

DOCUMENT # 6

**CITY OF BELFAST COUNCIL
SECOND READING & PUBLIC HEARING
ADOPTED AMENDMENTS
CITY CODE OF ORDINANCES
CHAPTER 90, SITE PLAN &
CHAPTER 94, SUBDIVISIONS
AMENDMENTS REGARDING THE REVIEW OF MULTI-FAMILY
HOUSING & FLEX HOUSING PROJECTS
TUESDAY, APRIL 5, 2022 CITY COUNCIL MEETING**

NOTE TO DEPARTMENT STAFF

This document identifies the final language for the amendments to Chapter 90, Site Plan, and Chapter 94, Subdivisions, that was adopted by the Belfast City Council at its meeting of April 5, 2022.

TEXT OF ADOPTED ORDINANCE AMENDMENTS

CHAPTER 90, SITE PLAN PROPOSED AMENDMENTS

Article V. Board Review of a Multi-Family Housing or Flex Housing Project.

Sec. 90-130. Site Plan Review Required.

- a) Pursuant to MRSA 30-A, §4402, 6, effective July 1, 2018, a division of a new or existing structure into 3 or more dwelling units (multi-family housing), whether the division is accomplished by sale, lease, development or otherwise, regardless of the size of the structure, shall be subject to review and approval by the Planning Board pursuant to requirements of Chapter 90, Site Plan.
- b) Effective July 1, 2018, a structure that was constructed on or before July 1, 2018 that qualifies as multi-family housing in which one or more new units are proposed to be established, regardless of the size of the structure, shall be subject to review and approval by the Planning Board pursuant to requirements of Chapter 90, Site Plan.

- c) A multi-family housing project that is subject to Site Plan review shall be exempt from review as a subdivision (Chapter 94, Subdivisions), unless the project involves the creation of 3 or more lots.
- d) Effective April 5, 2022, an individual property that is proposed to be developed as a flex housing project shall require review by the Planning Board under the following circumstances:
 - 1. The applicant/owner proposes to construct 3 or more dwelling units in 1 or more structures as a flex housing project; or
 - 2. There are one or more existing dwelling units on the property and the applicant/owner proposes construction that would result in the establishment of 3 dwelling units on the property in a 5 year period, and the development proposed by the owner does not qualify as an exempt division of property as recognized by the State [Title 30-A, M.R.S.A §4401] and Chapter 94, Subdivision (not codified), of the City Code of Ordinances.

Sec. 90-131. Site Plan Review Process.

- a) A multi-family housing project that involves the development of 6 or more new dwelling units in a new structure or structures, the development of 6 or more new dwelling units in an existing structure or structures, or the development of 6 or more new dwelling units in an existing multi-family housing project that has or has not previously been reviewed and approved by the Planning Board, shall be subject to Planning Board review and approval pursuant to procedures for both a Preliminary Plan, reference this Chapter, Article III, and a Final Plan, reference this Chapter, Article IV.
- b) A multi-family housing project that involves the development of 5 or less new dwelling units in a new structure or structures, the development of 5 or less new dwelling units in an existing structure or structures that are used for multi-family housing, or the development of 5 or less new dwelling units in an existing multi-family housing project that has or has not previously been reviewed and approved by the Belfast Planning Board, shall be subject to Planning Board review pursuant to a consolidated Preliminary Site Plan and Final Site Plan process. An Applicant shall be required to submit all information required pursuant to Secs. 90-71, 90-72, 90-100 and 90-101 in an application. The Planning Board shall be required to conduct a public hearing on the proposed project and shall provide public notification of the hearing pursuant to Sec. 90-45 requirements.
- c) Notwithstanding the provisions of a) or b) above, a project in which a minimum of 66 percent of the proposed dwelling units qualify as affordable multi-family housing dwelling units, regardless of the number of dwelling units proposed to be developed, or the number of structures in which said units are located, shall be subject to Planning Board review pursuant to a consolidated merged Preliminary Plan and Final Site Plan process. An Applicant shall be required to submit all information required pursuant to Secs 90-71, 90-72, 90-100, and 90-101 in an application. The Planning Board shall be required to conduct a minimum of two public hearings on the proposed project application, with said hearings occurring a minimum of 7 days apart, and shall provide public notification of the hearings pursuant to Sec 90-45 requirements.

- d) A multi-family housing project that is proposed as an element of a mixed use development, regardless of the number of multi-family units that are proposed, shall be subject to Board review pursuant to requirements of Chapter 90, Site Plan, as both a Preliminary Plan, reference Article III, and a Final Plan, reference Article IV. This requirement also applies to multi-family housing that may qualify as affordable housing.
- e) A flex housing project that involves the development of 6 or more new dwelling units in one or more new structures, the development of 6 or more new dwelling units in an existing structure or structures, or the development of 6 or more new dwelling units on a property in which there is one or more existing dwelling units that has or has not previously been reviewed and approved by the Planning Board, shall be subject to Planning Board review and approval pursuant to procedures for both a Preliminary Plan, reference this Chapter, Article III, and a Final Plan, reference this Chapter, Article IV.
- f) A flex housing project that involves the development of 5 or less new dwelling units in a new structure or structures, the development of 5 or less new dwelling units in an existing structure or structures, or the development of 5 or less new dwelling units in an existing multi-family housing project that has or has not previously been reviewed and approved by the Belfast Planning Board, shall be subject to Planning Board review pursuant to a consolidated Preliminary Site Plan and Final Site Plan process. An Applicant shall be required to submit all information required pursuant to Secs. 90-71, 90-72, 90-100 and 90-101 in an application. The Planning Board shall be required to conduct a public hearing on the proposed project and shall provide public notification of the hearing pursuant to Sec. 90-45 requirements.
- g) A flex housing project that is proposed as an element of a mixed use development, regardless of the number of dwelling units or structures that are proposed, shall be subject to Board review pursuant to requirements of Chapter 90, Site Plan, as both a Preliminary Plan, reference Article III, and a Final Plan, reference Article IV.
- h) Pursuant to requirements of Chapter 102, Zoning, Article V, District Regulations, certain flex housing projects shall require review as a Planned Unit Development or Cluster Housing Development pursuant to requirements of Chapter 102, Zoning, Article VI, Planned Unit Development and Cluster Housing Development.

Sec. 90-132. Special Criteria for a Multi-family Housing Project or Flex Housing Project.

The number of dwelling units that can be constructed on a property that includes the development of multi-family housing or the number of dwelling structures and dwelling units for a flex housing project shall be based on net residential density. The following criteria shall not be included in the calculation of the lot area to determine net residential density and the maximum number of dwelling units and/or dwelling structures that can be developed on the property:

1. Land that is situated below the high annual tide or normal high-water mark of any water

body.

2. Land that is located within the 100 year flood plain as identified on the official Federal Emergency Management Agency flood maps adopted by the City of Belfast, reference Chapter 78, Floods. The Board, however, can consider information submitted by a Registered Land Surveyor that demonstrates that the property in question lies at least two feet above the 100 year flood level.
3. Land that is part of a publicly or privately owned street right-of-way or easement.
4. Land that is part of a utility easement that benefits an off-site property or properties.
5. Land meeting the definition of wetland or freshwater wetland as defined by the State Department of Environmental Protection or the U.S. Army Corps of Engineers.
6. Land that has been created by filling or draining a pond or wetland.
7. Land that is located on steep slopes that exceed a grade of 20 percent.

TEXT OF PROPOSED AMENDMENTS

CHAPTER 94, SUBDIVISION

Section IV-Exceptions

This Chapter does not apply to:

1. **Previously approved subdivision.** Proposed subdivisions approved by the Planning Board or the municipal officials before September 23, 1971 in accordance with the laws then in effect;
2. **Previously existing subdivisions.** A subdivision in actual existence on September 23, 1971 that did not require approval under prior law;
3. **Previously recorded subdivisions.** A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971.
4. **Airports with an approved airport layout plan.** Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration;

5. **Subdivisions in existence for at least 20 years.** A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:
 - A. That has been enjoined pursuant to section 4406;
 - B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds;
 - C. For which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or
 - D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds; or

6. **Division of new or existing structures.** Beginning July 1, 2018, a division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise in a municipality where the project is subject to municipal site plan review.
 - A. For the purposes of this subsection, "municipal site plan review" means review under a municipal ordinance that sets forth a process for determining whether a development meets certain specified criteria, which must include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and which may include criteria regarding other environmental effects, layout, scale, appearance and safety.
 - B. The municipal reviewing authority in each municipality shall determine whether a municipal site plan review ordinance adopted by the municipality meets the requirements of paragraph A. The City has determined that it has an adopted ordinance, Chapter 90, Site Plan, that meets the requirements of paragraph A above, thus Section 6 shall apply to the City review process; reference Chapter 90, Site Plan, Article V. Board Review of a Multi-Family Housing or Flex Housing Project.

7. **Flex Housing Project.** The City has determined that a flex housing project is the equivalent of a multi-family housing project for the purposes of defining the City review process for a flex housing project. Thus, effective April 5, 2022, a development that qualifies as a flex housing project in which all development occurs on a single lot, shall be subject to review pursuant to requirements of Chapter 90, Site Plan, Article V, Board Review of a Multi-Family Housing or Flex Housing Project.