

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**