

BRUNSWICK TOWN COUNCIL

Agenda

March 18, 2019

Executive Session – 6:00 P.M.

Meeting – 6:30 P.M.

Executive Session after meeting

Council Chambers

Town Hall

85 Union Street

Roll Call of Members/Acknowledgement Notice

Executive Session: Acquisition of real property per [1 M.R.S.A. §405(6)(C)]

Pledge of Allegiance

Adjustments to Agenda

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

TOWN MANAGER’S REPORT

a) Financial update

PUBLIC HEARING

30. The Town Council will hear public comments on an application for an alcohol license, and will take any appropriate action. (Town Manager)

Full-Time Vinous & Malt

Xin Yuan, Inc.
D/B/A: China Rose
42 Bath Road

Ci Tong Wei

HEARING/ACTION

31. The Town Council will hear public comments on applications for special amusement licenses, and will take any appropriate action. (Town Manager Eldridge)

Special Amusement

Flight Deck Brewing, LLC
D/B/A: Flight Deck Brewing
11 Atlantic Avenue

Nate Wildes & Jared Entwistle

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

Patrick Byrnes

O’Donoghue Corp.

Patrick & Diarmaid O’Donoghue

D/B/A: O'Donoghue's
103 Pleasant Street

HEARING/ACTION

TABLED

12. The Town Council will consider the reacquisition of property known as Map 17 Lots 66 and 67 in the Brunswick Industrial Park, and will take any appropriate action. (Town Manager Eldridge)

ACTION

NEW BUSINESS

32. The Town Council will consider recommendations of potential performance standards related to the regulation of homeless shelters and consider setting a public hearing for April 16, 2019, and will take any appropriate action. (Town Manager Eldridge)
Council is not expected to take public comments at this meeting

DISCUSSION

33. The Town Council will take action on the "Second Extension of the Emergency Moratorium Ordinance on the Location of Shelters" to be enacted on a regular and emergency basis, and will take any appropriate action. (Town Manager Eldridge)

ACTION

34. The Town Council will consider setting a public hearing for April 1, 2019, on amendments to the Town of Brunswick Code of Ordinances, Chapter 10, Section 10-26 Marijuana Licensing Ordinance, and the Zoning Ordinance regarding marijuana definitions, on an emergency and regular basis, and made retroactive to March 4, 2019, and will take any appropriate action. (Town Manager Eldridge)

35. The Town Council will consider setting two (2) public hearings for April 1, 2019, regarding bonds to fund construction for the new fire station, and will take any appropriate action. (Town Manager Eldridge)

ACTION

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

ACTION

CORRESPONDENCE/COMMITTEE REPORTS

Councilors will provide brief updates of recent committee meetings.

NEW BUSINESS

32. **Notes:** The Town Council is asked to set a public hearing for April 16, 2019 regarding performance standards related to the regulation of homeless shelters. The concept of incorporating performance standards into zoning regulations pertaining to homeless shelters was introduced to the Shelter Task Force on June 13, 2018. Staff has prepared a list of potential performance standards, and would like the Town Council to review these and make recommendations as to which standards should be implemented in the regulation of homeless shelters, and if each recommended standard belongs in the Brunswick Zoning Ordinance or a separate licensing ordinance. Performance standards reviewed were based on research of existing local standards and the American Planning Association (APA). The Town Council may also establish their own performance standards. A copy of a memo from Matt Panfil, Director of Planning and Development, the Maine Communities Homeless Shelter Regulations, Communities Outside of Maine Homeless Shelter Regulations, and Communities with Homeless Shelter Licensing reports are included in the packet. ***Council is not expected to take public comments at this meeting***

Suggested Motion:

Motion to set a public hearing for April 16, 2019, regarding performance standards related to the regulation of shelters.

33. **Notes:** The charter-required public hearing was held on March 4, 2019, on a second extension of the Shelter Moratorium to be enacted on an emergency and a regular basis. The current moratorium on shelters will expire on March 24, 2019, and staff expects to present suggestions for requested additional performance standards at a March workshop. It does not appear likely that the performance standards and remaining zoning issues will be resolved in time to be enacted and effective by the 24th of March, so the attached ordinance would extend the moratorium through July 1, 2019. A copy of a memo from Town Manager Eldridge and the moratorium are included in the packet.

Suggested Motion:

Motion to adopt a “Second Extension of the Emergency Moratorium Ordinance on the Location of Shelters” to be enacted an emergency and regular basis.

34. **Notes:** On October 15, 2018, the Town Council approved amendments to the Brunswick Zoning Ordinance, including medical marijuana and adult-use marijuana, and on November 5, 2018, adopted a licensing ordinance for these uses. There was public confusion in regards to the rights of a registered marijuana caregiver as defined by 22 M.R.S. § 2422 (11), so the term was further defined and regulated for purposes of clarity. The Council is being asked to approve these text amendments on an emergency and regular basis, and to be retroactive to March 4, 2019, “to meet an emergency affecting life, health, property or the public peace”. A copy of a memo from Matt Panfil, Director of Planning and Development, and Fran Smith, Town Clerk, along with the ordinance, the proposed zoning ordinance amendments and proposed license amendments, are included in the packet.

ITEM 32
BACKUP

Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

MEMORANDUM

TO: Town Council

FROM: John Eldridge
Town Manager

DATE: March 12, 2019

SUBJECT: Homeless Shelters
Zoning and Performance Standards

Attached is a packet of materials to assist the Town Council in considering possible amendments to the Brunswick Zoning Ordinance and a new Shelter Licensing Ordinance. Generally, the Zoning Ordinance amendments relate to location and land use issues. The Shelter Licensing Ordinance relates to operating standards and performance standards.

The first attachment to this memo is a table that summarizes the possible zoning amendments and performance standards. We suggest using the summary table to facilitate the Town Council's discussions. As I mentioned at an earlier meeting, the Shelter Licensing Ordinance is intentionally drafted in a comprehensive fashion, with the idea that it would be easier for the Town Council to remove, rather than add, items. Similarly, the Town Council could also consider whether licensing, or some other form of regulation without licensing would be more appropriate.

The zoning ordinance amendments originated with the work of the Shelter Task Force. They were then amended by the Planning Board, and then further amended following the Town Council's February 7th workshop. At that workshop the Town Council tentatively decided to permit only apartment-style shelters in the growth residential (GR) zones.

Those performance standards, recommended by the Shelter Task Force, that the Planning Board considered appropriate for its review, have been included in the zoning ordinance amendments. Those that the Planning Board did not recommend for inclusion in the zoning ordinance are included in the new licensing ordinance. In addition, the licensing ordinance also includes performance standards that were discussed to some degree at the February 7th workshop.

The moratorium on siting shelters expires on March 24th. The proposed second extension of the moratorium would extend the moratorium through July 1st. In order to expedite the process, we recommend that the Town Council direct staff to advertise a public hearing on the proposed licensing ordinance.

Attachments

Summary Table of Zoning Amendments and Performance Standards
Memo from Director of Planning and Development
Zoning Ordinance Amendments (DRAFT)
Shelter Licensing Ordinance (DRAFT)

**Homeless Shelters
Zoning and Performance Standards
Summary Table**

Performance Standard	Shelter Task Force (STF) Recommendation	Planning Board Recommendation	Zoning Ordinance or License?	Town Council Preference
A. Building and Site Design Standards				
1 - Architectural Compatibility with Surrounding Neighborhood	No	Did Not Review. Already exists in Zoning Ordinance and subject to Planning Board review.	Zoning Ord.	
2 - Clearly Defined Building Entrances	No		Zoning Ord.	
3 - Landscape Buffers and/or Privacy Fencing	No		Zoning Ord.	
4 - Lighting Plan	No		Zoning Ord.	
5 - On-Site Waiting / Queueing Areas to Prevent Blockage of Public Right-of-Way	No		Zoning Ord.	
6 - Recreation Areas	No		Zoning Ord.	
7 - Parking Lots	No		Zoning Ord.	
8 - Sight Lines	No		Zoning Ord.	
B. Density and Size	Yes	Agreed with STF	Zoning Ord.	
C. Hours of Operation	No	Did Not Review	Licensing	
D. Location / Proximity to Essential Services	Yes, within Growth Zoning Districts	Agreed with STF	Zoning Ord.	
E. Maine State Housing Authority Monitoring	Did Not Consider	Did Not Consider	Licensing	
F. Management Plan				
1 - Communications Plan	Yes	Not in Zoning Ord.	Licensing	
2 - Emergency Response Plan	Yes	Not in Zoning Ord.	Licensing	
3 - Interior Floor Plan	Yes	Agreed with STF	Zoning Ord.	
4 - Maintenance and/or Litter Control Program	Yes	Not in Zoning Ord.	Licensing	
5 - Rules of Conduct and Registration Process for Guests	Yes	Not in Zoning Ord.	Licensing	
6 - Transportation Plan	Yes	Not in Zoning Ord.	Licensing	
7 - Turn-Away Policy	Yes	Not in Zoning Ord.	Licensing	
G. Maximum Beds in Town	No	Did Not Review	Licensing	
H. Maximum Length of Occupancy	No	Did Not Review	Licensing	
I. Minimum Separation	No	Yes, 500'	Zoning	
J. Off-Street Parking	Yes	Agreed with STF	Zoning	
K. On-Site Facilities / Accessory Uses	Accessory Use Over 40% Floor Area = Resource Center	Agreed with STF	Zoning	
L. Physical Separation of Individual Residents and Households	Yes	Agreed with STF	Licensing	
M. Smoking	No	Did Not Review	Licensing	
N. Sprinklers	Did Not Review	Did Not Review	Licensing	

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND DEVELOPMENT

MEMORANDUM

TO: John Eldridge
Town Manager

FROM: Matthew Panfil
Director of Planning and Development

DATE: March 18, 2019

SUBJECT: Homeless Shelter Performance Standards

I. REQUESTED ACTION

The Town Council is to review and discuss the below listed performance standards and make recommendations as to which performance standards should be implemented in the regulation of homeless shelters and if each recommended standard belongs in the Brunswick Zoning Ordinance or a separate licensing ordinance.

II. INTRODUCTION

The concept of incorporating performance standards into zoning regulations pertaining to homeless shelters was introduced to the Shelter Task Force on June 13, 2018. The performance standards reviewed were based on research of existing standards in Augusta, Bangor, Portland, Waterville, and Westbrook. Additional performance standards based on research from the American Planning Association (APA) of twenty (20) communities nationwide that recently updated their municipal code to address homeless shelters and associated uses were introduced to the Shelter Task Force on July 18, 2018.

Sections II and III include a full list, in alphabetical order, of potential performance standards resulting from this research. Each performance standard is formatted in the following manner:

- Intent;
- Shelter Task Force Recommendation;
- Planning Board Recommendation to Town Council;
- An Example of the Standard as Used by Another Community
- The Suggested Location (Zoning Ordinance or Licensing Ordinance) if the Town Council were to Recommend Implementation of the Standard

Although lengthy, the following list does not mean that the Town Council cannot establish their own standards. For example, the Town Council recently discussed requiring homeless shelters to comply with the MaineHousing monitoring program.

III. PERFORMANCE STANDARD SUMMARY TABLE

Performance Standard	Shelter Task Force (STF) Recommendation	Planning Board Recommendation	Zoning Ordinance or License?	Town Council Preference
A. Building and Site Design Standards				
1 - Architectural Compatibility with Surrounding Neighborhood	No	Did Not Review. Already exists in Zoning Ordinance and subject to Planning Board review.	Zoning Ord.	
2 - Clearly Defined Building Entrances	No		Zoning Ord.	
3 - Landscape Buffers and/or Privacy Fencing	No		Zoning Ord.	
4 - Lighting Plan	No		Zoning Ord.	
5 - On-Site Waiting / Queueing Areas to Prevent Blockage of Public Right-of-Way	No		Zoning Ord.	
6 - Recreation Areas	No		Zoning Ord.	
7 - Parking Lots	No		Zoning Ord.	
8 - Sight Lines	No		Zoning Ord.	
B. Density and Size	Yes	Agreed with STF	Zoning Ord.	
C. Hours of Operation	No	Did Not Review	Licensing	
D. Location / Proximity to Essential Services	Yes, within Growth Zoning Districts	Agreed with STF	Zoning Ord.	
E. Maine State Housing Authority Monitoring	Did Not Consider	Did Not Consider	Licensing	
F. Management Plan				
1 - Communications Plan	Yes	Not in Zoning Ord.	Licensing	
2 - Emergency Response Plan	Yes	Not in Zoning Ord.	Licensing	
3 - Interior Floor Plan	Yes	Agreed with STF	Zoning Ord.	
4 - Maintenance and/or Litter Control Program	Yes	Not in Zoning Ord.	Licensing	
5 - Rules of Conduct and Registration Process for Guests	Yes	Not in Zoning Ord.	Licensing	
6 - Transportation Plan	Yes	Not in Zoning Ord.	Licensing	
7 - Turn-Away Policy	Yes	Not in Zoning Ord.	Licensing	
G. Maximum Beds in Town	No	Did Not Review	Licensing	
H. Maximum Length of Occupancy	No	Did Not Review	Licensing	
I. Minimum Separation	No	Yes, 500'	Zoning	
J. Off-Street Parking	Yes	Agreed with STF	Zoning	
K. On-Site Facilities / Accessory Uses	Accessory Use Over 40% Floor Area = Resource Center	Agreed with STF	Zoning	
L. Physical Separation of Individual Residents and Households	Yes	Agreed with STF	Licensing	
M. Smoking	No	Did Not Review	Licensing	
N. Sprinklers	Did Not Review	Did Not Review	Licensing	

IV. PERFORMANCE STANDARDS

A. BUILDING AND SITE DESIGN STANDARDS

Building and Site Design Standards are a combination of several performance standards pertaining to the architectural design of the building and the overall site plan. Common standards include:

1. *Architectural Compatibility with Surrounding Neighborhood*

Intent:

Ensure that a homeless shelter is designed to be representative of building forms and styles found within the surrounding community.

Shelter Task Force Recommendation:

The Town of Brunswick already regulates architectural compatibility through *Section 4.11 – Architectural Compatibility* of the Brunswick Zoning Ordinance and through the staff review, Planning Board review, and/or Village Review Board (VRB) review processes. Therefore, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Melbourne, FL

Article VI. Use Standards – Section 2, Nonresidential Uses – (W) Transitional homeless shelter

(6) Review Criteria and Findings

(e) Appearance and architectural features. The facility and its features are designed to be compatible with the general architectural theme, appearance, and representative building types of adjacent properties/uses and surrounding community.

2. *Clearly Defined Building Entrances*

Intent:

Serve as an additional security feature and as a complement to *Item A.5 – On-Site Waiting / Queueing Areas to Prevent Blockage of Public Right-of-Way* by providing a delineated area away from the public right-of-way.

Shelter Task Force Recommendation:

Similar to *Item A.1 – Architectural Compatibility with Surrounding Neighborhood*, the Town can regulate the design of building entrances through the staff review, Planning Board review, and VRB review processes. Therefore, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Lawrence, KS

Section 20-544, Temporary Shelters

(5) Design Standards

- i. Building entrances shall be clearly defined and visible from the public right-of-way or from an occupied area of the building such as administrative offices or staffed reception areas.*

3. Landscape Buffers and/or Privacy Fencing

Intent:

Establish privacy and/or provide noise reduction between a homeless shelter and adjacent properties.

Shelter Task Force Recommendation:

The Town currently regulates landscaping requirements through *Section 4.6 – Landscaping* and *Section 4.12 – Neighborhood Protection Standards* of the Brunswick Zoning Ordinance. Similar to *Item 1 – Architectural Compatibility with Surrounding Neighborhood* and *Item 2 – Clearly Defined Building Entrances*, the Town can also regulate landscape buffers and/or privacy fencing through the staff review, Planning Board review, and VRB review processes. Therefore, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Melbourne, FL

*Article VI. Use Standards – Section 2, Nonresidential Uses – (W) Transitional homeless shelter
Section 20-544, Temporary Shelters*

(5) Submittal requirements.

(d) Landscaping plan.

(1) Abutting nonresidential properties (zoned or used):

(a) Side and rear yard areas shall include a minimum:

- i. A six-foot high fence. Where adjacent property contains a soup kitchen or day shelter, the fence between the properties may be eliminated with written consent of all applicable property owners.*
- ii. A minimum ten-foot landscaped area. Notwithstanding this requirement, the required side and rear landscaped areas may be modified for existing, developed sites, based upon the location of existing structures, as determined by the community development director.*

4. Lighting Plan

Intent:

Serve as an additional security feature and to ensure that lighting does not adversely impact road safety or adjacent properties and uses.

Shelter Task Force Recommendation:

The Town currently regulates lighting requirement through *Section 4.10 – Outdoor Lighting* and *Section 4.12 – Neighborhood Protection Standards* of the Brunswick Zoning Ordinance. Also, a lighting plan showing details of all proposed lighting and the location of the lighting is required as part of an application for development review. Therefore, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Lawrence, KS

(5) Design Standards

- ii. *Building entrances outdoor children/adult recreational areas and sidewalks shall be well-lit with pedestrian-scaled, low-glare lighting shielded downward.*

5. On-Site Waiting / Queuing Areas to Prevent Blockage of Public Right-of-Way

Intent:

Prevent the blockage of the public right-of-way by potential guests awaiting the opening of a homeless shelter by providing a minimum amount of space, indoor or outdoor, in which to congregate safely on-site.

Shelter Task Force Recommendation:

Although there was extensive discussion regarding this performance standard in regards to requiring a minimum size waiting area and/or designated outdoor smoking area, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Boulder, CO

Section 9-6-6 Public and Institutional Uses – (b) Shelters (Day, Emergency, and Overnight)

4. Additional Requirements for Overnight Shelters

(B) Waiting Areas: No person shall allow or permit clients of a facility to queue or otherwise wait for the facility to open or to otherwise be admitted into the facility in the public right of way. The facility shall provide an indoor or outdoor waiting area in a size adequate to prevent the anticipated number of clients from queuing into or otherwise waiting in the public right of way.

6. Recreation Areas

Intent:

When implemented by other communities, the purpose of this performance standard is not to require a minimum amount of recreation space, but rather as an additional security measure to make sure that any recreation space is well-lit and clearly visible from the public right-of-way or an occupied area of the shelter such as the administrative offices.

Shelter Task Force Recommendation:

The Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Lawrence, KS

(5) Design Standards

- iii. Outdoor children/adult recreational areas, if not clearly visible from the public right-of-way, shall be clearly visible from an occupied area of the building such as administrative offices or staffed reception areas.*

7. Parking Lots

Intent:

Distinct from a minimum parking space requirement, the purpose of this performance standard is to ensure that parking areas are located adjacent to the building and clearly visible from an occupied area of the building such as the administrative offices. When implemented by another community, parking lots were not to be obscured or otherwise buffered by landscaping.

Shelter Task Force Recommendation:

Remove parking lot landscape buffers is contrary to common planning practice and *Section 4.9.3.B – Design, Construction and Maintenance of Parking Areas, Landscaping* of the Brunswick Zoning Ordinance. Therefore, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Lawrence, KS

(5) Design Standards

- iv. Parking areas shall be located adjacent to the building and shall be clearly visible from an occupied area of the building, such as administrative offices or staffed reception areas.*

8. *Sight Lines*

Intent:

Design the building in such a manner that there are always direct sight lines from the management and/or office area into all sleeping areas.

Shelter Task Force Recommendation:

If a high level of supervision of sleeping areas is truly desired, electronic surveillance equipment could be used in lieu of physical sight lines. The Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend its use, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Portland, ME

§ 14.474 Conditional Uses – (c) Conditions for conditional uses – 3. Use Specific Standards

- a. Emergency shelters are subject to the following conditions, in addition to the provisions of § 14-474 (c) 2.*
 - ii. The facility shall be designed with a centralized shelter operations office on each level providing sight lines to sleeping areas.*

B. DENSITY AND SIZE

Intent:

Regulate how large a homeless shelter can be and how many people it can accommodate. There are three (3) basic methods to regulating density and size for homeless shelters:

1. *Utilize Existing Regulations.*

In this approach, the overall size of the shelter is limited by the dimensional standards of the zoning district in which the homeless shelter is located. The capacity is limited by building and life-safety codes, and not associated with density as established by the Brunswick Zoning Ordinance. A weakness of this approach is that it is hard to predict the number of guests that may be accommodated by a homeless shelter.

2. *Universal Maximum Capacity*

The concept of this approach is to simply establish a hard cap on the number of guests any

homeless shelter could accommodate. A weakness of this approach is that it is not context-sensitive. It does not account for lot size or permitted density in the underlying zoning district. A maximum capacity of 30 guests on a five-acre lot has a different land use impact than a 30 guests housed on a half-acre lot.

3. *Connect Capacity to Zoning Density*

This approach ties maximum capacity to the established density of the underlying zoning district in two ways:

- a. *Homeless shelter, apartment-style* units are treated the same as for-rent apartment units; one (1) *homeless shelter, apartment-style* unit = one (1) dwelling unit.
- b. In order to determine the capacity of guests in a *homeless shelter, non-apartment-style* an equivalency value of guests to a dwelling unit needs to be established. Staff's research showed a range anywhere from three (3) to ten (10) guests being the equivalent of one (1) dwelling unit. Staff identified the value four (4) by researching the average size of households that use *homeless shelter, apartment-style* units. The data was taken from the existing Tedford homeless shelter on Federal Street, the City of Portland's family shelter, and from the Department of Housing and Urban Development (HUD) annual homeless assessment report. Depending on the year, the average household size ranged from 2.7 to 3.9.

A weakness of this approach is that a large lot in a zoning district with high maximum density could result in a shelter of significant capacity. For example, a *homeless shelter, non-apartment-style* located on three (3) acres of land in the Growth Mixed Use 7 (GM7) District (maximum density of 24 dwelling units per acre) would provide capacity for 288 guests.

Shelter Task Force Recommendation:

Option 1: The Shelter Task Force did not recommend Option 1.

Option 2: The Shelter Task Force discussed this idea in detail, but were unsure as how to properly establish a maximum capacity that would not lead to either underutilization of space or overcrowding.

Option 3: The Shelter Task Force recommended the use of Option 3 to determine the overall maximum capacity of a homeless shelter.

Planning Board Recommendation:

The Planning Board concurred with the Shelter Task Force regarding the use of Option 3, and also discussed combining Option 2 and Option 3. Like the Shelter Task Force, the Planning Board ultimately could not identify an acceptable maximum capacity number for use in Option 2.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X.1 – Supplementary Use Standards, Homeless Shelters*

Example: Boulder, CO

Section 9-6-6 Public and Institutional Uses – (b) Shelters (Day, Emergency, and Overnight)

4. *Additional Requirements for Overnight Shelters*

(D) Maximum Occupancy:

- (i) Residential Districts: For any zoning district that is classified as a residential zoning district pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, the maximum number of residents of the facility shall not exceed four persons for each dwelling unit that would otherwise be permitted based on the lot area or open space on the site.*

C. HOURS OF OPERATION

Intent:

To require a homeless shelter to be able to accommodate potential guests during the day.

Shelter Task Force Recommendation:

There was a stated belief that when a homeless shelter closes at a certain time each day, the shelter guests may have no to limited access to daytime amenities which may be a detriment to the homeless' health when sick or during poor weather. There was also a concern that providing no daytime amenities could result in increased instances of loitering, panhandling, etc.

The Shelter Task Force discussed different potential regulations such as:

1. Require a shelter to be open all day. The Brunswick Zoning Ordinance only regulates hours of operation within *Section 4.12.2.B – Neighborhood Protection Standards, Specific Standards*, which limits the hours of operation for nonresidential uses adjacent to Growth Residential zoning district single- or two-family dwelling uses to 7:00 AM to 11:00 PM. The Shelter Task Force agreed that it may be too onerous to require homeless shelters to operate 24 hours a day.
2. Require, at minimum, a shelter provide 24-hour access to an employee who can answer questions, etc. The Shelter Task Force agreed that this should be part of a management plan.
3. Allow a shelter to contract with different facilities (ex: day shelters) for the provision of accommodations when the shelter is closed to guests. The Shelter Task did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend hours of operation standards beyond requiring a homeless shelter to have someone available for contact at all times, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Licensing.

Example: Rochester, NY

Section 120-208 Definitions.

Homeless Residential Facility: A residential facility operated by a provider, other than a residential care facility, which provides temporary accommodations to more than four homeless persons in a non-dormitory-style setting. For the purpose of this definition, "provider" shall mean a government agency or private nonprofit organization which provides, or contracts with recognized community organizations to provide, emergency or temporary shelter for the homeless. The homeless residential facility shall operate 24 hours a day, seven days a week. Twenty-four-hour supervision shall be required for homeless residential facilities.

D. LOCATION / PROXIMITY TO ESSENTIAL SERVICES

Intent:

Ensure that homeless shelters are within close proximity to public transportation and/or essential services as many homeless do not have access to a personal vehicle.

Shelter Task Force Recommendation:

The Shelter Task Force made an early decision in regards to location of homeless shelters by deciding that shelters shall only be permitted within the Growth Area Zoning Districts, thus eliminating all Rural Zoning Districts. The Shelter Task Force discussed several other specific standards used by other communities such as a maximum distance from public transportation stops or having a certain number of essential services within a walkable distance. A mapping exercise and further discussion resulted in the conclusion that public transportation stops and routes are flexible based on demand and that aside from the downtown core, the Town of Brunswick's essential services were spread apart in a way that was difficult to reliably use this standard.

Beyond recommending that homeless shelters must be located within the Growth Area Zoning Districts, the Shelter Task Force made no other recommendations regarding the use of this performance standard.

Planning Board Recommendation:

The Planning Board discussed the possibility of allowing homeless shelters in the Rural Zoning Districts and also reintroduced the idea of a standard tied to the proximity to essential services, but ultimately concurred with the Shelter Task Force.

Suggested Document Location if Recommended by Town Council: _____

Brunswick Zoning Ordinance, *Table 3.2: Permitted Use Table for Growth Area Zoning Districts*

Example: Portland, ME _____

§ 14.474 Conditional Uses – (c) Conditions for conditional uses – 3. Use Specific Standards

a. Emergency shelters are subject to the following conditions, in addition to the provisions of § 14-474 (c) 2.

iv. Adequate access to and from METRO service shall be provided. The facility shall be within a ¼ mile of a METRO line, or shall be within a ½ mile of a METRO line and provide adequate indoor space to permit all shelter guests day shelter, as well as implement strategies to help residents utilize transit.

E. MAINE STATE HOUSING AUTHORITY MONITORING

Intent: _____

Require homeless shelters to participate in the Maine State Housing Authority Monitoring Program and submit monitoring reports on an annual basis.

Shelter Task Force Recommendation: _____

The Shelter Task Force did not review this performance standard. The standard was suggested post-Shelter Task Force meetings at the Town Council level.

Planning Board Recommendation: _____

As the Shelter Task Force did not review this recommendation, neither did the Planning Board.

Suggested Document Location if Recommended by Town Council: _____

Licensing.

Example: _____

As this performance standard is unique to the Town of Brunswick, there are no known examples.

F. MANAGEMENT PLAN

Like Item 1, a Management Plan is a combination of several performance standards with varying usage in other communities. Common standards include:

1. Communications Plan

Intent: _____

Require a homeless shelter to establish policies for how they will communicate with neighbors and/or municipal government, including police.

Shelter Task Force Recommendation:

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation:

The Planning Board determined that this performance standard may be acceptable, but does not belong in the Brunswick Zoning Ordinance.

Suggested Document Location if Recommended by Town Council:

Licensing.

Example: Lawrence, KS

Section 20-544 Temporary Shelters

(4) Management Plan: The operator of a Temporary Shelter shall create a management plan. The management plan shall become binding upon approval of the Special Use Permit or site plan. The management plan shall, at a minimum, address the following:

- v. Communications plan that establishes how the shelter will regularly communicate with neighbors and police.*

2. Emergency Response Plan

Intent:

Require a homeless shelter to consult with local emergency services to establish a plan for various emergency situations.

Shelter Task Force Recommendation:

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation:

The Planning Board determined that this performance standard may be acceptable, but does not belong in the Brunswick Zoning Ordinance.

Suggested Document Location if Recommended by Town Council:

Licensing.

Example: Lawrence, KS

Section 20-544 Temporary Shelters

(4) Management Plan: The operator of a Temporary Shelter shall create a management plan. The management plan shall become binding upon approval of the Special Use Permit or site plan. The management plan shall, at a minimum, address the following:

vi. Response plan for emergencies that may occur at the site.

3. Interior Floor Plan

Intent: _____

Require an applicant for a homeless shelter to depict sleeping areas and anticipated maximum occupancies, common areas, emergency exits, restroom facilities, etc.

Shelter Task Force Recommendation: _____

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation: _____

The Planning Board concurred with the Shelter Task Force.

Suggested Document Location if Recommended by Town Council: _____

Zoning Ordinance, *Section 3.4.1.X.3 – Supplementary Use Standards, Homeless Shelters*

Example: Lawrence, KS _____

Section 20-544 Temporary Shelters

(4) Management Plan: The operator of a Temporary Shelter shall create a management plan. The management plan shall become binding upon approval of the Special Use Permit or site plan. The management plan shall, at a minimum, address the following:

ii. Interior floor plan showing sleeping areas, common areas, emergency exits and bathrooms.

4. Maintenance and/or Litter Control Program

Intent: _____

Establish standards for regular building and site maintenance and/or provide a minimum number of trash receptacles and conduct regularly scheduled on-site litter patrols.

Shelter Task Force Recommendation: _____

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation:

The Planning Board determined that this performance standard may be acceptable, but does not belong in the Brunswick Zoning Ordinance.

Suggested Document Location if Recommended by Town Council:

Licensing.

Example: Rochester, NY

Section 120-141 Homeless Shelters.

- D. *All homeless shelter applications shall, as part of the special permit, provide the following:*
 - ii. *A litter control program must include at least two trash receptacles on site for customer use, located next to walkways. At a minimum, the program must also address daily on-site litter pickup, customer awareness activities, and off-site litter pickups.*

5. Rules of Conduct and Registration Process for Guests

Intent:

Require sex offender screening and establish a policy for the separation of *homeless shelter, apartment-style* and *homeless shelter, non-apartment-style* residents.

Shelter Task Force Recommendation:

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation:

The Planning Board determined that this performance standard may be acceptable, but does not belong in the Brunswick Zoning Ordinance,

Suggested Document Location if Recommended by Town Council:

Licensing.

Example: Melbourne, FL

Article VI. Use Standards – Section 2, Nonresidential Uses – (W) Transitional homeless shelter

(5) Submittal requirements.

- c. *Management and security plan.*

(2) Rules of conduct and registration system for guests, including proper

placement of signage stating rules.

6. Transportation Plan

Intent: _____

Either as a component of *Item D – Location / Proximity to Essential Services* or as a component of a management plan, require a shelter to provide their own transportation services if not located within a specific distance (ex: one-quarter mile) of public transportation.

Shelter Task Force Recommendation: _____

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation: _____

The Planning Board determined that this performance standard may be acceptable, but does not belong in the Brunswick Zoning Ordinance

Suggested Document Location if Recommended by Town Council: _____

Licensing.

Example: _____

The idea of a transportation plan as a component of a Management Plan is not based on any other community, but was an idea brought forth by the Shelter Task Force in lieu of making Item D – Location / Proximity to Essential Services a requirement.

7. Turn-Away Policy

Intent: _____

Require a homeless shelter, upon reaching maximum capacity, to be able to refer, and possibly provide transportation to another facility with available accommodations.

Shelter Task Force Recommendation: _____

The Shelter Task Force recommended that this performance standard be a part of the application requirements for a potential homeless shelter.

Planning Board Recommendation: _____

The Planning Board determined that this performance standard may be acceptable, but does not belong in the Brunswick Zoning Ordinance

Suggested Document Location if Recommended by Town Council: _____

Licensing.

Example:

The idea of a “turn-away policy” as a component of a Management Plan is not based on any other community, but was mentioned as an existing practice of the Tedford Shelter in Town.

G. MAXIMUM BEDS IN TOWN:

Intent:

Limit the number of beds available throughout the entire Town for individual residents to be correlated to the average percentage of homeless adults in the State of Maine while providing sufficient beds to serve the immediately adjacent communities.

Shelter Task Force Recommendation:

The Shelter Task Force did not recommend this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend establishing a maximum number of beds for individual residents throughout the Town, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council:

Licensing.

Example:

Although there are examples of communities establishing a maximum number of beds per homeless shelter, none of the communities reviewed established a maximum number of beds for the entire community.

H. MAXIMUM LENGTH OF OCCUPANCY

Intent:

Prevent homeless shelters from becoming permanent housing for the homeless.

Shelter Task Force Recommendation:

The Shelter Task Force believed such a standard would be difficult to enforce as it would require staff to continually monitor a shelter’s registration log. Therefore, the Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation:

As the Shelter Task Force did not recommend maximum length of occupancy requirements, the Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council: _____

Licensing.

Example: Roseville, CA _____

Section 19.38.030, Emergency Shelter Development and Management Standards

C. Length of Occupancy. Any single resident's stay shall not exceed six consecutive months.

I. MINIMUM SEPARATION:

Intent: _____

Promote neighborhood compatibility and prevent the clustering of similar uses which may exceed the carrying capacity of a neighborhood for such services.

Shelter Task Force Recommendation: _____

The Shelter Task Force reviewed examples of this performance standard ranging from a 250' – 1,500' minimum separation requirement. In addition to a minimum separation from other homeless shelters, the Shelter Task Force also discussed a minimum separation from other uses such as daycares and schools. The Shelter Task Force did not recommend the use of this performance standard.

Planning Board Recommendation: _____

The Planning Board disagreed with the Shelter Task Force and recommended a minimum 500' (measured at the property line) separation from any preexisting homeless shelter use. An open question remains as to whether or not the 500' separation applies to shelters only within the Town's boundaries, or any shelter or similar facility regardless of municipal boundaries.

Suggested Document Location if Recommended by Town Council: _____

Zoning Ordinance, Section 3.4.1.X.5 – Supplementary Use Standards, Homeless Shelters

Example: Westbrook, ME _____

Chapter II, General Provisions – Section 201, Definitions.

Boarding Home for Sheltered Care, Performance Standards:

- 1. The minimum distance between any two such facilities shall be 1,500 feet, measured from the closest property line to closest property line in an offset.*

Example: Roseville, CA _____

Section 19.38.030, Emergency Shelter Development and Management Standards

D. *Length of Occupancy. Any single resident's stay shall not exceed six consecutive months.*

J. OFF-STREET PARKING:

Intent: _____

Take into account the reduced parking demand for homeless shelters as it was estimated that approximately 50% of households and 25-33% of individual guests require parking. When implemented as a performance standard in other communities, minimum off-street parking requirements ranged from one (1) space for every (3) guests to one (1) parking space for every six (6) guests.

Shelter Task Force Recommendation: _____

The Shelter Task Force recommended:

1. One (1) parking space for every two (2) units of a *homeless shelter, apartment-style*;
2. One (1) parking space for every three (3) potential individual residents of a *homeless shelter, non-apartment-style*; and
3. Parking demand for a *homeless shelter, resource center* be determined by individually calculating the demand for each separate use. Non-residential uses such as office space are to be calculated as established in *Table 4.9.1.A – Minimum Number of Off-Street Vehicle Parking Spaces* in the Brunswick Zoning Ordinance.

Planning Board Recommendation: _____

The Planning Board concurred in its recommendation to the Town Council, but also added its own revision to *Section 4.9.4.D – Parking Alternatives, Parking Requirement Reductions* to allow for the Planning Board to determine if a parking study is necessary to support an applicant's request for an additional parking reduction.

Suggested Document Location if Recommended by Town Council: _____

Zoning Ordinance, *Section 3.4.1.X.2 – Supplementary Use Standards, Homeless Shelters*

Example: Bangor, ME _____

§ 165.72 Required Number of Spaces

D. *Group home, halfway house, community living facility or emergency shelter: one space for each six clients to be housed, plus one space for each staff person to be on premises during the peak shift.*

K. ON-SITE FACILITIES / ACCESORY USES

Intent: _____

Allow or prohibit accessory services such as food services, hygiene services, counseling, life skills training, educational and employment assistance, etc. When permitted, the performance standard is often refined to establish a maximum percentage of floor area of a homeless shelter dedicated to such accessory uses.

Shelter Task Force Recommendation:

Accessory uses are currently defined in *Section 1.7.2 – Definitions* as, “a use customarily incidental and subordinate to the principal use or building, and that occupies no more than 40 percent of the floor area of all structures on a lot.” The Shelter Task Force determined that any homeless shelter where incidental and subordinate uses such as offices, conference rooms, classrooms, etc. exceed 40 percent of the total floor area should be defined as a *homeless shelter, resource center* and therefore a separate use in *Table 3.2: Permitted Use Table for Growth Area Zoning Districts*.

Planning Board Recommendation:

The Planning Board concurred in its recommendation to the Town Council.

Suggested Document Location if Recommended by Town Council:

Zoning Ordinance, *Section 3.4.1.X – Supplementary Use Standards, Homeless Shelters*

Example: Portland, ME

§ 14.474 Conditional Uses – (c) Conditions for conditional uses – 3. Use Specific Standards

- a. *Emergency shelters are subject to the following conditions, in addition to the provisions of § 14-474 (c) 2.*
 - v. *The facility shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.*
- b. *Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.*

L. PHYSICAL SEPARATION OF INDIVIDUAL RESIDENTS AND HOUSEHOLDS

Intent:

Ensure that individual guests are housed separately from households. This separation can be achieved by either requiring each type of use to be housed in an entirely separate structure or provide a physical barrier that prevents interaction between the two (2) uses.

Shelter Task Force Recommendation:

The Shelter Task Force did not adopt a physical separation requirement, but did establish a provision (recommended *Section 3.4.X.4*) that requires a *homeless shelter, non-apartment-style* to be dedicated for use by either unaccompanied minors under 18 years of age (and therefore subject to state regulations) or adult individual residents, but not both.

Planning Board Recommendation: _____

The Planning Board concurred in its recommendation to the Town Council.

Suggested Document Location if Recommended by Town Council: _____

Zoning Ordinance, *Section 3.4.1.X.4 – Supplementary Use Standards, Homeless Shelters*

Example: Rochester, NY _____

Section 120-140, Homeless Residential Facilities.

Homeless residential facilities shall be subject to the following requirements:

- A. Families with children shall be sheltered in space other than an open dormitory style shelter.*

M. SMOKING

Intent: _____

Prevent smoking, or designate specific smoking areas, in order to minimize the potential negative impact on adjacent properties.

Shelter Task Force Recommendation: _____

The Shelter Task Force discussed this performance standard at length, but did not recommend any smoking regulations.

Planning Board Recommendation: _____

The Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council: _____

Licensing.

Example: Oak Lawn, IL _____

Chapter 16 – Temporary Overnight Shelters, §16-22 – Prohibited Items

No person shall use smoking materials in any temporary overnight shelter. No owner, operator, or manager shall knowingly allow a shelter occupant to bring weapons, alcohol, or unprescribed drugs into the shelter.

N. SPRINKLER SYSTEMS

Intent: _____

Provide maximum life safety protections for homeless shelters.

Shelter Task Force Recommendation: _____

The Shelter Task Force did not review this performance standard.

Planning Board Recommendation: _____

The Planning Board did not review this performance standard.

Suggested Document Location if Recommended by Town Council: _____

Licensing.

Example: Phillipsburg, NJ _____

Chapter 347 – Homeless Shelters, Section 8 – Definitions; permitted accessory uses; standards for compliance

C. All homeless shelters shall comply with the following standards:

- 11. Each homeless shelter shall be inspected at least once a year by the Town Building Department and shall comply with all code requirements applicable to multifamily dwellings and must include a fully functional fire suppression sprinkler system approved by the Town.*

V. ATTACHMENTS

- A. Maine Communities Homeless Shelter Regulations
- B. Communities Outside of Maine Homeless Shelter Regulations
- C. Communities with Homeless Shelter Licensing

HOMELESS SHELTER ZONING ORDINANCE AMENDMENTS

Amendment 1

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Chapter 1 - General Provisions
Section 1.7 - Definitions and Rules of Construction

Homeless Shelter, Apartment-Style: A facility of at least three (3) units, the primary purpose of which is to provide temporary accommodations to homeless households, established prior to arrival at the facility, free of monetary charge or at nominal cost, in apartment-style units. Accommodations are provided on a temporary basis, meaning that the facility is intended to serve as a refuge and a bridge between homelessness and residency in a suitable fixed location. Each apartment provides housing to a single established household and contains sleeping, cooking, and bathroom facilities. Such facility may also provide accessory support services such as food, hygiene, laundry, staff offices, and meeting rooms for counseling, job training, and referrals to other agencies.

Homeless Shelter, Non-Apartment-Style: A facility, the primary purpose of which is to provide temporary accommodations to homeless persons, free of monetary charge or at nominal cost, in either a dormitory-style or barracks-style arrangement. Accommodations are provided on a temporary basis, meaning that the facility is intended to serve as a refuge and a bridge between homelessness and residency in a suitable fixed location. Such facility may also provide, in addition, no more than two (2) apartment-style units intended for staff or guests with accessibility needs, accessory support services such as food, hygiene, laundry, staff offices, and meeting rooms for counseling, job training, and referrals to other agencies.

Homeless Shelter, Resource Center: A facility, the primary purpose of which is to provide temporary accommodations to homeless persons, free of monetary charge or at nominal cost, in apartments or dormitory-style or barracks-style arrangements, or any combination of such arrangements. Accommodations are provided on a temporary basis, meaning that the facility is intended to serve as a refuge and a bridge between homelessness and residency in a suitable fixed location. Such facility also provides, in addition to shelter, support services (such as food, hygiene, laundry, staff offices, and meeting rooms for counseling, job training, and referrals to other agencies) in excess of the maximum floor area percentage permitted as an accessory use.

HOMELESS SHELTER ZONING ORDINANCE AMENDMENTS

Amendment 2

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Chapter 3 - Property Use Standards
Section 3.2 - Growth Area Permitted Use Table

Table 3.2: Permitted Use Table for Growth Area Zoning Districts																													
P = Permitted C = Allowed Only with a Conditional Use Permit X = Prohibited A = Allowed Only as an Accessory Use																													
Land Use	CURRENT ZONE	GR1	GR2 & 10	GR3	GR4	GR5	GR6	GR7	GR8	GR9	GM1	GM2	GM3	GM4	GM5	GM6	GM7	GM8	GC1	GC2	GC3	GC4	GC5	GA	GI	GO	GN	Supplementary Use Standards	
	1997 ZONING DISTRICT	RR	R1 & 8	R2	R3, 4, 5, 6	R7	TR1	TR2	TR3 & 4	TR5	MU2	MU3 & 6	MU4, 11, 14	MU1, CC	HC1 & 2	TCL, 2, 3	RCMU	MUOZ	CU1 & 3	CU5 & 6	CU4 & 7	CU/TC	CU2	R-AR	I2, I3, RBTI	R-R&OS	BCN		
Principal Uses																													
Public, Institutional, and Civic Uses																													
Community, Cultural, and Educational Uses																													
Club or lodge		X	X	X	X	X	C	X	C	C	P	C	C	C	C	P	P	P	X	X	X	X	X	X	C	X	X		
College		X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	P	C	C	P	P	P	X	X	X	4.8.1.D(2)	
Community Center		A	X	X	C	C	C	X	C	C	P	P	C	P	P	P	P	P	P	X	P	P	C	X	C	X	X		
Day care facility, small		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	
Day care facility, large		C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	
<u>Homeless shelter, apartment-style</u>		C	X	X	C	C	C	C	C	C	C	C	C	C	C	C	C	C	X	X	X	X	X	X	C	X	X	3.4.1.X	
<u>Homeless shelter, non-apartment-style</u>		X	X	X	X	X	X	X	X	X	C	X	C	C	C	C	C	X	X	X	X	X	X	X	C	X	X	3.4.1.X	
<u>Homeless shelter, resource center</u>		X	X	X	X	X	X	X	X	X	C	X	C	C	C	C	C	X	X	X	X	X	X	X	C	X	X	3.4.1.X	
Hospital		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X	X	X		
Library, museum, or art gallery		X	X	X	C	C	C	X	X	C	P	C	C	P	P	P	P	C	P	P	P	P	P	P	X	C	X	4.8.1.D(2)	
Municipal facility		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	
Park or conservation area		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Religious institution		X	X	X	C	C	P	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	X	P	X	X		
School		P	X	P	C	P	P	P	P	P	P	C	P	P	P	P	P	P	P	C	P	P	P	P	P	P	P	X	

HOMELESS SHELTER ZONING ORDINANCE AMENDMENTS

Amendment 3

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Chapter 3 - Property Use Standards
Section 3.4 - Supplementary Use Standards

X. Homeless Shelters

(1) For the purposes of calculating density:

- a. Each single household unit within any homeless shelter, apartment-style; homeless shelter, non-apartment-style; and homeless shelter, resource center shall constitute one (1) dwelling unit; and
- b. Every four (4) individual residents, not housed within a separate single household unit, within a homeless shelter, non-apartment-style and homeless shelter, resource center shall be the equivalent of one (1) dwelling unit.
- c. The construction of a new homeless shelter, non-apartment-style, or a change in use of an existing structure or portion thereof to a homeless shelter, non-apartment-style shall require compliance with the maximum density of the underlying zoning district.

(2) Parking should be provided in accordance with the following:

- a. Homeless shelter, apartment-style:
One-half (½) parking space for each unit.
- b. Homeless shelter, non-apartment-style:
One (1) parking space for every three (3) individual residents.
- c. Homeless shelter, resource center:
Parking demand shall be determined by individually calculating the demand for each separate use. Non-residential uses such as office space shall be calculated as established in Table 4.9.1.A Minimum Number of Off-Street Vehicle Parking Spaces.

Applicants may request a reduction in the number of parking spaces required, as established in Section 4.9.4.D of the zoning ordinance.

(3) Any applicant for a homeless shelter shall be required to submit the following:

- a. Interior Floor Plans: Dimensioned with spaces labeled with the proposed used;

(4) Any homeless shelter, non-apartment-style shall be dedicated for use by either unaccompanied minors under eighteen (18) years of age or adults, but not both.

(5) Separation Requirement:

HOMELESS SHELTER ZONING ORDINANCE AMENDMENTS

Any new homeless shelter use, as defined in Section 1.7.2, Definitions, and regulated in Table 3.2: Growth Area Permitted Use Table, may not be located within 500 feet (measured at the property line) of any preexisting homeless shelter use.

DRAFT

HOMELESS SHELTER ZONING ORDINANCE AMENDMENTS

Amendment 4

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Chapter 4 - Property Development Standards
Section 4.9 – Parking and Loading

4.9.1 Parking Alternatives

The Review Authority may approve alternatives to complying with the requirements in Subsection 4.9.1 in accordance with the following standards.

D. Parking Requirement Reductions

The Review Authority may allow additional reductions of the minimum vehicle parking requirements in Subsection 4.9.1. **To support a request for an** ~~on finding that the additional reduction, is justified by~~ **the Review Authority may require** a parking demand study showing reduce transportation and vehicle parking demand due to the location, characteristics, or committed operations of the particular use (e.g., type of development, proximity to transit, employee carpool/vanpool program, off-peak work schedules).

HOMELESS SHELTER ZONING ORDINANCE AMENDMENTS

Amendment 5

New Text in Bold Underline

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Chapter 1 - General Provisions
Section 1.7 - Definitions and Rules of Construction

Boarding House: A building other than a hotel containing a shared kitchen and/or dining room, with sleeping rooms accommodating no more than two (2) persons per room (excepting minor children) that are offered for rent, with or without meals. **This definition does not include homeless shelter, apartment-style, homeless shelter, non-apartment-style, or homeless shelter, resource center.**

DRAFT

TOWN OF BRUNSWICK
HOMELESS SHELTER LICENSING ORDINANCE
DRAFT – MARCH 18, 2019

Section 10-26 of the Town of Brunswick Code of Ordinances is hereby amended to add the following language, which shall be known and referred to as the Homeless Shelter Licensing Ordinance:

(17) *Homeless Shelters*

a. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001. The purpose of this Ordinance is to set forth procedures and standards for the issuances of local licenses for Homeless Shelters in order to protect public health, safety and welfare.

b. Definitions

As used in this Ordinance, the terms below shall be defined as indicated. All other terms used in this Ordinance, if not defined below, shall have the same definition as set forth in the Town of Brunswick Zoning Ordinance.

Applicant shall mean a person that has submitted an application for licensure as a Homeless Shelter pursuant to this Ordinance.

Licensed Premises shall mean the premises specified in an application for a license pursuant to this Ordinance or within a license issued pursuant to this Ordinance.

Licensee shall mean a person licensed pursuant to this Ordinance.

Licensing Authority shall mean the Town Clerk or, if referral to the Town Council is required pursuant to this Ordinance, the Town Council.

Homeless Shelter shall mean a Homeless Shelter, Apartment-Style, Homeless Shelter, Non-Apartment-Style, or Homeless Shelter, Resource Center, all as defined in the Town of Brunswick Zoning Ordinance.

Owner shall mean a person whose beneficial interests in a Homeless Shelter is such that the person bears risk of loss other than as an insurer and/or has a controlling interest in a Homeless Shelter.

Person shall mean a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof. “Person” does not include any governmental organization.

Premises shall mean the physical location at which a Homeless Shelter is to conduct its business.

c. License Requirement

Effective -----, 2019 a Homeless Shelter shall not begin or continue operations unless it has received and is in possession of a license issued pursuant to this Ordinance.

d. Licensing Authority

All license applications, whether new or renewal, shall be reviewed and may be approved by the Town Clerk. Application shall be made in writing using a form prepared by the Town for the purpose and must include all information required by this Ordinance and by the form. Prior to action on a license application, the Clerk shall give public notice of the application by having a sign posted in a conspicuous place on the Premises listed on the license application at least seven (7) days prior to action, and by publication in a newspaper of general circulation in the town Brunswick at least seven (7) days prior to action.

e. Review Procedures

The review procedures described below shall be the same for initial license applications as well as renewals. In reviewing license applications, the Licensing Authority and any consulting Town officials may consider the approval standards under this Ordinance as well as other applicable local, state or federal laws and, for license renewals, the Licensee's record of compliance with the same.

- i. The Town Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Ordinance and to obtain recommendations from other Town Officials as required.
- ii. The Licensing Authority shall have the authority to impose any conditions on a license that may be reasonably necessary to insure compliance with the requirements of this Ordinance or to address concerns about operations. Failure of any Licensee to comply with such conditions shall be considered a violation of the license and this Ordinance.
- iii. No license shall be granted by the Town Clerk until the Police Chief, Fire Chief, Health Inspector and Code Enforcement Officer have all made positive recommendations regarding the Applicant's ability to comply with this Ordinance or any other applicable Town ordinance or state or federal law enforced by such officials. The Town Clerk shall provide a copy of the license application to each official along with a form upon which the official shall note his or her findings and conclusions, as well as any recommended conditions of approval. The Town Clerk shall automatically include any conditions of approval recommended by the officials on the issued license.
- iv. If any official consulted by the Town Clerk finds that a license application should not be approved, the application shall be forwarded to the Town Council for further review. The

Town Council shall, upon review of all staff recommendations and applicable laws, make the final determination as to whether the license should be issued and/or any conditions to be attached.

- v. Licenses shall be approved only for the type(s) of Homeless Shelter(s) identified in the application. A Licensee who intends to expand the licensed Premises or convert the licensed Premises to a type of Homeless Shelter that is not specifically approved in a license must seek to obtain a new license for that use.
- vi. Any municipal official with authority to make recommendations, grant licenses or enforce this or other municipal ordinances regulating Homeless Shelters shall have authority to enter the premises of an Applicant or Licensee without notice to make inspection reasonably necessary to ensure compliance.

f. Application Submission Requirements

Each applicant for a Homeless Shelter license shall complete and file an application on the form provided by the Town Clerk, together with the applicable license fee as well as the following support materials:

- i. Attested copies of any articles of incorporation, bylaws, operating agreement, partnership agreement or articles of association that govern the entity that will own and/or operate the Homeless Shelter.
- ii. An affidavit that identifies all owners, officers, members, managers or partners of the Applicant, their ownership interests.
- iii. Evidence of all land use approvals or conditional land use approvals required to operate the Homeless Shelter, including, but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy.
- iv. Evidence of all other local approvals or conditional approvals required to operate the Homeless Shelter, including any applicable food license.
- v. A description of the premises for which the license is sought, including a plan of the premises.

If the Town Clerk determines that a submitted application is not complete, he or she shall notify the applicant within ten (10) business days of the additional information required to process the application. If such additional information is not submitted within thirty (30) days of the Clerk's request, the application may be denied.

g. License Term and Renewal

Each license issued under this Ordinance shall be valid for a term of three (3) years. Applications for renewal licenses shall be submitted at least 90 days prior to expiration of the

existing term. Any Licensee who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted. A late fee shall apply as set forth in the Master Schedule of Revenues, Charges, Fees and Fines.

h. Denial, Suspension or Revocation of a License

A license application for a Homeless Shelter 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 Ordinance.
- ii. Has provided false or misleading information in connection with the license application.
- iii. Is in violation of any other Town of Brunswick ordinance or state law and has failed to correct the violation within the period of time prescribed by the relevant enforcement agency.

i. Approval and Operation Requirements

In order to obtain a license pursuant to this Ordinance, the Licensee shall demonstrate to the Town Clerk and all reviewing officials that the following requirements will be met. The Licensee shall comply with all of these requirements during the term of the license:

- i. Display of License. The current License shall be displayed at all times in a conspicuous location within the Premises.
- ii. Hours of Operation. Any Homeless Shelter shall operate 24 hours per day, seven (7) days per week. On-site supervision shall be required for a homeless shelter, non-apartment-style and a homeless shelter, resource center.
- iii. Maine State Housing Authority Monitoring. Any Homeless Shelter shall participate in the MaineHousing monitoring program on an annual basis. Each annual monitoring report received over the course of the three (3) year license shall be provided to the Licensing Authority with a renewal application.
- iv. Management Plan. Any Homeless Shelter shall enact and maintain a management plan to address the following:
 - a. Communications Plan. Any Homeless Shelter shall establish and maintain a written policy and procedure regarding communication with adjacent properties and the Town of Brunswick, including the Police Department.
 - b. Emergency Response Plan. Any Homeless Shelter shall establish and maintain, in consultation with local emergency services, a written policy and procedure for addressing emergency situations.

- c. Maintenance. Any Homeless Shelter shall provide regular building and site maintenance, including litter control.
- d. Registration. Any Homeless Shelter shall establish and maintain a policy and procedure for the screening of registered sex offenders.
- e. Rules of Conduct. Any Homeless Shelter shall provide each guest with a notification of the Homeless Shelter’s rules of conduct, including a policy on the separation of individual guests and households.
- f. Transportation Plan: Any Homeless Shelter shall establish and maintain a written policy regarding the provision of transportation to and from the site for guests without a personal vehicle.
- g. Turn Away Policy. Any Homeless Shelter shall establish and maintain a written policy and procedure for denying access to the Homeless Shelter when at maximum capacity or the determination that a person is unsuited for the facility.
- v. Maximum Beds in Town. The total capacity for individual residents within all homeless shelters, non-apartment-style and/or homeless shelter, resource center in the Town shall not exceed 83.
- vi. Maximum Length of Occupancy. An individual’s stay at a homeless shelter, non-apartment-style or homeless shelter, resource center shall not exceed six (6) consecutive months.
- vii. Smoking. No smoking shall be allowed inside any homeless shelter. Any homeless shelter, if desired, shall designate outdoor smoking areas in an area designed to minimize impact on adjacent properties.
- viii. Sprinklers. Any homeless shelter shall provide a fully functional fire suppression sprinkler system approved by the Fire Chief or his/her designee.

j. Transfer of Ownership or Change of Location

Licenses issued under this Ordinance are not transferable to a new owner. Any change in ownership shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new license for that location.

k. Appeals

The following appeals may be decided by the Town Council upon a *de novo* hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law:

- A. Appeal of the Town Clerk’s denial of an application for lack of completeness.
- B. Appeal by any aggrieved party having legal standing of any decision by the Town Clerk to grant a license under this Ordinance.
- C. Appeal by the applicant of any permit granted by the Town Clerk with conditions to which the applicant/Licensee objects.

Appeals must be filed with the Town Clerk within thirty (30) days of the date of the decision subject to appeal. The Town Council shall hold the hearing on the appeal and render a decision within thirty (30) days of the date of the appeal, unless all parties consent to a delay.

Appeals of final determinations issued by the Town Council pursuant to this Ordinance shall be made to the Cumberland County Superior Court within thirty (30) days of the date of the decision being appealed.

l. Enforcement and Penalties

The operation of any Homeless Shelter without the required license or in violation of the requirements of this Ordinance shall be in violation of this Ordinance. The Brunswick Town Council or its designee shall enforce the provisions of this subsection. A violation of any provision of this subsection shall be a civil violation, and a civil penalty in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinance shall be imposed, which shall accrue to the benefit of the Town of Brunswick. Each day that a violation continues will be treated as a separate offense. The Brunswick Town Council or its designees may also seek injunctive relief, where appropriate, and shall be awarded attorney fees and costs for prosecution of violations of this section. The Brunswick Town Council may also revoke or suspend the permit after notice and hearing.

m. Severability

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

n. Other Laws

In the event of a conflict between provisions of this Ordinance and the provisions of any other applicable state or local law or regulation, the more restrictive provision shall control.

APPENDIX B

MASTER SCHEDULE OF REVENUES, CHARGES, FEES AND FINES

Chapter 10 – Licenses and Business Regulations			
Reference	Date	Description	Amount
Sec. 10-26 (17)		Homeless shelter application	\$30.00
		Non-profit application fee	\$30.00 (may be waived by Town Council)

DRAFT

ITEM 33
BACKUP

Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

MEMORANDUM

TO: Town Council

FROM: John Eldridge
Town Manager

DATE: February 14, 2019

SUBJECT: Shelter Moratorium Extension

The Town Council has recently conducted two workshops to consider the shelter zoning and performance standard recommendations made by the Shelter Task Force and the Planning Board. At the most recent workshop, we believe staff was directed to explore and present additional performance standards. Staff expects that it will be able to present those suggestions at a March workshop. However, the current moratorium on the location of shelters will expire on March 24th. It does not appear likely that the performance standards and remaining zoning issues will be resolved in time to be enacted and effective by the 24th. Consequently, we have prepared the attached ordinance that would extend the moratorium through July 1, 2019.

Attachment

TOWN OF BRUNSWICK

SECOND EXTENSION OF THE EMERGENCY MORATORIUM ORDINANCE ON THE LOCATION OF SHELTERS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This Second Extension of the Moratorium Ordinance shall take effect once enacted by the Town Council, in accordance with the provisions of the Town Charter, but shall continue to be applicable from the date the original Moratorium Ordinance was enacted and became effective. This Second Extension of the Moratorium Ordinance shall remain in effect until July 1, 2019, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Zoning Ordinance and Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of shelters with existing and permitted uses in residential, commercial and industrial zoning districts; the potential adverse effects of shelters on the community if not properly regulated, and the potential increased burden on the public safety agencies serving Brunswick in responding to the same; and the adequacy of the Town’s infrastructure to accommodate the additional pedestrian traffic and/or population that may result from the presence of shelters in Brunswick.

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

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

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

BE IT FURTHER ORDAINED, that those provisions of the current Zoning Ordinance or the Code of Ordinances that are inconsistent or conflicting with the provisions of the original Moratorium

Ordinance, the Extension of the Moratorium Ordinance, or this Second Extension of the Moratorium Ordinance are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

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

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

Emergency Declaration¹

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

In accordance with Section 212 of the Town Charter, this Second Extension Moratorium shall be enacted as both an emergency and a regular ordinance. It shall be effective immediately upon enactment and applicable as of March 29, 2018. It shall remain in effect, as extended herein, until July 1, 2019.

¹ Section 212. - Emergency ordinances.

(a) To meet a public emergency affecting life, health, property or the public peace, the council may enact one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money.

(b) An emergency ordinance shall be plainly designated an emergency ordinance and, after the enacting clause, it shall contain a declaration stating the existence of an emergency, which shall be described in clear and specific terms.

(c) An emergency ordinance may be enacted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 6 councilors shall be required for enactment. After its enactment the text of the ordinance shall be published and printed in a newspaper having a general circulation in the community, where it is reasonable to do so in the opinion of the council, and posted in at least 2 public places. Otherwise, the notice must contain a reasonable summary of the enacted ordinance. It shall become effective upon enactment, but it shall automatically stand repealed as of the 50th day following the date on which it was enacted unless it had been enacted as a regular ordinance according to sections 210 and 211 of this article at the time it was adopted as an emergency ordinance.

(d) An emergency ordinance may be repealed by the enactment of a repealing ordinance in the same manner specified in this section for the enactment of emergency ordinances. An emergency ordinance may become a regular ordinance by its reenactment according to sections 210 and 211 of this article.

Proposed: February 19, 2019
Public Hearing: March 4, 2019 (Regular and Emergency)
Approved: