

AGENDA TOPIC 10.

TO: Mayor & City Council
FROM: Wayne Marshall, Director, Code & Planning
DATE: May 23, 2018
RE: Second Reading - Ordinance Amendments - Height Limit & Height Definition

REQUESTED ACTIONS

I am requesting that the Council conduct the following actions:

ACTION # 1: Conduct the duly noticed public hearing. I recommend that the Council conduct a single (combined) hearing to accept comment on the two proposed amendments.

ACTION # 2: Conduct the formal Second Reading of both amendments. The Council has the authority to accept the amendments as presented, to reject the amendments as presented, or to revise the proposed language. If you make significant revisions to the language, the Council will need to conduct a follow-up duly noticed public hearing. I also request that the Council adopt separate motions on each of the proposals.

BACKGROUND INFORMATION - ROUTE ONE SOUTH BUSINESS PARK DISTRICT

The City Council, at its meeting of April 17, 2018, adopted amendments to the City Code of Ordinances associated with the Nordic Aquafarm project. One of these amendments included the establishment of the Route One South Business Park zoning district. The Council, at this same meeting, also adopted a motion to initiate a change to the maximum building height standard identified for this new zoning district. The Council voted to decrease the height limit for a nonresidential structure from a maximum of 50 feet to a maximum of 45 feet. One of the two amendments now being presented is designed to implement the April 17 direction provided by the Council. If the Council votes to adopt the proposed change to the Route One South Business Park district, the maximum height limit for a nonresidential structure in this zoning district would decrease by 5 feet; from 50 feet to 45 feet.

BACKGROUND INFORMATION - DEFINITION OF BUILDING HEIGHT

Chapter 66, General Provisions, identifies terms for which specific definitions have been adopted. One of the terms that is defined in this Chapter is Height of a Structure. The City adopted the current definition of 'Height of a Structure' in October 2014. Department staff has proposed an amendment to this definition to exempt solar panels as a structure that would affect the height of a structure. If the Council supports this proposed amendment it would apply to all structures in Belfast, meaning that it would apply to all zoning districts. The Department is recommending this change as a way to encourage and support the use of solar panels.

**NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENTS TO CITY CODE OF ORDINANCES
CITY OF BELFAST CITY COUNCIL**

The City of Belfast City Council, at its meeting of Tuesday, June 5, 2018, beginning at 7:00 p.m. or as soon as practical thereafter, in the Council Chambers of Belfast City Hall which is located at 131 Church Street, shall conduct a public hearing associated with the Second Reading of proposed amendments to the City Code of Ordinances, Chapter 66, General Provisions, and Chapter 102, Zoning. The amendments include:

- 1) Chapter 66. Amend the current definition of the height of a structure to exclude solar panels from the measurement of height. This proposal applies to all structures in Belfast.
- 2) Chapter 102, Zoning, Article V, District Regulations, Division 18, Route One South Business Park, Sec. 102-665, Dimensional Standards, Subsection (e), Maximum structure height for a nonresidential structure, proposal to reduce the maximum structure height from 50 feet to 45 feet. The Council, at its meeting of April 17, 2018 adopted the standards for the Route One South Business Park district and also identified its intent to reduce the structure height by 5 feet.

Persons who may be affected by the proposed amendments are encouraged to attend the June 5 public hearing and to offer comment. Alternatively, comment can be submitted in writing to Wayne Marshall, Director, Code & Planning, City of Belfast, 131 Church St, Belfast, ME, 04915, or by email to wmarshall@cityofbelfast.org. The language for the proposed Ordinance amendments can be viewed on the City website, cityofbelfast.org, reference Planning and Codes tab, and a copy is available for inspection at the Code and Planning Offices in City Hall during normal business hours, Monday - Friday, 8:00 am - 5:00 pm. Questions regarding the proposal should be directed to Wayne Marshall at 338-1417 x 125, or by email at wmarshall@cityofbelfast.org.

**CITY OF BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
PROPOSED ORDINANCE AMENDMENTS
TUESDAY, JUNE 5, 2018 7:00 PM
COUNCIL CHAMBERS OF BELFAST CITY HALL**

**PROPOSED AMENDMENTS CITY CODE OF ORDINANCES
CHAPTER 66, GENERAL PROVISIONS
DEFINITION OF BUILDING HEIGHT**

Notes to Public

- 1) The Code and Planning Department is recommending City adoption of an amendment to the definition of 'Height of a Structure' that is used in the City Code of Ordinances. The current definition was last revised in October 2014. The Department is now recommending that solar panels, which do not have any habitable floor space, be included in the list of improvements that do not contribute to the height of a structure. The Department believes that this change is consistent with the City's intent to encourage the use of solar panels. This change would apply to all zoning and shoreland zoning districts in Belfast.
 - 2) The Council conducted the First Reading of this amendment at its meeting of May 1, 2018. The Council, at its meeting of May 1, scheduled the formal Second Reading and public hearing for its meeting of June 5, 2018. The Council, following the June 5 Second Reading, has the authority to adopt, reject or amend the proposed amendments. If the Council identifies a significant amendment, said action will require an additional duly noticed public hearing.
 - 3) All text shown in black font is current text in the adopted City Code of Ordinances, Chapter 102, Zoning. **All text shown in red font** is new language that is proposed to be added, and **~~all text shown in blue and strike-through font~~** is language that is proposed to be deleted.
 - 4) Questions regarding the proposed Ordinance amendment should be directed to Wayne Marshall, Director, Code & Planning at 338-1417 x 125 or at wmarshall@cityofbelfast.org.
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TEXT OF PROPOSED AMENDMENTS

Chapter 66. General Provisions

Sec. 66-1. Definitions.

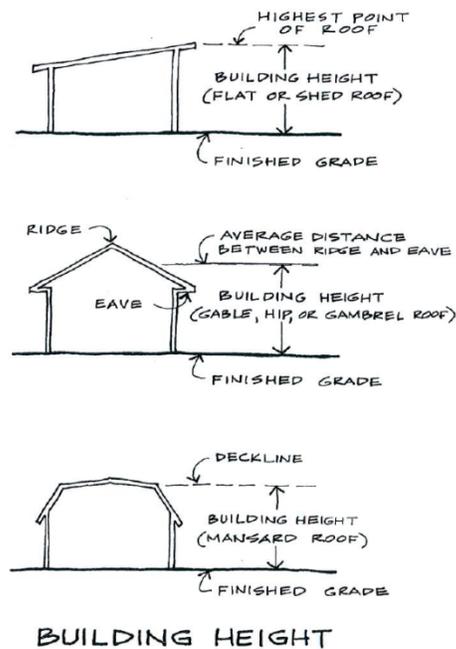
- (a) The purpose of this section is to provide a list of terms and their meanings so as to assist applicants and others in understanding the terms used in subpart B, Land Use Regulations. Unless incorporated by reference in another chapter or another city ordinance, the definitions in this section are not controlling.

Further, definitions that are unique to a specific chapter of subpart B, Land Use Regulations, can typically be found in that specific chapter rather than this chapter. For example, definitions unique to Chapter 78, Floods, and Chapter 82, Shoreland, can be found in said chapters. Applicants and others are encouraged to consult the other chapters of subpart B, Land Use Regulations, for a list of terms and their meanings that may apply to a specific chapter.

- (b) In the interpretation and enforcement of subpart B, all words shall carry their customary dictionary meanings. For the purpose of subpart B, certain words and terms are defined as follows:
- (1) City means The City of Belfast.
 - (2) Municipal officers means the City Council.
 - (3) Tense and number. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
 - (4) Shall, may. The word "shall" is always mandatory; the word "may" is permissive.
 - (5) Person. Includes a firm, association, organization, partnership, trust, company, corporation, or other legal entity, as well as an individual.
 - (6) Lot. The word "lot" includes the words "plot", "property", and "parcel."
 - (7) Building. The word "building" includes the word "structure."
- (c) The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Height of a Structure means the vertical measurements from the average finished grade of the ground to the highest roof beams on a flat or shed roof, to the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs. Said measurements of structure height shall exclude chimneys, antennas, **solar panels**, steeples or cupola like architectural enhancements that do not result in an increase in the usable amount of floor area of a structure, and similar appurtenances which have no usable floor area. Figure 1, below, is a diagram of how building height is measured.

Figure 1



**CITY OF BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
TUESDAY, JUNE 5, 2018 7:00 PM
COUNCIL CHAMBERS OF BELFAST CITY HALL**

**PROPOSED AMENDMENTS CITY CODE OF ORDINANCES
CHAPTER 102, ZONING, ARTICLE V, DISTRICT REGULATIONS
DIVISION 18, ROUTE ONE SOUTH BUSINESS PARK DISTRICT**

Notes to Public

- 1) The Belfast City Council, at its meeting of April 17, 2018, adopted amendments to the City Code of Ordinances, Chapter 102, Zoning, Article V, District Regulations, regarding the proposal by Nordic Aquafarms to establish a land based aquaculture farm on property located by the lower reservoir of the Little River. More specifically, the Council adopted amendments to Division 18, Industrial IV district, to allow aquaculture farms and identified certain dimensional and performance standards that would apply to this district. The Council also voted to change the name of the district from the Industrial IV district to the Route One South Business Park district.

The Council, at this same April 17 meeting, adopted a motion to pursue an Ordinance amendment to change the maximum height of a nonresidential structure from 50 feet to 45 feet. The purpose of this proposed amendment is to implement the Council's April 17 motion. The maximum height standard is the only issue associated with this Ordinance amendment. No other terms of the Ordinance amendments adopted on April 17 are affected by this proposal.

- 2) The Council, at its meeting of May 1 conducted the official First Reading of this proposed amendment, and scheduled the Second Reading of the amendment for the Council meeting of June 5, 2018. This document identifies the proposed amendment on which the Council will conduct a public hearing at its meeting of June 5. The Council, at the Second Reading, has the authority to adopt the amended language as presented, to reject the proposed amendment, or to make changes to the proposal. If the Council makes significant changes, the City will conduct a subsequent duly noticed public hearing on the proposed amended language.
- 3) All text shown in black font is current text in the adopted City Code of Ordinances, Chapter 102, Zoning. **All text shown in red font** is new language that is proposed to be added, and ~~all text shown in blue and strike-through font~~ is language that is proposed to be deleted.
- 4) Questions regarding the proposed Ordinance amendment should be directed to Wayne Marshall, Director, Code & Planning at 338-1417 x 125 or at wmarshall@cityofbelfast.org.

TEXT OF PROPOSED AMENDMENTS

Chapter 102. Zoning

ARTICLE V. District Regulations.

Sec. 102-665. Dimensional standards for nonresidential uses and nonresidential structures located in the Route One South Business Park District.

- (e) Maximum structure height for a nonresidential structure.

The maximum structure height for a nonresidential structure or an accessory structure to a nonresidential structure shall be ~~50~~ 45 feet. The height requirement does not apply to a water standpipe storage tank, a utility pole, a storage silo for an agricultural use, and structures similar in function and design to the above structures.