

DOCUMENT 2A

**CITY OF BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
FEBRUARY 7, 2023 7:00 P.M.
COUNCIL CHAMBERS IN BELFAST CITY HALL**

**SECOND READING - PROPOSED AMENDMENTS
CITY CODE OF ORDINANCES
CHAPTER 102, ZONING
ARTICLE V, DISTRICT REGULATIONS
DIVISION 14, SOUTHERLY ZONING DISTRICTS**

Notes & Information to the Public on the Proposed Amendments.

1) Background Information and Purpose of Amendments.

The Belfast Planning Board has examined potential amendments to current City Zoning (Chapter 102, Zoning) to make the requirements more consistent with the Future Land Use Plan recommendations in the City's adopted 2021 Comprehensive Plan. This effort has involved re-examining current zoning district boundaries, the list of uses that are permitted or prohibited, and the dimensional and performance standards that apply to properties and uses. The Board also has worked to change the format of the current District regulations so they are in the same format as those adopted in 2014 for the Inside the Bypass zoning districts and in April 2022 for the Outside Rural area. Thus, the format for presenting the Board's recommendations for the Southerly Zoning districts involves a common Use Table and Dimensional Table for the zoning districts, as well as accompanying Footnotes that better identify the standards that apply to a specific use or dimensional requirement.

The main changes for the Southerly zoning districts are outlined below. Reference the attached map on page 4 for a depiction of the proposed zoning district boundaries.

- a) The Board recommended the establishment of the Residential 7 zone. The area in the Residential 7 zone is very similar to the area included in the former Residential II zone (established in 1985), and the main use for this area is housing; single family, two-family, detached accessory dwelling unit, and flex housing. Flex housing is a new approach that allows a property owner options regarding the number and type of housing units that can be constructed based on the size of the lot, the number of dwelling structures, and the number of housing units. Flex housing also allows limited types of multi-family housing; tri-plexes and four-plexes. It is noted that many of the properties located adjacent to the coast may not be able to construct flex housing because of minimum lot size standards that apply to the Shoreland zone.

- b) The current Route One South Commercial zone is proposed to be renamed as the Route One South Mixed Use zone, however, the proposed type of uses allowed, the dimensional standards, and performance standards would be very similar to the current zone. A newly allowed use would be flex housing, and some changes to the boundaries of the zone are proposed; mostly an increase of the depth of the zone on the westerly side of Route One.
- c) The number of properties in the current General Purpose B zone would decrease, and the name of this zone would change to Lower Congress Mixed Use. In addition, a number of currently permitted uses, such as retail, convenience stores, and hotels, are proposed to be prohibited.
- d) Some properties on Perkins Road that are now in either the Residential II zone (which is proposed to be eliminated) or the General Purpose B zone would be included in the Outside Rural 1 zone that was adopted in April 2022. The Board believes this designation better reflects the current uses and the larger size of these properties.
- e) Several additional uses, such as but not limited to professional offices and warehouse/storage facilities, would be allowed in the Airport Growth zone. However, this zone would continue the current prohibition on new housing.
- f) Few changes are proposed for either the Airport Business Park or Route One South Business Park zoning districts.
- g) Maximum lot coverage standards are proposed for all of the respective zoning districts.
- h) No changes are proposed to the current Shoreland Zoning (Chapter 82 of City Ordinances) district designations for the area.

The information regarding the proposed amendments is identified in 3 documents, including:

- a) Document 2A. This document identifies the general standards that apply to the respective zoning districts, as well as the Footnotes for the Use Table (Document 2B) and the Dimensional Table (Document 2C).
- b) Document 2B. This is the Use Table for the 6 zoning districts in the Southerly Zoning Districts. Readers will need to consult the Footnotes in Document 2A to apply the proposed standards.
- c) Document 2C. This is the Dimensional Table for the 6 zoning districts. Readers will need to consult the Footnotes in Document 2A to apply the proposed standards.

Readers are encouraged to review the complete text of the proposed amendments to gain a good understanding of the proposed amendments.

2) Recommendation of Belfast Planning Board.

The amendments presented at First Reading and that are now under consideration by the Council as a Second Reading were reviewed and prepared under the direction of the Belfast

Planning Board. The Planning Board conducted a public hearing on the amendments at its meeting of December 14, 2022. No public comment was received on the proposed amendments for Division 14, Southerly Districts, at the December 14 hearing. At this same December 14 meeting, the Planning Board voted 5-1 to recommend the amendments for Council consideration.

3) Council Process for Consideration of Proposed Amendments.

The proposed amendments were considered at a formal First Reading at the Tuesday, January 17, 2023 regular City Council meeting. The Council also conducted a public hearing at the First Reading. The Council, however, did not receive any public comment that was specific to the proposed amendments for Division 14, Southerly Districts.

The Council has scheduled the amendment language presented at the First Reading for Second Reading and public hearing at the regular Tuesday, February 7 meeting. The Council, at the Second Reading, has the authority to adopt, reject, revise, or table the proposed amendments.

4) How to Offer Public Comment:

The City of Belfast and Belfast City Council encourage public comment on the proposed amendments. Any member of the public can offer comment to the City Council for this public hearing in any of the following three ways:

- a) Comment can be submitted in writing via email to public@cityofbelfast.org. All email comment must be received by 2:00 pm on February 7, 2023. Persons who may want to offer extensive (longer) comment are particularly encouraged to submit comment via email or by letter.
- b) Comment can be submitted in writing via letter. The letter must be received by 2:00 pm on February 7, 2023, so it can be photocopied and presented to the Council. Persons who may want to offer extensive (longer) comment are particularly encouraged to submit comment via email or by letter.
- c) Comment can be orally presented to the Council at the February 7, 2023 public hearing. Oral comment should be limited to 3 minutes. The Council meeting that begins at 7:00 P.M. in the Council Chambers of Belfast City Hall, and the hearing will start as soon as practical after 7:00 pm. All oral comment must be delivered at the Council meeting; the City is not offering opportunities to offer oral comment via a ZOOM webinar to the Council.

The City notes that seating is limited in the Council Chambers. The public hearing and Council meeting can be live streamed on the City website www.cityofbelfast.org, seen live on BEL TV, channel 7 or channel 1303, or heard live on Belfast Community Radio WBFY 100.9.

5) Format of Amendment:

Division 14, Southerly Zoning Districts, is a newly proposed Division for Chapter 102, Zoning. As such, all language in Division 14 is new language, and all language associated

with this amendment is shown in Black Font. However, as these are proposed amendments that are not yet adopted, certain standards that are based on the potential adoption date (no specific date is shown) of the amendments are highlighted in **Yellow Font**.

6) Questions and Information on the Proposed Amendments.

The complete text of this proposed amendment can be found on the City website, cityofbelfast.org, reference Planning and Codes, February 7, 2023 Council Hearing, and a printed copy of the amendments can be inspected at the Planning and Codes offices during normal business hours, Monday - Thursday, 7:00 am - 6:00 pm. Questions regarding the proposed amendment should be directed to the Planning and Codes office at 338-3370 x 125, or by email to Wayne Marshall, Project Planner, at wmarshall@cityofbelfast.org.

CITY OF BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
TEXT OF PROPOSED ORDINANCE AMENDMENTS

CHAPTER 102, ZONING

ARTICLE V, DISTRICT REGULATIONS

DIVISION 14. SOUTHERLY ZONING DISTRICTS

Sec. 102-541. Council adoption of Southerly Zoning District Regulations.

The City Council, at its meeting of **--- identify date of Council action ---**, adopted the District Regulations for the following zoning districts identified in this Division: Route One South Mixed Use (ROS-MU), Route One South Business Park (ROS-BP), Airport Business Park (ABP), Lower Congress Mixed Use (LC-MU), Airport Growth (AG), and Residential 7 (Res-7). The location of the above districts are identified on the Official City Zoning Map, as such was amended on **--- identify date of Council action ---**, and the boundaries of these same districts are described in Article IV, Description of Districts, in this Chapter. The Council, in adopting the regulations for the above zoning districts, concurrently repealed the standards for the following Zoning Districts identified in Article V, District Regulations, and Article IV, Description of Districts in this Chapter: Division 3, General Purpose-B (GP-B), Division 15, Business Park - Airport District (ABP), Division 19, Route One South Business Park (ROS-BP), Division 21, Airport Growth (AG), and Division 28, Route One South Commercial (ROS-CM). The Council, on the meeting date noted above, also adopted amendments to the standards and district boundaries for Division 7, Residential II (renamed as Residential 15).

Some properties located in the Southerly Zoning District area, mostly properties in the Perkins Road area, are located in the Outside Rural-1 zoning district. The district regulations for the Outside Rural-1 zone can be found in Article V, Division 16, Northwesterly of Bypass and Outside Rural Zoning Districts, in this Chapter.

Sec. 102-542. Standards that apply to the Southerly Zoning Districts.

- a) The following Chapters of the City Code of Ordinances, Subpart B, Land Use Regulations, shall apply to the Division 14, Southerly zoning districts.
 - 1) Chapter 66, General Provisions. This Chapter identifies the definitions for terms used in the City Code of Ordinances, Subpart B, Land Use Regulations.
 - 2) Chapter 74, Buildings and Building Regulations. This Chapter identifies requirements of the City Building Code that shall apply to the construction of buildings that are permitted in Division 16.

- 3) Chapter 78, Floods. Provisions of Chapter 78, Floods, may apply to properties located in the zoning districts identified in this Division. Properties subject to requirements of Chapter 78 are identified on the Official Flood Insurance Rate Maps (FIRM) adopted by the City.
- 4) Chapter 82, Shoreland. Provisions of Chapter 82, Shoreland, may apply to properties located in the zoning districts identified in this Division. The adopted Official City Shoreland Zoning Map in Chapter 82 identifies properties that are subject to Chapter 82, Shoreland requirements.
- 5) Chapter 86, Signs. The provisions of Chapter 86, Signs, shall apply to any person who proposes to install a sign on any property in any zoning district located in any Southerly zoning district.
- 6) Chapter 90, Site Plan. The provisions of Chapter 90, Site Plan, shall apply to any use in any Southerly zoning district that requires a Site Plan permit.
- 7) Chapter 94, Subdivisions (Ordinance provisions not codified). The provisions of Chapter 94, Subdivisions, shall apply to any use or property in any Southerly zoning district that qualifies as a subdivision.
- 8) Chapter 98, Technical Standards. The provisions of the Chapter 98, Technical Standards, shall apply to all new or expanded development of any use in any Southerly zoning district.
- 9) Chapter 102, Zoning. Applicable provisions of Chapter 102, Zoning, shall apply to all new or expanded development of any use or property in any Southerly zoning district.

b) Nonconforming Uses of Record.

A use or property located in any of the Southerly zoning districts that existed or was established prior to **---- identify date of Council action ---** that is rendered nonconforming by the adoption of the Table of Uses in this Division shall be considered a legally established nonconforming use of record. A legally established nonconforming use of record may continue and may expand, subject to compliance with the standards in this Division, the standards in Article III, Nonconformance, in this Chapter, and other applicable requirements in the City Code of Ordinances.

c) Prohibited uses.

Only those uses specifically listed in the Section 102-544, Table of Uses, as a permitted use, a permitted use requiring Code Enforcement Officer review, or a permitted use requiring Planning Board review, are allowed in any Southerly zoning district identified in Division 14. All other uses are prohibited.

Sec. 102-543. Introduction to Table of Uses.

The Table of Uses in this Division, reference Section 102-544, identifies uses that are permitted in the following zoning districts for the Southerly Zoning Districts as such are shown on the Official City Zoning Map: Route One South Mixed Use (ROS-MU), Route One South Business Park (ROS-BP), Airport Business Park (ABP), Lower Congress Mixed Use (LC-MU), Airport Growth (AG), and Residential 7 (Res-7). Section 102-545 identifies Footnotes to the Use Table. The Footnotes, as such are described in Section 102-545, identify additional requirements that apply to certain uses identified in the Use Table. Footnotes are identified in the Table of Uses by the following designation: * [letter of alphabet].

The Use Table for properties located in the Outside Rural-1 (a portion of which is located in the Southerly Zoning Districts area) can be found in Division 16, Northwesterly of Bypass and Outside Rural districts.

Sec. 102-544. Table of Uses for the Southerly zoning districts.

(Reference Attached Table of Uses - Document 12-B)

Sec. 102-545. Footnotes to Use Table for the Southerly zoning districts.

The Footnotes in Sec 102-545 apply to the Use Table for the respective Southerly zoning districts; reference Sec 102-543 and 544 for the Table of Uses. The Footnotes identify specific provisions that apply to certain uses identified in the Division 16, Use Table, and are intended to make persons aware of said provisions. The respective Footnotes, however, do not identify all Ordinance standards that may apply to a specific use, and all persons must review all provisions in the City Code of Ordinances to determine the applicability of other requirements. The Footnotes appear next to the information that is subject to the Footnote, and are shown in the Use Table as follows: *[letter of alphabet].

- *[a] Reference performance standards for an accessory dwelling unit in a detached structure. Chapter 102, Zoning, Article IX, Performance Standards, Division 6, Supplemental Performance Standards for an Accessory Dwelling Unit in a Detached Structure.
- *[b] Footnote *[b] references density standards that apply to a Dwelling, Flex Housing project that are identified in the Dimensional Standards Table (Section 102-553) for each respective zoning district. The density standard establishes a formula to identify the amount and type of housing development that can occur on a property. The formula is based on the following factors: the size (area) of the lot (as calculated based on net developable acreage), the number of dwelling units, the number of dwelling structures, and the method used to manage wastewater, public sewer or a subsurface wastewater disposal system. In all cases, the maximum number of dwelling units that can be located in any single structure in a flex housing project is four dwelling units. Chapter 90, Site Plan, Article V, Board Review of a Multi-Family Housing or Flex Housing Project,

identifies the process for Planning Board review of a Flex Housing project, and all Flex Housing projects must comply with the Chapter 102, Zoning, Article IX, Performance Standards, Division 7, Supplemental Performance Standards for a Multi-family Housing or Flex Housing Project. Certain Flex Housing projects are also subject to Planning Board review pursuant to the Chapter 102, Zoning, Article VI, Residential Planned Unit Development standards. An applicant, when a permit application is submitted, must declare if the proposed development is a multi-family or a flex housing project, which shall affirm the standards in the City Code of Ordinances that shall apply to the project.

- *[c] Also reference performance standards for multi-family housing or a flex housing project; Chapter 102, Zoning, Article IX, Performance Standards, Division 7, Supplemental Performance Standards for a Multi-family Housing or Flex Housing Project.
- *[d] Multi-family housing is limited to the construction of tri-plex (3 units in 1 structure) or four-plex (4 units in 1 structure) structures. The density standards for Dwelling, Multi-family (if such is permitted for any of the respective zoning districts) that use a subsurface system to manage wastewater are identified in the Dwelling, Flex Housing standard; reference lot size and density standards in the Dimensional Standards Table in this Division for the respective Southerly zoning district.
- *[e] Multi-family housing shall be considered a distinct and separate use from Flex Housing. Multi-family housing shall be regulated pursuant to the density standards in the Dimensional Standards Table for each respective zoning district, and other provisions in the City Code of Ordinances that apply to a Multi-family housing project. An applicant, when a permit application is submitted, must declare if the proposed development is a Multi-family or a Flex Housing project, which shall affirm the standards in the City Code of Ordinances that shall apply to the project.
- *[f] Reference Chapter 102, Zoning, Article VI, Planned Unit Development, Division 1, Residential Planned Unit Development.
- *[g] Flexibility is permitted regarding the types of Multi-family housing or Flex Housing that can be constructed in a Residential Planned Unit Development. In zoning districts in which multi-family housing is not a permitted use, a Residential Planned Unit Development project shall allow the construction of a structure that has more than 4 dwelling units, subject to the project complying with the overall density standards that apply to the number of dwelling units that can be constructed on a property pursuant to the respective Flex Housing standards. Reference the density standards in the Dimensional Standards Table for each respective zoning district, and reference standards in Chapter 102, Zoning, Article VI, Planned Unit Development, Division 1, Residential Planned Unit Development.
- *[h] The Airport Growth zoning district, established on March 4, 1997, prohibits the construction of all residential structures. The City acknowledges that a number of properties located in this zoning district were developed as a single family residence prior to March 4, 1997. A single family residence, including a manufactured house or mobile

home, that was constructed or located on a property in the Airport Growth zoning district on or prior to March 4, 1997, may be expanded or replaced, subject to the single family residential structure complying with structure setback requirements for the Airport Growth zoning district, or complying with the Article III, Nonconformance provisions in this Chapter. Said provisions also apply to the construction of an accessory structure to the single family residence, and to the single family residence being allowed to conduct a home occupation, yard sale, or similar accessory use to a residence. In addition, the existing structure on a property identified as Map 5, Lot 6B, as such is shown on the 2006 Tax Assessor maps, may be used as a single-family residence in addition to other uses permitted in the Airport Growth zone. Any potential expansion of this structure shall be governed by terms of Article III, Nonconformance.

- *[i] A manufactured housing community must comply with standards identified in Chapter 102, Article VIII, Supplementary District Regulations, Division 4, Manufactured Housing Communities, and other applicable requirements in the City Code of Ordinances.
- *[j] Residential development in the upper stories of a structure is permitted if the amount of development complies with density standards for a respective zoning district identified in the Dimensional Standards Table in this Division.
- *[k] Reference standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 1.5, Performance Standards for Home Occupations.
- *[l] Reference standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 6, Bed and Breakfast Establishments.
- *[m] Professional Office and Health Care Offices.

The maximum size of a building in which a professional office or health care office that is a permitted use is located shall conform to the following standards in the following respective zoning districts:

- 1) In the Route One South Mixed Use, Route One South Business Park, and Airport Business Park zoning districts, there is no maximum size limit on a structure in which one or more professional offices or health care offices are located, or the total amount of such development on a property.
- 2) In the Airport Growth and Lower Congress Mixed Use zoning districts, the maximum size of a structure in which one or more professional offices or health care offices are located, or the total amount of such development on a property shall be 10,000 square feet.

Notwithstanding the above, if a professional office or health care office is located in a building that is used for multiple uses (a shopping center), and there is a limit on the maximum size of a structure in a shopping center in which said uses are located, this standard could affect the total amount of professional office or health care office space that can be developed in that building, and in some cases, on that property. Reference

footnote *[o] below, that establishes certain limits on the maximum size of a building in a shopping center occupied by multiple uses in certain zoning districts.

*[n] Retail Store.

The maximum size of a retail use that is a permitted use or a structure in which a retail use is located shall be as follows in the following zoning districts:

- 1) In the Route One South Mixed Use zoning district the maximum size of any single retail use, or any single structure in which one or more retail uses are located shall be 20,000 square feet. Notwithstanding this requirement, in the Article IX, Division 4, Nonresidential Performance Standards, Sec 102-1277, Nonconforming Size of Use or Size of Structure, and pursuant to the enabling provisions in the Use Table identified in Sec 102-544, the total amount of square feet allowed for all structures located on Map 30, Lot 37A (2.17 acre property, as such was shown on the 2001 City tax maps), shall be 40,000 square feet. In enacting this provision, the City found that the retail use located at Map 30, Lot 37A, was created before the City established the 20,000 square feet size cap on retail uses, and that the total size of all structure(s) located on this property as of August 19, 2001 exceeded 20,000 square feet. The City determined that it was appropriate to allow a greater expansion of the structures located on this property than would typically be allowed pursuant to the specific provisions of Sec. 102-544.

Notwithstanding the above, if a retail use is located in a building that is used for multiple uses (a shopping center), and there is a limit on the maximum size of a structure in a shopping center in which said uses are located, this standard could affect the total amount of space used for retail activities that can be developed in that building, and in some cases, on that property. Reference footnote *[o] below that establishes certain limits on the maximum size of a building in a shopping center occupied by multiple uses in certain zoning districts.

*[o] Shopping Center.

The maximum size of an individual structure in a shopping center that is a permitted use and that includes at least one retail operation, including a shopping center that may be used for multiple types of uses (such as retail, professional office, restaurant, and personal services) shall be as follows in the following zoning districts:

- 1) In the Route One South Mixed Use zoning district, the maximum size of a structure in a shopping center that includes at least one retail operation shall not exceed 20,000 square feet.

*[p] Personal Service Business.

The maximum size of a structure in which one or more personal service businesses that are a permitted use are located shall be as follows in the following zoning districts:

- 1) In the Route One South Mixed Use and Airport Business Park zoning districts, there is no specific size limit on the size of a structure in which an individual or multiple personal service businesses are located.
- 2) In the Lower Congress Mixed Use and Airport Growth zoning districts, the maximum size of a structure in which an individual personal service business or multiple personal service business are located shall be 10,000 square feet.

Notwithstanding the above, if a personal service business is located in a building (a shopping center) that is used for multiple uses, and there is a limit on the size of a structure in which such uses are located, this requirement could affect the total amount of space used for a personal service business(es) that can be developed in that building, and in some cases, on that property. Reference footnote *[o] that establishes certain limits on the maximum size of a building occupied by multiple uses in certain zoning districts.

*[q] Convenience Store.

The maximum size of a structure in which a convenience store that is a permitted use is located shall be as follows in the following zoning districts:

- 1) In the Route One South Commercial zoning district, the maximum size of a structure in which a convenience store is located shall be the same as the size limit that applies to a retail store, 20,000 square feet.

*[r] Storage/Warehouse facility.

The maximum size of a structure that is used for a storage/warehouse facility that is a permitted use shall comply with the following standards for the following zoning districts:

- 1) There is no restriction on the maximum size of a Storage/Warehouse facility in the Route One South Mixed Use, Route One South Business Park, Airport Business Park, and Lower Congress Mixed Use zoning districts.
- 2) In the Airport Growth zoning district, the maximum size of a Storage/Warehouse facility shall be 10,000 square feet, and all structures shall comply with potential height restrictions that may be identified by the Belfast Airport Manager based on potential interference with airport operations and safety.

*[s] Light Manufacturing Facility.

The maximum size of a structure that is used for a light manufacturing facility that is a permitted use shall comply with the following standards for the following zoning districts:

- 1) There is no restriction on the maximum size of a light manufacturing facility in the Route One South Mixed Use, Route One South Business Park, and Airport Business Park zoning districts.
- 2) In the Lower Congress Mixed Use and Airport Growth zoning districts, no individual structure may exceed 10,000 square feet in size, and the total area occupied by all

light manufacturing structures or associated outside storage areas on a property shall not exceed 30,000 square feet.

*[t] Manufacturing, Processing, or Industrial Facility.

The maximum size of a structure that is used for manufacturing, processing, or an industrial use that is a permitted use shall comply with the following standards for the following zoning districts:

1) In the Route One South Business Park and Airport Business Park zoning districts there is no restriction on the maximum size of a Manufacturing, Processing or Industrial facility.

*[u] A property that is used for a contractor operation that is a permitted use, including any associated interior or exterior storage of construction equipment and materials by a construction contractor, shall be a minimum of 1 acre in size. The interior and/or exterior storage areas may be located on the same property as one or more dwelling units.

*[v] A property that is used for an Animal Kennel, Class 1, or an Animal Kennel, Class 2, shall be a minimum of 2 acres in size, regardless of the zoning district in which it is located, and all facilities used for boarding animals shall be located a minimum of 100 feet from any side or rear property line. An Animal Kennel, Class 1, or an Animal Kennel, Class 2, that was permitted by the City prior to the adoption of this Division (**--- enter date of adoption ---**), that does not comply with the 2 acre minimum lot size or 100 foot structure setback requirement, may continue, and an existing structure that is used for animal kennel operations may be expanded, provided that none of the expansion is located closer to the property line than the existing nonconforming structure. All structures (excepting the expansion of a nonconforming structure allowed pursuant to the above standards) constructed after (**--- enter date of adoption --- of Ordinance amendments**) used for animal kennel operations shall comply with applicable structure setback requirements, as well as other requirements in the Code of Ordinances.

*[w] Any business that sells and dispenses fuel shall be limited to a maximum of 4 fuel dispensers (pumps) on the property.

*[x] Reference the Performance Standards for Campgrounds and Recreational Vehicle (RV) Parks identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division (YTBD). (*Note to Public: The City has not yet prepared or adopted these Performance Standards. These standards will be prepared and presented for Planning Board, City Council, and public consideration at a future date.*)

*[y] A property that is used for commercial boat building, retrofitting, storage, and/or repair shall be a minimum of 2 acres in size. This standard applies to any property that initially applies for a permit to perform any of the above activities after (**date of adoption of Division standards**). A property that was used for boat building, retrofitting, storage, and/or repair prior to (**date of adoption of Division standards**), that does not comply with this lot size requirement, may continue, and existing structures that were used for the

above activities may expand and new structures can be constructed, provided that any structure expansion complies with structure setback requirements identified in this Division, and applicable performance standards in Chapter 102.

- *[z] A quasi-public or non-municipal use that qualifies as a Major Site Plan Development shall require a Site Plan permit from the Planning Board. A quasi-public or non-municipal facility or use that qualifies as a Minor Site Plan Development, or that does not meet the thresh-hold of a Site Plan development, shall require a permit from the Code Enforcement Officer. Notwithstanding this provision, in the Airport Business Park zoning district, a quasi-public or non-municipal use that qualifies as a Major Site Plan Development shall require a Site Plan permit from the Code Enforcement Officer.
- *[aa] A fill, loam, sand, and/or gravel extraction operation shall require review by the Planning Board pursuant to the provisions of Chapter 90, Site Plan, regardless of the size of the non-vegetated area. The Board, in its review, shall consider applicable Department of Environmental Protection (DEP) regulations (as such may be amended from time to time) for such operations; reference Title 38, Chapter 3: Protection and Improvement of Waters, Subchapter 1, Environmental Protection Board, Article 7, Performance Standards for Excavations of Borrow, Clay, Topsoil or Silt, and Article 8-A, Performance Standards for Quarries. The Planning Board, in its review, may apply the DEP regulations, as its deems appropriate, in adopting City Permit conditions for the operation.
- *[bb] An outdoor theater or event facility that is permitted as an accessory use to a residential use or an agricultural use, is limited to a maximum of 100 seats or guests, and a maximum of 8 events per year, and no more than 2 events in any single month. This use is subject to review by the Planning Board and compliance with specific performance standards in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division (YTBD), Performance Standards for Event Facilities and Outdoor Theaters. *(Note to Public - The City has not yet prepared or adopted the referenced performance standards for Outdoor Theaters and Event Facilities. These standards will be prepared and presented for Planning Board, City Council, and public consideration at a future date.)*
- *[cc] A Medical Marijuana facility or operation must comply with requirements identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 8, Medical Marijuana Regulations.
- *[dd] An Adult Use Marijuana facility or operation must comply with requirements identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 2.5, Adult Use Marijuana Regulations.
- *[ee] A Solar Energy System must comply with requirements identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 9, Solar Energy Systems. A large or medium scale ground mounted system or a large or medium scale

roof mounted system shall require review by the Airport Manager to determine if the proposed system may pose an adverse impact on safe airport operations.

- *[ff] A Telecommunications Facility must comply with requirements identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 5, Telecommunications Facilities. In the Airport Business Park, Lower Congress Mixed Use, and Airport Growth zoning districts, a telecommunications facility is only permitted if the Federal Aviation Administration and the Belfast Airport Committee find that the proposed facility will not adversely impact operations and safety at the Belfast Airport.
- *[gg] Power Substations and Generator Facilities shall be subject to review pursuant to Chapter 90, Site Plan, and the performance standards that may apply to a specific zoning district.
- *[hh] An application for a Significant Groundwater Well must comply with requirements identified in Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Well Permit, and Article IX, Performance Standards, Division 2, Environmental Standards, Section 102-1137, Significant Groundwater Well, in this Chapter.
- *[ii] An application for a Significant Water Intake or a Significant Water Discharge/Outfall Pipe must comply with the Article IX, Performance Standards, Division 2, Environmental Standards, Sec 102-1138, Significant Water Intake or Significant Water Discharge/Outfall Pipe in this Chapter.
- *[jj] The following uses are permitted in the Airport Business Park zoning district provided the respective use is operated by a profit organization:
 - 1) A parochial/private/charter school; and/or
 - 2) An indoor recreational facility.
- *[kk] In the Airport Business Park zoning district, a manufacturing or industrial use may operate the following three categories of a restaurant, indoor seating, outdoor seating, and take-out, as an accessory use, provided that the restaurant use satisfies all of the following criteria:
 - 1) the restaurant menu primarily includes and features products the manufacturer or industrial user produces on the site;
 - 2) the restaurant has a maximum of 36 seats;
 - 3) the total area devoted to restaurant seating and food preparation for the restaurant, in conjunction with any area that may be devoted to an accessory retail use, shall not exceed 33 percent of the total floor area of the structure in which the restaurant is located, or the functional equivalent of 33 percent of the total floor area if the restaurant involves outside seating; and
 - 4) the restaurant does not serve meals/food to customers after 10:00 p.m.
- *[ll] In the Airport Business Park zoning district, a warehouse facility may operate the following three categories of a restaurant, indoor seating, outdoor seating and take-out, as an accessory use, provided that a minimum of 90 percent of the products stored and

distributed at the warehouse facilities are malt, spirituous or vinous products, and provided the restaurant use satisfies all of the following criteria:

- 1) the restaurant menu includes and features malt, spirituous or vinous products that the warehouse facility stores on the site;
- 2) the restaurant has a maximum of 36 seats; the total area devoted to restaurant seating and food preparation for the restaurant, shall not exceed 33 percent of the total floor area of the structure in which the restaurant is located, or the functional equivalent of 33 percent of the total floor area if the restaurant involves outside seating; and
- 3) the restaurant does not serve meals/food to customers after 10:00 p.m.

*[mm] Article IX Nonresidential Development Performance Standards. Reference applicable performance standards in Chapter 102, Zoning, Article IX, Nonresidential Development Standards, Division 4, for standards that apply to the Route One South Mixed Use District.

*[nn] In the Airport Business Park zoning district, professional offices that provide legal services and health care offices are prohibited.

*[oo] The following uses may conduct accessory retail sales in the following zoning districts, subject to the identified standards:

- 1) In the Airport Business Park zoning district, a light industrial/light manufacturing use, or a manufacturing, processing, or industrial use, may conduct accessory retail sales, provided that the accessory use occupies no more than 50% of the total floor area of structures on the site, and at least a portion of the products sold at the site are manufactured at the site.
- 2) In the Route One South Business Park, Route One South Mixed Use, Lower Congress Mixed Use, and Airport Growth zoning districts, a light industrial/light manufacturing use, or a manufacturing, processing, or industrial use, may conduct accessory retail sales, provided that the accessory use occupies no more than 20% of the total floor area of all on-site structures, and at least a portion of the products sold at the site are manufactured at the site.

*[pp] The Lower Congress Mixed Use zoning district, effective **(-- the date of adoption of this Division)**, shall prohibit the development of a manufactured housing community. Notwithstanding this prohibition, the existing Seacoast Village manufactured housing community located at Map 4/Lot 64 (as shown on the 2021 City Tax Maps) that initially was developed in the late 1960's, and that has been issued a Site Plan and Subdivision Permit on January 23, 2019 by the Planning Board to expand the community, is subject to the following exceptions: 1) The existing community may continue to operate; 2) The community may develop the lots identified on the approved Planning Board Site Plan; and 3) The approved Site Plan may be amended, subject to Planning Board approval, including but not limited to the establishment of additional or relocated lots to those shown on the approved Plan.

*[qq] A land based aquaculture operation may conduct accessory uses such as but not limited to the following on the site: fish processing, byproducts, research laboratory, offices, on-site

child care, storage, accessory retail sales, and a visitor's center. A land based aquaculture operation may discharge wastewater to and use water from a marine or fresh water body, and construct infrastructure to support these activities, including but not limited to a significant water intake/significant water discharge pipe, and a water/wastewater treatment facility.

*[rr] The following uses in the Route One South Business Park zoning district may construct dwelling units on their site as an accessory use to the following activities: light industrial/light manufacturing use; a manufacturing, processing, or industrial use; land-based aquaculture operation, or a professional office use.

*[ss] Hydroelectric Facilities. All applications to establish a new hydroelectric facility or to remove a facility, such as a dam, that was used to produce hydroelectric power, shall be subject to review by the Planning Board pursuant to Chapter 90, Site Plan.

*[tt] Lumber Yards and Building Supply Retail Stores.

The size of a lumber yard and building supply retail store that is a permitted use is subject to the following restrictions regarding the total size of the operations on the property in the following respective zoning districts:

1) In the Route One South Mixed Use zone, the maximum size of the operation located in one or more structures shall not exceed 40,000 square feet of structure development, and an additional 30,000 square feet of operations that are not located in a structure, such as an outside (exterior) storage, display, or sales area.

*[uu] A motor vehicle, snowmobile, utility terrain vehicle (UTV), all-terrain vehicle (ATV) vehicle, and similar repair business shall be allowed to display, at any single point in time, the following number of vehicles on the property as an accessory use to the repair business in the following respective zoning districts in which this use is a permitted activity:

1) In the Route One South Mixed Use zoning district there is no specific limit on the number of vehicles that can be displayed as an accessory use to a repair business.

2) In the Lower Congress Mixed Use zoning district the maximum number of vehicles that can be displayed as an accessory use to a repair business is 6.

3) In the Airport Business Park and Airport Growth zoning districts the maximum number of vehicles that can be displayed as an accessory use to a repair business is 3.

*[vv] An on-site child care facility (all sizes) is allowed as an accessory use to the following uses: a professional office or health care office; a health care facility or hospital; a nursing home or long-term care facility; a retail store; a shopping center; a hotel/motel; a restaurant; a light industrial/light manufacturing facility; a manufacturing, processing, and/or industrial facility; a commercial boat building facility; a farm; a municipal facility; a quasi-public or non-municipal facility; a school; a community center; a social club; a theater/performing arts center; and a recreational facility. An on-site child care facility may provide services to persons who are or are not employed at the facility.

*[ww] In the Lower Congress Mixed Use zoning district, a fuel storage and distribution facility that was constructed on or prior to **(date of adoption of the Division 14 Ordinance provisions)** may continue to operate subject to all City, State, and/or Federal Permit requirements, and may expand, provided the expansion satisfies all dimensional and performance standards that apply.

*[xx] Service Business.

The maximum size of a structure in which one or more service businesses that are permitted uses are located shall be as follows in the following zoning districts:

- 1) In the Route One South Mixed Use and Airport Business Park zoning districts, there is no specific size limit on the size of a structure in which an individual or multiple service businesses are located.
- 2) In the Lower Congress Mixed Use and Airport Growth zoning districts, the maximum size of a structure in which an individual service business or multiple service businesses are located shall be 10,000 square feet.

Notwithstanding the above requirements, if a service business is located in a building (a shopping center) that is used for multiple uses, and there is a limit on the size of a structure in which such uses are located, this requirement could affect the total amount of space used for a service business(es) that can be developed in that building, and in some cases, on that property. Reference footnote *[o] that establishes certain limits on the maximum size of a building occupied by multiple uses in certain zoning districts.

*[yy] The Use Tables includes a category of uses entitled: 'Use Specific to Chapter 82, Shoreland'; Uses 340) - 353). The uses in this category are specific uses identified in the State Model Shoreland Regulations, and thus, are included in the Use Table for Chapter 82, Shoreland, of the City Code. As Belfast's Code of Ordinances incorporates common Use Tables for all zoning districts in Chapter 102, Zoning, Article V, District Regulations, and Chapter 82, Shoreland, this same category of Shoreland uses is identified in the respective Use Tables that apply to Chapter 102, Zoning.

Secs. 546 - 550. Reserved.

Sec. 102-551. Introduction to Dimensional Standards and Dimensional Standards Table for the Southerly Zoning Districts.

The Dimensional Standards Table in this Division, reference Section 102-553, identifies dimensional standards that apply to the following Southerly zoning districts as such are depicted on the Official City Zoning Map: Route One South Mixed Use (ROS-MU), Route One South Business Park (ROS-BP), Airport Business Park (ABP), Lower Congress Mixed Use (LC-MU), Airport Growth (AG), and Residential 7 (Res-7). Section 102-554 identifies Footnotes to the Dimensional Standards Table. The Footnotes identify additional requirements that apply to certain dimensional standards identified in the Dimensional Standards Table, and are more fully

described in Section 102-544. Footnotes are identified in the Dimensional Standards Table by the following designation: * [letter].

Sec. 102-552. Standards that apply to Dimensional requirements for the Southerly Zoning Districts.

a) Applicability of dimensional standards.

Any property or structure established on or after --- date of adoption of Division 14, Southerly zoning district amendments --- shall comply with all applicable dimensional and density standards in this Division.

b) Nonconformance with dimensional standards.

- 1) Nonconforming lot of record. A lot that was created prior to --- date of Council action on amendments --- (date of adoption of Division 14, Southerly zoning district amendments) that does not comply with the minimum lot size or minimum lot frontage requirements identified in Sec 102-553, the Dimensional Standards Table, shall be considered a legally established nonconforming lot of record, and shall be considered a developable lot, subject to compliance with standards in this Division, the Article III, Nonconformance provisions in this Chapter, applicable standards in the Code of Ordinances, and if the property uses a subsurface wastewater disposal system for managing wastewater, the ability to obtain a subsurface wastewater disposal system permit.
- 2) Nonconformance with structure setbacks, lot coverage, or structure height requirements. A structure(s) that was legally constructed prior to --- date of Council action on amendments ---, that does not comply with any or all of the following Sec 102-553 (Dimensional Standards Table) requirements shall be considered a legally established nonconforming structure of record: one or more minimum structure setbacks, maximum lot coverage, or maximum structure height. A legally established nonconforming structure of record may remain and may be expanded, subject to compliance with standards in this Division, the Article III, Nonconformance provisions in this Chapter, and applicable standards in the Code of Ordinances.
- 3) Nonconformance with density standards. A property that was developed prior to --- date of Council action on amendments --- that does not comply with density standards identified in Sec 102-553, the Dimensional Standards Table, shall be considered a legally established nonconforming use of record with respect to density standards. Such a use may continue and may expand, subject to compliance with the standards in this Division, the Article III, Nonconformance provisions in this Chapter, and applicable standards in the Code of Ordinances.

c) Multiple uses on single property.

- 1) If there are one or more types of residential uses on a lot (property), the total size (area) of the lot must be no less than the amount of area needed to satisfy the minimum lot size requirement in Sec 102-553, the Dimensional Standards Table, and if applicable, minimum Chapter 82, Shoreland requirements, for each of the respective residential uses on the lot. Further, the amount of residential use (density) on the lot must comply with residential density standards identified in Sec 102-553. The total amount of lot frontage, however, only needs to satisfy the minimum amount of lot frontage required in Sec 102-553 for the most intensive use on the property.
- 2) If there is a residential use and a nonresidential use (note: home occupations are considered a residential use) located on the same lot (property), the size of the lot must satisfy the combined minimum lot size requirement in Sec 102-553, the Dimensional Standards Table, for the respective residential use and the respective nonresidential use. The total amount of lot frontage, however, only needs to satisfy the minimum amount of lot frontage required in Sec 102-553 for the most intensive use on the property.

d) Determination of property lines and structure setbacks.

The applicant or property owner shall be responsible for verifying the dimensions of the property and that all required structure setback requirements are met. All structure setbacks shall be measured from the respective property lines. The applicant, property owner, Code Enforcement Officer, or Planning Board, may use a property survey, property deed, a Maine Department of Transportation or City road layout or right-of-way, or similar information to assist in determining the location of property lines and the required minimum amount of structure setback. The Code Enforcement Officer or Planning Board shall have the authority to require an applicant or property owner to provide a survey to identify property lines and structure setback requirements if either deems that a survey is necessary to verify the applicant's or owner's representations and that City Ordinance standards are met.

- e) Description of Net Acre. The minimum lot size and density standards often refer to a 'net acre' in defining a specific dimensional requirement. A 'net acre' is based on the application of 'net buildable development' area in the calculation of lot size or density, and the deduction of the following factors from the total size/area of a lot:
1. Land that is situated below the high annual tide or normal high-water mark of any water body, tributary stream, or upland edge of a wetland.
 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 is 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.

Sec. 102-553. Dimensional Standards Table, Southerly Zoning Districts.

(Reference Attached Dimensional Standards Table - Document 12-C)

Sec. 102-554. Footnotes to the Dimensional Standards Table, Southerly Zoning Districts.

The Footnotes in Sec. 102-554 apply to the Dimensional Standards Table for the Southerly zoning districts, reference Sec 102-553, Dimensional Standards Table. The Footnotes identify specific provisions that apply to certain dimensional requirements identified in the Dimensional Standards Table. The Footnotes appear next to the information that is subject to the Footnote, and are shown in the Dimensional Standards Table as follows: *[upper case letter of alphabet].

*[A] Lot Size and Lot Frontage Requirements. The minimum size of a lot and the minimum amount of road frontage for a property that is used for a nonresidential use in the Route One South Mixed Use zoning district must comply with the applicable Nonresidential Development Standards identified in Chapter 102, Zoning, Article IX, Performance Standards, Division 4, Nonresidential Development Standards, Sec 102-1242, Minimum Lot Size and Lot Frontage requirements.

*[B] Structure Setbacks.

- 1) A structure located in the Route One South Mixed Use zoning district shall comply with the following standards identified in Chapter 102, Zoning, Article IX, Performance Standards, Division 4, Nonresidential Development Standards:
Sec 102-1243. Minimum requirements for nonresidential structures - front setback;
Sec 102-1244. Minimum requirements for nonresidential structures - side setback;
and
Sec 102-1245. Minimum requirements for nonresidential structures - rear setback.

*[C] A residential use is a prohibited use in the Airport Growth zoning district, however, there are existing residences that are considered legally established nonconforming uses of record (See Use Table, Sec 102-544). The following minimum dimensional requirements shall apply to a residential use that is considered a legally established nonconforming use of record:

- 1) Minimum lot size. 1 acre, regardless if the property is connected to public sewer or uses a subsurface system for wastewater disposal.

- 2) Minimum road frontage, if a lot has frontage on a public or private road. 150 feet.
- 3) Minimum lot width for a back lot that does not have frontage on a public or private road. 150 feet.
- 4) Minimum front structure setback. 30 feet
- 5) Minimum side structure setback. 15 feet
- 6) Minimum rear structure setback. 15 feet
- 7) Maximum structure height. 38 feet
- 8) Maximum lot coverage. 40 percent

*[D] The following Dimensional Standards shall apply to a nonresidential use or nonresidential structure located in the Route One South Business Park zoning district.

(a) Minimum lot size and minimum lot frontage requirements for nonresidential uses. A lot (property) that is occupied by a nonresidential use shall be a minimum of 87,120 net square feet (2 net acres) in size and shall have a minimum of 250 lineal feet of road frontage, if the lot has frontage on a road. This lot size requirement applies regardless if the lot is connected to public sewer or uses a subsurface system for wastewater disposal.

(b) Minimum structure setback requirements for nonresidential structures are as follows:

(1) The following minimum setback requirements shall apply to nonresidential structures and accessory structures to said nonresidential structures that are located on a lot (property) that has road frontage on Route One or on another road other than Perkins Road:

- Front - 75 feet
- Side - 50 feet
- Rear - 50 feet

All structure setbacks shall be measured from the respective property lines. If a lot does not have frontage on a road, the front setback requirement shall not apply and all structures shall comply with the side and rear setback requirements.

(2) The following minimum setback requirements shall apply to nonresidential structures and accessory structures to said nonresidential structures that are located on a lot (property) that has road frontage on Perkins Road:

- Front - 40 feet
- Side - 50 feet
- Rear - 50 feet

All structure setbacks shall be measured from the respective property lines. If a lot does not have frontage on a road, the front setback requirement shall not apply and all structures shall comply with the side and rear setback requirements.

(3) Parking areas/spaces and solid waste/recycling containers shall be prohibited in the structure setback areas identified in (1) and (2) above.

- (c) Minimum vegetated buffer yard areas. A lot (property) on which a nonresidential use or structure is located shall retain or provide a naturally vegetated buffer yard area in all structure setback areas identified in Subsection (b) above. The vegetated bufferyard area shall comply with the following standards:
- (1) The minimum width of the buffer yard area shall be 80 percent of the amount of the respective structure setback area. An exception to this standard applies to a front setback area located adjacent to Route One. In such cases, the front buffer yard area shall be no less than the amount of minimum front setback area for structures; reference b), 1) of this Section.
 - (2) Vegetation in any naturally vegetated buffer yard area shall be consistent with the type and amount of vegetation that existed prior to the construction of the nonresidential use or structure for which a permit is requested. An applicant shall retain the maximum amount of existing mature trees as is practical, and shall supplement such mature plantings with understory and other plantings to provide a more effective visual buffer. The buffer yard area may incorporate approaches such as berms, fences and similar techniques to enhance the quality of the vegetative buffer. The planting plan for a vegetated buffer yard that is submitted to the City shall be prepared by an appropriately licensed professional.
 - (3) Parking spaces/areas and solid waste/recycling containers are prohibited in any buffer yard area. Roads/driveways shall only be permitted to the extent that such must cross the buffer yard area to access the area permitted for development. The only other structures permitted in the buffer yard area, when there is no practical alternative as determined by the Planning Board, are utilities, stormwater management control facilities, significant water intake or significant water discharge/outfall pipes, and essential services.
 - (4) For a property identified as Map 4, Lot 12A (tax maps in effect on April 2018), the buffer yard and vegetation standards identified in (1) and (2) above shall not apply to any structure that existed as of April 17, 2018, or an addition to such a structure, provided the addition is physically connected to the structure. The buffer yard and vegetation/landscaping requirement for said structures are the standards identified in permits for said structures issued by the Code Enforcement Officer or Planning Board.
- (d) Maximum lot coverage for a lot (property) occupied by a nonresidential use. The maximum amount of lot coverage for any lot shall be 70 percent. Lot coverage is based on the amount of impervious surface on a lot.
- (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 45 feet. The height requirement does not apply to a water standpipe storage tank, a solar panel, an antenna, a utility pole, a storage silo for an agricultural use, and structures similar in function and design to the above structures.

*[E] The following standards shall apply to the following zoning districts identified in Article V, District Regulations, of this Chapter.

A residential development, with the exception of a flex housing project that qualifies as residential planned unit development project pursuant to requirements of Chapter 102, Zoning, Article VI, Planned Unit Development (PUD), Division 1, Residential Planned Unit Development, shall qualify for following amounts of additional density in each of the following zoning districts.

- 1) If the dwelling units are connected to public sewer, density standards for a PUD in the Route One South Mixed Use (reference Art V, Div 14) zoning district shall be 1 single family dwelling unit, 1 single family dwelling unit with a detached accessory dwelling unit, and 1 duplex structure at a density of 10,890 square feet (.25 acre) for each of the above types of uses, and multi-family density shall be calculated at the same standard for the respective zoning district as a project that is not a PUD.
- 2) If the dwelling units use a subsurface system to manage wastewater, density standards for a Planned Unit Development (PUD) in the Route One South Mixed Use zoning district shall be the same as applies to a project that is not a PUD. A project that is a PUD in this district, however, can construct multi-family housing on a subsurface system, even though the zoning district may otherwise prohibit multi-family housing on a subsurface system.

*[F] A property that is proposed to be developed as a single family residence with a detached accessory dwelling unit must comply with the Chapter 102, Zoning, Article IX, Performance Standards, Division 6, Supplemental Performance Standards for an Accessory Dwelling Unit in a Detached Structure.

*[G] A property that is proposed to be developed as a multi-family dwelling structure or a flex housing project must comply with the Chapter 102, Zoning, Article IX, Performance Standards, Division 7, Multi-family housing and Flex Housing. Said standards shall apply to any structure in a flex housing project, even if the respective structure(s) has less than three units.

*[H] The Residential 7 zoning district prohibits multi-family housing, however, congregate care and retirement housing is permitted, and allows the construction of dwelling units that would be considered multi-family housing (3 or more units in one structure).

*[I] A property that is proposed to be developed for a newly constructed nonresidential use, or that involves the conversion of a residential use to a nonresidential use, after the dates identified below for the respective zoning districts, must satisfy the minimum lot size and minimum lot frontage requirements specified in the Dimensional Standards Table to be used for a nonresidential use.

- Route 1 South Mixed Use (identified as the Route One South Commercial zone prior to --- date of adoption of these amendments ---); after August 19, 2001;

- Airport Growth; after March 7, 1997;
- Lower Congress Mixed Use (identified as the General Purpose B zone prior to --- date of adoption of these amendments) and Residential 7 (most of this zoning district was in the Residential II zone prior to the --- date of adoption of these amendments ----); after December 31, 1985.

A property that was developed for a nonresidential use on or before the above dates and that has regularly been used or occupied for a nonresidential use, that does not satisfy either or both the minimum lot size and minimum lot frontage requirements for the respective zoning district, shall be considered a legally established use that is located on a nonconforming lot of record, and said property may continue to be used for a nonresidential use.

- *[J] Dwelling, Flex housing, Route One South Mixed Use and Residential 7 zoning districts, if the property is connected to public sewer.

Flex Housing is an approach that is designed to allow an individual property owner flexibility in the maximum number of dwelling units, type of dwelling units, and number of dwelling structures that can be constructed on a property. The density standard for Flex Housing is based on the size (area) of the lot (as calculated using net developable acreage and that is expressed as a net acre), the number of dwelling units, the number of dwelling structures, and the method used to manage wastewater, public sewer or a subsurface wastewater disposal system. The maximum number of dwelling units that can be constructed in any one structure is four (4), and the density standard shall be the same for a lot that has frontage on a road or that is a back-lot, and shall be based on the standard for a lot that has road frontage.

In all cases, a Flex Housing project that involves the construction of 3 or more dwelling units shall require review by the Planning Board pursuant to Chapter 90, Site Plan, and in some cases, a Flex Housing project that involves the construction of 2 dwelling units on a property shall require Planning Board review pursuant to Chapter 90, Site Plan; reference Chapter 90, Site Plan, Article V, Board Review of a Multi-Family Housing or Flex Housing Project. Also, if the amount of proposed development involves the construction of 9 or more dwelling units and/or 6 or more dwelling structures, the Flex Housing project shall be subject to review pursuant to both the requirements of Chapter 90, Site Plan, and Chapter 102, Zoning, Article VI, Planned Unit Development. An applicant, when a permit application is submitted, must declare if the proposed development is a multi-family or a flex housing project, which shall affirm the standards in the City Code of Ordinances that shall apply to the project.

The following Table identifies the density standards for Flex Housing that shall apply to the Route One South Mixed Use and Residential 7 zoning districts, if the property is connected to public sewer: -

Minimum Size of Property	Maximum # of Dwelling Units	Maximum # of Dwelling Structures
21,780 SF (.5 Net Acre)	4	3
32,670 SF (.75 Net Acre)	6	4
43,560 SF (1 Net Acre)	8	5
54,450 SF (1.25 Net Acre)	10	6
65,340 SF (1.5 Net Acre)	12	7

If a proposed Flex Housing project involves the development of a property that is greater than 1.5 Net Acres in Size, and the development of 13 or more dwelling units and/or 8 or more dwelling structures, the formula for calculating such additional development shall be based on a ratio of 2 additional dwelling units and 1 additional dwelling structure for each increment of .25 Net acres. However, in no case may a single structure have more than 4 dwelling units.

*[K] Residential, Flex housing, Residential 7 zoning district, if the property uses a subsurface system to manage wastewater.

Flex Housing is an approach that is designed to allow an individual property owner flexibility in the maximum number of dwelling units, type of dwelling units, and number of dwelling structures that can be constructed on a property. The density standard for Flex Housing is based on the size (area) of the lot (as calculated using net developable acreage and that is expressed as a net acre), the number of dwelling units, the number of dwelling structures, and the method used to manage wastewater, public sewer or a subsurface wastewater disposal system. The maximum number of dwelling units that can be constructed in any one structure is four (4), and the density standard shall be the same for a lot that has frontage on a road or that is a back-lot, and shall be based on the standard for a lot that has road frontage.

In all cases, a Flex Housing project that involves the construction of 3 or more dwelling units shall require review by the Planning Board pursuant to Chapter 90, Site Plan, and in some cases, a Flex Housing project that involves the construction of 2 dwelling units on a property shall require Planning Board review pursuant to Chapter 90, Site Plan; reference Chapter 90, Site Plan, Article V, Board Review of a Multi-Family Housing or Flex Housing Project. Also, if the amount of development proposed involves the development of 9 or more dwelling units and/or 6 or more dwelling structures, the project shall be subject to review pursuant to both the requirements of Chapter 90, Site Plan, and Chapter 102, Zoning, Article VI, Planned Unit Development. An applicant, when a permit application is submitted, must declare if the proposed development is a multi-family or a

flex housing project, which shall affirm the standards in the City Code of Ordinances that shall apply to the project.

The following Table identifies the density standards that shall apply for a Flex Housing Project that is located in the Residential 7 zoning district if the property uses a subsurface system to manage wastewater disposal.

Minimum Size of Property	Maximum # of Dwelling Units	Maximum # of Dwelling Structures
54,450 SF (1.25 Net Acre)	4	3
76,230 SF (1.75 Net Acre)	6	4
98,010 SF (2.25 Net Acre)	8	5
119,790 SF (2.75 Net Acre)	10	6
141,750 SF (3.25 Net Acre)	12	7

If a proposed Flex Housing project involves the development of a property that is greater than 3.25 Net Acres in Size, and the development of 13 or more dwelling units and/or 8 or more dwelling structures, the formula for calculating such additional development shall be based on a ratio of 2 additional dwelling units and 1 additional dwelling structure for each increment of .5 Net acres. However, in no case shall a single structure have more than 4 dwelling units.

*[L] Lot Coverage. The following standards shall apply to lot coverage requirements for a respective use and property.

- 1) A single family, single family with detached accessory dwelling unit, or a duplex that was constructed and issued an initial occupancy permit on or after **--- date of adoption of Ordinance amendments by Council ---** shall not exceed the maximum lot coverage standards identified in the Dimensional Table for the respective zoning district. A single family, single family with detached accessory dwelling unit, or a duplex, that was constructed and issued an initial occupancy permit prior to , **--- date of adoption of Ordinance amendments by Council ---** and that exceeds or nearly exceeds that amount of allowed coverage, may qualify for an expansion in the amount of allowed lot coverage; reference Chapter 102, Zoning, Article III, Nonconformance, Type 7 Nonconformity.
- 2) A multi-family housing project or a flex housing project that was constructed and issued an initial occupancy permit on or after **--- date of adoption of Ordinance amendments by Council ---**, shall not exceed the maximum lot coverage standards

identified in the Dimensional Table for the respective zoning district. A multi-family housing project that was constructed and issued an initial occupancy permit prior to **--- date of adoption of Ordinance amendments by Council ---**, and that exceeds or nearly exceeds the amount of allowed coverage, may qualify for an expansion in the amount of allowed lot coverage; reference Chapter 102, Zoning, Article III, Nonconformance, Type 7 Nonconformity. As flex housing was not a permitted use in any zoning district prior to April 6, 2022, all flex housing projects must comply with the lot coverage requirements in the Dimensional Standards Table and do not qualify for a potential increase in lot coverage.

- 3) A nonresidential use or a mixed use development that includes a nonresidential use that was constructed and issued an initial occupancy permit on or after **--- date of adoption of Ordinance amendments by Council ---**, shall not exceed the maximum lot coverage standards identified in the Dimensional Table for the respective zoning district. A nonresidential use or mixed use development that includes a nonresidential use that was constructed and issued an initial occupancy permit prior to **--- date of adoption of Ordinance amendments by Council ---**, and that exceeds or nearly exceeds that amount of allowed coverage, may qualify for an expansion in the amount of allowed lot coverage; reference Chapter 102, Zoning, Article III, Nonconformance, Type 7 Nonconformity.
- 4) If any portion of a property is in a Shoreland District (reference Chapter 82), the more restrictive of the lot coverage standards between the respective Shoreland District and the respective zoning district shall apply to that portion of the property that is in the Shoreland Zone. An exception, however, shall apply to properties located in the Battery Road area (west side Battery) that are in both the General Development shoreland district and the Residential 7 zoning district. For these properties, the maximum lot coverage standard for the General Development Shoreland District (70% on **--- date of Council adoption of Ordinance amendments ---**, the date of adoption of the Article V, Division 14 standards) shall supersede the lot coverage standards identified in the Table of Uses for the Residential 7 zoning district

Sec. 102-555 to 559. Reserved.