

DOCUMENT 11-A

**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 11. EASTSIDE DISTRICTS**

Notes & Information to the Public on the Proposed Amendments.

1) Background Information and Purpose of Amendments.

The City Council, as recommended by the Belfast Planning Board, adopted a proposal at its meeting of April 5, 2022, to establish 7 new zoning districts and certain Special Use Areas (zoning for individual properties in the Outside Rural-1 and Outside Rural-2 zoning districts) that would apply to an area that the Board called 'Outside Rural'. The proposed new zoning districts were: Residential-4, Residential-5, Residential-6, Route 3 Rural, Swan Lake Avenue Mixed Use, Outside Rural-1, and Outside Rural-2. The location of these zoning districts are depicted on the City's updated Official Zoning Map (adopted April 2022). The Council's action also resulted in the repeal of 7 zoning districts, including: General Purpose-A, Residential/Agricultural I, Residential/Agricultural II, Protection Rural, Protection Rural-2, Route 141 and Mill Lane Commercial, and Residential Growth, as well as adjustments to the boundaries of 4 other zoning districts, including: Residential II, Airport Growth, Searsport Avenue Commercial, and Route 137 Commercial.

The Planning Board, as recommended by the Planning and Codes Department, considered and chose to recommend additional amendments to the City Code of Ordinances. The main purposes of the proposed amendments recommended to the City Council by the Planning Board include the following:

- 1) To reorganize information in Chapter 102, Zoning, Article V, District Regulations, that would establish 4 main Divisions in Article V that are generally based on the geographic location of the zoning districts. The 4 main Divisions include: Division 9, Inside the Bypass (no amendments to this area are included in the Board's recommendations to the Council); Division 11, Eastside Districts (a new Division that is the subject of these amendments); Division 14, Southerly Districts (reference specific amendments now

proposed by the Board); and the former Division 16, Outside Rural, that is proposed to be established as Division 16, Northwesterly of Bypass and Outside Rural Districts (reference specific amendments now proposed by the Board).

- 2) The newly proposed Division 11, Eastside Districts, would include 5 zoning districts. The Districts include: Searsport Avenue Commercial (SAC), that is now Division 29; Searsport Avenue Waterfront (SAW), that is now Division 13; and 3 zoning districts that would be relocated from the Division 16, Outside Rural Districts, adopted on April 5, 2022, to the newly established Division 11, Eastside Districts, including Residential 5 (RES-5), Residential 6 (RES-6), and Swan Lake Avenue Mixed Use (SLA-MU).
- 3) The newly established Division 11 would incorporate a common Use Tables to identify uses that are permitted or prohibited in the above 5 zones, as well as a common Dimensional Table to identify the dimensional standards that apply to the 5 zoning districts. The City has gradually been converting all zoning district standards to common Use and Dimensional Tables.
- 4) There are no significant amendments proposed for the RES-5, RES-6, or SLA-MU zoning districts that were adopted on April 5, 2022; there are only a few minor tweaks. The 2 main changes to both the SAC and SAW zoning districts are to incorporate the opportunity for 'flex housing' (housing option introduced in April 2022 for most Outside Rural zoning districts), and to establish maximum lot coverage standards for both residential and nonresidential uses. In addition, in a separate proposal (Article X, Contract Rezoning), the Planning Board is recommends eliminating the current contract rezoning and floating zone requirement for the SAC zone for retail uses that are larger than 40,000 square feet in size, but less than 75,000 square feet in size.
- 5) The proposal does not affect any of the zoning district boundaries that are now in effect for any of the above 5 zoning districts.

The information in this amendment includes revisions to the following:

- Document 11-A (this document), identifies overall standards for the zoning districts in Division 11, Eastside zoning districts, including the introductory standards and the Footnotes for the common Use Table (Document 11-B) and the common Dimensional Table (Document 11-C).
- Document 11-B is the common Use Table that identifies the Uses that would be permitted or prohibited in each zoning district, and the City authority responsible for review of the permit application; the Code Enforcement Officer or the Planning Board.
- Document 11-C is the common Dimensional Table that identifies the Dimensional Standards that would apply to each zoning district. The Dimensional Standards identify requirements for the minimum lot size, the minimum amount of lot frontage, structure setbacks from property lines, density standards (number of dwelling units per size of lot), maximum lot coverage (based on amount of impervious surface), and maximum structure height.

The Planning Board believes that the amendments it is recommending are consistent with and would assist in implementing recommendations in the City's adopted Comprehensive Plan (March 2021). Interested parties are encouraged to read the full text of the proposed amendments and not to rely upon this summary to gain a more complete understanding of the proposals.

2) Recommendation of Belfast Planning Board.

The amendments presented at the City Council's Second Reading were reviewed and prepared under the direction of the Belfast Planning Board. The Planning Board conducted a public hearing on this amendment 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. One individual who commented raised concerns regarding certain structure setback requirements that apply to the SAW zone, and some of the differences between uses allowed in the SAW zone compared to the SAC zone and how such differences may have adversely affected the amount of nonresidential development on Searsport Avenue.

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: 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.

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

CHAPTER 102. ZONING

ARTICLE V, DISTRICT REGULATIONS.

DIVISION 11. EASTSIDE ZONING DISTRICTS

Sec. 102-511. Council adoption of Eastside Zoning District Regulations.

The City Council, at its meeting of April 5, 2022, adopted District Regulations for a new Division in Article V; Division 16, Outside Rural Districts. The April 5 amendments for Division 16 included 3 zoning districts that are now being relocated to this newly established Division; Division 11, Eastside Districts. The 3 zoning districts that are being relocated from Division 16 to Division 11 include: Residential-5 (Res-5), Residential 6 (Res-6), and Swan Lake Avenue Mixed Use (SLAMU). In addition, the Council included the standards for the Searsport Avenue Commercial (SAC) and Searsport Avenue Waterfront (SAW) zoning districts in Division 11, Eastside Districts. The Council, in adopting the new Division 11 regulations, concurrently repealed the standards in Division 16 for the Residential-5, Residential-6, and Swan Lake Avenue Mixed Use districts, and the standards in Division 13, Searsport Avenue Waterfront, and Division 29, Searsport Avenue Commercial. The establishment of Division 11, Eastside Districts, did not result in any revisions to the zoning district boundaries for the above 5 zoning districts as such were identified on the Official Zoning Map last amended on April 5, 2022.

Sec. 102-512. Standards that apply to the Eastside Zoning Districts.

- a) City Code of Ordinances, Subpart B, Land Use Regulations that apply to the Eastside zoning districts include the following:
- 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 apply to the construction of buildings that are permitted in Division 11.
 - 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 requirements.
- 5) Chapter 86, Signs. The provisions of Chapter 86, Signs, apply to any person who proposes to install a sign on any property in any zoning district located in any Eastside zoning district.
- 6) Chapter 90, Site Plan. The provisions of Chapter 90, Site Plan, apply to any use in any Eastside zoning district that requires a Site Plan permit.
- 7) Chapter 94, Subdivisions (Ordinance provisions not codified). The provisions of Chapter 94, Subdivisions, apply to any use or property in any Eastside zoning district that qualifies as a subdivision.
- 8) Chapter 98, Technical Standards. The provisions of the Chapter 98, Technical Standards, apply to all new or expanded development of any use in any Eastside zoning district.
- 9) Chapter 102, Zoning. Applicable provisions of Chapter 102, Zoning, apply to all new or expanded development of any use or property in any Eastside zoning district.

b) Nonconforming Uses of Record.

A use located in the Residential 5, Residential 6 and Swan Lake Avenue Mixed Use districts that existed prior to April 5, 2022, (original date of adoption of Division 16, Outside Rural amendments), or prior to --- date of Council action ---, (date of adoption of Eastside amendments) in the Searsport Avenue Commercial or Searsport Avenue Waterfront zoning districts, 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 102-514, Table of Uses, as a permitted use requiring Code Enforcement Officer review or a permitted use requiring Planning Board review are allowed in any Eastside zoning district identified in Division 11. All other uses are prohibited.

Sec. 102-513. Introduction to Table of Uses.

The Table of Uses in this Division, reference Section 102-514, identifies uses that are permitted in the following zoning districts for the Eastside area as such are shown on the Official City Zoning Map: Residential-5 (Res-5), Residential-6 (Res-6), Swan Lake Avenue Mixed Use (SLAMU), Searsport Avenue Commercial (SAC), and Searsport Avenue Waterfront (SAW). Section 102-515 identifies Footnotes to the Use Table. The Footnotes, as such are described in Section 102-515, 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, lower case].

Sec. 102-514. Table of Uses for Eastside zoning districts.

(Reference Attached Table of Uses - Document 11-B)

Sec. 102-515. Footnotes to Use Table for the Eastside zoning districts.

The Footnotes in Sec 102-515 apply to the Use Table for the Eastside area; reference Sec 102-514, Table of Uses. The Footnotes identify specific provisions that apply to certain uses identified in the 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, lower case].

*[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 102-532) 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 (net 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, 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; 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 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 Eastside 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 and 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 Planned Unit Development 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] Reference Chapter 102, Zoning, Article VI, Planned Unit Development, Division 2, Rural Affordable Housing Communities. A maximum of 4 dwelling units is permitted in any single structure located in a Rural Affordable Housing Planned Unit Development.
- *[i] A manufactured housing community must comply with standards identified in Chapter 102, Article VIII, Supplemental 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.
- *[k] Reference the Division 1.5, Performance Standards for Home Occupations, identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations.
- *[l] Reference standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 6, Bed and Breakfast Establishments.
- *[m] Professional Offices and Health Care Offices.

If a professional office and/or health care use is identified as a permitted use, the maximum size of a building/structure in which a professional office or health care office is located shall be as follows in the following zoning districts:

- 1) In the Swan Lake Avenue Mixed Use district, professional office or health care office can be a maximum of 4,000 square feet in size.
- 2) There is no maximum size limit on a professional office or health care office in the Searsport Avenue Commercial or Searsport Avenue Waterfront zoning districts.

Notwithstanding the above, if a professional office or health care office is located in a building/structure that is used (qualifies) as a shopping center, and there is a limit on the size of a structure 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] If a retail use is identified as a permitted use, the maximum size of a retail use shall be as follows in the following identified zoning districts:
 - 1) In the Swan Lake Avenue Mixed Use zoning district, a retail use can have a maximum total floor sales area of 4,000 square feet, and an additional 4,000 square feet of warehouse/storage area in any single structure. This amount of retail development is the maximum amount of retail use that can occur on a property that satisfies the minimum lot size requirement for a nonresidential use.
 - 2) In the Searsport Avenue Waterfront zoning district, the maximum size of a single retail use in a single structure, or multiple retail uses in any single structure, shall be 20,000 square feet.
 - 3) In the Searsport Avenue Commercial zoning district, the maximum size of a single retail use in a single structure, or multiple retail uses in any single structure, shall be 75,000 square feet.

- 4) Notwithstanding the standards identified in 1), 2), and 3) 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 size of a structure in which such uses are located, this requirement could affect the total amount of retail 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 (a shopping center) occupied by multiple uses in certain zoning districts.

*[o] If a shopping center is a permitted use, the maximum size of a shopping center shall be as follows in the following identified zoning districts.

- 1) In the Searsport Avenue Waterfront zoning district, the maximum size of a structure in a shopping center shall not exceed 20,000 square feet.
- 2) In the Searsport Avenue Commercial zoning district, the maximum size of a structure in a shopping center shall not exceed 75,000 square feet.

*[p] If a personal service business is identified as a permitted use, the maximum size of a personal services business shall be as follows in the following zoning districts.

- 1) In the Swan Lake Avenue Mixed Use district, a personal service business can be a maximum of 4,000 square feet in size.
- 2) In the Searsport Avenue Commercial and Searsport Avenue Waterfront districts, there is no maximum size limit on the size of a personal service business or a structure in which such use is located.

Notwithstanding 2) above, if a personal service 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 for personal services 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] If a convenience store is identified as a permitted use, the maximum size of a convenience store shall be as follows in the following zoning districts.

- 1) In the Swan Lake Avenue Mixed Use zoning district, a convenience store can be a maximum of 4,000 square feet in size.
- 2) In the Searsport Avenue Commercial zoning district, the maximum size limit for a retail use (reference Footnote *[n]) shall govern the maximum size of a convenience store.

*[r] If a storage/warehouse use is identified as a permitted use, the maximum (total) size of all storage/warehouse buildings on a property shall be as follows in the following zoning districts.

- 1) In the Swan Lake Avenue Mixed Use, zoning district, the total size of all storage/warehouse buildings on a property shall not exceed 8,000 square feet (for

- each 2 acres of lot size), and the property on which a storage/warehouse facility is located shall be a minimum of 2 acres in size.
- 2) In the Searsport Avenue Commercial zoning district, there is no maximum size limit on the size of an individual storage/warehouse building or the total amount (square footage) of such buildings and use on a property.
- *[s] If a light manufacturing facility is a permitted use, the maximum size of a light manufacturing facility on a property shall be as follows in the following zoning districts.
- 1) In the Swan Lake Avenue Mixed Use, a light manufacturing facility is limited to 4,000 square feet of active manufacturing use, and an additional 4,000 square feet of interior storage space. No exterior storage of materials is allowed.
 - 2) In the Searsport Avenue Commercial zoning district, there is no maximum size limit on the size of an individual structure in which a light manufacturing facility is located or the total amount (square footage) of such buildings and use on a property.
- *[t] If a manufacturing, processing, or industrial facility is identified as a permitted use, the maximum size of a manufacturing, processing, or industrial facility, including one that allows accessory retail sales, shall be as follows in the following identified zoning districts.
- 1) In the Searsport Avenue Commercial zoning district, there is no maximum size limit on the size of an individual structure in which said use occurs, or the total amount (square footage) of such buildings and use on a property.
- *[u] A property that is used for contractor operations, including the interior or exterior storage of construction equipment and materials by a construction contractor shall be a minimum of 1 acre in size. The contractor operation, including the 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 the Division 11, Eastside Zoning District standards, (Division 11 adopted on -- insert date of Council action --), 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 expand, provided that none of the expansion is located closer to the property line than the existing nonconforming structure. All new structures constructed after -- insert date of Council action -- that are used for animal kennel operations shall comply with applicable structure setback requirements.
- *[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. The City has not adopted these standards as of the date of adoption of the Division 11 amendments).

- *[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 -- insert date of Council action --. A property that was used for boat building, retrofitting, storage, and/or repair prior to -- insert date of Council action --, that does not comply with this lot size requirement, may continue, and existing structures that were used for the above activities may expand, provided that any structure expansion complies with structure setback requirements identified in Division 11, and applicable performance standards in Chapter 102.
- *[z] A quasi-public or non-municipal use that qualifies as a Minor or Major Site Plan Development shall require review by the Planning Board. Other quasi-public or non-municipal facilities and uses shall require a permit from the CEO.
- *[aa] A fill, loam, sand, and 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 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 Board, in its review, may apply the DEP regulations, as its deems appropriate, to adopt 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 - Note: City had not adopted these standards as of the date that the Division 11 standards, as amended, were adopted), Performance Standards for Event Facilities and Outdoor Theaters.
- *[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.
- *[ff] A Telecommunications Facility must comply with requirements identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 5, Telecommunications Facilities.
- *[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 Ordinance 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] If a horse stable or barn is operated as a commercial operation, which is an operation that involves providing care for 4 or more animals and a fee is charged for services provided, the horse stable or barn must comply with the Chapter 102, Zoning, Article IX, Performance Standards, Division 4, Nonresidential Development Standards that apply to the Searsport Avenue Commercial and Searsport Avenue Waterfront zoning districts.
- *[kk] In the Residential 5 zoning district, multi-family housing and flex housing is permitted in the section of the district located on the northerly side of Robbins Road, and is prohibited in the section of the district located on the southerly side of Robbins Road. In addition, density and lot size requirements identified in Chapter 82, Shoreland, may affect the opportunity for certain properties on the northerly side of Robbins Road to construct multi-family housing or flex housing.
- *[ll] The Residential 6 zoning district prohibits the construction of a new telecommunication tower. Prior to the adoption of this prohibition in 2000, a telecommunication tower (in 1998) was constructed on a property identified as Map 8, Lot 94. The telecommunication tower has been in continuous use and operation since its installation. Consistent with federal regulations and a recommendation from former City Attorney William Kelly to the Belfast City Council, and as recognized by the City Council in its vote on November 3, 2015 regarding a specific permit request, the City shall allow the installation of additional equipment and operators (collocation) on the existing tower located on Map 8, Lot 94, subject to issuance of a permit from the Code Enforcement Officer. No new towers, however, may be constructed in the Residential 6 zone.

- *[mm] The following Article IX, Performance Standards apply to nonresidential uses in the following zoning districts; the Division 3, Nonresidential Development Standards for the Searsport Avenue Commercial and Searsport Avenue Waterfront zoning districts.
- *[nn] Reserved in this Division.
- *[oo] Bituminous asphalt plants are limited to plants that existed as of -- insert date --, the date of Council adoption of the Division 11 standards, subject to the operation being in compliance with all Site Plan and/or Use Permit standards adopted by the City.
- *[pp] Notwithstanding the standard in Use # 287 that prohibits a fill, loam, sand, and gravel extraction operation from the removal of bedrock material through blasting or any other mechanical means, or the crushing or further processing of such bedrock material, an operation that received a permit from the City prior to April 1, 2022 to conduct activities that involved the removal of bedrock material through blasting or any other mechanical means, and the crushing or processing of such bedrock material, may continue as a nonconforming use of record, provided the operation is in compliance with permit conditions established in City permits.
- *[qq] Reserved in this Division.
- *[rr] Notwithstanding the prohibition on motor vehicle, snowmobile, utility-terrain vehicle (UTV) and all-terrain vehicle (ATV) and similar repair businesses (Use # 78) in the Residential 5 zoning district, the property identified as Map 18, Lot 9, has been used for auto repair for many years prior to adoption of the Division 11 standards. The existing use shall be considered a legally established nonconforming use and the property may continue to be used for activities identified in Use # 78. Existing structures on the property may be expanded for activities allowed in Use # 78, provided any structure expansion complies with structure setback requirements for the Residential 5 zoning district. The continuation of this legally established nonconforming use of record shall be subject to requirements of Article III, Nonconformance of this Chapter.
- *[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 Planning Board review pursuant to Chapter 90, Site Plan.
- *[tt] Lumber Yards and Building Supply Stores. The size of a lumber yard and building supply retail store is subject to the following restrictions regarding the total size of the operation on the property in the following respective zoning districts.
- (1) In the Searsport Avenue Commercial zoning district, there is no specific limitation on the total amount of square feet, either interior sales and storage, or exterior sales and storage, that is used for a lumber yard and building supply retail store, provided the use offers all products identified in the definition for this use (reference Chapter 66, General Provisions). and provided the operations occur in a minimum of 3 structures, none of which are connected to one another structure.

*[uu] A motor vehicle, snowmobile, utility terrain vehicle (UTV), all-terrain vehicle (ATV) vehicle, and similar repair business shall be allowed to display 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 Swan Lake Avenue Mixed Use district, a repair business may display a maximum of 6 vehicles for sale on the property at any point in time.
- (2) In the Searsport Avenue Commercial district, there is no specific limitation on the maximum number of vehicles that can be displayed.

*[vv] An on-site child care facility (all sizes) is allowed as an accessory use to uses such as but not limited 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.

*[xx] Service Business.

If a service business is a permitted use in a respective zoning district, the maximum size of a structure in which one or more service businesses are located shall be as follows in the following zoning districts:

- 1) In the Swan Lake Avenue Mixed Use and Searsport Avenue Waterfront zoning districts, the maximum size of a structure in which a service business is located is 20,000 square feet, and there may be more than one such structure on a property.
- 2) In the Searsport Avenue Commercial zoning district, there is no specific limit on the size of a structure used for one or more service delivery businesses, or the total amount (square footage) of such structures on a property.

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 Table 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. 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. 516 - 519 and Sec 528 - 529. Reserved.

Sec. 102-530. Introduction to Dimensional Standards and Dimensional Standards Table.

The Dimensional Standards Table in this Division, reference Section 102-532, identifies dimensional standards that apply to the following zoning districts for the Eastside districts as such are shown on the Official City Zoning Map: Searsport Avenue Commercial (SAC), Searsport Avenue Waterfront (SAW), Residential-5 (Res-5), Residential-6 (Res-6), and Swan Lake Avenue Mixed Use (SLA-MU). Section 102-533 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 102-533. Footnotes are identified in the Dimensional Standards Table by the following designation: * [upper case letter].

Sec. 102-531. Standards that apply to Dimensional requirements in the Outside Rural area.

a) Applicability of dimensional standards.

Any property or structure established on or after the Council adopted this Division on -- enter date of Council action -- in the Searsport Avenue Commercial, Searsport Avenue Waterfront, Residential-5, Residential-6, or Swan Lake Avenue Mixed Use zoning districts 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 -- enter date of Council action -- (date of adoption of Division 11) in the Searsport Avenue Commercial, Searsport Avenue Waterfront, Residential-5, Residential-6, or Swan Lake Avenue Mixed Use zoning districts that does not comply with the minimum lot size or minimum lot frontage requirements identified in Sec 102-532, 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, other applicable standards in the Code of Ordinances, and if the property uses a subsurface wastewater disposal system for managing wastewater, is able 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 -- enter date of Council action -- (date of adoption of Division 11), in the Searsport Avenue Commercial, Searsport Avenue

Waterfront, Residential-5, Residential-6, or Swan Lake Avenue Mixed Use zoning districts that does not comply with any of the following Sec 102-532 (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 -- enter date of Council action -- (date of adoption of Division 11) in the Searsport Avenue Commercial, Searsport Avenue Waterfront, Residential-5, Residential-6, or Swan Lake Avenue Mixed Use zoning districts that does not comply with density standards identified in Sec 102-532, 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 respective minimum lot size requirement in Sec 102-532, 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 102-532. The total amount of lot frontage, however, only needs to satisfy the minimum amount of lot frontage required in Sec 102-532 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 102-532, 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 102-532 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 setbacks 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.

Sec. 102-532. Dimensional Standards Table.

(Reference Attached Dimensional Standards Table - Document 11-C)

Sec. 102-533. Footnotes to the Dimensional Standards Table.

The Footnotes in Sec. 102-533 shall apply to the Dimensional Standards Table for the Eastside zoning districts; reference Sec 102-532, 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 the subject of the Footnote, and are shown in the Dimensional Standards Table as follows: *[upper case letter].

*[A] For Division 11, Eastside Districts, Footnote *[A] applies to the Swan Lake Avenue Mixed Use zoning district.

If a property is proposed for development for a multi-family, flex housing, or non-residential use, the minimum amount of lot size and lot frontage, if the lot has frontage on a road, identified for the a respective zoning district, shall increase in accordance with the following table based on the amount of traffic generated by the use on the property:

- A.1 50 or less Vehicle Trips Per Peak Hour (VTPPH). Minimum lot size and lot frontage identified in the Dimensional Table
- A.2 More than 51 VTPPH, but less than 100 VTPPH. Property must satisfy the minimum lot size, and, the amount of lot frontage must increase by 15 percent more than the minimum amount of lot frontage identified in the Dimensional Table.
- A.3 More than 100 VTPPH, but less than 200 VTPPH. Size of property must be 25 percent greater than the minimum lot size, and the amount of lot frontage must increase by 25 percent more than the minimum amount of lot frontage identified in the Dimensional Table.
- A.4 More than 200 VTPPH, but less than 300 VTPH. Size of property must be 50 percent greater than the minimum lot size, and the amount of lot frontage must increase by 50 percent more than the amount of lot frontage identified in the Dimensional Table.
- A.5 More than 300 VTPPH. Size of property and amount of lot frontage must be 100 percent greater than the minimum lot size and minimum lot frontage identified in the Dimensional Table.

*[B] The amount of front setback for structures in the Residential 5 zoning district shall comply with the setback standards identified in the map entitled 'Residential 5 Zoning District,

Front Setback Map', that is included in Sec. 102-532, Dimensional Standards Table, Subsections 3a - 3d.

- *[C] For Division 11, Eastside Districts, Footnote *[C] applies to the Swan Lake Avenue Mixed Use zoning district

The amount of structure setback identified in the Dimensional Standards Table shall apply to structures constructed after -- insert date of Council action -- (date of adoption of Division 11, Eastside District amendments). Structures constructed prior to -- insert date of Council action -- (date of adoption of Division 11, Eastside District amendments) shall, at a minimum, comply with the following standards: front setback - 30 feet, side setback - 15 feet, and rear setback - 15 feet.

- *[D] The limit on the maximum number of dwelling units that can be constructed in a single multi-family housing structure in the Swan Lake Avenue Mixed Use zoning district zoning is 30, and the maximum number of bedrooms in a structure is 60, regardless if a property is connected to public sewer or uses a subsurface system to manage wastewater.
- *[E] For Division 11, Eastside Districts, Footnote *[E] applies to the Searsport Avenue Commercial and Searsport Avenue Waterfront zoning districts.

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 Searsport Avenue Commercial or Searsport Avenue Waterfront zoning districts 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.

- *[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] For Division 11, Eastside Districts, Footnote *[H] identifies the structure setback requirements for a nonresidential structure in the Searsport Avenue Commercial and Searsport Avenue Waterfront zoning districts.

A nonresidential structure located in the Searsport Avenue Commercial or Searsport Avenue Waterfront zoning districts shall comply with the following standards identified in

Chapter 102, Zoning, Article IX, Performance Standards, Division 4, Nonresidential Development Standards:

1. Sec 102-1243. Minimum requirements for nonresidential structures - front setback;
2. Sec 102-1244. Minimum requirements for nonresidential structures - side setback; and
3. Sec 102-1245. Minimum requirements for nonresidential structures - rear setback.

*[I] A property that is proposed to be developed for a nonresidential use after -- insert date of Council action -- (date of adoption of Division 11, Eastside amendments) must satisfy the minimum lot size and minimum lot frontage requirement specified in the Dimensional Standards Table. A property that was developed for a nonresidential use on or before -- insert date of Council action -- (date of adoption of Division 11, Eastside amendments) that does not satisfy either or both the minimum lot size and minimum lot frontage requirement for the respective zoning district shall be considered a legally established use that is located on a nonconforming lot of record.

*[J] Dwelling, Flex housing, Searsport Avenue Commercial, Searsport Avenue Waterfront, Swan Lake Avenue Mixed Use, and Residential 5 (Northerly side of Robbins Road only), 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), 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 and for 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 new 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 the requirements of both Chapter 90, Site Plan, and Chapter 102, Zoning, Article VI, Planned Unit Development (PUD). The provisions in Article VI, Planned Unit Development, Division 1, Residential Planned Unit Development, shall apply even if the size of the property may be less than the minimum standards for a PUD identified in this Division. 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 to the Searsport Avenue Commercial, Searsport Avenue Waterfront, Swan Lake Avenue Mixed Use, and Residential 5 (Northerly side of Robbins Road Only) zoning districts for the Flex Housing approach 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. In no case, however, may a single structure have more than 4 dwelling units.

*[K] Residential, Flex housing, Searsport Avenue Commercial, Searsport Avenue Waterfront, and Swan Lake Avenue zoning districts, if 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), 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 and for 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 new 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 the requirements of both Chapter 90, Site Plan, and Chapter 102, Zoning, Article VI, Planned Unit Development. The provisions in Article VI, Planned Unit Development, Division 1, Residential Planned Unit Development (PUD) shall apply, even if the size of the property may be less than the minimum lot size standard for a PUD identified in Division 1. 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 to the Searsport Avenue Commercial, Searsport Avenue Waterfront, and Swan Lake Avenue Mixed Use zoning districts for the Flex Housing approach if the property uses a subsurface system to manage wastewater disposal.

Minimum Size of Property	Maximum # of Dwelling Units	Maximum # of Dwelling Structures
43,560 SF (1 Net Acre)	4	3
65,340 SF (1.5 Net Acre)	6	4
87,120 SF (2 Net Acre)	8	5
109,900 SF (2.5 Net Acre)	10	6
130,680 SF (3 Net Acre)	12	7

If a proposed Flex Housing project involves the development of a property that is greater than 3 Net Acres in Size, and the development of 13 or more dwelling units, in 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. In no case, however, shall a single structure have more than 4 dwelling units.

*[L] A property that is nonconforming with respect to the amount of lot coverage identified in the Dimensional Standards Table for a respective zoning district may qualify for an increase in the maximum amount of lot coverage allowed; reference Chapter 102, Zoning, Article III, Nonconformance, Type 7 Nonconformity, Amount of Lot Coverage. The effective date of the Division 11, Eastside District amendments adopted by the Council, -- enter date of Council action --, shall be the date used to determine if a property conforms to maximum lot coverage requirements.

Sec. 102-535 to 540. Reserved.