

**CITY OF BELFAST CITY COUNCIL
PUBLIC HEARING - FIRST READING
TUESDAY, SEPTEMBER 25, 2018 6:00 PM
TROY HOWARD MIDDLE SCHOOL CAFETERIA**

**PROPOSED AMENDMENTS
CITY CODE OF ORDINANCES
CHAPTER 82, SHORELAND ZONING
(WITH OPTION B RECOMMENDATIONS FROM PLANNING BOARD)**

Notes to Public

1) Background Information and Explanation of Proposed Amendments

City Code of Ordinances, Chapter 82, Shoreland, identifies the City Shoreland Regulations. Maine law requires all Maine municipalities to adopt a Shoreland Ordinance. This proposal involves a series of amendments to Chapter 82, Shoreland, that the City Council will consider at two public hearings scheduled for September 25 (First Reading) and October 9 (Second Reading). The amendments the Council will consider include two alternative amendments (these are identified as Option B.3 and B.5 amendments) recommended by the Belfast Planning Board at its meeting of September 5, 2018.

The specific amendments that the City Council will consider include the following:

- a) Amendments clarify the types of aquaculture that would be allowed in various districts of the Shoreland Zone; reference amendments to the Table of Uses.
- b) An area that is about .5 acres in size that is now owned by the Belfast Water District is proposed to be reclassified from its current designation of Resource Protection District to the General Development District; reference the two maps that accompany the amendments that identify the area affected by this proposed reclassification.
- c) New definitions are established for several types of aquaculture, significant groundwater wells, and significant water intake and water outfall/discharge pipes, and a revised definition is established for height of a structure in the Shoreland Zone.
- d) Significant Groundwater Wells and Significant Water Intake or Significant Water Discharge/Outfall Pipes are identified as specific activities that require a Shoreland Permit (reference Table of Uses), and Land Use Standards are proposed for the regulation of such activities. Option B.3. identifies proposed amendments to the standards for Significant Groundwater Wells that the Planning Board recommended at its meeting of September 5, 2018, and Option B.4. identifies proposed amendments to the standards for Significant Water Intake and Significant Water Discharge/Outfall Pipes that the Planning Board similarly recommended at its meeting of September 5, 2018.

The text of the proposed amendments, including the Option B recommendations from the Planning Board, are identified in this proposal. The attached maps identify the boundaries of the existing shoreland zoning districts and how said boundaries would be amended.

2) Explanation of City Council Action of April 17, 2018

The City Council, at its meeting of April 17, 2018, adopted most of the amendments to the City Code of Ordinances, Chapter 82, Shoreland, that are identified in this proposal. The Council considered the Introduction of most of these proposed amendments at its meeting of March 6, 2018, conducted the First Reading and an accompanying public hearing at its meeting of March 20, 2018, and conducted the Second Reading and an accompanying public hearing at its meeting of April 17, 2018. The Council voted 5-0 at the Second Reading on April 17, 2018 to adopt the amendments as proposed.

3) Planning Board Hearing of August 15, 2018 and Role of Planning Board

The Planning Board, consistent with City Code of Ordinances, Chapter 102, Zoning, Section 102-182, is responsible for the review of proposed amendments to the Zoning Ordinance (and by extension to the Shoreland Ordinance) and to offer a recommendation to the City Council. The Planning Board. The Planning Board, at its meeting of August 15, 2018, conducted a public hearing and accepted public comment on the Ordinance amendments adopted by the City Council on April 17, 2018. The Planning Board subsequently reviewed the proposed amendments at its meetings of August 22 and September 5, and at its meeting of September 5, voted to adopt its written recommendation on the amendments to the Council. The Board's recommendations include 2 specific amendments (Option B) to the Chapter 82, Shoreland Ordinance amendments that the Council adopted on April 17, 2018. The Planning Board's recommendations and the specific amendments it proposed (Options B.3 and B.4) will be considered by the Council at the public hearings that the Council will conduct on September 25 and October 9 and the Council's deliberations on said amendments.

4) City Council Review and Public Hearings

The City Council is scheduled to conduct two public hearings associated with the Ordinance amendments that it originally adopted on April 17, 2018 regarding City Ordinances for the Shoreland Zone; reference 1) above for a description of the amendments. The public hearings are scheduled as follows:

- a) September 25, 2018. 6:00 pm in the cafeteria of the Troy Howard Middle School. This is the formal First Reading of the proposed amendments. Amendments will include the Option B (B.3 and B.4) alternatives that were recommended by the Belfast Planning Board at its meeting of September 5, as such recommendation was reaffirmed by the Board at its meeting of September 12. It is anticipated that the Council, at the end of the September 25 meeting, will decide if the Council will pursue either of the Option B amendments recommended by the Planning Board as part of the October 9 Second Reading.

- b) October 9, 2018. 6:00 pm in the cafeteria of the Troy Howard Middle School. This is the formal Second Reading of the proposed amendments. Amendments considered on October 9 will reflect the language that the Council chooses to put forward at its meeting of September 25.

- c) October 16, 2018. The Council, at its regular meeting of October 16, anticipates discussing and taking action on the Ordinance amendments that are the subject of the public hearing and Second Reading on October 9. The Council has the authority to adopt the amendments as presented, to reject any or all of the amendments, to make further amendments to the proposals, or to table action on the proposed amendments. If the Council chooses to make any significant amendments to the Ordinance amendments considered at the October 9 public hearing, the Council will schedule an additional public hearing on the specific amendments that are proposed. The Council will not be accepting any public comment at the October 16 meeting. All comment from the public should be offered at either or both the September 25 and October 9 public hearings. The Council's October 9 meeting will occur in the Council Chambers.

5) How to Offer Public Comment to the City Council on the Proposed Amendments.

The public may offer comment to the City Council that will be considered as part of the September 25 First Reading public hearing in one of three ways:

- You can attend the September 25 public hearing and offer verbal comment to the City Council at the hearing.
- You can submit comment in writing to: Wayne Marshall, Code and Planning, City of Belfast, 131 Church St, Belfast, ME, 04915. All written comment to be considered at the September 25 hearing must be received by the date of the hearing.
- You can submit comment via email to: **public@cityofbelfast.org**. All email comment must be submitted by 3:30 pm on September 25 so that copies can be produced for the Council meeting on September 25.

All comment that is provided in writing or via email will be provided to the City Council at or before the hearing. The City Council gives equal consideration to all forms of comment that are offered.

The City Council has the complete record of all public comment that was submitted for the Council hearings in March and April of 2018, and has been provided the complete record of public comment offered to the Planning Board at the Board hearing of August 15, 2018. Thus, in submitting comments to the City Council, the Council asks that you recognize that they are familiar with past comment.

Questions regarding the proposed Ordinance amendment should be directed to Wayne Marshall, Director, Code & Planning at 338-1417 x 125 or at wmarshall@cityofbelfast.org.

TEXT OF PROPOSED AMENDMENTS

All text shown in black font is the text in the adopted City Code of Ordinances, Chapter 82, Shoreland Zoning, as such existed prior to the City Council vote of April 17, 2018. All text shown in red font is new language that was added to the Shoreland Ordinance by the Council vote of April 17, 2018. All text shown in blue and strike-through font is language that was deleted from the Shoreland Ordinance by the Council vote of April 17, 2018. Text shown in green font under the heading, Note to Public, is provided to help explain the proposed amendments. The text in Green Font also identifies where the Option B.3 and B.4 Planning Board alternate language would be inserted into the Code.

CHAPTER 82, SHORELAND

ARTICLE I. In General

Sec. 81.1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definition of other words, terms and phrases used in this chapter shall have the meanings ascribed to them in the City Code of Ordinances, Chapter 66, General Provisions, except where the context clearly indicates a different meaning.

AQUACULTURE, LAND BASED. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species in an onshore land based facility. Said facility may involve the intake of marine waters or discharge of waters to marine waters and be considered a land based aquaculture operation.

AQUACULTURE, FRESHWATER. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species in a freshwater waterbody; such as a stream, river or pond. Said facility may involve the intake of marine waters or discharge of waters to marine waters and be considered a freshwater aquaculture operation.

AQUACULTURE, MARINE. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species entirely within a marine environment, such as Belfast Bay.

HEIGHT OF A STRUCTURE IN THE SHORELAND ZONE. 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, antennas, solar panels and similar appurtenances which have no floor area.

SIGNIFICANT GROUNDWATER WELL. A well, wellhead, excavation, or other structure, device or method used by a private person to obtain groundwater that is:

- (1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the private person (applicant), or river, stream or brook; or
- (2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well now owned or controlled by the private person (applicant), or river, stream or brook.

Withdrawals of water for firefighting or preoperational capacity testing are not applied to the above thresholds.

SIGNIFICANT WATER INTAKE OR SIGNIFICANT WATER DISCHARGE/OUTFALL PIPE. A water intake or discharge/outfall pipe used by a private person to service at least 50,400 gallons during any week and 36,000 gallons on any day that originates onshore and crosses above or below ground in or through a waterbody or land area identified on the City Official Shoreland Zoning Map or Official Zoning Map and that is subject to Shoreland regulation.

ARTICLE IV. Districts

Sec. 82-131. Districts established; Official Shoreland Zoning map.

[Ord. No. 8-1997, § 9, 7-15-1997; Ord. No. 16-2000, 8-15-2000; Ord. No. 20-2004, 1-6-2004; Ord. No. 3-2005, 7-20-2004; Ord. of 3-31-2011]

- (a) Districts established. The areas to which this chapter is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning maps, which are made a part of this chapter:
 - (1) Resource Protection.
 - (2) Limited Residential.
 - (3) Urban Residential.
 - (4) General Development.
 - (5) (Reserved)
 - (6) Stream Protection.
 - (7) Stream Development.
 - (8) Manufactured Housing Community.
 - (9) Waterfront Development.

- (b) Scale of maps. The ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps shall be drawn at a scale of not less than one inch equals 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the maps.
- (c) Certification and location of maps. The ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps shall be certified by the attested signature of the City Clerk and shall be located in the City offices.
- (d) Changes to maps. If amendments, in accordance with ~~s~~Section 82-9, are made in the district boundaries or other matter portrayed on the ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps, such changes shall be made on the ~~o~~Official ~~s~~Shoreland ~~z~~Zoning maps within 30 days after the amendment has been approved by the ~~s~~State ~~b~~Board of ~~e~~Environmental ~~p~~Protection.

Note to the Public. The City, as part of this amendment, proposes to change the district classification for a land area that is about .5 acres in size that is now part of Map 29, Lot 39 and that is owned by the Belfast Water District. The Water District has cleared this land area and uses such as a storage area for its operations. This area is now identified on the Official Shoreland Zoning Map as part of the Resource Protection district. The City proposes to amend the classification for this area on the Official Map to the General Development district; reference attached maps for the area that is associated with this proposed change. The City proposes to change the classification because the other land areas that the Water District owns on Map 29, Lot 39 that it has developed to support its operations, an area that is about 3 acres in size, is now classified as being in the Resource Protection district. All remaining lands that the Water District owns that are part of Map 29, Lot 39 and that are in the Shoreland Zone (area within 250 feet lineal feet of the lower reservoir on the Little River), nearly all of which are undeveloped except for a nature trail (Little River Trail), shall remain in the Resource Protection district.

- (e) Official Shoreland Zoning Map. The City of Belfast has adopted the attached map as the Official Shoreland Zoning Map of the City of Belfast. Pursuant to requirements of the State of Maine Mandatory Shoreland Zoning Law, the Commissioner of the State Department of Environmental Protection, has reviewed and approved the Official City Shoreland Zoning Map. This Shoreland Zoning Map is provided to assist readers of the Ordinance in the interpretation and application of information in Chapter 82, Shoreland, particularly Article IV, Districts, and the Article V, Land Use Standards. The attached map reflects all Chapter 82, Shoreland Zoning ordinances adopted by the City of Belfast through ~~March 31, 2011~~, **2018 (Insert Date that the Commissioner of DEP approves amendments to the Map identified in these Ordinance amendments) which is the last date for which updates have been provided to the City Code of Ordinances on the Municipal Code Corporation website.**

Sec. 82-135. Table of Land Uses.

[Ord. No. 8-1997, § 14, 7-15-1997; Ord. No. 16-2000, 8-15-2000; Ord. No. 54-2003, 6-17-2003; Ord. No. 20-2004, 1-6-2004; Ord. No. 3-2005, 7-20-2004; Ord. No. 3-2005, 7-20-2004]

- (a) All land use activities as indicated in Table 1 shall conform with all of the applicable land use standards in Article V of this chapter. The district designation for a particular site shall be determined from the Official Shoreland Zoning maps.
- (b) A person performing any of the following activities shall require a permit from the State Department of Environmental Protection, pursuant to 38 M.R.S.A. § 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:
 - (1) Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
 - (2) Draining or otherwise dewatering;
 - (3) Filling, including adding sand or other material to a sand dune; or
 - (4) Any construction or alteration of any permanent structure.

TABLE 1. LAND USES IN THE SHORELAND ZONE

Land Uses	Districts								
	SP	SD	RP	LR	UR	GDI	WD	MHC	
(14) Aquaculture	a. In Belfast Bay No No No No No PB PB No								
	Subsection Repealed on _____, 2018.								
	b. In all other areas PB PB PB PB PB PB Yes PB								
	Subsection Repealed on _____, 2018.								
c. Land based.	PB	PB	PB	PB	No	PB	PB	No	
d. Freshwater	PB	PB	PB	PB	No	PB	PB	No	
e. Marine	No	No	No	No	No	No	No	No	
(38) Significant groundwater well	PB	PB	PB	PB	No	PB	No	No	
(39) Significant water intake or outfall/ discharge pipe	PB	PB	PB	PB	PB	PB	PB	PB	

ARTICLE V. Land Use Standards

Note to the Public. The amendments do not involve any proposed changes to the existing land use standards identified in Article V, Division 1, Generally through Division 15, Archaeological Sites. This proposal involves adding two new Divisions, Divisions 16 and 17 as described below.

DIVISION 16. Significant Groundwater Well. **(REFERENCE OPTION B.3, PLANNING BOARD RECOMMENDATION - PAGES 4 - 12)**

Sec. 82-460. Exploration to establish a significant groundwater well.

A person may conduct exploratory drilling and testing to identify the potential availability of significant groundwater resources in anticipation of establishing a significant groundwater well. A permit from the Code Enforcement Officer shall be required for all such exploratory drilling. All areas disturbed by such exploratory drilling shall be restored and revegetated to prevent erosion.

Sec. 82-461. Extraction of a significant groundwater resource.

A significant groundwater well may be permitted under the following conditions:

- (1) The groundwater well complies with the minimum structure setback requirement identified for a permitted use in the respective Shoreland district.**
- (2) A person (applicant) who proposes to install one or more significant groundwater wells shall provide evidence to the City that they can or have obtained a State Department of Environmental Natural Resources Protection Act permit for any and all proposed significant groundwater wells**
- (3) In keeping with the purposes of this chapter, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with the drilling and operation of a significant groundwater well on surrounding uses and resources.**

DIVISION 17. Significant Water Intake or Significant Water Discharge/Outfall Pipe. **(REFERENCE OPTION B.4, PLANNING BOARD RECOMMENDATION - PAGES 4)**

A significant water intake or significant water discharge/outfall pipe may be permitted by the Planning Board under the following conditions:

- (1) The degree of adverse impact, if any, on a shoreland regulated area associated with the physical location of the pipe in said area.**

(2) A person who proposes to install a significant water intake or significant water discharge/outfall pipe shall provide evidence to the City that they can or have obtained any and all state and federal permits associated with the location and operation of the proposed water intake or discharge, including ongoing monitoring, that may be required.

The Planning Board is responsible for the review and issuance of the required City permit. The permit application does not require review by any other City board, committee, or similar body.

OPTION B.3.

**RECOMMENDATION OF BELFAST PLANNING BOARD
SEPTEMBER 5, 2018**

**PROPOSED AMENDMENT TO APRIL 17, 2018
COUNCIL ADOPTED AMENDMENTS TO
CHAPTER 102, ZONING ARTICLE IX, PERFORMANCE STANDARDS
DIVISION 2, ENVIRONMENTAL STANDARDS
SIGNIFICANT GROUNDWATER WELLS**

AND

**COUNCIL ADOPTED AMENDMENTS TO
CHAPTER 82, SHORELAND ARTICLE V, LAND USE STANDARDS
DIVISION 16. SIGNIFICANT GROUNDWATER WELLS**

AND

**POTENTIAL ADOPTION OF AMENDMENTS TO
CHAPTER 102, ZONING. ARTICLE VIII. SUPPLEMENTARY
DISTRICT REGULATIONS
DIVISION 7. SIGNIFICANT GROUNDWATER WELLS**

**COUNCIL CONSIDERATION OF PLANNING BOARD
RECOMMENDATION AT SEPTEMBER 25, 2018
FIRST READING PUBLIC HEARING**

RECOMMENDATION OF BELFAST PLANNING BOARD

The amendments to the City Code of Ordinances that the City Council adopted at its meeting of April 17, 2018 included revisions to Chapter 102, Zoning and Chapter 82 Shoreland regarding the regulation of Significant Groundwater Wells. City Ordinances, based on the April 17 amendments, for the first time, specifically identified a Significant Groundwater Well as a specific type of use. Prior to the April 17 amendments, the City would have considered a Significant Groundwater Well as an accessory use to a permitted activity, and regulated such as part of an overall project and standards. Based on the City decision to identify a Significant Groundwater Well as a specific type of use, the amendments the Council adopted on April 17 included specific performance standards that the Planning Board would review and apply regarding an applicant request to establish such a well(s). The specific performance standards

were identified in Chapter 102, Zoning, Division 2, Environmental Standards, and in Chapter 82, Shoreland, Article V, Land Use Standards, Division 16.

The Belfast Planning Board, during its August and September 2018 review of the Ordinance amendments adopted (April 17) by the Council, identified its interest in strengthening the adopted April 17 performance standards for Significant Groundwater Wells. The Planning Board noted that much of the past comment to the City Council and comment offered at the Planning Board hearing identified concerns regarding the amount of groundwater that Nordic Aquafarms proposes to use. The Planning Board, at its meeting of August 22, identified its interest in establishing better quality performance standards. The Board, at its meeting of September 5, considered a draft of revised standards prepared by the Director of Code and Planning. The draft amendments included establishing a specific permit requirement for a Significant Groundwater Well, identifying information that must be addressed in an application for a Well, and identifying specific performance standards for the regulation of a Significant Groundwater Well. The revisions recommended by the Board also would require adoption of amendments to Chapter 102, Zoning, Article VIII, Supplementary District Regulations, and involve the creation of a new Division; Division 7, Significant Groundwater Wells.

The Planning Board, at its meeting of September 5, 2018, adopted a specific motion to recommend that the Council amend the Ordinances that the Council adopted on April 17, 2018. The Planning Board recommends that the Council revise the adopted performance standards identified in Chapter 82, Shoreland and Chapter 102 for Significant Groundwater Wells, and as an alternative, that the City use the process and standards identified in this recommendation. The recommendation involves creating a new Division in Chapter 102, Zoning; Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Wells, that would establish both the permit process and standards that would apply to the initial development and ongoing monitoring of a significant groundwater well. The amendments recommended by the Board are identified in this proposal; Option B.3.

CITY COUNCIL CONSIDERATION OF PLANNING BOARD RECOMMENDATION

The Council is in the process of considering the recommendations offered to the Council by the Planning Board. The Council will be conducting its First Reading of the Ordinance amendments that it adopted on April 17, 2018, on Tuesday, September 25, 2018. The First Reading will include a public hearing. The hearing will be held in the cafeteria of the Troy Howard Middle School beginning at 6:00 pm.

The Ordinance amendment language that the Council will consider at the September 25, 2018 hearing will include two options. One option is the Ordinance amendment language that the Council adopted at its meeting of April 17, 2018 to both the Zoning Ordinance and the Shoreland Ordinance regarding the regulation of a Significant Groundwater Well. Option B will be the alternative language (**Option B.3**) for the regulation of a Significant Groundwater Well(s) that is now being recommended by the Planning Board. It is anticipated that the Council, at the end of the September 25 hearing, will determine which approach it will consider at the Second Reading

of the amendments. The Second Reading is scheduled for the Council meeting and public hearing on October 9.

Following, Option B.3, is the revised Ordinance amendment language recommended by the Planning Board for Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards and Chapter 82, Shoreland, Article V, Land Use Standards, Division 16, Significant Groundwater Wells. The amendments include language for a new Division of Chapter 102 Zoning; Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Wells.

OPTION B.3 PROPOSED AMENDMENT RECOMMENDED BY PLANNING BOARD
CHAPTER 82, SHORELAND, ARTICLE V, LAND USE STANDARDS
DIVISION 16, SIGNIFICANT GROUNDWATER WELLS

Note to Public: All text identified in black font is the Ordinance language that the Council adopted at its meeting of April 17, 2018. **All text identified black underline font is** language that the Planning Board recommends (Sept 5, 2018 recommendation) be added to the Ordinance amendments adopted by the Council on April 17, 2018. ~~All text identified in blue strike-through font~~ is language that the Planning Board is recommending be deleted from the April 17 Ordinance language adopted by the City Council.

Sec. 102-1137. Significant Groundwater Well.

(a) Exploration to establish a significant groundwater well.

A person may conduct exploratory drilling and testing to identify the potential availability of significant groundwater resources in anticipation of establishing a significant groundwater well. A permit from the Code Enforcement Officer shall be required for all such exploratory drilling. All areas disturbed by such exploratory drilling shall be restored and revegetated to prevent erosion.

(b) **Extraction of a significant groundwater resource.**

A request to extract water from a significant groundwater resource located in the Shoreland Zone by the development of one or more significant groundwater wells shall require the issuance of a permit by the Belfast Planning Board pursuant to the process and standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Well Permit.

~~A significant groundwater well may be permitted under the following conditions:~~

- ~~(1) The groundwater well complies with the minimum structure setback requirement identified for a permitted use in the respective Shoreland district, and the respective minimum structure setback requirements identified for the zoning district in which the groundwater well is located.~~
- ~~(2) A person (applicant) who proposes to install one or more significant groundwater wells shall prepare and submit a hydrological assessment to the City that~~
- ~~(3) A person (applicant) who proposes to install one or more significant groundwater wells shall provide evidence to the City that they can or have obtained a State Department of Environmental Natural Resources Protection Act permit for any and all proposed significant groundwater wells.~~
- ~~(4) In keeping with the purposes of this chapter, the Planning Board may impose such conditions designed as are necessary to minimize the adverse impacts associated with the drilling and operation of a significant groundwater well on surrounding uses and resources.~~

OPTION B.3.
PROPOSED AMENDMENT RECOMMENDED BY PLANNING BOARD
CHAPTER 102, ZONING, ARTICLE VIII, SUPPLEMENTARY DISTRICT
REGULATIONS
DIVISION 7, SIGNIFICANT GROUNDWATER WELL PERMIT

Note to Public: All text identified in black font is the Ordinance language that the Council adopted at its meeting of April 17, 2018. **All text identified black underline font is** language that the Planning Board recommends (Sept 5, 2018 recommendation) be added to the Ordinance amendments adopted by the Council on April 17, 2018. **~~All text identified in blue strike-through font~~** is language that the Planning Board is recommending be deleted from the April 17 Ordinance language adopted by the City Council.

CHAPTER 102, ZONING

ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 7, SIGNIFICANT GROUNDWATER WELL PERMIT

Sec 102-1075. Purpose and Applicability.

Any person who proposes to remove groundwater in the amounts identified in this Division as part of a residential, commercial, industrial or land excavation operation, where such is allowed under Chapter 82, Shoreland or Chapter 102, Zoning, shall be required to obtain approval by the City Planning Board. The Planning Board, through its review of a permit application, shall

establish that the water extraction associated with the significant groundwater well or wells will not have a significant adverse impact on the ongoing sustainability and quality of water supplies, will avoid the interruption or degradation of water quality and quantity to members of the general public within the City, and will generally protect the health, safety and welfare of persons dependent upon such water supplies.

This Division shall not apply to the extraction of groundwater by the Belfast Water District for the purposes of providing a public water supply, or for any public fire suppression operation.

Sec. 102-1076. Definitions.

a) Extraction (or "water extraction" or "extraction of water") means withdrawal, removal, diversion, taking or collection by any means of water from groundwater sources, aquifers, springs, wells, pumps or similar sources.

b) Extraction point or extraction facility means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

c) Ground water means underground water located in an aquifer or unconsolidated sediment or rock below the water table.

d) Significant Groundwater Well. A well, wellhead, excavation, or other structure, device method used by a private person to obtain groundwater that is:

(1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the private person (applicant), or river, stream or brook; or

(2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well now owned or controlled by the private person (applicant), or river, stream or brook.

Withdrawals of water for firefighting or preoperational capacity testing are not applied to the above thresholds.

e) Significant Groundwater Well Permit. A permit required from the City Planning Board from any private person who proposes to operate a significant groundwater well.

f) Water table means the underground water surface at which the pressure is equal to that of the atmosphere. The water table changes throughout the year in response to precipitation recharge and the level of nearby surface waters. The water table fluctuates naturally in response to recharge by precipitation and discharge to surface water.

Sec. 102-1077. Application and Information Requirements.

a) A private person who proposes an activity that qualifies as a significant groundwater well shall submit the following information to the Belfast Planning Board for review, and shall pay the specific fees identified in this Section. Said fees shall be in addition to fees identified in Chapter 82, Shoreland for a Shoreland Permit, Chapter 90, Site Plan, for a Site Plan Permit, Chapter 94, Subdivision, for a Subdivision Permit, and in Chapter 102, Zoning for a Use Permit, if said application for a significant groundwater well is submitted in conjunction with one or more of the above permit applications.

b) Permit Fees.

1) The permit fee to establish one or more significant groundwater wells shall be \$500.00 for the first significant groundwater well and \$250.00 for each additional significant groundwater well identified in the application, plus the cost of any required advertising associated with a public hearing that may be required. The City may waive the advertising cost for any application that is submitted as a component of a request for a Shoreland Permit, Site Plan Permit, Subdivision Permit, or Use Permit that requires advertising for a public hearing, and for which the City collects a fee for advertising.

2) A request to amend a permit for a significant groundwater well granted by the Belfast Planning Board shall be \$250.00, plus the cost of any required advertising for a public hearing for said permit. The City may waive the advertising cost for any application that is submitted as a component of a request for a Shoreland Permit, Site Plan Permit, Subdivision Permit or Use Permit that requires advertising for a public hearing, and for which the City collects a fee for advertising.

c) Application Requirements

The application shall be in writing and be accompanied by site plans prepared by a licensed surveyor, licensed engineer, or similar appropriately licensed professional. The application shall include:

1) Evidence of the Applicant's right, title and interest in and to the properties from which water is to be extracted.

2) A statement of the total maximum quantity of water to be extracted, expressed as the annual total, the maximum monthly rate, the maximum weekly rate, and the maximum daily rate. The rate shall be provided for the total number of wells operated on the property and for each well involved in the operation.

3) A site plan that accurately identifies the location(s) of the points of extraction by the groundwater well(s). The site plan shall identify the location of the proposed wells in relation to other proposed project development.

- 4) A hydro-geologic investigation report stamped by a Maine certified professional geologist or Maine registered professional engineer. The report shall, at a minimum, include the following information:
- (a) A map of the entire topographic drainage basin associated with the water extraction well(s) that identifies the basin boundaries, sub-basin boundaries that may be of significance to the recharge of the water extraction well(s), and the location of the groundwater well(s). The map shall identify wetlands that are greater than .5 acre in size, all streams, and all open bodies of water located on the site and in the surrounding area. The identification of off-site resources may be based on the best publicly available information.
 - (b) A map that identifies the location of all public and private wells located within 1,000 feet of the proposed extraction wells. The map also shall identify all properties located within 2,000 feet of the proposed extraction wells that are served by public water.
 - (c) An assessment of how the short-term and long-term rate and amount of groundwater extraction are estimated to impact local and regional ground water levels, wetlands, pond or lake levels, base flow in streams and any water quality changes in ground water and in surface water.
 - (d) The characteristics of the groundwater resource or aquifer from which groundwater is proposed to be extracted, the rates of drawdown and rebound, the sustainable yearly rates, any depression(s) which may develop about the proposed wells, and other impacts on the water table and private or public wells located within 1,000 feet of the proposed extraction facilities shall be assessed. This assessment also shall identify potential impacts that could occur to water table and public or private wells located greater than 1,000 feet from the proposed extraction facilities.
 - (e) An assessment (calculation) of how the proposed rates of extraction will be sustainable during a drought and how such rates of extraction would affect groundwater supplies located within the watershed. In conducting this assessment, the following shall be considered: historical data on the amount of rainfall and the length and severity of drought conditions that have occurred in Belfast, and said impacts on the variability of groundwater supplies in the Little River watershed; information that projects how future levels of rainfall over the next 10 years, 20 years and 50 years may affect drought conditions in Belfast and in Maine, particularly the length and severity of future drought conditions, and impacts on the variability of groundwater supplies in the Little River watershed; and an assessment of how a drought that has a probability of occurring in both a one in ten year period and in a two year in ten year period would affect groundwater supplies in the Little River watershed.
 - (f) The report that is prepared shall identify and consider impacts on groundwater supplies located in the Little River watershed, including impacts that may occur on land areas that are located outside the municipal boundaries of Belfast.

- 5) Identification of an effective monitoring program that the City could implement to assist in ensuring that the rate and amount of groundwater extraction does not adversely affect groundwater resources and public and private wells located within 1,000 feet of the proposed extraction facilities.
- 6) A copy of all required permit applications that are submitted to a state or federal agency that has jurisdiction over the extraction of groundwater from a significant groundwater well, and copies of all correspondence issued by said state or federal agency regarding the respective permit application.
- 7) An applicant/person who proposes any of the following shall be required to obtain an amendment to the approved groundwater permit application: increase the amount of groundwater that was approved to be extracted; develop and use groundwater wells that were not identified in the approved application; cease use of groundwater wells identified in the original application and to shift the amount of water extracted from said well to another well; or to change the purpose for which groundwater is being extracted. Any request to amend an approved permit for the above purposes shall require an applicant/person to obtain an amendment from the Planning Board to the approved permit, and any amendment shall be considered pursuant to the process identified in this Division.

Sec. 102-1078. Planning Board review of application.

The Planning Board shall use the following process to review an application for a permit for a significant groundwater well. The Planning Board, in conducting its review of an application for a significant groundwater well permit that is submitted to the Board as a component of a request for one or more of the following permits: a Shoreland Permit pursuant to Chapter 82, Shoreland, Site Plan Permit pursuant to Chapter 90, Site Plan, Subdivision Permit pursuant to Chapter 94, Subdivision, or a Use Permit pursuant to Chapter 102, Zoning, may choose to conduct the public hearing process for the significant groundwater well permit in conjunction with the public hearings that are held for one or more of the above permits, and shall not be required to conduct an independent public hearing on the request for a permit for a significant groundwater well.

- a) Applicant shall submit a permit application to the Code and Planning Department that addresses all information required in Sec 102-1077.
- b) The Code and Planning Department, within 45 days of receiving a permit application that addresses requirements of Sec 102-1077, shall schedule the application for review by the City Planning Board.
- c) The City Planning Board shall conduct a public hearing on any permit application that is submitted. The Code and Planning Department, a minimum of 13 calendar days prior to the Planning Board meeting, shall provide written notice of the application and hearing date by first class mail to all property owners located within a radius of 1,000 feet of the proposed groundwater well(s), and shall publish notice of the hearing in a newspaper with

local circulation and on the City website. The first notice in the newspaper shall occur a minimum of 13 days prior to the Board meeting and the second notice a maximum of 7 days prior to the hearing.

- d) The Planning Board shall review the application and determine if it complies with the performance standards identified in Sec. 102-1079. The Board may establish conditions of approval as a requirement to obtain applicant compliance with the performance standards. The Planning Board shall adopt findings of fact to identify how it determined that the applicant proposal did or did not comply with City requirements.

Sec. 102-1079. Performance Standards.

The City Planning Board must determine that an applicant request to extract groundwater by a significant groundwater well(s) has and will meet the following performance standards to grant a permit for a significant groundwater well(s).

- a) The quantity of water to be taken from a ground water source will not substantially lower the water table beyond the property lines, cause saltwater intrusion that would affect groundwater located on a property not owned by the applicant, cause unreasonable impacts to ground water flow patterns, or cause unreasonable ground subsidence beyond the property lines.
- b) Any proposed use shall not cause unreasonable adverse diminution in water quality or quantity of the aquifer or surrounding surface/ground water. This includes any impacts to the upwelling of a natural spring, ground water source, aquifer recharge area, or wetlands.
- c) Safe and healthful conditions shall be maintained at all times within and about the proposed use and structures.
- d) The proposed use shall require the applicant to provide a stormwater management plan prepared and stamped by a professional engineer registered in the State of Maine that details both construction and long-term controls associated with the groundwater wells. The Planning Board may accept a stormwater management plan submitted for its review as a component of a Site Plan Permit, Shoreland Permit or Use Permit that satisfactorily addresses this requirement.
- e) The proposed extraction site is not within the defined aquifer or groundwater recharge area of a public water supply, unless public notice is provided to the operator thereof, and the Planning Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.
- f) The operator shall keep monthly operating records of the quantity of water extracted and shall make said operating records available to representatives of the City Code and Planning Department or a designee upon request.
- g) Nothing in this procedure, and no decision by the City Planning Board shall be deemed to create groundwater rights other than those rights that the applicant may possess under Maine law.

- h) The City Planning Board, based on its review of all information submitted and considered as part of a permit application, shall have the authority to establish the maximum daily, weekly, monthly and annual quantity of groundwater that may be extracted; said amount shall not exceed the amount specified by the Applicant in its application. If an Applicant exceeds said amounts, the City shall have the authority to require the Applicant to reduce the volume of water it is using to the maximum amounts established in the City Permit.
- i) The applicant shall demonstrate that it possesses the expertise and financial resources to construct and operate the requested significant groundwater wells and to adhere to the conditions of approval adopted by the City Planning Board.
- j) The City Planning Board shall consider conditions of approval established by a state or federal agency that has jurisdiction to regulate a significant groundwater well and the extraction of groundwater resources and how said permit conditions may interact with the City Significant Groundwater Well Permit. The Planning Board may choose to use conditions enacted by a state or federal agency as a method to identify and obtain applicant compliance with conditions identified by the Planning Board.

Section 102-1080. Independent Expert Assistance.

The City Planning Board shall have the authority to engage the services of an independent expert(s) to assist in providing professional services such as but not limited to: the review of an application, particularly the hydro-geologic investigation report, the development of permit conditions, and preparing and implementing an ongoing monitoring program. The costs of such services shall be the responsibility of the applicant. The Code and Planning Department will collect and manage all fees and assist in determining the amount of the fees to assess the applicant.

OPTION B.3
PROPOSED AMENDMENT RECOMMENDED BY PLANNING BOARD
CHAPTER 102, ZONING, ARTICLE IX, PERFORMANCE STANDARDS
DIVISION 2, ENVIRONMENTAL STANDARDS,
SECTION 102-1137 SIGNIFICANT GROUNDWATER WELLS

Note to Public: All text identified in black font is the Ordinance language that the Council adopted at its meeting of April 17, 2018. **All text identified black underline font is** language that the Planning Board recommends (Sept 5, 2018 recommendation) be added to the Ordinance amendments adopted by the Council on April 17, 2018. ~~All text identified in blue strike-through font~~ is language that the Planning Board is recommending be deleted from the April 17 Ordinance language adopted by the City Council.

Sec. 102-1137. Significant Groundwater Well.

(a) Exploration to establish a significant groundwater well.

A person may conduct exploratory drilling and testing to identify the potential availability of significant groundwater resources in anticipation of establishing a significant groundwater well. A permit from the Code Enforcement Officer shall be required for all such exploratory drilling. All areas disturbed by such exploratory drilling shall be restored and revegetated to prevent erosion.

(b) Extraction of a significant groundwater resource.

A request to extract water from a significant groundwater resource by the development of one or more significant groundwater wells shall require the issuance of a permit by the Belfast Planning Board pursuant to the process and standards identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Well Permit.

~~A significant groundwater well may be permitted under the following conditions:~~

- ~~(1) The groundwater well complies with the minimum structure setback requirement identified for a permitted use in the respective Shoreland district, and the respective minimum structure setback requirements identified for the zoning district in which the groundwater well is located.~~
- ~~(2) A person (applicant) who proposes to install one or more significant groundwater wells shall prepare and submit a hydrological assessment to the City that~~
- ~~(3) A person (applicant) who proposes to install one or more significant groundwater wells shall provide evidence to the City that they can or have obtained a State Department of Environmental Natural Resources Protection Act permit for any and all proposed significant groundwater wells.~~
- ~~(4) In keeping with the purposes of this chapter, the Planning Board may impose such conditions designed as are necessary to minimize the adverse impacts associated with the drilling and operation of a significant groundwater well on surrounding uses and resources.~~

OPTION B.4.

**RECOMMENDATION OF BELFAST PLANNING BOARD
SEPTEMBER 5, 2018**

**PROPOSED AMENDMENT TO APRIL 17, 2018 COUNCIL
ADOPTED AMENDMENTS TO
CHAPTER 102, ZONING ARTICLE IX, PERFORMANCE STANDARDS
DIVISION 2, ENVIRONMENTAL STANDARDS
SIGNIFICANT WATER INTAKE AND SIGNIFICANT WATER
DISCHARGE/OUTFALL PIPES**

AND

**ADOPTED AMENDMENTS TO
CHAPTER 82, SHORELAND ARTICLE V, LAND USE STANDARDS
DIVISION 17. SIGNIFICANT WATER INTAKE AND SIGNIFICANT
WATER DISCHARGE/OUTFALL PIPES**

**COUNCIL CONSIDERATION OF PLANNING BOARD
RECOMMENDATION AT SEPTEMBER 25, 2018
FIRST READING PUBLIC HEARING**

RECOMMENDATION OF BELFAST PLANNING BOARD

The amendments to the City Code of Ordinances that the City Council adopted at its meeting of April 17, 2018 included revisions to Chapter 102, Zoning and Chapter 82 Shoreland regarding Significant Water Intake and Significant Water Discharge/Outfall Pipes. City Ordinances, based on the April 17 amendments, for the first time, specifically identified Significant Water Intake and Significant Water Discharge Pipes as a specific type of use. Prior to the April 17 amendments, the City would have considered these types of uses as accessory structures/uses to a permitted activity. Based on the City decision to identify Significant Water Intake and Significant Water Discharge/Outfall Pipes as specific types of uses, the amendments the Council adopted on April 17 included specific performance standards that the Planning Board would review and apply regarding an applicant request to establish either of said uses. The specific performance standards are identified in Chapter 102, Zoning, Division 2, Environmental Standards, and in Chapter 82, Shoreland, Division 17. Land Use Standards.

The Belfast Planning Board, during its August and September 2018 review of the Ordinance amendments adopted (April 17) by the Council, discussed several proposed changes to the performance standards for Significant Water Intake and Significant Water Discharge/Outfall Pipes that were identified by the Director of Code and Planning. The Board determined that the

proposed amendments to the Zoning and Shoreland Ordinance would be good to implement. **The Planning Board, at its meeting of September 5, 2018, adopted a specific motion to recommend that the Council amend the Ordinances that the Council adopted on April 17, 2018. The Board recommends that the Council incorporate amendments (Option B.4) to the performance standards for Significant Water Intake and Significant Water Discharge/Outfall Pipes that are identified in Chapter 102, Zoning, Article IX Performance Standards, Division 2, Environmental Standards, and Chapter 82, Shoreland, Article V, Land Use Standards, Division 17, Significant Water Intake and Significant Water Discharge/Outfall Pipes.** The amendments recommended by the Board are identified as Option B.4. in this proposal.

CITY COUNCIL CONSIDERATION OF PLANNING BOARD RECOMMENDATION

The Council is in the process of considering the recommendations offered to the Council by the Planning Board. The Council will be conducting its First Reading of the Ordinance amendments that it adopted on April 17, 2018, on Tuesday, September 25, 2018. The First Reading will include a public hearing. The hearing will be held in the cafeteria of the Troy Howard Middle School beginning at 6:00 pm.

The Ordinance amendment language that the Council will consider at the September 25, 2018 hearing will include two approaches. One approach will involve will be the Ordinance amendment language that the Council adopted on April 17, 2018 to both the Zoning Ordinance and the Shoreland Ordinance regarding the performance standards for both Significant Water Intake and Significant Water Discharge/Outfall Pipes. Option B.4 will be the alternative language for these same performance standards that are now being recommended by the Planning Board. It is anticipated that the Council, at the end of the September 25 hearing, will determine which approach it will consider at the Second Reading of the amendments. The Second Reading is scheduled for the Council meeting and public hearing on October 9.

Following is the revised Option B.4 Ordinance amendment language recommended by the Planning Board for Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards and Chapter 82, Shoreland, Article V, Land Use Standards, Division 17, Significant Water Intake and Significant Water Discharge/Outfall Pipes.

OPTION B.4
PROPOSED AMENDMENT RECOMMENDED BY PLANNING BOARD
CHAPTER 82, SHORELAND ARTICLE V, LAND USE STANDARDS
DIVISION 17. SIGNIFICANT WATER INTAKE AND SIGNIFICANT WATER
OUTFALL/DISCHARGE PIPES

Note to Public: All text identified in black font is the Ordinance language that the Council adopted at its meeting of April 17, 2018. **All text identified black underline font is** language

that the Planning Board recommends (Sept 5, 2018 recommendation) be added to the Ordinance amendments adopted by the Council on April 17, 2018. ~~All text identified in blue strike-through font~~ is language that the Planning Board is recommending be deleted from the April 17 Ordinance language adopted by the City Council.

RECOMMENDED PLANNING BOARD AMENDMENTS

Sec. 102-1138. Significant Water Intake or Significant Water Discharge/Outfall Pipe.

A significant water intake or significant water discharge/outfall pipe may be permitted by the Planning Board under the following conditions:

- (1) The installation of and physical location of the pipe or pipes does not have a significant ~~the degree of~~ adverse impact, if any, on a shoreland regulated area ~~associated with the physical location of the pipe in said area~~, and the amount of area disturbed by the installation of the pipe is minimized to the greatest extent practical.
- (2) The applicant restores the area disturbed by the installation of a significant water intake or significant water discharge/outfall pipe so as to prevent both short-term and long-term soil erosion and sedimentation and the area is revegetated to present a natural appearance that is consistent with the surrounding area.
- (3) The location of any above ground structures associated with the intake or discharge/outfall pipes complies with the minimum structure setback requirement for the respective Shoreland District, subject to consideration of structure setback requirements that apply to a structure that is a water dependent activity.
- (4) A person who proposes to install a significant water intake or significant water/discharge pipe shall provide evidence to the City that they can or have obtained any and all state and federal permits associated with the location and operation of the proposed water intake or discharge/outfall, including ongoing monitoring, that may be required.

OPTION B.4
PROPOSED AMENDMENT RECOMMENDED BY PLANNING BOARD
CHAPTER 102, ZONING, ARTICLE IX, PERFORMANCE STANDARDS
DIVISION 2, ENVIRONMENTAL STANDARDS,
SECTION 102-1138 SIGNIFICANT WATER INTAKE AND SIGNIFICANT WATER
OUTFALL/DISCHARGE PIPES

Note to Public: All text identified in black font is the Ordinance language that the Council adopted at its meeting of April 17, 2018. All text identified black underline font is language

that the Planning Board recommends (Sept 5, 2018 recommendation) be added to the Ordinance amendments adopted by the Council on April 17, 2018. ~~All text identified in blue strike-through font~~ is language that the Planning Board is recommending be deleted from the April 17 Ordinance language adopted by the City Council.

RECOMMENDED PLANNING BOARD AMENDMENTS

Sec. 102-1138 Significant Water Intake or Significant Water Discharge/Outfall Pipe.

A significant water intake or significant water discharge/outfall pipe may be permitted by the Planning Board under the following conditions:

- (1) The installation of and physical location of the pipe or pipes does not have a significant ~~the degree of~~ adverse impact, if any, on a shoreland regulated area ~~associated with the physical location of the pipe in said area~~, and the amount of area disturbed by the installation of the pipe is minimized to the greatest extent practical.
- (2) The applicant restores the area disturbed by the installation of a significant water intake or significant water discharge/outfall pipe so as to prevent both short-term and long-term soil erosion and sedimentation and the area is revegetated to present a natural appearance that is consistent with the surrounding area.
- (3) The location of any above ground structures associated with the intake or discharge/outfall pipes complies with the minimum structure setback requirement for the respective Shoreland District, subject to consideration of structure setback requirements that apply to a structure that is a water dependent activity.
- (4) A person who proposes to install a significant water intake or significant water/discharge pipe shall provide evidence to the City that they can or have obtained any and all state and federal permits associated with the location and operation of the proposed water intake or discharge/outfall, including ongoing monitoring, that may be required.

The Planning Board is responsible for the review and issuance of the required City permit. The permit application does not require review by any other City board, committee, or similar body.