

**CITY of BELFAST CITY COUNCIL  
TUESDAY, SEPTEMBER 5, 2017  
FIRST READING & PUBLIC HEARING on PROPOSED AMENDMENTS  
CITY of BELFAST CODE of ORDINANCES  
CHAPTER 102 ZONING & CHAPTER 66, GENERAL PROVISIONS  
ISSUE: ACCESSORY DWELLING UNITS**

**MAIN ISSUE.**

The City of Belfast is considering several approaches to encourage the potential construction of additional rental housing in Belfast. The option that is being considered through this proposal is --- Should the City of Belfast amend current zoning ordinances to allow a property that can be used as a single family dwelling (residence) to also be used to construct an accessory dwelling unit that has either one or two bedrooms in a structure that is detached from the single family dwelling (residence)?

**CURRENT ZONING.**

Most zoning districts in Belfast now allow a property to be used for a single family dwelling (residence). Further, these same districts that allow a single family dwelling also allow a two-family dwelling (2 dwelling units in 1 building/structure) on the same size lot. The main exception to the above standard is if the property is in a shoreland zone. Shoreland zoning districts require each dwelling unit to meet the minimum lot size requirement that applies to the respective shoreland zoning district.

In October 2014, the City amended Zoning Ordinance (Chapter 102, Zoning) requirements for the area located mostly inside the bypass to allow construction of a 1 bedroom accessory dwelling unit in a detached structure on a lot on which a single family residence is constructed. The unit could be constructed in a detached garage or barn or it could be a stand-alone structure that is used solely as a dwelling. The Residential 1, Residential 2 and Residential 3 zoning districts now allow this type of use.

At present, most properties in the City's other zoning districts on which a property owner could construct a single family dwelling would not allow the construction of a separate dwelling unit in a structure that is detached from the single family residence, unless the size of the lot supports the construction of two or more dwelling structures. For example, the minimum lot size requirement for the Protection Rural zoning district is 2 acres. Thus, if a property was at least 4 acres in size, the property owner could construct 2 separate dwelling structures on the property. As also noted, a two-family dwelling structure is permitted on the same size lot as a single family dwelling, but this means that both dwelling units must be located in the same structure.

## **PROPOSED ORDINANCE AMENDMENTS**

### **Chapter 102, Zoning, Article V, District Regulations.**

The City proposes to amend current zoning requirements for each of the following zoning districts identified in Chapter 102, Zoning, Article V, District Regulations, to allow construction of a one bedroom or two bedroom detached accessory dwelling unit on a property on which a single family dwelling/residence is located, provided the applicant/property satisfies all applicable performance standards. The zoning districts, as such are depicted on the adopted Official Zoning Map, copy attached, include:

- Division 2. General Purpose-A
- Division 3. General Purpose-B
- Division 4. Residential/Agricultural I
- Division 5. Residential/Agricultural II
- Division 7. Residential II
- Division 13. Searsport Avenue Waterfront
- Division 20. Protection Rural
- Division 20.5 Protection Rural-2
- Division 22. Residential Growth
- Division 24. Route 3 Commercial
- Division 25. Office Park
- Division 26. Route 141 and Mill Lane Commercial
- Division 27. Route 137 Commercial
- Division 28. Route One South Commercial
- Division 29. Searsport Avenue Commercial
- Division 30. Table of Uses. Residential 1, Residential 2 and Residential 3.

### **Chapter 102, Zoning, Article IX, Performance Standards.**

This proposal includes a recommendation to adopt specific performance standards that would apply to a property on which the construction of an accessory dwelling unit in a detached structure is proposed. The performance standards would be included in the Chapter 102, Zoning, Article IX, Performance Standards and would be a new division to this Article; Division 6, Supplemental Performance Standards for an Accessory Dwelling Unit in a Detached Structure. Following is a draft of the proposed amendment language.

#### **Division 6, Supplemental performance standards for an accessory dwelling unit in a detached structure.**

##### **Sec. 102-1361. Applicability of city ordinances.**

A property on which the construction of an accessory dwelling unit in a detached structure is proposed shall satisfy applicable requirements identified in Chapter 102, Zoning, Article V, District Regulations; Chapter 102, Zoning, Article VIII, Supplementary District Regulations; Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards;

Chapter 98, Technical Standards; Chapter 82, Shoreland; Chapter 78, Floods; and Chapter 62, Utilities; and shall comply with the following Supplemental Performance Standards identified in this Division.

**Sec. 102-1362. Wastewater Pollution and Subsurface Wastewater Disposal.**

Consistent with requirements of Chapter 62, Utilities, and Chapter 102, Zoning, Article IX, Performance Standards, Division 2, Environmental Standards, all properties must provide adequate wastewater disposal for the uses that occur on the property. An accessory dwelling unit in a detached structure must either be connected to public sewer or must be served by a subsurface wastewater disposal system that has been designed and installed to provide adequate capacity for all of the uses that occur on the property. A subsurface system that has the capacity to serve the demand associated with the new accessory dwelling unit in a detached structure must be installed prior to issuance of an occupancy permit for said unit. The property owner shall provide evidence to the Code Enforcement Officer that the above standard can be satisfied.

**Sec. 102-1363. Access to Property.**

- (a) Number of driveways. Notwithstanding access control standards identified in Chapter 98, Technical Standards, Section 98-154(f), a property on which an accessory dwelling unit in a detached structure is constructed shall have no more than one two-way driveway or two one-way driveway openings (one for egress and one for ingress) on the property. The accessory dwelling unit in a detached structure shall use the same driveway opening that serves the single family residence on the property. The exception to this standard is if two or more properly permitted (two-way) driveway openings existed on the property at the time that an application is submitted to construct an accessory dwelling unit in a detached structure.

If a property is subject to Maine Department of Transportation access management requirements, the property owner shall provide evidence to the City Code Enforcement Officer that the State has issued any driveway or entrance permit that may be required. The property owner also shall provide evidence that the City of Belfast Superintendent of Public Works has approved any road opening or driveway entrance permit that may be required.

- (b) Turn-around requirement. If the posted speed limit is 40 mph or greater on the street on which a driveway opening is located for an accessory dwelling unit in a detached structure, the property shall include a properly constructed driveway that supports a vehicle being able to turn-around on said property so that a vehicle does not need to back out onto the adjacent street to exit the property.

**Sec. 102-1364. Amount and Location of Parking.**

Notwithstanding parking requirements identified in the Chapter 98, Technical Standards, Article VIII, Parking and Loading Facilities, Section 98-242, Off-Street Parking Requirements, if a property is located in the Residential 1, Residential 2 or Residential 3 zoning district, and the street or streets on which the property that has an accessory dwelling unit in a detached structure is located does not prohibit on-street parking, the minimum amount of on-site parking that must

be provided for a single family dwelling unit and a one or two bedroom accessory dwelling unit in a detached structure shall be 3 parking spaces, provided the location of the parking complies with standards identified in Section 98-247, Front yard parking restricted in certain districts. In all other zoning districts the amount and location of on-site parking shall comply with standards identified in Section 98-242.

**Sec. 102-1365. Size of lot.**

A property which complies with the minimum lot size, both amount of area and street frontage (if the lot has street frontage), required for a residential use in a respective zoning district, may be used for a single family dwelling unit and an accessory dwelling unit in a detached structure, provided the proposed uses on the property comply with all applicable performance standards. A property that is a nonconforming lot of record with respect to the amount of lot area or street frontage may be used for a single family dwelling unit and an accessory dwelling unit in a detached structure, subject to compliance with the following requirements:

- 1) The proposed uses must comply with all applicable performance standards;
- 2) If a property is connected to public sewer the property must be a minimum of 4,000 square feet in size; and
- 3) If a property uses a subsurface wastewater disposal system, the lot shall be no less than 30,000 square feet in size and have a minimum of 100 feet of street frontage (if the lot has street frontage).

If a property is located in a shoreland zoning district, the property shall comply with all lot size and shore frontage requirements to allow the construction of more than one dwelling unit on the property; reference Chapter 82, Shoreland, for lot size and shore frontage requirements that apply to the respective shoreland zoning districts.

**Sec. 102-1366. Structure Setbacks, Structure Height and Lot Coverage.**

An accessory dwelling unit in a detached structure that is located in a new structure that is constructed pursuant to a building permit issued by the Department. shall comply with all structure setback, structure height and lot coverage standards identified for the respective zoning district in which the dwelling unit and structure is located. If the proposed accessory dwelling unit is located in an existing accessory structure that is detached from a single family residence, such as but not limited to a garage or a barn, and the existing structure is nonconforming with respect to structure setback, structure height and/or lot coverage standards, the existing detached structure may be used for an accessory dwelling unit, provided no new nonconformities are created or provided that the City of Belfast Planning Board has approved a use permit to allow a nonconforming expansion as such may be permitted pursuant to requirements of Chapter 102, Zoning, Article III, Nonconformance.

If a property is located in a shoreland zoning district, the proposed accessory dwelling unit in a detached structure shall comply with all applicable structure setback, structure height and lot coverage requirements for the respective shoreland zoning district; reference Chapter 82, Shoreland, for applicable standards.

**Sec. 102-1367. Use of accessory dwelling unit in a detached structure.**

An accessory dwelling unit in a detached structure that is constructed on a property on which a single family dwelling is located shall only be used as a long-term rental, and must be occupied for time periods of no less than ninety consecutive days by the same persons. This standard does not prohibit the owners of the single family residence from using the accessory dwelling unit in a detached structure as a guest cottage or short-term housing for persons who use it for periods of less than ninety consecutive days, provided that the persons who use the accessory dwelling unit in a detached structure do not make financial payment for the use of said unit.

Sec. 102-1368. Compliance with City building code.

The accessory dwelling unit in a detached structure that is constructed shall comply with all building code requirements identified in Chapter 74, Buildings and Building Regulation.

**PROPOSED AMENDMENTS  
CHAPTER 66, GENERAL PROVISIONS**

Note to Public. The City adopted the following definition for an accessory apartment to a single family dwelling in October 2014 when the City adopted initial standards to allow a one bedroom accessory apartments in the Residential 1, Residential 2 and Residential 3 zoning districts. The City is now proposing to amend this definition to better address requirements associated with the current proposal to allow both one and two bedroom accessory dwelling units in a detached accessory structure, to allow such uses in more zoning districts, and because the City is now proposing specific performance standards that would apply to this type of use.

**EXISTING DEFINITION: This definition is proposed to be deleted from Chapter 66.**

*Accessory apartment to a single family dwelling* means a one bedroom dwelling unit that is constructed in a new or existing detached accessory structure to a single family residence, such as a garage, barn or similar outbuilding, and which is located on the same property as the single family residence. An accessory apartment is a permitted use provided all of the following conditions are met:

- 1) the single family residence is the primary use of the property;
- 2) the property is a conforming or nonconforming lot of record;
- 3) there is adequate wastewater disposal on the property;
- 4) a newly constructed detached accessory structure must conform to all structure setback requirements for the respective zoning district, however, an existing accessory structure may be nonconforming with respect to setback requirements;
- 5) the accessory apartment that is constructed complies with all applicable building code requirements for said structure.

**PROPOSED DEFINITION. This definition is proposed to be added to Chapter 66.**

*Accessory dwelling unit in a detached structure* means a one or two bedroom dwelling unit that

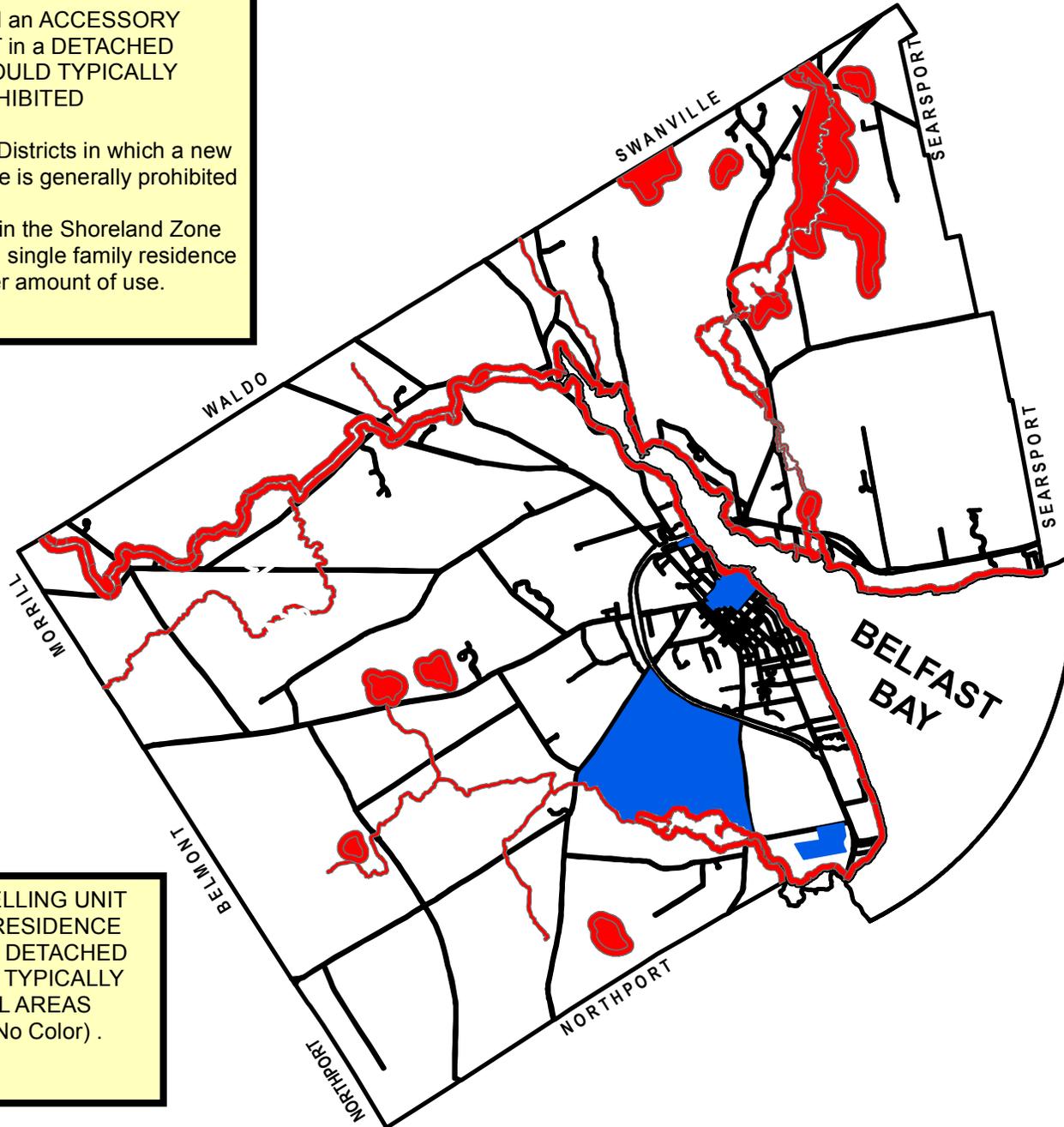
is constructed as an accessory dwelling unit to a single family dwelling unit and which is located in a structure that is detached from the single family dwelling unit. The structure in which the accessory dwelling unit is constructed can be used solely as a dwelling unit or may be constructed in an accessory structure that may also serve as a garage, a barn, or similar structure.

# MAP # 1 - AREAS in which a DETACHED ACCESSORY DWELLING UNIT WOULD BE ALLOWED or PROHIBITED

AREAS in WHICH an ACCESSORY DWELLING UNIT in a DETACHED STRUCTURE WOULD TYPICALLY be PROHIBITED

Areas in Blue: Zoning Districts in which a new Single Family Residence is generally prohibited

Areas in Red: Areas in the Shoreland Zone which often allow only 1 single family residence per lot or a lesser amount of use.



AN ACCESSORY DWELLING UNIT to a SINGLE FAMILY RESIDENCE THAT is LOCATED in a DETACHED STRUCTURE WOULD TYPICALLY be ALLOWED in ALL AREAS SHOWN in WHITE (No Color) .



WALDO

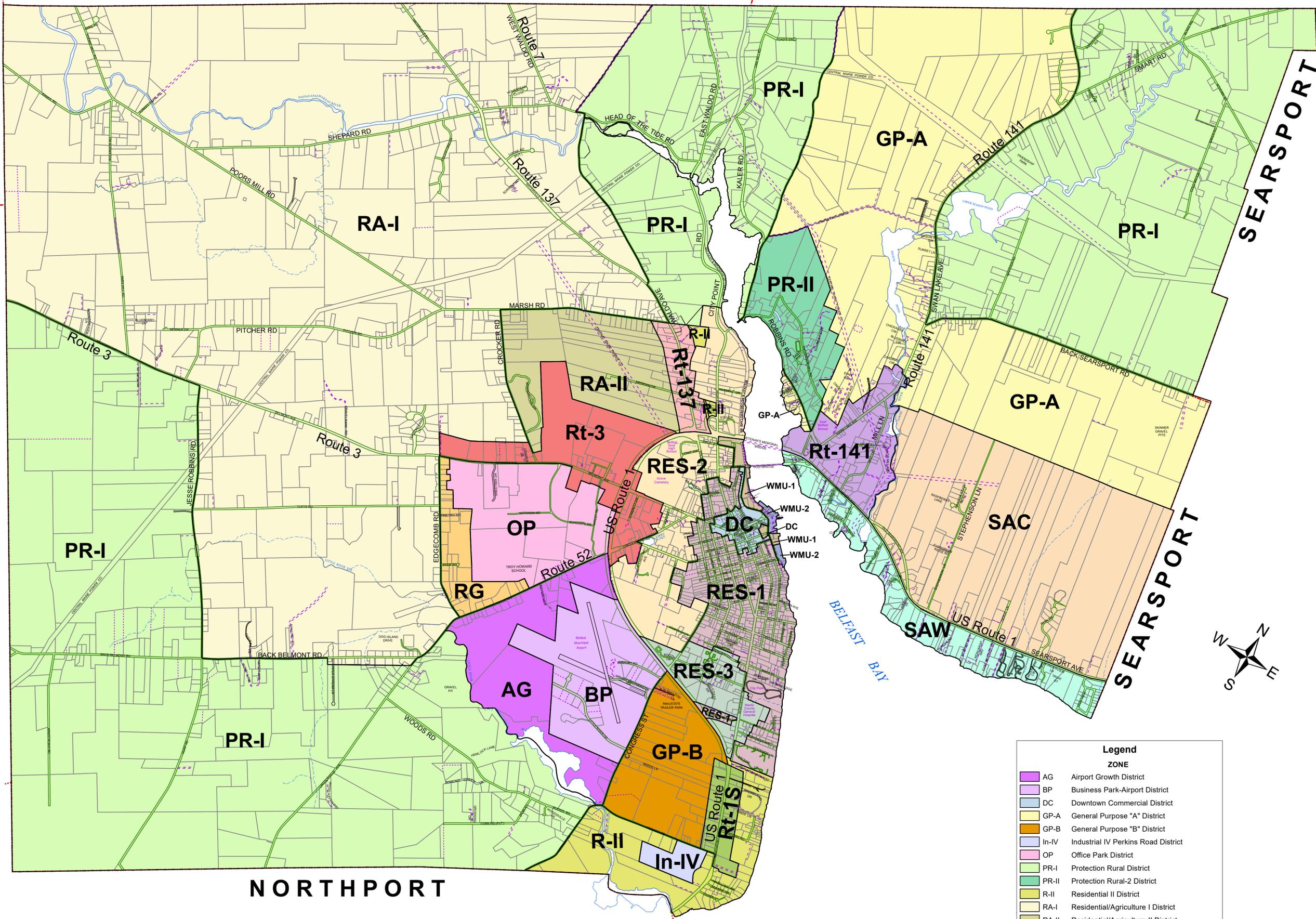
SWANVILLE

MORRILL

BELMONT

NORTHPORT

SEARSPORT



Legend	
ZONE	
AG	Airport Growth District
BP	Business Park-Airport District
DC	Downtown Commercial District
GP-A	General Purpose "A" District
GP-B	General Purpose "B" District
In-IV	Industrial IV Perkins Road District
OP	Office Park District
PR-I	Protection Rural District
PR-II	Protection Rural-2 District
R-II	Residential II District
RA-I	Residential/Agriculture I District
RA-II	Residential/Agriculture II District
RES-1	Residential 1 District
RES-2	Residential 2 District
RES-3	Residential 3 District
RG	Residential Growth District
Rt-137	Route 137 Commercial District
Rt-141	Route 141 and Mill Lane Commercial District
Rt-15	Route One South Commercial District
Rt-3	Route 3 Commercial District
SAC	Searsport Avenue Commercial District
SAW	Searsport Avenue Waterfront District
WMU-1	Waterfront Mixed Use 1 District
WMU-2	Waterfront Mixed Use 2 District



**CITY OF BELFAST**  
WALDO COUNTY, MAINE



Published March, 2016  
This map was prepared using the  
City of Belfast Geographic Information System.

This is the adopted Official Zoning Map for the City of Belfast; reference City Code of Ordinances, Chapter 102, Zoning, Section 102-4. This map includes all amendments adopted to the Official Zoning Map through May 5, 2015. Questions regarding this map, as such has been amended, should be directed to the City of Belfast, Code and Planning Department, 338-1417 x 25.