



TOWN OF KITTERY

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Visit us: www.kitteryme.gov/land-issues-committee

Land Issues Committee Meeting Agenda

March 4, 2024 | 4:00 PM | Hybrid Meeting: Conference Rm. A & Zoom

Zoom Link (to register):

https://us02web.zoom.us/webinar/register/WN_hW6KNSs9Tc-11BKmeUkrQg

Agenda

Item 1 – Housekeeping Amendments to Town Code

See attached for amendments to Title 16 proposed by staff.

Item 2 – Committee Member Items

Draft project schedule

Planning & Development Department – Committee & Board Project Schedule DRAFT (3.4.24 KLIC)

1. Housekeeping Amendments

Purpose: Correct omissions and errors from re-codification and previous amendments; clarify language where applicable

Schedule:

- a. KLIC – March
- b. Planning Board – March
- c. Council – April/ May

2. Working Waterfront

Purpose: Amend Shoreland and Nonconforming zoning provisions to preserve existing working waterfront assets

Schedule:

- a. KLIC – April
- b. Planning Board – April/ May
- c. Council – May/ June

3. Market Study (nearly complete)

Purpose: Provide thoroughly and independently researched basis for ongoing Zoning, land use, economic development, and Comprehensive Planning efforts

Schedule: Public workshop (virtual) late March or early April

4. FEMA Flood Zone Map Update

Purpose: Adopt new FEMA Flood Insurance Rate Maps to remain compliant with federal insurance programs

Schedule:

- a. KLIC – April
- b. Planning Board – April/ May
- c. Council – May/ June

5. Business Park Zoning

Purpose: Amend zoning for Business Park properties to reflect Town goals, market conditions, and the hydrologic study

Schedule:

- a. Property owner discussions – February/ March
- b. Public workshop - March

- c. Housing Committee - April
- d. KLIC – May & June
- e. Planning Board – June
- f. Council – July

6. Shoreland Zoning Updates

Purpose: Amend Shoreland Zoning to comply with DEP rules and to simplify regulations for staff and property owners

Schedule:

- a. KLIC – August/ September
- b. Planning Board – September
- c. Council – October

7. Comprehensive Plan Committee Formation

Purpose: Establish steering committee and outline goals and vision for next Comprehensive Plan update

Schedule:

- a. Committee Formation - September
- b. Project Scheduling - October

8. Coastal Hazards

9. Low Impact Development Standards

10. Housing-Supportive Zoning Continued (?)

**TITLE 16
HOUSEKEEPING AMENDMENTS**

Note: Housekeeping amendments in orange-brown

1. Amend § 16.1.8 – C. Nonconformance as follows:

1 (6) Nonconforming lots.

2 **(a)** Nonconforming lots of record.

3 **[1]** Nonconforming lots. In any district, notwithstanding limitations
4 imposed by other sections of this title, single noncontiguous lots legally
5 created when recorded may be built upon consistent with the uses in
6 the particular zone. These provisions apply even though such lots fail to
7 meet the minimum requirements for area or width, or both, which are
8 applicable in the zone, provided that yard dimensions and other
9 requirements, not involving area or width, or both, of the lot conform to
10 the regulation for the zone in which such lot is located. Relaxation of
11 yard and other requirements not involving area or width may be
12 obtained only through miscellaneous variation request to the Board of
13 Appeals.

14 [2] Residential zones exception: in Residential zoning districts and
15 outside of Shoreland overlay zones, lots that do not conform with the
16 applicable minimum lot area or minimum net residential acreage
17 required to construct a single-family dwelling are exempt from those
18 standards and may construct a single-family dwelling, provided the lot
19 was conforming prior to October 25, 2012.

20
21 ***Explanation: this amendment replaces the multiple notes for***
22 ***legally nonconforming properties found in (brackets) various***
23 ***sections below.***

24 **2. Amend § 16.4.10 Residential — Rural (R-RL) zoning as follows:**

25 D. Standards

26 (2) Dimensional standards:

27 **(a)** Minimum net residential acreage per dwelling unit: 40,000
28 square feet. (~~Note: As per Chapter 16.3 definition of "minimum~~
29 ~~land area per dwelling unit," except to exempt properties which~~
30 ~~are unable to meet the square feet required for a single family~~

dwelling unit, provided the lot was conforming prior to October 25, 2012).

3. Amend § 16.4.11 Residential — Suburban (R-RS) zoning as follows:

B. Permitted uses. The following uses are permitted in the R-S Zone:

- (1) Accessory dwelling unit.
- (2) Conservation Subdivision.
- (3) Dwelling, multifamily (not more than four units per building)
- (4) Dwelling, single-family.
- (5) Dwelling, multifamily 2-4 Limited

Explanation: this amendment corrects a mistake made by staff during LD 2003 amendments. Multifamily developments were allowed in R-S, R-KPV, and R-U zones previously. "Dwelling, multifamily 2-4 Limited" does not supercede provisions which allow multifamily development.

D. Standards. The following standards must be met unless modified per §16.8.10, Conservation Subdivision:

- (1) Design and performance standards. The design and performance standards of Chapters 16.5, 16.7 and 16.8 must be met. The Design Handbook provides examples of appropriate design for nonresidential and multiunit residential projects.
- (2) Dimensional standards.
 - (a) ~~Minimum land **Lot** area per dwelling unit (note: as per Chapter 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single family dwelling unit, provided the lot was conforming prior to October 25, 2012):~~
 - ~~[1] Without public sewage disposal: 40,000 square feet.~~
 - ~~[2] With public sewage disposal: 30,000 square feet unless reduced in accordance with Note A.~~
 - [3] When more than 50% of the dwelling units proposed will be affordable as defined by this Code and have public sewer: 12,000 square feet**
 - (a) Unit density:
 - [1] For developments served by public water and sewer facilities: Minimum lot area per dwelling unit: 30,000 square feet unless reduced in accordance with Note A

70 [2] For developments served by public water and sewer facilities
71 when more than 50% of the dwelling units proposed will be
72 affordable as defined by this code: Minimum lot area: 12,000
73 square feet

74 [3] For developments that are not served by public water and
75 sewer facilities: Minimum net residential acreage per
76 dwelling unit: 40,000 square feet

77 [4] For developments that are not served by public water and
78 sewer facilities when more than 50% of the dwelling units
79 proposed will be affordable as defined by this code: Minimum
80 net residential acreage per dwelling unit: 16,000 square feet

81 ***Explanation: this amendment clarifies which density formula***
82 ***applies to a development (based on utilities).***

83

84 **4. Amend § 16.4.12 Residential — Kittery Point Village (R-KPV) zoning as**
85 **follows:**

86 B. Permitted uses. The following uses are permitted in the R-KPV Zone:

- 87 (1) Accessory dwelling units.
- 88 (2) Conservation subdivision.
- 89 (3) Dwelling, multifamily-(not more than four units per building).
- 90 (4) Dwelling, single-family.
- 91 (5) Dwelling, multifamily 2-4 Limited

92

93 D. Standards. The following standards must be met unless modified per
94 § 16.8.10, Conservation subdivision.

- 95 (1) Design and performance standards in Chapters 16.5, 16.7 and 16.8.
96 The Design Handbook provides examples of appropriate design for
97 nonresidential and multiunit residential projects.
- 98 (2) Dimensional standards.
 - 99 (a) Minimum net residential acreage per dwelling unit: 40,000
100 square feet. ~~(Note: As per Chapter 16.3 definition of "minimum~~
101 ~~land area per dwelling unit,"~~ except to exempt properties which
102 are unable to meet the square feet required for a single-family
103 dwelling unit, provided the lot was conforming prior to October
104 25, 2012).
 - 105 (b) Minimum lot size: 40,000 square feet.
 - 106 (c) Minimum street frontage: 150 feet unless reduced in
107 accordance with Note A.

- 108 (d) Minimum front yard: 40 feet.
109 (e) Maximum building coverage: 20%.
110 (f) Minimum rear and side yards: 15 feet. (Note: Buildings higher
111 than 40 actual feet must have side and rear yards not less than
112 50% of the building height.)
113 (g) Maximum building height: 35 feet. (Note: Minimum distance
114 between principal buildings on the same lot is the height
115 equivalent to the taller building.)
116 (h) Minimum water body setback for functionally water-
117 dependent uses: zero feet.
118 (i) Minimum setback from streams, water bodies and wetlands: in
119 accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee
120 Schedules. Subdivision types and standards.

121 (3) ~~Subject to net residential acreage and net residential density per~~
122 ~~Chapter **16.3. Subdivisions in KPV zone:**~~

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5. Amend § 16.4.13 Residential — Urban (R-U) zoning as follows:

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127 D. Standards. The following standards must be met unless modified per
128 §**16.8.10** Conservation Subdivision:

129 (1) The design and performance standards in Chapters **16.5, 16.7** and
130 **16.8.**

131 (2) Dimensional standards:

132 (a) ~~Minimum land **lot** area per dwelling unit: 20,000 square feet.~~
133 ~~(Note: As per Chapter **16.3** definition of "minimum land area~~
134 ~~per dwelling unit," except to exempt properties which are~~
135 ~~unable to meet the square feet required for a single family~~
136 ~~dwelling unit, provided the lot was conforming prior to~~
137 ~~October 25, 2012.)~~

138 Unit density:

139 [1] For developments served by public water and sewer
140 facilities: Minimum lot area per dwelling unit: 20,000 square
141 feet unless reduced in accordance with Note A

142 [2] For developments served by public water and sewer
143 facilities when more than 50% of the dwelling units
144 proposed will be affordable as defined by this code:
145 Minimum lot area: 8,000 square feet

146 [3] For developments that are not served by public water and
147 sewer facilities: Minimum net residential acreage per
148 dwelling unit: 20,000 square feet

149 [4] For developments that are not served by public water and
150 sewer facilities when more than 50% of the dwelling units
151 proposed will be affordable as defined by this code:
152 Minimum net residential acreage per dwelling unit: 20,000
153 square feet

154
155 **(b) — When more than 50% of the dwelling units proposed will**
156 **be affordable as defined by this code and have public sewer:**
157 **8,000 square feet**

- 158 (b) Minimum lot size: 20,000 square feet.
159 (c) Minimum street frontage: 100 feet.
160 (d) Minimum front yard, all buildings: 30 feet.
161 (e) Minimum rear and side yards, all buildings: 15 feet.
162 (Note: Buildings higher than 40 actual feet must have side
163 and rear yards not less than 50% of building height.)
164 (f) Maximum building height: 35 feet.
165 (Note: Minimum distance between principal buildings on the
166 same lot is the height equivalent to the taller building.)
167 (g) Maximum building coverage: 20%.
168 (h) Minimum water body setback for functionally water-
169 dependent uses: zero feet.
170 (i) Minimum setback from streams, water bodies and wetlands:
171 in accordance with Table 16.5.30 § **16.4.28** and Appendix A,
172 Fee Schedules.

173 (3) Subdivision types and standards.

- 174 (a) Conservation Subdivision. In a subdivision, the above
175 standards may be modified in accordance with special
176 provisions of §**16.8.10**, including that there is no minimum lot
177 size, and with the conditions that:

178 [1] Minimum principal building separation as required by
179 the Fire Chief, but not less than 15 feet.

- 180 (b) Subdivision development (special exception uses, §**16.4.13C**).
181 In a subdivision development, standards in §**16.4.13D(1)** and
182 **(2)** apply and include:

183 [1] Minimum percentage of common open space: 15%.

184 (4) Age-restricted housing. In the case of age-restricted housing, the
185 above standards may be modified in accordance with the special
186 provisions of §**16.5.15** and with the condition that:

- 187 (a) ~~Municipal~~ **Public** sewerage and water must be provided.
188 (b) A minimum ~~land~~ **lot** area of three acres must be provided.
189 (c) The maximum ~~net~~ density may not exceed four dwelling

190 units per net residential acre **lot area**. In no event may the
191 Planning Board authorize a departure which increases the
192 total number of dwelling units greater than that specified
193 under the applicable zoning ordinance.

194 (d) A single-bedroom unit may not be less than 550 square feet
195 and a two-bedroom unit not less than 650 square feet.

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6. Amend § 16.4.14 Residential — Village (R-V) zoning as follows:

199 D. Standards. All development and the use of land in the R-V Zone must
200 meet the following standards. In addition, the design and
201 performance standards of Chapters **16.5**, **16.7** and **16.8** must be met.
202 The Design Handbook provides examples of appropriate design for
203 nonresidential and multiunit residential projects.

204 (1) The following space standards apply:

205 (a) Minimum net residential acreage per dwelling unit: 4,000
206 square feet. ~~(Note: As per Chapter **16.3** definition of "minimum
207 land area per dwelling unit," except to exempt properties
208 which are unable to meet the square feet required for a single-
209 family dwelling unit, provided the lot was conforming prior to
210 October 25, 2012.)~~

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7. Amend §16.4.15 Residential — Rural Conservation (R-RC) zoning as follows:

215 D. Standards. The following standards must be met unless modified per
216 §**16.8.10**, Conservation Subdivision:

217 (1) The design and performance standards of Chapters **16.5**, **16.7** and
218 **16.8** must be met.

219 (2) The following dimensional standards apply:

220 (a) Minimum net residential acreage per dwelling unit: 80,000
221 square feet. ~~(Note: As per Chapter **16.3** definition of
222 "minimum land area per dwelling unit," except to exempt
223 properties which are unable to meet the square feet required
224 for a single-family dwelling unit, provided the lot was
225 conforming prior to October 25, 2012.)~~

226
227

8. Amend §16.4.18 Business — Local 1 (B-L1) zoning as follows:

228 D. Standards. All development and the use of land in the B-L1 Zone must

229 meet the following standards. Kittery's Design Handbook illustrates
230 how these standards can be met. In addition, the design and
231 performance standards of Chapter **16.5** must be met. **[Amended 9-12-**
232 **2022]**

233 (1) The following space and dimensional standards apply:

234 (a) Minimum lot area per dwelling unit:

235 [1] When no frontage on State Road or Shapleigh Road: 2,500
236 square feet.

237 [2] When less than five dwelling units are proposed with, at
238 minimum, one nonresidential use must be located on the
239 first floor facing State Road or Shapleigh Road such that
240 the use will be visible from the street: 2,500 square feet.
241 Such a nonresidential use or uses need not occupy the
242 entire first floor but must be an independent nonresidential
243 use, e.g., not a home office marketed with a dwelling unit as
244 a work/live unit.

245 [3] When five or more dwelling units are proposed with, at
246 minimum, one nonresidential use must be located on the
247 first floor facing State Road or Shapleigh Road such that
248 the use will be visible from the street: 2,000 square feet.
249 Such a nonresidential use or uses need not occupy the
250 entire first floor but must be an independent nonresidential
251 use, e.g., not a home office marketed with a dwelling unit as
252 a work/live unit.

253 [4] When 25% or more of the dwelling units will be affordable
254 housing units as defined by this code, the minimum ~~land~~
255 ~~lot~~ area per dwelling unit is 1,500 square feet.

256 [5] When 50% or more of the dwelling units will be affordable
257 housing units as defined by this code, the minimum land
258 lot area per dwelling unit is 1,000 square feet.

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261

9. Amend §16.4.19 Commercial 1, Route 1 Commercial Zone (C-1) as follows:

262 E. Standards.

263 (1) C Zone standards. All development and the use of land in the C
264 Zone must meet the following standards. Kittery's Design Handbook
265 illustrates how these standards can be met. In addition, the design and
266 performance standards of Chapters **16.5**, **16.7** and **16.8** must be met
267 unless noted otherwise below.

268 (2) The following space standards apply in the C-1 Zones:

269 (a) Minimum lot size or density:

C-1 Zone

Cottage cluster	16 units per acre unless 25% of
Dwelling, attached single-family	units are affordable housing units
Dwelling, multifamily	as defined by this Code, in which
Dwelling, two-family	case 20 units per acres allowed*
Dwelling units as part of a	40 units per acre when over 50% of
mixed-use building	the units are affordable housing
	units as defined by this Code*.
All other uses	40,000 square feet

NOTES:

* These uses are exempt from net residential acreage calculations but are subject to minimum ~~land~~ lot area per dwelling unit requirement as described in §16.5.18D, Exemptions to net residential acreage calculations.

270

271 10. Amend §16.4.21 Commercial 3, Bypass/ Old Post Road Commercial Zone 272 (C-3) as follows:

273 E. Standards.

274 (1) C Zone standards. All development and the use of land in the C
275 Zone must meet the following standards. Kittery's Design Handbook
276 illustrates how these standards can be met. In addition, the design and
277 performance standards of Chapters 16.5, 16.7 and 16.8 must be met
278 unless noted otherwise below.

279 (2) The following space standards apply in the C-3 Zones:

280 (a) Minimum lot size or density:

C-3 Zone

Cottage cluster	16 units per acre unless 25% of
Dwelling, attached single-family	units are affordable housing units
Dwelling, multifamily	as defined by this Code, in which
Dwelling, two-family	case 20 units per acres allowed*
Dwelling units as part of a	40 units per acre when over 50% of
mixed-use building	the units are affordable housing
	units as defined by this Code*.

All other uses 40,000 square feet

NOTES:

C-3 Zone

* These uses are exempt from net residential acreage calculations but are subject to minimum ~~land~~ lot area per dwelling unit requirement as described in §16.5.18D, Exemptions to net residential acreage calculations.

281

282 11. Amend §16.4.23 Mixed Use Zone (MU) as follows:

283 D. Standards.

284 (1) All development and the use of land in the MU Zone must meet the
285 following standards. Kittery's Design Handbook illustrates how
286 these standards can be met. In addition, the design and
287 performance standards of Chapters 16.5, 16.7 and 16.8 must be met.

288 (2) Minimum dimensional standards. The following apply:

289 (a) Minimum lot size:

290 [1] Lots with frontage on Route 1: 200,000 square feet.

291 [2] Lots without frontage on Route 1: 80,000 square feet.

292 (b) Minimum street frontage on road with access along U.S. Route
293 1, Haley Road, Lewis Road, or Cutts Road: 250 feet.

294 [1] Other streets or approved ways: 150 feet.

295 (c) Minimum front yard: 30 feet.

296 (d) Minimum rear and side yards: 30 feet.

297 (e) Maximum building height: 40 feet.

298 (f) Maximum height above grade of building-mounted signs: 40
299 feet.

300 (g) Minimum setback from water body and wetland water-
301 dependent uses: zero feet.

302 (h) Minimum setback from streams, water bodies and wetlands: in
303 accordance with Table 16.5.30, § 16.4.28 and Appendix A, Fee
304 Schedules.

305 (i) Minimum ~~land~~ lot area per unit for elder care facilities that are
306 connected to the public sewerage system:

307 [1] Dwelling unit with two or more bedrooms: 5,000 square
308 feet.

309 [2] Dwelling unit with less than two bedrooms: 4,000 square
310 feet.

311 [3] Residential care unit: 2,500 square feet.

312 (j) Minimum ~~land~~ lot area per bed for nursing care and
313 convalescent care facilities that are connected to the public

- 314 sewerage system: 2,000 square feet.
- 315 (k) Buffer to I-95 right-of-way: 40 feet.
- 316 (l) Buffer to neighboring lot with an existing residence within 100
- 317 feet of the lot line: 40 feet.
- 318 (m) Vegetated buffer to be maintained between the MU and R-RL
- 319 Zones: 40 feet.

320
321 Note 1: For single-family dwellings, and vacant lots of record, one
322 dwelling unit is allowed for each 200,000 square feet of ~~land lot~~ area.
323 A lot of record having a ~~land lot~~ area of more than 200,000 square
324 feet that was improved with a single-family dwelling as of April 1,
325 2004, may be divided into two lots provided that each of the lots
326 contains at least 40,000 square feet of ~~land lot~~ area and meets the
327 other dimensional standards of the zone. Section **16.4.10D(1)** and **(2)**
328 as set forth in the Residential - Rural Zone apply and no further
329 subdivision is allowed.

330 Note 2: For dwelling units that are part of a mixed-use building or a
331 multifamily building and are connected to the public sewerage
332 system, one dwelling unit is allowed for each 10,000 square feet of
333 lot area. Where over 50% of such dwelling units described above will
334 be affordable as defined by this code: 4,000 square feet of ~~land lot~~ **buildable**
335 ~~land lot~~ area. [NOTE: multifamily dwellings are not allowed in either
336 Resource Protection or Shoreland Overlay Zones] If the parking for
337 the residential units is encompassed within the building, the
338 minimum required buildable ~~land lot~~ area per dwelling unit is
339 reduced to 7,500 square feet. Where over 50% of the dwelling units
340 will be affordable as defined by this code and parking is
341 encompassed within the building: 3,000 square feet of buildable
342 ~~land lot~~ area. In addition, for those developments where more than
343 50% of the dwelling units will be affordable, parking requirements
344 are reduced to two parking spaces per three dwelling units.

345
346 **12. Amend §16.4.24 Mixed-Use — Badger Island (MU-BI) as follows:**

- 347 D. Standards.
- 348 (1) The following space standards apply:
- 349 (a) Minimum ~~land lot~~ area per dwelling unit: 3,000 square feet.
- 350 [1] If more than 50% of the dwelling units will be affordable
- 351 housing units as defined by this code: 1,200 square feet.
- 352 (4) Special parking standards.
- 353 (a) Revised off-street parking standards. Off-street parking must

354 be provided in accordance with § **16.7.11F** unless modified
355 below for the following uses:

- 356 [1] Dwellings: 1 1/2 parking space for each dwelling unit;
357 Except for residential developments where more than 50% of
358 the dwelling units will be affordable as defined by this code,
359 parking requirements are reduced to two parking spaces per
360 three dwelling units.

361

362 **13. Amend §16.4.25 Mixed-Use – Kittery Foreside Zone (MU-KF) as follows:**

363 D. Standards.

364 (1) The design and performance standards of Chapters **16.7** and **16.8**
365 must be met, except where specifically altered in this subsection.

366 (2) Dimensional standards. The following space standards apply:

367 (a) Minimum **land lot** area per dwelling unit: 5,000 square feet.

368 (a) – 1. If more than 50% of the dwelling units will be affordable
369 housing units as defined by this code: 2,000 square feet.

370

371 (k) Minimum **land lot** area per unit for elder-care facilities that
372 are connected to the public sewerage system:

373 [1] Dwelling unit with two or more bedrooms: 3,000 square
374 feet.

375 [2] Dwelling unit with less than two bedrooms: 2,500 square
376 feet.

377 [3] Residential care unit: 2,000 square feet.

378 [a] Minimum **land lot** area per bed for nursing care and
379 convalescent care facilities that are connected to the public
380 sewerage system: 1,500 square feet.

381

382 **14. Amend §16.5.18 Net residential acreage as follows:**

383 A. Purpose. To protect public health, safety, and welfare by prioritizing
384 preservation of environmentally sensitive areas and land for public or
385 quasi-public facilities during development of parcels in Kittery's
386 limited growth zones by excluding those areas from development
387 density calculations. Net residential acreage is used to determine the
388 maximum number of dwelling units allowed on a parcel that is subject
389 to subdivision **located in a limited growth area identified in the**
390 **Comprehensive Plan.** The total number of dwelling units allowed is
391 equal to the net residential acreage divided by the minimum land area
392 per dwelling unit for a given land use zone.

393 B. Applicability. Applies to development of land located in limited growth

394 areas as designated in the Comprehensive Plan or to residential
395 development that will not be served by public water and sewer
396 facilities. Development of parcels located in targeted growth areas
397 served by public sewer and water is subject to provisions for lot area as
398 defined in Chapter 16.3 for calculating lot area, lot coverage, or unit
399 density.

400 **B. C.** Net residential acreage calculation. The total number of dwelling
401 units allowed is equal to the net residential acreage divided by the
402 minimum land area per dwelling unit for a given land use zone. To
403 calculate net residential acreage, the land area listed below must be
404 subtracted from a parcel's gross area. Where land areas to be
405 subtracted overlap, the area therein is subtracted once.

- 406 (1) All land located below the highest annual tide elevation as
407 published in the Maine DEP Highest Annual Tide (HAT) levels for
408 the most-current year.
- 409 (2) All land located within the floodplain as defined in the definition of
410 "flood, 100-year" in Chapter **16.3**.
- 411 (3) All wetlands as defined in the definition of "wetland" in Chapter
412 **16.3**, as well as vernal pools, ponds, lakes, streams and other water
413 bodies, including 50% of the associated setbacks described in other
414 buildings and structures, Table 16.5.30, Chapter **16.5** of this title.
- 415 (4) All land located on filled tidal lands, per the definition of "tidal land,
416 filled" in Chapter **16.3**.
- 417 (5) All land located within existing rights-of-way and other existing
418 easements wherein dwelling units cannot be built.
- 419 (6) All land located within proposed rights-of-way, including parking
420 and travel ways. Driveways are excluded.
- 421 (7) All land isolated from the principal location for development on the
422 parcel by a road/street, existing land uses, or any physical feature,
423 natural or man-made, such that it creates a barrier to the central
424 development of the site and no means of access is proposed nor
425 likely to be provided in the future. However, to demonstrate that
426 identified isolated land may be considered developable for the
427 purpose of this calculation, the applicant must submit a plan and
428 supporting documentation for the Board's consideration.
- 429 (9) All land one acre or more of contiguous area with sustained slopes
430 of 20% or greater.
- 431 (10) All land identified as exposed bedrock, and soils with a drainage
432 class of "poorly drained" and/or "very poorly drained" as defined in
433 the definition of "soils" in Chapter **16.3**.
- 434 (11) Fifty percent of all land characterized as drainage class of
435 "somewhat poorly drained," unless public sewer is used, in which

436 case no land area is subtracted.

437 (12) All land area within a cemetery and burying ground as defined in
438 Chapter **16.3**, including associated setback per 13 M.R.S.A. § 1371-A,
439 Limitations on construction and excavation near burial sites.

440 (13) All land within a Commercial Fisheries/Maritime Uses Overlay Zone
441 or Resource Protection Overlay Zone not included in Subsection
442 **B(12)** above.

443

444 **15. Amend §16.8.10 (Subdivision) Performance standards and approval**
445 **criteria as follows:**

446 **B.** Basic subdivision layout.

447 **(1)** Calculation of density: See "~~Net Residential Acreage~~" in Chapter **16.5**,
448 ~~General Performance Standards. Subdivisions located in targeted~~
449 ~~growth areas as designated in the Comprehensive Plan and served by~~
450 ~~public water and sewer facilities are subject to the lot area per dwelling~~
451 ~~unit standards of the underlying zoning district. Subdivisions located in~~
452 ~~limited growth areas as designated in the Comprehensive Plan and~~
453 ~~that are not served by public water or sewer facilities are subject to net~~
454 ~~residential acreage per unit provisions of Chapter 16.5.18.~~

455

456

Explanation:

1. **Clarify advisory, informal, non-binding nature of Sketch Plan Review and simplify submittal requirements.**
2. **Clarify Planning Board authority to grant waivers, based on precedent and advice from Town counsel.**
3. **Increase time between preliminary site plan submission and planning board review to accommodate packet preparation and staff/ peer review timelines.**
4. **Clarify drainage/ stormwater data required for plan submission.**
5. **Remove requirement for department letters to reflect current practice.**
6. **Insert parking standards that were mistakenly deleted during re-codification.**
7. **Insert performance guarantee requirements for site plan projects that were mistakenly removed during re-codification.**

Amend “Chapter 16.7 General Development Requirements” as follows:

Chapter 16.7 General Development Requirements **Site Plan Review**

Amend § 16.7.2 **Applicability** as follows:

- A. A person who has right, title, or interest in a parcel of land shall obtain site plan approval prior to commencing any of the following activities on the parcel, including contracting or offering for the conveyance regulated activity permit for any structure within the development is ~~issues~~ issued, or undertaking work on any improvements, including installation of roads or utilities or land clearing.

Amend § 16.7.8 **Waivers** as follows:

- A. Waiver authorization. Upon written request, the Planning Board may **wave submission requirements and** may waive or modify certain required improvements **performance standards of 16.7.11**, due to special circumstances of a particular plan, if the applicant demonstrates that the interest of public health, safety, the natural environment, and general welfare are not harmed, or if those improvements are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed development, subject to appropriate conditions as determined by the

44 Planning Board, and provided the waivers do not have the effect of
45 nullifying the intent and purpose of the Comprehensive Plan and
46 Title 16. **The Planning Board is not authorized to grant waivers**
47 **from regulations or standards of 16.4 or Performance Standards of**
48 **16.5.**

- 49 B. Only waivers from submission requirements may be considered for
50 minor site plans, and not waivers from performance standards.
51 Projects seeking waiver of performance standards must be classified
52 as major site plan applications to be reviewed by the Planning Board.
- 53 C. Objectives secured. In granting modifications or waivers, the
54 Planning Board must require such conditions as will, in its judgment,
55 secure substantially the objectives of the requirements so waived or
56 modified. The Planning Board is not obligated to consider the costs of
57 required improvements when reviewing waiver or modification
58 requests. The Planning Board shall consider the provisions in
59 § 16.2.12F, Basis for decisions when reviewing waiver or modification
60 requests.

61
62 Amend § 16.7.10 **Review process and submission requirements** as follows:

- 63
64 B. Sketch plan review.
- 65 (1) Major site plan applicants may choose to submit a development
66 sketch plan with design concept, at their discretion. The purpose
67 of sketch plan review with the Planning Board is a chance for the
68 applicant to ask questions and get feedback and guidance from
69 the Board before proceeding with an advance site plan design,
70 and for the Board to provide guidance on submission
71 requirements. **Project proposals and feedback provided during**
72 **sketch plan review are non-binding on both parties.** Any
73 person requiring site plan review must submit an application on
74 forms prescribed by the Planning Board. No more than one
75 application/plan for a piece of property may be under review
76 before the Planning Board.
- 77 (a) A completed application must be submitted to the Town
78 Planner no later than 21 days prior to the meeting date for the
79 item to be included on the agenda.
- 80 [1] Refer to current Planning Department application
81 checklist for required number of paper copies.
- 82 [2] One electronic submission in PDF format of the complete
83 submission including all forms, plans, and
84 documentation.
- 85 (2) Planning Board review. The Planning Board must, within 65 days
86 of sketch plan submission, act upon the sketch plan as follows:

- 87 (a) ~~The Planning Board must determine~~ **advise** whether the
88 sketch plan proposal complies with the standards contained
89 herein.
90 (b) Where it deems necessary, make specific suggestions, in
91 writing, to be incorporated by the applicant in subsequent
92 submissions.
93 (c) ~~The Planning Board should determine~~ **advise** as to whether
94 or not an on-site walk will be required.

95 **(d) advise the applicant of additional information, studies,**
96 **revisions, or conditions which may be necessary for**
97 **project review or approval.**

- 98 ~~(de)~~ The applicant should provide an indication as to whether or
99 not waivers from the submission requirements or
100 performance standards will be part of the next phase of
101 review.
102 ~~(e)~~ Any plan may be continued for a total period not to exceed 90
103 calendar days for good and sufficient reason (i.e., for revisions
104 to be made, studies completed, or additional information
105 submitted) and acceptable to both the applicant and the
106 Planning Board. Such plan is automatically scheduled for the
107 agenda of the next regular Planning Board meeting after the
108 90th day and action completed in accordance with the
109 requirements and timing contained in this title, whether the
110 applicant has accomplished the purposes for which
111 continued or not.
112 ~~[f]~~ The action to table by the Planning Board must be an action
113 to temporarily suspend action and not to suppress a vote on
114 the plan.

115 (3) **Sketch Plan Submission** requirements.

- 116 (a) The sketch plan must be submitted to the Planning Board at
117 the time of, or prior to, the on-site inspection.
118 ~~(b)~~ The sketch plan must show in simple form on a topographic
119 map the proposed site, subdivision, landscape architectural or
120 architectural design concept, including streets, lots,
121 structures and other features, in relation to existing
122 conditions and municipal land use zone(s) regulations.
123 ~~(c)~~ The sketch may be a freehand penciled sketch and must
124 include the data listed below:

125 ~~(4)~~ Written submission requirements:

- 126 ~~(a)~~ Any person requiring development review must submit an
127 application on forms prescribed by the Planning Board,
128 together with a development plan and such submission

129 contents as may be required in § **16.7.10C**. A complete
130 application consists of all the required elements. No more
131 than one application/plan for a piece of property may be
132 under review at a time. No more than one approved final plan
133 for a piece of property may exist.

134 (b) General project information **must be provided in plan or**
135 **narrative form** to describe or outline the existing conditions
136 of the site, including:

137 ~~[1]—Covenants **or easements**;~~

138 ~~[2]—Available community facilities **streams, wetlands, or**~~
139 **other natural features**; and

140 ~~[3]—Utilities **and drainage features**.~~

141 (c) Proposed development **details must be provided in plan or**
142 **narrative form, including**, such as:

143 [1] Number of residential or business lots and/or dwelling
144 units;

145 [2] Typical lot width and depth;

146 [3] Price range **Vehicle parking and driveway areas**;

147 [4] Business areas;

148 [5] Playgrounds, park areas and other public areas;

149 [6] Protective covenants;

150 [7] Utilities **and drainage features**; and

151 [8] Street improvements.

152 C. Preliminary plan review.

153 (1) General process.

154 (a) ~~Within six months after Planning Board acceptance of a~~
155 ~~sketch plan, if applicable, the **An** applicant must submit an~~
156 ~~application for preliminary site plan approval in the form~~
157 ~~prescribed herein **and in accordance with current**~~
158 **Department procedures**.

159 (b) Preliminary plan application filing and completeness review.
160 A determination as to whether the Town Planner validates an
161 application is based on a review of the application in
162 accordance with the submission contents checklist filed with
163 the plan, which indicates all elements required under
164 § **16.7.10C** and **D** have been received, or written request for
165 any waivers of submission requirements or performance
166 standards is included. The application must be accompanied
167 by a plan and the required fee, together with a certification
168 the applicant has notified abutters by mail of the filing of the
169 plan application for approval.

- 170 (c) Receipt and scheduling review. Upon validation, the Town
171 Planner must place the application on the Planning Board's
172 agenda for Planning Board completeness review and vote to
173 find the preliminary plan application complete and, upon
174 Planning Board approval, issue a dated notice to the
175 applicant, which is thereafter the official time of submission.
- 176 (d) Site inspection. In the course of the review of the plan, the
177 Planner must, and the Planning Board may at its discretion,
178 make a physical inspection and may make photographic
179 record of the existing conditions on the site.
- 180 (e) Advisory opinions. At any time during review, the Planner
181 may request an advisory opinion from the Planning Board,
182 Conservation Commission or Port Authority on issues related
183 to the application. Where applications are for land within
184 wetland setbacks or the Resource Protection Overlay Zone,
185 the Conservation Commission must be invited to review and
186 offer recommendations from an environmental protection
187 perspective. The Planner also must make recommendation
188 on the necessity for independent review.
- 189 (f) Planner analysis. The Planner must analyze the application
190 and forward comments and recommendations to the
191 applicant and the Planning Board.
- 192 (g) A completed application must be submitted to the Town
193 Planner no later than **21-28** days prior to the meeting date for
194 the item to be included on the agenda. The submission must
195 include on the plan or attached thereto, the requirements of
196 Subsection **C(4)**, Plan requirements, and Subsection **C(5)**,
197 Additional requirements, unless upon the applicant's written
198 request, the Planning Board, by formal action, waives or
199 defers any requirement(s) for submission.
- 200 (4) Plan requirements.
- 201 (a) Plan sheets drawn on a reproducible medium and must
202 measure no less than 11 inches by 17 inches and no larger than
203 24 inches by 36 inches;
- 204 (b) With scale of the drawings no greater than one inch equals 30
205 feet for developments less than 10 acres, and one inch equals
206 50 feet for all others;
- 207 (c) Code block in the lower right-hand corner. The block must
208 contain:
- 209 [1] Name(s) and address(es) of the applicant and owner;
210 [2] Name of the project;

- 211 [3] Name and address of the preparer of the plan, with
212 professional seal, if applicable;
- 213 [4] Date of plan preparation/revision, and a unique ID number
214 for the plan and any revisions;
- 215 (d) Standard boundary survey conducted by a surveyor licensed in
216 the State of Maine, in the manner recommended by the State
217 Board of Registration for Land Surveyors;
- 218 (e) An arrow showing true North and the magnetic declination, a
219 graphic scale, and signature blocks for the owner(s) and
220 members of the Planning Board;
- 221 (f) Locus map showing the property in relation to surrounding
222 roads, within 2,000 feet of any property line of the development;
- 223 (g) Vicinity map and aerial photograph showing the property in
224 relation to surrounding properties, roads, geographic, natural
225 resource (wetland, etc.), historic sites, applicable comprehensive
226 plan features such as proposed park locations, land uses, zones,
227 and other features within 500 feet from any boundary of the
228 proposed development;
- 229 (h) Surveyed acreage of the total parcel, of rights-of-way, wetlands,
230 and area to be disturbed and amount of street frontage;
- 231 (i) Names and addresses of all owners of record of property
232 abutting the development, including those across a street;
- 233 (j) Existing development area conditions, including but not limited
234 to:
- 235 [1] Location and description of all structures, including signs,
236 existing on the site, together with accesses located within
237 100 feet of the property line;
- 238 [2] Essential physical features such as watercourses, wetlands,
239 floodplains, wildlife habitat areas, forest cover, and
240 outcroppings;
- 241 [3] Utilities existing, including power, water, sewer, holding
242 tanks, bridges, culverts and drainageways;
- 243 (k) Proposed development area conditions including, but not
244 limited to:
- 245 [1] Structures: their location and description, including signs,
246 to be placed on the site, floor plans and elevations of
247 principal structures as well as detail of all structures,
248 showing building materials and colors, and accesses
249 located within 100 feet of the property line;
- 250 [2] Utilities proposed including power, water, sewer, holding
251 tanks, bridges, culverts and drainageways;

- 252 [3] Sewage facilities type and placement. Test pit locations, at
253 least two of which must meet the State of Maine Plumbing
254 Code requirements, must be shown;
- 255 [4] Domestic water source;
- 256 [5] Parks, open space, or conservation easement locations;
- 257 [6] Lot lines, interior and exterior, right-of-way, and street
258 alignments;
- 259 [7] Road and other paved ways plans, profiles and typical
260 sections including all relevant data **and adjacent snow**
261 **storage areas**;
- 262 [8] Setbacks existing and proposed;
- 263 [9] Machinery permanently installed locations likely to cause
264 appreciable noise at the lot lines;
- 265 [10] Raw, finished or waste materials to be stored outside the
266 buildings, and any stored material of a toxic or hazardous
267 nature;
- 268 [11] Topographic contours of existing contours and finished
269 grade elevations within the development;
- 270 [12] Pedestrian ways/sidewalks, curbs, driveways, fences,
271 retaining walls and other artificial features locations and
272 dimensions proposed;
- 273 [13] Temporary marker locations adequate to enable the
274 Planning Board to readily locate and appraise the layout of
275 the development;
- 276 [14] Land proposed to be dedicated to public use and the
277 conditions of such dedication;
- 278 (l) Natural features or site elements to be preserved. Written
279 submission requirements legal interest documents showing
280 legal interest of the applicant in the property to be developed.
281 Such documents must contain the description upon which the
282 survey was based;
- 283 (m) Property encumbrances currently affecting the property, as well
284 as any proposed encumbrances;
- 285 (n) Water district approval letter, if public water is used, indicating
286 there is adequate supply and pressure to be provided to the
287 development;
- 288 (o) Erosion and sedimentation control plan prepared by a qualified
289 erosion and sedimentation control professional in accordance
290 with the requirements of § **16.7.11C; [Amended 5-8-2023]**
- 291 (p) **Stormwater management preliminary plan for stormwater and**
292 **other surface water drainage prepared by a registered**
293 **professional engineer including an analysis of existing and**

294 proposed drainage conditions on the site and in adjacent areas,
295 the general location of stormwater and other surface water
296 drainage areas, and describing potential impacts on off-site
297 areas which may be affected;

- 298 (q) Soil survey for York County covering the development. Where
299 the soil survey shows soils with severe restrictions for
300 development, a high intensity Class "A" soil survey must be
301 provided;
- 302 (r) Vehicular traffic report estimating the amount and type of
303 vehicular traffic that will be generated by the development on a
304 daily basis and for peak hours;
- 305 (s) Traffic impact analysis in accordance with § **16.5.27E** for
306 developments involving 40 or more parking spaces or which
307 are projected to generate more than 400 vehicle trips per day;
- 308 (t) Test pit(s) analysis prepared by a licensed site evaluator when
309 sewage disposal is to be accomplished by subsurface disposal,
310 pits, prepared by a licensed site evaluator;
- 311 (u) Town Sewage Department or community system authority
312 letter, when sewage disposal is to be through a public or
313 community system, approving the connection and its location;
- 314 ~~(v) Letters of evaluation of the development by the Chief of Police,~~
315 ~~Fire Chief, Commissioner of Public Works, and, for residential~~
316 ~~applications, the superintendent of schools, must be collected~~
317 ~~and provided by the Town Planner;~~
- 318 (w) Additional submissions as may be required by other sections of
319 this title such as for clustered development, mobile home parks,
320 or junkyards must be provided.
- 321 (5) Additional requirements. In its consideration of an application/plan,
322 the Planning Board may at any point in the review require the
323 applicant to submit additional materials, studies, analyses, and
324 agreement proposals as it may deem necessary for complete
325 understanding of the application. Such materials may include:
- 326 (a) Traffic impact analysis, for projects that are not otherwise
327 required to submit a traffic impact analysis by submission
328 requirement in Subsection **C(4)(s)**, above.
- 329 (b) Environmental analysis. An analysis of the effects that the
330 development may have upon surrounding lands and resources,
331 including intensive study of groundwater, ecosystems, or
332 pollution control systems.
- 333 (c) Hydrologic analysis. An analysis of the effects that the
334 development may have on groundwater must be conducted in

335 accordance with § **16.7.11J**. This analysis is always required for
336 mobile home park proposals.

- 337 (6) Additional submittal content required for review of wireless
338 communication services facilities (WCSF).
- 339 (a) A visual impact analysis prepared by a landscape architect or
340 other qualified professional acceptable to the Town that
341 quantifies the amount of visual impact on properties located
342 within 500 feet, within 2,500 feet and within two miles of the
343 WCSF. This analysis will include recommendations to mitigate
344 adverse visual impacts on such properties;
- 345 (b) An analysis prepared by a qualified professional acceptable to
346 the Town that describes why this site and structure is critical to
347 the operation for which it is proposed. The analysis must
348 address, at a minimum, existing and proposed service area; how
349 this WCSF is integrated with other company operations,
350 particularly other structures in Kittery and surrounding
351 communities; future expansion needs in the area; the effect on
352 company operations if this structure is not constructed in this
353 location; other sites evaluated for location of this structure and
354 how such sites compare to the proposed site; other options, if
355 any, which could be used to deliver similar services, particularly
356 if the proposed equipment can be co-located (shared use) on
357 an existing structure; and an analysis to the projected life cycle
358 of this structure and location;
- 359 (c) Certification by a structural engineer that construction of the
360 structure satisfies all federal, state and local building code
361 requirements as well as the requirement of maximum
362 permitted co-location at the site as approved by the Planning
363 Board/Town Planner;
- 364 (d) A plan note stating the payment of all required performance
365 guarantees as a condition of plan approval;
- 366 (e) Payment of the Planning Board application fees;
- 367 (f) And all other requirements per this chapter.
- 368

369 Amend § 16.7.11 **Performance standards and approval criteria** as follows:

370

371 F. Parking and loading.

372 (4) Off-street parking standards.

373 (a) Off-street parking, in addition to being a permitted use, is
374 considered as an accessory use when required or provided to
375 serve conforming uses located in any district.

- 376 (b) The following minimum off-street parking and loading
 377 requirements must be provided and maintained in case of
 378 new construction, alterations and changes of use. Such
 379 parking may be provided in the open air in design-dependent
 380 spaces dimensioned as may be required to suit the particular
 381 use as indicated in Table 2 of this chapter, set out at the end
 382 of § **16.7.11F**, Parking loading and traffic, or in garages.
- 383 (c) All spaces must be accessible from lanes of adequate size and
 384 location as per Table 2 of this chapter, set out at the end of
 385 § **16.7.11F**, Parking loading and traffic. In cases not specifically
 386 covered, the Town Board or officer with jurisdiction to
 387 approve the application is authorized to determine the
 388 parking requirements and projected development use
 389 intensity. Existing parking standards are to be used as a guide
 390 where applicable to ensure that a sufficient number of
 391 parking spaces are provided to accommodate the number
 392 and type of vehicles attracted to the development during
 393 peak parking demand times.
- 394 (d) When determination of the number of parking spaces
 395 required results in a requirement of a fractional space, any
 396 fraction of 1/2 or less may be disregarded, while a fraction in
 397 excess of 1/2 is counted as one parking space.

Use	Number of Parking Spaces
Automobile, truck and tractor repair and filling station	1 parking space for each regular employee plus 1 space for each 200 square feet of floor area used for service work
Dwellings	2 vehicle spaces per each dwelling unit
Age-restricted housing	1.5 parking spaces for each dwelling unit with 2 or fewer bedrooms
	2 parking spaces for each dwelling unit with more than 2 bedrooms
Residential care facilities	1 parking space per dwelling unit 0.65 parking space per residential care unit
Motels, hotels, tourist homes, rooming houses, or other rooming spaces associated with a permitted use	1 parking space for each rental unit plus 1 space for each 100 square feet of meeting room
Schools	
Nursery school and day-care facilities	1 space for every 100 square feet of gross floor area used as school area

Elementary and junior high schools	1 parking space for each adult employee, plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment
Senior high schools	1 parking space for each adult employee, plus 20 parking spaces for each 100 students or major fraction thereof of total enrollment
Marinas and other water-oriented recreational facilities	
With launching facilities	3 parking spaces for every 2 slips or moorings, arranged for trailers
Without launching facilities	1 parking space for each slip or mooring
Hospitals	1 parking space per each 3 beds
Long-term nursing care facilities and convalescent care facilities	1 parking space for each 4 beds
Theaters, auditoriums, churches and arenas	1 parking space for each 4 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats
Mortuary chapels	5 parking spaces for each chapel
Retail stores and financial institutions	1 parking space for each 175 square feet of gross floor area
Bowling alley	4 parking spaces for each bowling lane
Drive-in restaurants, snack bars and fast-food outlets	Minimum 15 parking spaces, plus 1 space for each 3 seats; seating is calculated by dividing the total floor area with customer access by 15
Restaurant	1 parking space for each 3 seats; seating is calculated by dividing the total floor area with customer access by 15
Offices, professional and public buildings	2 parking spaces for each office unit plus 1 space for each 250 square feet of gross floor area
Convenience stores or neighborhood grocery facilities	6 spaces in the rural residential zone; all other zones, 10 parking spaces
Mobile home	2 vehicle spaces per each mobile home
Transportation terminals	In addition to meeting all applicable standards as enumerated above,

	<p>transportation terminals must meet the following:</p> <p>1 parking space for each employee;</p> <p>1 parking space for each three seats of the terminal's major carrier vehicle; and</p> <p>1 parking space for each rented vehicle to be based on site</p>
Warehouse and storage	1 parking space for each 500 square feet of gross floor area except that portion of such facility which is used for retail sales and display or office area, which adds additional parking in accordance with the standards for those uses
Industry, manufacturing and business	1 parking space for each 500 square feet of floor area, or major fraction thereof, or 1.1 spaces per employee on the maximum shift, for that part of every business, manufacturing and industrial building not catering to retail trade
Bus parking	For each 25,000 square feet of gross floor area, retail business must provide one bus parking area. Said area(s) are to be 12 feet by 50 feet in dimension, marked on the parking lot surface and labeled as such. Bus parking must be located in the parking area as far from the store entrance(s) as possible

- 398 (e) A parking area is allowed in the Resource Protection Overlay
399 Zone only where no reasonable alternative route or location is
400 available outside the Resource Protection Overlay Zone, in
401 which case a permit or site plan or subdivision plan approval
402 is required by the Planning Board.
- 403 (f) A parking area must meet the wetland and water body
404 setback requirements for structures for the district in which
405 such areas are located, per Table 16.5.30, Minimum Setback
406 from Wetlands and Water Bodies; except, in the Commercial
407 Fisheries/Maritime Uses Overlay Zone, parking area must be
408 set back at least 25 feet from the normal high-water line or
409 the upland edge of a wetland. The setback requirement for a
410 parking area serving public boat-launching facilities, in zones
411 other than the Commercial, Business-Local, Residential-
412 Urban Zones, and the Commercial Fisheries/Maritime Uses

413 Overlay Zone, may be reduced to no less than 50 feet from
414 the normal high-water line or upland edge of a wetland if the
415 Planning Board finds no other reasonable alternative exists.

416 (g) Parking landscaping is required for parking areas containing
417 10 or more parking spaces and must have at least one tree
418 per eight spaces. Such trees are to be located either within
419 the lot or within five feet of it. Such trees are to be at least 1 1/2
420 inches in diameter, with no less than 25 square feet of
421 unpaved soil or permeable surface area per tree. At least 10%
422 of the interior of any parking area having 25 or more spaces is
423 to be maintained with landscaping, including trees, in plots of
424 at least five feet in width.

425 (h) Required off-street parking in all residential districts is to be
426 located on the same lot as the principal building or use,
427 except that where it cannot reasonably be provided on the
428 same lot, the Board of Appeals may authorize residential off-
429 street parking to be located on another lot within 300 feet of
430 the residential uses served, as measured along lines of public
431 access. Such parking areas must be held under the same
432 ownership or lease as the residential uses served, and
433 evidence of such control or lease is required. Leases obtained
434 for this purpose must be reviewed by the Town Attorney at
435 the developer's expense and include requirement for notice
436 to the Town upon termination of lease. Approval for uses
437 dependent on such lease is terminated upon termination of
438 the lease.

439 (i) If parking spaces are provided for employees, customers or
440 visitors, then accessible parking spaces must be included in
441 each such parking area in conformance with the following
442 table:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

- 443 [1] Each accessible parking space must contain a
444 rectangular area at least 19 feet long and eight feet wide
445 with access to a designated and marked five-foot-wide
446 aisle. All required accessible parking spaces are to be
447 identified by a vertical sign displaying the international
448 symbol of accessibility; pavement marking alone is not
449 adequate to identify accessible parking spaces.
- 450 [2] The total number of accessible parking spaces is to be
451 distributed to serve the various accessible entrances as
452 well as possible.
- 453 [3] At least one accessible route is to connect from each
454 accessible parking space to the accessible building
455 entrance.
- 456 (j) Required off-street parking in all commercial, business and
457 industrial zones must be located on the same lot with the
458 principal building or use, or within 100 feet measured along
459 lines of public access; except that, where off-street parking
460 cannot be provided within these limits, the Board of Appeals
461 may permit such off-street parking to be located a reasonable
462 distance from the principal building or use, measured along
463 lines of public access. Such parking areas must be held under
464 the same ownership or lease, and evidence of such control or
465 lease is required. Such lots must be located within business or
466 industrial districts.

467 **(k) Where off-street parking for more than six vehicles is**
468 **required or provided, the following construction**
469 **requirements apply:**

470 **[1] Appropriate driveways from streets or alleys, as well as**
471 **maneuvering areas, must be provided. Location and width**
472 **of approaches over public sidewalk are to be approved by**
473 **the Commissioner of Public Works. When access to**
474 **parking areas is available from more than one street, the**
475 **location of points of ingress and egress are to have the**
476 **approval of the Planning Board.**

477 **[2] The surface of driveways, maneuvering areas and**
478 **parking areas must be uniformly graded with a subgrade**
479 **consisting of gravel or equivalent materials at least six**
480 **inches in depth, well-compacted and with a wearing**
481 **surface equivalent in qualities of compaction and**
482 **durability to fine gravel.**

483 **[3] A system of surface drainage must be provided in such**
484 **a way that the water runoff does not run over or across**

485 **any public sidewalk or street or adjacent property. Where**
 486 **catch basins are required, oil traps are to be provided.**

487 **[4] Where artificial lighting is provided, it must be shaded**
 488 **or screened so that no light source is visible from outside**
 489 **the area and its access driveways**

490 **[5] Where surface water drainage utilizes a municipal**
 491 **drainage system, the parking or driveway area may be**
 492 **required to have a bituminous asphalt surface or other**
 493 **approved equivalent.**

494 (k) The Planning Board or Board of Appeals may, in specific cases
 495 of hardship, reduce the requirements for off-street parking
 496 where it is clearly demonstrated that such reduction will not
 497 detract from neighborhood values, inconvenience the public
 498 or increase congestion in the streets.

499 (l) The Planning Board or Board of Appeals may approve the
 500 joint use of a parking facility by two or more principal
 501 buildings or uses where it is clearly demonstrated that said
 502 parking facility will substantially meet the intent of the
 503 requirements by reasons of variation in the probable time of
 504 maximum use by patrons or employees among such
 505 establishments.

506 (m) Compact-size parking spaces, unless restricted for use by
 507 and located adjacent to a dwelling unit, must be located in
 508 one or more continuous areas and cannot be intermixed with
 509 spaces designed for full size vehicles.

510 (n) Compact-size parking spaces shall be clearly designated by
 511 pavement marking and by direction sign in conformance
 512 with Table 2.

Table 2 Parking Space Design (minimum dimensions) (dimensions in feet unless otherwise indicated.)							
	A	B	C	D	E	F (Aisle Width)	
To Curb	Angle (degrees)	Stall Widt h	Stall Dept h	Stall to Cur b	Skew Widt h	One- Way Traffi c	Two- Way Traffi c
Parallel	0	9	22	9.0	22.0	13	19
Diagonal	30	9	19	17.3	18.0	11	20
Diagonal	45	9	19	19.8	12.9	13	21
Diagonal	60	9	19	21.0	10.5	18	23

Perpendicular	90	9	19	19.0	9.0	24	24
Table 2-A Compact Car Parking Space Design (minimum dimensions) (dimensions in feet unless otherwise indicated.)							
	A	B	C	D	E	F (Aisle Width)	
To Curb	Angle (degrees)	Stall Width	Stall Depth	Stall to Curb	Skew Width	One-Way Traffic	Two-Way Traffic
Parallel	0	8	16	8.0	16.0	12	19
Diagonal	45	8	16	17.0	5.7	13	20
Diagonal	60	8	16	17.8	6.9	18	20
Perpendicular	90	8	16	16.0	8.0	22	22
[Image]							

513

514 Amend § 16.7.12 **Post-approval** as follows:

515 A. Approved plan expiration.

516 (1) A site plan approval will expire if work has not commenced
 517 within one year from the date of Planning Board or Director of
 518 Planning and Development approval. Where work has
 519 commenced within one year of such approval, the approval will
 520 expire if work is not complete within two years of the original
 521 date of approval.

522 (2) Prior to expiration, the approval authority may, on a case-by-
 523 case basis, grant extensions to an approved plan expiration date
 524 upon written request by the developer for an inclusive period
 525 from the original approval date, not to exceed three years.

526 (3) When a plan's approval expires, the applicant may reapply
 527 subject to the Town Code current at the time of reapplication.

528 **B. Performance Guarantee: Prior to the preconstruction meeting**
 529 **described in C.1, the applicant shall provide a performance**
 530 **guarantee to the Town in the form of an irrevocable letter of**
 531 **credit from a financial institution, or similar instrument,**
 532 **approved by the Town Manager. The purpose of the**

533 performance guarantee is to incentivize timely completion of
534 project elements enable the Town to complete project elements
535 necessary to maintain public health, safety, and welfare and
536 protect public facilities in the event that work performed by the
537 owner or developer is inadequate or incomplete.

538 **1. The performance guarantee shall:**

539 a contain an amount of funds based on Town-approved
540 itemized construction costs for completing all project
541 elements located in public rights-of-way, completing or
542 securing on-site utilities, installing and maintaining erosion
543 and sedimentation control measures and drainage systems,
544 completing on-site grading and soil stabilization measures,
545 securing the site to maintain public safety, and including
546 an additional 10% contingency.

547 b establish the Town as the beneficiary and contain clear
548 provisions for the Town to draw funds

549 c contain provisions for reducing or releasing the funds
550 which enable the Town to renew the guarantee or draw
551 funds prior to reduction or release.

552 **2. Release of guarantee. Prior to the release of any part of the**
553 **performance guarantee, the Town Manager shall determine to**
554 **his/her satisfaction, in part based upon the report of the**
555 **Town's Engineer or other qualified individual retained by the**
556 **municipality and any other agencies and departments who**
557 **may be involved, that the proposed improvements meet or**
558 **exceed the design and construction requirements for that**
559 **portion of phase of the subdivision for which the release is**
560 **requested.**

561 (a) Performance guarantees may be reduced periodically,
562 but in no event more than one time per month. In no
563 case shall the performance guarantee be reduced by less
564 than \$10,000 at one time or in any line item where
565 improvements remain to be completed.

566 (b) No performance guarantee shall be reduced to less than
567 the 10% contingency until all work is complete.

568 (c) The Town shall retain the 10% performance guarantee
569 contingency for a period of one year from the date of
570 final paving for any street to be offered for public
571 acceptance. The guarantee shall ensure the
572 workmanship and the durability of all materials used in
573 the construction of public improvements within the
574 right-of-way that may become defective within that one

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year period, as determined by the Director of Public Works.

3. Default. If upon investigation, the Town's consulting engineer or other qualified individual retained by the Town finds that any of the required improvements have not been constructed in general conformance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the Town Manager, the Planner and the applicant or builder. The Town Manager, or his or her designee, shall take any steps necessary to preserve the municipality's rights.

DRAFT

1 **16.3 Definitions**

2 §16.3.1 Purpose.

3 Reason for change: Make this paragraph inclusive of all gender identities.

4 Except where specifically defined in this chapter, all words used in this title
5 carry their customary dictionary meanings. Words used in the present
6 tense include the future, and the plural includes the singular; the word
7 "lot" includes the word "plot"; the word "building" includes the word
8 "structure"; the words "shall" or "must" are always mandatory; "occupied"
9 or "used" are considered as though followed by the words "or intended,
10 arranged or designed to be used or occupied"; and gender-specific words
11 (e.g., she, he, his, hers) include the ~~opposite sex~~ equivalent of all sexes and
12 genders.

13
14 §16.3.2 Definitions

15 Reason for change: make the definition consistent with the actual use as
16 shown in applicable zones.

17 **DWELLING, COTTAGE CLUSTER**

18 A group of dwelling units that shares a common lot as well as common open
19 space and may share a parking area and/or accessory structures.

20 **16.4.24.D Mixed-Use Badgers Island (MU-BI)**

21 Reason for changes: Renumber the former (f) to [3] under (e) as was intended
22 and renumber the subsections under it accordingly.

23 **(e)** Parking demand management (PDM) strategies. (Subsections [1] and [2]
24 omitted for brevity

25 [f3] PDM strategies include, but are not limited to, the following:

26 [a] Increase the number of persons per parked vehicle. Potential
27 incentives:

28 [i] Preferential parking locations for car pools and van pools;

29 [ii] Guaranteed ride home programs/taxi subsidies;

30 [iii] Employer provision of vans for van pools; and

31 [iv] Financial incentives to participants in car pools and van
32 pools.

- 33 [b] Increase the number of persons using an alternative mode of
34 travel to the automobile, such as walking, bicycling, motorcycle,
35 moped, bus and shuttle service. Potential incentives:
- 36 [i] Preferential parking locations for alternative modes of
37 travel;
- 38 [ii] Provision of changing rooms, lockers and showers;
- 39 [iii] Early work release for employees using alternative modes
40 of travel;
- 41 [iv] Financial subsidies toward the purchase of alternative
42 modes of travel to be used for commuting;
- 43 [v] Guaranteed ride home programs in inclement weather;
- 44 [vi] Preferential work station locations; and
- 45 [vii] Free use of a business vehicle for errands, lunch and off-site
46 appointments.
- 47 [c] Influencing the time of, or need to, travel to work. Potential
48 incentives:
- 49 [i] Reward employees who telecommute from their home or
50 other remote location;
- 51 [ii] Offer an optional four-day, forty-hour workweek as an
52 alternative to a five-day workweek;
- 53 [iii] Allow nonoverlapping early and late work shifts; and
- 54 [iv] Flextime.

55 **§16.4.26 Business — Park (B-P).**

56 **[Added 7-13-2022 as amended 4-11-2022]**

57 *Reason for changes: Replace “cluster residential development” with*
58 *“conservation subdivision. Also remove “cluster mixed-use development” and*
59 *just use “mixed-use development”.*

- 60 A. Purpose. To encourage investment that promotes development of a
61 high-quality parklike setting for both the business and residential
62 communities. ~~Cluster M~~mixed-use development must be used on larger
63 tracts of land where offices, retail sales, services, lodging, open space,
64 housing and light manufacturing space are blended with residential and
65 moderate entertainment to foster general business growth and a sense

66 of community. The intent of the ~~cluster~~ mixed-use development is to
67 provide a more efficient use of land than might be obtained through
68 segregated development procedures. **This change wasn't on the list but**
69 **is needed. "Cluster mixed-use development" is not defined and hasn't**
70 **been since the B-PK zone was rezoned as MU-N and then changed back.**
71 **Changing to mixed-use does not substantively change the intent.**

72 B. Permitted uses. The following land uses are permitted for projects that
73 are cluster mixed-use developments:

74 **(1)-(6) and (8)-(25) omitted for brevity**

75 (7) ~~Cluster residential development.~~ Conservation subdivision

76 C. The following land uses are permitted for projects that are not ~~cluster~~
77 mixed-use developments:

78 (1) Business and professional offices.

79 (2) Accessory uses and buildings.

80 (3) Business services.

81 E. Standards. The following standards must be met unless modified per §
82 **16.108.10H**, Conservation Subdivision. ~~Cluster residential development.~~
83 Multiple-parcel development is subject to Chapter **16.6**, Master Site
84 Development Plan.

85 (1) Design and performance standards in Chapters **16.5**, **16.7**, and **16.8**.
86 The Design Handbook provides examples of appropriate design for
87 nonresidential and multi-unit residential projects.

88 (2) Except for ~~cluster~~ mixed-use developments, the following space
89 standards apply:

90 **(a)-(e) omitted for brevity, no changes.**

91 (3) Patios, sheds, parking lots and golf courses must have a minimum
92 setback of 50 feet from streams, water bodies, and wetlands.

93 (4) ~~Cluster residential development~~ Conservation subdivision. In a ~~cluster~~
94 ~~residential development~~-conservation subdivision, the above
95 standards may be modified in accordance with the special provisions
96 of § **16.108.10H**, Cluster residential development-Conservation
97 Subdivision, including there is no minimum lot size, and with the
98 conditions that: **the rest omitted for brevity, no changes.**

99 **16.4.25 Mixed Use - Kittery Foreside (MU-KF)**

100 Reason for change: Separate the [Note:...] from item (g) as originally written.

101 **16.4.25.D.(7).(g) under Standards**

102 (1)-(6) omitted for brevity

103 (7) Revised off-street parking standards. Insofar as practical, parking
104 requirements are to be met on site unless an existing building covers so
105 much of the lot as to make the provision of parking impractical in whole
106 or in part. If meeting the parking requirements is not practical, then the
107 parking demand may be satisfied off site or through joint-use
108 agreements as specified herein. Notwithstanding the off-street parking
109 requirements in §16.7.11F(3), minimum parking requirements for the uses
110 below are modified as specified herein:

111 (a)-(f) omitted for brevity

112 (g) Restaurants: one parking space for each 100 square feet of gross floor
113 area used by the public. Break the "[Note:...]" below out as a separate
114 paragraph.

115 [Note: For each use in the zone, the total parking demand is calculated using
116 the standards above or in §16.7.11F(3), if not modified above. Then each
117 nonresidential use is exempt from providing off-street parking for the
118 first three required spaces. For uses requiring a demand of greater than
119 three, then the off-street parking is to be provided on site and/or in
120 accordance with Subsection D(9) and (10) of this section.]

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122 **16.10 Conservation Subdivision**

123 Reason for change: add an open space calculation example including upland
124 requirements.

125 §16.10.7 **Open space requirements.**

126 A. The amount of open space required varies with the zoning district in
127 which the conservation subdivision is located. The requirements are as
128 follows:

129 (1) In the R-C Zone, the designated open space must be a minimum of
130 70% of the total land area, with a minimum of 50% of that consisting
131 of net residential acreage as defined by this title.

132 (2) In the R-RL Zone, the designated open space must be a minimum of
133 60% of the total land area, with a minimum of 40% of that consisting
134 of net residential acreage as defined by this title.

135 (3) In the KP-V Zone, the designated open space must be a minimum of
136 50% of the total land area, with a minimum of 30% of that consisting
137 of net residential acreage as defined by this title.

138 (4) In the R-S and R-U Zones:

139 (a) For properties of 10 acres or more, the designated open space must
140 be at least 50% of the total land area, with a minimum of 30% of
141 that consisting of net residential acreage as defined by this title.

142 (b) For properties of less than 10 acres with public sewer or common
143 private septic, the designated open space must be at least 25% of
144 the total land area, with a minimum of 5% of that consisting of net
145 residential acreage.

146 (c) For properties of less than 10 acres with private septic, the
147 designated open space must be at least 25% of the total land area,
148 with no minimum net residential acreage requirement.

149 (5) The following is an example of the open space calculation
150 referenced in (1)-(4) above: With a lot of 1,000,000 sq ft, using an
151 open space requirement of 60% of the lot, at least 600,000 sq ft
152 (60%) must be open space. Of that 600,000 sq ft, 240,000 (40% of
153 total open space, or 24% of total lot) must be land that would be
154 considered buildable as described in the definition of net residential
155 acreage found in §16.3.2.

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