

**CITY OF BELFAST CITY COUNCIL  
PUBLIC HEARING - SECOND READING  
TUESDAY, OCTOBER 9, 2018 6:00 PM  
TROY HOWARD MIDDLE SCHOOL CAFETERIA**

**PROPOSED AMENDMENTS  
CITY CODE OF ORDINANCES  
CHAPTER 82, SHORELAND ZONING**

**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 a public hearing scheduled for October 9. October 9 is the Council's formal Second Reading of the proposed amendments. 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 each of these activities. It is noted that the Council, at its First Reading meeting on September 25, chose to incorporate amendments to these standards that were recommended by the Planning Board on September 12. Further, the proposed standards for Significant Groundwater Wells cross-reference standards for this type of use that are identified in Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 7, Significant Groundwater Wells.

The text of the proposed amendments that will be considered at the October 9 public hearing and Second Reading 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. The Commissioner of the Department of Environmental Protection, as is required by the State Mandatory Shoreland Law, has reviewed and approved the amendments adopted by the City Council on April 17, 2018.

## **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, 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, September 5, and September 12, and at its meeting of September 5 and 12, voted to adopt its written recommendation on the amendments to the Council. The Board's recommendations included 2 specific amendments to the Chapter 82, Shoreland Ordinance amendments that the Council adopted on April 17, 2018. Both amendments recommended by the Planning Board affected the Article V, Land Use Standards, one for Significant Groundwater Wells and the second for Significant Water Intake and Significant Water Discharge/Outfall Pipes.

## **4) City Council Review and Public Hearings**

The City Council scheduled two new public hearings on the Ordinance amendments that it originally adopted on April 17, 2018 regarding the establishment of the Route One South Business Park District; reference 1) above for a description of the amendments to Chapter 82, Shoreland.

- a) September 25, 2018. First Reading and public hearing on the amendments. The City Council has conducted this hearing. At the conclusion of the hearing the Council identified the specific language that would be scheduled for consideration at the Second Reading on October 9. The Council (on Sept 25) supported including the two amendments recommended by the Planning Board. The amendments affect the final language for the Chapter 82, Article V, Land Use Standards that will be considered on October 9. One change involves how to regulate Significant Groundwater Wells and the second affects the standards for Significant Water Intake and Significant Water Discharge/Outfall pipes.

- b) October 9, 2018. Public hearing is scheduled for 6:00 pm in the cafeteria of the Troy Howard Middle School. This is the formal Second Reading of the proposed amendments. Amendments to Chapter 66 that will be considered on October 9 are the same as the amendments considered on 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 October 9 Second Reading public hearing in one of three ways:

- You can attend the October 9 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 October 9 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 October 9 so that copies can be produced for the Council meeting on October 9.

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. The Council also has the complete record of comment offered at the September 25 hearing. 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](mailto:wmarshall@cityofbelfast.org).

## TEXT OF PROPOSED AMENDMENTS

**Note to Public:** 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, or by the Council vote of September 25 at the First Reading of these amendments. ~~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, or by the Council vote of September 25 at the First Reading of these amendments. Text shown in green font under the heading, Note to Public, is provided to help explain the proposed amendments.

### 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, eChapter 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.

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#### **ARTICLE IV. Districts**

**Sec. 82-131. Districts established; ~~e~~Official ~~s~~Shoreland ~~z~~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 ~~e~~Chapter is applicable are hereby divided into the following districts as shown on the ~~e~~Official ~~s~~Shoreland ~~z~~Zoning maps, which are made a part of this ~~e~~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 Official Shoreland 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 Official Shoreland 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 Section 82-9, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning maps, such changes shall be made on the Official Shoreland Zoning maps within 30 days after the amendment has been approved by the State Board of Environmental 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	<del>a. In Belfast Bay No No No No No PB PB No</del>								
	<del>Subsection Repealed on _____, 2018.</del>								
	<del>b. In all other areas PB PB PB PB PB PB Yes PB</del>								
	<del>Subsection Repealed on _____, 2018.</del>								
<b>c. Land based.</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>No</b>	<b>PB</b>	<b>PB</b>	<b>No</b>	
<b>d. Freshwater</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>No</b>	<b>PB</b>	<b>PB</b>	<b>No</b>	
<b>e. Marine</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	
<b>(38) Significant groundwater well</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>No</b>	<b>PB</b>	<b>No</b>	<b>No</b>	
<b>(39) Significant water intake or outfall/ discharge pipe</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	<b>PB</b>	

## 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.**

#### **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 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. (Language Added by Council vote of September 25. The text for the above proposed amendments can be found in the amendments to the Chapter 102, Zoning, that are also a subject of the October 9 public hearing.)

~~A significant groundwater well may be permitted under the following conditions: (All of the following language was deleted by the Council vote of September 25)~~

- ~~(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.~~
- ~~(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~~



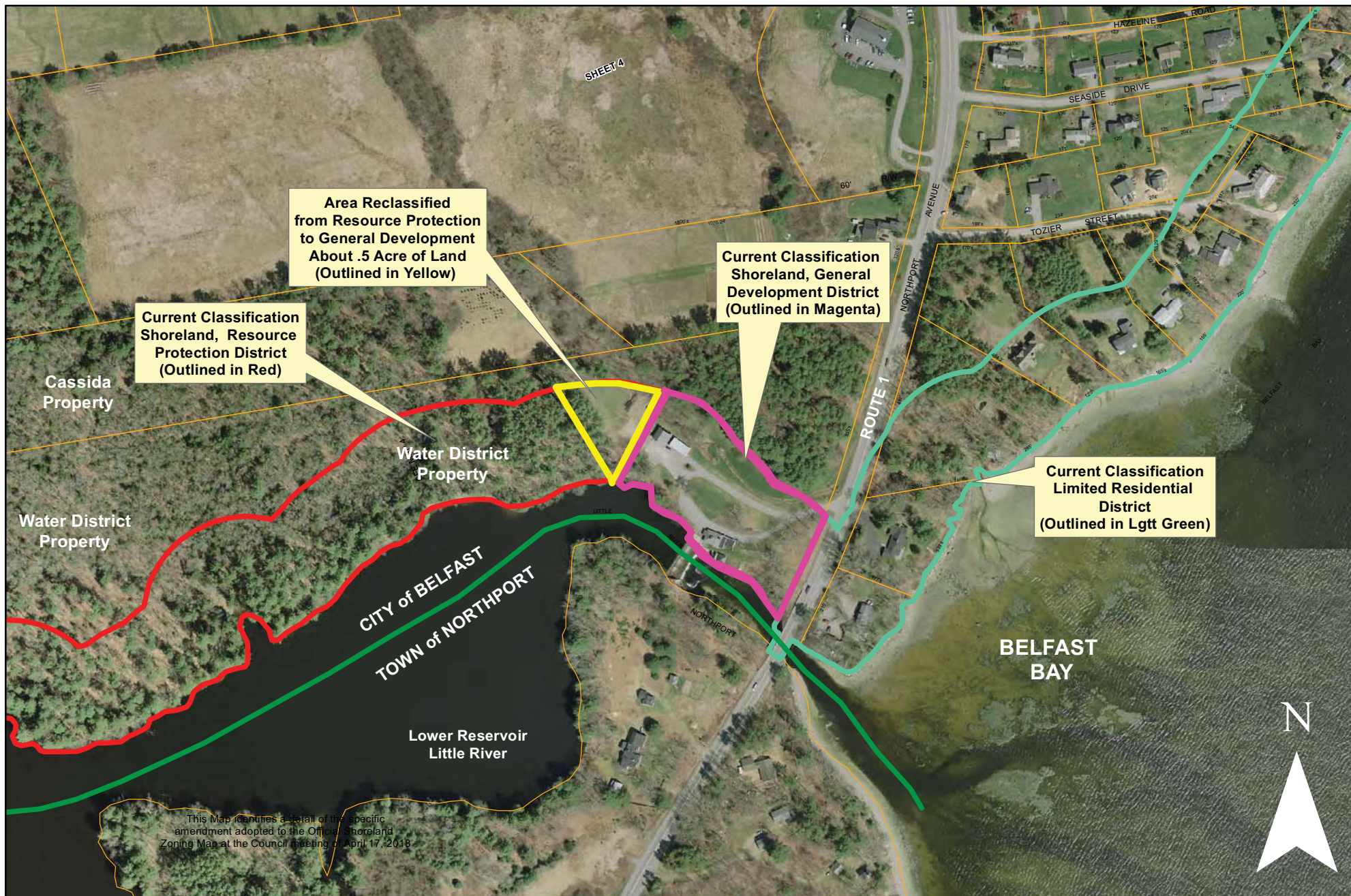
**DIVISION 17. Significant Water Intake or Significant Water Discharge/Outfall Pipe.**

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

- (1) The installation and physical location of the pipe or pipes does not have a significant ~~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 (Revisions were made to standard on Sept 25).
- (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. (New subsection added on Sept 25).
- (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. (New subsection added on Sept 25).
- (4) 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.

# DETAIL of SHORELAND AMENDMENT ADOPTED BY COUNCIL 4-17-18 CITY COUNCIL HEARINGS ON 9-25 & 10-9-18



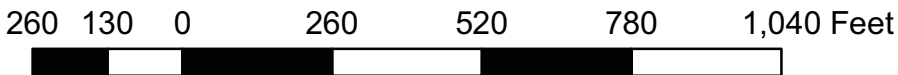
Area Reclassified from Resource Protection to General Development About .5 Acre of Land (Outlined in Yellow)

Current Classification Shoreland, Resource Protection District (Outlined in Red)

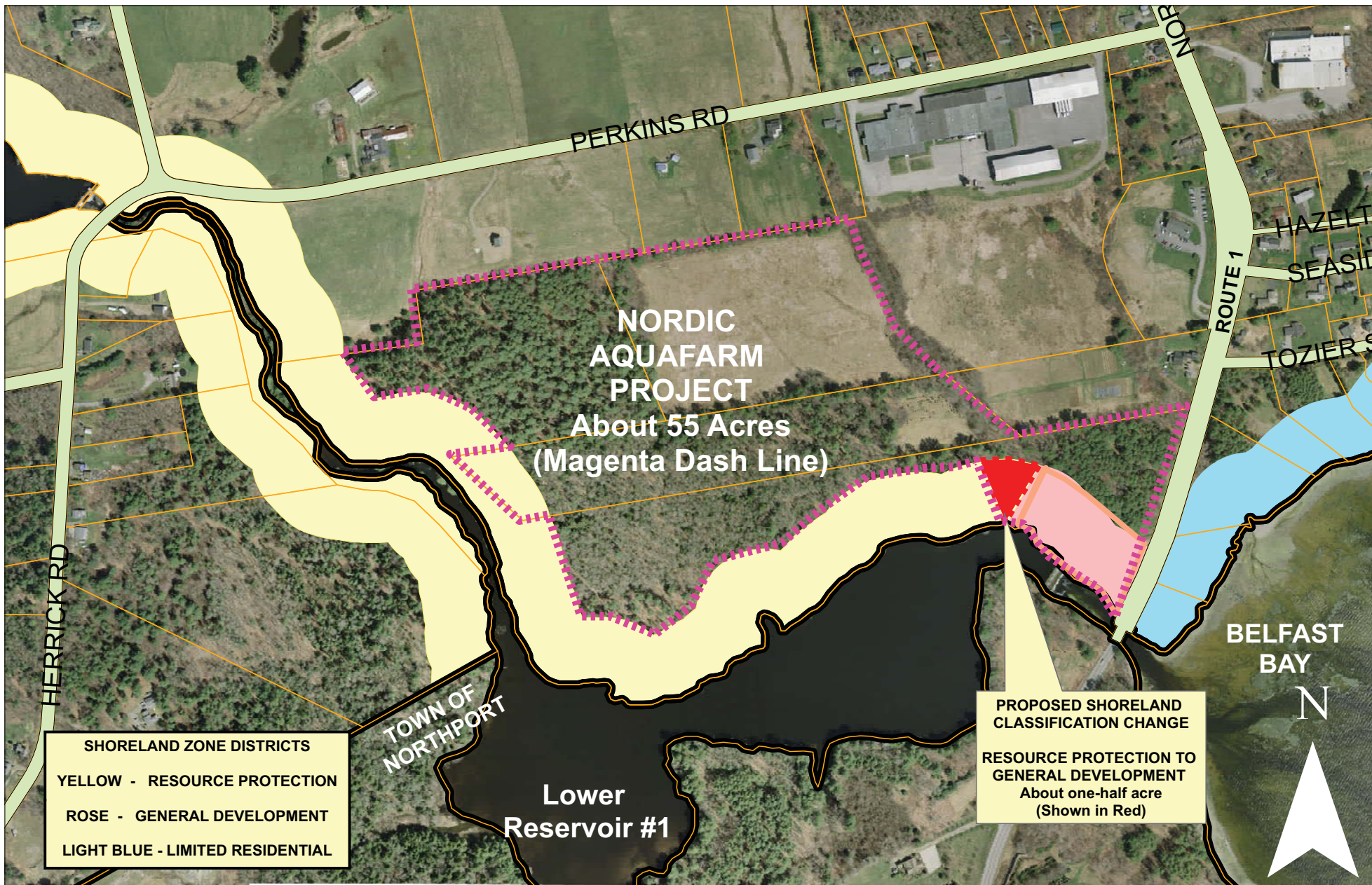
Current Classification Shoreland, General Development District (Outlined in Magenta)

Current Classification Limited Residential District (Outlined in Lggt Green)

This Map identifies a detail of the specific amendment adopted to the Official Shoreland Zoning Map at the Council meeting of April 17, 2018.



**ADOPTED SHORELAND ZONING AMENDMENT - 4-17-18 Council Mtg  
CITY COUNCIL HEARINGS - 9/25 & 10/9/18 - Overall Map**



400 200 0 400 800 1,200 1,600 Feet

