. The Town of Brunswick will pass the funds through to the Good Shepherd Food Bank (GSFB), who will source and distribute food to their food-relief partners in non-entitlement areas across Maine. The Mid Coast Hunger Prevention Program (MCHPP), located here in Brunswick, will be a recipient of the food donations.

Good Shepherd Food Bank is the largest hunger-relief organization in Maine and distributes 25 million meals per year to 178,000 Mainers through its network of 500 partners across the State to places such as food pantries, meal sites, schools and healthcare centers. In normal circumstances, the GSFB provides more than 68,000 meals daily. In September 2019, the U.S. Department of Agriculture's Economic Research Service reported that 13.6 percent of Maine households are food insecure – a rate higher than the national average of 11.7 percent. The data also reports that 1 in 5 Maine kids are food insecure.

Now, in this time of the COVID-19 public health crisis the food insecurity issue is compounded as thousands of additional households are experiencing economic impacts due to business and school closures that are creating a reliance on the charitable food network. Approximately 91 percent of the GSFB partners are reporting an increase in need in their community.

GSFB's urgent need to plan for food security is based on projections from Feeding America and its Map the Meal Gap study which indicates that Maine's food insecurity rates could increase by 40 percent from 180,000 to 240,000 food-insecure persons; child food insecurity rates are projected to double representing more than 70,000 children across our Maine communities.

If approved by the Town Council, the Town would enter into a services contract with DECD in order to receive the grant funds and a subgrant agreement with Good Shepherd Food Bank. The subgrant agreement with GSFB will provide the necessary assurances that they will comply with all federal requirements associated with this CDBG funding, set out the rights and responsibilities of each party, as well as indemnify the Town.

I have asked Karen Parker, Executive Director of MCHPP to attend the Council meeting. She and I look forward to answering any questions the Council may have.



SERVICE CONTRACT

DATE: 08/03/2020

ADVANTAGE CONTRACT #:CT 19A

DEPARTMENT AGREEMENT #: 2020 CDBG-CV Grant

CONTRACT AMOUNT: \$ 2,200,000

CFDA # 14.228

START DATE: 08/03/2020

END DATE: 06/30/2022

This Contract, is between the following Department of the State of Maine and Provider:

**State of Maine DEPARTMENT**

DEPARTMENT: Department of Economic and Community Development (DECD)

Address: 59 State House Station, 111 Sewall Street, 3<sup>rd</sup> Fl

City: Augusta

State: ME

Zip Code: 04333-0059

**PROVIDER**

PROVIDER: Town of Brunswick

Address: 85 Union Street

Town: Brunswick

State: ME

Zip Code: 04011

Provider's Vendor Customer #: VC1000011520

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

**Department of Economic & Community  
Development**

**Town of Brunswick**

Signature **Deborah Johnson, Director** **Date**  
Office of Community Development

Signature **John Eldridge III** **Date**  
Town Manager

Service Contract (SC) rev. June 2019

*Upon final approval by the Division of Procurement Services, a case details page will be made part of this contract.*

**DEPARTMENT AND PROVIDER POINT OF CONTACTS**

CONTRACT ADMINISTRATOR: The following person is designated as the Contract Administrator on behalf of the Department for this Contract. All drawdowns and supporting documentation from the Provider shall be submitted to: [ocd.drawdown@maine.gov](mailto:ocd.drawdown@maine.gov)

Name: Sharon L. Thomas  
Email: [sharon.l.thomas@maine.gov](mailto:sharon.l.thomas@maine.gov)  
Address: 59 State House Station  
City: Augusta                      State: ME              Zip Code: 04333-0059  
Telephone: 624-9820

PROGRAM ADMINISTRATOR: The following person is designated as the Program Administrator. This person will have oversight of all aspects of the Contract. They will approve all requests for amendments, modifications and expenditures.

Name: Deborah Johnson  
Email: [deborah.johnson@maine.gov](mailto:deborah.johnson@maine.gov)  
Address: 59 State House Station  
City: Augusta                      State: ME              Zip Code: 04333-0059  
Telephone: 624-9817

PROVIDER CONTACT: The following person is designated as the Contact Person on behalf of the Provider for the Contract. All contractual correspondence from the Department shall be submitted to:

Name: Julia Henze  
Email: [jhenze@brunswickme.org](mailto:jhenze@brunswickme.org)  
Address: 85 Union Street  
Town: Brunswick              State: ME              Zip Code: 04011  
Telephone: 207-725-6659

RIDERS

<input checked="" type="checkbox"/>	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Funding Rider
<input checked="" type="checkbox"/>	Rider A – Federal Funding Citation, Project Description, Special Conditions
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input type="checkbox"/>	Rider C - Exceptions
<input checked="" type="checkbox"/>	Rider D – OCD Standard Terms and Conditions
<input type="checkbox"/>	Rider E – Included at Department’s Discretion
<input type="checkbox"/>	Rider F – Included at Department’s Discretion
<input checked="" type="checkbox"/>	Rider G – Identification of Country in Which Contracted Work will be Performed
<input type="checkbox"/>	Business Associate Agreement – Included at Department’s Discretion
<input type="checkbox"/>	Other – Included at Department’s Discretion

**FUNDING RIDER**

**Internal Purposes Only**

CODING: (Departments - Attach separate sheet as needed for additional coding.)

LINE TOTAL	FUND	DEPT	UNIT	SUB UNIT	OBJ	PROGRAM	PROGRAM PERIOD	BOND FUNDING	FISCAL YEAR
\$2,200,000	015	19A	0587	01	6331	CDBG-CV			

LINE TOTAL	FUND	DEPT	UNIT	SUB UNIT	OBJ	PROGRAM	PROGRAM PERIOD	BOND FUNDING	FISCAL YEAR

LINE TOTAL	FUND	DEPT	UNIT	SUB UNIT	OBJ	PROGRAM	PROGRAM PERIOD	BOND FUNDING	FISCAL YEAR

Funding Total: \$ 2,200,000

The sources of funds and compliance requirements for this Contract follow:

State General Fund	\$
Dedicated/Special Revenue	\$
Federal Funds	\$ 2,200,000

RIDER A

THIS AGREEMENT made (date), is by and between the State of Maine, Department of Economic and Community Development, hereinafter called 'grantor' and the (community) hereinafter called 'grantee'.

WHEREAS, the United State Government, Department of Housing and Urban Development through the Housing and Community Development Act of 1974, as amended, has established a program of Community Development Block Grants and has allowed each State to elect to Administer such Federal funds for its non-entitlement areas, subject to certain conditions, and

WHEREAS, the State of Maine has elected to administer such Federal funds for its non-entitlement areas through the Department of Economic and Community Development, and the State of Maine has been allocated additional funding under the Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Pub. L. 116-136) and

WHEREAS, the Department of Economic and Community Development has established a set aside of funds titled the CV19 Urgent Need Food Security Program,

NOW, THEREFORE, the grantor agrees to grant \$ 2,200,000 of Community Development Block Grant CV19 funds to the Grantee for the period 08/03/2020 to 06/30/2022, subject to the terms of this Agreement, including those in Riders A, B, C, D, and G attached which contain additional provisions to which the Grantee is obligated.

GRANTEE WARRENTS that all activities described in the CDBG-CV19 Program Statement and incorporated in this contract, will be adhered to, except as specified in this Agreement. The CDBG-CV19 Program Statement is incorporated herein by reference and is made a part of this Agreement. Any changes and/or amendments of activities or this Agreement will only be effective with prior written approval of the Grantor.

PROJECT DESCRIPTION:

CV19 Urgent Need Food Security Program

SPECIAL CONDITIONS OF THIS GRANT:

The Town of Brunswick will contract with Good Shepherd Food Bank as approved by the Office of Community Development to implement the program..

**RIDER B  
TERMS AND CONDITIONS**

1. INVOICES AND PAYMENT: Department will pay the Provider as follows: Payment terms are net 30 days from the date the State receives an error-free invoice with all necessary and complete supporting documents. Provider shall submit detailed invoices, itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Department and Advantage Contract numbers for this contract.
2. BENEFITS AND DEDUCTIONS. If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.
3. INDEPENDENT CAPACITY. In the performance of this Contract, the parties hereto agree that the Provider, and any agents and employees of the Provider, shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.
4. DEPARTMENT'S REPRESENTATIVE. The Contract Administrator shall be the Department's representative during the period of this Contract. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Contract are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.
5. CHANGES IN THE WORK. The Department may order changes in the work, the Contract Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.
6. SUB-AGREEMENTS. Unless provided for in this Contract, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Contract Administrator. Any sub-agreement hereunder Entered into subsequent to the execution of this Contract must be annotated "approved" by the Contract Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.
7. SUBLETTING, ASSIGNMENT OR TRANSFER. The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Contract Administrator. No subcontracts or transfer of Contract shall in any case release the Provider of its liability under this Contract.
8. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Contract, the Provider agrees as follows:
  - a. The Provider shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The

## STATE OF MAINE | SERVICE CONTRACT

Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

- b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
  - c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.
  - e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
  - f. Providers and subcontractors with Contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs, which programs must conform with applicable state and federal laws, rules and regulations.
  - g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
9. EMPLOYMENT AND PERSONNEL. The Provider shall not engage on a full-time, part-time or other basis during the period of this Contract, any (a) state employee or (b) any former state employee who participated in any way in the solicitation, award or administration of this Agreement. This restriction shall not apply to regularly retired employees or any employee who has out of state employment for a period of twelve (12) months.
10. WARRANTY. The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Contract and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract

## STATE OF MAINE | SERVICE CONTRACT

without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. ACCESS TO RECORDS. As a condition of accepting an Contract for services under this section, a Provider must agree to treat all records, other than proprietary information, relating to personal services work performed under the Contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the Department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the Provider and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the Contract and information concerning employee and Contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Contract and make such materials available at its offices at all reasonable times during the period of this Contract and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.
12. TERMINATION. (a) The performance of work under the Contract may be terminated by the Department whenever for any reason the Contract Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the date on which such termination becomes effective. Upon such termination, the Department shall pay the Provider for work performed by the Provider prior to the date of Notice of Termination. (b) Either party may terminate this Agreement for cause by providing a written notice of termination stating the reason for the termination. Upon receipt of the notice of termination, the defaulting party shall have fifteen (15) business days to cure the default. If the default is of such a nature that it cannot be cured within fifteen (15) business days, the defaulting party shall have such additional time, as the parties may agree to, to cure the default, provided the defaulting party has taken steps to cure the default with the initial 15 days.
13. GOVERNMENTAL REQUIREMENTS. The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.
14. GOVERNING LAW. This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.
15. STATE HELD HARMLESS. The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all third party claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.

**STATE OF MAINE | SERVICE CONTRACT**

16. NOTICE OF CLAIMS. The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed that is related in any way to the Contract or which may affect the performance of duties under the Contract, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Contract or which may affect the performance of duties under the Contract.
17. APPROVAL. This Contract must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.
18. INSURANCE. The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Contract with adequate liability coverage to protect itself and the Department from suits. Providers insured through a “risk retention group” insurer prior to July 1, 1991, may continue under that arrangement. Prior to or upon execution of this Contract, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.
19. NON-APPROPRIATION. Notwithstanding any other provision of this Contract, if the State does not receive sufficient funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Contract.
20. SEVERABILITY. The invalidity or unenforceability of any particular provision, or part thereof, of this Contract shall not affect the remainder of said provision or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
21. ORDER OF PRECEDENCE. In the event of a conflict between the documents comprising this Agreement, the Order of Precedence shall be:
- Rider C Exceptions
  - Rider B Terms and Conditions
  - Rider A Scope of Work
  - Funding Rider
  - Rider D Included at Department's Discretion
  - Rider E Included at Department's Discretion
  - Rider F Included at Department's Discretion
  - Rider G Identification of Country in which contracted work will be performed
  - Business Associate Agreement included at Department's Discretion
  - Other Included at Department's Discretion
22. FORCE MAJEURE. The performance of an obligation by either party shall be excused in the event that performance of that obligation is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party.
23. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Contract up to any amounts due and owing to the State with

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regard to this Contract, any other Contract, any other Contract with any State department or agency, including any Contract for a term commencing prior to the term of this Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

24. ENTIRE CONTRACT. This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Contract that any implied waiver occurred between the parties, which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.
25. AMENDMENT: No changes, modifications, or amendments in the terms and conditions of this Contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Provider.
26. DEBARMENT, PERFORMANCE, AND NON-COLLUSION CERTIFICATION: By signing this Contract, the Provider certifies to the best of Provider's knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this Contract:
- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
  - b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
    - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
    - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
    - iv. Have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.
  - c. Have not Entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

RIDER C  
EXCEPTIONS

N/A

RIDER D

**STANDARD TERMS AND CONDITIONS**

1. **DEFINITIONS.** As used in this Agreement, unless the context otherwise indicates, the following terms shall have the following meanings:

- a. 24 CFR Part 85. 24 CFR Part 85 means Office of Management and Budget circular Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
- b. "Project". Project means the community development program and activities, including administration thereof, with respect to which grant funds are provided under this Agreement.

2. **GRANTOR'S REPRESENTATIVE.** The Agreement Administrator referenced in Rider A shall be the Grantor's representative during the period of this Agreement. S/he has the authority to stop work on the Project if necessary, to insure its proper execution.

3. **SUBLETTING, ASSIGNMENT OR TRANSFER.** The Grantee shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title, or interest therein, without written request to and written consent of the Agreement Administrator. No subcontract or transfer of agreement shall in any case release the Grantee from liability under this Agreement.

4. **PROHIBITION OF INTEREST**

- a. No individual employed by the Department of Economic & Community Development at the time of this Agreement shall receive any share or part of this Agreement or any benefit that may arise directly or indirectly there from.
- b. No State or Local elected official, director, officer, agent, or employee of the Grantee shall, directly or indirectly, have any financial interest in any property to be included in, or any contract for property, materials, equipment, or services to be furnished or used in connection with the construction or operation of the Project. Notwithstanding the foregoing, whenever the Grantor determines that it is in the best interest of the Grantee to contract with any interested director, officer, agent, or employee, and that person (i) has previously fully disclosed the nature of his or her interest to the Grantor, (ii) has refrained from deliberation and voting on the matter, and (iii) has not been counted towards a quorum at any meeting at which the contract was deliberated; and the requirements of 24 CFR part 570 have been met, then, and only then, the Grantor may approve that contract. Any request for the Grantor's approval shall be accompanied by (i) full disclosure in writing of the pertinent facts and circumstances surrounding the contract, and (ii) certified copies of the Grantee's corporate proceedings showing full compliance with the provisions of this section.

5. **WARRANTY.** The Grantee warrants that it has not employed any company or person, other than a bona fide employee working solely for the Grantee, to solicit or secure this Agreement, and that it has not paid, or agreed to pay any company or person, other than a bona fide employee working solely for the Grantee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Grantor shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the grant funds or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

6. **STATE HELD HARMLESS.** The Grantee agrees to indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any

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and all contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee in the performance of this Agreement and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of publication, translation, reproduction, delivery, performance, use or disposition or any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data. In relation to this Agreement, the State and the Grantor shall have no obligation for reimbursement to the Federal government resulting from audit exceptions for any other reason, and all such obligations shall be assumed by the Grantee.

**7. PROJECT WORK.** In connection with all phases of the Project, including all work to be performed in the development thereof, the Grantee agrees as follows:

- a. The Grantee agrees to execute and complete the Project in accordance with the terms of this Agreement, including all Riders and attachments hereto. Subsequent to this Agreement, any change in the Project design or arrangement must have the prior written approval of the Grantor.
- b. The Grantee shall complete the project in accordance with all applicable Federal regulations and statutes including 42 USC ch. 69 and 24 CFR Part 570.
- c. The Grantee shall provide the Grantor reasonable notice of all pre-construction conferences and afford the Grantor the option of participating in such conferences.

## **8. GRANT FUNDS**

- a. Grant funds shall be used only for the purposes and activities specified in Rider A of this Agreement. Grant funds shall be used and administered in a manner consistent with the Final Statement of the State of Maine Community Development Block Grant Program, and in accordance with applicable Federal and State laws and regulations and State of Maine Community Development Block Grant Program Administrator's Guide and accompanying handbooks. **Please take special note** of the **requirement** that if the
- b. community cannot provide documentation acceptable to the DECD Office of Community Development that CDBG program benefit has been met as outlined in this contract, attachments, and any agreements incorporated in this contract by reference, **the community is responsible for and must immediately pay back to the DECD an amount equal to all funds disbursed for under this contract.**
- c. Grant funds may not, without advance written approval by the Grantor, be obligated prior to the effective date or subsequent to the completion date of this contract. Obligations outstanding as of the contract end date shall be liquidated within 90 days. Such obligations must be related to goods or services provided during the grant period, except, reasonable costs associated solely with grant close-out, e.g. audits, final reports, not obligated by the contract end date may be incurred within 90 days after the contract end date.

**9. PROGRAM INCOME.** The Grantee must administer all program income generated from activities funded with this grant as outlined in an approved Program Income Plan in accordance with the State of Maine OCD Policy Letter #2.

## **10. GRANTEE FINANCIAL MANAGEMENT SYSTEM**

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- a. Except where inconsistent with Federal requirements and State of Maine CDBG Program Administrator's Guide, local standard procedures and practices will be adhered to with regard to accounting for funds.
- b. The Grantee must establish fiscal control and fund accounting procedures, which assure proper disbursement of, and accounting for, grant funds and any required nonfederal matching expenditures. This responsibility applies to funds disbursed to and by sub grantees and contractors as well as to funds disbursed in direct operations of the Grantee. The Grantee shall maintain a financial management system which complies with 24 CFR Part 85, 85.20, "Standards for Financial Management Systems" or such other equivalent system as the Grantor may require. Requests for payment shall be made according to Grantor's invoicing procedure.

### 11. BONDING AND INSURANCE

- a. Local units of governments shall follow their own customary requirements relating to bid guarantees, provided they comply with applicable laws.
- b. The Grantee covenants that each of its officials or employees having custody of the project funds during acquisition, construction, development, and operation shall be bonded at all times for the amount normally carried by the municipality.
- c. When the Grantee awards a contract or subcontract exceeding \$100,000 for the construction, alteration or repair of any public building or other public improvement or public work, including highways, the Grantee shall require each contractor and subcontractor to carry payment and performance bonds for 100% of the value of the contract. (14 M.R.S.A. 871).

### 12. RECORDS

- a. The Grantee agrees to maintain such records and provide such periodic reports as the Grantor may require.
- b. The Grantee, its contractors and subcontractors shall establish, maintain, and preserve property management, project performance, financial management, reporting documents and systems, and such other books, records, and data as the Grantor may require. Such records shall be retained for a period of three years following completion of the project and receipt of final payment by the Grantee, or until an audit is completed and all questions arising there from are resolved, whichever is later.

**13. PROCUREMENT.** The Grantee's Procurement procedures will be consistent with Federal, State, and Local procurement practices and regulations, provided that procurements made with grant funds adhere to the standards set forth in the State of Maine's CDBG Program Administrator's Guide.

### 14. AUDIT

- a. The Grantee shall make arrangements for an audit of its grant accounts and records. The audit will be conducted according to the standards established in the State of Maine's CDBG Financial Handbook, OMB Circular A-133, and the Single Audit Act Amendments of 1996.
- b. The Grantee agrees to repay any funds received for costs determined to be non-allowable by an audit of the Project accounts. The Grantor shall determine what costs are non-allowable according to the terms of this Agreement and applicable laws and regulations.
- c. The Grantee agrees that the Grantor, the Comptroller General of the United State, or his/her duly authorized representatives and the Secretary of Housing and Urban Development or his/her duly authorized representatives shall, until the expiration of three (3) years after completion of the project for which this grant was made or used, have access to and the right to examine any books, documents, papers, payrolls and records of the Grantee involving transactions related to this grant or the project. The Grantee agrees to make such materials

## STATE OF MAINE | SERVICE CONTRACT

available for inspection at its offices at all reasonable times, and the Grantee shall furnish copies thereof if requested. The Grantee shall include the substance of this paragraph in all subgrants, contracts, and subcontracts payable or reimbursable from Grant funds in whole or in part.

**15. STATUTORY REQUIREMENTS.** The Grantee shall comply, and require each contractor to comply, with all applicable Federal, State, and Municipal laws, standards, orders, or regulations including without limitation:

a. Nondiscrimination.

1. Title VI of the Civil Rights Act of 1964, as amended, (42 USC 2000d et seq) and the requirements imposed by Regulation (15 CFR Part 8, and 24 CFR Part 1). No person in the United States shall, on the grounds of race, color, religion, sex, handicap, familial status, national origin or sexual orientation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives federal financial assistance. The Grantee will immediately take any measures necessary to effectuate this agreement.
2. Rehabilitation Act of 1973, (29 USC 794, 24 CFR Part 8, and Executive order 11914 Section 504). No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.
3. Equal Employment Opportunity, Executive order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). The Grantee shall require language prescribed in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, to be inserted in full in any construction contract for more than \$10,000 or modification thereof, which is paid for in whole or in part with assistance provided under this agreement.
4. Certification of Non-segregated Facilities as required by the May 19, 1967, Order (32 F.R. 7439) on Elimination of Segregated Facilities, by the Secretary of Labor. Prior to the award of any construction contract or subcontract exceeding \$10,000, the Grantee shall require the prospective prime contractor and each subcontractor to submit the following certification:

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he/she does not maintain or provide his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, handicap, familial status, national origin or sexual orientation, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she have obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal

Opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

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**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES**

A Certification of Non segregated Facilities, as required by the May 9, 1967 Order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 (which is not exempt from the provisions of the Equal Opportunity clause). The Certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**NOTE:** The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

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5. The Age Discrimination Act of 1975 (42 USC §6101 et seq). No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
6. Section 109 of the Housing and Community Development Act of 1974 (42 USC §5309). No person in the United States shall on the grounds of race, color, religion, sex, handicap, familial status, national origin or sexual orientation, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Title I of the Housing and Community Development Act of 1974 funds.
7. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u and 24 CFR Part 135). In connection with planning and implementation of any project assisted with CDBG funds and to the greatest extent feasible, opportunities for training and employment should be given to lower-income persons residing within the unit of local government in which the project is located. Contracts for work in connection with the project should be awarded to eligible business concerns which are located in or owned in substantial part by persons residing in the same unit of local government in which the project is located.
8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq. and 24 CFR Part 100); popularly known as the Fair Housing Act, and Executive Order 11063 as amended by Executive Order 12259. It is illegal to discriminate against, and in any way make unavailable or deny a dwelling to, any person because of race, color, religion, sex, handicap, familial status, national origin or sexual orientation in the following activities: sale or rental of housing or residential lots; advertising the sale or rental of housing; financing of housing; provision of real estate brokerage services; and the appraisal of housing. Recipients of federal funds required to administer programs and activities relating to housing and urban development in a manner that affirmatively furthers fair housing.

b. Labor Standards

1. Davis-Bacon Act as amended (40 U.S.C. 276a – 276a-7 and 29 CFR Part 5). All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this

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paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

2. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 – 334). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with, and subject to, the provision of the Contract Work Hours and Safety Standards Act. Contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.
  3. Copeland Anti-Kickback Act (40 U.S.C. §276c and 29 CFR Part 3). All workers must be paid at least once a week, and without any deductions or rebates except those permissible.
- c. Title IV of the Lead Based Paint Poisoning Prevention Act (42 U.S.C. §4831 and 24 CFR Part 35).

**LEAD-BASED PAINT HAZARDS.** The use of any paint containing more than 0.5% lead by weight or for paint manufactured after June 22, 1977 containing more than 0.6% lead by weight, is prohibited from use on any interior or exterior surface in any building being rehabilitated with CDBG funds. Any evidence of a health hazard (cracking, scaling, peeling and loose lead-based paint) must be treated to prevent ingestion of the contaminated Material. Any of the above conditions constitute an immediate or potential hazard and must be corrected using appropriate methods.

- d. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, (42 U.S.C. ch. 61 and 49 CFR Part 24) and as provided by 1. M.R.S.A. ch. 23 requires that activities consisting of acquisition of real property, or acquisition made necessary by CDBG funded activities and/or displacement of families, individuals, businesses, nonprofit organization or firms must provide appropriate compensation.
- e. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq); The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq); and Executive Order No. 11593 (36 FR 8921). The chief executive officer of the Grantee consents to assume the status of responsible Federal official under the National Environmental Policy Act 1969 (NEPA) HUD review procedures, and other applicable provisions of Federal law as specified in 24 CFR 58. The chief executive officer is authorized and consents to accept the jurisdiction of the federal courts for the purpose of enforcement of his responsibilities as an agent of the Grantee. The release of funds for activities in this Agreement is subject to the completion of the environmental review process.
- f. The Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), as amended. The Grantee will fulfill any flood insurance requirements under this Act and any regulations issued there under which may be issued by NOAA.
- g. The Architectural Barriers Act (42 U.S.C. 4151), as amended, and the regulations issued or to be issued there under, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.
- h. The Clean Air Act, as amended, (42 U.S.C. 1857 et seq), the Federal Water Pollution Control Act, as amended, (33 U.S.C.1251 et seq) and the regulations of the Environmental Protection

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Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. In no event shall any amount of assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.

- i. Minority Business Enterprises referenced in Executive Order #11625, (24 CFR 85.36 Procurement). Grantees are to give priority to Minority Business Enterprises in purchase of supplies, equipment, construction, and services.
- j. CDBG Certification. Grantee shall provide any certification required under Sections 104(b), 106(d)(5) or under any other provision of Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. ch. 69), including Amendments made by the Housing and Urban Rural Recovery Act of 1983, and shall comply with the terms of such certifications.
- k. Restrictions on Lobbying: (Section 319 of Public Law 101-121 and 24 CFR Part 87). The Grantee shall comply with Federal requirements regarding government wide restrictions on lobbying.
- l. Protection of Individuals Engaged in Nonviolent Civil Rights Demonstration. The Housing and Community Development Act of 1974, as amended (42 U.S.C. §5304(i)) requires that each recipient of CDBG Title I funds to adopt and enforce these policies:
  - 1) prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
  - 2) enforce applicable State and Local laws against physically barring entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction.
- m. Anti-Piracy: Subsection 105(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) specifically prohibits the use of CDBG funds to facilitate the relocation of for-profit businesses from one labor market to another if the relocation is likely to result in significant job loss.

*“(h) PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES. – Notwithstanding any other provision of law, no amount from a grant under section 106 made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.”.*

**16.** The Grantee warrants that it will follow all procedures as outlined in the State of Maine Community Development Block Grant Program Administrator’s Guide, and other subsequent handbooks issued by the Grantor.

**17. AMENDMENTS.** Amendments to this Agreement will be considered only for the purpose of altering the amount, extending the Agreement end date, or adding or deleting and activity. Amendments must be submitted as outlined in the CDBG Program Administrator’s Guide. Requests for amendments

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must be based on problems encountered in administering the CDBG Program according to the original design and schedule. Amendments may be requested as the need arises during the course of grant administration and will be evaluated to assure that:

- a. the level of benefit will be maintained or increased
- b. all new activities are eligible
- c. the nature of the project as originally submitted has not changes
- d. public hearings (with appropriate notice) are held prior to submission if the project goals are substantially changed
- e. the appropriate municipal officials have approved the amendment

**18. MODIFICATIONS.** Requests for alterations to grant activities, budget line items of less than 10 percent, or schedules which are non-substantive in nature, but necessary to bring the project into conformity with grant requirements, shall be submitted to the Development Program Manager for approval.

### **19. SUSPENSION OR TERMINATION**

- a. **Suspension.** The Grantor reserves the right to suspend the grant, withhold further payments, or prohibit the Grantee from incurring additional obligations, pending corrective action by the Grantee.
- b. **Termination.** The Grantor reserves the right to terminate this Agreement in whole, or in part, at any time upon a 30-day written notice to the Grantee that it has failed to comply with the conditions of the grant. Any such termination shall be affected by the delivery to the Grantee of a notice of termination specifying the extent to which the agreement is terminated and the date on which such termination becomes effective.
- c. **Appeals.** The Grantee may appeal any determination by the Project Development Specialist to the Director of the Office Community Development according to procedures set forth by the Grantor.

**20. TERMINATION BY MUTUAL AGREEMENT.** This Agreement may be terminated, whole or in part, prior to the completion of the contracted work when both parties agree that continuation is not feasible or would not produce beneficial results. The parties must agree on the termination conditions, including the effective date and the activities to be terminated. The Grantee shall not incur new obligations for the terminated activities after the effective date and shall cancel as many outstanding obligations as possible.

**21. AVAILABILITY OF FUNDS CLAUSE.** The funds granted in this Agreement are contingent upon those funds being available to the State by the U.S. Department of Housing and Urban Development. The State of Maine shall not be obligated to reimburse the grantee for costs incurred beyond the total amount obligated to the State of Maine by the U.S. Department of Housing and Urban Development.

**22. ACQUISITION, CONSTRUCTION, RENOVATION, CHANGE OF USE AND DISPOSITION OF REAL PROPERTY:** Subject to the obligations and conditions set forth here and in 24 CFR 570.490 and 24 CFR 85.31, title to real property acquired, constructed, and/or renovated in whole or in part using CDBG funds will vest upon acquisition in the Grantee. The Grantee shall ensure, at the time of accepting title, or final payment of CDBG funds for construction/renovations inclusion of a deed restriction indicating the Grantee must notify the OCD of any intent to change the use of, or the disposition of any real property, acquired in whole or in part with CDBG funds under this grant. The Grantee must not proceed with any action toward change of use or disposition of the real property prior to receiving instructions and written approval from the OCD.

RIDER E

Title:  
**(Included at Department's Discretion)**

N/A

RIDER F

Title:  
**(Included at Department's Discretion)**

N/A

RIDER G

IDENTIFICATION OF COUNTRY

IN WHICH CONTRACTED WORK WILL BE PERFORMED

**Please identify the country in which the services purchased through this contract will be performed:**

- United States. Please identify state: MAINE**
- Other. Please identify country: Enter Country**

Notification of Changes to the Information

The Provider agrees to notify the Division of Procurement Services of any changes to the information provided above.

## Good Shepherd Food Bank CDBG Need and Budget Explanation

### Need and Expenses

Informed by data from Feeding America, Good Shepherd Food Bank's internal projections for growth in statewide need due to the impacts of the COVID-19 pandemic range from 37% (almost 14 million more pounds of food needed than pre-pandemic levels) to 100% (38 million more pounds of food). In responding to this growth in need, the Food Bank and its network of partners intend to make a major stride in FY21 (July 2020 – June 2021) by growing our distribution of food by 25%, from 30.4 million to 38 million pounds. We anticipate further growth in distribution volume in FY22 based on projected need and investments in our capacity and that of our partner network this year.

Accessing donated product and government commodities at no cost to GSFb remains our top priority in responding to growing demand, but even with growth in USDA product, we project a maximum of 31 million pounds from these sources in FY21. To grow our food sourcing to meet the demands caused by COVID-19, in FY21 we will purchase produce from local farms (3.7 million pounds at \$1.5 million--\$1 million of which will be paid for via a contract with the DACF) and shelf-stable product at wholesale costs (3.6 million pounds at \$3.9 million). This represents a 243% increase in shelf-stable purchasing over pre-pandemic levels. We expect to incur a cost of \$.18/pound to distribute this additional purchased product. We project similar levels of shelf-stable food purchases in FY22. The following is a summary of the increased need and expenses related to COVID-19 recovery:

Metric	Pre-pandemic	COVID-19 Recovery
Estimated number of food-insecure Mainers	180,000	250,000
GSFB Pounds of food distributed per year	30 million	38 million+
Estimated percent of need met	75%	72%
Pounds of purchased shelf-stable food per year	1.76 million	3.56 million
Average cost/pound of shelf-stable food	\$0.80	\$1.09
Cost to purchase shelf-stable food per year	\$1.4 million	\$3.9 million
Cost to handle/distribute 1 lb. of food	\$0.18	\$0.18
Cost to handle/distribute shelf-stable purchased food per year	\$252,000	\$702,000
Total cost to purchase, procure, store shelf-stable food per year (cost of food + distribution costs)	\$1.65 million	\$4.6 million
GSFB total operating budget	\$9,998,037	\$16,603,092

### Use of Funds

Of the funds allocated to GSFb from the CDBG, \$2 million will be spent on purchasing, handling, and distributing over 1.5 million pounds of shelf-stable food to Mainers over two years and \$200,000 will help cover general and administrative expenses over two years.

### Accountability

Regarding federal funding related to COVID-19, GSFb has applied for the Payroll Protection Program and has asked for full forgiveness on that loan in return for having kept 90 employees on payroll through June 30. GSFb has requested and not yet received reimbursement from FEMA (via MEMA) for expenses incurred between March 13 and June 30 as part of our COVID-19 response. No government source has contributed to the purchase of shelf-stable product. As part of our annual financial audit, Baker Newman Noyes performs a Single Audit of the Food Bank's Schedule of Expenditures of Federal Awards.

ITEM 109  
BACKUP

Please type in bold, underlined, and all caps.

**TOWN OF BRUNSWICK**

85 Union Street Brunswick, Maine 04011 TEL: (207) 725-6658 FAX: (207) 725-6663

**APPLICATION FOR LICENSE OR PERMIT**

New License, Opening Date \_\_\_\_\_  Renewal License

**Business Name:** Mr. Tuna F-Mail: Mr. Tuna@maine.com  
**Business Address:** 29 Evans St. So. Portland **Business Phone Number:** 413 636 9688  
**Name of Contact Person:** Jordan Rubin **Contact's Phone Number:** 413 636 9688  
**Mailing Address for Correspondence:** 29 Evans St. So. Portland 04106  
**Signature of Applicant:** [Signature] **Date:** 7/24/2020  
**Type of Business:**  Sole Proprietor-Owner's Name: \_\_\_\_\_  
 Partnership-Partners' Names: \_\_\_\_\_  
 Corporation-Corporation Name: Penin Restaurant Group LLC

**Corporations Please Complete:**  
 Incorporation Date: 5/2015 Incorporation State: Maine  
 Address of Incorporation: 29 Evans St. So. Portland Phone # \_\_\_\_\_  
 Name of Corp. Officer, Owner, or Partners: Title Address % of Stock or ownership  
Jordan Rubin \_\_\_\_\_ 100

Note: There will be a late fee for any expired licenses (\$30) w/ fees higher than (\$50) and (\$15) for licenses w/ fees (\$50) or less. The fine will double after the license has been expired for more than 30 days. New licenses are prorated by the half-year.

**Select Type of License you are applying for on back of this page**

**Town Clerk Use Only:** Type of License: ~~SFB~~  
 All Licenses: Personal Property Taxes Paid  Seller of Prep. food on P/W  
 Peddler: Codes  \_\_\_\_\_ Codes Officer Signature \_\_\_\_\_  
 Seller of Prepared Food on Public Way:  Insurance Binder  Picture of Cart  Council Approval  
 Victualer/Innkeeper/Tattooing Establishment  State Health Certificate Council Mtg 8/3/20  
 Junkyard:  Public Hearing Date  Advertising Fee \_\_\_\_\_  
 Mailed or Issued Date: \_\_\_\_\_ Paid Fee: \$ 2000 Cash/Check  Date 7/27/20

**License Fees & Schedule: Please check the type of license you are applying for.**

**Bazaar, Flea Market, or Farm Markets-Exp. June 30<sup>th</sup>**  
\_\_\_\_\_ 1-3 Days (\$60) Date and Location of Event: \_\_\_\_\_  
\_\_\_\_\_ Annual (\$275)

**Bowling Alleys, Pool Halls and Billiards-Exp. June 30<sup>th</sup>**  
\_\_\_\_\_ Number of Lanes (\$25 each) \_\_\_\_\_ Number of Pool/Billiard Tables (\$25 each) (not to  
exceed \$600 per business location)

**Carnival or Circus**  
\_\_\_\_\_ Number of Days (\$150/day) Date and Location of Event: \_\_\_\_\_

**Commercial Vehicle-Exp. December 31<sup>st</sup>** \_\_\_\_\_ Number of Vehicles (\$90/vehicle) (New licenses issued  
between 7/1 and 12/31 is \$45 per vehicle) (New Vehicles - one time \$30 inspection fee)

**Food Service Establishment (Victualer)-Exp. June 30<sup>th</sup>** *Current State Health Certificate must accompany application*  
 FSE Serving Malt, Vinous & Spirituous Liquor (\$300)  
 FSE Serving Malt and Vinous (\$250)  
 FSE Serving Malt or Vinous (\$210)  
 FSE with Sit Down, no Alcohol (\$125)  
 FSE Mobile Carts, Take Out, Coffee, Popcorn, Catering,  
B&B's, Bakeries, or Prepared Scafood Vender, ETC (\$90)

**Innkeeper-Exp. June 30<sup>th</sup>**  1-15 Rooms (\$125) *Current State Health Certificate must accompany application*  
 16+ Rooms (\$210)

**Junkyard, Automobile Graveyard (\$50 each, both Exp. Oct. 1<sup>st</sup>)**  **Auto Recycling (\$250-5 Yrs)**  
Plus \$50 application fee for each type \_\_\_\_\_

**Pawnbroker (\$150) Exp. June 30<sup>th</sup>**

**Peddler:**  
\_\_\_\_\_ 3 Weeks/\$30/week \_\_\_\_\_ 6 Months (up to 3 months-\$60/ up to 6 months \$90) \_\_\_\_\_ 1 Year (up to 12 months \$125)

**Pinball Mach. - Other Amuse Devices (\$40/each) Exp. June 30<sup>th</sup>** \_\_\_\_\_ Number of Machmes/Devices

**Second Hand Dealer (\$90)-Exp. June 30<sup>th</sup>**

**Sellers of Prepared Food on Public Way**  
\*\* \_\_\_\_\_ sidewalk seating-\$150-8 seats or less-\$200-9 seats or more License valid April 15-November 1  
\*\*  Mall-\$2,000-Mall food vendor/\$5,000-Farmers' Market License expires 1<sup>st</sup> council mtg. in March  
Location: \_\_\_\_\_

As part of the application you must submit a letter of intent from insurance carrier, picture of food service  
device (not needed for renewals) and a victualer's license. Mall vendors, please list food to be sold:

\_\_\_\_\_ (or submit printed menu)

I certify that, to the best of my knowledge, I have complied with all laws and ordinances of the State of  
Maine and the Town of Brunswick.

\_\_\_\_\_ (Signature of owner, officer, partner or agent)

*New applicants must contact the Recreation Department (Parks & Facilities Manager)  
for pad dimensions and mall access. Tel# 207-725-6656*

*There is no proration on new licenses.*

**Tattooing Artist (\$75)-Exp. June 30<sup>th</sup>** *Current State Health Certificate must accompany application*

**Theater (\$175 per screen - not to exceed \$1,575 total per location)-Exp. June 30<sup>th</sup>**  
\_\_\_\_\_ Number of Screens



**MR. TUNA**  
HAND ROLLS  
\$3.99 - \$5.95

**SPICY TUNA**  
\$4.99

**SPICY SALMON**  
\$4.99

**SPICY CRAB/SALMON**  
\$5.99

**TUNA TWIRL**  
\$4.99

**VEGETE**  
\$3.99

© 2014 MR. TUNA  
www.mr.tuna.com



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/24/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Cross Insurance-Portland 2331 Congress Street Portland ME 04102		<b>CONTACT NAME:</b> Agency Accounts <b>PHONE (A/C, No, Ext):</b> (207) 780-1877 <b>FAX (A/C, No):</b> (207) 780-5377 <b>E-MAIL ADDRESS:</b>	
<b>INSURED</b> Ronin Restaurant Group LLC 29 Evans St South Portland ME 04106		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> Ohio Security Ins Co	<b>NAIC #:</b> 24082
		<b>INSURER B:</b> Maine Employers Mutual Ins Co	11148
		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:** 1920 Master      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLICABLE PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. SUBJECT <input type="checkbox"/> LOCATION <input type="checkbox"/> OTHER		BKS58121286	08/28/2019	09/28/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 300,000 MEDICAL (any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS COMP. OF AGG \$ 2,000,000 Experience Mod Factor 1 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY					COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED. RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/ARTISAN/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in ME) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	1810-17049	10/10/2019	10/10/2020	PER STATUTE OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - CA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS, LOCATIONS, VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b> Proof of Insurance	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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ITEM 110  
BACKUP

# Town of Brunswick, Maine

## DEPARTMENT OF PLANNING AND DEVELOPMENT

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### MEMORANDUM

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**TO:** Brunswick Town Council

**FROM:** Planning Board  
Matt Panfil, AICP CUD, Director of Planning & Development

**DATE:** August 3, 2020

**SUBJECT:** Zoning Ordinance Text Amendment – Conditional Use Permit Review Criteria

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#### I. INTRODUCTION:

At the direction of the Town Council at their July 6, 2020 meeting, the Planning Board held a workshop on July 14, 2020 and subsequent public hearing on July 28, 2020 to review and make a recommendation on potential Zoning Ordinance text amendments pertaining to *Section 5.2.2 – Conditional Use Permit, Subsection B – Criteria for Approval* of the Town of Brunswick Zoning Ordinance.

The need to evaluate the language of the conditional use permit review criteria was identified due to recent applications demonstrating that depending on the context of the proposed use, the zoning ordinance language is often at odds with the intent. For example, within the Growth Mixed-Use 3 (GM3) Zoning District, an application for a conditional use permit for a financial institution may generate more vehicular traffic than an existing use, such as an office, within 300 feet of the subject property and therefore not meet the review criteria. Whereas the same proposed financial institution may generate less traffic than a retail store and therefore meet the review criteria. Both the office and retail store are permitted by right (listed as “P” in *Table 3.2 Permitted Use Table for Growth Area Zoning Districts*) within the GM3 Zoning District, but the outcome of the conditional use permit application will vary based on its proximity to either of the permitted uses.

At the Planning Board workshop, the Planning Board supported the overall idea of revising the review criteria language and expressed satisfaction with the proposed amendments to Criteria 2, 3, and 4 due to vague language such as “significantly more” and the fact that they may lead to situations similar to the above example. The Planning Board was not satisfied with proposed changes to Criteria 5 and suggested staff reevaluate other options. At the July 28, 2020 public hearing the Planning Board recommended the inclusion of a criteria pertaining to the adverse impact of a use on existing or planned municipal services, utilities, or other necessary facilities.

#### II. PROPOSED TEXT AMENDMENTS

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New Text in **Bold Underline**  
Deleted Text in ~~Strikethrough~~

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##### B. Criteria for Approval

The following Criteria shall be applied, by the Planning Board when considering an

application for a Conditional Use Permit. The burden of proof of compliance with these standards rests with the applicant.

- (1) The proposed structure and site design comply with all standards of this Ordinance applicable to the zoning district and any overlay district within which the property is located.
- (2) ~~The proposed use will not create significantly more vehicular traffic by patrons, residents, or suppliers than the uses and structure currently within 300 feet of the proposed use or structure that generates the most vehicular traffic.~~

**The volume and type of vehicular traffic to be generated will not:**

- a. **Be greater than would occur from any uses designated as a permitted use or conditional use within the same zoning district;**
  - b. **Result in hazardous or unsafe conditions for pedestrians or cyclists; and**
  - c. **Impede emergency vehicles as determined by public safety officials.**
- (3) The proposed use will not operate or require deliveries earlier in the morning, or later at night, than ~~the uses and structures currently within 300 feet of the proposed use or structure that operate earliest in the morning and latest at night~~ **would occur at any permitted use or conditional use within the same zoning district.**
  - (4) The proposed use shall not create ~~any more~~ adverse impacts **as a result of noise, vibrations, glare, fumes, odor, dust, or other airborne contaminants** on any ~~current~~ use or structure within 300 feet of the lot on which the proposed use or structure would be located.
  - (5) ~~The application shall further the planning goals of the adopted Town of Brunswick 2008 Comprehensive Plan, as amended, including but not limited to the planning goals for the Planning Area (Appendix A – Planning Areas) in which the property is located.~~

**The proposed use shall not result in an adverse impact on the capacity of existing or planned municipal services, utilities, or other necessary facilities.**

### III. ACTION REQUESTED

It is recommended that the Town Council move to set a public hearing for the final adoption of the proposed zoning ordinance text amendments.

**IV. ATTACHMENTS**

- A. Various Maine municipalities' Conditional Use Permit review criteria
- B. American Planning Association Planning Advisory Service QuickNotes No. 41 – Conditional Uses
- C. Email, dated July 16, 2020, and Letter from Leah B. Rachin, attorney with DrummondWoodsum, dated July 9, 2020

**REVIEW OF TOWN OF BRUNSWICK CONDITIONAL USE PERMIT CRITERIA FOR APPROVAL**

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**I. SUMMARY OF FINDINGS**

In review of conditional use permit criteria for approval in other Maine municipalities, staff identified several common themes. Although the language may differ, the common purposes of many of the criteria include, but are not limited to:

- Compatibility with the site and surrounding neighborhood (aesthetics and uses).
- Compliance with M.R.S.A. and municipal code, including nuisance, performance, and zoning standards.
- Compliance with the Comprehensive Plan.
- Limiting adverse impact on public facilities, services, and utilities.
- Limiting adverse economic impact on surrounding neighborhood.
- Limiting adverse impact on vehicular traffic.
- Protecting public health and safety.
- Protecting natural resources and preventing environmental degradation.
- Protecting historic and cultural resources.

**Section 255-67 Conditional use permit.**

F. Standards for a conditional use permit. An applicant who seeks a conditional use permit shall submit to the appropriate board adequate evidence, which will become part of the record, illustrating the proof required by this section. The board shall review the application in concert with all of the evidence submitted by the applicant, and shall make specific factual findings that the following are met:

- (1) The use is compatible with and similar to the general categories of uses of neighboring properties.
- (2) The use is compatible with the Comprehensive Plan and the anticipated future development of the neighborhood.
- (3) The anticipated traffic for the proposed development will not cause an adverse negative impact on the neighborhood surrounding the proposed development.
- (4) There will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties or the Town in general.
- (5) The physical characteristics of the site, including location, slope, soils, drainage and vegetative cover, are suitable for the proposed use.
- (6) The use will not constitute a public or private nuisance.
- (7) Any other requirements and applicable provisions of this Code, as deemed necessary, are met.

G. Conditions attached to conditional uses.

- (1) Upon consideration of the factors listed above, the Board of Appeals or Planning Board may attach such conditions, in addition to those required in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specification for: type of vegetation; included setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operations controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this chapter.
- (2) In evaluating each application, the Board may request the assistance of the County Soil and Water Conservation District state or federal agency or consultant which can provide technical assistance.

FALMOUTH

**Section 19-119 Conditional Uses**

Conditional uses may be granted by the Board of Appeals after considering the characteristics and location of the proposed use and of other properties in the surrounding neighborhood, provided that the petitioner shall submit to the Board statements in writing, which may be accompanied by diagrams or photographs which shall become part of the record of such petitions, demonstrating that the proposed use:

- a. will meet the definition and specific requirements set forth in this Ordinance for such particular use;
- b. will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structures;
- c. will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light or glare.
- d. will not have a significant adverse effect on adjacent or nearby property values;
- e. will not have a significant adverse impact on water views from adjacent and nearby properties and public right of ways; [Adopted 7/24/06]
- f. will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion;
- g. will not result in significant fire danger;
- h. will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion;
- i. will be served adequately by, but will not overburden, existing public services and facilities, including fire protection services, sanitary sewers, roads, water and storm drainage systems.
- j. upon a showing that a proposed use is a conditional use in the district where it is to be located, a conditional use permit shall be granted unless the Board determines that the proposed use will not meet one of the standards set forth in paragraphs a. through i. of this subsection, or paragraphs a. through g. of subsection 19-123, due to unique or distinctive characteristics or effects associated with the proposed use or its location which differ substantially from the characteristics or effects which would normally occur from such a use in that district. [Adopted, 4/27/87.]

**Section 204.1 – Planning Board**

The Planning Board shall be responsible for conditional use reviews in accordance with this Ordinance. Where the Home Day Care Provider, Day Care Center or Child Care Center use is proposed and where that use requires approval of a conditional use, the requirements of Section 202.9, Home Day Care Provider, Day Care Center and Child Care Center Review, shall supersede all requirements below, except those of 204.5 Notice of Conditional Use Application. An applicant who seeks a use by conditional use shall submit to the Board diagrams or photographs, which become part of the record, illustrating the proof required by this section. He/She must prove the following:

- A. Certain Requirements Met. That the use requested meets the dimension, parking, loading, and sign requirements of this Ordinance. Otherwise, the applicant must also request an appropriate variance. Applications for conditional use permits must also meet the standards of subdivision or site review, depending on the applicability of the application.
  
- B. Value. That the use requested will not significantly devalue abutting property or property across public or private way. In making its determination, the Board shall take into consideration the type of structure proposed, the topography of the area, the market value of the surrounding real estate, the availability of utilities, traffic conditions, and other relevant factors.
  
- C. Effects of Land Use. That the use granted will:
  - (1) Maintain safe and healthful conditions,
  - (2) Not cause water pollution, erosion, or sedimentation
  - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
  - (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
  - (5) Not burden on-site septic or off-site waste disposal,
  - (6) Not burden existing public ways.
  
- D. Performance Standards. That the use granted is compatible with adjacent land uses and that it meets the following performance standards:
  - (1) Landscape Environment and Enhancement. The landscape must be preserved in its natural state insofar as practicable. It must be designed so as to stabilize the slopes and buffer the site, where necessary,
  - (2) Surface Water Drainage. Surface water drainage must not have an adverse effect on surrounding properties, downstream water quality, soil stability, or the storm drainage system,

## ATTACHMENT A

- (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
- (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
- (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
- (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
- (7) Special Features. Exposed storage areas, machinery installation, service and loading areas, and similar facilities must be set back, screened, or buffered so as to minimize any possible adverse effect on the surrounding uses,
- (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
- (9) Parking and Circulation. The layout of vehicular and pedestrian traffic patterns must provide for safe interior circulation, separation of pedestrian and vehicular traffic, and storage of plowed snow and the parking shall comply with the parking requirements set forth in Section 505.1 A-D, regardless of whether the conditional use requires site plan review, and
- (10) Public Services. The development must not impose an unreasonable burden on the water supply and sewage disposal systems, fire or police services, public ways, schools, recreational facilities, and other public services or facilities.

The applicant must present detailed information in the form of diagrams, photographs and drawings and such engineering data as deemed necessary by the Board. If the Board finds that the applicant can construct the building in such a manner as to not endanger the health or safety of the occupants, it shall grant him a building permit, subject to such condition as it deems necessary.

**Section 14-474. Conditional uses.**

(c) Conditions for conditional uses:

2. *Standards.* The Board shall, after review of required materials, authorize issuance of a conditional use permit, upon a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district. The Board shall find that this standard is satisfied if it finds that:

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

(d) *Conditions on conditional use permits.* The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.

**Section 19-5-5. Conditional Use Permits**

D. Standards for Conditional Use Approval

The Board shall, after review of required materials, authorize issuance of a conditional use permit, upon a showing that:

1. Any conditions prescribed for such conditional use will be satisfied;
2. The proposed use will not create hazardous traffic conditions when added to existing and foreseeable traffic in its vicinity;
3. The proposed use will not create unsanitary conditions by reason of sewage disposal, emissions to the air, or other aspects of its design or operation;
4. The proposed use will not adversely affect the value of adjacent properties;
5. The proposed site plan and layout are compatible with adjacent property uses and with the Comprehensive Plan; and
6. The design and external appearance of any proposed building will constitute an attractive and compatible addition to its neighborhood, although it need not have a similar design, appearance or architecture.

Upon a finding by the Board that all of these standards have been met, the Board shall authorize the issuance of a permit for such conditional use, but may impose such conditions upon the use as it deems necessary in order to assure that the foregoing objectives will be attained.

E. Conditions of Approval

The Board may attach conditions to its approval of a conditional use. These conditions may include, but are not limited to, such requirements as:

1. off-site street improvements
2. access restrictions
3. hours of use
4. buffering and screening
5. utility improvements
6. performance guarantees

**Article VII. – Conditional Uses, Division 1. – Generally, Section 78-1240. – Standards**

Before authorizing any conditional use, the planning board shall make written findings certifying that the proposed use is in compliance with the specific requirements governing individual conditional use and demonstrating that the proposed use meets the following standards:

- (1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.
- (2) The proposed use will not create or increase any fire hazard.
- (3) The proposed use will provide adequate off-street parking and loading areas.
- (4) The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any water supply.
- (5) The proposed use will not create unhealthful conditions because of smoke, dust or other airborne contaminants.
- (6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.
- (7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.
- (8) The proposed use will not adversely affect the value of adjacent properties.
- (9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.
- (10) The applicant's proposal must include any special screening or buffering necessary to visually obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.
- (11) The applicant's proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any cut, fill, or paving intended.
- (12) The applicant must be found to have adequate financial and technical capacity to satisfy the criteria in this section and to develop and thereafter maintain the proposed project or use in accordance with all applicable requirements.

**Division 2. – Conditions**

**Section 78-1266. – Authority**

## **ATTACHMENT A**

Upon consideration of the standards listed in section 78-1240, the planning board may attach such conditions as it finds necessary to ensure compliance with those standards and all other applicable requirements of this chapter. Such conditions may include but are not limited to specifications for type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; hours of operation; operation controls; professional inspection and maintenance; sureties; location of piers, docks, parking and signs; and types of construction. Violation of any conditions of approval shall be a violation of this chapter.

**Section 230-901 Conditional uses.**

- D. Standards for a conditional use permit. It is the applicant's burden to establish that the proposed use or activity meets each of the following standards:
- (1) The proposed use will meet the definition and specific requirements set forth in this chapter and will be in compliance with applicable state or federal laws.
  - (2) The proposed use will provide adequate access to the site, and to the buildings on the site, for emergency vehicles and will not create firesafety hazards.
  - (3) The proposed exterior lighting will not create hazards to motorists traveling on adjacent public streets, is adequate for the safety of occupants or users of the site and will not damage the value and diminish the usability of adjacent properties.
  - (4) The provisions for buffers and on-site landscaping will provide adequate protection to neighboring properties from detrimental features of the development.
  - (5) The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause.
  - (6) The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazardous and unsafe conditions.
  - (7) The proposed use will not have a significant detrimental effect on the value of adjacent properties that could be avoided by reasonable modification of the plan.
  - (8) The design of the site will not result in significant flood hazards or flood damage and will be in conformance with applicable flood hazard protection requirements.
  - (9) Adequate provision has been made for disposal of wastewater and solid waste and for the prevention of ground or surface water contamination.
  - (10) Adequate provision has been made to control erosion or sedimentation.
  - (11) Adequate provision has been made to handle stormwater runoff and other drainage problems on the site.
  - (12) The proposed water supply will meet the demands of the proposed use and for fire protection purposes.
  - (13) Adequate provision has been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law.

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- (14) The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitats that could be avoided by reasonable modification of the plan.
- (15) The use will not cause unreasonable safety hazards for pedestrians, cyclists, and operators of motor vehicles and will not result in a decrease in level of service below LOS D at study area intersections or the project driveway during the design hour. (Levels of service are defined by the latest edition of the Highway Capacity Manual, published by the Transportation Research Board. The design hour is defined as the 30th highest hour of the year for the intersection.) However, at signalized intersections where the level of service is already below LOS D; or at signalized intersections predicted to drop below LOS D where physical improvements cannot be made to attain LOS D; or at unsignalized intersections where physical improvements cannot be made to improve the level of service to LOS D, and provided that warrants for a traffic signal are not met, or signal installation is not desirable, the Board may approve the application if it finds that an adequate level of safety can be attained through imposing conditions of approval such as upgrades in signalization, one-way driveways, prohibiting certain turning movements, construction of turning lanes, sidewalks, bicycle paths, or other improvements, or through a program of transportation demand management measures. [Amended 4-30-2007]
- (16) Existing off-site ways and traffic facilities can safely and conveniently accommodate the increased traffic generated by the development as far away from the development as the effects of the development can be traced with reasonable accuracy.
- E. Additional standards in Resource Protection, Saco River and Shoreland Areas. For conditional use permit applications within RP, SR, and SO Districts, the Planning Board, in addition to the standards for a conditional use permit shall find that the proposed conditional use: [Amended 6-6-2016]
- (1) Will maintain safe and healthful conditions;
  - (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
  - (3) Will adequately provide for the disposal of all wastewater;
  - (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitats;
  - (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - (6) Will protect archaeological and historic resources as in accordance with the Comprehensive Plan;
  - (7) Will not adversely affect existing commercial fishing or maritime activities in a Marine Business and Residential District;
  - (8) Will avoid problems associated with floodplain development and use;
  - (9) Is in conformance with the provisions of § 230-7A03, Land use standards; and

## ATTACHMENT A

- (10) If located in a structure, the structure is located in an approved subdivision and will not violate any other local ordinance or regulation or any state law which Saco is responsible for enforcing. [Amended 4-3-2002]
- F. Conditions of approval. The Planning Board, and in the case of minor conditional uses the Planning Office, may attach such conditions, in addition to those required elsewhere in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specifications for: type of vegetation, specified sewage disposal and water supply facilities, landscaping and planting screens, period of operation, operational controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, type of construction, or any other reasonable conditions necessary to fulfill the purposes of this chapter. [Amended 6-6-2016]

**Section 280-13-5. Standards for conditional use approval.**

280-13-5.1 The Planning Board shall approve a conditional use application, or approve it with conditions, if it makes a positive finding, based on the information presented, that the proposed use, with any conditions attached, meets the following standards:

280-13-5.1.1 The proposed use will not place a burden on municipal services which, due to its location or the characteristics of the site or proposed development, is significantly greater than the burden that would result from similar uses in other situations;

280-13-5.1.2 The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles, and the visibility afforded to pedestrians and the operators of motor vehicles;

280-13-5.1.3 The proposed use will not cause water pollution, sedimentation, or erosion, contaminate any water supply or reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;

280-13-5.1.4 The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;

280-13-5.1.5 The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restricted access of light and air to neighboring properties;

280-13-5.1.6 The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;

280-13-5.1.7 The proposed use has no characteristics that are atypical of the general category of use that will depreciate the economic value of surrounding properties; and

280-13-5.1.8 If located in the Shoreland Overlay Zone, the proposed use will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat; will conserve shoreland vegetation; will conserve visual points of access to waters as viewed from public facilities; will conserve actual points of access to waters; will conserve natural beauty; and will avoid problems associated with floodplain development and use.

**Section 280-13-6. Conditions of approval.**

The Board may attach conditions to its approval of a conditional use. These conditions may include, but are not limited to, requirements such as:

280-13-6.1 Off-site street improvements to address impacts generated by the proposed conditional use.

## **ATTACHMENT A**

280-13-6.2 Access restrictions.

280-13-6.3 Hours of use.

280-13-6.4 Buffering and screening.

280-13-6.5 Utility improvements.

280-13-6.6 Performance guarantees for off-site improvements.

LEWISTON

**Appendix A – Zoning and Land Use Code, Article X. Conditional Uses, Section 3. Standards for conditional use permits.**

A conditional use permit shall be granted by the board of appeals or planning board unless the board finds that the granting of the permit would violate one or more of the following standards:

- (1) Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the zoning district. The board may not find that this standard is satisfied unless it finds that:
  - a. The size of the proposed use is comparable to surrounding uses; and
  - b. The amount and type of traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces are comparable to surrounding uses; and
  - c. The generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances is comparable to surrounding uses; and
  - d. The impact of the use on the quality and quantity of groundwater available to abutting properties is comparable to surrounding uses; and
  - e. Unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate adverse impacts upon surrounding properties.
- (2) Vehicular and pedestrian access to, into and within the site will be safe and will not be overburdened or create hazards because they are inadequate. The board may not find that this standard is satisfied unless it finds that:
  - a. Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.
    1. Adequate capacity means that:
      - i. Intersections on major access routes to the site within one-half mile of any entrance road will function after development at a minimum at Level of Service C; or
      - ii. If they are functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service.
    2. The board of appeals or planning board may approve a conditional use permit for an application not meeting this requirement if the applicant demonstrates that:
      - i. A public agency has committed funds to construct the improvements necessary to bring the level of access to said standard, or

## ATTACHMENT A

- ii. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to said standard and will guarantee the completion of the improvements within one year of approval of the permit.
  - b. The topography of the site shall permit the construction of all driveways, entrances or proposed streets to meet the standards of the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks.
  - c. Facilities are present to assure the safety of pedestrians passing by or through the site.
- (3) Municipal or other facilities serving the proposed use will not be overburdened or create hazards because they are inadequate. The board may not find that this standard is satisfied unless it finds that:
- a. The capacity of sewerage and water supply systems is adequate to accommodate the proposed use;
  - b. The capacity of the storm drainage system is adequate to accommodate the proposed use; and
  - c. The ability of the fire department to provide necessary protection services to the site and development is adequate.
- (4) The soils on the proposed site shall have adequate capacity and stability to support all loadings, including fill, developed by the proposed use and the use will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water to the extent that a dangerous or unhealthy condition may result on the site or upon the land of abutters or the environment. In considering whether this standard is satisfied, the board shall take into account the elevation above sea level of the site and surrounding properties, its relation to flood plains, the slope and vegetation of the land and their effects on drainage.
- (5) The scale and design of the proposed structures with respect to materials, scale and massing shall be compatible with existing structures within 500 feet of the site in areas where the existing structures are of a similar scale and architectural treatment.

#### Section 4. Additional standards in shoreland areas.

For conditional use permit applications in shoreland areas, the board of appeals or planning board shall grant the application only if it finds that the proposed use:

- (1) Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- (2) Will conserve shoreland vegetation;
- (3) Will conserve visual points of access to waters as viewed from public facilities;
- (4) Will conserve actual points of public access to waters;

## ATTACHMENT A

- (5) Will conserve natural beauty; and
- (6) Will avoid problems associated with floodplain development or use such as erosion, increased risk of flood damage to upstream properties or increased flood damage.

AUGUSTA

**Part IV: Land Use, Section 300-603**

E. Site plan review criteria applicable to conditional uses.

(1) Neighborhood compatibility. [The intent of this subsection is to encourage the applicant to design the proposal in consideration of the physical impact it will have on the immediate neighborhood (within 500 feet if the property is in the Urban Growth Area Districts and within 1,000 feet if the property is in the Planned Development and/or Rural Districts. Major Development, Major Subdivision, New Mineral Extraction License, Expansions of Renewal Mineral Extraction Licenses, and shooting ranges will have a 2,000 foot standard in the Planned Development and/or Rural Districts).] [Amended 2-21-2019 by Ord. No. 19-025]

- a) Is the proposal compatible with and sensitive to the character of the site and neighborhood relative to:
  - 1) Land uses;
  - 2) Architectural design;
  - 3) Scale, bulk and building height;
  - 4) Identity and historical character;
  - 5) Disposition and orientation of buildings on the lot; and
  - 6) Visual integrity?
- b) Are the elements of the site plan (e.g., buildings, circulation, open space and landscaping) designed and arranged to maximize the opportunity for privacy by the residents of the immediate area?
- c) Will the proposal maintain safe and healthful conditions within the neighborhood? This criterion shall not be limited to the standards affecting safety and health as outlined in this chapter. Additional regulations may be found in the City of Augusta Code, as amended.
- d) Will the proposal have a significant detrimental effect on the value of adjacent properties (which could be avoided by reasonable modifications of the plan)? In determining whether this criterion has been met, the Planning Board may require the applicant to submit an appraisal prepared by a State of Maine certified appraiser.
- e) Will the proposal cause exterior queuing of vehicles or loitering of pedestrians which would have a negative impact on the surrounding neighborhood? [Added 4-20-2017 by Ord. No. 17-070]

(2) Plans and policies.

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a) (Reserved)

(3) Traffic pattern, flow and volume.

- a) Is the proposal designed so that the additional traffic generated does not have a significant negative impact on surrounding neighborhood?
- b) Will safe access be assured by providing proper sight distance and minimum width curb cuts for safe entering and exiting? See City of Augusta Technical Standards Handbook.
- c) Does the proposal provide access for emergency vehicles and for persons attempting to render emergency services?
- d) Does the entrance and parking system provide for the smooth and convenient movement of vehicles both on and off the site? Does the proposal satisfy the parking capacity requirements of the City and provide adequate space suited to the loading and unloading of persons, materials and goods?

(4) Public facilities. Is the proposal served by utilities with adequate capacity or have arrangements been made for extension and augmentation of the following services:

- a) Water supply (both domestic and fire flow);
- b) Sanitary sewer/subsurface waste disposal system;
- c) Electricity/telephone;
- d) Storm drainage?

(5) Resource protection and environment.

- a) If the proposal contains known sensitive areas such as erodible or shallow soils, wetlands, aquifers, aquifer recharge areas, floodplain or steep slopes (over 15%), what special engineering precautions will be taken to overcome these limitations?
- b) Does the proposal conform to applicable local, state DEP and federal EPA air quality standards, including but not limited to odor, dust, fumes or gases which are noxious, toxic or corrosive, suspended solid or liquid particles, or any air contaminant which may obscure an observer's vision?
- c) Does the proposal conform to applicable local, state DEP and federal EPA water quality standards, including but not limited to erosion and sedimentation, runoff control, and solid wastes and hazardous substances?
- d) Will all sewage and industrial wastes be treated and disposed of in such a manner as to comply with applicable federal, state and local standards?

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- e) Shoreland and Wetland Districts. Will the proposal:
- 1) Maintain safe and healthful conditions;
  - 2) Not result in water pollution, erosion, or sedimentation to surface waters;
  - 3) Adequately provide for the disposal of all wastewater;
  - 4) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
  - 5) Conserve shore cover and visual as well as actual points of access to inland and coastal waters;
  - 6) Protect archeological and historic resources as designated in the 1988 Growth Management Plan;
  - 7) Avoid problems associated with floodplain development and use; and
  - 8) Conform with the provisions of § 300-528, Special standards applicable to shoreland areas?

(6) Performance standards.

- a) Does the proposal comply with all applicable performance and dimensional standards as outlined in this chapter?
- b) Can the proposed land use be conducted so that noise generated shall not exceed the performance levels specified in Part 5, Performance Standards, of this chapter? Detailed plans for the elimination of objectionable noises may be required before the issuance of a building permit.
- c) If the proposal involves intense glare or heat, whether direct or reflected, is the operation conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line? Detailed plans for the elimination of intense glare or heat may be required before issuance of a building permit. Temporary construction is excluded from this criterion.
- d) Is the exterior lighting, except for overhead streetlighting and emergency warning or traffic signals, installed in such a manner that the light source will be sufficiently obscured to prevent excessive glare on public streets and walkways or into any residential area?
- e) Does the landscaping screen the parking areas, loading areas, trash containers, outside storage areas, blank walls or fences and other areas of low visual interest from roadways, residences, public open space (parks) and public view?
- f) Are all the signs in the proposal in compliance with provisions of this chapter?

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(7) Financial and technical ability.

- a) Does the applicant have adequate technical ability to meet the terms of this chapter?
- b) Does the applicant have adequate financial ability to construct the development in compliance with the terms of this chapter?

(8) It is incumbent upon the Planning Board to approve the application unless it makes one or more negative written findings with respect to the above applicable criteria. All decisions of the Planning Board shall be accompanied by a written statement that sets forth the precise reasons why the findings were made. Once a decision is made, the Planning Board shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and its reasons therefor. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a conditional use permit.

F. Conditions attached to conditional uses. Upon consideration of the criteria listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specifications for type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls (including noise and odor control); professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of facilities; type of construction; or any other conditions necessary to fulfill the purposes of this chapter.

# QUICKNOTES

## CONDITIONAL USES

### WHAT IS A CONDITIONAL USE?

A conditional use is a use that is permitted subject to compliance with a set of conditions or requirements set forth in the zoning ordinance. The conditions are designed to ensure that the use is in harmony with both the purposes section of the zoning ordinance and the specific requirements for that use detailed in the zoning ordinance, and that it will not adversely affect the neighborhood if such requirements or conditions are met. The terms “conditional use,” “special use,” “special exception use,” and “special permit” are used interchangeably, but the types of uses that are regulated as conditional uses and the board(s) in charge of administering the conditional use review process vary from jurisdiction to jurisdiction.

### WHY ARE CONDITIONAL USES IMPORTANT?

The ability to regulate certain uses as conditional uses under a zoning ordinance is an important tool for public officials because it gives them flexibility while still ensuring that the use is and will remain in harmony with the purposes and intent of the zoning ordinance. Public officials can permit uses that might otherwise not be allowed in certain zoning districts by carefully crafting a set of conditions or requirements that must be met in addition to the general zoning criteria. Conditional uses are also important to applicants and the public alike because they allow for a greater variety of and diversity among uses. In most jurisdictions, property owners affected by a zoning provision creating or eliminating a conditional use have the ability to comment at the time such provision is adopted or amended. Likewise, parties aggrieved by the decision to grant or not grant a conditional use permit also have the ability to appeal that decision.

### DIFFERENCES BETWEEN CONDITIONAL USES AND OTHER TYPES OF USES

Most contemporary zoning ordinances classify uses as either permitted by right, permitted with conditions, or prohibited in each zoning district. If a use is permitted by right, an applicant simply goes through the administrative processes required to obtain zoning approvals and building permits. Conditional uses, on the other hand, are subject to discretionary review, where the designated review body must determine whether or not the proposed use satisfies the purposes section of the zoning ordinance and meets any specific requirements detailed in the ordinance. Unlike a prohibited use, a conditional use is permitted provided that the general and specific criteria relating to such use have been met. In contrast, a prohibited use is not permitted unless relief from the zoning provisions has been obtained, usually in the form of a variance or through an amendment to the zoning ordinance.

### CONSIDERATIONS AND METHODOLOGY FOR DETERMINING CONDITIONAL USES

Except in cases where the state legislature has mandated that certain uses must be permitted in certain zoning districts, the following types of uses are commonly regulated as conditional uses: adult homes, professional offices, group homes, nursing homes, religious institutions, or day-care centers in residential zones, and shopping centers, drive-through establishments, gasoline filling stations, and convenience stores in commercial zones. The advantage to regulating some uses as a conditional use versus relying on permitted uses is that special consideration can be given to some of the recurring problems associated with such uses—protected against by a condition or requirement—without having to apply that same condition or requirement to every other permitted use in the same zone. For example, increased stacking and queuing requirements can be imposed for fast-food restaurants with drive-through lanes, although

**The ability to regulate certain uses as conditional uses under a zoning ordinance is an important tool for public officials because it gives them flexibility while still ensuring that the use is and will remain in harmony with the purposes and intent of the zoning ordinance.**



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these requirements may be overly burdensome for other uses with drive-through lanes in the district, such as banks or pharmacies. Some municipalities, however, overuse this regulatory power by classifying nearly every use as a special use or by overly conditioning uses to the point of prohibition. Too many conditional uses may discourage applicants from applying because of the cost and uncertainty associated with the application process or the increase in the amount of time it takes to obtain approval. The goal in regulating conditional uses should be to balance the need for diversity and proximity to certain uses against any potential impacts such uses may have on the surrounding community.

## ISSUING ENTITY FOR CONDITIONAL USE PERMITS

Statewide land-use legislation or the local zoning ordinance will prescribe which board or boards have exclusive jurisdiction to hear a conditional use-based application. In some instances, the local legislative body can designate itself, the planning board, the zoning board, or a hearing examiner with the authority to review conditional use applications. In other instances, an applicant's ability to comply with the conditions required for a conditional use will dictate whether the applicant goes before the planning board or the zoning board. Likewise, in other localities, certain types of conditional uses will be heard by one board (such as the planning board) and other types of conditional uses will be heard by the local legislative body or the zoning board. Under this approach, uses that involve site planning concerns are typically assigned to the planning board while those that focus on neighborhood compatibility are assigned to the zoning board.

## APPLICATION PROCESS AND PROCEDURES

Jurisdictions that regulate conditional uses are generally required to hold a public hearing as part of the review process. In most instances, proof of compliance with the conditions or requirements imposed for a conditional use must be made at the time of submission, either on the plans for the proposed use or separately in writing by detailing the applicant's compliance with each condition. This is critical in jurisdictions where compliance or the lack thereof dictates the board to which the application will be assigned. Proof of compliance must also be provided in writing or orally, in the form of testimony, at the public hearing in which permission for the use is being sought. Likewise, for jurisdictions where conditional use review and approval is being conducted concurrently with site plan review, it is also common for the municipality to require that a conditional use permit be obtained simultaneously with the granting of site plan approval.

## DETERMINATIONS AND FINDINGS OF FACT

All determinations should be set forth in writing and should include a statement of findings upon which the reviewing board has relied in making its decision. In granting, denying, or granting a permit with conditions, the reviewing board should consider all evidence offered at or before any public hearing; any reports from other boards and federal, state, or local agencies; additional requested information; and all relevant facts and circumstances. The decision to deny a conditional use should not be based upon generalized objections or arbitrary and capricious concerns of neighboring community members but rather a review and application of the specific criteria and conditions for the conditional use.

## CONDITIONS

The reviewing board has the authority to attach conditions to the issuance of a conditional use permit or approval. However, such conditions must be directly related to and incidental to the proposed use. Conditions that have been imposed must usually be fulfilled by the applicant prior to the receipt of any building permits or before a certificate of occupancy can be issued, unless they involve a continuing obligation that must be fulfilled once the property has been developed.

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**From:** Leah B. Rachin <[LRachin@dwmlaw.com](mailto:LRachin@dwmlaw.com)>  
**Sent:** Thursday, July 16, 2020 6:59 PM  
**To:** 'Matt Panfil' <[mpanfil@brunswickme.org](mailto:mpanfil@brunswickme.org)>  
**Subject:** Submissions for Public Hearing on July 28th

Matt,

This email is to request that my attached letter to Chairman Frizzle be made part of the Planning Board's packet for the meeting/public hearing on July 28<sup>th</sup>. While the letter was originally submitted for the Planning Board's meeting on July 14<sup>th</sup>, I would like to ensure that it is before the Board and officially part of the record when it considers final adoption of the proposed revisions to section 5.2.2 of the land use ordinance's conditional use standards on the 28<sup>th</sup>.

Additionally, I am respectfully requesting that the Board amends the language suggested for subsection (5) by removing it entirely. As appeared to be the general consensus of the Board last Tuesday night, such language is unnecessary. The proposed subsection (5) requires a finding by the Board that the proposed conditional use is "compatible" with other uses in the zone goes. As noted by a number of members, this actually goes without saying. If the Council has seen fit to allow a particular use as a conditional use in a zoning district (by including it in the land use table), then it has *already* made the determination that the proposed use is compatible with other uses in that zone. Accordingly, subsection (5) should be stricken in its entirety as its inclusion serves no purpose and may have the unintended consequence of inviting confusion.

Thank you for your assistance.

Best,

Leah

**Leah B. Rachin**

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July 9, 2020

Charlie Frizzle, Chairman  
Brunswick Planning Board  
85 Union Street  
Brunswick, ME 04011

Dear Chairman Frizzle:

As you may recall, I represent GJoris, LLC, which applied to the Planning Board for a conditional use application for a marijuana store in the GI Zone. That application was tabled on May 12, 2020 given both the Town Council's and the Planning Board's recognition that the conditional use standards set forth in section 5.2.2 of the Brunswick's Zoning Ordinance (the "BZO") had some inherent problems that needed to be addressed. Working with the Town Attorney, Planning Director, Matt Panfil drafted some proposed amendments to the conditional use standards, which were considered by the Council at its meeting on Monday, July 6<sup>th</sup>. As you are aware, the Council directed that the proposed amendments be forwarded to the Planning Board, pursuant to section 12.2-5 of the Brunswick Code of Ordinances, for its consideration and recommendation.

I have reviewed the proposed amendments. We believe they go a long way towards addressing a number of the concerns raised in my earlier letter to you and the Planning Board dated May 11, 2020. We do have a few suggestions, which we offered at Monday night's Council meeting. It was my perception that the Council largely agreed with them, so we ask that the Planning Board consider and incorporated them accordingly.

The proposed revisions to subsections (2) and (3) of section 5.2.2 both include the following language: "any use(s) *permitted by right* within the same zoning districts." (emphasis added) In the interest of absolute clarity, we suggest minor tweaks to this language. The proposed language raises the question whether "permitted by right" means *only* those uses that are expressly noted as "permitted" under the governing land use tables, or, whether it *also* includes uses that are designated as "conditional." Given that the title of the two land use tables contained in the BZO are entitled, "Growth Area *Permitted* Use Table" and "Rural Area *Permitted* Use Table," and further given that both "permitted use" tables include not only permitted uses but also conditional uses, we believe that the language could benefit from more clarity. If *only* permitted uses are intended, then instead of saying "uses permitted by right with in the same zoning district," the amendment could say, "for uses designed as "permitted" in the same zoning district in the land use table." Alternatively, if *both* permitted and conditional uses were

intended to be included, it could say “any uses designated as either “permitted” or “conditional” in the same zoning district in the land use table.”

We are concerned about the proposed amendments to section 5.2.2 subsection (5), as we believe that they are still vulnerable to the same concerns that prompted the amendments in the first place. At Monday night’s Council meeting, Councilor Mason and Watkinson agreed that subsection (5) could benefit from the edits suggested below.

In Mr. Panfil’s memo, he noted how existing language in section 5.2.2 could be subject to attack because it is “vague and provides no standard by which to measure the level of impact.” Moreover, he pointed out how tying the conditional use standards directly to neighboring properties is problematic because “surrounding uses change over time” and “some conditional use permit applications have no [neighboring] use or are located in an area with use and buildings intended for high vehicular traffic that are either underutilized or vacant.”

The same concerns apply to the following proposed language for subsection (5): “The proposed use will be compatible and similar to the general categories of uses of neighboring properties.” First, it is not entirely clear what the vague term “general categories of uses” means. Second, it has already been acknowledged that it is problematic from a land use planning standpoint to tie conditional use standards to the particular use of a neighboring property at any given time because those can fluctuate substantially. Accordingly, we respectfully request that the same language that was drafted for subsections (2) and (3) (or, as those may be amended) also be applied in subsection (5). In the interest of consistency with the other proposed revisions, subsection (5) should read something like: “The proposed use will be compatible with and similar to those permitted within the same zoning districts.”

We appreciate the Council’s and Planning Board’s attention to this matter and look forward to participating in the process.

Sincerely,



Leah B. Rachin

cc: GJoris, LLC  
Matt Panfil, Director of Planning and Development  
John Eldgridge, Town Manager

July 30, 2020

John M. Perreault, Chair  
Town of Brunswick Council  
85 Union Street  
Brunswick, Maine 04011

***Re: Proposed Amendments to Section 5.2.2 of the Brunswick Zoning Ordinance's Conditional Use Standards***

Dear Chairman Perreault and Council Members:

I represent GJoris, LLC in connection with the above-referenced matter. As you are aware, the Council referred certain proposed amendments to the conditional use review criteria set forth in § 5.2.2 of the Brunswick Zoning Ordinance (“BZO”) to the Planning Board for its review and consideration. The Planning Board reviewed the proposed changes to § 5.2.2 of the BZO and held a public hearing at its July 28, 2020 meeting. The version of amendments considered by the Planning Board on the 28<sup>th</sup> were contained in a memorandum from Matt Panfil to the Board dated July 28, 2020. After the public hearing, the Planning Board recommended certain additional changes to the proposed amendments contained in Mr. Panfil’s memo. It is my understanding that the Council will be considering the Planning Board’s recommended revisions to § 5.2.2 of the BZO at its August 3<sup>rd</sup> meeting. To that end, I respectfully request that the Council consider my comments below.

We appreciate the collaborative process in which the Town has engaged and believe that the proposed changes to § 5.2.2 go a long way towards making the standards clearer and less vulnerable to legal challenge. Aside from its recommended change to section 5.2.2.B(5) (discussed below), we support the most recent iteration of the proposed amendments suggested by the Planning Board.

In his July 28, 2020 memo to the Planning Board, Mr. Panfil suggested three options to consider with respect to the existing language of section 5.2.2.B(5).<sup>1</sup> The first option suggests deleting § 5.2.2(5) in its entirety and not replacing it. The second option suggests different language, the gist of which remains the same (i.e., the proposed use cannot be contrary to objectives identified in the Comprehensive Plan). The third option, which the Planning Board recommends be adopted, deletes the existing language of § 5.2.2(5) and replaces it with the following language: “The proposed use shall not result in an adverse impact on the capacity of existing or planned municipal services, utilities, or other necessary facilities.”

We wholeheartedly agree with the Planning Board that the language of the existing § 5.2.2(5) of the BZO should be deleted in its entirety. We also concur that the proposed option #2 is

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<sup>1</sup> Section 5.2.2.B(5), as it currently appears in the BZO, provides as follows: “The application shall further the planning goals of the adopted Town of Brunswick 2008 Comprehensive Plan, as amended, including but not limited to the planning goals for the Planning Area (Appendix A – Planning Areas) in which the property is located.”

John M. Perreault, Chair,  
Town of Brunswick Council  
July 29, 2020  
Page 2

inadvisable. Two members of the Planning Board, who are also members of the Comprehensive Plan Update Steering Committee, both expressed their belief that any reference to the comprehensive plan in the conditional use approval standards contained in § 5.2.2(5) of the BZO would be counterproductive. This is because not only are there internal inconsistencies within comprehensive plan itself, but it could be argued that there are also inconsistencies between the comprehensive plan and certain provisions of the BZO.

We disagree with the Planning Board's recommendation to adopt the language suggested in option #3 for the following reasons.

First, by requiring that "[t]he proposed use shall not result in an adverse impact..." (emphasis added), this creates a potentially impossible standard to meet. The addition of a single business, apartment building, or retail establishment (indeed *any* kind of development) will potentially result in *some* degree of adverse impact. More people and buildings, by definition, mean more police and fire calls, more students in schools, and/or more consumption of municipal services. Without some kind of limiting language, such as "shall not impose an unreasonable burden on existing public services, utilities, and facilities" this provision risks being overbroad and operating to prohibit development of uses that have already been determined by this Council to be appropriate.

Second, the BZO *already* addresses the potential for any use to overburden municipal services and utilities, making the proposed language of § 5.2.2(5) unnecessary. Chapter 4 of the BZO outlines numerous "property development standards" that apply to *all* development in town. *See* § 4.1.1. Specifically, § 4.5 addresses "Basic and Municipal Services," including sewerage disposal, water supply, and solid waste disposal.

Third, if a particular use (of a kind identified as allowed in the BZO's Table of Permitted Uses) could potentially result in undue strain on municipal services, then the answer is not to refuse to approve it. Rather, the solution is for the Town to avail itself of the statutory mechanisms enacted to relieve development pressures, such as impact fees. *See* 30-A M.R.S. § 4354, which allows municipalities to transfer the cost of certain kinds of infrastructural improvement to the developer/applicant. A review of the list of improvements for which impact fees may be charged indicates that it includes the very kind of "municipal services, utilities, or other necessary facilities" contemplated in the Planning Board's recommended language for § 5.2.2(B), (i.e., wastewater collection and treatment facilities; municipal water facilities; solid waste facilities; public safety equipment and facilities; roads and traffic control devices; parks and other open space or recreational areas; and school facilities.) *See* 30-A M.R.S. § 4354(1)(A)(1)-(7). Indeed, the BZO already includes provisions allowing impact fees. *See* §§ 4.7.2.B and 4.2.5(D)(3).

For all the reasons discussed above, we respectfully request that the Council adopt the proposed changes recommended by the Planning Board at its July 28, 2020 with the exception of the proposed language for § 5.2.2(5). Rather, we ask that the existing language be stricken in its entirety and that it not be replaced.

John M. Perreault, Chair,  
Town of Brunswick Council  
July 29, 2020  
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We thank you for your consideration of this matter.

Sincerely,

Leah B. Rachin

ITEM 111  
BACKUP

# 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:** July 30, 2020

**SUBJECT:** Proposed Charter Amendments

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Over the years, the Town Council has discussed minor modifications to the town charter. Attached is a document illustrating possible modifications. I have summarized the justification for those changes as follows:

Section 201 (c). Strikes outdated language that served to transition the town council terms from two to three year terms.

Section 208 (c). Strikes outdated language that established the council member's compensation at the time the charter was adopted.

Section 213. Strikes the State Department of Audit as a possible auditor of the Town's financial statements. The Department is no longer providing audit services to municipalities.

Section 217. Adds a new section, the position of tax collector, to the charter.

Section 302. Strikes references to council consent to the appointment and removal of department heads. Adds language about the appointment of a tax collector and treasurer.

Section 401 (b). Strikes the reference to council consent when one person is appointed as a department head for two or more departments.

Section 502. Clarifies that the budget is for the general fund. Replaces the word "expenses" with the word "expenditures" to reflect the proper terminology. Clarifies and changes the timeline for the budget availability to the public, establishment and holding of the public hearing and the timing of the adoption following the public hearing.

Section 504. Clarifies that budget is adopted by resolve. Clarifies that budget amendments may be funded from fund balance or reserves.

Section 505. Adds "functional" classifications to the budget terminology.

Section 508. Changes the language on expenditure limitations to reflect a higher level of budgetary control, i.e. the functional level, as reflected in the budget resolution.

Section 511. Clarifies that budget funds transferred to other funds do not lapse.

To: Town Council  
Date: July 30, 2020  
Re: Charter Amendments

Page 2 of 2

Section 901. Strikes outdated language that served to transition the school board terms from two to three year terms.

Section 908. Strikes outdated language that established the school board member's compensation at the time the charter was adopted.

Section 1002 (c). Strikes the language that prohibits a voter from signing more than one candidate's petition.

Section 1208. Cleans up the oath of office to reflect language similar to language found in most other municipalities.

Should the Council wish to proceed, it would need to establish an August 17<sup>th</sup> public hearing.

Cc: Town Attorney

To: Town Council  
Date: July 30, 2020  
Re: Charter Amendments

Page 2 of 2

PART I - BRUNSWICK TOWN CHARTER<sup>[1]</sup>

Footnotes:

--- (1) ---

**Editor's note**— Printed herein is the Charter of the Town of Brunswick, Maine adopted on November 5, 1969 and effective on January 2, 1970. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section.

ARTICLE I. - GRANT OF POWERS TO THE TOWN

Section 101. - Incorporation.

The inhabitants of the Town of Brunswick shall continue to be a municipal corporation called the Town of Brunswick, Maine.

Section 102. - Powers of the town.

- (a) The town shall have, exercise and enjoy all the rights, immunities, powers and privileges of municipal corporations incorporated under the laws of the State of Maine. It shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon such municipal corporations.
- (b) The town may enact by-laws, regulations and ordinances consistent with the Constitution and laws of the State of Maine and establish penalties for the breach thereof as provided by the laws of the State of Maine.

Section 103. - Construction.

- (a) The powers of the town under this Charter shall be construed liberally in favor of the town; these powers shall include all those that are necessary and convenient to conduct its municipal affairs, including all powers pursuant to the Constitution and laws of the State of Maine.
- (b) As used in this Charter, the word "council" shall refer to the town council.
- (c) As used in this Charter, the word "councilor" shall refer to a member of the town council.
- (d) As used in this Charter, the word "manager" shall refer to the town manager.
- (e) The provisions of this Charter which apply to departments of the town apply as well to offices or agencies of the town.
- (f) This charter is intended to be gender neutral.

(Amended November 8, 1994—Effective January 1, 1995)

ARTICLE II. - TOWN COUNCIL

Section 201. - Composition, eligibility, election and terms.

- (a) There shall be a town council of 9 members. Two members shall be elected by the voters of the town at large, and one member shall be elected by the voters of each of the 7 districts, as provided in section 202 of this article.
- (b) Only voters, or persons eligible to be voters, who reside in the town shall be eligible to hold office of councilor.

(c) Each member shall be elected for a term of 3 years and shall serve until a successor is elected and qualified. ~~The terms of office shall be staggered and shall be initially elected as follows:~~

~~For the regular annual election held in 2006:~~

~~District 2—A one year term~~

~~District 5—A two year term~~

~~District 7—A two year term~~

~~At large expiring in 2006—A two year term.~~

~~For the regular annual election held in 2007:~~

~~District 1—A three year term~~

~~District 2—A three year term~~

~~District 3—A two year term~~

~~District 4—A two year term~~

~~District 6—A three year term~~

~~At large expiring in 2007—A two year term~~

(Amended November 6, 1990; amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-1)

Section 202. - Establishment of voting districts and qualifications; review of district boundaries.

(a) There are 7 districts in the Town of Brunswick which shall continue with their current boundaries until they are adjusted according to subsection (b). District members of the Council and School Board shall reside in the districts from which they have been elected.

(b) District boundaries shall be adjusted pursuant to Title 30-A, Section 2503 of the Maine Revised Statutes, as that section may be amended from time to time.

(Amended November 6, 1990; amended November 3, 1998—Effective January 1, 1999)

Section 203. - Powers and duties.

All the powers of the town shall be vested in the council, except as otherwise provided by law or this Charter. The council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the town by law.

Section 204. - Prohibition.

(a) No councilor shall hold any other town office or town employment during the term for which the councilor was elected to the council; further no public school teacher shall be eligible to serve on the council.

(b) Neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any administrative officers or employees whom the manager or any of the manager's subordinates are empowered to appoint. The council, however, may express its views and fully and freely discuss with the manager anything pertaining to the appointment and removal of such officers and employees.

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- (c) Except for the purpose of inquiry, the council and its members shall deal with the administrative officers solely through the manager. Neither the council nor any member thereof shall give orders to any subordinates of the manager, either publicly or privately.

(Amended November 8, 1994—Effective January 1, 1995)

Section 205. - Vacancies; forfeiture of office; filling of vacancies.

- (a) The office of a councilor shall become vacant upon the death, resignation, removal from office in any manner authorized by law, forfeiture of the office, or permanent physical or mental disability resulting in decreased ability to perform the duties, all as determined by the council.
- (b) A councilor shall forfeit the office if the councilor fails at any time during the term of office to maintain any qualification for the office prescribed by this Charter or by law.
- (c) If a seat on the council becomes vacant for any reason, the council shall call a special election to fill the vacancy for the unexpired term.
  - (1) Exception. If the remainder of the unexpired term is less than 6 months, the council shall appoint a qualified person to fill the vacancy.
- (d) If the vacancy is in a district seat, the person elected or appointed to fill the vacancy must be a resident of that district.

(Amended June 19, 1972; amended November 8, 1994—Effective January 1, 1995)

Section 206. - Induction of council into office.

On the first Monday in January, unless that Monday is a holiday, in which case it shall be the next business day, the newly elected councilors shall be inducted into office by being sworn to the faithful discharge of their duties by the town clerk or the town clerk's designee.

- (a) **Exception.** A member-elect may be sworn in at a later date, if necessary.

(Amended June 19, 1972; amended November 8, 1994—Effective January 1, 1995; amended November 4, 1997)

Section 207. - Regular meetings.

- (a) The council shall at its first meeting:
  - (1) Elect one of its members as chair and another as vice-chair.
  - (2) Establish by resolution a regular place and time to hold its meetings, which shall take place at least once a month.
  - (3) Provide a method for calling special meetings.
- (b) All meetings of the council shall be open to the public, except as may otherwise be provided by the laws of the State of Maine.
- (c) A majority of the council shall constitute a quorum. A majority of a quorum is sufficient for a valid vote.

(Amended November 8, 1994—Effective January 1, 1995)

Section 208. - Compensation.

- (a) The council may determine its compensation by ordinance, but no ordinance increasing such compensation shall become effective until the commencement of the term of councilors elected at the next regular election.
- (b) Councilors shall be paid on a quarterly basis for services performed in the preceding quarter. Councilors elected to fill an unexpired term on the council shall be paid on a pro-rata basis for the time they shall actually serve.

~~(c) Initially, the annual compensation of councilors shall be \$1,000.~~

(Amended November 8, 1994—Effective January 1, 1995)

Section 209. - Rules of procedure; journal.

The council shall determine its own rules and orders of business. It shall maintain a journal of its proceedings which shall be open to public inspection.

Section 210. - Ordinances.

In addition to such acts of the council as are required by law or by this Charter to be by ordinance, every act establishing a fine or other penalty shall be by ordinance.

Section 211. - Public hearing on ordinances.

- (a) Before an ordinance is enacted, amended or repealed, the council shall hold a public hearing, notice of which must be published in a newspaper having general circulation in the town at least 10 days before the hearing date. The text of the intended act must be included in the notice where it is reasonable to do so, in the opinion of the council. Otherwise, the notice must contain a reasonable summary of the purpose of the intended act. In either case, a reasonable number of copies of the intended act must be made available to the public at the office of the manager for at least 10 days before the hearing date.
- (b) An ordinance shall not become effective until at least 30 days after passage.

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.

(Amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

Section 213. - Independent annual audit.

Prior to the end of each fiscal year, the council shall designate ~~the State Department of Audit or a~~ certified public accountant who, as of the end of the fiscal year, shall make an independent audit of all town accounts and financial transactions and submit a report to the council.

Section 214. - Town clerk.

The town clerk shall have custody of the journal of the proceedings of the council; shall authenticate all ordinances and resolutions by signature and record them in a book kept for the purpose; and shall perform such other duties as are prescribed by the laws of the State of Maine.

(Amended February 24, 1977; amended November 8, 1994—Effective January 1, 1995)

Section 215. - Town attorney.

The council shall appoint and determine the compensation of the town attorney. The term of office of the Town Attorney starts on the first business day in January and continues for one year and until a successor is appointed and qualified. If there is a vacancy in the office for any reason, the Town Council shall appoint a successor to serve for the balance of the term.

(Amended February 24, 1977; amended November 8, 1994—Effective January 1, 1995)

Section 216. - Town treasurer.

The Town Treasurer shall have custody of the financial records of the Town and shall perform such other duties as are prescribed by the laws of the State of Maine.

Section 217 Tax Collector

The tax collector shall collect all taxes and perform any other duties required by the laws of the State of Maine.

(Amended February 24, 1977; amended November 8, 1994—Effective January 1, 1995)

ARTICLE III. - TOWN MANAGER

Section 301. - Appointments; qualifications; compensation.

The council shall appoint a town manager for an indefinite term and fix the manager's compensation. The manager shall be appointed solely on the basis of character and executive and administrative qualifications. The manager need not be a resident of the town or the State of Maine at the time of appointment but may reside outside the town while in office only with the approval of the council.

(Amended November 8, 1994—Effective January 1, 1995)

Section 302. - Powers and duties of the town manager.

The manager shall be the chief administrative officer of the town. The manager shall be responsible to the council for the administration of all town affairs placed in the manager's charge or under this Charter. The manager shall have the following powers and duties:

- (a) Shall, ~~with the consent of the council~~, appoint, prescribe the duties of, and, when necessary, remove department heads of the town;
- (b) Shall appoint, prescribe the duties of, and, when necessary, remove other employees of the town ~~except as otherwise provided herein, and~~ except as the manager may authorize the head of a department to appoint and remove subordinates in such department;
- (c) Shall direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this Charter or by law and except that the manager shall have neither appointive power nor administrative duties with regard to the Department of Education;
- (d) Shall attend council meetings, except when the manager's removal is being considered, and shall have the right to take part in discussions but may not vote;
- (e) Shall prepare annually a proposed budget, submit it to the council, and be responsible for its administration after enactment;
- (f) Shall each year prepare an annual report for public distribution, which report shall include detailed statements on the finances and administrative activities of all departments of the town for the preceding year;
- (g) Shall maintain accounts in such a manner as to show fully at all times the financial condition of the town;
- (h) Shall keep the council advised as to future needs, financial or otherwise, and make such recommendations as the manager may deem desirable;
- (i) Shall see that all ordinances are enforced;
- (j) Shall be responsible for the collection of all taxes, special assessments, license fees and other revenues of the town or for whose collection the town is responsible and receive all money receivable by the town from the State or Federal Government, or from any office or department or agency of the town. The town manager shall serve as, or shall appoint, a tax collector and a treasurer;
- (k) Shall perform such other duties as may be prescribed by this Charter or required by the council, not inconsistent with this Charter.

(Amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

Section 303. - Absence of town manager; acting town manager.

To perform the manager's duties during a temporary absence or disability, the manager may, with the consent of the council, designate by letter filed with the town clerk a qualified administrative officer of the town. In the event of the failure of the manager to make such a designation, the council may by resolution appoint any officer of the town to perform the duties of the manager until the manager shall return or the disability shall cease.

(Amended November 8, 1994—Effective January 1, 1995)

Section 304. - Removal of town manager.

The council may remove the manager from office for cause in accordance with the following procedure:

- (a) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.
- (b) Within 5 days after a copy of the resolution is delivered to the manager, the manager may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than 15 days or later than 30 days after the request is filed. The manager may file with the council a written reply not later than 5 days before the hearing.
- (c) The council may adopt a final resolution of removal by affirmative vote of a majority of all its members at any time after 5 days from the date that a copy of the preliminary resolution was delivered to the manager, if the manager has not requested a public hearing, or at any time after the public hearing if one has been requested.
- (d) When adopted, a final resolution of removal may be made immediately effective.
- (e) The manager shall continue to receive a salary until the effective date of a final resolution of removal.

(Amended November 8, 1994—Effective January 1, 1995)

#### ARTICLE IV. - ADMINISTRATIVE DEPARTMENTS

##### Section 401. - General provisions.

- (a) **Creation of departments.** The council may establish town departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, be assigned to any other department, office or agency.
- (b) **Direction by town manager.** All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. ~~With the consent of the council, the~~ The manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of 2 or more of them.

(Amended November 8, 1994—Effective January 1, 1995)

##### Section 402. - Personnel system.

- (a) **Merit principle.** All appointments and promotions of town officers and employees, subject to the direction and supervision of the manager, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- (b) **Personnel director.** The manager or the manager's appointee shall be the personnel director.
- (c) **Personnel board.** There shall be a personnel board of 5 regular members and 2 alternate members. The term of office of a regular member and an alternate member is 3 years and until a successor is appointed and qualified. When a regular member is absent, the chair may appoint an alternate member as acting a regular member; but only those regular and alternate members who sit on a particular matter may participate in the discussion and determination of it. A member or alternate member of the board may hold no town employment. The personnel director shall provide necessary staff assistance for the board.

(d) **Personnel rules.** The manager or the manager's appointee shall prepare personnel rules. The manager shall submit such rules to the council, which rules the council shall adopt ~~by ordinance~~ with or without amendment. These rules shall provide for:

- (1) The classification of all town positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (2) A pay plan for all town positions;
- (3) Methods for determining the merit and fitness of candidates for appointment or promotion, demotion or dismissal;
- (4) Policies and procedures regulating reduction in force and removal of employees;
- (5) A retention and retirement plan for town employees;
- (6) Hours of work, attendance regulations and provisions for sick and vacation leave;
- (7) Policies and procedures governing persons holding provisional appointments;
- (8) Policies and procedures governing relationships with employee organizations;
- (9) Policies regarding in-service training programs;
- (10) Grievance procedures including procedures for the hearing of grievances by the personnel board, which board may render advisory opinions to the manager based on its findings, with a copy provided to the aggrieved employee; and
- (11) Other practices and procedures necessary to the administration of the town personnel system.

(Amended November 6, 1984; amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

#### ARTICLE V. - FINANCIAL PROVISIONS

##### Section 501. - Fiscal year.

The fiscal year is a twelve-month period commencing July 1st.

(Amended December 5, 1977)

**State Law reference**— Fiscal year, 30-A M.R.S.A. § 2001(12).

##### Section 502. - The budget.

(a) Not later than May 1st of each year, the manager shall submit to the Council a general fund budget and an explanatory budget message. This budget shall be compiled from detailed information furnished by the administrative offices and boards of the town, including the department of education. The budget shall contain:

- (1) An exact statement of the financial condition of the town.
- (2) An itemized statement of appropriations recommended for current ~~expenses~~ expenditures and for permanent improvements, together with comparative statements in parallel columns of expenditures for the current and the preceding fiscal year. Any increase or decrease in any item shall be indicated.

- (3) An itemized statement of estimated revenue from all sources other than taxation; and a statement of taxes required, with comparative figures given for the current and the preceding year.
- (b) Copies of the proposed budget shall be available to the general public not later than 3 days 2-weeks after its submission to the council. The council shall ~~thereafter~~ fix a time and place for holding a public hearing on the proposed budget, and shall give public notice thereof. The hearing or any adjournment thereof shall be held at least 7 days following the budget being publicly available and at least 7 40 days before the final adoption of the budget by the council.

(Amended December 5, 1977; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

Section 503. - Increase in the budget.

If the council inserts additional items, or makes other changes which increase the total proposed expenditures, it shall also increase the total anticipated revenue for the fiscal year to at least equal the total proposed increased expenditures.

Section 504. - Adoption and amendment of the budget.

The budget for each fiscal year shall be acted upon by the Council, by resolve, not later than June 15th.

Upon the recommendation of the Town Manager, the Town Council, by resolve, may amend the budget. The Council shall hold a public hearing at least 10 days prior to the adoption of any amendment. Any amendment that seeks to increase the amount of the total budget appropriations for the year shall only be made from unappropriated available revenue, fund balance, or reserves.

(Amended December 5, 1977; amended November 8, 2005—Effective January 1, 2006, Exh. A-2)

Section 505. - Budget appropriations established.

The adoption of a budget for a fiscal year shall constitute appropriations of the amounts specified therein which shall be and become appropriated to the several functions, departments, and offices, and purposes named therein for that fiscal year.

Section 506. - Certification of the budget to the town assessor.

From the date of the adoption of the budget, the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount to be levied for the purposes of the town in the corresponding tax year. A copy of the budget as finally adopted by the council shall be certified by the manager and shall be filed by him with the town assessor, whose duty it shall be to levy such taxes as are necessary for the corresponding tax year.

Section 507. - Town treasurer.

The town treasurer shall have custody of all public funds of the town and of any of its offices, departments and agencies. The town treasurer shall have custody of all investments and invested funds of the town or in the possession of the town in a fiduciary capacity except for those investments held in a custodial agreement authorized by the town council. The town treasurer shall make payments and disbursements from public funds but only when directed by warrant signed by the town manager, the chair of the town council or, in the absence or disability of the chair, the vice chair, or their designee, and one other member of the town council.

(Amended November 8, 1994—Effective January 1, 1995; amended November 4, 1997)

Section 508. - Limits on expenditures; transfers of appropriations.

- (a) ~~No department, including the department of education, shall exceed the gross appropriation established in the budget resolution, or any amendments thereto, shall expend in any one year a larger sum than its gross appropriation,~~ except by vote of the council. However, the manager may at any time transfer any unencumbered appropriation balance, or portion thereof, between general classification of expenditures within an office, department or agency a functional classification, as established in the budget resolution.
- (b) At the request of the manager, and within the last 3 months of the budget year, the council may by resolution transfer any unencumbered appropriation balance, or portion thereof, from one functional classification to another. ~~office, department or agency to another.~~

Section 509. - Borrowing in anticipation of taxes.

In anticipation of the collection of taxes, the council may authorize borrowing by the issuance of notes, which notes may be renewed, but all such notes or renewals thereof shall mature and be paid no later than at the end of the current fiscal year.

Section 510. - Emergency appropriations.

To protect the public health, safety and welfare of the town in a case of emergency, the council may, for other than a regular or recurring requirement, transfer from unappropriated available revenue such amounts as the council may deem necessary to meet the emergency. Such transfers shall be by resolution adopted by a majority of the members of the council and shall be made only upon the recommendation of the manager.

Section 511. - Lapse of appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended, ~~or lawfully encumbered,~~ or transferred to another fund.

Section 512. - Capital improvements or acquisitions; issuance of bonds or notes.

The making of contracts for capital improvements or capital acquisitions, to be financed solely or partly by the issuance of bonds or notes, the making of contracts for capital improvements or capital acquisitions exceeding \$1,000,000, and the making of contracts for capital improvements or capital acquisitions which irrevocably obligate the town to raise or appropriate, in a future fiscal year, funds to pay for all or part of the improvement or acquisition must be authorized by ordinance.

(Amended November 16, 1971; amended February 24, 1977; amended November 4, 1997; amended November 8, 2005—Effective January 1, 2006, Exh. A-3)

ARTICLE VI. - CAPITAL PROGRAM

Section 601. - Capital program.

The manager shall prepare and submit to the council a 5-year capital program at the same time as the submission of the annual budget. The capital program shall include:

- (a) A clear, general summary of its contents;

- (b) A list of all capital improvements which are proposed to be undertaken during the 5 fiscal years next ensuing, with appropriate supporting information as to the necessities for such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement;
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed and acquired.

(Amended November 8, 1994—Effective January 1, 1995)

Section 602. - Revision and extension of capital program.

- (a) Each year the capital program shall be reviewed and extended with regard to capital improvements contemplated, still pending or in process of construction or acquisition.
- (b) The council shall fix a time and place for holding a public hearing on the capital program, and shall give public notice of such hearing.
- (c) The council shall adopt the capital program with or without amendments after such public hearing, but nothing in this article shall be deemed to prevent the authorization by the council of bonds or notes of the town to finance a capital improvement not included in the capital program.

ARTICLE VII. - TAX ADMINISTRATION

Section 701. - Town assessor.

The Town Assessor shall have custody of the assessment records of the Town and shall perform such other duties as are prescribed by the laws of the State of Maine.

(Amended November 8, 1994—Effective January 1, 1995)

Section 702. - Board of assessment review; appointments; vacancies.

- (a) There shall be a board of assessment review to consist of 5 members who shall be appointed by the council for a term of 3 years, except that of those first appointed 2 shall be for a term of 2 years and one for a term of one year.
- (b) The members of the board shall be residents of the town. If a member of the board ceases to be a resident of the town, the office shall immediately become vacant.
- (c) Any vacancy on the board shall be filled by appointment by the council for the unexpired term.
- (d) Annually the board shall choose a chair, a vice-chair and a secretary from its membership. The secretary shall keep a complete, accurate record of all votes taken at the meetings of the board.
- (e) Three members of the board of assessment review shall constitute a quorum for the purpose of hearing and voting upon a matter presented to the board. Any members having a financial interest, direct or indirect, in a matter presented to the board shall disqualify themselves and in such event the remaining members of the board shall constitute the board of assessment review.
- (f) Repealed.

(Amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

Section 703. - Board of assessment review; powers; duties.

The board of assessment review shall have the same powers that are granted to such boards by the laws of the State of Maine. It shall adopt such regulations as may be necessary for it to carry out its functions of assessment review, which regulations shall be published annually in a newspaper having a general circulation in the town.

#### ARTICLE VIII. - PLANNING AND ZONING

##### Section 801. - Town planning board.

There shall be a town planning board as provided for by the laws of the State of Maine.

##### Section 802. - Zoning ordinances.

There shall be a zoning ordinance as provided for by the laws of the State of Maine.

##### Section 803. - Zoning board of appeals.

- (a) There shall be a Zoning Board of Appeals composed of 5 members and 4 associate members who shall be appointed by the council for terms of 3 years.
- (b) The members and associate members of the Board must be residents of the Town. If a member or an associate member ceases to be a resident, the office shall immediately become vacant.
- (c) Neither a member of the council nor spouse may be a member or associate member of the Board.
- (d) Any vacancy on the Board shall be filled by appointment by the council for the unexpired term.
- (e) Annually, on or about May 1, the Board shall choose a Chair, Vice-Chair, and Secretary from its membership.
- (f) When a member is unable to act because of conflict of interest, physical or mental incapacity, absence, or for any reason, the Chair shall designate an associate member to act. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members, except the member who is being challenged.
- (g) A quorum consists of 5 members, which may include associate members.
- (h) The Board shall hear appeals from the zoning ordinance.
- (i) The Chair shall call and preside at meetings of the Board as necessary. The Chair shall also call meetings of the Board when requested to do so by a majority of the members of the Board or by the council. The Chair is the official spokesperson of the Board.
- (j) The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The Secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records prepared or maintained by the Secretary are public records. They shall be filed in the Town Clerk's office. They may be inspected at reasonable times.
- (k) The Board may provide by rule, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Chair upon good cause shown.
- (l) The Board may receive any oral or documentary evidence. It shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present a case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- (m) The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all material issues of fact, law or discretion presented and the appropriate order, relief, or denial thereof.

Within 7 days after a decision is made, notice thereof shall be mailed or hand-delivered to the petitioner, or petitioner's representative, the Planning Board and the Town Council.

- (n) Within 45 days after the decision is rendered, an appeal may be taken by any party to Superior Court in accordance with the Maine Rules of Civil Procedure. Rule 80B.

(Amended November 7, 1978; amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

Section 804. - Board of appeals; municipal codes.

- (a) There shall be a Codes Appeal Board for matters relating to municipal codes other than zoning, composed of 5 members and 4 associate members, who shall be appointed by the council for a term of 3 years.
- (b) The members and associate members of the Board must be residents of the Town. If a member or an associate member ceases to be a resident, the office shall immediately become vacant.
- (c) Any vacancy on the board shall be filled by appointment by the council for the unexpired term.
- (d) Annually at its first meeting following the date of appointment of members, the board shall choose a chair, vice-chair, and secretary from its membership.
- (e) When a member is unable to act because of conflict of interest, physical or mental incapacity, absence, or for any other reason, the Chair shall designate an associate member to act.
- (f) A quorum consists of 5 members or associate members.

(Amended June 19, 1972; amended November 8, 1994—Effective January 1, 1995; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

**State Law reference**— Board of appeals, 30-A M.R.S.A. § 2691.

Sec. 805. - Codes appeal board; powers and duties.

- (a) The Codes Appeal Board shall hear appeals for variances from the municipal codes other than zoning.
- (b) The board shall replace the municipal officers in hearing appeals from building, housing and fire prevention codes, and any other code enacted under the authority of the Revised Statutes, Title 30, section 2151, subsection 4, paragraphs A and B [M.R.S.A. 30-A]. In enacting these codes, the council may provide for any necessary rules of procedure to be followed by the board.

(Amended June 19, 1972)

ARTICLE IX. - DEPARTMENT OF EDUCATION

Section 901. - School board.

The Department of Education shall be administered by a School Board composed of 9 members, one member of which shall be elected by the voters of each of the 7 districts, as provided in section 202 of Article II of this Charter, and two members shall be elected by the voters of the town at large. Each member shall serve for 3 years and until a successor is elected and qualified.

~~The terms of office shall be staggered and shall be initially elected as follows:~~

~~For the regular annual election held in 2006:~~

~~District 3—A three year term~~

~~District 4—A three year term~~

~~District 5—A two year term~~

~~At large expiring in 2006—A two year term~~

~~For the regular annual election held in 2007:~~

~~District 1—A three year term~~

~~District 2—A three year term~~

~~District 6—A three year term~~

~~District 7—A one year term~~

~~At large expiring in 2007—A two year term~~

(Amended June 19, 1972 and November 6, 1990; amended November 8, 1994—Effective January 1, 1995; amended November 3, 1998—Effective January 1, 1999; amended November 8, 2005—Effective January 1, 2006, Exh. A-1)

Section 902. - Ex officio member.

(Council representative to School Board)

(Repealed January 16, 1973)

Section 903. - Qualifications.

Members of the School Board shall be voters or persons eligible to become voters of the town and they shall reside in the districts from which they have been elected during their terms of office, except the two members elected by the voters of the town at large shall only be voters or persons eligible to become voters of the town. They shall hold no other town office nor be town employees. If a member of the School Board shall cease to possess any of these qualifications, the office shall immediately become vacant.

(Amended November 6, 1990; amended November 8, 1994—Effective January 1, 1995; amended November 3, 1998—Effective January 1, 1999)

Section 904. - Vacancies; forfeiture of office, filling of vacancies.

- (a) The office of a member of the School Board shall become vacant upon death, resignation, removal from office in any manner, authorized by law, forfeiture of office, or permanent physical or mental disability resulting in decreased ability to perform the duties, all as determined by the School Board.
- (b) A member of the School Board shall forfeit the office if the member fails at any time during the term of office to maintain any qualification for the office prescribed by this Charter or by law.
- (c) If there is a vacancy in the membership of the School Board for any reason, the Town Council shall call a special election to fill the vacancy for the unexpired term.

- (1) **Exception.** If the remainder of the unexpired term is less than 6 months, the School Board shall appoint a qualified person to fill the vacancy.

(Amended June 19, 1972; amended November 8, 1994—Effective January 1, 1995)

Section 905. - Induction into school board office and organization.

The School Board shall meet contemporaneous with the Council's first meeting in January. At such meeting members-elect shall be inducted into office by being sworn to the faithful discharge of their duties by the Town Clerk or the Town Clerk's designee. The School Board shall elect its own chair at that meeting.

Five members of the School Board eligible to vote in its proceedings constitute a quorum for the transaction of business.

- (1) Exception. A member-elect may be sworn in at a later date, if necessary.

(Amended June 19, 1972; amended November 8, 1994—Effective January 1, 1995; amended November 4, 1997; amended November 3, 1998—Effective January 1, 1999)

Section 906. - Powers and duties.

The school board shall have all the powers conferred by law and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the town, except as otherwise provided in this Charter. The school board shall prepare budget estimates in detail of the several sums required during the ensuing fiscal year for the support of the public schools and shall furnish copies of such estimates to the manager on or before the beginning of such fiscal year.

Section 907. - Meetings.

The school board shall hold at least one meeting a month, except during July and August. All meetings of the school board shall be open to the public, except as may otherwise be provided by the laws of the State of Maine.

Section 908. - Compensation.

- (a) The council may determine the compensation of the members of the school board.

~~(b) Initially, the annual compensation of school board members shall be \$300.~~

Section 909. - School capital program.

The school board shall prepare and submit to the council a 5-year school capital program at the same time that it submits its annual budget. The school capital program shall be prepared and revised in the same manner that is required of the manager under Article VI of this Charter.

ARTICLE X. - NOMINATIONS AND ELECTIONS

Section 1001. - Municipal elections.

The regular annual election of the Town Council and the School Board shall be held on the first Tuesday following the first Monday of November.

(Amended June 19, 1972)

Section 1002. - Nomination.

- (a) All persons nominated for the Town Council or the School Board shall be voters of the town or persons eligible to be voters of the town.
- (b) Nominations shall be by petition, which shall be signed by at least 100 voters, except that in the case of a nomination for district membership on the Council and district membership on the School Board, the petition shall be signed by at least 25 voters residing in such district.
- (c) ~~No voter shall sign more than one petition for each office to be filled, and should a voter do so, the signature shall be void except as to the first petition filed.~~ With each signature there shall be stated the place of residence of the signer giving the street and the number, if any.
- (d) Nominating petitions must be filed with the Town Clerk not more than 100 days nor less than 60 days before the date of election.
- (e) Unless a candidate files with the Town Clerk not more than 100 days nor less than 60 days before the date of election the candidate's written consent to accept nomination, agreeing not to withdraw, and if elected, to qualify, the nomination if invalid.

(Amended November 3, 1981; amended November 6, 1990; amended November 8, 1994—  
Effective January 1, 1995; amended November 4, 1997)

Section 1003. - Election provisions.

Provisions of the laws of the State of Maine relating to the qualifications of voters, voter registration, the manner of voting, the duties of election officers and all other matters relating to the preparation for, and the conducting and management of elections, so far as they are applicable, shall govern all municipal elections, except as otherwise provided in this Charter.

Section 1004. - Voting places.

The voting place or places for municipal elections shall be the same as those established for state elections. The Council may consolidate or change polling locations for a special municipal election once a public hearing is held at least thirty days prior to the election and with notice of the change published in a newspaper having general circulation in the community at least ten days before the election.

(Amended November 8, 2005—Effective January 1, 2006, Exh. A-4)

ARTICLE XI. - INITIATIVE AND REFERENDUM

Section 1101. - Power of referendum.

The following shall be subject to overrule by referendum:

- (a) All ordinances enacted by the Town Council.

(Amended November 16, 1971; amended January 16, 1973)

Section 1102. - Referendum procedures.

- (a) Any 5 voters may begin referendum proceedings by a written request made to the town clerk for the appropriate petition blanks. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their

circulation the full text of the ordinance, sought to be reconsidered. The petition shall be signed only by voters of the town and each voter's signature shall be followed by an address.

- (b) Each paper of the petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.
- (c) If, within 20 days after the enactment of an ordinance by the Town Council, the appropriate petition signed by not less than 5% of the registered voters of the town is filed with the town clerk requesting its submission to a referendum, the council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk. Within 14 days after such a public hearing, the council shall call a special municipal election for the purpose of submitting to a referendum vote the question of affirming the enactment of the ordinance.

(Amended January 16, 1973; amended November 8, 1994—Effective January 1, 1995)

Section 1103. - Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the town clerk, the ordinance enacted by the Town Council sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) The ordinance shall have received an affirmative vote of the majority of the voters voting on the question, or
- (b) There is a final determination of the insufficiency of the petition, or
- (c) The council repeals the ordinance.

(Amended January 16, 1973)

Section 1104. - Ordinances, orders or resolves submitted to popular vote.

The council may submit on its own initiative a proposition for the enactment, repeal or amendment of any ordinance, order or resolve, except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the affirmative votes cast thereon at such election, such ordinance, order or resolve shall be enacted, amended accordingly, or otherwise repealed. The proposition shall be so stated that an affirmative vote is for the passage of the ordinance, order or resolve, and a negative vote is against its passage.

Section 1105. - Enactment of ordinances by initiative.

Police Power Ordinances may be enacted by the following initiative procedure.

- (a) Any 5 voters may begin initiative proceedings by a written request made to the town clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. The petition shall be signed only by voters of the town and each voter's signature shall be followed by an address.
- (b) Each paper of the petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed ordinance.

- (c) Upon receipt by the town clerk of the appropriate petition signed by not less than 5% of the voters of the town, the council shall call a public hearing to be held within 30 days from the date of the filing of the petition. Within 30 days after the public hearing the council shall call a municipal election for the purpose of submitting to a vote the question of enacting the ordinance, unless it has been enacted by the council prior to the call for the election. The ordinance shall be enacted when a majority of those voting thereon have voted in the affirmative, and it becomes effective 10 days from the date of the election.

Any such proposed ordinance shall be examined by the town attorney before being submitted to the voters to assure accuracy in its text and references, and clearness and preciseness in its phraseology, but the town attorney shall not materially change its meaning and effect.

The Town Council shall appoint a standing committee of five (5) members to include two (2) Town Councilors and two (2) Brunswick citizens, with the fifth committee member to be a citizen designated by the original petitioners after the petition is presented to the Town Clerk.

The Committee shall meet and no later than thirty (30) days after the public hearing shall prepare and submit to the Council a brief written summary of the substance of the proposed ordinance. Upon receipt of the Committee's recommendation, the Council shall have final authority to modify or adopt the written summary of the proposed ordinance to appear on the ballot or determine no summary is necessary.

- (d) An ordinance enacted by initiative as provided in this Section may not be amended or repealed by initiative or referendum as provided in Sections 1101—1105 for 6 months after its enactment.

(Amended November 16, 1971; amended January 16, 1973; amended November 8, 1994—  
Effective January 1, 1995; effective January 1, 2008)

#### Section 1106. - Publication.

When an ordinance, order or resolve is required to be submitted to the voters of the town by initiative or referendum, the council shall have its complete text published in a newspaper having general circulation in the town at least 15 days before the date of election, unless it would be unreasonable to do so in the opinion of the council. The manager shall make a reasonable number of copies available to public inspection at least 15 days before the date of election.

#### Section 1107. - Form of referendum question on ballot.

The form of referendum question for the affirmation of an ordinance shall be stated on the ballot substantially as follows:

Shall the ordinance (title of ordinance) enacted by council on (date of enactment) be affirmed?

The form of referendum question for enactment of an ordinance shall be stated on the ballot substantially as follows:

Shall the ordinance (title of ordinance) be enacted?

(Amended November 16, 1971; amended November 8, 2005—Effective January 1, 2006, Exh. A-5)

### ARTICLE XII. - GENERAL PROVISIONS

#### Section 1201. - Short title.

This charter shall be known and may be cited as "The Charter of the Town of Brunswick." The town clerk shall cause it to be printed and made available to the public promptly.

Section 1202. - Repealing clause.

All acts and parts of acts of the private and special laws of Maine relating to the Town of Brunswick that are inconsistent with the provisions of this Charter are repealed.

Section 1203. - Separability clause.

If any portion of this Act shall be held to be invalid, such decision of invalidity shall not affect the validity of the remaining portions thereof.

Section 1204. - Existing contracts validated.

All rights, actions, proceedings, prosecutions and contracts of the Town of Brunswick or any of its departments, pending when this Charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun and executed hereunder.

Section 1205. - Expiration of terms of present officials.

The terms of present members of the board of selectmen shall expire at 7:30 p.m. on the first business day of January, 1970. The terms of present members of the superintending school committee shall expire at 8 p.m. on the first business day of January, 1970.

Section 1206. - Continuance of present administrative officers.

All persons holding administrative office at the time this Charter takes effect shall continue in office until other provision is made in accordance with this Charter for the performance of such duties.

Section 1207. - Ordinances not inconsistent remain in force.

All ordinances and bylaws of the Town of Brunswick in force at the time this Charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Section 1208. - Oath of office.

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk.

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Brunswick, and will faithfully discharge the duties of the office of \_\_\_\_\_."

Section 1209. - Application of Municipal Law.

Except as otherwise provided in this Charter, or where the application would obviously be inconsistent with it, the Statutes of the State which apply to municipalities in general apply to the Town of Brunswick as well, and the powers and duties of the Selectmen and the Town Meeting are delegated to and incumbent upon the Town Council.

(Section added February 24, 1977)

**Referendum; effective date; certificate to secretary of state.**

This Act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the voters of the Town of Brunswick at any special town election held before

November 5, 1969, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of the said town to vote on the approval or rejection of this Act.

The town clerk shall prepare the required ballots, on which he shall reduce the subject matter of this Act to the following question: "Shall 'An Act to Grant a New Charter to the Town of Brunswick', passed by the 104th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This Act shall take effect for the purpose of nominating and electing officers hereunder immediately upon its acceptance by a majority of the voters voting at the said election. For all other purposes of this Act shall take effect the first business day of January, 1970.

The result of the vote shall be declared by the municipal officers of the Town of Brunswick and due certificate thereof shall be filed by the town clerk with the Secretary of State.

(THIS CHARTER BECAME EFFECTIVE JANUARY 2, 1970)

# ITEM 112 and 113 BACKUP



# Maine Municipal Association

60 COMMUNITY DRIVE  
AUGUSTA, MAINE 04330-9486  
(207) 623-8428  
www.memun.org

## Memorandum

**To:** Key Municipal Officials of MMA's Member Municipalities  
**From:** Christine Landes, President, Maine Municipal Association  
**Date:** July 15, 2020  
**Re:** Ballots for Election to MMA's Legislative Policy Committee



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MMA's member municipalities have made their nominations for the 2020-2022 Legislative Policy Committee (LPC). It is now time to elect your representatives to serve on the Committee. The election ballot is enclosed. The ballot must be completed by the Board of Selectmen or Town/City Council of your municipality.

### Number of votes

A majority of municipalities are being asked to vote for two candidates, because there are two elected LPC members for most districts. Some municipalities only vote for one candidate, because the other LPC member in that district is appointed. ***You are instructed on the ballot (above the list of candidates) whether to vote for two candidates or just one.***

### Candidate profiles

If you are not familiar with any of the candidates, please review the Candidate Profiles on the back of the ballot. Feel free, also, to contact the candidates directly.

### Write-in candidates

In addition to the candidates listed on the ballot, you may vote for a candidate whose name is not on the ballot by writing that person's name in. The write-in candidate need not be from your municipality, but must be an elected or appointed official from a municipality in your Senate/LPC District. ***Check to be sure the write-in candidate is willing to serve if elected!*** Write-in candidates should be communicating their interest in serving among the municipal officers within their district.

If you are instructed to vote for two candidates and only one candidate is on the ballot, please use the "write-in" line for your second vote if you know of someone who is willing to serve.

### Deadline for returning ballot

Return to ballot by 5:00 p.m. on **August 27, 2020** to:

Laura Ellis: [lellis@memun.org](mailto:lellis@memun.org)  
FAX: 624-0129

**Your participation is important - Thank You!**

**OFFICIAL BALLOT – District 24**

**Maine Municipal Association’s Legislative Policy Committee**  
July 1, 2020 – June 30, 2022

**VOTE FOR ONE** *(Brunswick appoints 1 LPC Member):*

*There were no nominations received for this District. If you know someone willing to serve, please utilize the write-in option.*

\_\_\_\_\_ (  write in )  
(name) (position) (municipality)

**Candidate Profiles Are On Reverse Side**

MUNICIPALITY: \_\_\_\_\_ DATE: \_\_\_\_\_

 BY SELECTMEN/COUNCILORS:

\_\_\_\_\_  
signature

\_\_\_\_\_  
print name

**Return by 5:00 p.m., August 27, 2020 to:**

Laura Ellis, Maine Municipal Association  
lellis@memun.org  
Fax: 624-0129

**LPC Senate District 24** *(Brunswick appoints 1 LPC Member)*

Brunswick  
Freeport

Harpwell  
North Yarmouth

Pownal

*There were no nominations received for this District. If you know someone willing to serve, please utilize the write-in option.*



## The LPC Handbook

### The LPC Handbook: MMA's Legislative Policy Committee

The Legislative Policy Committee (LPC) is a representative body made up of 70 members plus MMA's Vice President, who serves as the Chair. The primary role of the Chair is to call and facilitate all LPC meetings, moderate LPC discussions, and ensure the proper application of all the procedures established in this Handbook. The Chair is not a voting member of the LPC, except to break a tie. As described in detail below, all members of the LPC are elected or appointed municipal officials who, with the exception of the Chair, are elected to the position of LPC Representative by the municipal officers within their district.

Role of the LPC. MMA's 12-member Executive Committee is the Board of Directors of the Association and is responsible for its control and management. In the 1970's, the Executive Committee created the Legislative Policy Committee (LPC). The LPC serves a critical function as the advocacy arm of the Maine Municipal Association. The purpose of the LPC is to define municipal interests and to maximize those interests through effective participation in the legislative process. Specifically, in consultation with the Executive Committee, the LPC is responsible for:

- Developing and coordinating MMA's legislative policy process; Identifying MMA's advocacy priorities and developing a legislative program;
- Providing direction on legislative strategy to achieve these objectives; and Taking positions on legislative proposals affecting municipalities.

**In addition, LPC Representatives are expected to assist MMA staff by acting as municipal advocates at the local level. LPC members are expected to:**

Establish ongoing communication with legislators in their Senate districts and inform those legislators about LPC positions; Act as liaisons with municipal officials in their districts; and Keep MMA staff informed of issues of concern. Districts. Representation on the LPC is based on the State Senate districts. Two members are elected from each of the 35 State Senate Districts. In districts where a municipality represents more than half of the district's population, the municipal officers of that municipality are allowed to appoint one member to the LPC, and the remaining LPC Representative shall be elected by all the municipalities in the district. In Senate districts located entirely within one municipality, the municipal officers of that municipality appoint its two LPC Representatives.

**Nominations.** A new LPC is elected every two years. Elections are held the same year as legislative elections (even-numbered years), although months earlier than the statewide election in November. Shortly after the conclusion of the second session of the Legislature (in April or May of the even-numbered years) an announcement is sent to the Key Municipal Official in all municipalities, informing them of the LPC election and asking for nominations of a candidate from their municipality or any other municipality within their district.

**Elections.** Once nominations are received, ballots containing the names of all nominees received by the specified deadline are mailed to all municipalities. The ballot also contains a space for write-in candidates. The boards of selectmen or councils of each municipality within the Senate district make their preference known on the ballot and return it to the Maine Municipal Association by a date certain. The nominees or write-in candidates receiving the

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### Legislative Policy Committee

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- [Legislative Policy Committee Members](#)
- [Subcommittee Members](#)

### Current Legislative Session

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### Legislator Lookup

- [State Representative and Senator Lookup by Municipality](#)
- [Federal Representative and Senator Contact Information](#)

### Related links

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- [Legislative Wrap-Up](#)
- [Maine Town & City](#)
- [Federal Issues Paper](#)
- [Municipal Priorities Paper](#)

most votes are elected to the Legislative Policy Committee and so-notified. In the case of a tie vote, the Chair shall contact the winning candidates and attempt to obtain a negotiated resolution. The negotiated resolution could involve establishing: (1) a run-off election; (2) an agreement among the winning candidates to share the position by serving as each other's alternate for the duration of the term, or (3) some other mutually agreeable solution. In the event a negotiated resolution to the tie vote cannot be obtained, the MMA President is authorized to resolve a tie vote by appointment.

**Terms.** The LPC members serve for a two-year term, running from July 1st of each even-numbered year to June 30th of the next subsequent even-numbered year.

**Alternates.** Each LPC member may designate one or more alternates who can serve in the place of that LPC member at any meeting of the LPC. The designation must be submitted in writing to the Executive Director for filing at the MMA offices. An alternate may participate as a member at any LPC meeting only in the absence of the elected LPC member.

**Vacancies.** Vacancies occur when an LPC member resigns, is no longer qualified to serve because he or she is no longer a local official in his or her district, or when the member (or the member's designee) fails to attend three consecutive meetings.

If a member or the member's designee does not attend the LPC for three consecutive meetings, the Executive Director must contact the member to find out if he or she wants to continue to serve on the LPC. If the member resigns or fails to attend the next LPC meeting, the Executive Director then notifies the President that a vacancy exists.

In the case of any vacancy which occurs in a district falling entirely within a single municipality (see Districts, above), the President or the President's designee shall notify the Key Municipal Official of that municipality and the municipal officers of that municipality may appoint a new LPC Representative. In the case of any vacancy that occurs in a multi-municipal LPC district, the President is authorized to appoint a replacement, with consideration given to the criteria provided herein.

**Criteria for Appointment.** In the event of a vacancy with respect to which the President is authorized to appoint a replacement, the President shall consider the following equally-weighted criteria before making the appointment: The level of interest in the position that might be held by those municipal officials on that district's ballot at the immediately previous LPC election; In the case of vacancies created because the former LPC member is no longer qualified to serve in that district, the level of interest in the position that might be held by the municipal official immediately filling the office formerly held by the LPC member; The demographic and geographic representational needs of the district created by the vacancy; and Any recommendations or nominations offered by municipal officers or the remaining LPC member within the district. Without exception the replacement must be from the district. Upon making the appointment and so-notifying the appointee, the President or the President's designee shall notify the Chair of the LPC. Meetings

**Calling a meeting.** LPC meetings are called by the Chair on an as-needed basis. During the summer and fall of the even-numbered years, the LPC shall convene for the purpose of developing, in consultation with the Executive Committee, the Association's legislative strategy for the first legislative session. During the legislative session, the LPC meets an average of once a month.

**Quorum.** At least one-third of the full membership must be present in order to conduct any formal business of the LPC. Subcommittees. For any reason deemed necessary, the Chair may appoint, or the LPC may direct the Chair to appoint, one or more subcommittees. Each subcommittee shall carry out the charge provided to it by the Chair or the LPC, as the case may be, and report the results of its efforts back to the full LPC in the form of a recommendation. Every subcommittee shall serve only for the duration necessary to fulfill the charge given to it by the Chair or LPC. Each subcommittee shall be dissolved upon transmitting its final report or recommendation to the LPC.

- [State-Municipal Partnership Programs: Past, Present and Future](#)

**Participation.** LPC meetings are open to all municipal officials and others who may be interested in observing the LPC's deliberative process. The several Presidents of MMA's affiliate groups (assessors, tax collectors, clerks, welfare directors, etc.) are provided notice of all LPC meetings. That being said, the LPC is a deliberative body and its meetings are organized and conducted so that the LPC members may discuss the various issues affecting municipal government among themselves and act upon them accordingly. In order to maintain the integrity of the LPC's deliberative process, the Chair will take whatever actions are necessary to ensure that all persons attending a meeting who are not LPC members (or alternates authorized to act as members) are distinguished from the voting members and prohibited from voting, and otherwise informed that their right to attend the LPC meeting is not an entitlement to participate. Subject to any direction provided by the LPC pursuant to its rules of procedure, the Chair may take any action to reasonably restrict or control the active participation of non-members during LPC meetings.

**Agenda and Minutes.** The Chair shall call each LPC meeting by issuing the notice and agenda of that meeting at least a week before its scheduled date. The Chair shall endeavor to prepare the agenda so that the issues placed before the LPC for consideration are matters: (1) that are of a legislative or regulatory nature and timely or immediate in that regard; (2) possessing a direct and significant relationship to the operation of municipal government; (3) of statewide concern or, there being no objection in writing in advance or at the meeting, of significant regional concern; and (4) positioned on the agenda insofar as possible according to a priority of LPC action. Each agenda shall provide as an initial order of business an opportunity for the full LPC to make such deletions, additions, or adjustments to the agenda as it feels necessary. Each agenda shall also enclose the minutes of the previous meeting, as recorded by MMA staff, so that the LPC will have a record of its previous actions.

**Rules of Procedure.** With regard to any issue that comes before it, the LPC may act by consensus and forego a formal vote when no formal motion or voting process appears necessary. The Chair or any designee of the Chair will articulate the proposed consensus position and the full LPC will be provided an opportunity for debate. During the period of discussion with respect to the proposed consensus position, any LPC Representative may move an alternative position. If no such alternative position is moved, and absent any objection by any member, the Chair will declare the position to have been taken by the LPC "by consensus." Any motion made by any member of the LPC shall be addressed according to the rules of procedure adopted by the LPC. With regard to all procedural matters not specifically addressed in the Handbook, the LPC shall operate according to the rules of procedure established by MMA's Maine Moderator's Manual.

**Amendments to the Handbook.** The LPC, by majority vote, may make any amendments to this Handbook as it believes are warranted, except that no vote on an amendment to the Handbook may be taken unless the actual proposed amendment has been given proper notice by being included as an agenda item and distributed at least a week before the scheduled LPC meeting. Each newly constituted LPC shall review the Handbook at its initial convention and adopt it with or without amendments, as that LPC feels necessary.

ITEM 114  
BACKUP

# Town of Brunswick, Maine

## TOWN COUNCIL

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### MEMORANDUM

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**TO:** Brunswick Town Council  
**FROM:** Dan Ankeles, At-Large Councilor  
**DATE:** July 23, 2020  
**SUBJECT:** Health Care Resolution

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Prior to the pandemic, I was approached by a retired Brunswick physician named Dr. Bill Clark. Dr. Clark is a member of statewide group called Maine AllCare, which promotes the establishment of publicly funded healthcare coverage for all Maine residents.

Dr. Clark was kind enough to invite me into his home to discuss how local governments can join the effort to expand health coverage to all Maine people, and I was glad to oblige. At our meeting, he asked me on behalf of Maine AllCare to sponsor the resolution that is now before you.

The resolution urges both the Maine Legislature and the federal government to establish complete and universal coverage. It further gives broad reasons why such a resolution is something a municipal government - which does not set health care policy - might want to take up.

Other municipalities like Bangor have passed similar resolutions. Each time this happens, it further elevates the issue of health care to state and federal elected officials. Even though this resolution is non-binding, it has value as a public policy instrument and as an expression of our constituents' voices. Town-by-town action is an important part of the process to get ineffective policies changed and instead bring about a world where families aren't going bankrupt to pay for treatment or prescriptions.

The pandemic certainly delayed consideration of this item, but it also added a new level of urgency. With so many people now separated from their employer-based health insurance and with a full-blown public health crisis continuing to worsen in most of the country, the need to speak out for a different policy course has only grown.

I'm grateful to Dr. Clark and all local members of Maine AllCare for their thoughtful advocacy and their persistence. Thank you to Council leadership for agreeing to add this resolution to our agenda, and thank you also to my fellow Council members for considering sending this important message to our higher levels of government.

Cc Town Manager

attachment

# Town of Brunswick, Maine



## TOWN COUNCIL

### *Resolution Supporting Equitable Health Care for All Maine Residents*

**Whereas**, every person in Brunswick deserves health care; and

**Whereas**, the current health care system in the United States and in Maine is unsustainable and does not provide for the common good of all Brunswick residents; and

**Whereas**, the current health system in the United States and in Maine is complex and confusing and provides residents of Brunswick with inadequate healthcare coverage or no coverage at all; and

**Whereas**, the increasing and increasingly unstable cost of prescription medications continues to force families to choose between medicine, food, heat, shelter and more; and

**Whereas**, the COVID-19 pandemic has demonstrated how integral the health of the entire population is to the basic functioning of society; and

**Whereas**, the COVID-19 pandemic has demonstrated the inability of the predominant employer-based health insurance system to adequately serve the public during a major economic disaster; and

**Whereas**, the predominant employer-based health insurance system forces the town of Brunswick and property taxpayers to keep up with the rising costs of municipal and school employee health care plans; and

**Whereas**, the predominant employer-based health care system shrinks the amount of money available for pay increases, retirement benefits and proper staffing levels in local government and in our school system; and

**Whereas**, eliminating high administrative costs and waste would be beneficial to a wide range of Brunswick families and businesses; and

**Whereas**, a system which is simple, straightforward and provides citizens with adequate health care is necessary; and

**Whereas**, improving the quality of life and the health of family budgets for residents of Brunswick is desirable;

***Now therefore,*** be it resolved by the Town Council of Brunswick that,

Brunswick strongly urges both the Maine Legislature and Congress to design and implement an equitable health care plan that provides every Maine resident with comprehensive medical care from birth to death.

*Voted by the Town Council of Brunswick, Maine this 3rd day of August, 2020*

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*John M. Perreault, Chair – Town Council*

DRAFT

# ITEM 115 BACKUP



## MEMORANDUM

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**TO:** Town Council  
**FROM:** Appointments Committee  
**SUBJECT:** Report for August 3<sup>rd</sup> Appointments  
**DATE:** 7/27/2020

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With all members in attended, the Appointment Committee voted unanimously to recommend the following person for a board appointment:

- Bethany Taylor – Appointment Downtown and Outer Pleasant Street Plan Committee as the non-profit/creative economy member for a term to expire on 12-1-2023

# Elin Gould

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**From:** noreply@civicplus.com  
**Sent:** Friday, June 19, 2020 3:09 PM  
**To:** Fran Smith; Elin Gould  
**Subject:** Online Form Submittal: Board Application Form

## Board Application Form

Select the Board, Commission, or Committee applying for      Downtown & Outer Pleasant St Plan Committee

If Other, what committee OR if specific membership type  
*Fill this in if the Committee you are applying for is not listed OR if the Committee you applied for has different membership types (e.i. Alternate, Full) type here*

First Name	Bethany
Last Name	Taylor
Address1	15A Boody Street
Address2	<i>Field not completed.</i>
City	Brunswick
State	ME
Zip	04011
Home Phone Number	<i>Field not completed.</i>
Cell Phone Number	603 724 4742
Work Phone Number	207 725 3331
Occupation	Sustainability Outreach Coordinator, Bowdoin College
Email Address	bethanymasontaylor@gmail.com
Are you currently serving on other Boards, Commissions, or Committees?	<i>Field not completed.</i>
If yes, which	<i>Field not completed.</i>
Have you served on a Board, Commission, or Committee before?	No

If yes, which	<i>Field not completed.</i>
Please list civic organizations to which you belong	None.
Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:	I really enjoyed being a citizen participant in the Master Plan meetings this winter and am eager to see how current COVID, BLM, and climate change crises shape the community going forward. I have never served on a municipal board or commission, but have a good deal of understanding of the civic process and planning worlds both professionally as I used to work as a small town reporter and personally as I grew up in a household where both my parents were involved in community conservation and revitalization and I am more than moderately conversant in the subject.
Upload Resume (Optional)	<u><a href="#">BMTRResume2020.doc</a></u>
1. Do you have any questions about what the Board/Commission/Committee does or on its charge?	No. I am curious what and how the scope of the Master Plan implementation will look like.
2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?	I have an interdisciplinary master's degree with a focus on writing and communication. I have always been drawn to studying and working at practical progress from multiple angles, and am good at finding creative solutions and workable compromises.
3. Why would you like to be on the Board/Commission/Committee?	My work in college sustainability has made me very interested in community resiliency, from both a climate change/storm water perspective and in the overall community progress and equity spheres. I imagine that I would like to do work like this professionally at some point, but getting involved in a project I am interested in, in a town that I live in, seems like a good step.
4. Are you aware of the time involved and would you be able to attend most of the meetings?	I didn't find the meeting schedule online, but imagine it will be a monthly or biweekly meeting of several hours on a consistent weeknight, and I have no problem with this commitment.
5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?	None.
6. Do you have anything you would like to add	I am also interested in other Boards (planning, water resource, and the coastal/rivers/marine/conservation), but

think that the Master Plan would be the most interesting as it takes all others into account and works to make Brunswick flexible but sustainable in the face of changes on many fronts.

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# CONSENT AGENDA - A BACK UP MATERIALS

**Draft**  
**BRUNSWICK TOWN COUNCIL**  
**Minutes**  
**July 6, 2020**  
**Regular Meeting – 6:30 P.M.**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Councilors Present:** W. David Watson, Stephen S. Walker, Dan Jenkins, Christopher Watkinson, John M. Perreault, Toby McGrath, James Mason, Kathy Wilson, and Dan Ankeles

**Councilors Absent:** None

**Town Staff Present:** John S. Eldridge, III, Town Manager; Fran Smith, Town Clerk; Ken Brilliant, Fire Chief; Julia Henze, Finance Director; Tom Farrell, Parks and Recreation Director ; Ken Brilliant, Fire Chief; Matt Panfil, Director of Planning and Development; and TV video crew

Chair John Perreault opened the meeting.

**Adjustments to Agenda:** None

**Public Comments/Announcements** (for items not on the agenda) None

**MANAGER’S REPORT** *(This item was discussed at 6:32 p.m.)*

**a) Referendums and Primaries**

Manager Eldridge provided this update.

**b) Police Chief and Command Staff**

Manager Eldridge provided this update.

**c) Police and Communications**

Manager Eldridge provided this update.

**d) Cedar Street Parking**

Manager Eldridge provided this update.

**e) Fire Station/Cumberland Street Parking Lot**

Manager Eldridge provided this update.

**f) Pleasant Street Corridor PPI**

Manager Eldridge provided this update.

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**g) Maine Street Sidewalks and Streetscape**

Manager Eldridge provided this update.

**h) Summer/Fall Road Paving**

Manager Eldridge provided this update.

**i) Solid Waste and Recycling**

Manager Eldridge provided this update.

**j) Town Hall Hours**

Manager Eldridge provided this update.

**k) Town Mall**

Manager Eldridge provided this update.

**l) Fire Station**

Manager Eldridge provided this update.

**PUBLIC HEARING**

**96. The Town Council will hear public comments on special amusement license applications for the following, and will take any appropriate action. (Town Manager Eldridge) *(This item was discussed at 6:51 p.m.)***

**Special Amusement**

**Whiskey Ginger, LLC**

**D/B/A: Bench**

**212 Maine Street**

**Jon Snell**

**C.G.K., LLC**

**D/B/A: Pat's Pizza of Brunswick**

**112 Pleasant Street**

**Chris Kyle**

**Maine & Noble LLC, J. Hilary Rockett, Jr.**

**D/B/A: Brunswick Hotel-Noble Kitchen & Bar Maine & Noble LLC (Chris Bubbico)**

**4 Noble Street**

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**Tao Restaurant LLC  
D/B/A: Tao Restaurant  
22 Pleasant Street**

**Cecile & Cara Stadler**

**Byrnes Irish Pub LLC  
D/B/A: Byrnes Irish Pub  
16 Station Avenue**

**Patrick Byrnes**

Chair Perreault opened the public hearing.

Fran Smith, Town Clerk, introduced this item.

Chair Perreault closed the public hearing

**Councilor Watkinson moved, Councilor Wilson seconded, to approve special amusement licenses for the above businesses. The motion carried with nine (9) yeas.**

**NEW BUSINESS**

**97. The Town Council will consider approving the Nathaniel Davis Fund grant recommendations, and will take any appropriate action. (Nathaniel Davis Fund Committee) (This item was discussed at 6:58 p.m.)**

**Don Kniseley**, Committee Chair, made this presentation.

**Chair Perreault moved, Councilor Ankeles seconded, to approve the slate of grant recommendations presented by the Nathaniel Davis Fund Committee. The motion carried with nine (9) yeas.**

*(A copy of the approved recommendations will be attached to the official minutes.)*

**98. The Town Council will consider forwarding proposed text amendments regarding Conditional Use Permits to the Planning Board for review and recommendations, and will take any appropriate action. (Town Manager Eldridge) (This item was discussed at 7:03 p.m.)**

Manager Eldridge and Matt Panfil, Director of Planning and Development, introduced this item.

**Leah Rachin**, attorney for the business requesting the amendment, spoke regarding this item.

Councilor Mason, Councilor Ankeles, Councilor Watkinson, and Councilor Wilson spoke regarding this item.

Mr. Panfil responded to questions from Councilor Watkinson and Chair Perreault.

**Chair Perreault moved, Councilor Watson seconded, to send the draft language for a proposed Zoning Ordinance text amendment to Section 5.2.2.B to the Planning Board for review and a written recommendation to the Council as provided by the Planning Board. The motion carried with nine (8) yeas. Councilor McGrath abstained as he works with Ms. Rachin.**

**99. The Town Council will consider adopting “A Resolution Authorizing the Town Manager to Negotiate and Execute an Administrative Consent Agreement (ACA) with the Maine Department of Environmental Protection to Resolve Violations of Licenses at the Graham Road Landfill”, and will take any appropriate action. (Town Manager Eldridge) *(This item was discussed at 7:38 p.m.)***

Manager Eldridge introduced this item.

**Chair Perreault moved, Councilor Watson seconded, to adopt “A Resolution Authorizing the Town Manager to Negotiate and Execute an Administrative Consent Agreement (ACA) with the Maine Department of Environmental Protection to Resolve Violations of Licenses at the Graham Road Landfill”. The motion carried with nine (9) yeas.**

**100. The Town Council will consider adopting the Village Review Board guidelines, and will take any appropriate action. (Village Review Board) *(This item was discussed at 7:43 p.m.)***

Mr. Panfil introduced this item and responded to questions from Councilor Watkinson.

**Chair Perreault moved, Councilor Wilson seconded, to adopt the Village Review Board’s recommended draft of new guidelines applicable in the Village Review Overlay District. The motion carried with nine (9) yeas.**

**101. The Town Council will consider appointments to the Town’s Boards and Committees, and will take any appropriate action. (Appointments Committee) *(This item was discussed at 7:49 p.m.)***

Councilor Ankeles made the following nominations:

- Melissa Archbell – Reappointment to Recreation Commission for a three-year term expiring on July 1 of 2023.
- Sandy Stott – Reappointment to the Conservation Commission for a three-year term to expire on May 1 of 2023
- Robert Moore - Appointment to the Conservation Commission for a three-year term to expire on May 1 of 2023
- Steve Podgajny – Reappointment to the Davis Fund Committee for a three-year term to expire on June 30, 2023
- David Knight – Reappointment to the Davis Fund Committee for a three-year term to expire on June 30, 2023

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- Steve Weems - Reappointment to the Recycling and Sustainability Committee for a term to expire on June 1, 2023.

The council supported the slate 9-0

**CONSENT AGENDA** *(This item was discussed at 7:50 p.m.)*

- a) Approval of the minutes of June 15, 2020 and June 25, 2020
- b) Approval of a Utility Location Permit for School Street

**Chair Perreault moved, Councilor Watson seconded, to approve the Consent Agenda. The motion carried with nine (9) yeas.**

**Councilor Watson moved, Councilor Walker seconded, to adjourn the meeting. The motion carried with nine (9) yeas.**

The meeting adjourned at 7:51 p.m.

**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT WWW.BRUNSWICKME.ORG.**

*Frances M. Smith  
Town Clerk  
July 27, 2020*

August 3, 2020  
*Date of Approval*

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Council Chair

**Draft  
BRUNSWICK TOWN COUNCIL  
Minutes  
July 20, 2020  
Regular Meeting - 6:30 P.M.  
Council Chambers  
Town Hall  
85 Union Street**

**All Votes to be Taken Via Roll Call**

**Councilors Present:** W. David Watson, Stephen S. Walker, Dan Jenkins, John M. Perreault, Toby McGrath, James Mason, Kathy Wilson, and Dan Ankeles

**Councilors Absent:** Councilor Christopher Watkinson

**Town Staff Present:** John S. Eldridge, III, Town Manager; Fran Smith, Town Clerk; Ken Brilliant, Fire Chief; Julia Henze, Finance Director; Tom Farrell, Parks and Recreation Director; Matt Panfil, Director of Planning and Development; and TV video crew

Chair John Perreault opened the meeting.

**Adjustments to Agenda:** *(This item was discussed at 6:32 p.m.)*

**Public Comments/Announcements** None

**MANAGER'S REPORT** *(This item was discussed at 6:32 p.m.)*

**a) Financial update**

Manager Eldridge made this report.

**b) Nomination papers**

Fran Smith, Town Clerk, made this report.

**PUBLIC HEARING**

102. **The Town Council will hear public comments on an initial alcoholic beverage license, and will take any appropriate action. (Town Manager Eldridge)** *This item was discussed at 6:34 p.m.)*

**Full-Time Spirituous, Vinous & Malt**

El Rodeo Brunswick, LLC  
D/B/A: El Rodeo Brunswick  
238 Bath Road

Juan Sanchez Mata/Ilse Fernandez

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Chair Perreault opened the public hearing.

Fran Smith, Town Clerk, introduced this item.

**Councilor Watson moved, Councilor Wilson seconded, to approve an initial liquor license for El Rodeo Brunswick, LLC, 238 Bath Road. The motion carried with eight (8) yeas.**

**NEW BUSINESS**

**103. The Town Council will consider adopting an “Ordinance Authorizing Health Improvements at the Coffin Elementary School, with Total Project Costs Not to Exceed \$296,006, and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$183,849 (following loan forgiveness of \$112,157)”, and will take any appropriate action. (School Board) (This item was discussed at 7:37p.m.)**

Manager Eldridge introduced this item.

Philip Potenziano, Superintendent of Schools, and Kelly Wentworth, School Department Business Manager, spoke regarding this ordinance.

Sarah Singer, School Board member, spoke regarding this item.

Chair Perreault, Councilor Walker, Councilor Mason, and Councilor Wilson asked questions, to which Ms. Wentworth, Ms. Singer and Mr. Potenziano responded.

Councilor McGrath, Councilor Ankeles, Councilor Walker and Councilor Watson spoke regarding this item.

**Councilor Ankeles moved, Councilor Mason seconded, to adopt the “Ordinance Authorizing Health Improvements at the Coffin Elementary School, with Total Project Costs Not to Exceed \$296,006, and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$183,849 (following loan forgiveness of \$112,157).” The motion carried with five (5) yeas. Councilor Watson, Councilor Walker and Councilor Wilson were opposed.**

*(A copy of the adopted ordinance will be attached to the official minutes.)*

**104. The Brunswick Fire Department will be receiving a Best Practices Award from the Maine Fire Protection Services Commission, and the Town Council will take any appropriate action. (Town Manager Eldridge) (This item was discussed at 7:24 p.m.)**

Chair Perreault spoke regarding this item.

Dan Brooks, Fire Chief and Chair of Maine Fire Protection Services, presented the award to Deputy Chief Jeff Emerson and Firefighter David Jester.

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105. The Town Council will consider setting a public hearing for August 3, 2020 regarding an amendment to the Marijuana Licensing Ordinance, and will take any appropriate action. (Town Clerk) *(This item was discussed at 7:32 p.m.)*

Ms. Smith introduced this item, and responded to questions from Councilor Ankeles.

**Chair Perreault moved, Councilor Wilson seconded, to set a public hearing for August 3, 2020, regarding an amendment to the Marijuana Establishment Licensing Ordinance. The motion carried with eight (8) yeas.**

106. The Town Council will consider a “Resolution Calling on the Legislature to Pass LD 433, The Maine ERA”, and will take any appropriate action. (Councilor Kathy Wilson) *(This item was discussed at 7:35 p.m.)*

Councilor Wilson introduced this item.

**Councilor Wilson moved, Councilor Watson seconded, to adopt a “Resolution Calling on the Legislature to Pass LD 433, The Maine ERA”. The motion carried with eight (8) yeas.**

**CONSENT AGENDA** *(This item was discussed at 7:39 p.m.)*

- a) Approval of a Utility Location Permit (ULP) requested by Central Maine Power for authorization to install a new pole on Bull Rock Road
- b) Approval of a Utility Location Permit (ULP) requested by Maine Natural Gas for authorization to install a new gas main along Dunning Street to provide access to additional customers
- c) Approval of a Utility Location Permit (ULP) requested by Maine Natural Gas for authorization to install a new gas main along Oak Street to provide access to additional customers
- d) Approval of a Utility Location Permit (ULP) requested by Maine Natural Gas for authorization to install a new gas main along Kyle Street to provide access to additional customers
- e) Approval of a Utility Location Permit (ULP) requested by Maine Natural Gas for authorization to install a new gas main along Nathan Court to provide access to additional customers

**Chair Perreault moved, Councilor Watson seconded, to approve the Consent Agenda. The motion carried with eight (8) yeas.**

*(A copy of materials for CA-a through CA-e will be attached to the official minutes.)*

**Councilor Watson moved, Councilor Walker seconded, to adjourn the meeting. The motion carried with eight (8) yeas.**

The meeting adjourned at 7:43 p.m.

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**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT [WWW.BRUNSWICKME.ORG](http://WWW.BRUNSWICKME.ORG).**

*Frances M. Smith*

*Town Clerk*

*July 23, 2020*

August 3, 2020  
*Date of Approval*

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Council Chair