



## KITTERY TOWN PLANNING BOARD MEETING

Council Chambers – Kittery Town Hall 200 Rogers Road, Kittery, Maine 03904

Phone: 207-475-1323 - Fax: 207-439-6806 - [www.kittery.org](http://www.kittery.org)

**AGENDA for Thursday, August 27, 2015**

**6:00 P.M. to 10:00 P.M.**

**CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE – APPROVAL OF MINUTES – 8/20/2015**

**PUBLIC COMMENTS** - Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate. Those providing comment must state clearly their name and address and record it in writing at the podium.

### **OLD BUSINESS**

#### **ITEM 1– Board Member Items / Discussion**

- A. Parking in the Foreside
- B. Action List
- C. Committee Updates
- D. Other

#### **ITEM 2 – Town Planner Items:**

- A. Code Amendment update
- B. Other

**ADJOURNMENT - (by 10:00 PM unless extended by motion and vote)**

NOTE: ACTION LISTED IN ABOVE AGENDA ITEMS IS FOR REFERENCE ONLY AND THE BOARD MAY DETERMINE A DIFFERENT ACTION. DISCLAIMER: ALL AGENDAS ARE SUBJECT TO REVISION ONE WEEK PRIOR TO THE SCHEDULED TOWN PLANNING BOARD MEETING. TO REQUEST A REASONABLE ACCOMMODATION FOR THIS MEETING CONTACT STAFF AT (207) 475-1323.

**TOWN OF KITTERY, MAINE  
PLANNING BOARD MEETING – SITE WALKS**

**UNAPPROVED  
AUGUST 6, 2015**

**9:00 a.m. Spruce Creek Ventures, II – Minor Subdivision Sketch Plan Review**

**Owner/applicant Spruce Creek Ventures II requests consideration of a three-lot subdivision of 3.02 acres located at 9 Cook Street and Old Post Road (Tax Map 3, Lot 77-A) in the Residential – Urban (R-U) Zone. Agent is Chris Wilber, Chris Wilber Consulting.**

Board members present: Chair Ann Grinnell, Vice Chair Karen Kalmar, Secretary Deborah Driscoll Davis, Mark Alesse and Robert Harris. Deborah Lynch and David Lincoln were absent.

Staff present: Chris Di Matteo, Town Planner.

Other committee members present: None

Agents and Owner present: Chris Wilber, Chris Wilber Consulting and William Bischoff. Spruce Creek Ventures II

Abutters and members of the public: Steve Workman, 10 Bridge Street; Vick Cortella, 12 Bridge Street; Ed Goodman, 115 Whipple; and Thomas Berger, 30 US Rt.1 Bypass

At 9:05 am Ms. Grinnell opened the meeting and read a statement regarding site walk procedure.

Beginning along Old Post Road agent Chris Wilber oriented the group to the existing conditions and the sketch plan proposal. The group was shown the location of the proposed access to the site off Old Post Road that is designed to cut into the side of the existing slope. The center line of the proposed access was flagged.

The group negotiated up the steep slope to the location of proposed lot 1 and from here continued towards the parcel's access to Bridge Street. The group discussed the viability of using this location to provide access to the site. The board members were inclined to agree with the applicant that logistically it was not ideal for access to the site.

Ms. Kalmar moved to adjourn. Ms. Davis seconded and the motion passed unanimously.  
Adjournment: 9:33 a.m.



# ITEM 1A

Kittery Foreside Parking Credits ~ Food for Thought

Please look at this with reference to Map 4 of the Town Maps

Public parking lot: \_\_\_ spaces

Parking on Government Street \_\_\_\_\_

Parking on Walker Street \_\_\_\_\_

Parking on Wallingford Square \_\_\_\_\_

Rice Public Library used to offer *Public Parking*, NOW most is *Paid Private*

Churches and banks offer some relief parking for businesses.

The primary business area in Kittery Foreside:

Wallingford Square  
Government Street  
Walker Street

All have on street parking. Parking credits could continue until it is demonstrated that there is no more parking available.

WE do not want to push this to the point where we have to *build parking facilities at the taxpayers' expense*.

Side streets are *primarily residential*:

Some could handle 2-way traffic and parking on one side or the other:

Wentworth Street (until the sidewalk goes in)  
Dame Street  
Jones Avenue  
Main Street  
Otis Avenue  
Central Avenue (in some areas)  
Pleasant Street  
Commercial Street

If these streets become open to business they should have sidewalks and if sidewalks were added there would be no room for parking.

Many side streets in Kittery Foreside are too narrow to safely accommodate 2-way traffic and parking on one side or the other:

Love Lane  
Knight Avenue  
Cottle Lane  
Old Armory Way  
Hunter Ave  
Newmarch St  
Traip Avenue  
Town Landing  
Pricilla Terrace  
E Street

Allowing business customers to park in primarily residential areas to accommodate a business uses is an unfair burden on residents. Parking could be allowed on streets that are wide enough to handle 2-way traffic, a sidewalk, plus parking on one side, provided the abutters to the proposed business do not object and the planning board, police, fire, public works and the town council approve.

Let's discuss pros and cons and try to come up with a solution that protects the residents and promotes future businesses coming to Kittery. And not raise our taxes!

Thank you for your consideration,

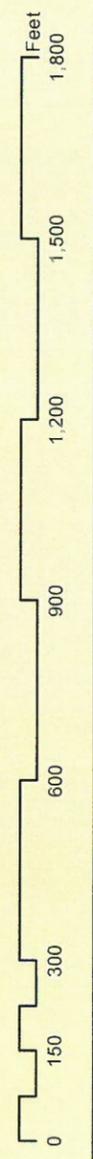
Debbie Driscoll Davis  
Planning Board Member  
8/19/15





ORTHIMAGE:  
4/2012  
1 inch = 300 feet

# KITTERY FORESIDE FORUM



2012-2015  
PLANNING BOARD ACTION ITEMS

ITEM #	DATE	BY	ITEM	PRIORITY	ACTION TAKEN	COMPLETE
1	8/9/2012		16.10.9.2 REDEFINE FIELD CHANGES; Major/Minor (for May 2015 TC workshop)	2	Staff to draft language for review	
2	10/13/2012	TE	DPW PROJECTS COME BEFORE PB; NEED UPDATED LIST	2	CDM to discuss with DPW, report to PB	
3	2/14/2013	DD	DEFINE COMMERCIAL RECREATION (for May 2015 TC workshop)	2	CDM to propose / December 2014; re-draft for 1/22/15 discussion; Re-send 12/18 pkt to PB for HOMEWORK; Board discussed reducing to priority 2; staff is reviewing all permitted uses/definitions, creating table of uses	
5	4/25/2013		WORKSHOP: Cluster Ordinance needs work USABLE OPEN SPACE RETAIN ROAD FRONTAGE (Buffers) TRAFFIC STUDIES	1	Workshop held May 28; follow-up discussion 6/25...	
6	4/26/2013		ROADS / SIDEWALKS TO NOWHERE (ROW plans)/Shared Driveways/ROW Standards/Emergency access roads	1		
7	8/22/2013	Staff	Site dev pre-meeting; CMA construction inspection; Ref: 16.4.4.1.A (for May 2015 TC workshop)	1	Discussed December, 2014; staff drafted language for review, reviewed 3/12/15. Public Hearing and recommendation to Council 3/26/15	Pending
8	10/24/2013	Staff	HAT - Highest Annual Tide: no Elevation 6 (for May 2015 TC workshop)	1	January, 2015	
9	10/24/2013		16.7.8 Soil Suitability Guide; discontinue; replace with Net Residential Acreage calculations	Done	16.7.8 Land Not Suitable for Development: 10/23/14 PB Review/Recommend to Council for 11/10/14 approval; 5/4/15 TC workshop; recommendation needed 6/25/15	Pending
10	11/14/2013		Fines	3	CDM to discuss with TM	
11	11/14/2013	Staff	16.7.3.5.6 Structure replacement <u>outside</u> of shoreland zone (missing from code)	1	Board recommended to Council on 5/28, will be before TC this summer	Pending
12	11/14/2013		Review flood hazard ordinance; 16.5.3.4; (esp. <i>No alteration of the natural contour of the land by grading or filling for any purpose is permitted in an area subject to periodic flooding.</i> )	3	Coordinate w CMA; draft language, if needed	
13	12/12/2013  3/28/2013	-  -	<u>Comp Plan Items</u>  Pedestrian / Bike paths / Bike Racks  CONTINUE WORKSHOP WITH KCPC, KOSC REGARDING 1 - 3 ACRE RR; and future land use regulation; restrict # building permits issued per year	CPC*  -  -	CDM will provide existing bike path plan; disc. 12/18; req. input from T. Emerson 1/22/15; input to CPC when appropriate  May 15, 2013 Workshop; December 3, 2013 workshop, w Soil Suitability; PB input to CPC* when appropriate	

2012-2015  
PLANNING BOARD ACTION ITEMS

ITEM #	DATE	BY	ITEM	PRIORITY	ACTION TAKEN	COMPLETE
14	1/23/2014		Outdoor Seating/Use of Public Way; extend to other zones	Done	PB review: 10/23/14; rev. language 12/18/14; 1/22/15 discussion; <u>Foreside only</u> ; CDM to work w/ NCP/TC to add to Title 5 permanently; ordained by TC 4/27	Done
15	2/27/2014		Approved Plan Expiration; Requests for Extension; Expiration of Wetland Alteration Permit	Done	Reviewed 3/27/14; PB approval 6/26/14; to Council 11/10/14; Effective 2/28/15	Done
16	2/27/2014	AG	List of Committees/Boards to monitor	Done	CDM to place in 2/26 packets	Done
17	2/27/2014		Flag Lots (16.8.-16.9)	Done		Pending
18	3/13/2014		Septic pretreatment requirement as bonus (See also: VIII.3.i.ii 2015 Code Amendments: Briefing Book, #38)	Done		Pending
19	3/27/2014	DD	Kittery Historic Resources; historic designation identification	3		
20	5/8/2014	Staff	Sign ordinance changes:	2	Workshop: 7/14/14; Int'l Sign Assoc. 10/23/14 16.8.10.2.C approved by TC, effective 2/28/15	Done
			Message boards/internal & external lights & timers			
			Window/A-frame & portable signs/banners			
			Sign character/appearance/administration & enforcement			
21	5/22/2014	DD	Parking credits	1	Staff review; PB to discuss/recommend amendment if needed; PB to analyze results of Foreside Forum	
22	1/22/2015		Shoreland Zone:	3	CDM to research Code for use of term;	
			Invasive plants; shoreland invasive plant removal			
			Excavation			
			Structure replacement; time periods			
			Shoreland definition			
23	1/8/2015		Foreside Review Committee (16.3.2.15.F)	1	Discussed 1/22; Board to discussed results of Foreside Forums 4/23; idea is to hire out design review until Foreside study is complete	
<b>STAFF</b>						
24	2/28/2013		UPDATE DESIGN STANDARDS FOR LED LIGHTING:	Staff		
25	10/13/2012		BUSINESS OVERLAY ZONES: WHERE AND WHAT CHANGES; 16.3.2.20 Proposed Quality Improvement Overlay; form based code vs. individual ordinances	Staff/CPC	Workshop; Sustain So ME; set up January 2014 workshop; Further discussion; PB input to CPC when appropriate	

2012-2015  
PLANNING BOARD ACTION ITEMS

26	<b>10/24/13 Amendment</b>		DPW Road Cuts; Title 12 amendment; approved by PB 10/24/13; to Council 11/25/13	Staff	Revise per Council Action / Re-visit: January 2015; 1/15: Shared notification w/ DPW & Planning per CDM
27	<b>10/24/2013</b>		Definition: Substantially complete re: development vs. building permits (for May 2015 TC workshop)	Staff	Staff draft definition differentiating from bldg permits as appropriate
<b>COMPLETED ITEMS</b>					
<b>Complete</b>	LEGAL NOTICES IN PACKET OR EMAILED TO PB MEMBERS (email to PB @ same time sent to publication)				Complete
<b>4/25/2013</b>	UNBUNDLE ZONING AMENDMENTS				Complete / Ongoing
<b>Complete</b>	BUILDING PERMIT LIST IN PACKETS				Complete / Ongoing
<b>3/25/2013</b>	Amendment: 16.8.24.2 F (LED lights); amended 12/14 (allowing LED lighting)				Ordained: 3/25/2013; ordained 12/14
<b>3/25/2013</b>	DISCUSS PUBLIC NOTICES; ABUTTER'S LIST EARLY, INCLUDE M/L AND PHYSICAL ADDRESS; Sales (assessor) close April 1; system update in Fall				Complete
<b>4/25/2013</b>	Amendment: Speciality Food & Beverage				ordained 6/10/2013
<b>1/24/2014</b>	Foreside workshop with Council				
<b>1/24/2014</b>	REVIEW REPORT TO COUNCIL (RTC) FORMAT				1/24/2013
<b>4/25/2013</b>	PB Workshop Update: training; education; conflict of interest; attendance/voting;				Retreat: January 10, 2014; MMA workshop 3/25/14
<b>4/25/2013</b>	Title 16.11 Marine Development				Ordained: 1/27/2014
<b>2/14/2013</b>	Outdoor Seating/use of public ROW extension period/Title 5 (Seasonal only; extend sunset date)				To Council 6/9/14
	Proposed Ordinance Changes on line				Packets posted online
4/24/2013	ABUTTER'S LIST TO PB EARLY ON, BEFORE PUBLIC HEARING (at sketch plan)				
	Waivers;				January 2014
	Post Building Permits on Web Site				Provided in Board packets
11/14/2013	ByLaw Changes				Adopted 1/22/15
2/28/2015	Approved Plan Expiration; Requests for Extension; Expiration of Wetland Alteration Permit				Effective 2/28/15
Complete	Outdoor Seating/Use of Public Way; extend to other zones				Effective 5/28/15

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CODE AMENDMENT

Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

Article VII. Sewage Disposal

16.8.7.1 Sanitary Sewer System and Septic Disposal.

A. An existing or new dwelling unit or structure that requires wastewater disposal must connect to town sewer where sewer is within 100 feet of the property line and where gravity flow can be obtained per Town Code Title 13, Chapter 13.1, Sewer Service System. Individual dwellings and structures in approved and recorded developments where town sewer becomes available as described in this paragraph must connect per the requirements of Title 13, Chapter 13.1. {NEW}

B. Where town sewer is located within one thousand (1,000) feet of the property line of a commercial or industrial development or a residential subdivision, the developer shall connect to town sewer per the town Wastewater Treatment Department (WTD) specifications. The developer shall provide written certification to the Planning Board from the WTD that the proposed addition to town sewer is within the capacity of the collection and wastewater treatment system. {MOVED FROM 16.8.7.3}

C. Sewer mains, service lines and related improvements must be installed at the developer's expense. Service lines must extend to each lot's boundary line. Connections to town sewer must be installed in accordance to this Article and Title 13.1 Sewer Service System in the Kittery Town Code. {MOVED FROM 16.8.7.1.E}

D. Proposal and construction drawings must be approved in writing by the town WTD. All required approvals must be secured before the start of final plan review. {MOVED FROM 16.8.7.1.A & F}

E. When town sewer connection pursuant to subsection B above is not feasible as determined by the Planning Board, the Board may allow individual or common subsurface wastewater disposal systems in accordance with Section 16.8.7.2. To determine feasibility, the developer shall submit information that considers the unique physical circumstances of the property and sewer connection alternatives to conventional construction/installation techniques such as, but not limited to, horizontal/directional boring and low pressure sewer. The developer's information must be accompanied by findings and recommendations of the town Peer-Review Engineer. In determining feasibility, the Board may not base its decision solely on additional costs associated with a sewer connection. The intent of this subsection is not to avoid the requirements of Title 13.1 Sewer Service System in the Kittery Town Code. {MODIFIED & MOVED FROM 16.8.7.1.B}

~~A. Public sanitary sewer disposal system connections must be installed, in accordance to Article VII o Chapter 16.8, with proposal and construction drawings reviewed and approved in writing by the servicing sanitary sewer agency. {Moved and Modified, SEE 16.8.7.1.D}~~

~~B. If, in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may allow individual subsurface waste disposal, or a separate central sewage collection system to be used in accordance with Section 16.8.7.4. {Moved and Modified, SEE 16.8.7.1.E}~~

~~C. In no instance may an initial installation septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning in Maine. {DELETED}~~

~~D. If the developer proposes individual subsurface waste disposal or central collection system and waste generated is of a "significant" nature, or if waste is to be discharged, treated or untreated, into any body of water, approval must be obtained in writing from the Maine Department of Environmental Protection. {DELETED}~~

~~E. Sanitary sewer disposal systems must be installed, at the expense of the developer, to the individual lot boundary line. {Moved and Modified, SEE 16.8.7.1.C}~~

~~F. All required approvals of a sewage disposal system must be secured before official submission of a final plan. {Moved and Modified, SEE 16.8.7.1.D}~~

158 **16.8.7.2 Subsurface Wastewater Disposal System**  
 159

160 A. The developer shall submit plans for subsurface wastewater disposal designed by a Maine Licensed Site  
 161 Evaluator in full compliance with the requirements of the State of Maine Plumbing Code, Subsurface Wastewater  
 162 Disposal Rules, and this Code. Subsurface wastewater disposal systems (SWDS) must be constructed according  
 163 to the approved plan. {MODIFIED & MOVED FROM 16.8.7.2}  
 164

165 B.G. All first-time subsurface wastewater subsurface sewage disposal systems must be installed in  
 166 conformance with the State of Maine Subsurface Wastewater Disposal Rules and this Code. The Maine  
 167 Subsurface Wastewater Disposal rules require new systems, excluding fill extensions, to be constructed no less  
 168 than one hundred (100) feet, horizontal distance, from the normal high water line of a perennial water body. The  
 169 minimum setback distance for a new subsurface disposal system may not be reduced by variance. {Moved to item  
 170 1 below} The following also apply:

171 1. The minimum setback distance for a first-time subsurface disposal system may not be reduced by variance.  
 172 {MODIFIED & MOVED FROM 16.8.7.1.G above}

173 42. Clearing or removal of woody vegetation necessary to site a first-time system and any associated fill  
 174 extensions, must may not extend closer than is allowed in Table 16.9 Minimum Setbacks from Wetlands and  
 175 Water Bodies for Subsurface Sewage Disposal one hundred (100) feet, horizontal distance, from the normal high  
 176 water line of a water body or the upland edge of a wetland. {MODIFIED & MOVED FROM 16.8.7.1.G.1}

177 2. Holding tanks are not allowed for a first-time residential use in the Shoreland Overlay Zone. {MOVED &  
 178 MODIFIED, SEE 16.8.7.3.B.2}

179 C. Replacement of subsurface wastewater disposal systems (SWDS) for existing legal uses:

181 1. Where no expansion is proposed, the SWDS must comply with 16.8.7.2 and Table 16.9 to the extent  
 182 practicable and otherwise are allowed per the Maine Subsurface Wastewater Disposal Rules; or

183 2. Where expansion is proposed, the SWDS must comply with 16.8.7.2 and Table 16.9 in addition to the Maine  
 184 Subsurface Wastewater Disposal Rules.

185 NOTE: For the purposes of this subsection "expansion" is as defined in Section 9 of the Maine Subsurface  
 186 Wastewater Disposal Rules

187 {NEW}  
 188

189 **16.8.7.2 Design and Standards.**

190 ~~A developer must submit plans for sewage disposal designed by a Maine licensed site evaluator in full~~  
 191 ~~compliance with the requirements of the State of Maine Plumbing Code and/or Subsurface Wastewater Disposal~~  
 192 ~~Rules. {MOVED AND MODIFIED, SEE 16.8.7.2.A}~~  
 193

194 **16.8.7.3 Public Sewer Connection Required.**

195 ~~Where a public sanitary sewer line is located within one thousand (1,000) feet of a proposed development at its~~  
 196 ~~nearest point, the developer must connect with such sanitary sewer line with a main as required by the sewer~~  
 197 ~~department, and provide written certification to the Board from the department that the proposed addition to~~  
 198 ~~service is within the capacity of the system's collection and treatment system. {MOVED AND MODIFIED, SEE~~  
 199 ~~16.8.7.1.B}~~  
 200

201 **D. 16.8.7.4 Private Subsurface Wastewater Disposal Systems; on Unimproved Lots Created after April 26,**  
 202 **1990.**  
 203

204 ~~A. Where public sewer connection is not feasible, the developer must submit evidence of soil suitability for~~  
 205 ~~subsurface sewage wastewater disposal systems, i.e. test pit data and other information as required by the State~~  
 206 ~~of Maine Subsurface Wastewater Disposal Rules and this Code. In addition:~~

207 1. Additionally, on lots with a limiting factor identified as being within twenty-four (24) inches of the surface, a  
 208 second site with suitable soils must be shown as a reserve area for future replacement should the primary site  
 209 fail. Such reserve area is to be shown on the plan; not be built upon; and, must comply with all the setback  
 210 requirements of the Subsurface Wastewater Disposal Rules and this Code. {MODIFIED FROM 16.8.7.4.A}  
 211

212 2.B. In no instance may a primary or reserve disposal area be permitted on soils or on a lot which requires  
 213 requiring a First-Time sSystem vVariance Request from per the State of Maine Subsurface Wastewater Disposal  
 214 Rules.  
 215

216 3.C. Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within  
 217 the each disposal area (primary and reserve sites) to assure ensure that the proposed disposal area system can  
 218 be located on soils and slopes which that meet the criteria of the State of Maine Subsurface Wastewater Disposal

219 Rules and the State Plumbing Code. **Passing test pits must have a minimum of fifteen (15) inches of existing**  
220 **natural mineral soil above the limiting factor, except in the Shoreland and Resource Protection Overlay Zones**  
221 **where passing test pits must have a minimum of twenty-one (21) inches of natural mineral soil above the limiting**  
222 **factor. All passing and failing test pits must be shown on plan.**

223  
224 **E. The developer shall install advanced pre-treatment to subsurface wastewater disposal systems that are located**  
225 **inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of**  
226 **Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.**  
227 **{NEW}**

### 229 **16.8.7.3 Holding Tanks**

230  
231 **A. Holding tanks are not allowed for a first-time residential use. {MODIFIED & MOVED FROM 16.8.7.1.G.2}**

## 234 **Chapter 16.2 DEFINITIONS**

### 235 **16.2.2 Definitions**

236  
237 ~~**Subsurface sewage disposal system** means a collection of treatment tank(s), disposal area(s), holding tank(s)~~  
238 ~~and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices~~  
239 ~~and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or~~  
240 ~~beneath the surface of the earth. The term does not include any wastewater discharge system licensed under 38~~  
241 ~~M.R.S. §414, any surface wastewater disposal system licensed under 38 M.R.S. §413, §1A, or any public sewer.~~  
242 ~~The term does not include a wastewater disposal system designed to treat wastewater which is in whole or in part~~  
243 ~~hazardous waste as defined in 38 M.R.S. §13-1.~~

244  
245 **Septic System** (see Subsurface wastewater disposal system)

246  
247 **Subsurface wastewater disposal system** means any system designed to dispose of waste or wastewater on or  
248 **beneath the surface of the earth. These include but are not limited to septic tanks, disposal fields, holding tanks,**  
249 **pretreatment filters, piping, or any other fixture, mechanism or apparatus used for such purposes. This definition**  
250 **does not include any discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system,**  
251 **or any municipal or quasi-municipal sewer or wastewater treatment system. (see also: Wastewater and Domestic**  
252 **wastewater)**

253  
254 **Wastewater** means any domestic wastewater, or other wastewater from commercial, industrial or residential  
255 **sources that has attributes similar to those of domestic wastewater. This term specifically excludes hazardous or**  
256 **toxic wastes and materials. (Applicable only to Title 16)**

257  
258 **Wastewater, Domestic** means any wastewater produced by ordinary living uses, including liquid waste  
259 **containing animal or vegetable matter in suspension or solution, or the water-carried waste from the discharge of**  
260 **water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of**  
261 **human origin.**



101 CODE AMENDMENT

102 Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

103 Article VII. Sewage Disposal

104 16.8.7.1 Sanitary Sewer System and Septic Disposal.

105

106 A. An existing or new dwelling unit or structure that requires wastewater disposal must connect to town sewer  
107 where sewer is within 100 feet of the property line and where gravity flow can be obtained per Town Code Title  
108 13, Chapter 13.1. Sewer Service System. Individual dwellings and structures in approved and recorded  
109 developments where town sewer becomes available as described in this paragraph must connect per the  
110 requirements of Title 13, Chapter 13.1. {NEW}

111

112 B. Where town sewer is located within one thousand (1,000) feet of the property line of a commercial or industrial  
113 development or a residential subdivision, the developer shall connect to town sewer per the town Wastewater  
114 Treatment Department (WTD) specifications. The developer shall provide written certification to the Planning  
115 Board from the WTD that the proposed addition to town sewer is within the capacity of the collection and  
116 wastewater treatment system. {MOVED FROM 16.8.7.3}

117

118 C. Sewer mains, service lines and related improvements must be installed at the developer's expense. Service  
119 lines must extend to each lot's boundary line. Connections to town sewer must be installed in accordance to this  
120 Article and Title 13.1 Sewer Service System in the Kittery Town Code.  
121 {MOVED FROM 16.8.7.1.E}

122

123 D. Proposal and construction drawings must be approved in writing by the town WTD. All required approvals  
124 must be secured before the start of final plan review.  
125 {MOVED FROM 16.8.7.1.A & F}

126

127 E. When town sewer connection to the parcel and/or proposed lots is not feasible, the Planning Board may allow  
128 individual or common subsurface wastewater disposal systems in accordance with Section 16.8.7.2. To  
129 determine feasibility, the developer shall submit information that considers the unique physical circumstances of  
130 the property and sewer connection alternatives to conventional construction/installation techniques such as, but  
131 not limited to, horizontal/directional boring and low pressure sewer. The developer's information must be  
132 accompanied by findings and recommendations of the town Peer-Review Engineer. In determining feasibility, the  
133 Board may not base its decision solely on additional costs associated with a sewer connection. This subsection  
134 does not void Title 13.1 Sewer Service System in the Kittery Town Code. {MODIFIED & MOVED FROM  
135 16.8.7.1.B}

136

137 ~~A. Public sanitary sewer disposal system connections must be installed, in accordance to Article VII o Chapter~~  
138 ~~16.8, with proposal and construction drawings reviewed and approved in writing by the servicing sanitary sewer~~  
139 ~~agency. {Moved and Modified, SEE 16.8.7.1.D}~~

140

141 ~~B. If, in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may~~  
142 ~~allow individual subsurface waste disposal, or a separate central sewage collection system to be used in~~  
143 ~~accordance with Section 16.8.7.4. {Moved and Modified, SEE 16.8.7.1.E}~~

144

145 ~~C. In no instance may an initial installation septic disposal system be allowed in soils rated poor or very poor for~~  
146 ~~such purpose by the Soil Suitability Guide for Land Use Planning in Maine. {DELETED}~~

147

148 ~~D. If the developer proposes individual subsurface waste disposal or central collection system and waste~~  
149 ~~generated is of a "significant" nature, or if waste is to be discharged, treated or untreated, into any body of water,~~  
150 ~~approval must be obtained in writing from the Maine Department of Environmental Protection. {DELETED}~~

151

152 ~~E. Sanitary sewer disposal systems must be installed, at the expense of the developer, to the individual lot~~  
153 ~~boundary line. {Moved and Modified, SEE 16.8.7.1.C}~~

154

155 ~~F. All required approvals of a sewage disposal system must be secured before official submission of a final plan.~~  
156 ~~{Moved and Modified, SEE 16.8.7.1.D}~~

157

158 **16.8.7.2 Subsurface Wastewater Disposal System**  
 159

160 A. The developer shall submit plans for subsurface wastewater disposal designed by a Maine Licensed Site  
 161 Evaluator in full compliance with the requirements of the State of Maine Plumbing Code, Subsurface Wastewater  
 162 Disposal Rules, and this Code. Subsurface wastewater disposal systems must be constructed according to the  
 163 approved plan. {MODIFIED & MOVED FROM 16.8.7.2}  
 164

165 B.G. All first-time subsurface wastewater subsurface sewage disposal systems must be installed in  
 166 conformance with the State of Maine Subsurface Wastewater Disposal Rules and this Code. The Maine  
 167 Subsurface Wastewater Disposal rules require new systems, excluding fill extensions, to be constructed no less  
 168 than one hundred (100) feet, horizontal distance, from the normal high water line of a perennial water body. The  
 169 minimum setback distance for a new subsurface disposal system may not be reduced by variance. {Moved to item  
 170 1 below} The following also apply:

171 1. The minimum setback distance for a first-time subsurface disposal system may not be reduced by variance.  
 172 {MODIFIED & MOVED FROM 16.8.7.1.G above}

173 42. Clearing or removal of woody vegetation necessary to site a first-time system and any associated fill  
 174 extensions, must may not extend closer than is allowed in Table 16.9 Minimum Setbacks from Wetlands and  
 175 Water Bodies for Subsurface Sewage Disposal one hundred (100) feet, horizontal distance, from the normal high  
 176 water line of a water body or the upland edge of a wetland. {MODIFIED & MOVED FROM 16.8.7.1.G.1}

177 2. Holding tanks are not allowed for a first-time residential use in the Shoreland Overlay Zone. {MOVED &  
 178 MODIFIED, SEE 16.8.7.3.B.2}  
 179

180 C. Replacement of subsurface wastewater disposal systems (SWDS) for existing legal uses:

181 1. Where no expansion of use is proposed, the SWDS must comply with 16.8.7.2 and Table 16.9 to the extent  
 182 practicable and otherwise are allowed per the Maine Subsurface Wastewater Disposal Rules; or

183 2. Where expansion of use is proposed, the SWDS must comply with 16.8.7.2 and Table 16.9.

184 {NEW}  
 185

186 **16.8.7.2 — Design and Standards.**

187 A developer must submit plans for sewage disposal designed by a Maine licensed site evaluator in full  
 188 compliance with the requirements of the State of Maine Plumbing Code and/or Subsurface Wastewater Disposal  
 189 Rules. {MOVED AND MODIFIED, SEE 16.8.7.2.A}  
 190

191 **16.8.7.3 — Public Sewer Connection Required.**

192 Where a public sanitary sewer line is located within one thousand (1,000) feet of a proposed development at its  
 193 nearest point, the developer must connect with such sanitary sewer line with a main as required by the sewer  
 194 department, and provide written certification to the Board from the department that the proposed addition to  
 195 service is within the capacity of the system's collection and treatment system. {MOVED AND MODIFIED, SEE  
 196 16.8.7.1.B}  
 197

198 **D. 16.8.7.4 Private Subsurface Wastewater Disposal Systems; on Unimproved Lots Created after April 26,**  
 199 **1990.**  
 200

201 A. Where public sewer connection is not feasible, the developer must submit evidence of soil suitability for  
 202 subsurface sewage wastewater disposal systems, i.e. test pit data and other information as required by the State  
 203 of Maine Subsurface Wastewater Disposal Rules and this Code. In addition:

204 1. Additionally, eOn lots with a limiting factor identified as being within twenty-four (24) inches of the surface, a  
 205 second site with suitable soils must be shown as a reserve area for future replacement should the primary site  
 206 fail. Such reserve area is to be shown on the plan; not be built upon; and, must comply with all the setback  
 207 requirements of the Subsurface Wastewater Disposal Rules and this Code. {MODIFIED FROM 16.8.7.4.A }  
 208

209 2.B. In no instance may a primary or reserve disposal area be permitted on soils or on a lot which requires  
 210 requiring a First-Time sSystem vVariance Request from per the State of Maine Subsurface Wastewater Disposal  
 211 Rules.  
 212

213 3.C. Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within  
 214 the each disposal area (primary and reserve sites) to assure ensure that the proposed disposal area system can  
 215 be located on soils and slopes which that meet the criteria of the State of Maine Subsurface Wastewater Disposal  
 216 Rules and the State Plumbing Code. Passing test pits must have a minimum of fifteen (15) inches of existing  
 217 natural mineral soil above the limiting factor, except in the Shoreland and Resource Protection Overlay Zones  
 218 where passing test pits must have a minimum of twenty-one (21) inches of natural mineral soil above the limiting

219 factor. All passing and failing test pits must be shown on plan.

220  
221 E. The developer shall install advanced pre-treatment to subsurface wastewater disposal systems that are located  
222 inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of  
223 Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.  
224 {NEW}

### 226 16.8.7.3 Holding Tanks

228 A. Holding tanks are not allowed for a first-time residential use. {MODIFIED & MOVED FROM 16.8.7.1.G.2}

## 231 **Chapter 16.2 DEFINITIONS**

### 232 **16.2.2 Definitions**

233  
234 ~~**Subsurface sewage disposal system** means a collection of treatment tank(s), disposal area(s), holding tank(s)~~  
235 ~~and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices~~  
236 ~~and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or~~  
237 ~~beneath the surface of the earth. The term does not include any wastewater discharge system licensed under 38~~  
238 ~~M.R.S. §414, any surface wastewater disposal system licensed under 38 M.R.S. §413, §1A, or any public sewer.~~  
239 ~~The term does not include a wastewater disposal system designed to treat wastewater which is in whole or in part~~  
240 ~~hazardous waste as defined in 38 M.R.S. §13-1.~~

241  
242 **Septic System** (see *Subsurface wastewater disposal system*)

243  
244 **Subsurface wastewater disposal system** means any system designed to dispose of waste or wastewater on or  
245 beneath the surface of the earth. These include but are not limited to septic tanks, disposal fields, holding tanks,  
246 pretreatment filters, piping, or any other fixture, mechanism or apparatus used for such purposes. This definition  
247 does not include any discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system,  
248 or any municipal or quasi-municipal sewer or wastewater treatment system. (see also: *Wastewater and Domestic*  
249 *wastewater*)

250  
251 **Wastewater** means any domestic wastewater, or other wastewater from commercial, industrial or residential  
252 sources that has attributes similar to those of domestic wastewater. This term specifically excludes hazardous or  
253 toxic wastes and materials. (Applicable only to Title 16)

254  
255 **Domestic wastewater** means any wastewater produced by ordinary living uses, including liquid waste containing  
256 animal or vegetable matter in suspension or solution, or the water-carried waste from the discharge of water  
257 closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of human  
258 origin.



## Code Amendment

- 1 **16.5.2.4 Permit Period.**  
2 A permit expires if the Code Enforcement Officer determines no substantial work has been commenced  
3 within six (6) months from date of issue. A permit expires if work is not substantially complete within two (2)  
4 years from date of issue. Expired permits may be renewed upon written request and justifiable cause  
5 demonstrated to the Code Enforcement Officer's satisfaction. ~~application and payment of a renewal fee.~~  
6 Written request for renewal must be made prior to the permit expiration.  
7  
8 A. The permit may be renewed one time only for a single six (6) month period to commence work, upon  
9 payment of the base application fee. If the Code Enforcement Officer determines substantial work has not  
10 commenced upon expiration of the six (6) month renewal period, a new permit application and payment of all  
11 applicable new permit fees must be submitted.  
12  
13 B. The permit may be renewed one time only for a single six (6) month period to complete work, upon  
14 payment of the base application fee. If work is not substantially complete as determined by the Code  
15 Enforcement Officer upon expiration of the six (6) month renewal period, a new permit application and  
16 payment of all applicable new permit fees must be submitted based on the value of the remaining permitted  
17 work.  
18  
19 C. Any work commenced or completed without the issue of a permit as required by this Code is subject to an  
20 after-the-fact permit with all applicable fees doubled.



## Code Amendment

- 1 **16.5.2.4 Permit Period.**
- 2 A permit expires if the Code Enforcement Officer determines no substantial work has been commenced
- 3 within six months from date of issue. A permit expires if work is not substantially complete within two years
- 4 from date of issue. Expired permits may be renewed upon written request and justifiable cause
- 5 demonstrated to the Code Enforcement Officer's satisfaction application and payment of a renewal fee, as
- 6 outlined in Appendix A of the Town Code.
- 7
- 8 Written request for renewal must be made prior to the permit expiration. The permit may be renewed one
- 9 time only for a single six (6) month period, upon payment of the base application fee. If the Code
- 10 Enforcement Officer determines substantial work has not commenced upon expiration of the six (6) month
- 11 renewal period, a new permit application and payment of all applicable new permit fees must be submitted. If
- 12 work is not substantially complete as determined by the Code Enforcement Officer upon expiration of the six
- 13 (6) month renewal period, a new permit application and payment of all applicable fees must be submitted
- 14 based on the value of the remaining permitted work.
- 15
- 16 Any work commenced or completed without the issue of a permit as required by this Code is subject to an
- 17 after-the-fact permit with all applicable fees doubled.



STAFF REVIEW NOTES  
Pre-construction Meeting/Inspections  
16.4.4.1, 16.10.3.7, 16.10.3.8, 16.10.8.2.2 & 16.10.9.1  
Title 16 Land Use and Development Code Amendments

**Chapter 16.4 ADMINISTRATION and ENFORCEMENT**

**16.4.4.1 Inspection of Required Improvements.**

A. A pre-construction meeting is required for a Planning Board approved Site Plan, Subdivision Plan, and Right-Of-Way Plan, and for all other plans is at the discretion of the Town Planner. A pre-construction meeting for approved development not subject to Planning Board review is at the discretion of the Code Enforcement Officer. Prior to the commencement of any work associated with development approved in accordance with this Code, the developer or duly authorized representative must provide a schedule of expected construction activities by phase to the inspecting official (the Code Enforcement Officer (CEO) or their representative, or when applicable, the Town's Peer Review Engineer), and coordinate a pre-construction meeting. Attendance at said meeting must at a minimum include authorized representation from the Town, the developer and their General Contractor. Meeting minutes must be prepared by the Town's representative and distributed to all attendees and the Town Planner.

B. A. The developer or General Contractor shall coordinate inspections with the inspecting official and provide written notice ~~At~~ at least ~~five~~ seven (7) days prior to commencing each major phase of construction as outlined in the construction schedule. When all phases of work are complete the General Contractor shall request a final inspection from the inspecting official who shall prepare a punch-list of any outstanding items to be completed, within seven (7) days of the final inspection. Once all outstanding items have been completed the developer or the General Contractor shall coordinate a final walk-through where the inspecting official can determine that the construction has been completed in accordance with the approved plans. The inspecting official must provide in writing to the developer or the General Contractor within seven (7) days of the final walk-through what, if any, construction that is not complete or confirm that the development is complete and has been constructed according to the approved plans. of required improvements, the applicant or duly authorized representative must notify the CEO, in writing, of the time when construction of such improvements is proposed to commence, so inspection may be made to ensure all specifications are met during the construction of the required improvements, and to insure the satisfactory completion of improvements and utilities required by the Planning Board.

C. B. If the inspecting official finds, upon inspection of the required improvements, that any of the required improvements have not been constructed in accordance with the ~~Planning Board approved plans and specifications filed by the developer,~~ the inspecting official must report in writing to the Town Planner, Planning Board, CEO and the developer or duly authorized representative of the developer, and when applicable the CEO. The Town Planner shall inform the Planning Board of any issues identified by the inspections. The Town shall take any steps necessary to preserve the municipality's rights.

D. Where applicable and in advance of any construction the developer must deposit sufficient funds for said inspections in an Applicant's Service Account per Title 3.3. The amount is based on a scope of services and fee prepared by the Town's Peer Review Engineer after review of the developer's construction estimate prepared by a professional engineer or a qualified contractor.

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**Chapter 16.10 DEVELOPMENT PLAN APPLICATION AND REVIEW**  
**Article III. Development Plan Review and Approval Process**

46 **16.10.3.7 Independent Peer Review/~~Inspection Consultant Review.~~**

47  
48 A. ~~All development may be reviewed by an independent review/inspection consultant(s) engaged by the~~  
49 ~~Code Enforcement Officer, with the approval of the Town manager, after prior notification to and at the~~  
50 ~~expense of the applicant, to assure compliance with all requirements of this Code related to public health,~~  
51 ~~safety and welfare and the abatement of nuisances. The estimated costs of such studies must be deposited~~  
52 ~~with the Town prior to their undertaking. {MOVED AND MODIFIED. SEE 16.10.3.7.A.1 AS PROPOSED}~~  
53

54 A1.-The Town Planner, in addition to the Planning Board or, ~~after Town Manager's approval, the Town Planner~~  
55 and the Code Enforcement Officer, may require the applicant to pay the cost of an independent consultant or  
56 specialist engaged by the Town, ~~at the applicant's expense~~ if required by the Town Planner and approved by  
57 the Town manager, to:

58 1. ~~determine compliance with all requirements of this Code related to public health, safety and welfare, and~~  
59 ~~the abatement of nuisances; or {MOVED AND MODIFIED FROM CURRENT 16.10.3.7.A.}~~

60 2. assist with the technical review of applications submitted for new or amended development. The estimated  
61 cost of such a review will be deposited in a Town escrow account prior to the application review/inspection  
62 work being conducted. Remaining funds in the account will be returned to the applicant or, at the applicant's  
63 option, used to pay any further costs associated with the project application.  
64

65 B. ~~When peer-review is required of the applicant, sufficient funds, based on a written estimate by the~~  
66 ~~required consultant, must be deposited in an Applicant's Service Account per Title 3.3, prior to commencing~~  
67 ~~said review and continuing with the review of the development plan application. {NEW}~~  
68

69 2. ~~Compliance Inspection Fees. The reviewing/inspection consultant, upon direction of the Town Planner,~~  
70 ~~will be assigned to conduct compliance inspections of the approved new or amended plans to assure~~  
71 ~~compliance with the codes and conditions of approval. Inspection compliance reports will become a part of~~  
72 ~~the applicant's project file and submitted at agreed to intervals based on the required inspection items~~  
73 ~~developed between the Town and the developer following Town approval. Copies of all inspection reports~~  
74 ~~will be submitted to the Town Planner, CEO, and project owner or agent. The estimated cost of the~~  
75 ~~compliance inspection will be deposited in a Town escrow account prior to the inspection work being~~  
76 ~~conducted. Remaining funds in the account will be returned to the applicant or, at the applicant's option,~~  
77 ~~used to pay any further costs associated with the project application. {DELETED}~~  
78

79 3. ~~Records of application review and inspection reports are public records. {DELETED}~~  
80

81 4. ~~Determination of the need for application review and/or compliance inspection is made by the Town~~  
82 ~~Planner, with the oversight of the Town manager. The Planning Board will be advised of such requests as~~  
83 ~~they occur. {DELETED}~~  
84

85 5. ~~As part of each request, feedback about the process will be gathered by the reviewing/inspection~~  
86 ~~consultant from the applicant, Planning Board, and planning department, and made a part of the record.~~  
87 ~~{DELETED}~~  
88

89 **16.10.3.8 ~~Independent Review Applicant Funding.~~**

90 ~~The Planning Board must require an applicant to pay the costs of an independent consultant or specialist~~  
91 ~~whose services the Planning Board may require, at its discretion, to analyze any or all of the application, in~~  
92 ~~the Town's interest. {MOVED AND MODIFIED TO 16.10.3.7.A}~~  
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**Article VIII. Planning Board Final Plan Action**  
**16.10.8.2.2 Performance Guaranty Conditions.**

Where improvements for the common use of future lot or unit owners, lessees or the general public have been approved, the Planning Board ~~must~~ shall require a performance guaranty of an amount sufficient to pay for said improvements as a part of the agreement. The applicant must file with the Town, as a condition for approval of the final plan, a performance guaranty in a form acceptable to the Town manager.

1. The amount must be at least equal to the total cost of furnishing, installing, connecting and completing all street grading, paving, storm drainage and utilities and other improvements specified in the development master plan and shown on the final plan, ~~and~~ In addition, it must guarantee the satisfactory coordination with other related phases of development and satisfactory completion of all specified improvements.

2. Where the Planning Board reviews and approves project phasing, the Board may also require the developer to provide performance ~~assurances~~ guaranties directly related to a particular phase or phases of the project where it can be demonstrated that the uncompleted portions thereof do not detrimentally affect the completed development or the current and ongoing development.

3. No phase of construction may commence until the required performance ~~assurances~~ guaranties have been met.

4. Performance ~~guarantees~~ guaranties must be based on professionally prepared cost estimates for all approved infrastructure improvements, and verified by the Town's Peer Review Engineer. The cost estimate must include an additional ten (10) percent cost for contingencies and/or warranty period. ~~include an inspection escrow agreement for site inspection equal to two percent of construction costs.~~  
(~~Ordained 9/26/11; effective 10/27/11~~)

5. Ten (10) percent of the performance guaranty may be retained to cover circumstances where additional time or resources are required for satisfactory final completion of improvements that include, but are not limited to: vegetated swales and slopes, plantings, and lawns. This warranty period may be up to one year from installation.

6. Inspection of improvements that require a performance guaranty must be performed at the expense of the applicant and in accordance with Title 16.4.4.1. Inspection funds for construction requiring a performance guaranty shall equal two (2) percent of construction costs unless the Peer Review Engineer provides sufficient reason for a greater amount.

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**Article IX. Post Approval**  
**16.10.9.1 Post Approval Actions Required.**

**16.10.9.1.1 Approved Final ~~Subdivision~~ Plan.**

A. An approved subdivision plan must be filed with the York County Registry of Deeds within ninety (90) days from date of such approval. Any plan not so filed and recorded is null and void, unless particular circumstances dictate and upon petition, the Planning Board grants an extension which may not exceed two additional ninety (90) day periods.

B. Where applicable, the Stormwater and Erosion Control Maintenance Agreement that must be included in the Document of Covenants, Homeowners Documents and/or as riders to the individual deed must be recorded with the York County Registry of Deeds.

C. A pre-construction meeting, in accordance with Title 16.4.4.1 must be held prior to any clearing or earthwork.



**Chapter 16.4 ADMINISTRATION and ENFORCEMENT**

**16.4.4.1 Inspection of Required Improvements.**

A. A pre-construction meeting is required for a Planning Board approved Site Plan, Subdivision Plan, and Right-Of-Way Plan, and for all other plans is at the discretion of the Town Planner. A pre-construction meeting for approved development not subject to Planning Board review is at the discretion of the Code Enforcement Officer. Prior to the commencement of any work associated with development approved in accordance with this Code, the developer or duly authorized representative must provide a schedule of expected construction activities by phase to the inspecting official (the Code Enforcement Officer (CEO) or their representative, or when applicable, the Town's Peer Review Engineer), and coordinate a pre-construction meeting. Attendance at said meeting must at a minimum include authorized representation from the Town, the developer and their General Contractor. Meeting minutes must be prepared by the Town's representative and distributed to all attendees and the Town Planner.

B. A. The developer or General Contractor shall coordinate inspections with the inspecting official and provide written notice. At least five seven (7) days prior to commencing each major phase of construction as outlined in the construction schedule. At completion the General Contractor shall request a final inspection where the inspecting official shall prepare a punch-list of any outstanding items to be completed, within seven (7) days of the final inspection. Once construction is complete the developer or the General Contractor shall coordinate a final walk-through where the inspecting official certifies that the construction has been completed in accordance with the approved plans. The inspecting official must provide written certification if construction is or is not complete within seven (7) days of the final walk-through of required improvements, the applicant or duly authorized representative must notify the CEO, in writing, of the time when construction of such improvements is proposed to commence, so inspection may be made to ensure all specifications are met during the construction of the required improvements, and to insure the satisfactory completion of improvements and utilities required by the Planning Board.

C. B. If the inspecting official finds, upon inspection of the required improvements, that any of the required improvements have not been constructed in accordance with the Planning Board approved plans and specifications filed by the developer, the inspecting official must report in writing to the Town Planner, Planning Board, CEO and the developer or duly authorized representative of the developer, and when applicable the CEO. The Town Planner shall inform the Planning Board of any issues identified by the inspections. The Town shall take any steps necessary to preserve the municipality's rights.

D. Where applicable and in advance of any construction the developer must deposit sufficient funds for said inspections in an Applicant's Service Account per Title 3.3. The amount is based on a scope of services and fee prepared by the Town's Peer Review Engineer after review of the developer's construction estimate prepared by a professional engineer or a qualified contractor.

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**Chapter 16.10 DEVELOPMENT PLAN APPLICATION AND REVIEW**

**Article III. Development Plan Review and Approval Process**

**16.10.3.7 Independent Peer Review/Inspection Consultant Review.**

46 A. ~~All development may be reviewed by an independent review/inspection consultant(s) engaged by the~~  
47 ~~Code Enforcement Officer, with the approval of the Town manager, after prior notification to and at the~~  
48 ~~expense of the applicant, to assure compliance with all requirements of this Code related to public health,~~  
49 ~~safety and welfare and the abatement of nuisances. The estimated costs of such studies must be deposited~~  
50 ~~with the Town prior to their undertaking. {MOVED AND MODIFIED. SEE 16.10.3.7.A.1 AS PROPOSED}~~  
51

52 A4. ~~The Town Planner, in addition to the Planning Board or~~ after Town Manager's approval, the Town Planner  
53 and the Code Enforcement Officer, may require the applicant to pay the cost of an independent consultant or  
54 specialist engaged by the Town, at the applicant's expense if required by the Town Planner and approved by  
55 the Town manager, to:

56 1. ensure compliance with all requirements of this Code related to public health, safety and welfare, and the  
57 abatement of nuisances; or {MOVED AND MODIFIED FROM CURRENT 16.10.3.7.A.}

58 2. assist with the technical review of applications submitted for new or amended development. The estimated  
59 cost of such a review will be deposited in a Town escrow account prior to the application review/inspection  
60 work being conducted. Remaining funds in the account will be returned to the applicant or, at the applicant's  
61 option, used to pay any further costs associated with the project application.

63 B. When peer-review is required of the applicant, sufficient funds, based on a written estimate by the  
64 required consultant, must be deposited in an Applicant's Service Account per Title 3.3, prior to commencing  
65 said review and continuing with the review of the development plan application. {NEW}  
66

67 2. ~~Compliance Inspection Fees. The reviewing/inspection consultant, upon direction of the Town Planner,~~  
68 ~~will be assigned to conduct compliance inspections of the approved new or amended plans to assure~~  
69 ~~compliance with the codes and conditions of approval. Inspection compliance reports will become a part of~~  
70 ~~the applicant's project file and submitted at agreed to intervals based on the required inspection items~~  
71 ~~developed between the Town and the developer following Town approval. Copies of all inspection reports~~  
72 ~~will be submitted to the Town Planner, CEO, and project owner or agent. The estimated cost of the~~  
73 ~~compliance inspection will be deposited in a Town escrow account prior to the inspection work being~~  
74 ~~conducted. Remaining funds in the account will be returned to the applicant or, at the applicant's option,~~  
75 ~~used to pay any further costs associated with the project application. {DELETED}~~  
76

77 3. ~~Records of application review and inspection reports are public records. {DELETED}~~  
78

79 4. ~~Determination of the need for application review and/or compliance inspection is made by the Town~~  
80 ~~Planner, with the oversight of the Town manager. The Planning Board will be advised of such requests as~~  
81 ~~they occur. {DELETED}~~  
82

83 5. ~~As part of each request, feedback about the process will be gathered by the reviewing/inspection~~  
84 ~~consultant from the applicant, Planning Board, and planning department, and made a part of the record.~~  
85 ~~{DELETED}~~  
86

87 **16.10.3.8 — Independent Review Applicant Funding.**

88 The Planning Board must require an applicant to pay the costs of an independent consultant or specialist  
89 whose services the Planning Board may require, at its discretion, to analyze any or all of the application, in  
90 the Town's interest. {MOVED AND MODIFIED TO 16.10.3.7.A}

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93 **Article VIII. Planning Board Final Plan Action**

94 **16.10.8.2.2 Performance Guaranty Conditions.**

- 95  
96 Where improvements for the common use of future lot or unit owners, lessees or the general public have  
97 been approved, the Planning Board ~~must~~ shall require a performance guaranty of an amount sufficient to pay  
98 for said improvements as a part of the agreement. The applicant must file with the Town, as a condition for  
99 approval of the final plan, a performance guaranty in a form acceptable to the Town manager.
- 100 1. The amount must be at least equal to the total cost of furnishing, installing, connecting and completing all  
101 street grading, paving, storm drainage and utilities and other improvements specified in the development  
102 master plan and shown on the final plan, ~~and~~ In addition, it must guarantee the satisfactory coordination with  
103 other related phases of development and satisfactory completion of all specified improvements.
- 104 2. Where the Planning Board reviews and approves project phasing, the Board may also require the  
105 developer to provide performance ~~assurances~~ guaranties directly related to a particular phase or phases of  
106 the project where it can be demonstrated that the uncompleted portions thereof do not detrimentally affect  
107 the completed development or the current and ongoing development.
- 108 3. No phase of construction may commence until the required performance assurances guaranties have  
109 been met.
- 110 4. Performance guaranties must be based on professionally prepared cost estimates for all approved  
111 infrastructure improvements, and verified by the Town's Peer Review Engineer. The cost estimate must  
112 include an additional ten (10) percent cost for contingencies and/or warranty period. ~~include an inspection~~  
113 ~~escrow agreement for site inspection equal to two percent of construction costs.~~  
114 ~~(Ordained 9/26/11; effective 10/27/11)~~
- 115 5. Ten (10) percent of the performance guaranty may be retained to cover circumstances where additional  
116 time or resources are required for satisfactory final completion of improvements that include, but are not  
117 limited to: vegetated swales and slopes, plantings, and lawns. This warranty period may be up to one year.
- 118 6. Inspection of improvements that require a performance guaranty must be performed at the expense of the  
119 applicant and in accordance with Title 16.4.4.1. Inspection funds for construction requiring a performance  
120 guaranty shall equal two (2) percent of construction costs unless the Peer Review Engineer provides  
121 sufficient reason for a greater amount.  
122

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123  
124 **Article IX. Post Approval**

125 **16.10.9.1 Post Approval Actions Required.**

126  
127 **16.10.9.1.1 Approved Final Subdivision Plan.**

128  
129 A. An approved subdivision plan must be filed with the York County Registry of Deeds within ninety  
130 (90) days from date of such approval. Any plan not so filed and recorded is null and void, unless particular  
131 circumstances dictate and upon petition, the Planning Board grants an extension which may not exceed two  
132 additional ninety (90) day periods.

133  
134 B. Where applicable, the Stormwater and Erosion Control Maintenance Agreement that must be  
135 included in the Document of Covenants, Homeowners Documents and/or as riders to the individual deed  
136 must be recorded with the York County Registry of Deeds.

137  
138 C. A pre-construction meeting, in accordance with Title 16.4.4.1 must be held prior to any clearing or  
139 earthwork.



**CODE AMENDMENT**

**Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS – NATURAL ENVIRONMENT**  
**16.9.1.4 Soil Suitability.**

A. The requirements and standards of the State of Maine Department of Environmental Protection, Department of Health and Welfare, the latest edition of the State Plumbing Code and this Code must be met.

~~B. All land uses must be located on soils upon where the proposed uses or structures can be established or maintained without causing adverse environmental effects, including, but not limited to, severe erosion, mass soil movement, improper drainage, and water pollution to surface water and groundwater, whether during or after construction. {MOVED FROM 16.9.1.4.E}~~

~~BC. Any proposed subdivision development requires a soil survey report covering the development based on information from the Maine Natural Resources Conservation Service (NRCS). Where subsurface wastewater disposal is required and Where the sSoil sSurvey for York County or information from the Maine NRCS shows soils with severe restrictions for development, a Class A h(High iIntensity) sSoils report Survey must be provided by an accredited a soils scientist, registered certified in the state of Maine, using the standards of high intensity soil mapping as established by the Society of Soil Scientists of Northern New England The survey must be based on the Maine Association of Professional Soil Scientists Standards for Soil Survey, Revised 3/2009 or subsequent revision. must be provided. In addition to evaluating soil properties, the soil scientist shall analyze and document characteristics of surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions and any other data deemed appropriate by the soil scientist or required by the Planning Board. The soil scientist shall include recommendations for the proposed use to counteract soil limitations where any exist. A Class A Soil Survey must include a written Soil Narrative Report accompanied by a Soil Map that depicts soil delineations and symbols identified in the report. The Soil Map must be prepared at the same scale as that of the development plan with wetlands and floodplain depicted on both. {MOVED AND MODIFIED FROM 16.9.1.4.E}~~

~~D. When constructing a new dwelling unit on soils identified with severe restrictions, requiring subsurface wastewater disposal and on a lot not subject to subdivision regulation, a Class A (High Intensity) Soil Survey is not required. However, the site's soil suitability must be assessed and documented in a soil report by a Maine certified soil scientist, a Maine certified geologist or Maine licensed site evaluator. Prior to the issuance of a Building Permit, the soil report must be submitted to the Code Enforcement Officer (CEO) for review and assess compliance with this Code. {MOVED AND MODIFIED FROM 16.9.1.4.E}~~

~~E. Cluster residential and cluster mixed-use, commercial or industrial development and similar intensive land uses require a Class A (High Intensity) Soil Survey by a Maine certified soil scientist. {NEW AND CURRENT PRACTICE}~~

~~F. Where non-clustered development is limited in scale and intensity the developer may request the Class A (High Intensity) Soil Survey required by 16.9.1.4.E. above be waived by the Planning Board. The Board may grant said waiver only after consideration by the town's Peer Review Engineer of the developer's explanation as to why a Class A Soil Survey is not warranted. In the event a Class A Soil Survey is not required, the site's soil suitability must be sufficiently assessed for compliance with this Code. {NEW}~~

~~C. Lot size determination is as follows:~~

- ~~1. Areas containing hydric soil may be used to fulfill twenty-five (25) percent of the minimum lot size required by this Code, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all buildings and required utilities such as sewage disposal and water supply (including primary and reserve leach field locations within required zoning setbacks).~~
- ~~2. Lots served by municipal water and sewer may use areas of poorly drained soil to fulfill up to fifty (50) percent of the minimum required lot size.~~
- ~~3. No areas of surface water, wetlands, right of way, or easement, including utility easements or areas designated as very poorly drained soil may be used to satisfy minimum lot sizes, except as noted above.~~

96 {DELETED}

97

98 ~~D~~G. If the soil **report** classification is challenged by the applicant, an abutter, a landowner, the CEO, or the  
99 Conservation Commission, petition must be made in writing to the Planning Board. With such petition, or a  
100 challenge by the **Planning** Board, the Planning Board shall determine whether a **certified** qualified soil scientist  
101 should conduct an on-site investigation and at whose expense. The soil scientist shall present evidence in  
102 written form to the Planning Board, which evidence forms the basis for the Board's decision.

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104 ~~E. All land uses must be located on soils in or upon which the proposed uses or structures can be established  
105 or maintained without causing adverse environmental impacts, including, severe erosion, mass soil movement,  
106 improper drainage, and water pollution, whether during or after construction. Proposed uses requiring  
107 subsurface waste disposal, and commercial or industrial development and other similar intensive land uses,  
108 require a soils report based on an on-site investigation and must be prepared by state-certified professionals.  
109 Certified persons may include Maine certified soil scientists, Maine registered professional engineers, Maine  
110 certified geologists and other persons who have training and experience in the recognition and evaluation of soil  
111 properties. The report must be based upon the analysis of the characteristics of the soil and surrounding land  
112 and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent  
113 data which the evaluator deems appropriate. The soils report must include recommendations for a proposed use  
114 to counteract soil limitations where any exist. {MODIFIED AND MOVED TO 16.9.1.4.B, C & D ABOVE}~~

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116

**CODE AMENDMENT**

**Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS – NATURAL ENVIRONMENT**

**16.9.1.4 Soil Suitability.**

A. The requirements and standards of the State of Maine Department of Environmental Protection, Department of Health and Welfare, the latest edition of the State Plumbing Code and this Code must be met.

B. All land uses must be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental effects, including, but not limited to, severe erosion, mass soil movement, improper drainage, and water pollution to surface water and groundwater, whether during or after construction. {MOVED FROM 16.9.1.4.E}

~~B.C.~~ Any proposed ~~subdivision~~ development requires a soil ~~survey~~ report covering the ~~development~~ based on information from the Maine Natural Resources Conservation Service (NRCS). Where subsurface wastewater disposal is required and ~~Where the sSoil sSurvey for York County~~ or information from the Maine NRCS shows soils with severe restrictions for development, a Class A ~~H(High iIntensity)~~ Soils report Survey must be provided by an accredited ~~a~~ soils scientist, registered certified in the state of Maine, ~~using the standards of high intensity soil mapping as established by the Society of Soil Scientists of Northern New England~~ The survey must be based on the Maine Association of Professional Soil Scientists Standards for Soil Survey, Revised 3/2009 or subsequent revision, must be provided. ~~In addition to evaluating soil properties, the soil scientist shall analyze and document characteristics of surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions and any other data deemed appropriate by the soil scientist or required by the Planning Board. The soil scientist shall include recommendations for the proposed use to counteract soil limitations where any exist. A Class A Soil Survey must include a written Soil Narrative Report accompanied by a Soil Map that depicts soil delineations and symbols identified in the report. The Soil Map must be prepared at the same scale as that of the development plan with wetlands and floodplain depicted on both. {MOVED AND MODIFIED FROM 16.9.1.4.E}~~

D. When constructing a new dwelling unit on soils identified with severe restrictions, requiring subsurface wastewater disposal and on lots not subject to subdivision regulation, a Class A (High Intensity) Soil Survey is not required. However, the site's soil suitability must be assessed and documented in a soil report by a Maine certified soil scientist, a Maine certified geologist or Maine licensed site evaluator. Prior to the issuance of a Building Permit, the soil report must be submitted to the Code Enforcement Officer (CEO) and soil conditions reviewed for conformance with this Code. {MOVED AND MODIFIED FROM 16.9.1.4.E}

E. Cluster residential and cluster mixed-use, commercial or industrial development and similar intensive land uses require a Class A (High Intensity) Soil Survey by a Maine certified soil scientist. {NEW AND CURRENT PRACTICE}

F. Where non-clustered development is limited in scale and intensity the developer may request the Class A (High Intensity) Soil Survey required by 16.9.1.4.E. above be waived by the Planning Board. The Board may grant said waiver only after consideration by the town's Peer Review Engineer of the developer's explanation as to why a Class A Soil Survey is not warranted. In the event a Class A Soil Survey is not required, the site's soil suitability must be sufficiently assessed to ensure compliance with this Code. {NEW}

C. ~~Lot size determination is as follows:~~

~~1. Areas containing hydric soil may be used to fulfill twenty five (25) percent of the minimum lot size required by this Code, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all buildings and required utilities such as sewage disposal and water supply (including primary and reserve leach field locations within required zoning setbacks).~~

~~2. Lots served by municipal water and sewer may use areas of poorly drained soil to fulfill up to fifty (50) percent of the minimum required lot size.~~

~~3. No areas of surface water, wetlands, right of way, or easement, including utility easements or areas designated as very poorly drained soil may be used to satisfy minimum lot sizes, except as noted above.~~

*P:\PLANNING AND DEVELOPMENT\TOWN CODE ORDINANCE AMENDMENTS\2014 Proposed T-16 Amendments\Post 5-4-15 TC-Wkshp\Item 4-ORM-16.9-SoilSuitabilityrv5-20-15.doc*

96 {DELETED}

97  
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99 Conservation Commission, petition must be made in writing to the Planning Board. With such petition, or a  
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106 ~~improper drainage, and water pollution, whether during or after construction. Proposed uses requiring~~  
107 ~~subsurface waste disposal, and commercial or industrial development and other similar intensive land uses,~~  
108 ~~require a soils report based on an on-site investigation and must be prepared by state-certified professionals.~~  
109 ~~Certified persons may include Maine certified soil scientists, Maine registered professional engineers, Maine~~  
110 ~~certified geologists and other persons who have training and experience in the recognition and evaluation of soil~~  
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113 ~~data which the evaluator deems appropriate. The soils report must include recommendations for a proposed use~~  
114 ~~to counteract soil limitations where any exist. {MODIFIED AND MOVED TO 16.9.1.4.B, C & D ABOVE}~~  
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116



Date Issued	Permit #	Property Owner	Address	Map Lot	C/R	Work	Description	Value	Fee	Impact Fee
7/9/2015	15-209	Patricia Carleton	15 Hartley Farm Lane	32 1	R	New	Construct 4' x 4' access platform, 4' x 12' access stairs, 3' x 35' ramp, 10' x 20' float, 8' x 30' timber frame float haul out per KPA approval 7-2-15	\$ 25,000.00	\$ 325.00	-
7/13/2015	15-210	Patrick Winn & Victoria Trickett	141 Brave Boat Harbor Rd	63 19A	R	New	Construct a 6'x6' mudroom in rear of addition	\$ 2,000.00	\$ 49.00	-
7/13/2015	15-211	Brad Hirst	380 Haley Road	34 21	R	New	Replace double hung window with sliding glass door (5'x6'8"), install 3'x8' landing with 2 steps to gravel patio	\$ 3,500.00	\$ 67.00	-
7/13/2015	15-212	Eric Waterszyk	8 Ridgewood Drive	20 2-12	R	New	Construct 12' x 24' storage unit	\$ 5,000.00	\$ 85.00	-
7/16/2015	15-213	M.Anne Pearne	3 Cedar Drive	39 17-B-2	R	New	8' x 8' Shed	\$ 2,200.00	\$ 49.00	-
7/16/2015	15-214	Jason Child	22 Phelps Street	24 36	R	Maint	Replace roof shingles	\$ 6,629.41	\$ 25.00	-
7/16/2015	15-215	Rice Public Library	8 Wentworth Street	4 88	C	Maint	Install fire escape support system	\$ 10,600.00	\$ -	-
7/16/2015	15-216	Robert Nelson Pearson	60 Cutts Lane	54 15A	R	New	Construct 24' x 36' post & beam shed with a 12' x 24' cement post	\$ 30,000.00	\$ 385.00	-
7/23/2015	15-217	Eric Stites	9 Mill Pond Road	23 6A	R	New	Construct addition, second story expansion & reconfigure portion of first floor per Planning Board approval 6-11-15	\$ 725,000.00	\$ 2,545.00	\$ 550.00
7-23-15	15-218	John Duffy	59 Lewis Road	61 22C	R	Repl	Replace existing deck, same size, same location, reconfigure new stair location	\$ 10,000.00	\$ 25.00	-
7/27/2015	15-219	John Viele	25 Miller Road	56 19	R	Renov	Install siding & trim, complete entrance above floor	\$ 3,000.00	\$ 25.00	-
7/27/2015	15-220	Carrie Varney	134 Whipple Road	10 6A	R	Repl	Replace roof shingles	\$ 7,840.00	\$ 25.00	-
7/27/2015	15-221	Lewis Farm LLC	8 Coopers Way	67 44	R	New	Construct 3 bedroom, 2.5 bath single family dwelling with 24' x 24' garage	\$ 180,000.00	\$ 2,185.00	-
7/27/2015	15-222	Betty Crawford TR	24 Wallingford Square	4 76	C	Repl	Replace existing pilings	\$ 12,000.00	\$ 280.00	-
7/27/2015	15-223	Ray Cotillo	180 Whipple Road	17 21	R	New	Extend existing deck 9' x 10'	\$ 850.00	\$ 35.20	-
7/27/2015	15-224	Steven Bos	22 Goose Point Road	33 10	R	New	Install generator	\$ 5,398.21	\$ 88.60	-

Date Issued	Permit #	Property Owner	Address	Map Lot	C/R	Work	Description	Value	Fee	Impact Fee
7/27/2015	15-225	Brian & Jan Rodonets	42 Pepperrell Road	18 27	R	Repl	Construct 80sf mudroom addition per PB approval 7-9-15 & convert portion of existing workshop to bathroom	\$ 17,000.00	\$ 229.00	-
7/27/2015	15-226	Deborah Coffin	15 Thaxter Lane	64 21C	R	New/ren	Interior & exterior renovations, 4 additions-(134sf, 162sf, 563sf, & 154sf), & 5' x 16.5' front open porch, patio, and hardscaping per plans submitted	\$ 750,000.00	\$ 9,025.00	\$ 3,250.00
7/27/2015	15-227	Marcy & Glen Philbrook	38 Love Lane	4 191	R	New	Construct 24' x 26' garage on existing slab	\$ 35,000.00	\$ 445.00	-
7/28/2015	15-228	John Hippem	1 Deer Ridge Lane	65 10A	R	Maint	Install vinyl siding & cover trim with aluminum	\$ 12,000.00	\$ 49.00	-
7/28/2015	15-229	David Elwell	11A Adams Lane (9-15 Adams Lane Condos)	2 22	R	Maint	Replace kitchen, electrical, insulation, sheetrock, plumbing	\$ 10,000.00	\$ 25.00	-
7/28/2015	15-230	Neil Portney	19 George Street	9 84	R		Finish dormer	\$ 14,000.00	\$ 193.00	-
7/28/2015	15-231	Robert & Megan Ramos	73 Tower Road	58 42	R	Demo	Demo structure per Planning Board approval 7-9-15	\$ -	\$ 20.00	-
7/28/2015	15-232	Rob Sawtelle	17 George Street	9 83	R	New	Construct decks & install pool per plan	\$ 9,000.00	\$ 133.00	-

