

**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 VI, PLANNED UNIT DEVELOPMENT & CLUSTER
HOUSING DEVELOPMENT
DIVISION 2. RURAL AFFORDABLE HOUSING DEVELOPMENT**

Notes and Information to the Public on the Proposed Amendments.

1) Background Information and Purpose of Amendment:

The City initially adopted the Division 2, Rural Affordable Housing Development, Planned Unit Development, standards in 2008 to benefit a proposal by Habitat for Humanity to construct an affordable housing project on Oak Hill Road. To date, Habitat for Humanity's 3 lot subdivision is the only project proposed or developed pursuant to the Division 2 standards. In general, the City anticipates that few projects will be proposed pursuant to these standards because the houses constructed must remain affordable units for a minimum of 10 years. Most of the proposed amendments fall into the general bucket of 'clean-up' provisions, however, there is a provision that allows a flex housing project.

Also, the Division 2 standards are considerably more descriptive than the Division 1 standards, particularly with respect to the Board review process and applicant submissions. This is mostly because the Rural Affordable Housing standards address both subdivisions (3 or more lots or dwelling units) and divisions (2 lots or dwelling units) of property. The Planning Board typically has no role in the division of a property, however, the Division 2 standards provided the Board (City) a mechanism to vary lot size and structure setbacks associated with a division of property associated with supporting the construction of affordable housing.

The main revisions include:

- a. A Rural Affordable Housing Project previously was allowed only in two zoning districts, Residential Agricultural I and Protection Rural. The Outside Rural Use Tables adopted on April 5, 2022 identified that the Outside Rural 1, Outside Rural 2, Route 3 Rural, and Residential 4 zones all would allow this type of development. On the whole, the amount of area in which this type of use could occur has been expanded through the April 5 amendments.

- b. A Rural Affordable Housing Project would allow limited types of multi-family housing, a four-plex structure; all multi-family housing previously was prohibited in a Rural Affordable project. In addition, Flex Housing would be allowed.
- c. Section 102-818(h) notes that the increased subsurface system standards adopted by the City in April 2022 for a project that involves a four-plex or flex housing would apply to a Rural Affordable Housing Project (.
- d. The proposed standards would allow the use of overhead utilities rather than requiring underground utilities.

2) Recommendation of Belfast Planning Board.

The amendments presented at 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 these proposed amendments 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, however, no comments were received regarding this amendment. The Council has scheduled this same amendment 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:** Language/text in black font is current language in the Ordinance that is not proposed to be changed by this amendment. Language/text proposed to added to the existing Ordinance is shown in **Red Font**. Language/text proposed to be deleted from the existing Ordinance is shown in **Blue Strike-through Font**. Language that is **highlighted in Yellow** identifies a date that needs to be added to final Ordinance if the Council adopts the proposed amendments.

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.

**TEXT OF PROPOSED AMENDMENTS
CHAPTER 102, ZONING**

ARTICLE VI. Residential Planned Unit Development and ~~Cluster Housing Development.~~

Division 2. Rural Affordable Housing Development Project

Sec. 102-815 Purpose.

[Ord. of 4-6-2010(3)]

The goal is to support the development of small well designed and functionally efficient housing projects that will benefit persons of low and low-moderate income, and serve to increase the amount of affordable housing in Belfast. The City will encourage the development of such housing by allowing flexibility in the application of both dimensional requirements and infrastructure construction standards for such projects. Project development shall be in harmony with the natural features of the land, and serve to protect high value natural areas, preserve open space, and reduce impacts associated with managing stormwater. The intent is to allow such projects in rural oriented zoning districts, partly because the small number of housing units involved will not be incompatible with the use of such areas, and because land and development costs in such areas are often more conducive to the construction of affordable housing.

Sec. 102-816 Applicability of ~~ordinance~~ Division.

[Ord. of 4-6-2010(3)]

A rural affordable housing development project shall be permitted in the zoning districts enumerated in Chapter 102, Zoning, Article V, District Regulations. A project may consist of a division of a property into two lots or dwelling units, or a subdivision of a property into three to seven lots or dwelling units. An application to establish a rural affordable housing project shall comply with requirements of this ~~d~~Division.

Sec. 102-817 Planning Board process to review project.

[Ord. of 4-6-2010(3)]

An application to establish a rural affordable housing development shall be subject to review by the Belfast Planning Board. An application will consist of a two-stage submission process; a preliminary plan process and a final plan process. Notwithstanding this requirement, the ~~b~~Board shall have the authority to conduct and approve the project in a single stage (combine preliminary plan and final plan) process, if the ~~b~~Board, in its discretion, finds that all public and project concerns can successfully be addressed in a single stage.

- (a) Preliminary plan submission.
- (1) Sketch to Planning and Code Department. The applicant shall informally meet with ~~Code and~~ Planning **and Code** Department staff to present a sketch of the proposed project and to discuss City requirements.
 - (2) Preliminary plan to Planning Board. The applicant shall submit a preliminary plan for the project to the Planning Board. The submission shall be made to the ~~Code and~~ Planning **and Code** Department. The application shall consist of 10 copies of all application materials. The purpose of the preliminary plan review is to provide the ~~h~~**B**oard an opportunity to review the proposed layout and provide guidance to the applicant, and to determine if the proposed project has a reasonable likelihood of satisfying City requirements. The applicant submissions, at a minimum, shall include the following information:
 - a. An inventory map, prepared at a scale of no greater than one inch equals 100 feet and preferably at a scale of one inch equals 40 feet, that, at a minimum, identifies the following existing features for the parcel:
 1. Boundaries of the parcel proposed to be developed, preferably a boundary survey prepared by a registered land surveyor.
 2. A contour map based ~~at least upon U.S. Geological Survey contours and preferably at on~~ intervals of ~~five~~ **two** feet.
 3. A soils map for the site based at least upon information from the Soils Conservation Service, and which may include more intensive soils survey information.
 4. The location and delineation of existing structures, infrastructure improvements (roads, stormwater facilities, utilities and such) and property encumbrances (easements, rights-of-way and such).
 5. The location of any physical constraints, such as but not limited to wetlands, vernal pools, floodplains, and steep slopes (greater than 15%).
 6. The identification and location of vegetative cover on the property and a narrative description of such cover.
 7. The location and identification of any significant areas on the site, such as but not limited to significant wildlife habitat areas, historic areas, and scenic resources.
 - b. A proposed site plan for development of the parcel and the accompanying narrative descriptions referenced in this ~~s~~**S**ubsection. Said plan should be

prepared at a scale of no greater than one inch equals 40 feet. The plan and accompanying narrative descriptions shall identify the following information:

1. The location and number of proposed lots.
2. The location of all proposed structures, including any accessory structures, and potential locations for future structures.
3. The location of proposed building envelopes in which all structures shall be located, and a narrative that describes why such envelopes are proposed.
4. The location of proposed roads and driveways and a narrative that describes why this road and infrastructure lay-out is proposed and how such are consistent with standards identified in **s**Subsection 102-818(e) and (f).
5. The location of proposed stormwater management improvements and a narrative that describes the type of improvements proposed and how such are consistent with standards identified in **s**Subsection 102-818(g).
6. The proposed location of any subsurface wastewater disposal systems, including applicable test pits, and a narrative that describes how wastewater treatment will be provided.
7. The proposed location of all drinking water services that will be provided, and a narrative that describes how a potable source of water will be provided.
8. The proposed location of utilities, such as electric, telephone and cable, and a narrative description of the type of service proposed and how such is consistent with standards identified in **s**Subsection 102-818(j).
9. The proposed location of all areas to **[be]** retained as open space, and a narrative description of why such areas are appropriate for this site and how such are consistent with standards identified in **s**Subsection 102-818(k). Further, the submitted narrative should describe how the applicant intends to permanently protect and manage such open space; reference **s**Subsection 102-818(1).
10. The proposed location of any project amenities that may be proposed, such as trails or walkways, and a narrative that describes how such are appropriate for this site.
11. The proposed location of any landscaping for the project that may be proposed, and a narrative description of how such is appropriate for this site, or why landscaping may not be needed.

12. A narrative description of the affordable housing market which the project intends to address, how the project will be managed to ensure affordability, why this parcel was selected, and how this project is consistent with the purposes of this **ordinance Division** and the housing policies enumerated in the Belfast Comprehensive Plan.
 13. Other information that may be required by the **bBoard** to ensure that the applicant project can satisfy requirements identified in the **sSection** 102-818 standards, as well as additional information **which** the applicant may choose to submit.
- (3) Planning Board review process. The **Code and Planning and Code** Department, within 30 days of receipt of a preliminary plan application that appears to be complete, shall schedule **such said** application for review by the Planning Board. The preliminary plan review process shall include the following steps; however, the **bBoard** shall have the authority to determine that a formal site visit is unnecessary.
- a. The Planning Board shall conduct a public hearing regarding the preliminary plan application and shall review **such said** plan at a public meeting to determine project compliance with City requirements. The **dDepartment** shall provide written notification of the meeting and hearing by first class mail to property owners located within 250 feet of the project. Such notification shall be mailed a minimum of 13 calendar days prior to the **bBoard** meeting and hearing. Written notice is required only for the first **bBoard** meeting at which a preliminary plan is reviewed.
 - b. The **dDepartment**, on behalf of the **bBoard**, shall publish at least two times in a newspaper of local circulation, notice of the public meeting and hearing referenced in a) above. The date of publication of the first notice shall be a minimum of seven days in advance of the meeting and hearing.
 - c. The Planning Board may schedule and conduct a site visit regarding the project; however, the **bBoard** is not required to conduct a site visit. If the **bBoard** chooses to conduct a site visit, the **dDepartment** shall provide written notice to property owners located within 250 feet of the project a minimum of seven days in advance of the site visit. A site visit shall be considered a public meeting; however, no public testimony can be presented at a site visit.
 - d. The **bBoard** shall make a finding regarding the completeness of the application and if it qualifies for approval as a preliminary plan submission. The **bBoard** shall review the criteria in **Section** 102-817(a)(2)a. **A** and b. in making its determination, and shall consider factors identified in **Section** 102-818, Development Standards for a Rural Affordable Housing Development. Board approval of a preliminary plan authorizes the applicant to submit a final plan

application. **Board approval of a preliminary plan does not confer any final action or approval of said plan, and It** does not allow the applicant to commence any construction activities.

(b) Final plan review process.

(1) Final plan to Planning Board. The applicant shall submit a final plan for the project to the Planning Board. The submission shall be made to the Planning **and Code** Department. The application shall consist of 10 copies of all application materials. The purpose of the final plan review is to allow the **hB**Board to review how the applicant has addressed concerns identified at the preliminary plan review and to ensure all City standards are satisfied. Applicant submissions, at a minimum, shall include the following information:

- a. A final plan map with a scale of no greater than one inch equals 40 feet that includes the following:
 1. Name of the project, project owner, and the engineer and surveyor that prepared the plan.
 2. The map/lot number of the property, the book and page number of property from the Waldo County Registry of Deeds and the name of the City of Belfast.
 3. Name of abutting property owners.
 4. Scale, date of project, and designation of true north or magnetic north.
 5. Boundaries of the entire parcel and all individual lots prepared by a registered land surveyor.
 6. Lines, dimensions, area and designation of each proposed lot and any public or common areas within the project.
 7. Sufficient information to **readily** determine **readily** the location, bearing, and length of every lot line, street and right-of-way line, and boundary line.
 8. Name, location, width, radius of curves of all proposed and existing streets.
 9. Location of features, natural and man-made, affecting the project, such as water bodies, streams, wetlands, wooded areas, buildings and such.
 10. Location and identification of utilities such as subsurface disposal systems, wells, electric, cable, telephone.

11. Identification of covenants and deed restrictions that apply to the project.
 12. Identification of conditions of approval that may be established by the Planning Board.
- b. Submittal of information that will enable the **h**Board to determine applicant compliance with standards identified in **s**Section 102-818, including the following:
1. Submission of a stormwater management plan, prepared by a licensed civil engineer, that addresses how stormwater shall be managed. This submission is subject to review by City **e**Engineer **(at the applicant's cost)**.
 2. Test pit logs and final designs for all proposed subsurface wastewater disposal systems.
 3. Submission of plans prepared by a licensed civil engineer that identifies construction details for any roads that may be proposed. The **h**Board may allow the submission of plans that provide construction details for any driveway that is prepared by a party other than a licensed civil engineer. **This submission is subject to review by City Engineer (at the applicant's cost)**.
 4. A description of how open space areas identified on the plan will be managed, including the submission of any legal documents associated with such management plan. **All legal documents are subject to review by City Attorney (at the applicant's cost)**.
 5. A description of any management structure, such as a homeowners association, that may be established to manage project improvements. **All documents associated with the management structure are subject to review by City Attorney (at the applicant's cost)**.
 6. Evidence of the ability to provide a performance guarantee, if required, for the construction of project infrastructure. **The final performance guarantee documents are subject to review by City Attorney (at the applicant's cost)**.
 7. Submission of information regarding how the dwelling units that will be constructed will **satisfy address** "green" and energy efficiency standards.
 8. Submission of information to demonstrate that the applicant has the financial and technical ability to construct and operate the project. More specifically, the City seeks information regarding past projects which the

applicant has developed and managed, and how the applicant may be involved in the management of the proposed project.

9. Submission of information that identifies how the project will satisfy requirements of this ~~d~~Division that the project will be managed to ensure long-term affordability. **All documents regarding long-term affordability shall be subject to review by City Attorney (at the applicant's cost).**
 10. Submission of information that describes how project construction will occur, including any phasing of construction which the applicant may propose.
- (2) Planning Board review process. The Code and Planning Department, within 30 days of receipt of a final plan application that appears to be complete, shall schedule ~~such~~ **said** application for review by the Planning Board. The final plan shall be submitted within six months of ~~b~~Board approval of the preliminary plan unless the ~~b~~Board grants an extension **for good cause shown by the applicant**. The review process shall include the following steps:
- (a) The Planning Board shall conduct a public hearing regarding the final plan application and shall review ~~such~~ **said** plan at a public meeting to determine project compliance with City requirements. The ~~d~~Department shall provide written notification of the meeting and hearing by first class mail to property owners located within 250 feet of the project. ~~Such~~ **Said** notification shall be mailed a minimum of 13 calendar days prior to the ~~b~~Board meeting and hearing. Written notice is required only for the first ~~b~~Board meeting at which a final plan is reviewed.
 - (b) The ~~d~~Department, on behalf of the ~~b~~Board, shall publish at least two times in a newspaper of local circulation, notice of the public meeting and hearing referenced in (a) above. The date of publication of the first notice shall be a minimum of seven days in advance of the meeting and hearing.
 - (c) The ~~b~~Board shall make a finding regarding the completeness of the application and if it qualifies for approval as a final plan. The ~~b~~Board shall review the criteria in **Section** 102-817(1)(a) and (b) in making its determination, and shall consider factors identified in the Section 102-818, Development Standards for a Rural Affordable Housing Development. The ~~b~~Board shall adopt specific findings of fact identifying how the project satisfies the above development standards, and in the case of a project that involves a subdivision of a property, shall find that the project satisfies requirements of Section VII of the City Subdivision Ordinance (**Chapter 94, that has not been codified**).

- (d) An applicant shall record in the Waldo County Registry of Deeds a final plan approved by the Planning Board within 90 days of its approval, or said approval shall be considered null and void.

Sec. 102-818 Development standards for a rural affordable housing development.

[Ord. of 4-6-2010(3)]

An application to establish a rural affordable housing development project shall comply with the development standards identified in this ~~s~~Section. The Planning Board shall determine applicant compliance with said standards, and shall make findings in completing its review of a final plan describing why it determined the project complies with these standards. Consistent with the purposes of this ~~d~~Division, the City has presented an applicant flexibility in the lay-out and design of a project in the interests of achieving the development of additional affordable housing. Similarly, it is recognized that the Planning Board may exercise latitude in the application of these standards to assist in achieving the desired goal, and that what is appropriate for one affordable housing project or site, may not be appropriate for a different affordable housing project. As such, the ~~b~~Board will consider the respective merits of each application, apply the standards to the specific characteristics of each site and proposed project, and determine if a proposed project can satisfy City goals and standards.

Development standards that an applicant must satisfy include the following:

- (a) Minimum lot size and minimum road frontage. Any lot ~~which that~~ is created shall, at a minimum, satisfy the minimum lot size requirement for installation of a subsurface wastewater disposal system. It is expressly understood and expected that the ~~b~~Board shall allow the establishment of lots that are less in size, and potentially much less in size, and ~~which that~~ have lesser road frontage, than normally required for a lot established in the respective zoning district. The size of each proposed lot and the amount of frontage for each lot shall be appropriate for the intended purpose. Further, the lay-out and shape of the lot shall recognize natural and topographic characteristics of the property.
- (b) Number of dwelling units or lots. A project shall have a minimum of two lots or dwelling units and no more than seven lots or dwelling units. The City envisions ~~that~~ these provisions ~~applying most often will apply~~ to the development of single-family dwelling units, however, an applicant may propose the development of one or more two-family or ~~three-family~~ dwelling units ~~structures, and a maximum of one four-family dwelling unit structure~~. An applicant that proposes the development of two-family, ~~or three-family, or four-family~~ dwelling units ~~structures~~ shall demonstrate why such are appropriate for this site and project, and why the method of ownership proposed is appropriate and workable. ~~Multi-family dwelling units are prohibited.~~ ~~Flex housing is an allowed use for a rural affordable housing project.~~

- (c) Lay-out of lots and dwelling units. The lay-out and design of the lots and dwelling units shall recognize the intended purpose of the project, the number of lots and dwelling units proposed, the natural characteristics and topography of the property, the project's location in Belfast and the characteristics of surrounding development, and to the extent practical, how to maximize the privacy afforded to each dwelling unit. The goal is to establish a development that is well suited for the property and its location.
- (d) Structure setbacks and building envelopes. Consistent with the purposes of this **d**Division, the Planning Board shall have the authority to allow lesser structure setbacks than apply to the respective zoning district in which the project is located. The applicant shall be responsible for identifying the setbacks of all **proposed** structures **proposed** and shall identify building envelopes in which all proposed and future development can occur. The **b**Board shall determine if the structure setbacks proposed are appropriate for this project, and shall consider factors such the natural characteristics of the property, the project's orientation to the main road, the size and shape of the proposed lots, the desire for privacy between the dwelling units in the project and dwelling units and development on surrounding properties, and the amount of future development that could occur on the proposed lots.
- (e) Site circulation, road construction and traffic impact assessment. The applicant must examine how traffic will safely enter and exit the site, and how internal site circulation will be provided for the project. The goal is to serve all project development by a single point of access onto the adjacent existing street, however, this does not preclude the **b**Board from approving more than one point of access. In the case of two lot divisions, a common driveway is desired.

It is expressly understood that the **b**Board may allow the construction of driveways and roads that are of lesser standard than those specified in **the** Chapter 98, Technical Standards, ~~of the City Code of Ordinances~~. This approach is permitted because of the few number of dwelling units and minor amount of traffic which such a project may generate, and because narrower roads allow a better project lay-out and design and often encourage lower traffic speeds. The **b**Board shall use the following standards as guidelines in determining the appropriate construction standard for the access driveway:

1. An access road that serves three or more lots shall have a minimum travel width of 16 feet width and a minimum width shoulder of two feet.
2. The access road may be paved or may remain a gravel surface. In general, **access** roads greater than 500 feet in length should be paved. The **b**Board will consider the number of lots and characteristics of the road in determining if the road should be paved or remain gravel. If the **b**Board allows a road to remain a

gravel surface, a minimum of the initial 25 feet of the road that connects to the adjacent street, including the full extent of the road radius, shall be paved.

3. If a turn-around is required at the end of the road, the turn-around may be a hammerhead rather than a cul-de-sac.
 4. Lay-out of the road shall satisfy project needs and shall conform with existing topography and natural features of the site to the greatest extent practical. The City strongly discourages any road grade to be greater than 8%, **however, this is not a maximum grade standard.** The City also requires that the grade of the point of access (as measured from the edge of the existing road) onto the existing street be no greater than 3% for the initial 75 feet of the access road.
- (f) Driveway construction and location. Driveways that serve the individual house lots shall be a minimum of 12 feet in width and no greater than 14 feet in width, **and** may be of a gravel surface, ~~and shall provide an opportunity for all parked vehicles to turn-around on the lot.~~ Further, all private driveways shall be accessed via the road constructed for the project, and shall not enter directly onto the existing adjacent street, unless the **bB**oard finds that there is no practical alternative **other than** to allowing a private driveway access onto the adjacent street. **If the Board approves a driveway that can enter directly onto an existing adjacent street, the driveway shall provide an opportunity for all parked vehicles to turn-around on the lot.**
- (g) Stormwater management. An applicant shall demonstrate how stormwater generated from project development ~~will~~ **shall** be effectively managed. The City encourages proposed development to use management approaches that are consistent with the low impact development practices, **such as the approaches** identified ~~in the Maine State Planning Office manual~~ "LID Guidance Manual for Maine Communities" **published by the former Maine State Planning Office.** The goal is to use a site's natural topography, particularly vegetated buffer areas, to assist in managing stormwater, rather than encouraging the construction of major on-site stormwater detention or retention facilities.

The Planning Board, in its review of a project, shall recognize that the goal is to ensure that post development stormwater flows shall be no greater than predevelopment flows, which is consistent with the stormwater requirement in the Chapter 98, Technical Standards, however, the methods of managing stormwater may vary from those identified in these referenced standards. Further, the **bB**oard shall consider methods the applicant will use to address stormwater quality in addition to the volume and peak flow of stormwater. The **bB**oard also ~~will~~ **must** consider how stormwater generated on this site may impact existing public and private stormwater facilities in the area; particularly facilities on the adjacent street.

- (h) Wastewater disposal. The City anticipates that a proposed project will rely upon individual or common subsurface wastewater disposal systems to manage wastewater. The applicant must demonstrate that ~~the~~ **all** subsurface wastewater disposal systems will comply with all ~~s~~State requirements, and that the location of any subsurface system will accommodate the proposed development, including not adversely affecting the development of other lots in this **division**/subdivision or development of adjacent properties. If one or more common wastewater disposal systems are proposed, the applicant shall demonstrate why such is appropriate for this project and how such systems will be maintained. **A project that involves the construction of flex housing or a three-family or four-family dwelling unit structure shall comply with the subsurface wastewater disposal standards identified in the Article IX, Performance Standards, Division 7, Supplemental Performance Standards for a Multi-Family or Flex Housing Project, Sec 102-1343, Wastewater Pollution and Subsurface Wastewater Disposal, (b), Subsurface Wastewater Disposal System, in this Chapter.**
- (i) Potable water. The applicant shall demonstrate how a potable source of water shall be provided for each of the proposed dwelling units.
- (j) Utilities. ~~The City prefers that all~~ **When practical**, utilities **shall** be installed underground, however, the Planning Board can allow above ground utilities if it deems that such are appropriate for the project because of the characteristics of the proposed site and surrounding development **and how any difference between the cost of installing underground utilities verses overhead utilities could adversely impact the goal of constructing affordable housing. If above ground utilities are allowed, the City prefers that the connections to the individual housing units be installed underground. Transformer boxes, pumping stations, and meters associated with underground services shall be located so as not to be unsightly or hazardous to the public.**
- (k) Provision of open space. A rural affordable housing development shall provide a minimum of 30%, and if possible 50%, of the proposed development as permanently protected open space. The open space areas that are proposed shall consider and include lands that serve purposes such as, but not limited to, the following: the preservation or protection of natural features such as but not limited to streams, wetlands, wildlife habitat, and steep slopes; vegetated buffer areas between the proposed development and neighboring development and roads; preservation of existing agricultural uses; preservation of scenic views; preservation of cultural features that are part of a rural landscape such as stonewalls and significant trees; and establishing areas that provide opportunities for active and passive recreation, such as trails and linkages to trail systems located off the property. The ~~b~~**B**oard, in considering the open space area that is proposed, shall consider factors such as but not limited to: the contiguity of the open space areas, both on this property and off-site; the quality of the proposed open space and its intended purpose; the size and

location of the project; any facility improvements that are proposed, such as the construction of a trail; and how the open space area will benefit the project and the community.

- (l) Open space ownership, use and maintenance. The applicant must identify how the proposed open space areas will be owned and maintained, and how such open space areas can be used. The Planning Board will review the applicant proposal and determine if it is consistent with the following guidelines:
 1. Open space areas must be clearly designated on the approved plan with the following notation: "designated open space shall not be further subdivided or used for future building lots".
 2. Parties who can use the open space areas must be identified. For example, is use restricted to persons within the project, or can other parties also use the open space areas.
 3. The type of uses which are appropriate for the open space areas must be identified. For example, passive recreation, agriculture, preservation of a vegetated buffer which entails a limitation on the removal of vegetation, or maintaining a scenic view in which it may be appropriate to encourage the regular maintenance of vegetation or to prevent planting certain vegetation.
 4. How the open space areas will be owned must be identified and approved by the **bB**oard. Options for the ownership of the open space lands typically will include one or more of the following approaches:
 - a. Dedication of the open space to the City of Belfast or a suitable land trust if either is willing to accept the open space area.
 - b. Dedication of development rights of open space to a suitable land trust or a state agency with ownership by a private individual or homeowners association.
 - c. Ownership of the open space by a homeowners association which assumes full responsibility for its preservation and maintenance. This approach typically shall involve protective deed restrictions.
 - d. Ownership of the open space by a private individual, such as the owner of a respective lot, with open space protection deed restrictions enforceable by any land owner within the project and enforceable by the City, likely through the Code Enforcement Officer.
 5. How the open space areas will be managed and maintained must be identified and approved by the **bB**oard. This includes identifying how any

funds that are needed to carry-out the management and maintenance responsibilities will be raised and administered, and the key elements of the management plan must be enumerated.

- (m) Management of construction activities. The **bB**oard shall review and determine the appropriateness of the applicant's proposed construction schedule and how the applicant proposes to effectively manage potential adverse noise, dust, fume, vapor, gas, odor, and similar noxious impacts on surrounding uses and properties during project construction. The City recognizes that some degree of noxious impact likely is unavoidable. Further, the **bB**oard shall consider the appropriateness of any phased construction schedule for the project that is presented.
- (n) Technical and financial ability of applicant. The applicant shall demonstrate that they have the financial and technical ability to develop the site in a good quality manner. The **bB**oard shall determine if the applicant has adequate resources to construct and manage the project. The **bB**oard specifically will consider the applicant's experience in constructing and operating projects that are intended to provide affordable housing.
- (o) Maintaining long term affordability concerns. Persons who purchase or occupy dwelling units located in a rural affordable housing development must satisfy applicable income guidelines; reference Chapter 66, General Provisions, which includes a definition of a rural affordable housing development. The City requires that any dwelling unit approved through this type of development be restricted to use as affordable housing for a minimum period of 10 years and preferably longer. The applicant must identify the method proposed to ensure the affordability of the units (reference final plan submissions), and the **bB**oard shall determine if the method proposed satisfies the City's intent to encourage the provision of housing units to persons who satisfy the City's established income guidelines. For example, the method may involve deed restrictions on the sale of the unit, and such restrictions would limit when a unit could be sold, who receives proceeds from the sale, and to whom the dwelling unit/property could be sold. This is a critical issue.
- (p) Management structure. The proposed project likely will involve the construction and maintenance of common infrastructure, such as roads and stormwater facilities, and potentially commonly owned open space areas. The applicant shall identify an acceptable approach to manage such infrastructure and the **bB**oard shall determine if this methodology is appropriate. The management structure may involve approaches such as but not limited to: the establishment of a home-owner's association, use of deed covenants, or authorizing the City to enforce mutual agreements. In reviewing the appropriateness of the proposed management structure, the **bB**oard shall consider the scope of management responsibilities, the extent of facilities that will be managed, and the ability of the property owners or organization to perform identified responsibilities. ~~It is noted that t~~The City is unlikely to accept the project

infrastructure that is constructed as City facilities, particularly because such improvements likely will be constructed to standards that are less than those typically required by the City for City acceptance., and As such, the property owners likely will be responsible for the long-term maintenance of such facilities.

(q) Performance guarantee. The applicant must provide a performance guarantee equal to 120% of the cost to construct project infrastructure, and the bBoard shall determine the appropriateness of the method of performance guarantee proposed. Options that the applicant may propose and that the bBoard may require generally shall consist of one or more of the following:

1. An irrevocable letter of credit payable to the City of Belfast.
2. A performance bond **running to the City and issued by a surety company acceptable to the City.**
3. An escrow account in which funds are on deposit with the City of Belfast or are on deposit with a financial institution and the City controls the distribution and payment on funds in this account.
4. Limitations on the issuance of occupancy permits until project infrastructure is completed.

The Planning Board may use the services of City Attorney (at the applicant's cost) to review the specific terms of a performance guarantee.

(r) Building construction standards and energy efficiency. The City recognizes that the amount of energy use and the cost of energy is a significant factor in supporting the long-term affordability of dwelling units that are constructed. Applicants shall address how the units constructed ~~comply with the Maine State Housing Authority Green Building Standards dated August 2005 or similar standards which the applicant may propose that the board deems acceptable. The goal is to ensure the construction of units that~~ incorporate construction standards and materials that recognize energy efficiency.

(s) Other concerns. The applicant shall demonstrate how snow will be plowed and stored, how fire protection concerns are addressed, and similar operational concerns. The bBoard will determine if the applicant has successfully addressed such issues.

Sec. 102-819 Appeal of decision.

[Ord. of 4-6-2010(3)]

An administrative appeal of a decision issued by the Planning Board shall be filed and acted upon in accordance with provisions of Chapter 102, Zoning, Article II,

Administration, Division 4, Appeals and Variances. An applicant, however, cannot seek a dimensional variance from any provision in this **d**Division.

Sec. 102-820 through Sec. 102-830. (Reserved)