

**CITY OF BELFAST COUNCIL
FIRST READING 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
JULY 6, 2021 COUNCIL MEETING**

NOTES TO PUBLIC:

- 1) The Belfast Planning Board is recommending revisions to a number of the City's zoning districts to increase current density standards (number of dwelling units per acre) for multi-family housing, and to allow multi-family housing that uses a subsurface wastewater disposal (septic) system to manage wastewater. The Performance Standards identified in this new Division (Division 7) would apply to any property that involves the construction of a new multi-family housing project or an increase in the number of units in an existing multi-family housing project. All multi-family housing projects are subject to review by the Belfast Planning Board pursuant to requirements of Chapter 90, Site Plan.
- 2) The City of Belfast Planning Board, at its meeting of June 9, 2021, voted to recommend the amendments to the Chapter 102, Zoning, Division 7, Performance Standards for Multi-Family Dwelling Structures and Units, that are identified in this proposal. The Planning Board conducted a duly noticed public hearing on the proposed amendments at its meeting of May 26, 2021. The role of the Planning Board is to consider potential amendments and to offer its recommendations to the City Council.
- 3) The proposed amendments are scheduled for First Reading at the July 6, 2021 City Council meeting. The Council, at the First Reading, will decide if the proposed amendments warrant revisions, and if the proposal should be scheduled for Second Reading and public hearing. The Council has the authority to adopt proposed amendments after conducting a Second Reading.
- 4) 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.

- 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, July 6 Council meeting. 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. Availability of public sewer means the public sewer line is located within 100 feet of any of the lot's frontage on a street (if the lot has frontage on a street), or the public sewer is located within 300 feet of the location of the multi-family structure on the property.
 - (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 public sewer is not available to the property, 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 any 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 of the 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, or alternatively to connect to public sewer.

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 31 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 30 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.