

CHAPTER 90 SITE PLAN

ARTICLE V

~~Board~~ Review of a Multifamily Housing Project

Sec. 90-130. Site plan review required. [10-6-2020]

(a) Pursuant to 30-A M.R.S.A. § 4402, 6, (**State Subdivision Law**) effective July 1, 2018, a division of a new or existing structure into three or more dwelling units (multifamily housing) **in a 5 year period**, whether the division is accomplished by sale, lease, development or otherwise, regardless of the size of the structure, shall be subject to review and approval by the Planning Board pursuant to the requirements of Chapter 90, Site Plan.

(b) Effective July 1, 2018, a structure that was constructed on or before July 1, 2018, that qualifies as multifamily housing in which ~~one~~ **three** or more new **dwelling** units **in a 5 year period** are proposed to be established, regardless of the size of the structure, shall be subject to review and approval by the Planning Board pursuant to requirements of Chapter 90, Site Plan.

(c) A multifamily housing project that is subject to Site Plan review shall be exempt from review as a subdivision (Chapter 94, Subdivisions), unless the project involves the creation of three or more lots.

(d) An existing multifamily dwelling use or structure in which less than 3 new dwelling units are proposed to be established in 5 years shall be subject to review and approval by the Code Enforcement Officer, notwithstanding any previous approvals requiring otherwise.

Sec. 90-131. Site plan review process. [10-6-2020]

(a) A multifamily housing project that involves the development of six or more new dwelling units in a new structure or structures, the development of six or more new dwelling units in an existing structure or structures, or the development of six or more new dwelling units in an existing multifamily housing project that has or has not previously been reviewed and approved by the Planning Board, shall be subject to Planning Board review and approval pursuant to procedures for both a Preliminary Plan, reference this Chapter, Article III, and a Final Plan, reference this Chapter, Article IV.

(b) A multifamily housing project that involves the development of five or less new dwelling units in a new structure or structures, the development of five or less new dwelling units in an existing structure or structures that are used for multifamily housing, or the development of five or less new dwelling units in an existing multifamily housing project that has or has not previously been reviewed and approved by the Belfast Planning Board, shall be subject to ~~Planning Board~~ review pursuant to a consolidated Preliminary Site Plan and Final Site Plan process. An applicant shall be required to submit all information required pursuant to Secs. 90-71, 90-72, 90-100 and 90-101 in an application. The Planning Board shall be required to conduct a public hearing on the proposed project, **should it trigger their review**, and shall provide public notification of the hearing pursuant to Sec. 90-45 requirements.

(c) Notwithstanding the provisions of Subsection (a) or (b) above, a project in which a minimum of 66% of the proposed dwelling units qualify as affordable multifamily housing dwelling units, regardless of the number of dwelling units proposed to be developed, or the number of structures in which said units are

located, shall be subject to Planning Board review pursuant to a consolidated merged Preliminary Plan and Final Site Plan process. An Applicant shall be required to submit all information required pursuant to Secs. 90-71, 90-72, 90-100, and 90-101 in an application. The Planning Board shall be required to conduct a minimum of two public hearings on the proposed project application, with said hearings occurring a minimum of seven days apart, and shall provide public notification of the hearings pursuant to Sec. 90-45 requirements.

(d) A multifamily housing project that is proposed as an element of a mixed use development, regardless of the number of multifamily units that are proposed, shall be subject to Board review pursuant to requirements of Chapter 90, Site Plan, as both a preliminary plan, reference Article III, and a Final Plan, reference Article IV. This requirement also applies to multifamily housing that may qualify as affordable housing.

(e) A multifamily housing project that involves the creation of less than 2 dwellings in 5 years in an existing or new structure shall be subject to review and approval by the Code Enforcement Officer, notwithstanding any previous approvals requiring otherwise.

Sec. 90-132. Special criteria for a multifamily housing project. [10-6-2020]

The number of dwelling units that can be constructed on a property that includes the development of multifamily housing shall be based on net residential density. The following criteria shall not be included in the calculation of the lot area to determine net residential density and the maximum number of dwelling units that can be developed on the property:

- (a) Land that is situated below the high annual tide or normal high-water mark of any water body.
- (b) Land that is located within the 100-year flood plain as identified on the official Federal Emergency Management Agency flood maps adopted by the City of Belfast, reference Chapter 78, Floods. The Board, however, can consider information submitted by a registered land surveyor that demonstrates that the property in question lies at least two feet above the 100-year flood level.
- (c) Land that is part of a publicly or privately owned street right-of-way or easement.
- (d) Land that is part of a utility easement that benefits an off-site property or properties.
- (e) 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.
- (f) Land that has been created by filling or draining a pond or wetland.
- (g) Land that is located on steep slopes that exceed a grade of 20%.