

**CITY OF BELFAST PLANNING BOARD
MAY 26, 2021 PUBLIC HEARING (VIA ZOOM WEBINAR)
PROPOSED AMENDMENTS – CITY CODE OF ORDINANCES
CHAPTER 102, ZONING
ARTICLE IX, PERFORMANCE STANDARDS
DIVISION 7. SUPPLEMENTAL PERFORMANCE STANDARDS FOR
MULTI-FAMILY DWELLING STRUCTURES AND UNITS**

NOTES TO PUBLIC:

- 1) The City of Belfast Planning Board is conducting a public hearing at its meeting of May 26, 2021 to solicit public comment on a series of amendments that focus on the City's attempt to create additional opportunities to construct multi-family housing in Belfast. The role of the Planning Board is to consider potential Ordinance amendments and to offer a recommendation regarding said amendments to the City Council. The Planning Board does not have the authority to adopt Ordinance amendments.
- 2) The Planning Board is proposing to allow the construction of multi-family housing that uses a subsurface wastewater disposal system for managing wastewater in certain zoning districts, provided the subsurface system complies with the performance standards identified in this proposed Division (7), as well as requirements established for the respective zoning district. The proposal also establishes specific performance standards for the construction and use of driveways. This is a new Division and all language in this Division is proposed to be added to the City Code of Ordinances.
- 3) The City has used the following format to identify the proposed amendments to Chapter 102. All text shown in **Bold and Red Font** is language that is proposed to be added to the Chapter/Ordinance. All text shown in ~~**Bold and Blue and Strike-Through Font**~~ is language that is proposed to be deleted from the Chapter/Ordinance. All text shown in **Black Font** is existing language in the Chapter/Ordinance that is not proposed to be either added or deleted. All text shown in **Bold and Green Font and Underlined** is an informational note to the public that is intended to help provide an understanding of the proposed Ordinance provision. Said text is not part of the adopted Ordinance.
- 4) Persons who want to offer public comment on the proposed amendments to the Planning Board for the May 26 public hearing can do so in any of the following four ways:
 - a) Submit comment via email in advance of the meeting to public@cityofbelfast.org. Comment should be received no later than 2:00 pm on May 26 so it can be provided to Planning Board members in advance of the meeting. This is the recommended way to submit comment as it allows the Board to read and consider your comment in advance of the meeting.
 - b) Submit a letter by 2:00 pm on May 26 to: City of Belfast, Code & Planning Department, 131 Church St, Belfast, ME, 04915.

- c) Submit a comment to the Board during the May 26 public hearing via email using the following email address: public@cityofbelfast.org. Comment will be presented to the Board.
 - d) Submit oral comment during the May 26 public hearing via the scheduled ZOOM webinar. Information regarding how to access the ZOOM webinar can be found by May 24 on the City website, cityofbelfast.org,, reference planning and codes.
- 5) The complete text of all Ordinance amendments (this document and accompanying amendments) can be found on the City website, cityofbelfast.org, reference planning and codes link, Multi-Family Housing amendments. Questions regarding the proposed Ordinance amendments should be directed to Wayne Marshall, Project Planner for the City, at wmarshall@cityofbelfast.org, or by calling 338-1417, ext 125.

TEXT OF PROPOSED AMENDMENTS

CHAPTER 102, ZONING. ARTICLE IX. PERFORMANCE STANDARDS.

DIVISION 7. Supplemental Performance Standards for a Multi-family Housing Project.

Sec. 102-1341. Purpose of Standards and Applicability of City Ordinances.

Article IX, Division 7, identifies specific performance standards that apply to the construction or use of a multi-family dwelling structure(s), and are intended to address specific potential impacts associated with such construction and use. An applicant/owner who proposes to construct a new multi-family dwelling structure or expand an existing structure in which multi-family dwelling units are located shall comply with these Division 7 requirements, and shall satisfy all applicable requirements identified Chapter 62, Utilities; Chapter 78, Floods; Chapter 82, Shoreland; Chapter 90, Site Plan; Chapter 98, Technical Standards; and all other applicable requirements in Chapter 102, Zoning.

Sec. 102-1342. City process for review of a multi-family housing project.

The process for the review of a multi-family housing project is identified in Chapter 90, Site Plan, Article V, Board Review of a Multi-Family Housing Project. City review of a permit for a multi-family housing project shall comply with procedures identified in Article V.

Sec. 102-1343. Wastewater Pollution and Subsurface Wastewater Disposal.

Consistent with requirements of Chapter 62, Utilities, and applicable standards identified in Chapter 102, Zoning, Article IX, Performance Standards, Divisions 2, 3, 4 and 5, all properties must provide adequate wastewater disposal for the uses that occur on the property.

(a) Public sewer service.

- (1) If public sewer is available to a property, an applicant/owner who proposes to construct a structure that has three or more dwelling units (multi-family housing) shall connect the structure and units to the public sewer service.**
- (2) If an applicant/owner proposes to increase the number of dwelling units in an existing structure, or increase the number of bedrooms in any of the existing dwelling units, and said structure now has or would have three or more dwelling units (multi-family housing) as a result of the proposed development, and said structure is connected to a subsurface system for wastewater disposal, however, public sewer is available to the property, the applicant/owner shall connect the structure and all existing and new dwelling units to the public sewer service, regardless of the condition of the existing subsurface wastewater disposal system.**
- (3) The method of connection to public sewer shall comply with requirements identified in Chapter 62, Utilities, and the applicant/owner shall pay all applicable sewer connection fees. Connection to the sewer service shall occur prior to issuance of an occupancy permit for any project identified in (1) or (2) above.**

(b) Subsurface wastewater disposal system.

- (1) If public sewer is not available, and the applicable zoning district allows the construction of a new structure that has three or more dwelling units (multi-family housing), the applicant/owner may use a subsurface wastewater disposal system to provide adequate wastewater disposal, provided the system installed by the applicant/owner satisfies all of the mandatory standards identified in a. below. Notwithstanding this requirement, an applicant/owner may obtain relief from compliance with one or more of the mandatory standards they cannot satisfy by demonstrating compliance with one or more of the optional standards identified in b. below, as such is deemed satisfactory by the City Code Enforcement Officer.**
- (2) An applicant/owner who proposes to expand the number of dwelling units or the number of bedrooms in any dwelling unit in an existing structure that now qualifies or would qualify as a multi-family structure, and if said structure and units are currently served by a subsurface wastewater disposal system, and there is not an opportunity to connect to public sewer, an applicant/owner may use a subsurface system to provide adequate wastewater disposal, provided the system installed by the applicant/owner satisfies all of the mandatory standards identified in a. below. Notwithstanding this requirement, an applicant/owner can obtain relief from compliance with one or more of the mandatory standards they cannot satisfy by demonstrating compliance with one or more of the optional standards identified in b. below, as such is deemed satisfactory by the City Code Enforcement Officer.**

a. Mandatory standards for subsurface system.

1. The design flow for the subsurface wastewater disposal system designed and installed by the applicant/owner shall be calculated at a ratio of 1.35 times the design flows for dwelling units identified in Section 4, Subsection E, clauses 1 and 2, in 10-144, Chapter 241, Subsurface Wastewater Disposal Rules, State of Maine Department of Health and Human Services, most recent edition. (Note to Public - This is a proposed local approach that is not specifically identified in the above State Regulations, however, State Regulations allow municipalities to adopt standards that are more restrictive than State requirements.)
2. A subsurface system for a structure that has three or more dwelling units and that has a design capacity of 1,000 gallons per day or greater. shall require a design pursuant to the standards for an engineered subsurface system identified in Section 10, Miscellaneous Systems, that are identified in 10-144, Chapter 241, Subsurface Wastewater Disposal Rules, State of Maine Department of Health and Human Services, most recent edition. (Note to Public - The State requirement for engineered systems is typically 2,000 gpd. The intent is to use a lower thresh-hold in the local Ordinance for multi-family systems.)
3. Notwithstanding dimensional standards for multi-family housing identified in Chapter 102, Zoning, Article V, District Regulations, the minimum structure setback for the multi-family housing structure from the side and rear property lines shall be no less than 30 feet, and said setback amount shall increase by a minimum of 10 feet if the slope of the property is 12 percent or greater in relation to the adjacent down-gradient property line. The minimum amount of front structure setback shall comply with the standard for the applicable zoning district identified in Chapter 102, Zoning, Article V, District Regulations.
4. If the multi-family dwelling structure and units are not served by public water, the minimum separation/setback between the subsurface system and any well that provides potable water shall be no less than 125 feet (Note to Public - This is 25% greater than is required in Maine Subsurface Regulations) for structures that have dwelling units with a total of 8 or less bedrooms, and no less than 250 feet (Note to Public - This is 25% greater than is required in Maine Subsurface Regulations) for structures that have dwelling units with a total of 9 or more bedrooms. Notwithstanding the above requirements, if there is more than one structure on the property that has multi-family dwelling units, any structure that includes a multi-family dwelling unit shall be located a minimum of 150 feet from any well that provides potable water.
5. The property cannot use soils that are classified as D or E soils identified in Table 4E, Soil Condition, in Chapter 241, Subsurface Wastewater Disposal

Rules, State of Maine Department of Health and Human Services, most recent edition.

- 6. The applicant/owner shall properly maintain the subsurface wastewater disposal system, shall pump the subsurface wastewater disposal system tank a minimum of once every three years or more frequently if conditions warrant to maintain the proper functioning and viability of the subsurface system, shall maintain records that identify when the tank was pumped out, and shall regularly provide such maintenance records to the City Code Enforcement Officer. Notwithstanding this requirement, an applicant/owner that installs an engineered subsurface system, shall comply with conditions identified for proper maintenance of the system identified in the maintenance plan prepared by the civil engineer for the engineered system. An applicant/owner who does not comply with the respective applicable standard identified above shall be subject to issuance of a notice of violation from the Code Enforcement Officer pursuant to Chapter 102, Zoning, Article II, Administration, Division 5, Enforcement.**

b. Optional Approaches to Satisfy Mandatory Standards for a Subsurface System.

An applicant/owner who cannot satisfy all mandatory standards identified in a. above, may request the Code Enforcement Officer approve their use of one or more of the following optional approaches, either singularly or in combination, to install a method of treating wastewater that the Code Enforcement Officer finds acceptable, provided that none of the standards for installation of an acceptable wastewater treatment system shall be less than the minimal standards identified in 10-144, Chapter 241, Subsurface Wastewater Disposal Rules, State of Maine Department of Health and Human Services, most recent edition. The Code Enforcement Officer may consult with the State Department of Health and Human Services in determining the acceptability of any of the following options.

- 1. The applicant/owner identifies a reserve area on the site to construct a replacement subsurface system and preserves this area from development by establishing a 'no-development' easement by deed that is enforceable by the City. If a property owner locates a structure within the bounds of the 'no-development' easement or modifies the 'no development' area to render such unsuitable for a subsurface system, the City can prosecute such action as a violation of Chapter 102, Zoning pursuant to the process identified in Article II, Administration, Division 5, Enforcement.**
- 2. The applicant/owner provides the City a Letter of Credit that is equal to 120 percent of the cost to construct a replacement subsurface system, and regularly renews said Letter per requirements of the lending institution. If the applicant/owner fails to correct identified deficiencies in the subsurface**

system, the City shall have the authority to invoke terms of the Letter of Credit to obtain funds to enable the City to correct identified deficiencies. The City has the authority to annually reconsider the amount that must be provided in the performance guarantee, and if needed, to require the applicant/owner to increase the amount in the Letter of Credit. The Letter of Credit must remain in effect until the property owner ceases to use the multi-family dwelling units or connects the property to public sewer. If an applicant/owner fails to maintain the required Letter of Credit, the City can revoke the occupancy permit for the multi-family dwelling units and require the applicant/owner to cease all use of the structure/units.

3. The applicant/owner uses the services of a soil scientist or civil engineer to design and install a pre-treatment system that the City Code Enforcement Officer determines is a suitable approach to accomplishing the goals of this Section, and which is consistent with standards identified in 10-144, Chapter 241, Subsurface Wastewater Disposal Rules, State of Maine Department of Health and Human Services, most recent edition.

c. **Alternative or Primitive Systems Prohibited for Multi-Family Housing.**

An applicant/owner who proposes to construct a new structure that has three or more dwelling units (multi-family housing), or to increase the number of existing dwelling units or the number of bedrooms in any existing dwelling units in an existing multi-family housing structure, shall be prohibited from installing a new primitive or limited disposal system, or to expand an existing primitive or limited system, as such are described in Section 4, Subsections I, J, and K in 10-144, Chapter 241, Subsurface Wastewater Disposal Rules, State of Maine Department of Health and Human Services, most recent edition, or a grey wastewater system as such is described in Subsection P of 10-144, Chapter 241, as a method of wastewater disposal. If an existing multi-family structure is served by a primitive, limited, or grey wastewater system, and an applicant/owner proposes to increase the number of dwelling units or the number of bedrooms in any existing dwelling units in a multi-family dwelling structure, the applicant/owner shall be required to discontinue use of the primitive, limited, or grey wastewater system, and to install a subsurface wastewater disposal system that has a septic tank and a permitted wastewater disposal field that complies with standards in this Section.

Sec. 102-1344. Access to Property.

(a) **Number of driveways.**

- (1) Notwithstanding access control standards identified in Chapter 98, Technical Standards, Section 98-154(f), a property on which a single structure is located that is occupied by multi-family dwelling units shall have no more than one two-way driveway or two one-way driveway openings (one for egress and one for ingress)

on the property. The exception to this standard is if two or more properly permitted (two-way) driveway openings (curb-cuts) existed on the property at the time that an application is submitted to construct a new multi-family dwelling structure or to expand an existing structure in which multi-family dwelling units are located. The location of the driveway shall be approved by the Planning Board pursuant to the Site Plan review process.

- (2) If more than one multi-family dwelling structure is located on a property, and the location of the structures creates public safety or access concerns, the Planning Board may consider allowing more than one two-way driveway openings (curb-cuts).
 - (3) If a property is subject to Maine Department of Transportation access management requirements, the property owner shall provide evidence to the Planning Board that the State has issued or will issue any driveway or entrance permit that may be required. If a property is subject to City rather than State jurisdiction to determine the location of any driveway, the Planning Board shall consult with the City of Belfast Superintendent of Public Works to ensure that an applicant/owner can obtain any road opening (curb-cut) or driveway entrance permit that may be required.
- (b) Turn-around requirement. If the posted speed limit is 35 mph or greater on the street on which any driveway opening (curb-cut) is located for a multi-family dwelling structure, the driveway(s) and accompanying parking areas shall include a turn-around area for vehicles on the property so that a vehicle does not need to back-out onto the adjacent street to exit the property. In all areas in which the speed limit is 34 mph or less, the Planning Board shall require the applicant/owner to construct the driveway(s) and accompanying parking areas to include a similar turn-around area for vehicles, unless the Board determines that the lay-out of the property and potential constraints, such as but not limited to the topography of the site, the location of on-site wetlands or floodplains, and the geometry of the adjacent street, makes this approach unworkable.

Sec. 102-1345. Lot Size and Lot Frontage Requirements.

- (a) A property that is used for a multi-family dwelling structure shall comply with the minimum lot size requirements identified for the respective zoning district identified in Article V, District Regulations, of this Chapter.
- (b) If a property is located in a shoreland zoning district, the property shall comply with all shoreland lot size and shore frontage requirements to allow the construction of three or more dwelling units (multi-family housing) on the property; reference Chapter 82, Shoreland, for lot size and shore frontage requirements that apply to the respective shoreland zoning district.

Sec. 102-1346. Compliance with City building code.

The construction of any multi-family dwelling units in one or more structures shall comply with all building and life safety code requirements identified in Chapter 74, Buildings and Building Regulation.