

**Note: The proposed language below represents a complete overhaul of Chapter 94 Subdivision. There is no markup for this chapter as it represents a complete replacement.**

# **CITY OF BELFAST CHAPTER 94 SUBDIVISION ORDINANCE**

## **CHAPTER ONE Purposes, Authority, Definitions, Statutory Review Criteria, and Administration**

### **Section I - Purposes:**

The purpose of this subdivision ordinance is to encourage the most appropriate use of land, provide for the orderly development of the City and protect and preserve the health, safety, and general welfare of the citizens of the City of Belfast including the future occupants of such subdivisions, whether residential, commercial, or industrial.

This Ordinance shall be used to ensure that new development meets the goals and follows guidance in the adopted comprehensive plan and provide for a consistent and efficient process for the review of proposed subdivisions.

This ordinance is adopted pursuant to and consistent with Maine Revised Statutes Title 30A, Part 2, Subpart 6-A, Chapter 187, Subchapter 4 Subdivisions.

### **Section II - Definitions:**

The definitions of words and terms used in this chapter shall be as set forth in Chapter 66 General Provisions.

### **Section III - Statutory Review Criteria:**

When reviewing any application for a subdivision, as defined by Article 3, the Planning Board shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Zoning Ordinance and other applicable sections of the City Code of Ordinances. When reviewing any subdivision for approval, the Planning Board shall consider the following criteria and, before granting approval, must determine that:

- 1. Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- A. The elevation of land above sea level and its relation to the floodplain;
  - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - C. The slope of the land and its effect on effluents;
  - D. The availability of streams for disposal of effluents; and
  - E. The applicable state and local health and water resource rules and regulations.
2. **Sufficient water.** The proposed subdivision has sufficient water available for the reasonable foreseeable need of the subdivision.
  3. **Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.
  4. **Erosion.** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
  5. **Traffic.** The proposed subdivision will not create unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
  6. **Sewage disposal.** The proposed subdivision will provide for adequate sewage, and will not cause an unreasonable burden on municipal services if they are utilized.
  7. **Municipal solid waste.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.
  8. **Aesthetic, cultural and natural values.** The proposed subdivision will not have an undue adverse effect of the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. Open space should remain largely consistent and connected with existing patterns.
  9. **Conformity with local ordinances and plans.** The proposed subdivision conforms to the adopted zoning ordinance, subdivision ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans.

**10. Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of this section.

**11. Surface water; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet (in the Shoreland Zone as described in the most recently adopted Shoreland Zoning Map) of wetland, freshwater wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter I, Article 2-B1, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

**A.** When lots in a subdivision have frontage on an *outstanding river segment*, the proposed subdivision plan must require principal setback from the normal high-water mark of 500 feet.

1. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

2. The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent shoreland zoning, Title 38, Chapter 3, Subchapter I, Article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definition requirements of Title 30-A, Section 4401, subsection 1.

**12. Ground water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

**13. Flood areas.** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the Applicant, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plot approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least two feet above the 100-year flood elevation.

**14. Freshwater wetlands.** All freshwater wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands.

**14-A. Farmland.** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with

the help of the local soil and water conservation district.

**15. River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9.

**16. Storm Water.** The proposed subdivision will provide for adequate stormwater management.

**17. Spaghetti-lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

**18. Lake phosphorus concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

**19. Impact on adjoining municipality.** For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

**20. Lands subject to liquidation harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Department agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Department notifies the Planning Board that it will not provide assistance, the Board may require a subdivision Applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

**21. Chapters Two through Five of the Subdivision Ordinance.** The subdivision must comply with the general standards of Chapters Two through Five of the Subdivision Ordinance.

## **Section IV - Municipal Review & Regulation**

This section governs municipal review of proposed subdivisions.

### **1. Authority.**

- A.** These standards have been prepared in accordance with the provisions of Title 30-A MRSA, §4403.
- B.** These standards shall be known and may be cited as “Subdivision Regulations of the City of Belfast, Maine.”

### **2. Administration.**

- A.** The Planning Board of the City of Belfast, hereinafter called the Board, and the Planning and Codes staff shall administer these regulations.
- B.** The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the City of Belfast.
- C.** Multifamily dwellings subject to subdivision review shall be subject to review and approval by the Planning Board pursuant to requirements of Chapter 90, Site Plan in lieu of Chapter 94 Subdivision.

### **3. Amendments.**

- A.** These regulations may be amended by the Belfast City Council.
- B.** A public hearing shall be held prior to the adoption of any ordinance amendment. Notice of the hearing shall be provided in accordance with the City Code of Ordinances for Ordinance Amendments.
- C.** The Planning Board may after a public hearing, propose additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the City Council action. Notice of the hearing shall be provided in accordance with the City Code of Ordinances for Ordinance Amendments. Pursuant to 30-A M.R.S.A. § 4402 of the Belfast City Ordinance.

### **4. Review Procedure.** These regulations provide for a multistage application review procedure.

- A.** Sketch Plan (when required by the City or requested by an Applicant)
- B.** Preliminary plan; and
- C.** Final Plan.

The Preliminary and Final Plan review stages shall meet the time requirements of section 5 and 6, although only one public hearing shall be required for any single subdivision review. The Planning Board strongly recommends that Applicant consider two duly noticed public hearings for subdivision reviews that require more than one meeting.

- 5. Application.** This section governs the procedure to be followed after receiving an application for a proposed subdivision.
  - A.** When an application is received, Planning and Codes staff determine which review process shall be followed:
    - 1) *Sketch Plan* – A Sketch Plan review shall always be available to an Applicant of any subdivision or subdivision amendment proposal. A Sketch Plan review shall be required for any subdivision proposal over 30 acres or consisting of 15 lots or more.
    - 2) *Minor Subdivision review* – A Minor Subdivision review shall consist of a single meeting, unless a Sketch Plan review is requested by the Applicant, and shall be available to any subdivision with 6 or less proposed lots that does not contain any interior access roads or streets. In the case of a single meeting, the Preliminary and Final Plan reviews shall be merged.
    - 3) *Major Subdivision review* – A Major Subdivision review shall consist of a Preliminary and Final Plan review (separate meetings) and shall be required for any subdivision proposal with 7 or more lots or contains any interior access roads or streets.
    - 4) Once the process has been determined, base fees for the subdivision shall be paid before moving forward.
    - 5) The Planning Board may move to table an application for more information at any time in this process
  - B.** Within 30 days after receiving an application, Planning and Codes staff shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, indicate the specific additional material needed to complete the application.
  - C.** After Planning and Codes staff have determined that a complete application has been filed, they shall notify the Applicant and the Planning Board shall begin its full evaluation of the proposed subdivision. The Applicant shall file 12 copies of all material to be submitted to the Planning Board for their review.
  - D.** Planning and Codes staff shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project.

6. **Public hearing:** The Planning Board shall hold a public hearing on an application for subdivision approval within 60 days after the Planning and Codes staff have determined that they have received a complete application. Planning and Codes staff shall give notice of the date, time and place of the hearing:
  - A. To the Applicant; and
  - B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing.
7. **Decision: time limits.** The Planning Board shall, within 30 days of a Final Plan review, or within any other time limit that is otherwise mutually agreed to, issue an order:
  - A. Denying approval of the proposed subdivision;
  - B. Granting approval of the proposed subdivision; or
  - C. Granting approval upon terms and conditions that it considers advisable to:
    1. Satisfy the criteria listed in Section III.
    2. Satisfy any other regulations adopted by the reviewing authority; and
    3. Protect and preserve the public's health, safety and general welfare.
8. **Burden of proof; findings of fact.** In all instances, the burden of proof is upon the Applicant. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in Section III.

## **Section V – Sketch Plan Meeting and Site Visits.**

**1. Purpose.** The purposes of the sketch plan meeting and site visits are for the Applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the Applicant.

### **2. Sketch Plan Meeting Procedure.**

- A. The Applicant shall present the Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the Applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the Applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver

requests shall be postponed until the subsequent review of the full application.

C. The date of any Site Visit is selected.

**3. Sketch Plan Submissions.** The following pertains to Sketch Plan submissions:

- A. The Applicant shall submit 12 copies of the sketch plan and any supplemental material that is to be considered with this plan at least 14 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. However, there shall be no guarantee on any agenda, as all agendas are first come, first served.
- B. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan shall include a locator map that shows adjacent properties and other contextual information.
- C. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. All drawings shall be made to a defined scale.
- D. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development.
- E. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained.
- F. It is recommended that the sketch plan be superimposed on or accompanied by a survey of the proposed property to be developed.

The sketch plan shall be accompanied by:

- G. A sketch plan application form, and a sketch plan application fee.
- H. A sketch plan of the lots and any roads in the proposed subdivision.
- I. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; or a topographic map of the subdivision with 2' contours.
- J. A copy of that portion of the Waldo County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development.

**4. Site Visits.** The Board may hold a Site Visit of the property. The Applicant may place "flagging" at the centerline of any proposed streets, and at the approximate intersections of

the street centerlines and lot corners, prior to the Site Visit. If the proposed project includes buildings, the approximate corners of building footprints may be “flagged.” The Board may choose not to conduct Site Visits when there is inclement weather or snow on the ground. Site Visits shall be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

**5. Rights not Vested.** The sketch plan meeting, the submittal or review of the sketch plan or any Site Visit shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

**6. Preliminary and Final Plan Review required.** After a Sketch Plan review is completed, all subdivisions shall be required to go through Preliminary and Final Plan reviews as described later in this Chapter.

## **Section VI - Submission for Preliminary Plan.**

**1. Purpose.** The purpose of the Preliminary Plan review by the Planning Board is to apply specific Review Criteria and other requirements in Chapter 94 Subdivision and hold a public hearing for a proposed subdivision.

### **2. Preliminary Plan Meeting Procedure.**

A. The Applicant shall present the Preliminary Plan and make a verbal presentation regarding the site and the proposed subdivision.

B. Following the Applicant’s presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the Applicant into the Final Plan application. The Board should review compliance with review standards, consideration of waiver requests, and direct the Applicant for additional information required for the Final Plan review.

### **3. Preliminary Plan Submissions.**

The following are required to be included with any Preliminary Plan:

- A. The Applicant shall submit 12 copies of the sketch plan and any supplemental material that is to be considered with this plan at least 14 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board’s agenda. However, there shall be no guarantee on any agenda, as all agendas are first come, first served.
- B. Soil information on the property to be subdivided.
- C. Two-foot contour map for the property to be subdivided.
- D. Soil test information for each proposed lot, for sub-surface wastewater disposal

system unless waived by the Board.

- E.** List of all abutters with mailing address.
- F.** A statement from the Water District as to availability of City Water, if City Water is to be used.
- G.** Copy of letter to R.S.U. 71 notifying them of the number of units in the proposed subdivision.
- H.** Letter from Sewerage Treatment Plant regarding "capacity" if City sewer is to be used.
- I.** Letter from the Director of Public Works or the Wastewater Treatment Plant operator regarding the availability of sewer lines to tie into, if applicable.
- J.** Copy of draft of Proposed Covenants and Restrictions to be placed upon the subdivision, if any. Copy of existing covenants, restrictions or easements on land to be subdivided.
- K.** Scaled plans shall include:
  - a. Proposed lots.
  - b. Proposed lots are to be numbered and lot dimensions and area to be noted.
  - c. Name of subdivision, file# (which will be assigned when application is determined to be complete & fee has been paid).
  - d. Owner of subdivision.
  - e. Boundary survey, of the proposed subdivision and the parcel from which the subdivision is created if created by deed within two years prior to the application. The plan shall include a locator map that shows adjacent properties and other contextual information.
  - f. Location of any existing structures (if applicable)..
  - g. Location of any ponds, stream, wetlands, freshwater, wetland and flood hazard areas (if applicable).
  - h. Location of shoreland zone limit (if applicable.)
  - i. Map and lot number from Assessor's Tax Map.
  - j. Names of all abutters noted on the Plan.
  - k. Book and page number (Waldo County Registry of Deeds) of the property to be subdivided.
- L.** A copy of current deed and evidence of legal standing.
- M.** A letter from the tax office shall be submitted stating that all taxes on the parcel of land being subdivided have been paid.
- N.** Narrative responses to all Review Criteria in Section III.

## **Section VII - Final Plan.**

**1. Purpose.** The purpose of the Final Plan review by the Planning Board is to apply specific Review Criteria and other requirements in Chapter 94 Subdivision and come to a final determination of compliance. A public hearing may also be included for a proposed subdivision.

### **2. Final Plan Meeting Procedure.**

A. The Applicant shall present the Final Plan and make a verbal presentation regarding the site and the proposed subdivision.

B. Following the Applicant's presentation, the Board may ask questions of the Applicant to clearly understand all material. The Board should review and determine compliance with review standards, finalize any waiver requests, and take final action on a proposed subdivision application.

### **3. Final Plan Submissions.**

Following notification from the Planning Board of its preliminary findings and acceptance of a Preliminary Plan, the subdivider may proceed with the development of a final plan as outlined below and shall include any other specific information requested by the Planning Board. This final plan must be submitted within ninety (90) days after the Planning Board has granted preliminary approval and at least fourteen (14) days prior to a regular Planning Board meeting, in order to be placed on the Board's agenda. However, there shall be no guarantee on any agenda, as all agendas are first come, first served.

The Planning Board may grant an extension of up to 90 days.

The following are required to be included with any Final Plan:

- 1.** The Final Plan submitted for review shall consist of 12 prints of the final plan with a scale of not less than 100 feet to the inch and contained on prints which are 24" x 36" and containing the following:
  - A.** Name of Subdivision, City of Belfast, Owner's Name, Engineer's Name, Map and Lot.
  - B.** Book & page number from Waldo County Registry of Deeds of the property within the subdivision.
  - C.** Boundaries of entire tract from which the subdivision is or was part within 2 years next prior to filing the subdivision application.
  - D.** Names of abutting land owners.
  - E.** Scale

- F. Date
  - G. Designation of true north or magnetic north.
  - H. Lines, dimensions, area and designation of each proposed lot and any public or common area within the subdivision and those areas, title to which, is reserved by the subdivider.
  - I. Sufficient data to determine readily the location, bearing and length of every lot line, street & way line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referred to monuments included in the state system of plane coordinates, and in any event should be tied to reference points previously established by a public authority (e.g. a street).
  - N. Name, location, width, radius of curves of all proposed and existing highways, roads and streets. All dimensions shall be shown in feet and decimals of a foot.
  - O. Location of features, natural and man-made, affecting the subdivision, such as water bodies, streams, swamps, wooded areas, railroads, ditches, buildings, wetlands, freshwater wetlands, etc.
  - P. Location of utilities - water, sewer, electric, telephone, etc., with description of each.
  - Q. Any covenants or deed restrictions intended to cover all or part of the subdivision.
  - R. Permanent reference markers set at all corners and angle points of the boundaries of the original tract to be subdivided. All lot corner markers shall be permanently located.
  - S. List any Subdivision Restrictions.
  - T. Suitable space to record, on the plan, final approval by the Planning Board, with conditions if any, and the date of such approval.
  - U. Any proposed private or public road names, subject to approval by City Council.
  - V. Signature Block for Planning Board Chair.
2. The final plan must be recorded by the Applicant at the Waldo County Registry of Deeds within 90 days of final plan approval and prior to the sale of any lot.

## **Section VIII-Exceptions**

### **This Ordinance does not apply to:**

1. **Previously approved subdivision.** Proposed subdivisions approved by the planning

board or the municipal officials before September 23, 1971 in accordance with the laws then in effect;

2. **Previously existing subdivisions.** Subdivision in actual existence on September 23, 1971 that did not require approval under prior law; or
3. **Previously recorded subdivisions.** A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971.

## **Section IX - Enforcement**

The municipality or the Code Enforcement Officer may institute proceedings to prosecute or enjoin a violation of this ordinance.

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds.
  - A. No registrar of deeds may record any subdivision plat or plan which has not been approved under this ordinance. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this ordinance must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.
  - B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standards, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.
    1. In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the registry of deeds. This certificate shall:
      - a. Indicate the name of the current property owner;
      - b. Identify the property by reference to the last recorded deed in its chain of title; and
      - c. Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.
    2. The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or the variance is void.

- C. No Code Enforcement Officer may issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this ordinance and unless all conditions of the approval has been met.
  - D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, building upon or convey for consideration any land or dwelling unit in a subdivision which has not been approved under this ordinance shall be penalized in accordance with 30 A M.R.S.A. Section 4452, as from time to time amended or recodified.
  - E. Any person who after receiving approval from the Planning Board and recording the plan at the registry of deeds, constructs or develops the subdivision, or transfers any lot, in a manner other than depicted on the approved plans or amendments shall be penalized in accordance with 30 A M.R.S.A., as from time to time amended or recodified.
2. **Permanent marker required.** No person may sell or convey any land in an approved subdivision unless all permanent markers are set at each lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to, the following:
- A. A granite monument;
  - B. A concrete monument;
  - C. An iron pin
  - D. A drill hole in ledge
3. **Utility installation.** No public utility, water district sanitary district or any utility company of any kind may install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials indicating that installation has been completed.

## **Section X - Revision to existing plat or plan**

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such application, the Belfast Planning Board shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of Section III.

- 1. **Recording.** If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:
  - A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan:

- B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and
- C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

## **Section XI COST**

Fee to be determined by the Belfast City Council.

## **CHAPTER TWO GENERAL STANDARDS**

In reviewing applications for a subdivision, the Planning Board shall consider the following general standards and make findings that each has been met prior to any final approval. In all instances the burden of proof shall be upon the Applicant.

### **Section I Conformance with Comprehensive Plan**

All proposed subdivisions shall be in conformity with the Comprehensive Plan of the City of Belfast and with the provisions of all pertinent federal, state and local codes, ordinance, rules and/or regulations.

### **Section II Land not Suitable for Development**

All Net Buildable Area shall be considered suitable for development. Net Buildable Area is defined by the City as the area of a lot that does not include any of the following:

- 1) Areas of Special Flood Hazard as identified by the Federal Emergency Management Agency,
- 2) Area (land) below the normal high annual tide or normal high watermark of a waterbody,
- 3) Area (land) that would be classified as a freshwater wetland of special significance as such is defined by the State Department of Environmental Protection,
- 4) Area (land) that is part of a right-of-way or access easement that serves more than one other lot or is part of a utility easement granted to the City, Belfast Water District, Waldo County, or Central Maine Power or similar utility company.

### **Section III Lots**

1. All lots shall meet the minimum requirements of the Belfast Zoning Ordinance for the zoning district in which they are located. The lot configuration should be designed to allow maximum access to solar energy on building sites with suitable orientation. Planned Unit Development subdivisions shall meet specific requirements outlined in Chapter 102 that may allow for alternative lot sizes and configurations.
2. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever practicable parking areas shall be laid out to coincide with building locations to maximize solar energy gain of the building.
3. The subdivision of tracts into parcels with more than twice the required minimum for lot size be laid out in such a manner as either to provide for or preclude future re-subdivision.
4. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
5. No re-subdivision of any lot in an approved subdivision or change in boundary of any lot in an approved subdivision shall be permitted without Planning Board review and approval.
6. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water or road to meet the minimum lot size.
7. The ratio of lot length to width shall not be more than five to one. Flag lots and other odd shaped lots on which narrow strips are joined to other parcels in order to meet minimum lot size requirements or to defeat the intent of this ordinance are prohibited.

### **Section IV Electrical Utilities**

Electrical Utilities must be noted on the plan and installed at the expense of the developer.

### **Section V Water Supply**

1. When a subdivision is to be served by a public water system, the complete supply, including fire hydrants, shall be installed at the expense of the subdivider.
  - A. The subdivider shall provide a written statement from the Belfast Water District that adequate water for domestic, life safety and firefighting purposes can be provided without placing an undue burden on the source, facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvement necessary to serve the subdivision. The Planning Board may request the Belfast Water District Engineer to review and report on the water supply system

- submitted by the subdivider at the Applicant's expense.
- B. The size and location of mains, gate valves, hydrants and service connections shall be reviewed and approved in writing by the Belfast Water District and the Belfast Fire Chief.
  - C. Fire hydrants shall be installed as determined by the Planning Board following consultation with the Belfast Fire Chief.
2. When the location of a subdivision does not allow for a financially reasonable connection to a public water supply system, the Board may allow the use of individual wells or a private community water system.
    - A. Dug wells shall be permitted only if it is demonstrated to be not feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
    - B. If a central water system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Drinking Water Rules (10-144 Chapter 231) as from time to time amended or recodified.
    - C. The subdivider may be required to construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to and maintenance of the dry hydrants where necessary.
  3. The Planning Board may request that the Belfast Water District Engineer review and report on the water supply system submitted by the subdivider at the Applicant's expense.
  4. See Chapter 102 Zoning, Article IX Performance Standards, Division 7. Supplemental Performance Standards For a Multi-family Housing or Flex Housing Project for additional subsurface wastewater and drinking water standards.

## **Section VI Sewage Disposal**

### **1. Public System**

- A. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point and other barriers to installation are not present as determined by the Planning Board. The Applicant shall provide the Planning Board with a certificate from the Belfast Wastewater Treatment Plant Supervisor that there is currently sufficient capacity to service the subdivision as proposed. In addition,

the Applicant shall provide the Planning Board with a certified statement from the City Engineer that the collection and transmission facilities proposed to be constructed and utilized providing service to the subdivision, are adequate for the proposed division. Prior to obtaining the certified statement, the Applicant shall make certification as above provided, with construction plans showing installation of the sewer lines and all related facilities that will need to be installed to service the proposed subdivision. The submission shall initially be made to the Planning Board. No certification as above shall be considered by the Planning Board unless the certification has been made subsequent to review by the City Engineer of said plans.

- B. The Planning Board may have an independent engineer review and approve in writing the construction drawings for the sewage system at the Applicant's expense. These plans shall also be subject to the review of the Director of the Public Works Department.

## 2. Private System

- A. The developer shall submit evidence of soil suitability for sub-surface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Sub-surface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon. No subsurface wastewater disposal sewer system shall be permitted off the lot.
- B. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Sub-surface Wastewater Disposal Rules.
- C. Separation distance between all wells and subdivision wastewater disposal system shall be a minimum of 100 feet. See Chapter 102 Zoning, Article IX Performance Standards, Division 7. Supplemental Performance Standards For a Multi-family Housing or Flex Housing Project for additional subsurface wastewater and drinking water standards.

## **Section VII Surface Drainage**

Surface Drainage shall be installed according to Chapter 98 Technical Standards.

## **Section VIII Land Features**

- 1. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

2. To prevent soil erosion in shoreline areas, tree cutting in the strip extending one hundred feet inland from any such areas or boundaries shall be limited in accordance with the Belfast Shoreline Zoning Ordinance and applicable Maine State Statutes.

### **Section IX Construction in Flood Hazard Areas.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, a minimum of one foot above the 100 year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

### **Section X Impact on Ground Water**

1. When a hydrogeologic assessment is submitted or requested the assessment shall contain at least the following information.
  - A. A map showing the basic soil types.
  - B. The depth to the water table at representative points throughout the subdivision.
  - C. Drainage conditions throughout the subdivision.
  - D. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - E. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within watershed of a pond, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
  - F. A map showing the location of any existing subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

## **Section XI Access Control and Traffic Impacts**

1. General. Provisions shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision, to avoid traffic congestion on any streets and within the subdivision. More specifically, access and circulation shall also conform to the following standards and the design criteria in Chapter 98 Technical Standards.
  - A. Vehicular access to the subdivision shall be arranged to avoid adverse traffic impacts on existing local residential streets.
  - B. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This provision shall not be interpreted as prohibiting multiple access drives for any lot or subdivision.
  - C. The street giving access to the subdivision and neighboring streets which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision. No subdivision shall increase the volume capacity ratio to any street above 0.9 nor reduce the street's Level of Service to "D" or below. Reference Chapter 98 Technical Standards, Article V Traffic Control and the term Unreasonable Congestion in Chapter 66.
  - D. Where necessary to safeguard hazards to traffic and pedestrians and/or to avoid traffic congestion, provisions shall be made for turning lanes, traffic directional islands, frontage roads, and traffic controls within public streets.
  - E. Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.
  - F. Where topographic and other conditions allow, provision shall be made for circulation access connections to adjoining lots of similar existing or potential use:
    - a. When such access connection will facilitate fire protection services as approved by the Fire Chief; or
    - b. When such access will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.
2. Subdivision Access Design for Subdivisions entering onto Arterial Streets.

When access to a subdivision is an Arterial Street, the street design and construction standards of Chapter 98 Technical Standards shall be met.

## **CHAPTER THREE STREET AND STORMWATER DRAINAGE CONSTRUCTION STANDARDS**

### **Section I General Requirements**

1. Street and Stormwater Drainage shall be constructed in accordance with Chapter 98 Technical Standards.
2. The Planning Board shall not approve any subdivision unless proposed streets and stormwater management systems are designed in accordance with Chapter 98 Technical Standards. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the City of Belfast of any street or easement.
3. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plans shall include the following information.
  - A. Date, scale, and magnetic or true north point.
  - B. Intersections of the proposed streets with existing streets.
  - C. Roadway and right-of-way limits, including edge of pavement, edge of shoulder, sidewalks and curbs.
  - D. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures, streets and their location with respect to the existing natural waterways and proposed drainage ways.
  - E. Complete curve data shall be indicated for all horizontal and vertical curves.
  - F. Turning radii at all intersections.
  - G. Centerline gradients.
  - H. Locations of all existing overhead and underground utilities to include but not be limited to water, sewer, electricity, lighting, and communications.

3. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Director of Public Works and City Engineer or the Maine Department of Transportation, as appropriate.
4. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“ All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the City.

## **Section II Street Design Standards**

1. The Chapter 98 Technical Standards shall be met by all streets within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
2. Streets shall be designed to discourage through traffic on minor streets within a residential subdivision.
3. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is indicated on the approved subdivision plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the City or State.
4. Any subdivision expected to generate average daily traffic of 400 trips per day or more, shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 400 trips or more, shall have at least two street connections leading to existing public streets, streets shown on an Official map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. See Chapter 98 Technical Standards for design standards.
5. The centerline of the roadway shall be the centerline of the right-of-way.
6. Dead End Streets. Dead end streets shall include turnaround areas constructed to the design standards in Chapter 98 Technical Standards with either a cul-de-sac or hammer head style turn around.

7. Grades, Intersections, and Street Distances.

A. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

B. All changes in grade shall be connected by vertical curves in order to provide the minimum stopping sight distances based on the street design speed. See Chapter 98 Technical Standards.

C. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table. Sight distance shall be measured from the drivers seat of a vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. See Chapter 98 Technical Standards. Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

D. Cross (four cornered) street intersections shall maintain a minimum distance of two hundred feet between centerlines of side streets.

8. Sidewalks. Sidewalks shall be installed within all subdivisions within the urban compact area. Where installed, sidewalks shall meet minimum requirements. See Chapter 98 Technical Standards for design standards.

**Section III Street Construction Standards.**

1. Streets shall be constructed in accordance with Chapter 98 Technical Standards.

**Section IV Storm Water Management Design Standards.**

1. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains and storm drains. The storm water management system shall be designed to conduct stormwater flows to existing water courses or storm drains.

A. Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water run-off to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.

- B. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming with the lines of existing natural drainage.
  - C. All components of the storm management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year, 10-year, 25-year and the 50-year, 24-hour duration, frequencies, based on rainfall data for Belfast, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.
  - D. Reference Chapter 98 Technical Standards for additional specifications. The minimum pipe size for any storm drainage pipe shall be fifteen inches, unless soil cover is lacking. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
2. The storm management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 10% for potential increases in upstream run-off.
  3. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle any increased storm flows.
  4. Catch basins shall be installed where necessary and located at the curb line.
  5. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce stormwater velocity. Use of level spreaders or other dispersion for point discharges is required. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the City allowing maintenance and improvement of the system.

#### **Section V. Storm Drainage Construction Standards.**

Storm drainage systems shall be constructed in compliance with Chapter 98 Technical Standards.

#### **Section VI Additional Improvements and Requirements**

1. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
2. Cleanup. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized and seeded.
3. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not be duplicated, nor bear phonetic resemblance to the names of existing streets within the Municipality and shall be subject to approval by the Belfast E911 Addressing Officer and City Council. No street names shall be the common given name of a person. The developer shall be responsible for installing street names, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

#### **Section VII Certification of Construction.**

“As built” plans shall be submitted to the Code Enforcement Officer. Upon completion of street construction, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the code enforcement officer at the expense of the Applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this ordinance.

## **CHAPTER FOUR**

### **PERFORMANCE GUARANTEES**

#### **Section I. Types of Guarantees.**

With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs.

1. Either a certified check payable to the City or a savings account or certificate of deposit naming the City as owner, for the establishment of an escrow account.
2. A performance bond payable to the city issued by a surety company, approved by the City manager and City Attorney.
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the City may draw if construction is inadequate, or incomplete. This letter shall be in a form satisfactory to the City Attorney.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the City engineer, Director of Public Works, Code Enforcer, and/or City Attorney.

**Section II. Performance Bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the City. The bond documents shall specifically reference the subdivision for which approval is sought.

**Section III. Release of guarantee.**

Prior to the release of any part of the performance guarantee, the Code Enforcement Officer shall determine to his satisfaction, in part upon the report of the City Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

**Section IV. Default.**

If, upon inspection, the City Engineer or the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall so report in writing to the Municipal officers, the Board and the subdivider or builder. The Municipal Officers or Code Enforcement officer shall take any steps necessary to preserve the City's rights upon default under this chapter.

**CHAPTER FIVE**

**WAIVERS**

**Section I.** Where a simple majority of the voting members of the Board present makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirement or the standards unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety, and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the Official map, the Comprehensive Plan, the Zoning ordinance, or this ordinance and provided the criteria is of the State Subdivision Law are met.

**Section II.** Where a simple majority of the voting member present makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

**Section III.** In granting waivers to any provisions of this ordinance, the Board shall require such conditions as will ensure the objectives of this ordinance are met.

**Section IV.** Waivers to be shown on Final Plan. When Board grants a waiver to any of the standards of this ordinance, the Final Plan shall indicate the waivers granted and the date on which they were granted.