

AGENDA TOPIC 10.

TO: Mayor & City Council
FROM: Wayne Marshall, Director, Code & Planning
DATE: February 27, 2018
RE: Second Reading & Public Hearing - Proposed Amendments - Design Review

REQUESTED ACTIONS

Action # 1: The Council should conduct the scheduled public hearing associated with the Second Reading. I would like an opportunity to make a presentation regarding the amendments prior to the hearing. The Council conducted the First Reading of this proposal at its meeting of January 2, 2018.

Action # 2: The Council should conduct the formal Second Reading and should take one of 3 actions: vote to adopt the proposal, vote to reject the proposal or vote to make desired changes to the proposal. If the Council makes substantive changes to the proposed amendments, the Council will need to conduct a duly noticed follow-up public hearing.

AN ABBREVIATED HISTORY OF THE DESIGN REVIEW ORDINANCE

- 1) Initial Ordinance, 2001.** The initial Ordinance established a new City Committee (In-town Design Review) to review and offer recommendations regarding the exterior design and appearance of nonresidential structures in the downtown and working waterfront area as well as other areas located in the inside the bypass area. Applicants who proposed new construction or changes to existing buildings were required to participate in the design review process, however, the Committee's recommendations were advisory to the applicant. We coined the phrase, 'mandatory participation, voluntary compliance' to describe this process. The City adopted this Ordinance as part of its initial efforts to implement the Main Street program in Belfast.
- 2) 2008 Amendments.** In 2008 the City amended the Ordinance to require that certain building improvements in a limited section of the downtown must comply with the Committee's recommendations. We used the phrase, 'mandatory participation, mandatory compliance', to describe this requirement. One of the reasons the City chose to make the Committee's recommendations mandatory conditions was the amount of negative public concern expressed regarding the appearance of additions constructed to two buildings on lower Main Street that the Design Review Committee opposed. The amendments that required an applicant to comply with the Committee decision also necessitated that the City enact an appeal process before the Zoning Board of Appeals; both an administrative appeal (challenge why the Committee made their decision) and a variance (Economic Hardship) through which an applicant could request relief from the requirements of the Committee. I note that many areas and improvements subject to design review continued to fall under the category of 'mandatory participation, voluntary compliance' established in 2001. The 2008 amendments

also included a 'sunset' provision that required the Council to assess the impact of the mandatory requirement and to determine (after 3 years) if the mandatory provisions should be continued.

- 3) **2013 Amendments.** The 2013 amendments centered on the Council's review of the 'sunset' provision dictated by the 2008 amendments. The Council decided to retain the 'mandatory participation, mandatory compliance' requirement, and expanded the area subject to mandatory compliance to include nearly all of the properties in the downtown commercial and working waterfront zoning districts. The amendments also clarified the standards the Committee reviews regarding the demolition of buildings.

WHAT IS AFFECTED BY THE PROPOSED AMENDMENTS AND WHY

1) Expand Area Subject to Mandatory Compliance.

The current Ordinance limits the area subject to mandatory compliance (applicant must comply with Committee decision) to most of the area included in the Downtown Commercial and Working Waterfront zoning districts; reference attached map from the current Ordinance. The proposed amendments would expand the area subject to mandatory compliance to include all of the area located inside the bypass, except the area that is in the Route 3 Commercial zoning district near Starrett Drive and Lincolnville Avenue. The expanded area would include all properties/structures occupied by a nonresidential use located in any of the following zoning districts: Downtown Commercial, Residential 1, Residential 2, Residential 3, Waterfront Mixed Use 1 and Waterfront Mixed Use 2. I have included a map that identifies the boundaries of the affected zoning districts.

Our Department is proposing to expand the area subject to mandatory compliance for the following reasons:

- The Design Review Committee has reviewed several major project applications in the past 3 years in the area not subject to mandatory compliance. Major projects have included the following: expansion of Belfast High School, the Hospital's construction of the Biscone Medical Building and the Hospital's upcoming renovation and expansion of the emergency room facilities. While the Design Review Committee generally reacted favorably to the design plans it reviewed for each of the above projects, there is no current process to require compliance with City design standards. I also note that each of the above projects involved professional architectural services.
- The Ordinances that the Planning Board reviews for the affected zoning districts do not include standards regarding building design/appearance. In short, the Planning Board does not have any say (authority) regarding building design. Our Department also believes that the Design Review Committee is the more appropriate Committee to be involved in the review of building design in the affected zoning districts.
- Lastly, the Design Review Committee and our Department both believe that the design review process has positively contributed to the character of the community. In stating such, both the Committee and Department staff recognize that the community has been fortunate that property owners have proposed and embraced renovations and new construction that have been consistent with City design standards.

2) Amend the Administrative Appeals Process

When the City enacted a mandatory compliance process in 2008 the City simultaneously had to establish a process whereby an applicant could challenge (Administrative Appeal) the decision rendered by the Design Review Committee, or could ask for relief (Economic Hardship Variance) from the conditions stipulated by the Committee. The 2008 Ordinance included a 'unique' administrative appeal process that could only be considered because the Design Review Committee has the potential for sufficient members (up to 25 members) to allow a different committee (two separate review committees comprised of different members) to review a specific application if the Zoning Board of Appeals remanded a decision made by one Design Review Committee to review by a second Design Review Committee. The intent of this process was to minimize the likelihood that an applicant may need to appeal a decision of the Design Review Committee to Superior Court.

I will first note that in the nearly ten years that the appeal process has been in effect that no appeals have ever been filed. Secondly, while the Committee can have up to 25 members, the current Committee has only 8 or 9 active members. As such, it could be very difficult to establish two separately constituted committees to review a specific application. My recommendation is that the City revise the administrative appeal process to reflect the same approach that is used for an appeal of a decision by the Planning Board. This process would involve the following:

- An appeal of a Design Review decision to the Zoning Board of Appeals (ZBA).
- The ZBA acts on the appeal.
- If the ZBA approves or rejects the appeal the decision stands, unless such is appealed to the Superior Court.
- If the ZBA remands the decision to the Design Review Committee for further deliberation, the remand is heard by the originally constituted Committee, and there is no likelihood of a remand to a Committee constituted of different Design Review members.

3) Other Amendments

Most other amendments are associated with the proposed change to expand the area subject to mandatory review and/or are minor in nature. For example, if the Council pursues mandatory review for all areas, there is no need to retain the current provisions for a Type 2 Major Voluntary Permit. The amendments also generally reference Code and Planning Department staff rather than the role of the Code Enforcement Officer, because Sadie Lloyd, Planner, typically serves as the facilitator for the Committee, and I occasionally serve in that role. The CEO has never served in this capacity.

In addition, one issue that surfaced at the First Reading was the use of 'upper case' vs. 'lower case' for certain terms in the Ordinance. I consulted with the firm that the City now uses to codify its ordinances, General Code Corporation (GCC), to obtain their guidance on this issue. I note that GCC uses a completely different approach than the former firm, Municipal Code Corporation, that codified City Ordinances. I also consulted with other sources for guidance. While the GCC approach often differs from the one used by several other sources,

I chose to make numerous grammatical changes to the First Reading version of this Ordinance so it is more consistent with the format recommended by GCC.

I believe the amendments that are now being proposed are reasonable and appropriate. I would encourage Council support and adoption, and would be happy to answer any questions.

**NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENTS TO CITY CODE OF ORDINANCES
CITY OF BELFAST CITY COUNCIL**

The City of Belfast City Council, at its meeting of Tuesday, March 6, 2018, beginning at 7:00 p.m. or as soon as practical thereafter, in the Council Chambers of Belfast City Hall which is located at 131 Church Street, shall conduct a public hearing associated with the Second Reading of proposed amendments to the City Code of Ordinances, Chapter 80, In-town Design Review. The most significant amendment involves the current Committee process for the review of exterior changes to nonresidential buildings located in the Res-1, Res-2 and Res-3 zoning districts. At present, the Committee's recommendations are voluntary for property owners, meaning that a property owner does not need to comply with the Committee's decision. If the amendments are adopted, property owners in these zoning districts will need to comply with the Committee's decision, which is the current process and requirement in place for properties located in the Downtown Commercial and Waterfront Mixed Use zoning districts.

The proposed amendments also involve other changes, such as but not limited to: using zoning district boundaries rather than the current maps in Chapter 80 to determine the area subject to design review requirements, eliminating Type 2 permits, and modifying the process the Zoning Board of Appeals may use to consider a remand of a request for an administrative appeal.

Persons who may be affected by the amendments are encouraged to review and become familiar with the proposals and to attend the March 6 public hearing and to offer comment. Persons also can submit comment by the date of the hearing in writing to Wayne Marshall, Director, Code & Planning, City of Belfast, 131 Church St, Belfast, ME, 04915, or by email to wmarshall@cityofbelfast.org. The language for the proposed Ordinance amendments can be viewed on the City website, cityofbelfast.org, reference Planning and Codes. The proposal is available for inspection at the Code and Planning offices in City Hall during normal business hours, Monday - Friday, 8:00 am - 5:00 pm. Questions regarding the proposal should be directed to Wayne Marshall at 338-1417 x 125, or by email at wmarshall@cityofbelfast.org.

**BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
TUESDAY, MARCH 6, 2018
PROPOSED ORDINANCE AMENDMENTS
CITY CODE of ORDINANCES
CHAPTER 80, INTOWN DESIGN REVIEW**

Notes to Public

Note # 1: The City adopted the initial In-town Design Review Ordinance in 2001 and adopted substantive amendments to this Ordinance in both 2008 and in 2013. The main purposes of the currently proposed amendments include:

- 1.1 The current Ordinance requires an applicant who proposes to make exterior changes to a nonresidential or mixed use (nonresidential use located on lower floor and residences on one or more upper floors) structure located in the downtown and working waterfront area to obtain a Type 1 Mandatory Permit from the In-town Design Review Committee. An applicant must comply with the Committee's conditions of approval for a Type 1 Permit. The Ordinance also requires an applicant who proposes to make exterior changes to a nonresidential structure that is located in the inside the bypass area, but outside of the downtown or working waterfront area, to obtain a Type 2 Major Voluntary Permit. An applicant is encouraged, but is not required to comply with the Committee's recommendations for a Type 2 Permit.

If the proposed amendments are adopted, any significant change to the exterior appearance of a nonresidential or mixed use structure that is located in the inside the bypass area (except the area located in the Route 3 Commercial zoning district) would be required to obtain a Type 1 Mandatory Permit; meaning that the applicant must comply with the Committee's conditions. Under the proposed amendments, the Type 2 Voluntary Permit would be eliminated. Current requirements for a Type 3 Minor Voluntary Permit are not affected by the proposed amendments.

- 1.2 The current Ordinance includes two maps that identify the areas in Belfast that are subject to requirements of the Ordinance and review of a project by the In-town Design Review Committee. Map 1 identifies the section of the downtown and working waterfront area that is subject to requirements of a Type 1 Mandatory Permit and a Type 3 Minor Voluntary Permit. Map 2 identifies the section of the inside the bypass area that is subject to requirements of a Type 2 Major Voluntary Permit. If the proposed amendments are adopted the above maps would be eliminated. The City would use the boundaries of the Downtown Commercial, Residential 1, Residential 2, Residential 3, Waterfront Mixed Use 1 and Waterfront Mixed Use 2 zoning districts identified on the Official City Zoning Map to identify the areas subject to requirements of a Type 1 Mandatory Permit, and the boundaries of the Downtown Commercial, Waterfront Mixed Use 1 and Waterfront Mixed Use 2 zoning districts to identify the areas subject to both a Type 1 Mandatory Permit and a Type 3 Minor Voluntary Permit.

1.3 The Ordinance includes an Administrative Appeal process that an applicant for a permit may use to file an appeal of the decision made by the In-town Design Review Committee to the Belfast Zoning Board of Appeals. The proposed amendments would revise the current appeal process by eliminating the provision that now allows the Zoning Board of Appeals to remand a decision made by the membership of one Design Review Committee to a second Design Review Committee that consists of different members. The current approach is only possible because the Ordinance allows the Council to appoint up to 25 persons to be members of the Committee, even though a maximum of 5 persons serve on any specific permit review. In practicality, the Committee rarely has had more than 10 members serving at any point in time. If the proposed amendments are adopted, and the Zoning Board of Appeals chooses to deny an Administrative Appeal, an aggrieved applicant would need to file an appeal of the decision (denial) made by the Zoning Board of Appeals to the State Superior Court. This approach is the same as the process identified in City Ordinances for other types of land use/zoning decisions made by the Zoning Board of Appeals.

1.4 Other proposed amendments seek to clarify provisions in the existing Ordinance.

Note # 2: The City Council conducted the First Reading of the proposed amendments at its meeting of January 2, 2018. The Second Reading and public hearing on the proposed amendments is scheduled for the Council meeting of March 6, 2018. Persons who may be affected by the proposed amendments are encouraged to offer comment at the March 6 hearing. Comment also may be submitted in writing or via email. Written comment should be sent to: Wayne Marshall, Director, Code and Planning Department, City of Belfast, 131 Church St, Belfast, ME, 04915. Email comment should be sent to wmarshall@cityofbelfast.org.

The Council, at the Second Reading, has the authority to adopt the amendments as presented, to reject the amendments, or to make changes to the proposed amendments. If the Council makes substantive changes to the proposed amendments, the City will schedule a follow-up public hearing on the amendments.

Note # 3: Questions regarding this proposal should be directed to Wayne Marshall, Director, Code and Planning at 338-1417 x 125 or via email at wmarshall@cityofbelfast.org.

Note # 4: All text shown in black font is current text in the adopted City Code of Ordinances, Chapter 80, In-town Design Review. **All text shown in red and bold font** is new language that is proposed to be added to Chapter 80, and ~~all text shown in blue and strike-through font~~ is language that is proposed to be deleted. A map of the Inside the Bypass area is included to identify zoning districts affected by this proposal.

TEXT OF PROPOSED AMENDMENTS

Chapter 80 IN-TOWN DESIGN REVIEW

Article I. In General

- Sec. 80-1. Statement of purpose.
- Sec. 80-2. Definitions
- Sec. 80-3. Establishment of In-Town Design Review Committee.
- Sec. 80-4. Activities subject design review.
- Sec. 80-5. Areas subject to design review.
- Sec. 80-6. Guidelines for new construction, renovations and restorations.
- Sec. 80-7. Standards for demolitions or relocations.
- Sec. 80-8. Annual meeting of In-town Design Review Committee members.
- Secs. 80-9 --80-30. Reserved.

Article II. Applications and Process

- Sec. 80-31. Permit application.
- Sec. 80-32. Classification of permit application.
- Sec. 80-33. Review process for a ~~t~~Type 1 ~~m~~Mandatory ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit
- Sec. 80-34. ~~Review process for type 2 major voluntary in-town design review permit.~~
(Repealed on -----).
- Sec. 80-35. Review process for a ~~t~~Type 3 ~~m~~Minor ~~v~~Voluntary ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit.
- Sec. 80-36. Failure to submit permit application or obtain a permit.
- Sec. 80-37. Application fee.

Article III. Appeals.

- Sec. 80-50. Permit subject to appeal.
- Sec. 80-51. Administrative appeal of a ~~t~~Type 1 ~~m~~Mandatory ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit.
- Sec. 80-52. Zoning Board of Appeals review of a Certificate of Economic Hardship.

~~ARTICLE~~ Article I. ~~IN GENERAL~~ In General

Sec. 80-1. Statement of purpose.

The ~~e~~City hereby establishes a design review process for all residential and nonresidential construction activities located within the city's commercial core, its downtown and the associated waterfront, and for all other proposed nonresidential construction activities located within most of the Route One ~~bypass~~By-Pass. The goals are:

- (1) To foster a healthy downtown commercial area;

- (2) To retain and enhance the existing character of the **downtown in-town and inside the bypass** areas;
- (3) To strengthen the connection between the downtown and the waterfront;
- (4) To apply design review standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's character, while not stifling change;
- (5) To ~~strongly encourage or~~ require **or strongly encourage** proposed new development, including the construction of new structures and the renovation or restoration of existing **nonresidential and mixed use** structures, to be compatible with existing development, and to positively contribute to the character of the community; and
- (6) To ~~strongly discourage or to~~ prohibit **or strongly discourage** the demolition or removal of existing "noteworthy" structures that have helped to shape and create the present character of the city.

The **e**City will pursue these goals through a design review process that emphasizes a productive and respectful dialogue between the citizens, property and business owners, and developers who choose to live and ~~for~~ work in the **city community**, and the reasonable and flexible application of design standards identified in this chapter.

(Ord. of 3-27-2001, § 1.0)

Sec 80-2. Definitions.

Certificate of **e**Economic **h**Hardship. A certificate issued by the **e**Code and **p**Planning **d**Department evidencing a hardship variance approved by the Belfast Zoning Board of Appeals in accordance with Article III, Appeals, of this chapter.

Department refers to the Code and Planning Department.

~~**In-Town Design Review Certificate.** The certificate identifies the findings of the In-Town Design Review Committee and the Committee's recommendations (voluntary recommendations with which an applicant is not required to comply) or conditions of approval (conditions with which an applicant must comply). Said certificate is issued by the Code Enforcement Officer, however, said certificate usually will be prepared by the facilitator for the Committee.~~

Committee Facilitator. The staff representative from the Code and Planning Department who serves as a non-voting Facilitator at each Committee meeting.

In-town Design Review Committee. Committee appointed by the City Council that is responsible for conducting the review of permit applications identified in this chapter, and the review of other applications specifically identified in Chapter 102, Zoning.

Notice of Decision. The Notice of Decision identifies the findings of the In-Town Design Review Committee and the Committee's conditions of approval (conditions that an applicant must comply with) or recommendations (voluntary recommendations that an applicant is not required to comply with). Said Notice typically is prepared by the Committee Facilitator.

Type 1, Mandatory In-town Design Review Permit. A permit which requires applicant compliance with the findings and conditions established by the In-town Design Review Committee; reference ~~s~~Subsection 80.4(a) of this chapter.

Type 2, Major Voluntary In-town Design Review Permit.—~~A permit which requires an applicant to obtain review by the In-Town Design Review Committee of a significant alteration, addition or expansion to the exterior of an existing structure or the demolition of an existing structure, but does not require an applicant to comply with the Committee's findings and conditions; reference subsection 80.4(b) of this chapter.~~—**This definition was repealed on _____.**

Type 3, Minor Voluntary In-town Design Review Permit. A permit which requires an applicant to obtain review by the In-Town Design Review Committee of a minor alteration to the exterior of an existing structure, but does not require an applicant to comply with the Committee's findings and conditions; reference ~~s~~Subsection 80.4(c) of this chapter.

Sec. 80-3. Establishment of In-Town Design Review Committee.

- (a) Membership. The In-town Design Review Committee shall include no less than five and no more than ~~twenty-five~~ **fifteen** qualified persons who have been appointed by the City Council. Five persons from this membership shall be selected to serve in the review of each project application subject to ~~a~~ review as a Type 1 ~~or Type 2~~ **i**n-town ~~d~~Design ~~r~~Review ~~p~~Permit, and three persons from this membership shall be selected to serve in the review of each project application subject to ~~design~~-review as a Type 3 **i**n-town ~~d~~Design ~~r~~Review ~~p~~Permit.
- (b) Qualifications to serve. An individual must meet the following qualifications to serve on the In-town Design Review Committee:
 - (1) Must be a resident of the city; or
 - (2) A property owner in one of the areas subject to design review; or
 - (3) The operator of a business in an area subject to design review; and
 - (4) Must have a demonstrated interest, knowledge, ability, experience or expertise in a field that involves construction, renovation or restoration of structures or downtown and waterfront development.~~;~~ **and**
 - ~~(5) Must receive a minimum of eight hours of training specified by the city for service on this committee. Training requirements are subject to waiver by the City Council.~~
- (c) Term of appointment. A member shall be appointed for a period of ~~two~~**three** years and shall serve without compensation. A member may be appointed for additional terms.
- (d) Committee ~~e~~Coordinator. One member of the committee may be assigned the role of serving as coordinator for the committee. The role of the coordinator would include but is not necessarily limited to: maintaining contact among committee members, arranging

training sessions for committee members, publishing a newsletter, and assisting the eCode and pPlanning dDepartment in the eCommittee performing its assigned responsibilities.
(Ord. of 3-27-2001, § 2.0)

Sec. 80-4. Activities subject to design review.

In-town design review by the In-town Design Review Committee shall apply to the activities identified in subsections (a) **and** (c) of this **S**section. ~~Further, t~~This requirement **also** explicitly applies to all construction activities proposed by the city or other governmental, public or quasi-public agencies.

(a) Type 1 Mandatory In-Town Design Review Permit.

The following construction activities that affect the exterior appearance of any ~~residential or non-residential~~ structure **occupied by a non-residential use on one or more floors, including such structures that also may include a residential use on one or more upper floors,** that are proposed to occur in the ~~following zoning districts area identified on Map 1, reference Section 80-5,~~ shall be subject to obtaining a Type 1 Mandatory In-town Design Review Permit: **Downtown Commercial, Residential 1, Residential 2, Residential 3, Waterfront Mixed Use 1 and Waterfront Mixed Use 2.**

- (1) The construction of any new primary or accessory structure;
- (2) Any exterior alteration or construction to an existing structure that involves an increase or decrease in height of said structure or change in roof configuration, which also includes rooftop additions, fences or decks;
- (3) Any exterior alteration or construction to an existing structure that involves an increase or decrease in the footprint of an existing structure, which also includes the addition, alteration or removal of exterior stairs, stoop or bulkheads;
- (4) Window or door replacement for an existing structure that results in the enlargement or diminishment in the size of existing openings, or a change in the location of said openings;
- (5) Any exterior alteration or construction to an existing structure that involves the addition, change or removal of any faced or cladding (facing) material or decorative trim;
- (6) Any exterior alteration that involves the addition, change or removal of any deck, balcony, porch or pergola.
- (7) The addition, change or removal of any appurtenances to the exterior of an existing structure such as but not limited to chimneys, antennae, satellite receiving dishes, and solar collectors that exceed two feet by two feet in size;
- (8) The demolition or relocation of an existing structure;
- (9) A request for a sign permit that involves erecting or altering a freestanding sign, and
- (10) If a project that requires review as a Type 1 pPermit also proposes to erect new or replace existing on-building signage, such signage shall be subject to eCommittee review.

(b) Type 2 Major Voluntary In-town Design Review Permit. **This subsection was repealed on -----.** ~~The following construction activities that affect the exterior appearance of any non-residential structure that are proposed to occur in the area identified on Map 2, reference Section 80-5, shall be subject to obtaining a Type 2 Major Voluntary In-town Design Review Permit:~~

- ~~(1) The construction of any new primary or accessory structure;~~
- ~~(2) Any exterior alteration or construction to an existing structure that involves an increase or decrease in height of said structure or change in roof configuration, which also includes rooftop additions, fences or decks;~~
- ~~(3) Any exterior alteration or construction to an existing structure that involves an increase or decrease in the footprint of an existing structure, which also includes the addition, alteration or removal of exterior stairs, stoop or bulkheads;~~
- ~~(4) Window or door replacement for an existing structure that results in the enlargement or diminishment in the size of existing openings, or a change in the location of said openings;~~
- ~~(5) Any exterior alteration or construction to an existing structure that involves the addition, change or removal of any faced or cladding (facing) material or decorative trim;~~
- ~~(6) Any exterior alteration that involves the addition, change or removal of any deck, balcony, porch or pergola;~~
- ~~(7) The demolition or relocation of an existing structure; and~~
- ~~(8) If a project that requires review as a Type 2 permit also proposes to erect new or replace existing on building or free-standing signage, such signage shall be subject to committee review.~~

(c) Type 3 Minor Voluntary In-town Design Review Permit. The following construction activities that affect the exterior appearance of any ~~non-residential~~ structure **occupied by a non-residential use on one or more floors, including such structures that also may include a residential use on one or more upper floors,** that are proposed to occur in the ~~following zoning districts area identified on either Map 1 or Map 2, reference Section 80-5,~~ shall be subject to obtaining a Type 3 Minor Voluntary In-town Design Review Permit: **Downtown Commercial, Waterfront Mixed Use 1 and Waterfront Mixed Use 2.**

- (1) Window replacement within existing window openings;
- (2) Door replacement within existing door openings;
- (3) Replacement of existing stoops or steps; **and**
- (4) Addition or replacement of awnings.

~~In addition, in Area 2, a Type 3 Minor Voluntary In-town Design Review permit shall be required for any addition, change or removal of any appurtenances to the exterior of an existing structure such as but not limited to chimneys, antennae, satellite receiving dishes, and solar collectors that exceed two feet by two feet in size.~~

- (d) Activities exempt from in-town design review. Design review shall not be required for the construction activities identified in subsections (a) **and** (c) above, if the work consists solely of ordinary maintenance, or the work consists solely of an emergency repair of a temporary nature.
(Ord. of 3-27-2001, § 3.0)

Section 80-5. Areas subject to in-town design review.

This Chapter shall apply to **certain activities located in the following zoning districts: Downtown Commercial, Residential 1, Residential 2, Residential 3, Waterfront Mixed Use 1, and Waterfront Mixed Use 2, as such are depicted on the adopted official zoning map for the City; reference Chapter 102, Zoning, Article V, District Regulations. the areas described below:**

- ~~(1) Area 1. This is the area that applies to construction activities that are subject to obtaining either a Type 1 Mandatory In-Town Design Review Permit or a Type 3 Minor In-Town Design Review Permit as such are described in Section 80.4 above. Map # 1 identifies the boundaries of this area. The area includes properties that are included in the following zoning districts, as such districts were defined on February 19, 2013: Downtown Commercial, Waterfront 1A and Waterfront Mixed Use. The following properties located within the Waterfront 1A zoning district, however, are exempt from a Type 1 Permit review; Map 37, Lot 49, Map 37, Lot 55, and Map 37, Lot 56. The following properties located within the Waterfront Mixed Use zoning district, however, are exempt from a Type 1 Permit review; Map 37, Lot 54 A, Map 37, Lot 106, Map 13, Lot 45, Map 13, Lot 46, Map 13, Lot 70, and Map 13, Lot 70 A. The description of the boundaries of the above referenced zoning districts is located in Chapter 102, Zoning, Article IV, Descriptions of Districts.~~
- ~~(2) Area 2. This is the area that applies to non-residential construction activities that are subject to obtaining either a Type 2 Major In-Town Design Review Permit or a Type 3 Minor Voluntary In-Town Design Review Permit, as such are described in Section 80.4 above. Map # 2 identifies the boundaries of this area. The area includes all properties that are included in the Residential I zoning district, and all properties in the portions of the Residential II and Residential Growth zoning districts that are located within the bounds of the Route One by-pass, as such districts were defined on June 1, 2012.~~

~~The description for the Residential 1 zoning district can be found in Chapter 102, Zoning, Article IV, Description of Districts. The description for that portion of the Residential II and Residential Growth zoning districts that are subject to this Chapter include only those areas described in Chapter 102, Zoning, Article IV, Description of Districts that are located within the Route 1 by-pass.~~

Sec. 80-6. Guidelines for new construction, renovations and restorations.

The In-town Design Review Committee, in issuing its findings on an application for a Type 1, Type 2 or Type 3 In-town Design Review Permit shall consider the following guidelines, subsections (1) through (3), in making a decision regarding the compatibility of the proposed renovation or restoration of an existing structure, or the proposed construction of a new structure.

(1) Scale and form.

- a. Height. In addition to applicable requirements of Chapters 82 and 102, the proposed height of a structure shall be visibly compatible with surrounding structures when viewed from any street or open space, and in compliance with any design guidelines.
- b. Width. The width of a building shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.
- c. Proportion of principal facades. The relationship of the width to the height of the principal elevations shall be visually compatible with structures, public ways and open spaces to which it is visually related.
- d. Roof shapes. The roof shape of a structure shall be visually compatible with the structures to which it is visually related.
- e. Scale of a structure. The size and mass of structures in relation to open spaces, windows, door openings, porches and balconies shall be visually compatible with the structures, public ways and places to which they are visually related.

(2) Composition of principal facades.

- a. Proportion of openings. The relationship of the width to height of windows and doors shall be visually compatible with structures, public ways and places to which the building is visually related.
- b. Rhythm of solids to voids in facades. The relationship of solids to voids in the facade of a structure shall be visually compatible with structures, public ways and places to which it is visually related.
- c. Rhythm of entrance porch and other projections. The relationship of entrances and other projections to sidewalks shall be visually compatible with the structures, public ways and places to which they are visually related.
- d. Relationship of materials. The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in the structures to which they are visually related.
- e. Retaining architectural character. The distinguishing original qualities and character of a structure or site and its environment shall be retained, and the removal or alteration of any such material or distinctive architectural feature shall be avoided when possible. Further, any distinctive stylistic features or examples of skilled craftsmanship that characterize a structure or site shall be treated with sensitivity.

(3) Relationship to street.

- a. Walls of continuity. Facades and site structures, such as masonry walls, fences and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the structures, public ways and places to which such elements are visually related.

- b. Rhythm of spacing and structures on streets. The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways and places to which it is visually related.
- c. Directional expression of principal elevation. A structure shall be visually compatible with the structures, public ways and places to which it is visually related in its directional character, whether this is vertical character, horizontal character or non-directional character.
- d. Streetscape and pedestrian improvements. Streetscape and pedestrian improvements and any change in the appearance thereof, which are readily visible from any street or open space, shall not be incongruous to the area's character and shall comply with these design guidelines.
- e. Location of mechanical equipment. Whenever possible, mechanical equipment or other utility hardware on the roof, ground or buildings shall be screened from public view with materials harmonious to the structure, or shall be located so as not to be readily visible from public ways.

(Ord. of 3-27-2001, § 5.0)

Sec. 80-7. Standards for demolitions or relocations.

The In-town Design Review Committee shall apply the following standards in evaluating a request to demolish or relocate an existing structure:

- (1) Character of area. The demolition or relocation of the building will not adversely affect the character of the area in which the structure is located, or that the demolition or relocation of the building will positively contribute to the character of the area.
- (2) Use of site. The reuse of the site will be a permitted use or continuation of a nonconforming use that is compatible with the character of the area, and proposed buildings or structures will comply with design guidelines for new construction.
- (3) Alternatives to demolition or relocation. There is no practical alternative that will allow the retention of the building. The eCommittee can require an owner to demonstrate that the existing building is incapable of earning an economic return.
- (4) Unsafe structure. The building has been deemed unsafe by the eCode eEnforcement eOfficer.
- (5) The property owner is unable to obtain insurance on the structure.
- (6) Slum and blight. The building is located in an area that has been formally declared as a slum and blight area by the City, and such designation has been accepted by the State.

(Ord. of 3-27-2001, § 6.0)

Sec. 80-8. Annual meeting of In-town Design Review Committee members.

It is recommended that an annual meeting of all members of the In-town Design Review Committee be held. The purpose of the annual meeting is to share member experiences in the review of permit applications, to evaluate how the design review process is functioning, and to prepare and issue an annual written report to the City Council and citizens of the eCity. The annual meeting will routinely be held, but shall not be required to be held, between January and March of each year.

(Ord. of 3-27-2001, § 9.0)

Secs. 80-9 --80-30. Reserved.

ARTICLE Article II. APPLICATIONS AND PROCESS Applications and Process

Sec. 80-31. Permit application.

A person who proposes to undertake an activity subject to this chapter shall file an **i**n-town **d**esign **r**eview **p**ermit application with the **e**Code **a**nd **P**lanning **D**eartment **e**nforcement officer or his/her designee, and shall provide all information required on the application form. **D**eartment staff at **t**he **e**Code **a**nd **P**lanning **D**eartment **a**re **e**nforcement officer or his/her designee **i**s authorized to request any and all reasonable information that the In-town Design Review Committee may need to make a finding on a permit application. This information may include but is not limited to sketches, photographs, drawings, plans, and examples of sample materials.

(Ord. of 3-27-2001, § 4.0)

Sec. 80-32. Classification of permit application.

The **e**Code **a**nd **P**lanning **D**eartment **e**nforcement officer or his/her designee, upon receipt of an application, shall review the application and determine the classification of permit review required by the In-town Design Review Committee. The **three two** classifications of permits are:

- (1) Type 1, Mandatory In-Town Design Review Permit Review; reference Section 80-33 for a description of the applicable review process.
- (2) ~~Type 2, Major Voluntary In-Town Design Review Permit; reference Section 80-34 for a description of the applicable review process.~~ **Subsection repealed on _____.**
- (3) Type 3, Minor Voluntary In-Town Design Review Permit; reference Section 80-35 for a description of the applicable review process.

(Ord. of 3-27-2001, § 4.0)

Section 80-33. Review Process for Type 1 Mandatory In-town Design Review Permit.

- (a) Schedule of **e**Committee meeting. **The Code and Planning Department** ~~The code enforcement officer or his/her designee~~, upon receipt of a complete application that requires review as a Type 1 Mandatory In-town Design Review Permit, shall date the application, and within five working days, shall schedule an In-town Design Review Committee meeting to review the application. The meeting of the In-town Design Review Committee shall occur within fifteen working days of the date that the **e**Code **a**nd **P**lanning **D**eartment **e**nforcement officer or his/her designee deems the application for a Type 1 **p**ermit complete.
- (b) Public notice requirement. The **e**Code and **p**lanning **d**eartment, a minimum of ten calendar days prior to the In-town Design Review Committee meeting, shall provide written notice of the application and the proposed meeting date to all property owners

located within a radius of 150 feet of the applicant property, and also shall post this notice in eCity hHall or on the City website.

- (c) Selection of In-town Design Review Committee. The eCode and pPlanning dDepartment shall select the five members of the In-town Design Review Committee that will serve on the review of an application for a Type 1 pPermit randomly choosing the members from the list of appointed members. If any of the five members initially contacted to serve on a permit review has a conflict or chooses not to serve on the review of a specific permit application, the dDepartment shall contact additional members on the list of appointed members to select a five member committee. The eCode and Planning Department enforcement officer or his/her designee shall provide the five members of the In-town Design Review Committee that will participate in the review of an application for a Type 1 pPermit a copy of the application subject to review.
- (d) Process open to public. The Committee will allow an opportunity for public comment at the meeting at which the application is reviewed, and will accept written comment on the application. The open to public comment period will occur prior to the Committee's deliberations on the application. Public comment must be directed to issues which are within the purview of the Committee. All proceedings of the Committee, including any site visits which the Committee may conduct, shall be open to the public to attend and observe.
- (e) Committee fFacilitator. A staff representative from the Code and Planning Department The city planner, or his/her designee, shall serve as the fFacilitator of an In-town Design Review Committee meeting at which an application for a Type 1 pPermit is considered. The fFacilitator shall not have a vote on a permit application.
- (f) Committee review meeting and decision. The In-town Design Review Committee shall review each application for a Type 1 pPermit to determine if the proposed construction activity is compatible with the design review guidelines identified in sSections 80-6 and 80-7. The eCommittee shall pursue each review as a constructive dialogue between the applicant and the eCommittee, with the goal of encouraging an applicant to use construction practices that satisfy the guidelines in this chapter. The eCommittee shall make its findings in its Notice of Decision writing, and shall present said Notice of Decision its findings to the applicant and the eCode and Planning Department enforcement officer or his/her designee as soon as practical, but not later than 30 working days of the date of the initial eCommittee meeting. This date may be extended upon the mutual written consent of the applicant and the eCommittee.
- (g) Permit issuance. The eCode eEnforcement oOfficer shall acknowledge the Notice of Decision issue an in-town design review certificate for an application for a Type 1 pPermit that complies with the findings of the In-town Design Review Committee on the respective building permit issued by the Code Enforcement Officer and shall provide the applicant a copy of this certificate to post on the construction site. An application that does not comply with the committee findings will not be issued a certificate.

- (h) Binding decision. The written decision and conditions of approval (**Notice of Decision**) established by the In-town Design Review Committee shall be binding upon the applicant.
- (i) Other permit requirements. The design review process shall not be interpreted as a waiver of any **e**City regulation governing the issuance of a building permit or other City land use permit. In cases when a Type 1 review is required by this chapter, completion of the design review process shall be a precondition of receipt of a building permit.
- (j) Appeal of Committee decision. An applicant may seek an **a**Administrative **a**Appeal or an **e**Economic **h**Hardship **v**Variance from the Belfast Zoning Board of Appeals with respect to permit requirements established by the In-town Design Review Committee. All appeals shall comply with guidelines established in Section 80-50 of this chapter.

Sec. 80-34. Review process for ~~t~~Type 2 ~~m~~Major ~~v~~Voluntary ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit.

This section was repealed on ____.

- ~~(a) Schedule of committee meeting. The code enforcement officer or his/her designee, upon receipt of a complete application that requires review as a major in-town design review permit, shall date the application, and within five working days, shall schedule an In-town Design Review Committee meeting to review the application. The meeting of the In-town Design Review Committee shall occur within ten working days of the date that the code enforcement officer or his/her designee deems the application for a Type 2 major in-town design review permit complete.~~
- ~~(b) Public notice requirement. The code and planning department, a minimum of seven calendar days prior to the In-town Design Review Committee meeting, shall provide written notice of the application and the proposed meeting date to all property owners located within a radius of 150 feet of the applicant property and also shall post this notice in city hall.~~
- ~~(c) Selection of In-town Design Review Committee. The code and planning department shall select the five members of the In-town Design Review Committee that will serve on the review of an application for a Type 2 permit by randomly choosing the members from the list of appointed members. If any of the five members initially contacted to serve on a permit review has a conflict or chooses not to serve on the review of a specific permit application, the department shall contact additional members on the list of appointed members to select a five member committee. The code enforcement officer or his/her designee shall provide the five members of the In-town Design Review Committee that will participate in the review of an application for a Type 2 permit a copy of the application subject to review.~~
- ~~(d) Process open to public. All In-town Design Review Committee meetings that involve a Type 2 review, including any site visits, shall be open to the public, but the committee is not required to accept oral public comment on an application for a major in-town~~

~~design review permit at the In-town Design Review Committee meeting. All public comment should be submitted in writing to the committee.~~

- ~~(e) Committee facilitator. The city planner, or his/her designee, shall serve as the facilitator of an In-town Design Review Committee meeting at which an application for a type 2 major in-town design review permit is considered. The facilitator shall not have a vote on a permit application.~~
- ~~(f) Committee review meeting and decision. The In-town Design Review Committee shall review each application for a type 2 major in-town design review permit to determine if the proposed construction activity is compatible with the design review guidelines identified in section 80-4. The committee shall pursue each review as a constructive dialogue between the applicant and the committee, with the goal of encouraging an applicant to use construction practices that satisfy the guidelines in this chapter. The committee shall make its findings in writing, and shall present its findings to the applicant and the code enforcement officer as soon as practical, but not later than 30 working days of the date of the initial committee meeting. This date may be extended upon the mutual written consent of the applicant and the committee.~~
- ~~(g) Permit issuance. The code enforcement officer or his/her designee shall issue an in-town design review certificate for an application for a type 2 major in-town design review permit that complies with the findings of the In-town Design Review Committee, and shall provide the applicant a copy of this certificate to post on the construction site. An application that does not comply with the committee findings will not be issued a certificate.~~
- ~~(h) Nonbinding decision. The written decision of the In-town Design Review Committee for a type 2 permit shall be nonbinding upon the applicant. While the committee and the city will strongly encourage an applicant to adhere to the decision of the In-town Design Review Committee on an application for a type 2 major in-town design review permit, the city will not deny an applicant a building permit for failing to adhere to the committee's decision, will not establish conditions on a building permit that are related solely to the findings of the In-town Design Review Committee, and will not revoke a building permit if an applicant who received an in-town design review certificate subsequently fails to comply with conditions identified on the certificate.~~
- ~~(i) Other permit requirements. The design review process shall not be interpreted as a waiver of any city regulation governing the issuance of a building permit. In cases when major in-town design review is required by this chapter, completion of the design review process shall be a precondition of receipt of a building permit.
(Ord. of 3-27-2001, § 4.0)~~

Sec. 80-35. Review process for Type 3 ~~m~~Minor ~~v~~Voluntary ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit.

- (a) Schedule of **e**Committee meetings. The In-town Review Committee shall meet on an as needed basis to review any complete applications that are filed for a Type 3 **m**Minor **i**In-town **d**Design **r**Review **p**Permit. The **e**Code and Planning Department **e**nforcement officer or his/her designee shall schedule all meetings of the In-town Design Review Committee associated with the review of **Type 3 minor in-town design review p**Permits, and shall inform the **e**Committee members of the meeting schedule.
- (b) Public notice requirement. The **e**Code and **p**Planning **d**Department shall post in **e**City **h**Hall and on the City website a public notice of the agenda for a meeting of the In-town Review Committee that involves the **e**Committee's review of a complete application for a Type 3 **m**Minor **i**In-town **d**Design **r**Review **p**Permit. This notice shall be posted a minimum of 48 hours prior to the scheduled meeting. No other public notification is required of this **e**Committee meeting.
- (c) Selection of In-town Design Review Committee. The **e**Code and **p**Planning **d**Department shall select the three members of the In-town Design Review Committee that will serve on the review of an application for a Type **1 3 p**Permit by randomly choosing the members from the list of appointed members. If any of the three members initially contacted to serve on a permit review has a conflict or chooses not to serve on the review of a specific permit application, the **d**Department shall contact additional members on the list of appointed members to select a three member **e**Committee. The **e**Code and Planning Department **e**nforcement officer or his/her designee shall provide the three members of the In-town Design Review Committee that will participate in the review of an application for a Type **1 3** permit a copy of the application subject to review.
- (d) Process open to public. All scheduled meetings of the In-town Design Review Committee for the review of a Type 3 **m**Minor **i**In-town **d**Design **r**Review **p**Permit, including any site visits, shall be open to the public. The **e**Committee is not required to accept oral public comment on a permit application at the meeting. All public comment should be submitted in writing to the **e**Committee.
- (e) Committee **f**Facilitator. **A representative of the Code and Planning Department The city planner, or his/her designee,** shall serve as the **f**Facilitator of the In-town Design Review Committee meeting. The **f**Facilitator shall not have a vote on a permit application.
- (f) Committee review meeting and decision. The In-town Design Review Committee shall review each application for a Type 3 **m**Minor **i**In-town **d**Design **r**Review **p**Permit to determine if the proposed construction activity is compatible with the design review guidelines identified in **s**Section 80-6. The **e**Committee shall pursue each review as a constructive dialogue between the applicant and the **e**Committee, with the goal of encouraging an applicant to use construction practices that satisfy the guidelines in this chapter. The **e**Committee shall make its findings in **its Notice of Decision writing,** and shall present **said Notice of Decision its findings** to the applicant and the **e**Code and Planning Department **e**nforcement officer as soon as practical, but not later than 15 working days of the date of the initial **e**Committee meeting. This date may be extended upon the mutual written consent of the applicant and the **e**Committee.

- (g) Permit issuance. ~~The enforcement officer or his/her designee shall issue an in-town design review certificate for an application for a Type 3 minor in-town design review permit that complies with the findings of the In-town Design Review Committee, and shall provide the applicant a copy of this certificate to post on the construction site. An application that does not comply with the committee findings will not be issued a certificate. This subsection repealed on _____.~~
- (h) Nonbinding decision. The ~~written notice of~~ decision of the In-town Design Review Committee with respect to a Type 3 ~~p~~Permit shall be nonbinding upon the applicant. While the ~~e~~Committee and the ~~e~~City will strongly encourage an applicant to adhere to the decision of the In-town Design Review Committee, the ~~e~~City will not deny an applicant a building permit for failing to adhere to the ~~e~~Committee's ~~Notice of d~~Decision, will not establish conditions on a building permit that are related solely to the ~~Notice of Decision findings~~ of the In-town Design Review Committee, and will not revoke a building permit if an applicant who received a ~~Notice of Decision on a Type 3 Permit in-town design review certificate~~ subsequently fails to comply with ~~recommendations conditions~~ identified ~~in said Notice on the certificate~~.
- (i) Other permit requirements. The design review process shall not be interpreted as a waiver of any ~~e~~City regulation governing the issuance of a building permit. In cases when a Type 3 ~~m~~Minor ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit application review process is required by this chapter, completion of the design review process shall be a precondition of receipt of a building permit.
(Ord. of 3-27-2001, § 4.0)

Sec. 80-36. Failure to submit a permit application or obtain an appropriate permit.

It is the responsibility of an applicant to be aware of the requirements of the City Code of Ordinances and to submit the appropriate application for a permit identified in this ~~C~~chapter. The failure to submit an application and to obtain the appropriate permit prior to the start of construction activities shall be subject to the following penalties:

- (1) An applicant that fails to submit an application or obtain a permit for an activity subject to review as a Type 1 ~~m~~Mandatory ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit shall be subject to the same penalties that apply to the failure to submit and obtain a building permit that are identified in ~~C~~chapter 102, zoning.
- (2) ~~An applicant that fails to submit an application or obtain a permit for an activity subject to review as a Type 2 major voluntary in-town design review permit shall be subject to a penalty of \$100.00. Subsection repealed on _____.~~
- (3) An applicant that fails to submit an application or obtain a permit for an activity subject to review as a Type 3 ~~m~~Minor ~~v~~Voluntary ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit shall be subject to a penalty of \$50.00.

The City Council shall have the authority to waive any and all penalties that may be assessed per this chapter.

(Ord. of 3-27-2001, § 7.0)

Sec. 80-36. Application fee.

The fee to submit an application for a ~~Type 1~~ **mMandatory iIn-town dDesign rReview pPermit**, ~~a Type 2 major voluntary in-town design review permit~~ or a ~~tType 3~~ **mMinor vVoluntary iIn-town dDesign rReview pPermit** shall be established by the City Council, and may be adjusted from time-to-time by the **eCouncil**.

(Ord. of 3-27-2001, § 8.0)

Secs. 80-37 --- 80-49. Reserved.

Article III. Appeals

Sec 80-50. Permit subject to appeal.

An applicant for a ~~tType 1~~ **mMandatory iIn-town dDesign rReview pPermit** may request an **aAdministrative aAppeal** of a decision by the In-town Design Review Committee, or may request a **eCertificate of eEconomic hHardship Variance** from the Belfast Zoning Board of Appeals. The process for the review of an application for an **aAdministrative aAppeal** or a **eCertificate of eEconomic hHardship vVariance** are identified in this **A**article. ~~Also, a~~ **An** applicant cannot request either an **aAdministrative aAppeal** or a **eCertificate of eEconomic hHardship vVariance** for ~~either a type 2 major voluntary in-town design review permit or a~~ ~~tType 3~~ **mMinor vVoluntary iIn-town dDesign rReview pPermit** since any decision of the In-town Design Review Committee with respect to said permit is non-binding on an applicant.

Sec 80-51. Administrative appeal of a ~~tType 1~~ **mMandatory iIn-town dDesign rReview pPermit.**

- (a) Process to receive and review an appeal. An applicant who has received or has been denied the issuance of a ~~tType 1~~ **mMandatory iIn-town dDesign rReview pPermit** by the In-town Design Review Committee may file and request that the Zoning Board of Appeals consider an application for an **aAdministrative aAppeal** regarding the Committee decision on said permit and their interpretation of the requirements of Chapter 80, In-town Design Review. The following standards identified in Chapter 102, Zoning, Article II, Administration, Sec 102-134 shall apply to said **aAdministrative aAppeal**: (a) Filing; (b) Public Hearing required, notice; (c) Failure to receive notice; (d) Right of parties to appear by agent or attorney; (e) Attendance at hearing by city officials; (g) De novo review and (h) Conduct of hearing.
- (b) Standard of review of an appeal. The Zoning Board of Appeals shall act as an appellate board which shall entertain all evidence of record submitted in the underlying hearing, including any transcripts, findings of fact, and decisions made by the In-Town Design Review Committee. The Board shall review the entire record and determine if the evidence

of record compels the Zoning Board of Appeals to find that all or part of the decision on appeal was arbitrary or capricious and compels a contrary decision based on substantial evidence in the record. In such ~~a~~Administrative ~~a~~Appeals the Zoning Board of Appeals is hereby authorized to take the following action.

1. Approve the decision issued by the In-town Design Review Committee.
2. Reverse in total the decision of the In-town Design Review Committee.
3. Remand to the Design Review Committee for further proceedings necessary to:
 - a. Compare the record in the event that the Board finds it unable to render a decision due to the absence of critically important factual information;
 - b. Consider how a decision of the Zoning Board of Appeals to reverse part of the decision of the Design Review Committee affects the proposed improvement: or
 - c. Remand for further proceedings consistent with the order of the Zoning Board of Appeals.

The actions described in subsections (c) – (e) below may or shall occur in response to the above decisions of the Zoning Board of Appeals.

- (c) Zoning Board of Appeals decision to approve decision issued by the In-town Design Review Committee. If the Zoning Board of Appeals acts pursuant to (b)1. above to approve a decision of the In-town Design Review Committee ~~or remand such to the In-town Design Review Committee~~, an aggrieved applicant may ~~choose to either~~ appeal ~~said this~~ decision to the Maine Superior Court, ~~or file a request to set aside said decision and that a newly comprised In-town Design Review Committee review the application as a de novo review. Such a request must be filed within 15 working days of the written decision issued by the Zoning Board of Appeals. The code and planning department will assemble a new group of In-town Design Review Committee members that shall not include any of the members that served on the original review, and the new review shall occur in accordance with procedures identified for a type 1 permit review. The Committee shall conduct its review as a de novo review, and shall not consider the decision of the original Design Review Committee or the Zoning Board of Appeals in reaching a decision. In addition, once the newly comprised Committee commences its review of the new application, which is the date and time of its initial meeting to review the application, an applicant cannot withdraw an application and is subject to the findings and decision of the newly comprised Design Review Committee. An applicant may use this review process only one time, and the decision of the newly comprised Committee is final and is subject to appeal only by a filing by the applicant to the Maine Superior Court.~~
- (d) Zoning Board of Appeals decision to reverse in total a decision of the In-town Design Review Committee. If the Zoning Board of Appeals chooses to reverse a decision of the In-Town Design Review Committee, (b) 2. above, the decision of the Zoning Board of Appeals shall be binding unless said decision is appealed to the Superior Court.

- (e) Remand by Zoning Board of Appeals. If the Zoning Board of Appeals chooses to reject in part a decision of the In-town Design Review Committee ~~and or~~ to remand a specific decision to the In-town Design Review Committee, pursuant to (b)3. above, the **membership of the** In-town Design Review Committee which initially heard the application shall sit in review of the remand order. The Committee shall confine its review to the remand decision issued by the Zoning Board of Appeals, and shall issue findings describing how it has addressed issues identified in the order from the Zoning Board of Appeals. **The decision of the In-town Design Review Committee regarding such a remand is subject to the administrative appeal procedure identified in this section.** ~~If an applicant is dissatisfied with how the above constituted In town Design Review Committee addresses the order of remand from the Zoning Board of Appeals, the applicant may submit a written application to request that a newly constituted Committee review the application as a de novo review. The newly constituted Committee shall issue a decision and its findings shall be binding on the applicant unless the decision of this Committee is appealed to the Zoning Board of Appeals or Superior Court. If a decision of a newly constituted Committee is appealed to the Zoning Board of Appeals, the decision of the Zoning Board of Appeals shall be binding unless said decision is appealed to the Superior Court.~~

Sec. 80-52 Zoning Board of Appeals review of a Certificate of Economic Hardship.

- (a) An applicant that asserts it cannot comply with conditions of approval established by the In-town Design Review Committee for issuance of a Type 1 ~~m~~Mandatory ~~i~~In-town ~~d~~Design ~~r~~Review ~~p~~Permit may apply to the Zoning Board of Appeals for relief by issuance of a Certificate of Economic Hardship. Said application shall be submitted on the official form within 30 days of the written **Notice of d**Decision of the In-town Design Review Committee to the **Code and Planning Department. The Department Code Enforcement Officer or his/her designee, who** shall schedule **the request for a Certificate** for a meeting before the Zoning Board of Appeals. Zoning Board of Appeals review of the application shall occur in accordance with the process for the review of variances that is described in Chapter 102, Zoning, Article II, Administration, Section 102-133, Variances.
- (b) The Zoning Board of Appeals shall approve an application for a **e**Certificate of **e**Economic **h**Hardship only upon a determination that applicant compliance with conditions of approval established by the In-town Design Review Committee will result in the loss of all reasonable use of the structure.
- (c) In considering an application for a **e**Certificate of **e**Economic **h**Hardship, the Zoning Board of Appeals shall consider among other things any evidence presented concerning the following:
- (1) Any opinion from a licensed engineer or architect with experience in renovation, restoration or rehabilitation as to the structural soundness of the structure and its suitability for continued use, renovation, restoration or rehabilitation.

- (2) Any estimates of the cost of the proposed alteration, construction, demolition or removal and an estimate of any additional cost that would be incurred to comply with the conditions of approval established by the Committee.
- (3) Any estimates of the market value of the property in its current condition; after completion of the proposed alteration, construction, demolition or removal; and after any expenditures necessary to comply with conditions of approval established by the Committee.
- (4) A comparison of the cost of improvements associated with 1 – 3 above, as proposed by the applicant, and the cost of improvements required to comply with conditions of approval established by the Committee.
- (5) Information supplied by the applicant with respect to the following:
 - **a.** The assessed value of the property and/or the structure for the current year.
 - **b.** Real property taxes paid for the previous two years.
 - **c.** The amount paid for the property by the owner, the date of purchase and the party from whom purchased.
 - **d.** The current balance of any mortgages or other financing secured on the property and annual debt service on the property.
 - **e.** Any appraisals obtained within the last 2 years.
 - **f.** Any listings of the property for sale or rent, including the price asked and offers received, if any within the past 2 years.
 - **g.** All studies commissioned by the owner as to the profitable renovation, rehabilitation or utilization of any structures on the property.
 - **h.** For income producing property, itemized income and expense statements for the property for the previous two years.

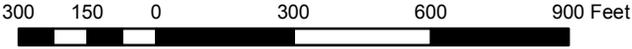
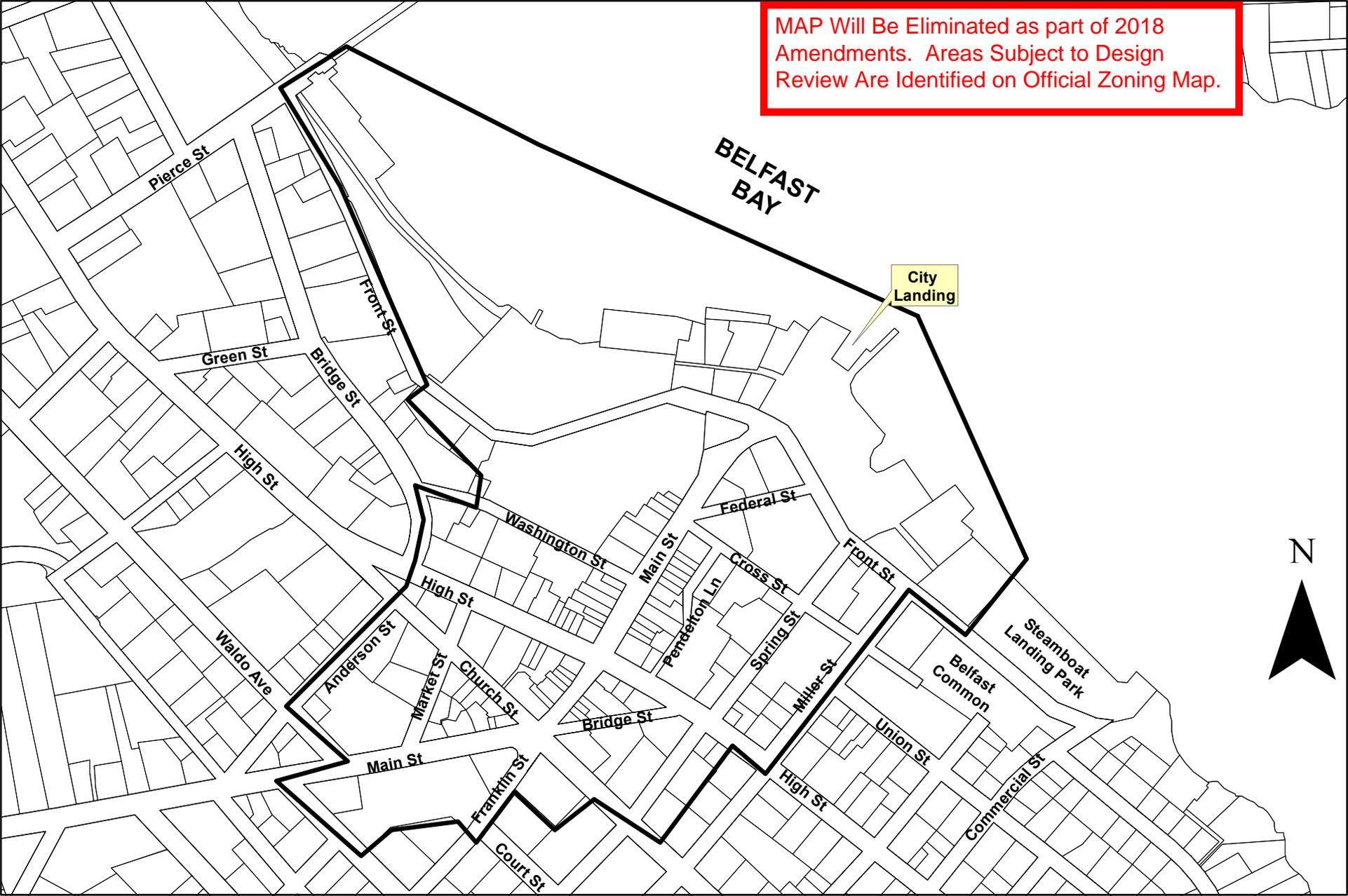
Notwithstanding this list of information, the Zoning Board of Appeals may request additional information to assist in its decision regarding the issuance **for regarding** a Certificate of Economic Hardship.

- (d) The Zoning Board of Appeals, in its written decision, shall define why or why not the Certificate of Economic Hardship should or should not be granted, and the specific conditions that apply to the issuance of a Certificate. The only appeal of any decision regarding issuance or denial of an **eEconomic hHardship vVariance** shall be **to** the Superior Court.

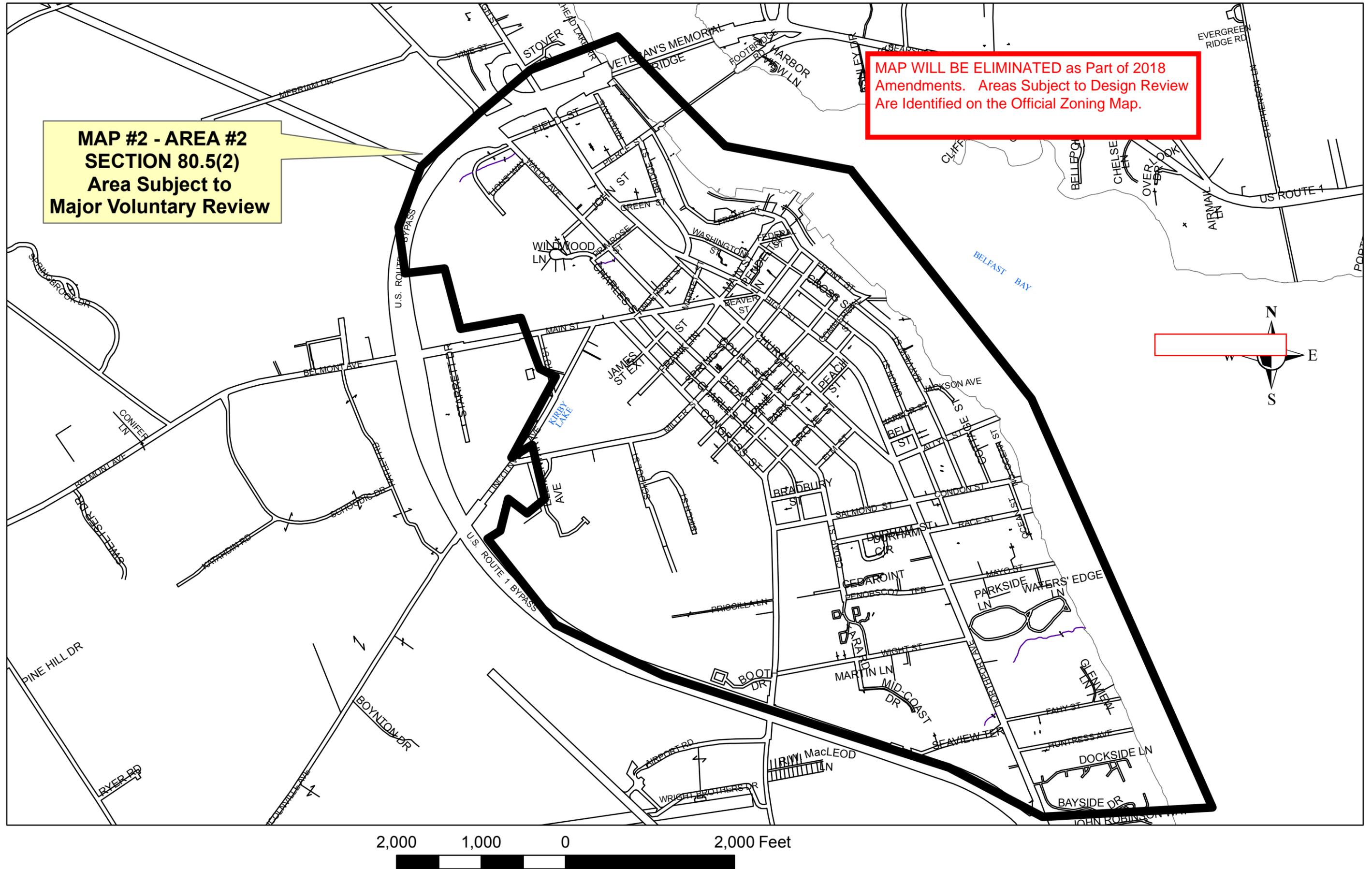
Secs. 80-53 --- 80-60. Reserved.

CHAPTER 80, SEC 80-5(1) AREAS SUBJECT TO MANDATORY REVIEW, TYPE 1 PERMIT

MAP Will Be Eliminated as part of 2018 Amendments. Areas Subject to Design Review Are Identified on Official Zoning Map.

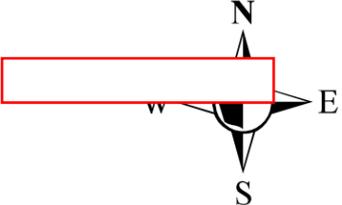


MAP #2 - AREA #2 SECTION 80.5(2) MAJOR VOLUNTARY PERMITS

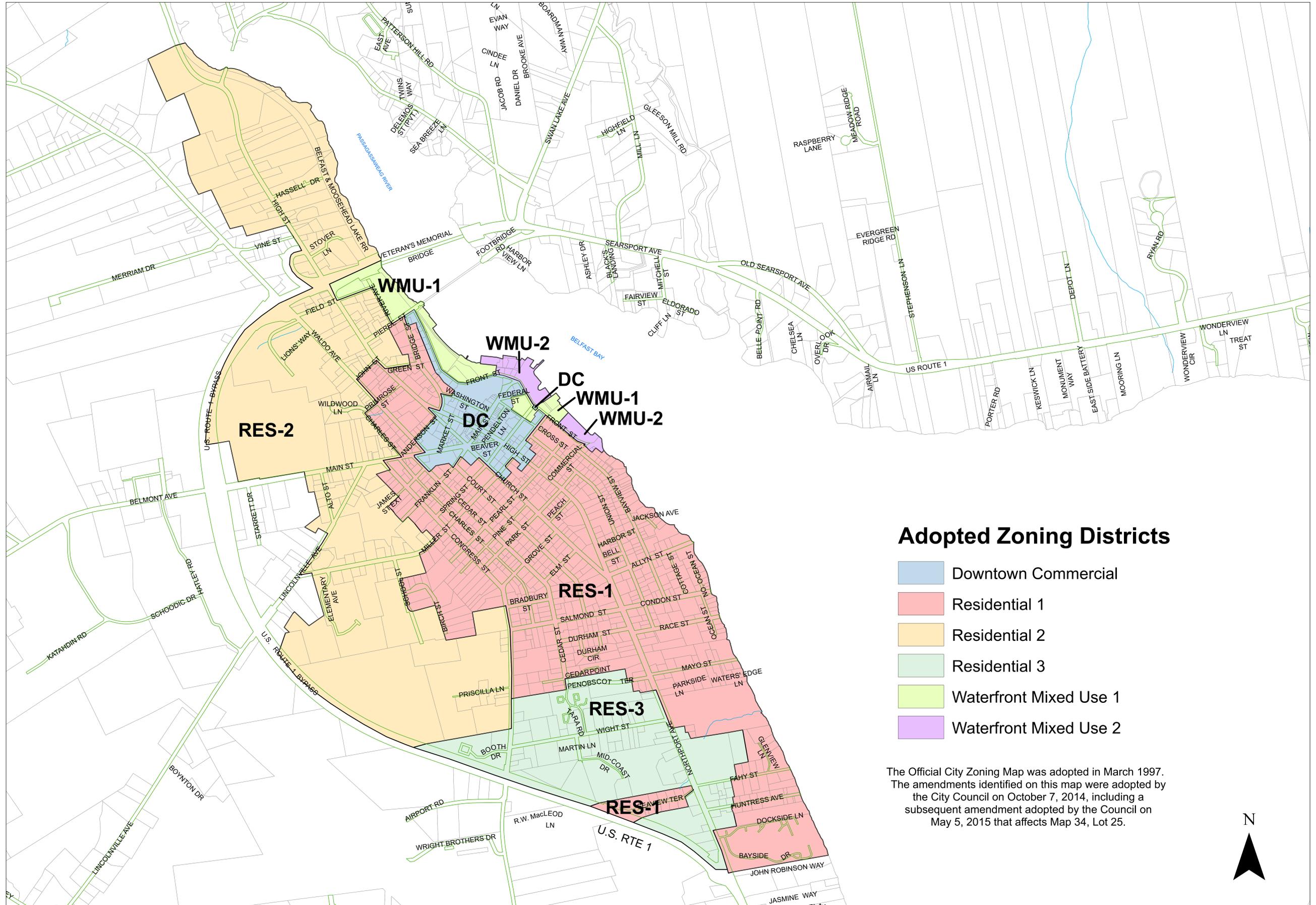


**MAP #2 - AREA #2
SECTION 80.5(2)
Area Subject to
Major Voluntary Review**

**MAP WILL BE ELIMINATED as Part of 2018
Amendments. Areas Subject to Design Review
Are Identified on the Official Zoning Map.**



ZONING DISTRICTS for INSIDE the BYPASS AREA - ADOPTED OCTOBER 7, 2014



Adopted Zoning Districts

- Downtown Commercial
- Residential 1
- Residential 2
- Residential 3
- Waterfront Mixed Use 1
- Waterfront Mixed Use 2

The Official City Zoning Map was adopted in March 1997. The amendments identified on this map were adopted by the City Council on October 7, 2014, including a subsequent amendment adopted by the Council on May 5, 2015 that affects Map 34, Lot 25.



1,500 750 0 1,500 3,000 4,500 6,000 Feet

