

MUNICIPAL OFFICE  
BOX 96  
TOWN OF BELGRADE, MAINE 04917

MULTI-FAMILY DWELLING ORDINANCE OF BELGRADE, MAINE

Record of Changes	
Date	Changes made
2/12/2024	Updated to be in compliance with LD2003
<u>2/15/24</u>	<u>Correction of typos/edits agreed upon by PB (G. Seel)</u>
<u>3/14/24</u>	<u>Edited to show new &amp; deleted original language plus edits agreed by Planning Board at March 7<sup>th</sup> meeting (G.Seel)</u>
<u>4/9/24</u>	<u>Edits addressing attorney's comments &amp; correction of typos approved by PB at 4/9/24 meeting</u>

1. ~~SECTION I. TITLE~~ This ordinance shall be known and cited as the “Multi-Family Dwelling Ordinance of the Town of Belgrade, Maine”. **SECTION II. Purpose**  
The intent of this Ordinance is to control the density of building, to protect public health and safety and to permit moderate growth according to the established character of the Town of Belgrade.
2. **SECTION III Administration**  
The Planning Board of the Town of Belgrade shall administer these standards.
3. **SECTION IV Scope**  
These provisions shall pertain to all the land proposed for multi-family dwellings as herein defined within the boundaries of the Town of Belgrade.
4. **SECTION V Definitions**

Attached: Connected by a shared wall to the principal structure or having physically connected finished spaces.

~~Building Height: The vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.~~

Centrally Managed Water System: A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This water system may be privately owned.

Commercial Use. The use of lands, buildings, or structures the intent and result of which is the production of income from the bartering or buying and selling of goods and /or services, exclusive of rental of residential buildings and/or dwelling units. Commercial use does not include activities within the meaning of "home occupation". For the purpose of the Ordinance the term "Commercial Use" includes "industrial uses", such as but not necessarily limited to manufacturing, packaging or processing of goods, mineral extraction, etc.

Comparable Sewer System: Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.

Comprehensive Plan: A document or interrelated documents consistent with 30-A M.R.S. §4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187 Subchapter II.

Contiguous Lots: Lots in single or joint ownership and which adjoin at any line or at any point or which are separated at any point by a body of water less than fifteen (15) feet wide at normal high-water line; or lots on opposite sides of a public road or a privately-owned road established by the owner of land on both sides thereof after September 22, 1971.

Density Requirements: The maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

Designated Growth Area: An area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. If a municipality does not have a comprehensive plan, "designated growth area" means an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by 23 M.R.S. §754.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, road frontage, height, shore frontage, and lot depth.

Driveway: A road, excluding a road used in common with others, intersecting a public road or a privately-owned road intended to provide for the passage of motorized vehicles to and from the public road or privately-owned road and terminus located on a lot.

Dwelling Unit: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

Existing Dwelling Unit: A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

Expansion of Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, greenhouses, etc.

Expansion of use: The addition of months to a use's operating season; or use of more floor area devoted to a particular use.

*Family:* One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house or hotel. Such unit shall not exceed five persons not related by blood or marriage.

*Height of Structure:* The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antenna, and similar appurtenances which have no floor area.

*Home Occupation:* An occupation or a profession which is customarily conducted on or in a residential structure or on a residential use property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses and which employs no more than two (2) persons other than family members residing in the home.

*Housing:* Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments. For purposes of this rule, this does not include dormitories, boarding houses, or other similar types of housing units. This also does not include transient housing or short-term rentals unless these uses are otherwise allowed in local ordinance.

*Land Use Ordinance:* An ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

*Lot:* An area in land in single or joint ownership, or one leasehold, with ascertainable boundaries established by deed or other instrument of record, or a segment of land ownership defined by boundary lines on a subdivision plan duly approved and recorded in the County Registry of Deeds.

*Lot Area:* The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body, land within the upland edge of a wetland, and land beneath roads serving more than two (2) lots.

*Lot Coverage:* That portion of a lot dedicated to the projected area (onto the lot surface) of structures and to non-vegetated usage including, but not limited to, paved areas, stairways, walkways, road (including driveways), parking areas, etc. in relation to lot area. Lot coverage may be expressed in area measure (to be interpreted relative to lot area) or as a percentage of lot area.

*Maintenance and Repair (of a structure):* Perform tasks such as refinishing, cleaning, applying preventative or protective treatments, etc. on the exterior or interior of an existing structure or portion thereof (maintenance); without altering the defining characteristics and dimensions of the structure, to return an existing and deteriorated interior or exterior feature(s) of a structure to that feature's original functionality and condition by replacement of deteriorated material in kind or by use of a corrective

materials and process (repair). The following undertakings are specifically included within the scope of "maintenance and repair": residing; replacement, deletion, or addition of doors and windows; replacement of sills, posts, frost walls, and foundations; screening of roofed decks/porches and breezeways. Note: see definitions of "Reconstruct" and "Replace".

~~Multifamily Dwelling~~ Multi-Unit Housing: A structure containing three (3) or more dwelling units. Shall mean a structure or structures located on a single lot, which structures are designed or used to house 3 or more families.

Municipality: A city or a town, excluding all unorganized and deorganized townships, plantations, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1).

Non-Conforming Lot: A parcel of land in single or joint ownership which does not meet one or more dimensional requirements (e.g. land area shore frontage, road frontage, or width) of the district in which the parcel is located for the land use existing or intended. As determined by the context of usage a "lot" may refer to an individual lot of record or may refer to an aggregation of two or more contiguous lots of record which are required to be or may be considered a single lot or parcel for the purpose of administration of this or other applicable ordinance or law.

Person: An individual corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

Potable: Safe for drinking as defined by the Maine Department of Health and Human Services' Maximum Exposure Guidelines and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.

Principal Structure: A structure other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Privately-owned Road: A road which neither the municipality nor the general public has the right to pass over by foot or vehicle; any and all roads, excepting public roads and driveways, within an approved subdivision; a road, excepting a driveway, which intersects at least one public road or privately-owned road at one or more locations, which is constructed or created on land in private ownership and which is a right-of-way in common for two or more persons.

Public Road: A Federal highway or a State highway or a road which has been constructed by or accepted by the Town and which is maintained by the Town as a public way, a public easement (also called a private way) as defined by Title 23

M.R.S.A. Section 3021.

*Reconstruct:* Raze a structure in its entirety or in any part such that the structure's dimensions or defining characteristics and functionality are altered for a period of time followed by restoration of the razed structure or razed portion thereof to its original dimensions, defining characteristics, and function at the same locus as the predecessor structure. Note: See definitions of "Maintenance and Repair" and "Replace".

*Recreational Vehicle:* A vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, camp trailer, and motor home. In order to be considered a vehicle and not a structure, the unit must remain with its tires on the ground and must be roadworthy (i.e. possess a current registration sticker from any State Division of Motor Vehicles).

*Replace:* Raze a structure in its entirety or in any part such that the structure's dimensions or defining characteristics and functionality are altered for a period of time followed by construction of a structure of new dimensions, defining characteristics, or functionality at the same or a different locus than that of the predecessor structure. Note: See definitions of "Maintenance and Repair" and "Reconstruct".

*Residential Dwelling Unit:* A residential dwelling unit is a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

*Residential Use:* A use permitted in an area by a Belgrade's legislative body to be used for human habitation. Residential uses may include single-family and multifamily housing, condominiums, accessory dwelling units, and apartments.

*Restrictive Covenant:* A provision in a deed, or other covenant conveying real property, restricting the use of the land.

*Right-of-Way:* A grant without any benefit of ownership and established by deed, by easement, or by other legal agreement permitting a person or persons to pass over the land of another person or to use a privately-owned road. Also, that strip of land defined by boundaries onto which a public road has been mapped, or upon which a public road has been constructed, or which is defined by law relative to an existing public road as defining the limits of the public's right-of-way, and, when so used, the term refers to the land itself, not the right of passage over it.

*Road:* A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Road Frontage: The straight-line dimension between the inter- sections of two (2) consecutive lot lines with the right-of-way of the public road or privately-owned road which exists in common with the boundary of the lot. When a lot has two or more non-contiguous segments of frontage on the same road, the road frontage shall be the aggregate of the dimensions of the individual segments. When a lot borders on two or more roads, frontage shall be determined for each road independently, defining the intersection of the near limit rights-of-way of any tow roads and the lot as a lot line; the dimension of greatest aggregate on any one (1) public or privately -owned road shall be taken as the road frontage.

Setback Requirements: The minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

Shoreland Zone: That area of land adjacent to great ponds, rivers, freshwater wetlands, and streams designated as Shoreland Zone in accordance with the Belgrade Shoreland Zoning Ordinance.

Single-family Dwelling Unit: A structure containing one (1) dwelling unit.

Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground as defined in 38 M.R.S. § 436-A(12). The term includes structures temporarily or permanently located, such as decks, patios, steps, landings, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S. § 4700-E(8).

Subdivision: Subdivision has the same meaning as in Maine statute, 30-A M.R.S.A., subsection 4401. For the purpose of this ordinance the term “subdivision” shall include such development as shopping centers, multi-unit housing, planned unit developments, condominiums, and clusters where there are three or more units involved.

Substantial Start: Completion of thirty (30) percent of a permitted structure measured as a percentage of the estimated value of permitted construction, as determined by independent appraisal; actual commencement of a permitted use.

Upland Edge: The boundary between upland and wetland.

Water Body: Any great pond, river, or stream.

Wetland: A freshwater wetland or wetlands associated with a great pond or river. Wetlands contiguous with or adjacent to a great pond or river and which during normal

high-water are connected by surface water to the great pond or river. Wetland which are separated from a great pond or river by a berm causeway, or similar feature less than one hundred (100) feet in width and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetland associated with great ponds or rivers are considered to be part of that great pond or river.

Zoning Ordinance: A type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

## **Section 5 VI. Multi- Family Dwelling Unit Housing**

A. Multi-family dwellings shall meet all the following criteria.

1. Lot area for each residential structure shall be 40,000 square feet, plus 20,000 square feet for each bedroom in the building. ~~shall be one acre for each building, plus one half acre for each bedroom in the building.~~
2. Each lot shall have a minimum road frontage, public or private, of 300 feet. ~~Lot frontage, roads (public or private) shall exceed by 50% the Belgrade Minimum Lot Size Ordinance requirements for each building.~~
3. No residential structure building shall contain more than eight (8) dwelling units.
4. No residential structure building shall exceed thirty-five (35) feet in height.
5. Minimum of two, off street parking spaces for each dwelling unit.
6. Buildings shall be spaced at least one hundred (100) feet from each other. Buildings shall be set back at least seventy-five (75) feet from roads, and twenty-five (25) feet from any property line.
7. Proposals of 18 or more dwelling units, regardless of the number of structures containing the units, shall provide at least two points of access on to the existing public way.
8. The outermost edge of a subsurface waste disposal system's disposal field may not be closer than 100 linear feet from a private well or 300 linear feet from a public drinking water system well. No variance may be granted.
9. Exterior lighting shall be shielded or hooded and downward facing, and shall not exceed 0.5 foot-candles at a property line;
10. The maximum permissible noise from any regular or frequent source of sound within the development, including vehicle traffic, shall be no more than 60 decibels between the hours of 7AM to 9:30PM, and 45 decibels at other times as measured at the property lines.
11. Vegetative screening standards from public roads and abutting residences found in Article 6, Section 11 of Belgrade's Commercial Development Review ordinance to mitigate noise and aesthetic impacts.
12. Bonding shall be required for all road construction.
13. Documentation of the Town of Belgrade's capability to provide adequate emergency services, if needed, including fire.

14. Requirements of the Belgrade Subdivision Ordinance and other applicable Town ordinances, including but not limited to the Belgrade Minimum Lot Size, Shoreland Zoning and Flood Plain Protection ordinances.

**Section 6. VII-Municipal Review Procedure**

All proposed multi-family units shall be reviewed by the Planning Board. The person or the agent will request to have their completed application placed on the agenda of the next available Planning Board meeting by contacting the Town's Code Enforcement Officer. This request should be made at least one week prior to a regular Planning Board meeting (first and last Thursdays of each month).

The applicant shall submit the development's application for Planning Board approval under the Belgrade Subdivision Ordinance at the same time as the application under this ordinance. The Planning Board shall review and act on the two applications concurrently.

The Planning Board shall approve, approve with conditions or deny a multi-family dwelling development application based on the ordinance's Guidelines for Review in Section 8, and shall document in writing its findings of fact and law regarding whether the application meets those approval criteria.

**Section 7. VII-Application**

A. General

1. No person may sell, lease or convey for consideration, or offer or agree to sell, lease or convey for consideration any unit in a proposal within the Town of Belgrade which has not been approved by the Board and recorded in the Kennebec County Registry of Deeds.
2. No public utility, water district, sanitary district, or any utility company of any kind shall install service to any unit in a proposal for which a plan has not been approved by the Board.
3. No land clearing, grading building or work of any kind other than that purely incidental to the proper surveying, marking, or testing the soil or subsoil as required by these regulations shall be performed in any proposal prior to Board approval of the final plan.

B. Application

An application for Planning Board approval of a proposed multi-family dwelling unit subdivision contains at least the following information.

1. The name of the owner and/or developer of the land and a copy of the certified and registered deed.
2. The name of the contractor or builder responsible for construction of the multi-family dwelling unit subdivision, including the name and certification number of the Maine Department of Environmental Protection certified

- excavation contractor.
3. The name (s) of the architect, engineers, licensed soil evaluator and any other professional and technical expertise employed, or planned to be employed during completion of the proposal, including their State professional licensing information.
  4. The proposed water supply. If the water supply of the proposed development will serve 25 or more occupants and meets the definition of public drinking water system well as defined by Chapter 231, State of Maine Rules Relating to Drinking Water, written documentation that the well location and construction have been approved by the Maine Department of Health and Human Service's Drinking Water Program.
  5. Proposed access roads, giving dimensions and type of surface.
  6. A plan accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, and the location and dimensions of all structures including but not limited to driveways, roads, and walkways. Detailed profile drawings of dwelling structures showing their maximum structure height. Detailed drawing demonstrating compliance with National Fire Codes and emergency egress for occupants. Detailed drawings of design of the vehicle access points from the development to a public or private road.
  7. The on-site soils survey in accord with the State Plumbing Code and documentation of a wastewater disposal system approved either by the local plumbing inspector, the Maine Department of Health and Human Services, or the Maine Department of Environmental Protection.
  8. The existing and intended use of each building or structure.
  9. Application fee of \$25.00, plus \$5.00 for each dwelling unit, payable to the Town of Belgrade.
  10. Documentation that buildings and structures with dwelling units shall meet applicable National Fire Codes.
  11. Copy of any required State permits, including but not limited to from the Office of the Maine State Fire Marshal, Maine Department of Transportation and the Maine Department of Environmental Protection.
  12. Written documentation from the Belgrade fire chief that emergency vehicle access to all dwelling units is adequate and that the Town of Belgrade has adequate capacity to respond to fire and other emergencies to the development as proposed.
  13. Documentation of providing written notice to all owners of land within 500 feet of the parcel upon which the development is proposed. Such notice shall generally describe the proposed project, its location and that it requires Town Planning Board approval.
  14. The quantity of solid waste to be generated and how it will be handled and where it will be disposed. If solid waste is to be disposed at the Belgrade transfer station, written documentation from Town officials that the transfer station has adequate capacity to handle the increase in waste disposal.

## **Section 8. IX Hearing**

The Planning Board shall hold a public hearing on an application when it finds that there

is significant public interest in an application or the potential for significant impacts on the community or neighborhood. In the event that the Planning Board determines to hold a public hearing on an application for multi-family dwelling approval, it shall hold such hearing within 30 days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the municipality in which the subdivision is proposed to be located, at least 2 times, the date of the first publication to be at least 7 days prior to the hearing.

The Planning Board shall, within 30 days of a public hearing or within 60 days of receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed multi-family dwelling or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in sections 5 and 7 and to satisfy any other regulations adopted by the Planning Board, and to protect and preserve the public's health, safety and general welfare. In all instances the burden of proof shall be upon the persons proposing the multi-family dwellings. In issuing its decision, the Planning Board shall make findings of fact establishing- that the proposed development does or does not meet the criteria.

### **Section 9. X Guidelines for Review**

When reviewing any multi-family dwelling unit subdivision for approval, the Planning Board shall consider the following criteria and before granting approval shall determine that the proposed multi-family dwelling:

- A. The application is complete, and the applicable review fee has been paid.
- B. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; and the applicable state and local health and water resources regulations;
- C. Will have sufficient potable water available for the reasonably foreseeable needs of the subdivision;
- D. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- E. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- F. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- G. The proposal provides safe and adequate parking;
- H. Will provide for adequate and safe sewage waste disposal;
- I. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- J. Will not have an undue adverse effect on the scenic or natural beauty of the

- area, aesthetics, historic sites or rare and irreplaceable natural areas;
- K. The proposal will not have a significant detrimental effect on adjacent land uses or properties that might be affected by traffic, noise, waste, light or glare, water pollution or their effects;
  - L. The proposal conforms with all applicable provisions of this ordinance;
  - M. Is in conformance with a duly adopted subdivision regulation or ordinance, all other applicable Belgrade ordinances, comprehensive plan, or land use plan, if any; and
  - N. The subdivider has adequate financial and technical capacity to meet the above stated standards.
  - O. Whenever situated, in whole or in part, within 250' of any pond, lake, river, shall meet all standards of the Belgrade Shoreland Zoning Ordinance.

### **Section 10. XI-Enforcement**

- A. Nuisance: Any violation of this ordinance shall be deemed to be a nuisance
- B. Code Enforcement Officer: It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance has been is be in violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering such action as it is necessary to correct it including the discontinuance of illegal use of the land, buildings, structure or work being done, removal of illegal buildings or structure, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- C. Legal Actions: When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, are hereby authorized and directed to institute any and all proceedings, either legal or equitable, that may be appropriate, including seeking injunctions of violations, and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- D. Fines: Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Annotated, Subsection 4452. Fees: Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine up to \$100.00 for each violation. Each day such a violation is continued is a separate offense.

### **~~SECTION XIII. WAIVERS AND VARIANCES~~**

~~Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secure; provided that such variations will not have the effect of nullifying the intent and purpose of this Ordinance.~~

**Section 11. ~~XIII~~ Appeals**

An appeal may be taken within 30 days from a decision of the Planning Board to Superior Court in accordance with Rule 80-B

**Section 12. ~~XIV~~ Separability and Effective Date**

The invalidity of any provision of these standards shall not invalidate any other part. The effective date of these regulations is March 4, 1978.