

City of Belfast, ME  
Tuesday, July 24, 2018

## Chapter 102. Zoning

### ARTICLE IV. Descriptions of Districts

#### Sec. 102-274. Aquifer-Watershed District.

[Ord. No. 28-1997, appendix, 3-4-1997]

The boundaries of the Aquifer-Watershed District are as follows:

Beginning at a point on the northerly bound of Tax Map 9 Lot 57 and 400 feet easterly of the centerline of Route 141 (Swan Lake Avenue), which point is located on the Swanville town line; thence southerly in a straight line to the southerly-most corner of Tax Map 9 Lot 57F; thence southeasterly in a straight line to the southerly-most corner of Tax Map 9 Lot 57H, being also the easterly-most point of Tax Map 9 Lot 57B; thence southeasterly in a straight line to the northwesterly-most corner of Tax Map 9 Lot 103; thence southeasterly in a straight line to the most southwesterly corner of Tax Map 9 Lot 105; thence easterly in a straight line crossing the Smart Road to the easterly-most corner of Tax Map 9 Lot 65B; thence southerly to the northerly-most corner of Tax Map 9 Lot 64; thence southerly in a straight line to a point located on the southerly bound of Tax Map 9 Lot 87, such point being 350 feet west of the southeasterly corner of Tax Map 9 Lot 87; thence northeasterly in a straight line to the northeast corner of Tax Map 9 Lot 89; thence by the Belfast/Searsport town line to the intersection of the Belfast/Swanville town line; thence westerly by the Belfast/Swanville town line to the point of beginning.

#### Sec. 102-275. Aquifer Zone.

[Ord. No. 28-1997, appendix, 3-4-1997]

The boundaries of the Aquifer Zone are as follows:

Beginning at on the northwesterly corner of the Union Cemetery on the Belfast/Swanville town line; thence southerly in a straight line to the southwesterly corner of Tax Map 9 Lot 86E; thence northeasterly in a straight line to a point located on the northwesterly corner of Tax Map 9 Lot 89; thence northerly by a northerly extension of the westerly bound of Tax Map 9 Lot 89 to the intersection of the northerly bound of Tax Map 9 Lot 88A; thence northwesterly to the southwesterly corner of Tax Map 9 Lot 86G; thence continuing in a straight line to the centerline of Baker Road; thence northerly along the centerline of Baker Road to the easterly extension of the southerly bound of Tax Map 9 Lot 83A; thence westerly to and along the southerly bound of Tax Map 9 Lot 83A to a point 250 feet westerly of the centerline of the Baker Road; thence northerly to the northerly-most corner of Tax Map 9 Lot 80; thence northwesterly to the southwesterlymost corner of Tax Map 9 Lot 69A on Blake Road; thence northerly by the easterly bound of the Blake Road to the Belfast/Swanville town line; thence westerly along the Belfast/Swanville town line to the point of beginning.

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### ARTICLE VII. Overlay Districts

#### DIVISION 3. Aquifer-Watershed Overlay District

##### Sec. 102-871. Applicability of division.

[Ord. No. 28-1997, § 1201.0, 3-4-1997]

No person shall build, occupy or maintain a structure in the Aquifer-Watershed Overlay District of the City unless in compliance with the provisions of this division.

##### Sec. 102-872. Nonconforming uses.

[Ord. No. 28-1997, § 1202.0, 3-4-1997]

Existing uses or structures which are not permitted in sections **102-873**, **102-874**, **102-875** and **102-876** which are legally owned, occupied or maintained within the Aquifer-Watershed Overlay District of the City on July 17, 1990, are nonconforming uses under the provisions of this chapter. Legally nonconforming uses may continue provided they do not create any significant risk of causing an adverse impact upon the quantity and/or quality of the waters of the aquifers and/or watershed of the City water supply. No nonconforming use may be changed to another nonconforming use or expanded in any way.

##### Sec. 102-873. Structures and uses permitted in Aquifer Zone with approval of Planning Board.

[Ord. No. 28-1997, § 1203.0, 3-4-1997; Ord. No. 21-2006, 2-7-2006]

Structures and uses permitted in the Aquifer Zone with Planning Board review are as follows:

- (1) New residential structures and manufactured housing units. Basements and frost walls are permitted, provided the clay restrictive layer is not disturbed. This must be verified by the code enforcement officer.
- (2) Additions to existing dwelling. Basements and frost walls are permitted, provided the clay restrictive layer is not disturbed. This must be verified by the code enforcement officer.
- (3) Accessory buildings. Basements and frost walls are permitted, provided the clay restrictive layer is not disturbed. This must be verified by the code enforcement officer.
- (4) Public and private parks. Public and private parks are permitted, with no structural development with the exception of picnic shelters no larger than 10 feet by 10 feet.
- (5)

Commercial timber harvesting. As a minimum, the applicant shall provide the Planning Board with a harvesting plan prepared by a professional forester, and an erosion and sedimentation control plan approved by the U.S. Soil Conservation Service. Use of a skidder is subject to the approval of the code enforcement officer.

- (6) Public utilities. Public utilities, including but not limited to sewage collection and water treatment facilities, are permitted.
- (7) Road construction. As a minimum the applicant shall provide the Planning Board with a plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state. For purposes of this subsection, a driveway which does not require excavation of more than 12 inches of the ground is not considered a road.
- (8) Telecommunications facilities, if such use is permitted in the underlying zoning district which is subject to the provisions of the Aquifer zone overlay district.
- (9) Stealth telecommunications facilities.

## **Sec. 102-874. Structures and uses permitted in Aquifer Zone with approval of code enforcement officer.**

[Ord. No. 28-1997, § 1204.0, 3-4-1997]

Structures and uses permitted in the Aquifer Zone with approval of the code enforcement officer are as follows:

- (1) Replacement septic systems/replacement septic system variances are permitted.
- (2) Any lawfully existing residence or manufactured housing unit may be repaired, replaced, maintained or rebuilt.
- (3) Use of a skidder may be approved when its use will not cause any significant disturbance of the surface of the ground.
- (4) Commercial agriculture is permitted. As a minimum, the applicant shall provide a plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state.
- (5) Land clearing of more than two acres is permitted. As a minimum, the applicant shall provide the Planning Board with a plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state.
- (6) Home occupations are permitted provided they do not create any significant risk of causing an adverse impact upon the quantity and/or quality of the waters of the aquifer or the City water supply.
- (7) New utilities are permitted as follows:
  - a. Poles. The erection of new utility poles in the Aquifer Overlay is permitted provided that:
    1. The pole does not create a significant risk of causing an adverse impact upon the quantity and/or quality of the waters of the City aquifer; and
    2. The location of such poles shall be a minimum of 100 feet from any septic system. A permit for the placement of any new poles in the aquifer shall be required.
  - b.

Electrical transformers. No electrical transformers shall be placed within this overlay if the transformer contains more than two parts per million PCBs.

c. Underground utilities. No new underground utilities shall be permitted.

(8) Replacement utilities, as follows:

a. Poles. The replacement of any existing utility poles in the Aquifer Overlay is permitted provided that:

1. The pole does not create a significant risk of causing an adverse impact upon the quantity and/or quality of the waters of the City aquifer; and
2. The pole shall be located in the same hole or immediately adjacent to the existing pole. The utility company shall construct a clay seal around the hole to prevent seepage into the aquifer whenever the clay layer is penetrated. Such a seal shall be accomplished through the use of clay whenever the clay layer is penetrated. When utility poles are removed, a clay backfilling is allowed. In the event of an emergency pole replacement, the utility company shall immediately notify the City of such a replacement and apply for the proper permit on the next business day.

b. Electrical transformers. No electrical transformer shall hereafter be placed within this zone which contains more than two parts per million PCBs.

## Sec. 102-875. Structures and uses permitted in Watershed Zone with approval of Planning Board.

[Ord. No. 28-1997, § 1205.0, 3-4-1997; Ord. No. 21-2006, 2-7-2006]

Structures and uses permitted in the Watershed Zone with Planning Board approval are as follows:

- (1) Residential dwelling units. Basements and frost walls are permitted.
- (2) Accessory buildings. Accessory buildings equal to or greater than 500 square feet in area are permitted. Basements and frost walls are permitted.
- (3) Governmental structures.
- (4) Public utilities. Public utilities, including but not limited to sewage collection and water treatment facilities, are permitted. Placement of utility poles in the Watershed Zone shall not require a permit.
- (5) Public and private parks.
- (6) Road construction. As a minimum, the applicant shall provide the Planning Board with a plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state. For the purposes of this subsection, a driveway which does not require excavation of more than 12 inches of the ground is not considered a road.
- (7) Telecommunications facilities, if such use is permitted in the underlying zoning district which is subject to the provisions of the Watershed zone overlay district.
- (8) Stealth telecommunications facilities.

## Sec. 102-876. Structures and uses permitted in Watershed Zone with approval of code enforcement officer.

[Ord. No. 28-1997, § 1206.o, 3-4-1997]

Structures and uses permitted in the Watershed Zone with approval of the code enforcement officer are as follows:

- (1) Replacement septic system/replacement septic system variance.
- (2) Accessory buildings. Accessory buildings less than 500 square feet are permitted. Basements and frost walls are permitted.
- (3) Commercial agriculture. As a minimum, the applicant shall provide a plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state.
- (4) Land clearing of more than two acres. As a minimum, the applicant shall provide the code enforcement officer with a plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state.
- (5) Commercial timber harvesting. As a minimum, the applicant shall provide the code enforcement officer with a harvesting plan prepared by a professional forester and an erosion and sedimentation control plan approved by the U.S. Soil Conservation Service or by a registered professional engineer licensed by the state. Use of a skidder is subject to the approval of the code enforcement officer.
- (6) Home occupations. Home occupations are permitted provided they do not create any significant risk of causing an adverse impact upon the quantity and/or the quality of the waters of the aquifer and/or the watershed of the City water supply.

## Sec. 102-877. Appeals.

[Ord. No. 28-1997, § 1207.o, 3-4-1997]

An appeal of a decision of the code enforcement officer or the Planning Board denying any application where such denial is based on the provisions of this division shall be reviewed by the Zoning Board of Appeals.

## Sec. 102-878. Standards.

[Ord. No. 28-1997, § 1208.o, 3-4-1997]

- (a) No land use shall be permitted which would create a significant risk of causing an adverse impact upon the quality and/or quantity of the waters of the aquifers and/or the watershed of the City water supply.
- (b) Hazardous material shall not be used, stored or produced in the Aquifer-Watershed Overlay District unless in compliance with all state, federal and local regulations and laws relating thereto, including but not limited to 38 M.R.S.A. §§ 1319, 1317 and 1362, and unless approved by the Planning Board. The applicant shall provide the Planning Board clear and convincing evidence that the presence of such materials within the Aquifer-Watershed Overlay District will pose no foreseeable likelihood of entry onto the watershed or into the water supply aquifer.
- (c) No material shall be used, stored or produced in the Aquifer-Watershed Overlay District, whether classified as hazardous material or not, if such material could create a significant risk of

causing any impact upon the quantity and/or quality of the waters of the Aquifer-Watershed Overlay District, unless approved by the Planning Board. The applicant shall provide the Planning Board clear and convincing evidence that the presence of such materials within the Aquifer-Watershed Overlay District will pose no foreseeable likelihood of entry onto the watershed or into the water supply aquifer.

- (d) No new septic system variance shall be granted in the Aquifer-Watershed Overlay District.
- (e) The separation distance between a new well and septic systems shall be at least 100 feet in the Aquifer-Watershed Overlay District.
- (f) Gasoline/diesel fuel may be used or stored in the Aquifer-Watershed Overlay District provided that such storage is in approved storage containers of six or less gallons or in a tank which is an integral part of a piece of equipment which operates on gasoline/diesel fuel. Storage of gasoline/diesel fuel in an approved storage container securely fastened in back of a truck is permitted.
- (g) The provisions of this division shall also apply to the City and the Belfast Water District.

**Sec. 102-879. through Sec. 102-920. (Reserved)**