

TOWN OF KITTELY, MAINE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

November 24, 2014

Kittery Town Council
Requested by Chairperson Jeffrey Thomson
Special Meeting Agenda
6:00 p.m.

Council Chambers

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. EXECUTIVE SESSIONS

a. (110314-1) The Kittery Town Council moves to go into Executive Session with the Town Manager and Human Resource Manager, in accordance with 1 M.R.S. §405 (6) (D), to receive an update on labor contract negotiations.

6. ADJOURNMENT

Posted: November 20, 2014



TOWN OF KITTERY

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November 24, 2014

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes – 10/15/14 & 11/10/14
8. Interviews for the Board of Appeals and Planning Board

Planning Board: one appointment filling the unexpired term of Bob Melanson until 11/30/16 and one re-appointment until 11/30/17

- Robert Harris
- Matt Brock
- Deborah Driscoll Davis – re-appointment until 11/30/17

Board of Appeals: two re-appointments

- Gary Beers - until 12/1/17
- Brian Boyle - until 11/1/17

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

a. (110314-1) The Kittery Town Council moves to discuss the installation of steps on the town's ROW on Bowen Road.

b. (110314-2) The Kittery Town Council moves to approved proposed amendments to the Fort Foster Rules and Regulations fee schedule.

10. PUBLIC HEARINGS

a. (110314-3) The Kittery Town Council moves hold a public hearing on a proposed amendment to Chapter 10.2.2 Stop Intersections Designated, Section 10.2.2.1 On Public Ways, of the Kittery Town Code.

11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

12. UNFINISHED BUSINESS

13. NEW BUSINESS

a. Donations/gifts received for Council disposition

b. (110314-4) The Kittery Town Council moves to approve a request from the Charity Defense March for the use of the Shapleigh Middle School track, soccer and baseball field and parking lots for the opening ceremonies site for the Charity Defense March to be held June 25, 2015, 8am-5pm and June 26, 2015, 4am-12:30pm.

c. (110314-5) The Kittery Town Council moves to approve a request from Bike Maine to camp overnight (400 people) at Fort Foster, September 12, 2015, including parking of 150-200 vehicles from September 12-19, 2015

d. (110314-6) The Kittery Town Council moves to approve the disbursement warrants.

e. (110314-7) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Port Authority to interview Peter Walsh for his appointment to that board until 8/31/2018 (filling the unexpired term of Dan Arbo).

f. (110314-8) The Kittery Town Council moves to accept the resignation from David Lincoln from the Parks Commission.

g. (110314-9) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Parks Commission to interview Gale Turner for her appointment to move from an alternate to full member until 5/3/17 (to fill the unexpired term of David Lincoln

h. (110314-10) The Kittery Town Council moves to appoint John J. Delio to the Personnel Board until 11/24/16 (replacing Kenneth Palmer).

i. (110314-11) The Kittery Town Council moves to establish December 1, 2014, as the effective date of the charter amendment approved by the voters on November 4, 2014.

j. (110314-12) The Kittery Town Council moves to schedule a public hearing on proposed amendments to Title 16 as recommended by the Planning Board.

k. (110314-13) The Kittery Town Council moves to approve and sign the School Department policy on Disbursement Warrants for School Employee Wages and Benefits to expire on November 30, 2015.

14. COUNCILOR ISSUES OR COMMENT

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION:

17. ADJOURNMENT

Posted: November 20, 2014



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

ncolbertpuff@kitteryme.org

Nancy Colbert Puff
Town Manager

Town Manager's Report to the Town Council November 24, 2014

1. **Athletic Field Master Plan Request for Proposals** – We received 3 proposals (Wright-Pierce, Weston & Sampson, and Evos Design LLC for this project which are under review. I have assembled a small group to advise me in the final selection of a consultant.
2. **Portsmouth Naval Shipyard (PSNY) Traffic** – I spoke with Danna Eddy with regard to Kittery's concern that pedestrian crossings be considered a priority as afternoon traffic is released from Gate 2. In addition, we spoke more generally about the PSNY's overall effort with regard to transportation demand management. While they do encourage carpooling, have the COAST bus route, and have tried other methods to reduce the number of single-occupancy vehicle trips, they remain open to further suggestion.

I am meeting with COAST and the Southern Maine Planning and Development Commission to further discuss this topic, and see if we can collectively present some ideas to the Shipyard.

3. **Kittery Pedestrian and Bicycle Improvement Plan** – We are working closely with KACTS and MDOT on the grant-funded (90/10) project to address pedestrian and bicycle circulation in the vicinity of the Route 1 By-pass. KACTS is administering this project, and has selected Sebago Technics to perform the study. The study area encompasses bounded roughly by I-95, the river, Route 236/Memorial Circle, and State Road (Route 1). We expect to schedule a public meeting kick-off in the near future.
4. **Flag Protection During High Winds** – DPW Commissioner Norm Albert informs me that during periods of high winds, we have been lowering and removing the flags from the flagpole to prevent damage to it.
5. **Sewer Expansion Project** – The Sewer Expansion project will be out for bid December 5th with a return date of December 31st. Once the lowest responsible bidder has been awarded the contract, we will begin the process of determining what the final betterments for property owners.

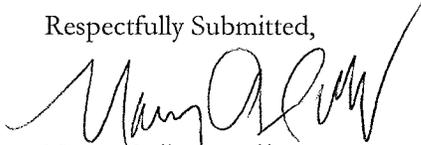
As part of the expansion project we continue to negotiate with the Maine Turnpike Authority to construct a pump station on a portion of the I-95 corridor right of way.
6. **Safety Enhancement Grant** – The Sewer Department has received another grant (\$1,211) to purchase traffic safety barricades and signage from the ME Municipal Association.

7. **Code Enforcement Officer** – We have conducted first round interviews on this search and are scheduling follow ups this week.

8. **Volunteers Needed** – The Town continues to need dedicated volunteers to populate its Board and Commissions. Please take a look at the Town's web site to learn more, and consider filling out an application available on the Town Clerk's web page (also available in person from the Town Clerk).

As always, if you have any questions or concerns prior to Monday's evening's meeting, please do not hesitate to contact me. Thank you.

Respectfully Submitted,



Nancy Colbert Puff

UNAPPROVED MINUTES

KITTERY TOWN COUNCIL

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October 15, 2014

COUNCIL CHAMBERS

1. Call to Order

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault, Jeffrey Pelletier, Judy Spiller and Jeffrey Brake.

5. Agenda Amendment and Adoption –

Councilor Dennett stated that he would like to move Item 14 between Item 13o and 13p. The agenda was accepted as amended.

6. Town Manager’s Report –

Town Manager Puff stated that they had awarded the contract for replacing the town hall roof to WH Demmons in the amount of \$153,650. She continued that they were expecting construction to start the following week and was expected to be completed within 45 days.

Town Manager Puff indicated that the Planning and Code Departments were seriously under staffed and would be closed to walk-in traffic on Tuesdays until further notice. She continued that they would still be receiving phone calls and scheduling appointments. Town Manager Puff noted they were looking to fill the CEO position as soon as possible.

Town Manager Puff noted that she had met with the Eliot town manager and their engineering consultant relative to the sewer infrastructure expansion project. She continued they would be holding an annual meeting in April to discuss the project. Town Manager Puff stated they had received a request from Eliot to change the plan for pump station #7, and they were working to assemble a cost estimate.

Town Manager Puff stated they were working to put together the RFP for the Wood Island Brownfields grants and it was almost ready to release.

UNAPPROVED MINUTES

30 7. Acceptance of Previous Minutes –

31 The minutes of 9/18 were accepted as presented. The minutes of 9/22 were accepted as
32 amended.

33 8. Interviews for the Board of Appeals and Planning Board –

34 Planning Board – David Lincoln (to fill the unexpired term of Susan Tuveson until
35 11/30/15)

36 Chairperson Thomson stated that Mr. Lincoln had extensive experience on the Planning
37 Board in his former town and had also served on the EDC, Foreside Committee in Kittery and
38 was currently on the Parks Commission.

39 Councilor Spiller indicated that Mr. Lincoln had made a comment previously to her that
40 had made her concerned that he did not understand the Code. Mr. Lincoln responded that he
41 now understood the code and was looking forward to serving.

42 **COUNCILOR DENAULT MOVED TO APPOINT DAVID LINCOLN TO THE**
43 **PLANNING BOARD FOR A TERM ENDING 11/30/15, SECONDED BY COUNCILOR**
44 **WHITE.**

45 Councilor Spiller indicated that she would be voting against this appointment because of
46 Mr. Lincoln's previous comments.

47 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR SPILLER OPPOSED.**
48 **MOTION PASSES 6/1.**

49 9. All items involving the town attorney, town engineers, town employees or other town
50 consultants or requested officials –

51 The Kittery Town Council moves to accept the gift of improvements to Memorial Circle,
52 the Memorial Park and funds for ongoing maintenance as a dedicated Permanent Fund in the
53 amount of \$5000, as presented.

54 Gary Beers came to the podium and gave a report on the progress at Memorial Circle and
55 discussed the permanent fund they hoped to create to fund maintenance at the circle.

56 **COUNCILOR SPILLER MOVED TO ACCEPT THE GIFT OF**
57 **IMPROVEMENTS TO MEMORIAL CIRCLE, THE MEMORIAL PARK AND FUNDS**
58 **FOR ONGOING MAINTENANCE AS A DEDICATED PERMANENT FUND IN THE**
59 **AMOUNT OF \$5000, AS PRESENTED, SECONDED BY COUNCILOR DENAULT.**

UNAPPROVED MINUTES

60 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
61 **7/0.**

62 10. PUBLIC HEARINGS -

63 a. (100114-1) The Kittery Town Council moves to hold a public hearing on and approve
64 an application from Belle's on Wheels, LLC, 20 Portsmouth Ave., No. 163, Stratham, NH for a
65 Victualer's License for Belle's on Wheels, LLC, Post Office Square, 10 Shapleigh Road, Kittery.

66 Chairperson Thomson indicated that this public hearing was advertised in the local
67 printed media on October 6th. Chairperson Thomson then opened the public hearing, and no
68 response being heard, closed the public hearing.

69 **COUNCILOR SPILLER MOVED TO APPROVE AN APPLICATION FROM**
70 **BELLE'S ON WHEELS, LLC, 20 PORTSMOUTH AVE., NO 163, STRATHAM, NH**
71 **FOR A VICTUALER'S LICENSE FOR BELLE'S ON WHEELS, LLC, POST OFFICE**
72 **SQUARE, 10 SHAPLEIGH ROAD, KITTERY, SECONDED BY COUNCILOR WHITE.**

73 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
74 **7/0.**

75 b. (100114-2) The Kittery Town Council will hold a public hearing, pursuant to Section
76 6.09.1 of the Town Charter, for a supplemental appropriation in the amount of \$12,500 for the
77 purpose of matching private donations to fund the preparation of a master plan for the town's
78 athletic fields.

79 Town Manager Puff explained that this item was the first step to look at the future needs
80 at all of the fields in town. She continued that residents had come up with half of the amount to
81 fund the appropriation.

82 Chairperson Thomson then opened the public hearing.

83 Jeremy Paul, Assistant Director of the Kittery Rec Department, came to the podium and
84 stated that residents had requested this item be brought forward. He encouraged Council to
85 move forward with this item.

86 Mike Roberge, Assistant Activities Director at Traip Academy, came to the podium and
87 stated that he had been involved in Kittery sports since 1993. He continued that he thought this
88 would be a good start to creating an overall plan and was much better than trying to come up
89 with short term solutions as they had in the past.

90 Tony Marino came to the podium and stated that he hoped that Council move forward
91 with this item. Mr. Marino then went over the history and needs for the future of Kittery sports
92 and stated that he thought this was a fiscally and environmentally responsible way for the town

UNAPPROVED MINUTES

93 to move forward. He continued this might give the town an opportunity to receive some grants
94 in the future and that time was of the essence so that this could be included in the 2015 CIP
95 budget.

96 Chairperson Thomson then closed the public hearing.

97 **COUNCILOR PELLETIER MOVED TO APPROVE A SUPPLEMENTAL**
98 **APPROPRIATION IN THE AMOUNT OF \$12,500 FOR THE PURPOSE OF**
99 **MATCHING PRIVATE DONATIONS TO FUND THE PREPARATION OF A MASTER**
100 **PLAN FOR THE TOWN'S ATHLETIC FIELDS, SECONDED BY COUNCILOR**
101 **DENAULT.**

102 Councilor Dennett went over his concerns and indicated that he did not think the town
103 could appropriate the money in this way.

104 **COUNCILOR DENNETT MOVED TO POSTPONE ACTION ON THIS ITEM**
105 **UNTIL THE NEXT REGULAR MEETING, SECONDED BY CHAIRPERSON**
106 **THOMSON.**

107 Councilor Pelletier indicated that he thought they should move forward that evening.
108 Chairperson Thomson stated he thought it would be cleaner to address Councilor Dennett's
109 concerns and get some additional clarification and act on the item at the next meeting. Town
110 Manager Puff indicated that she would be happy to meet with the Finance Director and get a
111 definitive answer.

112 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR PELLETIER**
113 **OPPOSED. MOTION PASSES 6/1.**

114 11. Discussion

115 a. Discussion by members of the public – None

116 b. Response to public comment directed at a particular Councilor

117 c. Chairperson's response to public comments

118 12. UNFINISHED BUSINESS –

119 a. (090314-1) The Kittery Town Council moves to approve, and hereby ordains,
120 amendments to Title 2, Administration and Personnel, Chapter 2.3 Personnel Systems
121 Generally, of the Kittery Town Code.

122 Chairperson Thomson stated that there was a motion on the floor.

123 Councilor Dennett went over his concerns with the proposal.

UNAPPROVED MINUTES

124 **COUNCILOR DENNETT MOVED TO AMEND THE MOTION TO AMEND**
125 **LINES 55 & 56 TO REMOVE TO COMMAS BEFORE AND AFTER THE CLAUSE “IF**
126 **THERE IS ONE” AND TO REPLACE THE COMMAS WITH PARENTHESIS,**
127 **SECONDED BY CHAIRPERSON THOMSON.**

128 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
129 **7/0.**

130 **A ROLL CALL VOTE WAS TAKEN ON THE MAIN MOTION WITH ALL IN**
131 **FAVOR. MOTION PASSES 7/0.**

132 13. NEW BUSINESS

133 a. Donations/gifts received for Council disposition - none

134 b. (100114-3) The Kittery Town Council moves to approve the disbursement warrants.

135 **COUNCILOR PELLETIER MOVED TO APPROVE THE DISBURSEMENT**
136 **WARRANTS, SECONDED BY COUNCILOR SPILLER.**

137 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
138 **7/0.**

139 c. (100114-4) The Kittery Town Council moves to approve a request from the Class of
140 2015 Project Graduation Committee to set up a voluntary toll booth at the Resource Recovery
141 Facility on Saturday, October 18, 2014 from 9:00 A.M. until 3 P.M.

142 **COUNCILOR SPILLER MOVED TO APPROVE A REQUEST FROM THE**
143 **CLASS OF 2015 PROJECT GRADUATION COMMITTEE TO SET UP A**
144 **VOLUNTARY TOLL BOOTH AT THE RESOURCE RECOVERY FACILITY ON**
145 **SATURDAY, OCTOBER 18, 2014 FROM 9:00 AM UNTIL 3 PM, SECONDED BY**
146 **COUNCILOR PELLETIER.**

147 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
148 **7/0.**

149 d. (100114-5) The Kittery Town Council moves to authorize the release of funds in the
150 amount of \$800 from unassigned funds and to appropriate said funds to be paid out of Account
151 #101740-68427 Expense Self-Insurance Claims for the replacement costs of a portable restroom
152 damaged at the Kittery Community Center that did not meet the insurance deductible.

153 **COUNCILOR SPILLER MOVED TO AUTHORIZE THE RELEASE OF FUNDS**
154 **IN THE AMOUNT OF \$800 FROM UNASSIGNED FUNDS AND TO APPROPRIATE**
155 **SAID FUNDS TO BE PAID OUT OF ACCOUNT #101740-68427 EXPENSE SELF-**

UNAPPROVED MINUTES

156 **INSURANCE CLAIMS FOR THE REPLACEMENT COSTS OF A PORTABLE**
157 **RESTROOM DAMAGED AT THE KITTERY COMMUNITY CENTER THAT DID**
158 **NOT MEET THE INSURANCE DEDUCTIBLE, SECONDED BY COUNCILOR WHITE.**

159 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
160 **7/0.**

161 e. (100114-6) The Kittery Town Council moves to accept a check in the amount of
162 \$32,001 from Dean Jordan to be deposited in Account #4015-43600, Highway Equipment
163 Reserve, from the sale of the 2007 Case 580 Loader/backhoe.

164 **COUNCILOR DENNETT MOVED TO ACCEPT A CHECK IN THE AMOUNT**
165 **OF \$32,001 FROM DEAN JORDAN TO BE DEPOSITED IN ACCOUNT #4015-43600,**
166 **HIGHWAY EQUIPMENT RESERVE, FROM THE SALE OF THE 2007 CASE 580**
167 **LOADER/BACKHOE, SECONDED BY COUNCILOR BRAKE.**

168 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
169 **7/0.**

170 f. (100114-7) The Kittery Town Council moves to accept a check in the amount of
171 \$8,025 from Ronald B. Lawrence to be deposited in Account #4018-43600, Kittery Port
172 Authority Boat Reserve, from the sale of the 2005 Eastern Harbormaster's boat.

173 **COUNCILOR DENNETT MOVED TO ACCEPT A CHECK IN THE AMOUNT**
174 **OF \$8,025 FROM RONALD B. LAWRENCE TO BE DEPOSITED IN ACCOUNT #4018-**
175 **43600, KITTERY PORT AUTHORITY BOAT RESERVE, FROM THE SALE OF THE**
176 **2005 EASTERN HARBORMASTER'S BOAT, SECONDED BY COUNCILOR WHITE.**

177 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
178 **7/0.**

179 g. (100114-8) The Kittery Town Council moves to approve a renewal application from
180 Divine Cuisines, LLC, 20 Walker Street, Kittery for a Malt, Spirituous and Vinous Liquor
181 License for Tulsi, 20 Walker Street.

182 **COUNCILOR PELLETIER MOVED TO APPROVE A RENEWAL**
183 **APPLICATION FROM DIVINE CUISINES, LLC, 20 WALKER STREET, KITTERY**
184 **FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR TULSI, 20**
185 **WALKER STREET, SECONDED BY COUNCILOR WHITE.**

186 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
187 **7/0.**

UNAPPROVED MINUTES

188 h. (100114-9) The Kittery Town Council moves to approve a renewal application from
189 Kittery Foreside LLC, 60 Wallingford Square for a Malt, Spirituous and Vinous Liquor License
190 for Anneke Jans, 60 Wallingford Square.

191 **COUNCILOR PELLETIER MOVED TO APPROVE A RENEWAL**
192 **APPLICATION FROM KITTEERY FORESIDE LLC, 60 WALLINGFORD SQUARE**
193 **FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ANNEKE JANS,**
194 **60 WALLINGFORD SQUARE, SECONDED BY COUNCILOR WHITE.**

195 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
196 **7/0.**

197 i. (100114-10) The Kittery Town Council moves to approve a renewal application from
198 Black Birch, Inc., 2 Government Street, for a Malt, Spirituous and Vinous Liquor License for
199 The Black Birch, 2 Government Street.

200 **COUNCILOR WHITE MOVED TO APPROVE A RENEWAL APPLICATION**
201 **FROM BLACK BIRCH, INC., 2 GOVERNMENT STREET, FOR A MALT,**
202 **SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR THE BLACK BIRCH, 2**
203 **GOVERNMENT STREET, SECONDED BY COUNCILOR BRAKE.**

204 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
205 **7/0.**

206 j. (100114-11) The Kittery Town Council moves to approve a request from John
207 Roukes, Scoutmaster, Boy Scout Troop #307, for permission to hold their annual Camp Out at
208 Fort Foster from Friday, October 31st through Sunday, November 2nd.

209 **COUNCILOR SPILLER MOVED TO APPROVE A REQUEST FROM JOHN**
210 **ROUKES, SCOUTMASTER, BOY SCOUT TROOP #307, FOR PERMISSION TO HOLD**
211 **THEIR ANNUAL CAMP OUT AT FORT FOSTER FROM FRIDAY, OCTOBER 31ST**
212 **THROUGH SUNDAY, NOVEMBER 2ND, SECONDED BY COUNCILOR PELLETIER,**
213 **WITH ALL IN FAVOR. MOTION PASSES 7/0.**

214 k. (100114-12) The Kittery Town Council moves to appoint Vern J. Gardner, Jr. to the
215 Comprehensive Plan Update Committee as a Citizen Representative until _____.

216 **COUNCILOR SPILLER MOVED TO APPOINT VERN J. GARDNER, JR. TO**
217 **THE COMPREHENSIVE PLAN UPDATE COMMITTEE AS A CITIZEN**
218 **REPRESENTATIVE UNTIL THE WORK OF THAT COMMITTEE IS COMPLETED,**
219 **SECONDED BY COUNCILOR BRAKE.**

UNAPPROVED MINUTES

220 Councilor Denault and Councilor Dennett indicated they would not be voting in favor as
221 Mr. Gardner had resigned from the Committee in June.

222 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT AND**
223 **COUNCILOR DENAULT OPPOSED. MOTION PASSES 5/2.**

224 1. (100114-13) The Kittery Town Council moves to establish the Holiday Parade as a
225 town event, sponsored by the Kiwanis Club of the Seacoast to be held on Saturday, December 6th
226 at 3:00 P.M. and appoint Glen Philbrook, Kiwanis Club member, as the official Parade
227 Committee.

228 **COUNCILOR SPILLER MOVED TO ESTABLISH THE HOLIDAY PARADE AS**
229 **A TOWN EVENT, SPONSORED BY THE KIWANIS CLUB OF THE SEACOAST TO**
230 **BE HELD ON SATURDAY, DECEMBER 6TH AT 3:00 P.M. AND APPOINT GLEN**
231 **PHILBROOK, KIWANIS CLUB MEMBER, AS THE OFFICIAL PARADE**
232 **COMMITTEE, SECONDED BY COUNCILOR PELLETIER, WITH ALL IN FAVOR.**
233 **MOTION PASSES 7/0.**

234 m. (100114-14) The Kittery Town Council moves to accept the resignation from Barry
235 Bush from the Port Authority, effective October 8th, 2014.

236 **COUNCILOR DENNETT MOVED TO ACCEPT THE RESIGNATION FROM**
237 **BARRY BUSH FROM THE PORT AUTHORITY, EFFECTIVE OCTOBER 8TH, 2014,**
238 **SECONDED BY COUNCILOR DENAULT.**

239 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
240 **7/0.**

241 n. (100114-15) The Kittery Town Council moves to accept the resignation from Susan
242 Tuveson from the Planning Board, effective September 25th, 2014.

243 **COUNCILOR SPILLER MOVED TO ACCEPT THE RESIGNATION FROM**
244 **SUSAN TUVESON FROM THE PLANNING BOARD, EFFECTIVE SEPTEMBER 25TH,**
245 **2014, SECONDED BY COUNCILOR BRAKE.**

246 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENAULT**
247 **OPPOSED. MOTION PASSES 6/1.**

248 o. (100114-16) The Kittery Town Council moves to accept the resignation from Robert
249 Melanson from the Planning Board, effective October 2, 2014.

250 **COUNCILOR DENNETT MOVED TO ACCEPT THE RESIGNATION FROM**
251 **ROBERT MELANSON FROM THE PLANNING BOARD, EFFECTIVE OCTOBER 2,**
252 **2014, SECONDED BY COUNCILOR BRAKE.**

UNAPPROVED MINUTES

253 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
254 **7/0.**

255 14. COUNCILOR ISSUE OR COMMENT

256 Councilor Brake stated that he had received concerns from residents relative to making
257 the beach at Fort Foster more handicapped accessible. Chairperson Thomson responded that this
258 issue had been explored and a solution would be forthcoming.

259 Councilor Denault noted that he had received an email from a concerned citizen relative
260 to a “No Hunting” sign at the town forest. Town Manager Puff stated she would look into the
261 issue.

262 Councilor Dennett stated that Councilor Brake had an issues with a recent interview for
263 as potential KPA member. Councilor Brake explained that he had to do an interview with Mr.
264 Lemont but the Chair of the KPA had resigned. He continued that he was not sure what to do, so
265 he conducted the interview with the treasurer of the KPA. Councilor Dennett noted that they
266 were going to run into the same issue with the three applicants for the Personnel Board as there
267 was no Chair or designated person to do the interview. Chairperson Thomson stated that Council
268 could interview the candidates due to the uniqueness of the situation. Councilor Dennett
269 indicated that he would be bringing forth an amendment to the Code to allow for a provision and
270 it could be put on the next agenda.

271 Chairperson Thomson stated that no action would be taken on Items p, q, and r that
272 evening.

273 p. (100114-17) The Kittery Town Council moves to appoint a representative to
274 interview Robert D. Harris, Sr., for his appointment to the Personnel Board until _____
275 _____, 2017.

276 No action was taken.

277 q. (100114-18) The Kittery Town Council moves to appoint a representative to
278 interview John J. Delio for his appointment to the Personnel Board until _____, 2016.

279 No action was taken.

280 r. (100114-19) The Kittery Town Council moves appoint a representative to interview
281 Paul E. Lucy, for his appointment to the Personnel Board until _____, 2016.

282 No action was taken.

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UNAPPROVED MINUTES

284 15. COMMITTEE AND OTHER REPORTS

285 a. Communications from the Chairperson –

286 Chairperson Thomson stated that the following Monday there was going to be a meeting
287 with the Library Board and the KCC Board of Trustees relative to the future of the library.

288 Chairperson Thomson noted that a Special Meeting was scheduled for November 3rd for
289 an Executive Session to discuss the Town Manager’s performance. He continued that meeting
290 would be followed by a workshop with the Parks Commission to receive an update on their
291 management plan.

292 b. Committee Reports –

293 Chairperson Thomson noted there was a Foreside Forum on September 29th and the 4
294 working groups were going to provide the manager with an outline of their work and
295 recommendations and that they would be making a presentation in the future.

296 Councilor Denault stated that the EDC would be coming forward with a report in the near
297 future.

298 16. EXECUTIVE SESSION – None

299 17. ADJOURNMENT

300 **COUNCILOR SPILLER MOVED TO ADJOURN, SECONDED BY COUNCILOR**
301 **DENAULT WITH ALL IN FAVOR. MEETING ADJOURNED AT 9:03 P.M.**

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UNAPPROVED MINUTES

KITTERY TOWN COUNCIL

COUNCIL CHAMBERS

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November 10, 2014

1. Call to Order

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Oath of Office to Newly Elected Officials

Town Clerk place administered the Oath of Office to Councilor Spiller and Councilor Lemont.

5. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault, Jeffrey Pelletier, Judy Spiller and Ken Lemont.

6. The Kittery Town Council moves to elect a Chairperson for the ensuing year.

COUNCILOR DENAULT MOVED TO ELECT COUNCILOR THOMSON AS CHAIRPERSON FOR THE ENSUING YEAR, SECONDED BY COUNCILOR LEMONT.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 6/1.

7. The Kittery Town Council moves to elect a Vice Chairperson for the ensuing year.

COUNCILOR DENAULT MOVED TO ELECT COUNCILOR WHITE AS VICE CHAIRPERSON FOR THE ENSUING YEAR, SECONDED BY CHAIRPERSON THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

8. Agenda Amendment and Adoption –

UNAPPROVED MINUTES

28 Councilor Dennett asked that Item 16b be placed between Items 15 a & b under old
29 business. The agenda was accepted as amended.

30 9. Town Manager's Report –

31 Town Manager Puff stated that there was a regional work group on the air traffic noise on
32 November 20 and asked who would be representing Kittery at the meeting.

33 Town Manager Puff indicated that she would be presenting her finding on the right of
34 way issue on Bowen Road at the next meeting.

35 Town Manager Puff noted that the RFP for the master plan for the athletic fields had been
36 released.

37 Town Manager Puff stated that there were 60 applications for the administrative clerk
38 positions and they had hired two people who would be starting that Wednesday.

39 Town Manager Puff noted that she had met with the KPA and they were working
40 together to complete a self-analysis.

41 Town Manager Puff indicated that she and Commissioner Albert had met with the
42 MEDOT relative to the roads in the urban impact area relative to who would be maintaining
43 specific roads. She continued that the DOT had indicated that they would be giving the by-pass
44 back to the town and it may add an additional 20 miles for winter maintenance. Town Manager
45 Puff noted she would be following up on this issue and would update Council in the future as it
46 would not go into effect until 2015.

47 Town Manager Puff noted relative to assessing services, that she was working with the
48 department to summarize their need and would like to release an RFP to see if they could hire a
49 consulting firm to fulfill those functions.

50 Town Manager Puff stated that the town was looking for residents to serve on boards and
51 committees in town.

52 Town Manager Puff indicated that she would be attending a training with the finance
53 director for tax collectors and treasurers.

54 Town Manager Puff noted that an assisted listening device had been installed in Council
55 Chambers.

56 10. Acceptance of Previous Minutes - None

57 11. Interviews for the Board of Appeals – None

UNAPPROVED MINUTES

58 12. All items involving the town attorney, town engineers, town employees or other town
59 consultants or requested officials – None

60 13. PUBLIC HEARINGS -

61 a. (110214-1) The Kittery Town Council moves to hold a public hearing on the transfer
62 of \$12,500 from unencumbered surplus, authorized by the voters on June 10, 2014, for the
63 purpose of matching \$12,500 in private donations for the preparation of a master plan for the
64 town's athletic fields.

65 Chairperson Thomson indicated that this item was advertised in the local printed media
66 on November 3, 2014. Chairperson Thomson then opened the public hearing.

67 Tony Marino came to the podium and stated that he wanted to encourage Council to
68 move forward with the master plan and approve the match. He continued that he thought it was
69 fiscally and environmentally responsible, and the private donations showed the broad reaching
70 interests of this item. Mr. Marino indicated that time was of the essence so that it could be
71 included in the 2015 CIP budget.

72 Chairperson Thomson then closed the public hearing.

73 **COUNCILOR SPILLER MOVED TO TRANSFER AN AMOUNT NOT TO**
74 **EXCEED \$12,500 FROM UNENCUMBERED SURPLUS, AUTHORIZED BY THE**
75 **VOTERS ON JUNE 10, 2014, FOR THE PURPOSE OF MATCHING \$12,500 IN**
76 **PRIVATE DONATIONS FOR THE PREPARATION OF A MASTER PLAN FOR THE**
77 **TOWN'S ATHLETIC FIELDS, SECONDED BY COUNCILOR LEMONT.**

78 Councilor Dennett stated that he had been given a figure of 944 participants and wanted
79 to know if those were individuals or if they were counting per sport. Mr. Marino stated that it
80 was counted by the number of participants in each sport. Councilor Denault asked any other
81 teams used the fields besides the schools. Mr. Marino indicated that the number provided was
82 just for the schools, but a number of pick up teams also used the fields. Councilor Lemont asked
83 if they envisioned using the fields for anything other than sports. Mr. Marino stated that they did
84 and there were lots of potential uses. Councilor Spiller stated that it was her understanding that
85 there was an abandoned field behind the KCC and asked that the consultant look at that area.
86 Mr. Marino stated that they would be looking at all usable space. Councilor Dennett stated that
87 he would be voting against this item as he thought it might end up costing the town a lot of
88 money.

89 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**
90 **OPPOSED. MOTION PASSES 6/1.**

UNAPPROVED MINUTES

91 b. (110214-2) The Kittery Town Council moves to hold a public hearing to adopt as an
92 emergency ordinance, pursuant to Section 2.15 of the Town Charter, an amendment to Chapter
93 4.2.3 of the Kittery Town Code, Procedures for Council Appointments.

94 Chairperson Thomson stated that this was advertised in the local printed media on
95 November 3rd. Chairperson Thomson opened the public hearing and no response being heard,
96 closed the public hearing.

97 **COUNCILOR DENNETT MOVED TO ORDAIN, AS AN EMERGENCY**
98 **ORDINANCE, AN AMENDED TO CHAPTER 4.2.3 OF THE KITTERY TOWN CODE,**
99 **PROCEDURES FOR COUNCIL APPOINTMENTS, SECONDED BY COUNCILOR**
100 **WHITE.**

101 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
102 **7/0.**

103 c. (110214-3) The Kittery Town Council moves to hold a public hearing on a proposed
104 amendment to Chapter 4.2.3 of the Kittery Town Code, Procedures for Council Appointments.

105 Chairperson Thomson indicated that this was the same as the prior motion but would
106 make the ordinance permanent in 30 days. Councilor Thomson then noted that this was
107 advertised in the local printed media on November 3rd. Chairperson Thomson then opened the
108 public hearing, and no response being heard, closed the public hearing.

109 **COUNCILOR DENNETT MOVED TO ORDAIN A PROPOSED AMENDMENT**
110 **TO CHAPTER 4.2.3 OF THE KITTERY TOWN CODE, PROCEDURES FOR COUNCIL**
111 **APPOINTMENTS, SECONDED BY COUNCILOR SPILLER.**

112 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
113 **7/0.**

114 d. (110214-3) The Kittery Town Council moves to hold a public hearing on a proposed
115 amendment to Chapter 3.2.10 of the Kittery Town Code, Disposal of Property.

116 14. Discussion

117 a. Discussion by members of the public - NONE

118 b. Response to public comment directed at a particular Councilor

119 c. Chairperson's response to public comments

120 15. UNFINISHED BUSINESS –

UNAPPROVED MINUTES

121 a. (100214-6) The Kittery Town Council moves to appoint Kenneth Lemont to the Port
122 Authority for a term to expire August 31, 2019.

123 Chairperson Thomson stated that they had received a legal opinion which determined that
124 Councilor Lemont could not serve on Council and the KPA at the same time.

125 **COUNCILOR DENNETT MOVED TO POSTPONE THIS ITEM**
126 **INDEFINITELY, SECONDED BY CHAIRPERSON THOMSON FOR DISCUSSION.**

127 **CHAIRPERSON THOMSON MOVED TO AMEND THE MOTION TO ALLOW**
128 **COUNCILOR LEMONT TO GO TO THE TOP OF THE WAITING LIST WHEN HE IS**
129 **NO LONGER SERVING ON COUNCIL, SECONDED BY COUNCILOR DENAULT.**

130 Councilor Lemont stated that he appreciated Chairperson Thomson's motion and would
131 like to not be placed at the bottom of the list. Councilor Dennett indicated that he was opposed
132 to this as it could show favoritism. Councilor Pelletier stated he agreed with Councilor Dennett.

133 **A ROLL CALL VOTE WAS TAKEN ON THE AMENDMENT WITH**
134 **COUNCILOR LEMONT ABSTAINED AND THE REST OPPOSED. MOTION DOES**
135 **NOT CARRY 0/6/1.**

136 **A ROLL CALL VOTE WAS TAKEN ON THE MAIN MOTION WITH**
137 **COUNCILOR LEMONT ABSTAINED. MOTION PASSES 6/0/1.**

138 b. (110214-6) The Kittery Town Council moves to determine an alternate interview
139 protocol for items 15a, b & c.

140 Councilor Dennett explained that this was an effort to solve the procedural problem
141 which existing in appointed members to boards without a chair or members. He continued that
142 this would allow the sitting Council to come up with an alternative interview process.

143 **COUNCILOR DENNETT MOVED TO ORDAIN AN ALTERNATIVE**
144 **INTERVIEW PROCESS PROTOCOL, SECONDED BY COUNCILOR PELLETIER.**

145 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
146 **7/0.**

147 c. (100114-17) The Kittery Town Council moves to appoint a representative to
148 interview Robert D. Harris, Sr. for his appointment to the Personnel Board.

149 **COUNCILOR SPILLER MOVED TO APPOINT COUNCILOR DENAULT TO**
150 **INTERVIEW ROBERT D. HARRIS, SR. FOR HIS APPOINTMENT TO THE**
151 **PERSONNEL BOARD, SECONDED BY CHAIRPERSON THOMSON WITH ALL IN**
152 **FAVOR. MOTION PASSES 7/0.**

UNAPPROVED MINUTES

153 d. (100114-18) The Kittery Town Council moves to appoint a representative to
154 interview John J. Delio for his appointment to the Personnel Board.

155 **CHAIRPERSON THOMSON MOVED TO APPOINT COUNCILOR DENNETT**
156 **TO INTERVIEW JOHN J. DELIO FOR HIS APPOINTMENT TO THE PERSONNEL**
157 **BOARD, SECONDED BY COUNCILOR SPILLER WITH ALL IN FAVOR. MOTION**
158 **PASSES 7/0.**

159 e. (100114-19) The Kittery Town Council moves to appoint a representative to
160 interview Paul E. Lucy for his appointment to the Personnel Board.

161 **CHAIRPERSON THOMSON MOVED TO APPOINT COUNCILOR LEMONT**
162 **TO INTERVIEW PAUL E. LUCY FOR HIS APPOINTMENT TO THE PERSONNEL**
163 **BOARD, SECONDED BY COUNCILOR DENAULT WITH ALL IN FAVOR. MOTION**
164 **PASSES 7/0.**

165 16. NEW BUSINESS

166 a. Donations/gifts received for Council disposition -

167 (110214-5) The Kittery Town Council moves to accept the gift of a thermal imager to
168 the Fire Department from the Kittery Fire Association.

169 **COUNCILOR SPILLER MOVED TO ACCEPT THE GIFT OF A THERMAL**
170 **IMAGER TO THE FIRE DEPARTMENT FROM THE KITTELY FIRE ASSOCIATION,**
171 **SECONDED BY COUNCILOR PELLETIER WITH ALL IN FAVOR. MOTION**
172 **PASSES 7/0.**

173 b. (110214-7) The Kittery Town Council moves to adopt its rules for the ensuing year.

174 **COUNCILOR DENNETT MOVED THAT COUNCIL ADOPT ITS RULES FOR**
175 **THE ENSUING YEAR, SECONDED BY COUNCILOR DENAULT, WITH ALL IN**
176 **FAVOR. MOTION PASSES 7/0.**

177 c. (110214-8) The Kittery Town Council moves to appoint Council members to on-
178 going standing, ad hoc and Council committees.

179 CIP – Councilor Denault/Comprehensive Plan Update Committee – Councilor
180 White/Economic Development Committee – Councilor Denault, Chairperson Thomson and
181 Councilor Lemont/Open Space Committee – Councilor White/ORC – none/Recycling
182 Scholarship Committee – Councilor Denault/Safford School Committee- Councilor
183 Spiller/Shared Services Committee – Chairperson Thomson and Councilor White/Warrant
184 Review (Municipal expenses) – 1. Councilor Dennett, 2. Councilor Pelletier, 3. Councilor
185 Lemont/Municipal wages and benefits – 1. Chairperson Thomson, 2. Councilor White, 3.

UNAPPROVED MINUTES

186 Councilor Pelletier/Warrant Review (School Expenses) 1. Councilor Lemont, 2. Chairperson
187 Thomson, 3. Councilor Spiller/Wood Island Committee – Councilor Spiller and Councilor
188 Pelletier.

189 **CHAIRPERSON THOMSON MOVED TO APPOINT AS INDICATED,**
190 **SECONDED BY COUNCILOR PELLETIER WITH ALL IN FAVOR. MOTION**
191 **PASSES 7/0.**

192 d. (110214-9) The Kittery Town Council moves to approve the disbursement warrants.

193 **COUNCILOR PELLETIER MOVED TO APPROVE THE DISBURSEMENT**
194 **WARRANTS, SECONDED BY COUNCILOR WHITE, WITH ALL IN FAVOR.**
195 **MOTION PASSES 7/0.**

196 e. (110214-10) The Kittery Town Council moves to appoint a representative to meet
197 with the Chair of the Port Authority to interview Daniel Ford for his appointment to that board
198 until 8/31/2019 (filling the vacancy of Barry Bush).

199 **CHAIRPERSON THOMSON MOVED TO APPOINT COUNCILOR**
200 **PELLETIER, SECONDED BY COUNCILOR WHITE, WITH ALL IN FAVOR.**
201 **MOTION PASSES 7/0.**

202 f. (110214-11) The Kittery Town Council moves to schedule a public hearing on
203 proposed amendments to the fee schedule at Fort Foster.

204 **CHAIRPERSON THOMSON MOVED TO SCHEDULE A PUBLIC HEARING**
205 **ON PROPOSED AMENDMENTS TO THE FEE SCHEDULE AT FORT FOSTER ON**
206 **NOVEMBER 24TH, SECONDED BY COUNCILOR WHITE WITH ALL IN FAVOR.**
207 **MOTION PASSES 7/0.**

208 g. (110214-12) The Kittery Town Council moves to set the Town Manager's salary,
209 effective November 12, 2014, be set at \$106,575.

210 **COUNCILOR WHITE MOVED TO SET THE TOWN MANAGER'S SALARY,**
211 **EFFECTIVE NOVEMBER 12, 2014, BE SET AT \$106,575, SECONDED BY**
212 **COUNCILOR PELLETIER.**

213 Councilor Denault indicated that he did not think that this was fair as other employees'
214 contracts had not yet been finalized.

215 **COUNCILOR DENAULT MOVED TO POSTPONE ACTION ON THIS ITEM**
216 **UNTIL THE NEXT REGULAR MEETING, SECONDED BY COUNCILOR DENNETT.**

UNAPPROVED MINUTES

217 **A ROLL CALL WAS TAKEN WITH COUNCILORS SPILLER, LEMONT,**
218 **PELLETIER, WHITE AND CHAIRPERSON THOMSON OPPOSED. MOTION DOES**
219 **NOT CARRY 2/5.**

220 **A ROLL CALL VOTE WAS TAKEN ON THE MAIN MOTION WITH**
221 **COUNCILOR DENNETT AND COUNCILOR DENAULT OPPOSED. MOTION**
222 **PASSES 5/2.**

223 h. (110214-13) The Kittery Town Council moves to authorize the Town Manager to
224 close departments with the exception of essential personnel, the day after Thanksgiving,
225 November 28, 2014, with the understanding that employees will use their personal accumulated
226 time.

227 **COUNCILOR SPILLER MOVED TO AUTHORIZE THE TOWN MANAGER TO**
228 **CLOSE DEPARTMENTS WITH THE EXCEPTION OF ESSENTIAL PERSONNEL,**
229 **THE DAY AFTER THANKSGIVING, NOVEMBER 28, 2014, WITH THE**
230 **UNDERSTANDING THAT EMPLOYEES WILL USE THEIR PERSONAL**
231 **ACCUMULATED TIME, SECONDED BY COUNCILOR LEMONT, WITH ALL IN**
232 **FAVOR. MOTION PASSES 7/0.**

233 i. (110214-14) The Kittery Town Council moves to appoint a representative to meet
234 with the Chair of the CIP Committee to interview Chris Perkins for his re-appointment to that
235 Committee until 12/8/17.

236 **CHAIRPERSON THOMSON MOVED TO REAPPOINT CHRIS PERKINS TO**
237 **THE CIP COMMITTEE UNTIL 12/8/17, WITHOUT THE BENEFIT OF AN**
238 **INTERVIEW, SECONDED BY COUNCILOR SPILLER, WITH ALL IN FAVOR.**
239 **MOTION PASSES 7/0.**

240 17. COUNCILOR ISSUE OR COMMENT

241 Councilor Denault thanked the Police Department and Fire Department for providing the
242 police and fire logs.

243 Councilor Denault stated that he wanted to clarify that his no vote on the town manager's
244 salary was no reflection of her and that he wanted all the other department heads to move
245 forward at the same time.

246 Councilor Denault asked that the next agenda include appointing Robert Harris to the
247 Planning Board. Chairperson Thomson stated that he could not be appointed without an
248 interview and that would be put on the next agenda.

249 Councilor Spiller thanked the town clerk and her staff for a good election day.

UNAPPROVED MINUTES

250 Councilor Lemont stated that he was honored to serve on the Council and thanked the
251 voters for trusting in him.

252 Councilor Lemont indicated that a few of his neighbors were concerned with the traffic
253 leaving from Gate 2 in the afternoon. Chairperson Thomson stated that the Town Manager
254 would reach out to the Shipyard.

255 Councilor Lemont noted that he wanted to be on a proactive Council and thought they
256 could extend an invitation to the state senator to a meeting to discuss ideas. Chairperson
257 Thomson asked the Town Manager to contact her office and see if she could attend the
258 November 24th meeting.

259 Councilor White noted that Attorney MacEachern was recognized at the York County
260 Bar Association fall dinner for his excellence in the profession. He continued the town was
261 lucky to have him.

262 18. COMMITTEE AND OTHER REPORTS

263 a. Communications from the Chairperson –

264 Chairperson Thomson stated that there was a workshop scheduled on November 17th with
265 ARQ Architects relative to the possibility of expansion at the Rice Library.

266 Chairperson Thomson stated there was a state sign on Whipple Road that was at a 45
267 degree angle and asked that the DPW straighten it.

268 b. Committee Reports – None

269 19. EXECUTIVE SESSION – None

270 20. ADJOURNMENT

271 **COUNCILOR PELLETIER MOVED TO ADJOURN, SECONDED BY**
272 **COUNCILOR DENAULT WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:47**
273 **P.M.**

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TOWN OF KITTEERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
OCT 08 2014
BY: 1:25 PM BDB

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Robert D HARRIS Sr

RESIDENCE: 40 Cuths

MAILING (if different) 40 Cuths RD

E-MAIL ADDRESS: RDHARRIS@COMCAST.NET PHONE #: (Home) 439 5614 (Work) _____

Please check your choices and list in order of priority by marking 1,2,3, etc.:

Not interested
Per Robert
Harris Sr
11/18/14
WP

- Board of Appeals
- Board of Assessment Review
- Conservation Commission
- Mary Safford Wildes Trust
- Comprehensive Plan Update Committee
- Shellfish Conservation Committee
- Recycling Scholarship Selection Committee
- Economic Development Committee
- Parks Commission
- Open Space Committee
- Port Authority
- Planning Board
- Personnel Board
- Other _____

Per Robert Harris Sr.
11/18/14
1 3
WP

EDUCATION/TRAINING: _____

RELATED EXPERIENCE (Including other Boards and Commissions) _____

PART MEMBER PERSONNEL BOARD

PRESENT EMPLOYMENT: RETIRED

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTEERY Yes No

ANY KNOWN CONFLICT OF INTEREST: NO

REASON FOR APPLICATION TO THIS BOARD: To Serve

I HAVE ___/HAVE NOT ___ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Robert Harris Sr
SIGNATURE OF APPLICANT

10/03/2014
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
DEC 23 2013
BY: NCP 6:30 pm

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: ROBERT D. HARRIS Sr

RESIDENCE: 40 Cutts Rd Kittery ME

MAILING (if different) _____

E-MAIL ADDRESS: RDH@HARRIS.COM PHONE #: (Home) 207 439 5614 (Work) _____
RAY FAIRBANKS, ME

Please check your choices and list in order of priority by marking 1,2,3, etc.:

- Board of Appeals
- Conservation Commission
- Cable Television Rate Regulation Board
- Recycling Scholarship Selection Comm.
- Parks Commission
- Port Authority
- Personnel Board
- Board of Assessment Review
- Mary Safford Wildes Trust
- Shellfish Conservation Committee
- Community Center Bldg. Comm./Rec. Comm.
- Open Space Committee
- Planning Board
- Other _____

Per Robert Harris Jr
11/18/14
(11/18)

EDUCATION/TRAINING: High School & COLLEGE BUSINESS PSYCHOLOGY

RELATED EXPERIENCE (Including other Boards and Commissions) Past Member
OF PERSONNEL BOARD HAVE RUN MY OWN BUSINESS

PRESENT EMPLOYMENT: RETIRED

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY Yes No

ANY KNOWN CONFLICT OF INTEREST: NO

REASON FOR APPLICATION TO THIS BOARD: TO SERVE THE TOWN

I HAVE ___/HAVE NOT ___ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Robert D Harris
SIGNATURE OF APPLICANT

12/27/2013
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

NOV 12 2014

BY: P:30 Am

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Matt Brock

RESIDENCE: 50 Goodwin Rd Kittery Pt ME 03905

MAILING (if different) _____

E-MAIL ADDRESS: matbrock1@comcast.net PHONE #: (Home) _____ (Work) _____

207 752 2223

Please check your choices and list in order of priority by marking 1,2,3, etc.:

- | | |
|--|---|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Recycling Scholarship Selection Committee | <input type="checkbox"/> Economic Development Committee |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input checked="" type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other _____ |

EDUCATION/TRAINING: environmental lawyer

RELATED EXPERIENCE (Including other Boards and Commissions) _____

Town Council; KCC Board + Planning;
Open Space Comm.

PRESENT EMPLOYMENT: N/A

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY Yes No

ANY KNOWN CONFLICT OF INTEREST: NO

REASON FOR APPLICATION TO THIS BOARD: interest in land use/
planning

I HAVE / HAVE NOT ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

M Brock
SIGNATURE OF APPLICANT

11/12/2014
DATE



TOWN OF KITTELY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

PLEASE CHECK THE APPROPRIATE SQUARE:

- APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS
 APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

NAME:

Deborah Driscoll (Davis)

RESIDENCE:

9 Reppemeli Terrace, Kittery Point

MAILING (if different):

PO Box 207, Kittery Point, ME 03905

E-MAIL ADDRESS:

deb157d@aol.com

PHONE #:

439-0449 (Home): 439-7502 (Work)

PRESENT POSITION:

Planning Board / Repto Comp Plan

PLEASE CHECK APPROPRIATE SQUARE:

- Board of Appeals Board of Assessment Review
 Conservation Commission Mary Safford Wildes Trust
 Comprehensive Plan Update Committee Shellfish Conservation Committee
 Recycling Scholarship Selection Committee Economic Development Committee
 Parks Commission Open Space Committee
 Port Authority Planning Board
 Personnel Board Other:

COMMENTS:

Deborah Driscoll (Davis)

SIGNATURE OF APPLICANT

11/14/14

DATE



OFFICE OF THE TOWN CLERK
TOWN OF KITTERY, MAINE

200 Rogers Road
Kittery, ME 03904
Telephone: (207) 439-0452
Fax: (207) 439-6806

RECEIVED
OCT 08 2014

BY:

PLEASE CHECK APPROPRIATE SQUARE:

- APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS
- APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

NAME: GARY BEERS

RESIDENCE: 54 LEWIS Rd. Kittery, ME 03904

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: gb-pksvc@hotmail.com

TELEPHONE NUMBERS: (HOME) 439-6313 (WORK) 451-0747

PRESENT POSITION: BoA

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Other |

COMMENTS: NONE

[Signature]
SIGNATURE OF APPLICANT

10/3/14
DATE

Rec'd
10/14/14
9:08
AM



OFFICE OF THE TOWN CLERK
TOWN OF KITTERY, MAINE

200 Rogers Road
Kittery, ME 03904
Telephone: (207) 439-0452
Fax: (207) 439-6806

PLEASE CHECK APPROPRIATE SQUARE:

APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

NAME: Brian Boyle

RESIDENCE: 71 Cutts Rd Kittery

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: boyleb31@comcast.net

TELEPHONE NUMBERS: (HOME) 207 251 6034 (WORK) 978 499 5128

PRESENT POSITION: BOARD OF APPEALS

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Other |

COMMENTS: _____

Brian Boyle
SIGNATURE OF APPLICANT

Oct 7 2014
DATE



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

MEMORANDUM

To: Nancy Colbert-Puff, Town Manager
From: Jessa Kellogg, Shoreland/Environmental Resource Officer
Date: November 18, 2014
Subject: Bowen Road ROW Clearing and Steps
CC: Shelly Bishop, Interim Code Enforcement Officer
Norman Albert, Commissioner of Public Works
Chris DiMatteo, Interim Town Planner

EXECUTIVE SUMMARY

Nicholas Clainos of 8 Bowen Road hired a contractor to install steps on a Town-owned parcel of land on Bowen Road without proper approval and against a direct order not to from the Commissioner of Public Works, albeit a misunderstanding on his part. This memo will address several questions including what should Mr. Clainos have done to properly follow Town Code from the beginning, what remaining work is required if the Town decides to keep the steps installed, what impact would there be should the Town order Mr. Clainos to remove the steps, and what remedial action, if any, is required?

BACKGROUND

Mr. Clainos had asked Paul Greenier, a landscaper, to remove vegetation to improve the public access point on Bowen Road. Bill Greenier, a contractor in Kittery and Paul Greenier's brother, spoke with Norman Albert of DPW, in late September or early October, who told him that DPW would take care of this as it was Town-owned property. The Parks Crew Chief for DPW removed a three foot strip of vegetation to provide public access to the water from the embankment. Mr. Clainos claimed the current embankment was hazardous with missing steps and wanted to have a set of steps installed by Paul Greenier. Bill Greenier returned to DPW again on behalf of his brother and was denied permission to install the steps because it was Town property and that the contractor could potentially be held liable should anything happen to anyone on those steps. Mr. Greenier left to relay this information to Mr. Clainos who then contacted DEP and was told that because the steps were previously existing no permit was required provided erosion control measures were followed, so Mr. Clainos took it upon himself to hire another contractor do the improvements. While a permit may not have been required of DEP, Mr. Clainos did not received permission from the Town to complete any work on Town property. On October 10th Mr. Albert was informed by Kittery Police Department that the steps were being installed, so he went to the property that evening, spoke with Mr. and Mrs. Clainos, and ordered all construction to stop until the matter could be further investigated.

RELEVANT CODE

A principal structure, as defined in 16.2.2, means the primary structure on a lot or a structure that supports, shelters, or encloses the principal use on the lot. Mr. Clainos may not have required DEP permitting, per M.R.S. Title 38 §480-Q, however a Town-issued building permit would have been required as steps are considered a structure. Mr. Clainos would have required Town approval to apply for the building permit on their behalf as he is not the property owner and as construction is within the shoreland overlay zone it may have required planning board review and approval, per Article X. Shoreland Development Review.

16.10.10.1 Permits Required.

A. After the effective date of this code, no person may, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the shoreland or resource protection overlay zones in which such activity or use would occur, or expand, change or replace an existing use or structure, or renew a discontinued nonconforming use.

16.10.3.5 Shoreland Development Review.

All development in the Shoreland, Resource Protection, and Commercial Fisheries/Maritime Uses Overlay Zones involving the use, expansion, change or replacement of an existing use or structure, or renewal of a discontinued non-conforming use must be reviewed and approved as provided in this Code, and tracked as a shoreland development for reporting purposes.

The Shoreland Overlay Zone has a defined set of standards for setbacks and development. The Code Enforcement Officer may have permitted the stairs if they met the standards in 16.3.2.17(D)(2), which would require Mr. Clainos to provide a survey of the property indicating the normal high-water line if one did not already exist in the property file or a neighboring property file at Town Hall.

16. 3.2.17 Shoreland Overlay Zone OZ-SL.

D. Standards.

2. Principal and Accessory Structures – Setbacks and Development.

h. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided the:

i. structure is limited to a maximum of four feet in width;

ii. structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. §480-C); and

iii. applicant demonstrates that no reasonable access alternative exists on the property.

A buffer strip of vegetation must be preserved within the first 100' of the Shoreland Overlay Zone, per 16.9.2.2, though further vegetation was cut and removed on either side of the steps and down the embankment, which violates this Code.

16.9.2.2 Clearing or Removal of Vegetation for Uses Other Than Timber Harvesting in a Resource Protection or Shoreland Overlay Zone.

B. Except in areas as described in Article II of Chapter 16.9 above and one hundred (100) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation must be preserved as follows:

1. Clearance of an opening greater than two hundred and fifty (250) square feet in the forest canopy, or other existing woody vegetation if a forested canopy is not present, as measured from the outer limits of the tree or shrub crown is prohibited. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

D. It is not permissible to clear openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceeding in the aggregate, 25 percent of the lot area within the Resource Protection or Shoreland Overlay Zone or ten thousand

(10,000) square feet, whichever is greater, including land previously cleared. This provision does not apply to the Commercial Fisheries/Maritime Activities zones.

E. Legally existing nonconforming cleared openings may be maintained, but must not be enlarged, except as allowed by this Code.

PROPOSED SOLUTION/RECOMMENDATIONS

Should the Town vote to keep the steps, the Code Enforcement Officer would need to issue a building permit to be maintained in the Town property file. Mr. Clainos would need to provide insurance documentation for his contractor who would need to finish installation of the steps and bring them up to building code for uniform tread depths and riser heights. As they currently are installed there is no uniformity as required in International Building Code, section 1009.4 Stair treads and risers.

1009.4.2 Riser height and tread depth. Stair riser heights shall be 7 inches (178mm) maximum and 4 inches (102mm) minimum. The riser height shall be measured vertically between the leading edges of adjacent treads. Rectangular tread depths shall be 11 inches (279mm) minimum measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. Winder treads shall have a minimum tread depth of 11 inches (279mm) measured between the vertical planes of the foremost projection of adjacent treads at the intersections with the walkline and a minimum tread depth of 10 inches (254mm) within the clear width of the stair.

1009.4.4 Dimensional uniformity. Stair treads and risers shall be of uniform size and shape. The tolerance between the largest and smallest riser height or between the largest and smallest tread depth shall not exceed 3/8 inch (9.5mm) in any flight of stairs. The greatest winder tread depth at the walkline within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5mm).

Per the Assistant State Fire Marshall, Richard McCarthy, if you provide access to a feature such as the ocean, you would have to provide access to all including those with disabilities. The steps would be considered a public stairway and would be required to meet all ADA requirements, including a handrail, so this would need to be installed as well.

1012.2 Height. Handrail height, measured above stair tread nosings, or finish surface of ramp slope, shall be uniform, not less than 34 inches (864mm) and not more than 38 inches (965mm).

I do not recommend that the Town order Mr. Clainos to remove the steps as it would create a negative environmental impact, including loss of stabilization in the embankment resulting in sedimentation and erosion. Per an on-site visit by Mike Morse, the DEP Assistant Shoreland Zoning Coordinator, on November 18, 2014, I recommend that Mr. Clainos replant 8-10 small native plants along the sides of the steps down the embankment and at the top of the landing to further stabilize the area and protect against erosion. Once the steps are brought up to code, a handrail is installed, and the area stabilized with small plantings it would then fall on the Department of Public Works to maintain the landscaping.



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: November 24, 2014
From: Nancy Colbert Puff, Town Manager & Janice Grady, Director, Kittery
Community Center
Subject: Fort Foster Pavilion - Fees

EXECUTIVE SUMMARY

In order to implement on-line processing of Fort Foster reservations, we propose a fee increase and the ability to pass on credit card transaction fees of 3% to the user. The Parks Commission voted to support the fee increase.

STATEMENT OF NEED

The fee increase is needed in order to maintain existing revenue associated with reserving the pavilions. The service provider through which we conduct all current transactions, Activenet, recently began charging a fee to the Kittery Community Center (KCC) for use of its booking system. This fee (2.5% of the transaction) is deducted from all transactions; an additional 3% is also charged for credit card processing. The KCC is amending its fee schedule as a result – in order for Fort Foster pavilion bookings to continue to be processed by the KCC, to be made available on line, and to preserve projected revenues, a fee increase is proposed.

BACKGROUND

Earlier this year we planned to transfer reservation of the pavilions at Fort Foster from the Kittery Community Center/Recreation Department to the Parks Department located in the Highway offices. Councilor Spiller asked whether the service could be located at the customer service counter, to better serve those who come to Town Hall for a variety of services.

Upon further analysis, the existing foot traffic and number of regulations associated with booking the pavilions did not support relocating this function to the customer service desk. Likewise, relocating the service to be administered by a single person (the administrative assistant) in the Parks Department was not ideal.

As a result, the KCC explored the method for allowing people to a) look at availability of the pavilions on line and b) book the pavilions on line using a credit card.

FACTS BEARING ON THE EQUATION

- To continue with no change in the way the pavilion is booked requires a fee increase in order to net projected revenues due to the recent introduction of an Activenet charge.
- By allowing customers to view the pavilion calendar and book it on line, we are making the pavilion booking process more convenient.

- A 3% fee is charged to credit card customers. We propose to pass this fee on to the customer.

CURRENT SITUATION

The question to raise pavilion fees for Fort Foster comes before the Council.

PROPOSED SOLUTION/RECOMMENDATION

Increase fees per Section E.3.b of Fort Foster Policies and Regulations as follows:

| | Existing | Proposed |
|-----------------------------|----------|----------|
| 1. Small Pavilion (35 max.) | \$50 | \$51.50 |
| 2. Large Pavilion (1-50) | \$100 | \$105.75 |
| 3. Large Pavilion (51-100) | \$150 | \$158.50 |

For credit card customers, a transaction fee (3%) will be charged.

RATIONALE FOR THE PROPOSED SOLUTION (INCLUDING COSTS)

Proposed fees are rounded up to the nearest \$.025 for ease of use.

FORT FOSTER PARK
POLICIES AND REGULATIONS

() indicates when policy/regulation went into effect

A. SCHEDULED HOURS OF OPERATION

1. Gate attendants will open the park on weekends in May before Memorial Day and September after Labor Day from 10:00 a.m. to 8:00 p.m. or sunset, whichever is earlier. (9/3/97)
2. The park will be open from 10:00 a.m. to 8:00 p.m., seven days a week from Memorial Day to Labor Day. (9/3/97)
3. There shall be no persons permitted except for authorized personnel within the park from sunset to sunrise. (9/3/97)
4. Pedestrian/foot traffic will be allowed from sunrise to sunset from October 1 to April 30 and weekdays in May before Memorial Day and in September after Labor Day. During these off season times the park is closed to unauthorized vehicular traffic including motorcycles, snowmobiles and all terrain vehicles. (11/25/85), (9/3/97)

B. GENERAL REGULATIONS

1. The vehicular speed limit within the confines of the park is 5 M.P.H. (9/3/97)
2. Littering is prohibited as provided by Chapter 8, Section 8.04.07 of the Kittery Town Code and users of the park must take their trash with them when they leave the park. (5/29/91), (9/3/97)
3. Fires are permitted only in grills or pits designed for cooking uses. (6/9/97), (9/3/97)
4. Consumption of alcoholic beverages is prohibited by State statute. (prior to '81)
5. Vehicles are permitted only on access roads and must park in designated parking areas. (9/3/97)
6. The Kittery Park Division and its employees are not responsible for lost or stolen property. (9/3/97)
7. Lifeguards are not provided and due to strong tidal currents, there is no swimming or diving allowed from the pier.
8. Non-motorized, windsurfers, sea kayaks and canoes are to be launched only from the area referred to as "Windsurfer's Beach." Such watercraft may be brought in on car-tops or trailers. If trailers are used, the trailer must be parked in the Upper Parking Lot after the visitor has dropped off their watercraft at Windsurfer's Beach. Commercial tours involving non-motorized watercraft (e.g., sea kayak tours) are not allowed to launch within Fort Foster. (8/23/04)
9. Dogs must be kept on a leash at all times. Owners will be asked to leave the park if their dog is not under control. (9/3/97)
10. A "pooper scooper" rule is in effect for dogs. Owners must take their dog waste with them when they leave the park. (6/9/97), (9/3/97)
11. Dogs are prohibited from Pier Beach east of the Pier for approximately 400 feet, or as designated by signs. (8/23/04)
12. Removal or destruction of any buildings, facilities, flora, or fauna is not permitted in order to preserve the environmental integrity of the park. (9/3/97)

13. No hunting and no firearms allowed in the park. (prior to '81)
14. Scuba diving is restricted to areas not within the main beach area, i.e. restricted to areas outside the main beach and signs will be erected on either side of the main beach stating that no scuba diving is allowed between these points. (6/16/83)
15. Early entry into the park for the purpose of reserving a table is not permitted (9/3/97)
16. Commercial activities, such as selling merchandise and providing guided tours or instructional courses where participants pay a fee for the services, are prohibited from the Park without prior approval of the Town Council. (8/23/04)

C. SEASON PERMIT FEES (9/3/97)

1. Persons meeting Town residency requirements or property owners, except organizations and corporations, are entitled to a season permit for \$20.00 issued to them and their immediate family which means an individual, husband and/or wife and their blood relations that are residing in the same household. This includes a ward, foster child, or stepchild. (9/3/97), (9/26/05)
2. Kittery resident senior citizens (persons 62 years of age or older) may obtain one season permit for their own vehicle at a charge of \$5.00. (5/29/91), (9/3/97) (12/20/99)
3. Those persons not qualifying under No. 1 above may obtain at the Kittery Municipal Building or Fort Foster gate a season permit for \$60.00 per year. (9/3/97) (12/20/99), (9/26/05), (1/28/08), (10/16/13)
4. A charge of \$5.00 shall be made for a duplicate resident, or resident senior citizen (62 years of age or older), or 100% disabled American veteran vehicle sticker. A charge of \$15.00 shall be made for a duplicate non-resident sticker. Receipt of original permit purchase required. (4/2/84), (10/16/13)
5. When an individual or family member goes to the Kittery Municipal Building to purchase a Fort Foster season permit, they must present the registration for the vehicle to which the sticker is to be attached. Pass cards may be issued at .50 each to any member of the immediate family with their full name and sticker number on that card. This pass allows entry only for the individual owner of the card. Vehicles may not enter the park using a pass card. (9/3/97), (9/26/05)
6. One and only one day pass may be used for credit towards the purchase of a resident or resident senior citizen (62 years of age or older) season permit. Amounts exceeding the cost of the permit will not be refunded and may not be applied towards the purchase of duplicates. (9/3/97)
7. All vehicle season stickers must be affixed no higher than four (4) inches from the bottom line of the driver's side of the windshield. (9/3/97), (9/26/05)
8. Vehicles with a capacity of more than 15 passengers can not obtain a season permit and must pay the regular day pass rates. (9/3/97)
9. Disabled American Veterans who are 100% disabled may obtain at the Kittery Municipal Building one free season permit for his/her own personal vehicle free of charge upon presentation of a Federally issued 100% Disabled Veteran Identification Card or a Veterans Administration Awards Letter of Entitlement stating 100% disability.

D. DAY-USE VISITOR PASS FEES

1. Motor Vehicle Day Pass - \$10.00 (includes pass for vehicle and occupants); (12/20/99)
2. Permanently Disabled American Veterans are allowed to receive a free Motor Vehicle Day Pass upon presentation of a Federally issued 100% Disabled Veteran Identification Card or a Veterans Administration Awards Letter of Entitlement stating 100% disability.
3. Bus Day Pass - \$100.00; (4/24/00)
4. Student School Bus Day Pass with adult chaperone(s) - \$50.00. (4/24/00)
5. Day-use visitor walk-ins or bike-ins shall pay \$5.00 per adult and \$1.00 per child under twelve years of age. (12/20/99) (4/24/00)

E. RESERVATION OF PAVILIONS

1. General
 - a. The maximum number permitted in any group is one hundred (100) people. (6/9/97), (9/3/97)
 - b. The pavilions are the only areas of the park which may be reserved for group use except for special events made by application and approved by the Town Council. (6/27/05)
 - c. Reservations are limited to one group for the season.
 - d. All groups reserving the pavilion area must leave the area in as good condition as it was found or be prohibited from using the facility in the future.
 - e. All trash must be removed by the group using the pavilion. Waste receptacles will not be provided by the Town. (5/29/91)
 - f. All groups using the pavilion must leave the area by 7:00 p.m. (5/29/91)
2. Reservation applications are accepted as follows: (5/29/91), (9/3/97), (9/26/05)
 - a. Reservation forms are available from the Recreation Director, P.O. Box 808, Kittery, Maine 03904, phone 207-439-3800, and checks should be made payable to the Town of Kittery. Forms must be completed and payment made prior to finalizing of the reservation date. (9/3/97)
 - b. January 1 - April 15 Reservations accepted from any Kittery group on a first come, first serve basis.
 - c. April 16-September 23. Any group or non-profit organizations. (9/3/97)
 - d. Each group or organization must provide two (2) 2' x 2' signs saying:

TOWER PAVILION
RESERVED TODAY
(NAME OF GROUP)

These signs should be posted by the group at the intersection of the Pier Road and the Pavilion Road and one at the Pavilion.

3. Tower Pavilion Reservation Fees: (5/12/86)
 - a. The reservation fee assures the group or organization that the pavilion will be reserved for their use. Payment of the pavilion fee does not include the park entrance fee, which will be collected at the gate. (9/3/97)

- b. Groups must pay the following fee rates: (6/9/97), (9/3/97)
 1. Small pavilion, group 35 or fewer people, \$501.050 (9/26/05)
 2. Tower pavilion, group 50 or fewer people \$1005.0075 (9/26/05)
 3. Tower pavilion, group 51-100 people \$158.050 (9/26/05)
 4. Cancellations will be charged a \$50.00 service fee. (6/3/97), (9/26/05)
4. Pavilion Use By Kittery Non-Profit Organizations (9/3/97)
 - a. Kittery based civic, social, or non-profit organizations like scouts, fire department, Traip class reunions or church groups will be allowed into the park for one day per season free of charges provided: (9/3/97)
 - (1.) The reservation is made for weekends in May or September and weekdays from Memorial Day through Labor Day; (9/3/97)
 - (2.) The head of the Kittery group or non-profit organization must submit a completed written application in order to reserve the pavilion and have free entrance to the park. The application must give the desired reservation date; alphabetized list of the names and number of people of the group; the individual responsible for the group; and be submitted at least 7 days prior to the anticipated function date, otherwise gate fees will apply. (9/3/97)
 - (3.) The Recreation Director will issue a written response and confirmation to the head of the organization. (9/3/97)
 - (4.) Traip Class Reunions must be celebrating their 10th, 20th, 25th, or 50th anniversary, for other anniversary years regular charges are required. (6/9/97)
 - (5.) Except for item 4.a, above all appropriate fees shall be assessed. (9/3/97)

F. SPECIAL EVENTS (6/27/2005)

1. The Park may be used for special events such as the annual Isles of Shoals Race, scout camporees, special Town or School uses, or other activities upon approval of the Town Council. Application for special events should be made through the Recreation Department, and the Recreation Director will then forward the request to the Town Manager. The Town Manager should request the recommendations of the Parks Commission, Recreation Department, Public Works Department, and may wish to include input from others, i.e., Police and Fire Departments. The Town Manager's report or recommendation will be submitted to the Town Council for their consideration and determinations. (6/27/05)

2. Fees may be charged for special events to cover the costs of Town employees providing services in association with the event (e.g., opening a gate early). The

Commissioner of Public Works will estimate the costs associated with the event and forward these to the Town Manager (with a copy to the Parks Commission) for inclusion with the Commission's recommendation concerning the event.

The Town Manager will then issue a decision in writing to the applying group.
(8/23/04)

3. All special events must be compatible with the mission of the Park. (8/23/04)

DEFINITIONS

Town residency requirements: Proof of residency can be satisfied by one or more of the following showing a Kittery address:

- Maine drivers license
- State of Maine ID
- Maine vehicle registration
- Utility bill
- Piece of mail
- Personal check
- Rent or lease agreement
- Buyers order for a new home
- Being a registered voter in Kittery.

Season Permit: Includes a sticker, which allows entrance to Fort Foster for the current season, to be affixed to the windshield or your vehicle and includes a walk-in pass for each member of the immediate family identified as an individual, husband and/or wife and their blood relations who are residing in the same household, which includes a ward, foster child, or step-child. (9/3/97)

- Approved as amended 6/9/97
- Approved as amended 9/3/97
- Approved as amended 12/20/99
- Approved as amended 4/24/00
- Approved as amended 5/29/02
- Approved as amended 8/23/04
- Approved as amended 6/27/05
- Approved as amended 9/26/05
- Approved as amended 1/28/08
- Approved as amended 4/14/08
- Approved as amended 10/16/13



KITTERY POLICE DEPARTMENT

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 439-1638 Fax: (207) 439-6140



Theodor G. Short
Chief of Police

Russell C. French
Lieutenant

To: Nancy Colbert-Puff, Town Manager

From: Theodor G. Short, Chief of Police

Re: Stop Sign Request Manson Road and Stevenson Road

Date: September 20, 2014

As a follow-up from the Town Council, we have been able to gather some data through the use of our speed trailer regarding traffic speed and count at the intersection of Manson Road and Stevenson Road.

As an aside, we have has some technical difficulty throughout the summer with our speed trailer and it was down for a significant amount of time and is down again.

As a refresher, I was approached by Gerry Mylroie, former Town Planner, to consider a reconfiguration of the aforementioned intersection. There were also other changes that were suggested that I was not in agreement with. To date, Dana Avenue and Manson Road is now in compliance with code as it has been returned back to a stop sign. Remaining is the final decision on a three way stop.

Over as sixteen day period from July 10, 2014 to July 30, 2014 the speed trailer was located on Manson Road west (heading toward Wilson Road), Manson Road east and Stevenson Road (heading toward Manson Road). There were 15,587 vehicles with an average speed of 24.07 miles per hour. Below is a breakdown of the traffic count by road:

| Location | Dates | Total Vehicles | Avg. Speed |
|------------------|-----------|----------------|------------|
| Stevenson Road | 7/10-7/15 | 5179 | 22.78 |
| Manson Road East | 7/17-7/22 | 2761 | 22.96 |
| Manson Road West | 7/24-7/30 | 7647 | 26.49 |

*Information compiled by Sgt. Gary Eaton

It has been my opinion that the placement of stop signs at the Manson Road intersection would calm traffic and perhaps reduce the number of vehicles using this neighborhood as a shortcut. In the time that I have served as the Police Chief I have responded to at least three serious motor vehicle accidents at the intersection of Manson Road and Wilson Road. With the data above, personal observations and some neighborhood input, I believe that making this intersection a three way stop will not only calm traffic in the neighborhood, but may also have an impact in reducing serious crashes at the Wilson Road Intersection.

In closing, it is my recommendation that two stop signs be erected at this intersection for public safety purposes.

10.2.2 Stop Intersections Designated.

10.2.2.1 On Public Ways.

The following intersections are designated as stop intersections and stop signs are to be so erected:

On Manson Road East at Stevenson Road

On Manson Road West at Stevenson Road

October 22, 2014

Nancy Colbert Puff, Town Manager
Town of Kittery, ME
200 Rogers Road
Kittery, ME 03904

RE: Shapleigh Middle School, 43 Stevenson Rd, Kittery, ME Site Use Request - Charity
Defense Council March

Dear Nancy,

I am writing to request the use of Shapleigh Middle School as the opening ceremonies site for the Charity Defense March. We are providing all of the information and site plan (attached). I am requesting to be added to the November 24, 2014 agenda.

About The Charity Defense March:

The Charity Defense March is a three day walk. We will start out in Kittery, ME and end in Salem, MA. The participants will be walking a total of 60 miles. Each day consists of 20 miles of walking with rest stops every 2-3 miles along the route. Not only will these inspiring participants walk 60 miles, they will also be raising funds for the Charity Defense Council. This march is for anyone and everyone working in the charitable sector from executive directors to social workers and for anyone who supports them.

The Charity Defense Council has a very powerful advisory board with people from the Wounded Warrior Project, Goodwill Industries International, Boys and Girls Club of America, United Way World Wide just to name a few. :

Our goal is singular and bold: to change the way people think about changing the world. To let them know that low overhead is not the way the world gets changed. That poor executive compensation is not a strategic plan for ending hunger and poverty or curing disease. That inadequate, donated resources are not the path to global transformation.

The Charity Defense Council has five functions:

1. Anti-Defamation Force
2. Brave and Daring Public Ad Campaigns
3. Legal Defense Fund
4. National Civil Rights Act for Charity and Social Enterprise
5. Organize Ourselves

By doing these five things in a beautiful synchronicity we can change the way the public thinks about charity.

Please check out the following links for more information:

Dan Pallotta's Ted Talk:

[http://www.ted.com/talks/dan_pallotta_the_way_we_think_about_charity_is_dead_w
rong](http://www.ted.com/talks/dan_pallotta_the_way_we_think_about_charity_is_dead_wrong)

Charity Defense Council Website: <http://charitydefensecouncil.org/>

Charity Defense March Website: <http://charitydefensecouncil.org/march/>

Items and Timeline:

Sound Ordinance: The Charity Defense Council will respect the Kittery town sound ordinance.

Insurance: We are reviewing bids from various insurance companies. Once the review process is complete and we are signed on with an agency, we will absolutely provide and include as additionally insured: The Town of Kittery, its officers, officials, agents, employees, volunteers and KCC Board of Directors. You can also add in to the contract "contingent upon insurance".

Electricity: We agree to pay a one-time fee to the Town of Kittery for the use of the schools parks electrical outlets, unless you prefer we bring in our own generator.

Police Details: We agree to hire police details as would be suggested by the Police Chief..

Site Use Fee: We agree to pay a site use fee.

Ambulance: We will secure one ambulance on site and along the route.

Flooring/Plywood: Since the stage is connected to a pick-up truck, we will need to drive on part of the grass, we will use plywood on the ground that the vehicle will drive over, we will drive as close on the dirt path as possible before driving on the grass. Please see photos for example.

Time line:

Set-Up:

Thursday, June 25, 2015, 8am-5pm:

8:00am-5:00pm: Equipment starts arriving (stage, tables, chairs, tents). The set up will happen throughout the day. We will be setting up about 3-20'x20' tents, 1-20'x24' stage, 10-6' table, Set up of stage (approximately 20'x24'), sound system (we would stay within accordance to your rules), signage (self-standing), water stations (tables with water and sports drinks). We will not be serving food on the site. We will hire overnight security to oversee the site (Thursday, June 25th, 5pm to Friday, June 26th 5:15am).

Friday, June 26, 2015, 4:00am-12:30 noon:

Opening ceremonies timeline:

4:00am: Staff arrives

4:45am: Volunteers arrive
5:30am: Participants start arriving
7:00am: Ceremonies begin. Music and speaking
7:45am: Walk begins
8:15am: Breakdown of site (this includes removal of stage, sound, tables, chairs and trash)
12:30pm: Site will be clean and cleared.

I'm proposing the following route from Shapleigh to Memorial Bridge to Chief Short and Lt. French:

Right onto Mason Rd>Right onto Dana Ave>Left onto ME 236S>traffic circle take 2nd exit onto State Rd>Slight Left onto Newmarch St>Memorial Bridge

We will camp out at another location Friday, June 26 and Saturday, June 27, 2015. Participants will be raising funds to support the Charity Defense Council.

I'm requesting permission to use Shapleigh Middle School, starting Thursday, June 25th (8:00am-5:00pm) and Friday, June 26, 2015 (4:00am-12:30 noon).

Please let me know if there is anything else I can provide.

Thank you so much for your time and consideration.

Best,

Michelle F. Harper, Logistics Director
Charity Defense March
617-821-8536
michelle@charitydefensecouncil.org



TOWN OF KITTERY, MAINE

PERMIT FOR FIELD USE

NAME OF ORGANIZATION: Charity Defense March

RESPONSIBLE PERSON: Michelle F. Harper
 (NAME, ADDRESS) 222 Third St, Cambridge, MA 02142
Cell 607-831-8536

PHONE NUMBERS: HOME _____ WORK _____

ALTERNATE PERSON: Dan Palotta
 (NAME, ADDRESS) 222 Third St, Cambridge, MA 02142

PHONE NUMBERS: HOME _____ WORK _____

FIELD REQUEST: Shapleigh Middle School

AREA: Soccer field, baseball field & parking lots

DATES & TIMES June 25, 2015 8am-5pm
June 26, 2015 11am-12:30pm

PURPOSE OF USE: Opening Ceremonies for walk

INSURANCE REQUIREMENT YES NO

We voluntarily do agree to hold harmless the Town of Kittery, Recreation and Parks Departments, and their staff in the event of any injury received by anyone while using the facilities and that we shall not attempt to make any recovery against the Town of Kittery, or employee(s). We further understand that the privilege to use this area may be revoked if there are any problems.

USER'S SIGNATURE: Michelle F. Harper DATE: 10/22/14

A copy of this permit must be in your possession while using the field.

ASST. REC DIRECTOR'S SIGNATURE: _____

APPROVED AS IS _____ APPROVED W/CHANGES _____ DENIED _____

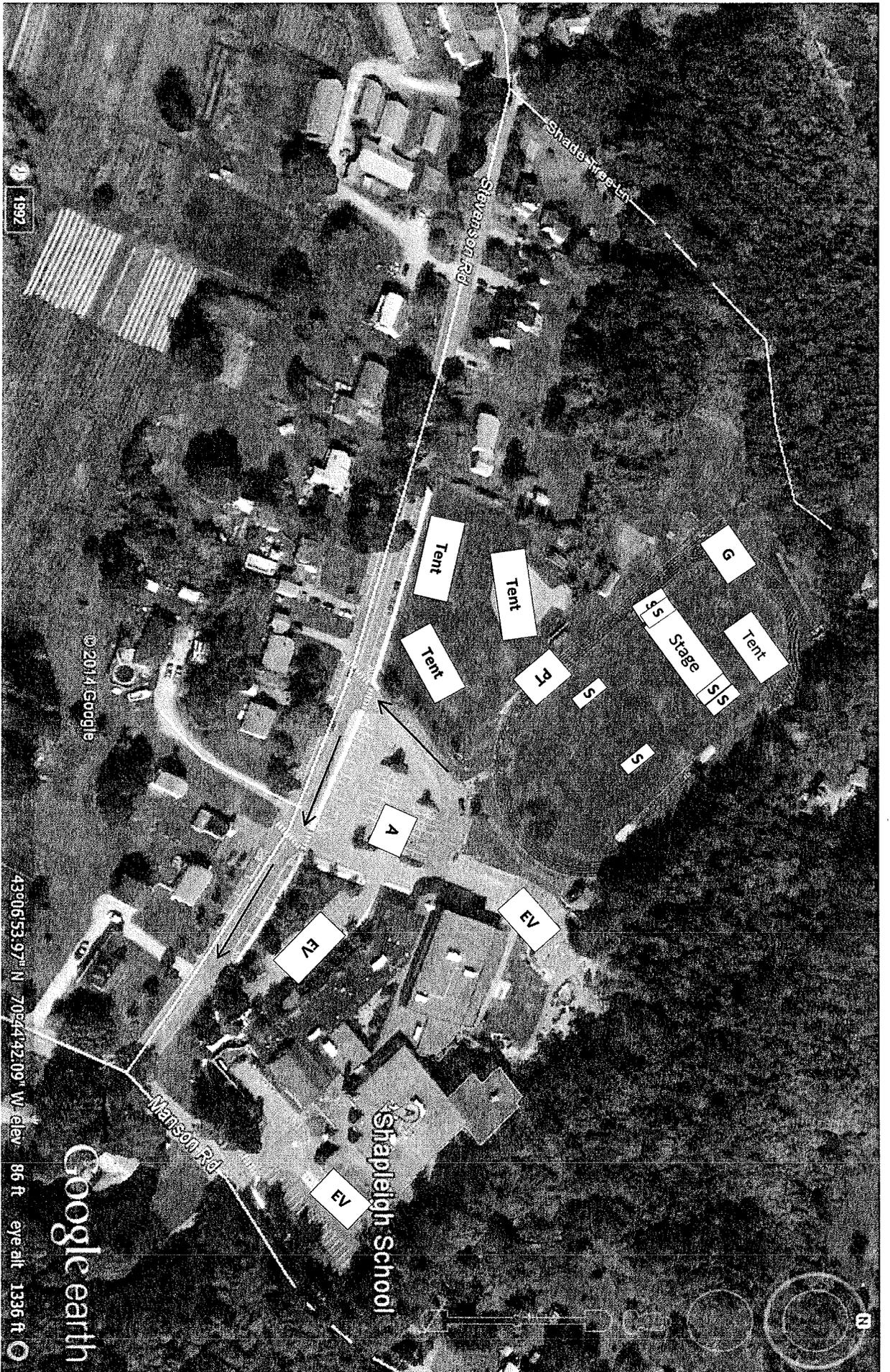
DATE: _____ TOTAL FEE DUE: _____ PAID: _____ (CASH OR CHECK)

Contact Kittery Recreation at 207-439-3800 for more information.

**T H E
C H A R I T Y
D E F E N S E
M A R C H SM**

Shapleigh Middle School, 43 Stevenson Rd, Kittery, ME
Proposed Site Plan
June 25-26, 2015

Contact: Michelle F. Harper
michelle@charitydefensemarch.org
617.821.8536



Charity Defense March

Contact: Michelle F. Harper, 617.821.8536
michelle@charitydefensemarch.org



Site Key:

A = Ambulance

EV = Event Vehicles. Only event vehicles will be parked here (24' trucks, passenger vans, mini vans & cars).

These vehicles will leave once ceremonies is over. Participants will NOT be parking at the site. We will shuttle them from their hotel to the site.

G = Generator. I am adding this on in case we are unable to use the parks electrical hook-up (at a cost to us).

PT = Portable Toilets

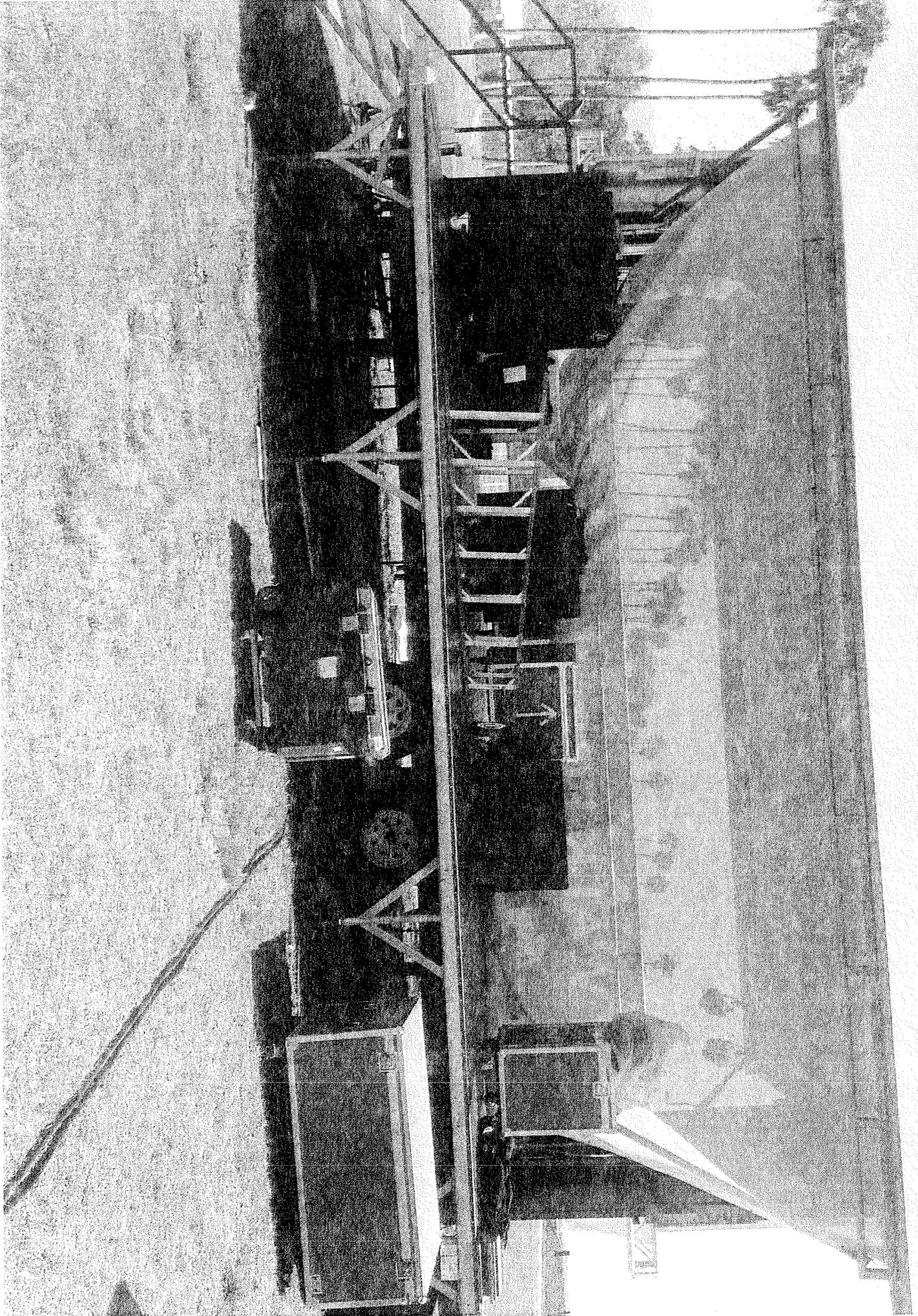
S = Speakers, two on each side of stage and then two at the middle of the field facing the stage. 14" square, mounted on tripods.

Stage: 20'x24'

Tents: 20'x20' (may be smaller)

Walk Exit:









November 19, 2014

Board of Directors

*Larry Rubinstein, Scarborough
President
Phil Coffin, Carrabassett Valley
Vice President
Mark Ishkanian, Readfield
Vice President
Pamela Fischer, New Gloucester
Secretary
Peggy Stewart, South Portland
Treasurer*

David Auclair, East Winthrop

Andrew Dailey, Rockport

Peter Garrett, Winslow

Michael Hayes, Pownal

Tyler Kidder, Falmouth

Jennifer Ladd, Scarborough

*Charley LaFlamme, Ogunquit
Founder*

David Lipman, Vassalboro

Peter Millard, Belfast

Bill Muldoon, Harpswell

Robert Rand, Lewiston

Dean Read, Bar Harbor

Fred Robie, Freeport

Mike Smith, Presque Isle

Patti Smith, South Portland

Peter Toohey, Norway

Dick Vermeulen, Bremen

Emeriti

John Balicki, Brunswick

Jane Self, Camden

Nancy Colbert Puff, Town Manager
Town of Kittery
200 Rogers Road
Kittery, ME 03904

**Re: BikeMaine 2015 Proposal to Overnight in Kittery
Saturday, September 12, 2015**

Dear Nancy:

I want to thank you for meeting with me and other representatives of the Bicycle Coalition of Maine. As we discussed, the Bicycle Coalition of Maine, a 5000 member, statewide organization dedicated to making Maine better for biking and walking, operates an annual seven-day bicycle ride across the state in September. The purpose of this letter is to formally request permission for BCM to bring *BikeMaine 2015* to Kittery, and use the town-owned Fort Foster Park as our overnight site for September 12-13, 2015, and for our finish and farewell luncheon on September 19th.

BikeMaine

BikeMaine is a week-long mass bicycle ride that explores and promotes bicycling in Maine while focusing attention and tourist dollars on our state's rural communities. *BikeMaine* uses a different cycle route each September to explore approximately 350 miles of the inland and coastal regions of the state while camping in a designated host community each of 7 nights. The route alternates between noted tourist locations and rural communities that are not a prime destination for visitors in the shoulder season.

The second *BikeMaine* took place in September of 2014 with 258 participants from 34 states and 5 foreign countries. The age range of the participants was 25 to 81, with the average age being 58. The event contributed more than \$395,000 to the communities along the *BikeMaine* route, since each day's activities, meals and support services were provided by local organizations and businesses.

P.O. Box 15272, Portland, ME 04112
34 Preble Street, Portland 04101
207-623-4511 | www.bikemaine.org

BikeMaine serves BCM's mission by raising awareness of and revenue for the organization. The event also serves the state's need for experiential tourism options that promote healthy activity and ways to explore all that Maine has to offer in terms of its unique and diverse people, places, culture and food. Once *BikeMaine* is fully established and self-supporting through rider fees and corporate sponsorships, it is anticipated that *BikeMaine* will generate revenues in excess of costs. At that point, BCM will use the revenues to advance its mission of making Maine better for biking and walking through its programs and by giving cash grants to host communities to support locally-identified pedestrian and bicycle projects. This is a very intentional cross-sector solution that promotes economic opportunity while providing community-building and recreational benefits for a wide range of users.

BCM looks to towns with the organizational capacity to become host communities willing to showcase their heritage and character, and relies on their human and natural resources to create sustainable opportunities for locally-sourced food, meal preparation, other support services, and the inclusion of local art and cultural activities. In order to make *BikeMaine* a distinctly Maine culinary experience that provides a boost for the growers and suppliers of Maine foods, BCM obtains fresh and semi-processed local food in bulk. BCM partners with the host community's volunteers on food preparation to ensure tasty and appealing meals, which is important to the cyclists' experience and to the mission of BCM's food-focused partners. For more information about the event, I direct you to our website at <http://ride.bikemaine.org>.

***BikeMaine* in Kittery**

BikeMaine 2015 will be held September 12-19, 2015. We are capping the ride at 350 participants, and expect to have 50 volunteers traveling with us for the week. BCM very much would like to begin and end the 2015 ride in Kittery, at Fort Foster. We would arrive by 8:00 the morning of Saturday, September 12, to set up our *BikeMaine* Village. The riders would arrive between 1 and 5 p.m., then we would have a welcome dinner and orientation, and camp overnight. After breakfast Sunday morning, September 13, the riders would leave, the village would be packed up, and we would be out of the park by 10:00 a.m. and not return until Saturday, September 19, for the finish and farewell luncheon. While we are out on the ride for the week, we would like our riders to be able to leave their cars (approximately 198 vehicles) parked at Fort Foster, for which privilege the riders pay \$15 per vehicle that goes directly to a charitable organization of the town's choosing. Our general site requirements are attached as Attachment 1.

We will bring with us the porta-potties, sinks, shower truck, tents, banners, and signage needed to create a *BikeMaine* Village. We have looked at Fort Foster and believe that it will meet our site requirements. A site plan showing how everything can fit on the site is attached as Attachment 2.

We would be looking to Kittery to assist with the preparation, serving, and clean up of dinner on September 12 and breakfast on September 13. *BikeMaine* will purchase the ingredients for the meal and pay service organizations a total of \$4000 for their assistance in putting on the two meals under the direction of our Food Director. We also have up to \$1000 to contribute to evening entertainment for Saturday night, which can be open to the public.

We also would like the community to provide lunch for the volunteers and riders on Saturday, September 19, when we return to Fort Foster. For the luncheon, BikeMaine will pay \$10.00 per head, for a healthy and nutritious lunch supplied by the community.

BikeMaine will provide proof of insurance coverage in the amount of \$1,000,000, and can name Kittery as an additional insured if requested. We will contribute \$3000 to the community to offset expenses incurred by the town in hosting *BikeMaine*.

BCM would appreciate knowing as soon as possible if the Town will grant permission to use the Fort Foster Park for *BikeMaine* on September 12-13, 2015, and again on September 19. If there is any additional information you need, please let me know. I am available to meet directly with Town Council members to answer questions, if you prefer.

Yours in bicycling,

A handwritten signature in black ink, appearing to read "Kim Anderson True". The signature is fluid and cursive, with a large initial "K" and "A".

Kim Anderson True
BikeMaine Ride Director

Enc.

11 Howard Street

Boothbay Harbor, Maine 04538-1010



Tel: 207-633-3671
Fax: 207-633-7712

November 19, 2014

Nancy Colbert Puff
Town Manager
200 Rogers Road
Kittery, ME 03904

Dear Mrs. Colbert Puff,

I am the Town Manager in Boothbay Harbor Maine. I was the Town Coordinator for the Bike Maine event that graced our town this past September 10th, 11th and 12th. We were the layover community on the trek. We were fortunate enough to welcome over 300 riders and volunteers to our community. We set up their tent village on the sacred High School football field. We ran shuttle buses to local points of interest. I heard nothing but positive feedback from the local merchants, restaurants, tour boat captains, kayak rental business and Botanical Gardens. Their presence in Boothbay Harbor on a Thursday in September was a tremendous boost to our local economy. Everyone had a great time during their visit. Many of our guests told me that they were definitely going to come back. Some already have!

The entire staff and coordinators from Bike Maine were very professional, very well organized and it was a pleasure to work with each and every one of them. Upon their departure on Friday morning the volunteers and staff did a couple of sweeps up and down the football field to make sure that there was no damage. The school board and trustees were very pleased with the condition of the field. There were no traces of their visit left behind.

I would highly recommend welcoming this event to your community. My community would welcome them back in a heartbeat. If I can answer any questions or concerns you may have, please feel free to contact me.

Regards,

Thomas Woodin
Town Manager
11 Howard Street
Boothbay Harbor, ME 04538
207-633-3671
twoodin@boothbayharbor.org

AOS 98 | ROCKY CHANNELS SCHOOL SYSTEM
Boothbay * Boothbay Harbor * Edgecomb * Southport * Georgetown

Office of Superintendents
51 Emery Lane
Boothbay Harbor, ME 04538
207.633.2874
su49@roadrunner.com



Eileen King, Superintendent
Shawn Carlson, Asst. Superintendent
Jane Stevens, Dir. Of Sp. Services
Special Services # 207.633.6699

November 19, 2014

To Whom It May Concern:

I am excited to write a letter to support Bike Maine's request to name your town as a host town for Bike Maine 2015. I am the Superintendent of Schools of the Boothbay-Boothbay Harbor C.S.D. and was actively involved in Bike Maine 2014 as Boothbay Harbor was the lay-over town. If you choose to become a host town for Bike Maine, your town will shine, your community will benefit from the experience and you will come to know an amazing group of individuals who will do everything they can to make your experience a success.

The thought of having 300 riders arrive to a small coastal town in early September was at first overwhelming. But with the help of the Bike Maine staff, their constant support and their incredible organization, we experienced one of the most exciting two days our community has ever had. (<http://www.boothbayregister.com/article/kind-pr-money-cant-buy/41003>)

Bike Maine has every aspect covered for what it takes to be a host town. They work with the towns and those involved helping to trouble-shoot, plan and ensure that everyone has a great experience. To say that our experience was a success is an understatement.

I served as the Village Coordinator for the Bike Maine experience in Boothbay Harbor as the group was setting up the village on our football field. Bike Maine staff visited many times and at the end provided a map of how the village would be set up. On the day of their arrival, trucks arrived with the tents and other gear and within two hours the field was transformed into the Bike Maine Village. Boothbay Region High School students were able to fulfill their community service credits and worked side by side with the Bike Maine staff.

Our school and the YMCA provided buses that served as shuttles that provided transportation for the riders to points of interest. On the day of their departure, the Village was dismantled and much to my amazement, by 9:30 a.m., you would never have known that a group of people, let alone 300, had spent just about 42 hours using our field and our facilities. If you have ever heard the phrase "leave no trace", Bike Maine emulates it.

Bike Maine also offered opportunities for service organizations to raise funds to support important non-profits in the region. Volunteers of Project Graduation and the Boosters Club sold snacks, breakfast and sandwiches throughout their stay bringing in a much needed 3,000 dollars to the organizations.

Boothbay Region Elementary
238 Townsend Ave.
Boothbay Harbor, ME 04538

Boothbay Region High School
236 Townsend Ave.
Boothbay Harbor, ME 04538

Edgecomb Eddy School
157 Boothbay Road
Edgecomb, ME 04556

Southport Central School
PO Box 279
Southport, ME 04576

Georgetown Central School
PO Box 469
Georgetown, ME 04548

AOS 98 | ROCKY CHANNELS SCHOOL SYSTEM
Boothbay * Boothbay Harbor * Edgecomb * Southport * Georgetown

Office of Superintendents
51 Emery Lane
Boothbay Harbor, ME 04538
207.633.2874
su49@roadrunner.com



Eileen King, Superintendent
Shawn Carlson, Asst. Superintendent
Jane Stevens, Dir. Of Sp. Services
Special Services # 207.633.6699

I hope that you have the opportunity to become a host town for Bike Maine 2015. It was a truly rewarding experience for our entire community from start to finish, one that I hope we will be able to do again in the near future. If you surround yourself with a good team, plan early, meet often and work closely with the Bike Maine staff, I can assure you that your town will become a focal point of the state and a place where many riders will want to return to visit.

If I can be of any assistance or answer any questions, please don't hesitate to contact me at your convenience.

Sincerely,



Eileen King
Superintendent of Schools
AOS 98

Boothbay-Boothbay Harbor C.S.D.
Edgecomb
Georgetown
Southport

BLISSVILLE
MAY 1968
BLISSVILLE
MAY 1968
BLISSVILLE
MAY 1968

Dining Tent
400 sq. ft.

(5) Porta Potties

Bike Maintenance and
Kitting Information/
Bike Repair

Weeklong rider car parking
Approximately 200 cars

Shower Trailer/Hand
washing Stations

Other rider tents
150 Tents
Approx. 50,000 sq. ft.

Tent and Porter
50 Tents Total
Approx. 10,000 sq. ft.

(5) Porta Potties

BIKEVAINE

Space Needs in each community - PRELIMINARY 2015
 Revised 10-08-14
 Assumptions: 350 riders, 50 volunteers, Camper/RV accommodations by BikeVAINE



BIKEVAINE

| Element | Description | Quantity | SF required | Adjacencies | Electric* | Water** | Special needs | Remarks |
|----------------------|--|---------------------------|---|--|-----------|---------|---|--|
| Rider Tent area | Open area for riders to pitch their own tents | 350 riders | 1.35 acres 60,000 SF | Toilets, showers | | | Flat, dry, mowed grass | Avg. 8x8 tent with fly and spacing=200 SF ea 1 tent per .75 rider= 465 tents 300 x 200 = 60,000 (1.35 acres) |
| Volunteer Tent area | Open area for volunteers to pitch tents. | 50 volunteers | 1.10 acres 6,000 SF or 50 x 80 | Toilets, showers | | | Flat, dry, mowed grass | Avg. 8x8 tent with fly and spacing= 200 SF ea 1 tent per .75 volunteer= 30 tents 30 x 200 = 6,000 (1.3 acres) |
| Toilets | Portable toilets with hand sanitizer dispenser | 10 Toilets | 160 SF | Near tenting area | | | Flat, dry area or pavement/land packed | 2 min. avg. = 30/hour 4' x 4' each = 160 SF |
| Shower area | Mobile Shower Trailer | 16 Seal Shower Trailer | 1,500 SF | Close to camping | Y | Y | +110 v connection or generator. 5 - 20amp outlets 5/8" Garden Hose Connection Sewer connection | 5 min avg. shower = 85 showers/hr. 50' x 30' = 1,500 SF Must be potable water |
| Water Bottle Filling | | 2 Filling Stations | 250 SF | | | Y | Needs Garden Hose Connection | Needs sewer and water access |
| Wash Sink | | 2 Sinks | 100 SF | | Y | Y | 5/8" Garden Hose Connection | Bike needs 2' x 6' = 18 SF each |
| Bike storage area | Place to store bikes overnight | 350 | If no fence or trees Need up to 5,000 SF | Directly adjacent tenting area | | | Safe, secure. | 1 space per .75 rider = 5,000 SF |
| Luggage Area | Luggage Unload/Load | Three 26' Trucks | 6000 SF | Near tenting area | | | Ideally all pavement/land packed | |
| Information Area | BikeVAINE information and communications | 20x20' Pop-Up Tent | 400 SF | Entrance to BMV Village | | | On or near pavement/land packed | |
| Office/Mechanics | Bike/ME administration | RV | 450 SF | Information area | Y | | On pavement, near info area | Could be combined with info area, if large enough. |
| Supply Van | Miscellaneous supplies | 2 Vans | 450 SF | Adjacent to Information Area | | | Pavement/Existing Lot | 2 Spaces |
| Medical Tent | Central medical area | 10x10' Pop-Up Tent | 450 SF | Centrally located | Y | | | 10' x 10' Pop-Up Tent |
| Message Tent | Area for message | 7 tables | 1,500 SF | Quiet area | Y | | | 3-9 PM = 6 hours @ 1.25/hour = 7.5 tables each 15% use = 50/night = 7 message tables 8' x 13' each = 30' x 40' |
| Bike Mechanics | Area for bike repair | 2 Vans, 2 Trucks | 2,000 SF | Centrally located | Y | | Pavement or flat, dry area. | 15' x 30' space for each van, includes bike repair area |
| Coffee Truck | Morning Coffee Truck | One van and sales area | 600 SF | Near dining area | Y | Y | Pavement or flat, dry | 15' x 40' for van, including sales and queuing space |
| Dining area | Necessary if no indoor space available | Refrigerated Truck, Trash | 10,000 SF | Where fits | Y | Y | Pavement or flat and dry | 60' x 120' tent for 180 per seating, (10 SF per person) |
| Dumpster | Near food prep - Trash Cans as well | 1 Dumpster - 6-10 Tons | 75x4' = 40 SF | Keep open as possible | | | | Van and serving area 35' x 60' = 2,500 SF |
| Parking | Backstage Vehicles | 20 Vehicles | 9,000 SF | Remove | | | Pavement/Existing Lot | 20 spaces; 300 SF per car |
| SAG Vehicles | Drive along the route | Three vans | 1,000 SF | | | | Pavement/Existing Lot | 3 spaces; 300 SF each |
| Shuttle bus stop | Space to pick up riders | Need waiting area | 500 SF | By information area | | | Near a road. | Communities where Dining, Showers, Entertainment are spread out |
| Beer and Wine garden | Enclosed area for beer, wine and snacks. | Tables/Chairs/100 Max | 1,500 SF | Where fits and is legal | Y | Y | Flat and dry, need extra toilets. | 150 SF serving area, 8 SF per person @ 100 persons = 1,000 SF trash and toilet area = 300 SF |
| Entertainment Site | Tent and stage for nightly performances | Stage with seating area | 8,000 SF | Where fits can be combined with dining area. | Y | | Flat and dry or pavement | 12' x 20' stage - fits up to a five piece band = 750 SF seating @ 8 SF/person = 3,000 SF |
| TOTAL SF | | | 117,650 SF | | | | | Add 40% planning factor (Circulation, topography, existing cond) |
| TOTAL SPACE NEED | | | 164,710 Adjustment 3,774 (US NEEDED) | | | | | 3,716 (needed) spaces of Shower trailer is not |

*Electricity Notes: BikeVAINE requires 110V (standard service) adjacent to the information tent and dining areas. In addition the shower trailer (if being used) requires 5-20amp, 110 volt service. Electricity needs for the dining area vary depending on the menu

**Water Notes: BikeVAINE requires potable water for a water bottle filling station. It is ideal to have two water sources in the BikeVAINE site



TOWN OF KITTERY, MAINE

RECEIVED

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

NOV 17 2009

TOWN OF KITTERY

4:30 pm

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: PETER M. WALSH

RESIDENCE: 7 FOLCUTT RD, KITTERY POINT 03905

MAILING (if different) _____

E-MAIL ADDRESS: peter_walsh@comcast.net PHONE #: (Home) 475-7447 (Work) 956-0590

Please check your choices and list in order of priority by marking 1,2,3, etc.:

- | | |
|---|--|
| <input type="checkbox"/> Zoning Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Cable Television Rate Regulation Board | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Recycling Scholarship Selection Comm. | <input type="checkbox"/> Community Center Bldg. Comm./Rec. Comm. |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input checked="" type="checkbox"/> Port Authority | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other _____ |

EDUCATION/TRAINING: BS MATHEMATICS, Post GRAD - Computer Science

RELATED EXPERIENCE (Including other Boards and Commissions) _____

- cofounder of software business, international software marketing and operations
- recreational boater and fisherman

PRESENT EMPLOYMENT: Independent software consult/retired

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY Yes No

ANY KNOWN CONFLICT OF INTEREST: NONE

REASON FOR APPLICATION TO THIS BOARD: Stewardship of commercial and recreational boating and waterfront development.

I HAVE /HAVE NOT ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Peter M. Walsh
SIGNATURE OF APPLICANT

November 17, 2009
DATE

Maryann Place

From: David Lincoln [dlincoln307@comcast.net]
Sent: Friday, November 14, 2014 1:15 PM
To: Maryann Place
Cc: Nancy Colbert Puff; parks 1-page mead; parks 2-rich demarco
Subject: LINCOLN - PARKS COMMISSION

Maryann..

Effective immediately, I am resigning from the Parks Commission.

There is a scheduling conflict between the meeting times of the Commission and the Planning Board.

I have appreciated my time on the Parks Commission, and feel that progress in effective management of the Towns parks will continue.

D. Lincoln



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
JAN 09 2014

PLEASE CHECK APPROPRIATE SQUARE:

BY: 5:37 pm

- APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS**
- APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER**
- APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE**

NAME: GALE TURNER

RESIDENCE: 5 DEVON WOODS DRIVE / KITTERY

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: gale@5devonwoods.com

TELEPHONE NUMBERS: (HOME) 207 439-0550 (WORK) _____

PRESENT POSITION: alternate on Parks Commission

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|--|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input checked="" type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____

Gale Turner
SIGNATURE OF APPLICANT

1/9/14
DATE

New Business Item for 24 November 2014

The Kittery Town Council Moves to establish

1 December, 2014, As The effective Date

of the Charter Amendment Approved by

The voters on 4 November, 2014.

Explanatory Note:

State statute provides That The Municipal officers determine The effective date of Charter Amendments with a default Date (in Kittery) of 1 July.

See 30-A, MRS, Sect. 2105, Subsect. 4, Paragraph B

As Attached.

(2) Make copies of the report available to the voters in the clerk's office; and

(3) Post the report in the same manner that proposed ordinances are posted. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. In the case of a charter amendment, at least 2 weeks before the election, the municipal officers shall:

(1) Have the proposed amendment and any summary of the amendment prepared under this section printed;

(2) Make copies available to the voters in the clerk's office; and

(3) Post the amendment and any summary of that amendment in the same manner that proposed ordinances are posted. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any summary must fairly describe the content of the proposed amendment and may not contain information designed to promote or oppose the amendment. [1991, c. 622, Pt. X, §11 (AMD).]

[1991, c. 622, Pt. X, §11 (AMD) .]

4. Effective date. If a majority of the ballots cast on any question under subsection 1 or 2 favor acceptance, the new charter, charter revision, charter modification or charter amendment becomes effective as provided in this subsection, provided the total number of votes cast for and against the question equals or exceeds 30% of the total votes cast in the municipality at the last gubernatorial election.

A. Except as provided in subparagraph (1), new charters, charter revisions or charter modifications adopted by the voters take effect on the first day of the next succeeding municipal year.

(1) New charters, charter revisions or charter modifications take effect immediately for the purpose of conducting any elections required by the new provisions. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Charter amendments adopted by the voters take effect on the date determined by the municipal officers, but not later than the first day of the next municipal year. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1991, c. 622, §X11 (AMD).

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TOWN OF KITTERY
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REPORT TO TOWN COUNCIL

Meeting Date: November 10, 2014
From: Thomas Battcock-Emerson, Planning Board Chair &
Chris Di Matteo, Interim Town Planner
Subject: Town Code amendments to Title 16, Land Use & Development Code
Councilor Sponsor: Jeffrey Thomson, Chair

EXECUTIVE SUMMARY

The following sections of Title 16 require code amendments in order to provide greater clarity, remove outdated references and update provisions to allow for more conformance with the Town's Comprehensive Plan:

ITEM 1

- **16.10.9.1.4 Approve Plan Expiration.** Changes provide clarity as to the conditions by which a plan's approval expires, and decreases the number of years an approved subdivision plan may be extended, from ten to five years.
- **16.10.9.1.5 Requests for Extension.** Deleted as necessitated by item (1) above.
- **16.10.9.3.8 Expiration of Wetlands Alteration Approval.** Changes provide clarity in the same respect above.

ITEM 2

- **16.2.2 Definitions:** Dwelling unit (in the Shoreland and Resource Protection Overlay Zones).
- **16.3.17; 16.7.3; 16.8.28** {Maine DEP 1999 and 2010 Conditional Approval of Kittery Shoreland Zoning Amendments}. Changes are required to conform to MDEP conditional approvals that were never adopted.

ITEM 3

16.7.3.5.10 Adjustment of Common Boundary Line of Non-Conforming Lots {Thron/Arris Zoning Amendment Application}. Changes provide limited flexibility, currently not permissible, to allow property owners to adjust common property lines of nonconforming parcels.

ITEM 4

- **16.7.8 Land Not Suitable for Development** {Proposed as "Net Residential Acreage"}. The amendment provides similar language used by other communities to calculate the net land area when determining the total number of dwelling units allowed in a subdivision. The amendment also provides a new and revised soil definition that includes a new reference to replace the circa 1975 *Soil Suitability Guide For Land Use Planning In Maine*.
- **16.2.2 Definitions:** Amendment includes amended definitions for *Soils* and *Net residential acreage*, and new definitions for:
 - Filled tidal lands.
 - Cemetery and burying ground.
 - Minimum land areas per dwelling unit.
- **16.3 Land Use Zone Regulations.** Along with the changes related to item 2 above, the amendment includes incorporating the newly defined *Minimum land areas per dwelling unit*

- **16.8.11.5 Application Procedures {Cluster Development}**. Change required due to the *Soil Suitability Guide* reference mentioned above in item 6). The reference is deleted and a new reference made to the proposed *Net Residential Acreage* provision.

ITEM 5

16.8.7 Sewage Disposal. Changes provide clarity by re-organizing the article to reflect three distinct disposal systems: sewer, subsurface wastewater disposal, and holding tanks. As with item (6) above, the reference to the *Soil Suitability Guide* has been removed. In addition, there is an increase in the required soil depth for disposal systems and new pretreatment requirements for developments impacting sand and gravel aquifers. Changes also include relocating provisions that would be better located in other portions of the Title. (see Items 6 and 7 below)

ITEM 6

16.8.16.3 Lots. Changes provide clarity in moving lot size restrictions from 16.9.1.4 Soil Suitability to this section. Additional changes include an incentive to using advanced pretreatment systems, and “Lot Shape” has been clarified, prohibiting ‘flag lots’.

ITEM 7

16.9.1.4 Soil Suitability. Along with the change stated in item (5), the amendment incorporates current practices for soil assessment and soil mapping and reports.

ITEM 8

16.8.10.2.C General Requirements {Signs}. The amendment addresses the current wide use of LED lights in signage and removes its prohibition in the Code.

STATEMENT OF NEED

The Town Council adoption of the amendments listed above is required for greater clarity, updated references and definitions, and up-to-date provisions that allow for more consistency when applying the code, and providing for greater conformance to the Town’s Comprehensive Plan

BACKGROUND

The proposed amendments have received substantial review by the Planning Board and their Code Subcommittee. Required public hearings have been properly noticed and held, and two joint workshops with the Council and the Board took place on September 8 and October 6, 2014.

FACTS BEARING ON THE EQUATION

- Removing references in Title 16 of the outdated *Soil Suitability Guide For Land Use Planning In Maine* and replacing it with the current practice for assessing soils for development, along with all the other amendments that allow for better clarity, is critical for an equitable application of the Land Use Development Code.
- Amendments that offer new provisions are intended to provide up-to-date land use regulations and greater conformance to the Town’s Comprehensive Plan.

CURRENT SITUATION

The question to adopt proposed amendments to the Town Code, Title 16 comes before the Council.

PROPOSED SOLUTION/RECOMMENDATION

Schedule a public hearing on November 24

RATIONALE FOR THE PROPOSED SOLUTION (INCLUDING COSTS)

There is no budgetary cost to the Town of Kittery with regard to these amendments

Town of Kittery
Ordinance Revision Memorandum

| | |
|---|--|
| Originator(s): T. Emerson, Planning Board Chair | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 Joint Workshop Meeting: 9/08/14 | Title: Approved Plan Expiration, Requests for Extension, and Expiration of Wetlands Alteration Approval |
| Town code section: Title 16, §16.10.9.1.4, 16.10.9.1.5 and 16.9.3.8 | History: amended proposal |

ENCLOSURES: CODE AMENDMENT AND ENACTMENT ORDINANCE {FORTHCOMING}

1 PURPOSE OF PROPOSAL:

2
3 To provide clarity as to when and under what conditions an approved plan expires and the ability to
4 obtain an extension.

5
6
7 SUMMARY OF PROPOSAL/AMENDMENT:

- 8
- 9 1. The existing code language is ambiguous as to how to apply the conditions necessary to
- 10 determine if a plan's approval is expired. The proposal separates the conditional clauses with
- 11 two sentences.
- 12 2. The proposal deletes 16.10.9.1.5 *Requests for Extension* as it provides unnecessary
- 13 redundancy with 16.10.9.1.4 *Approved Plan Expiration*, which now addresses extensions.
- 14 3. Clarity is provided as to what happens if a plan approval does expire.
- 15 4. The total length of time an approved subdivision plan may be extended is reduced from 10
- 16 years to 5 years.

17
18
19 JUSTIFICATION:

20
21 The proposal removes ambiguity making clearer to applicants the expectations for completion of
22 approved development plans, simplifying administration of the Code by staff and the Planning Board.

23
24 FISCAL IMPACT:

25
26 None

27
28
29
30

CODE AMENDMENT

Chapter 16.10 DEVELOPMENT PLAN APPLICATION AND REVIEW

Article IX. Post Approval

16.10.9.1 Post Approval Actions Required.

16.10.9.1.4 Approved Plan Expiration.

A. ~~A subdivision plan's approval by the Planning Board will expire if work on the development has not commenced within one (1) year from Planning Board date of approval. or Where work has commenced within one (1) year of such approval, is not substantially the approval will expire unless work is complete within three (3) years from of the original date of Planning Board approval. The Planning Board may, by formal action, grant extensions for an inclusive period from original approval date not to exceed ten (10) years.~~

B. ~~A non-subdivision For all other development plans, plan's approval by the Planning Board approval will expire if work on the development is has not commenced within one (1) year from date of approval. or Where work has commenced within one year of approval, such approval will expire if work is not substantially complete within two (2) years from of the original date of Planning Board approval. The Planning Board may, by formal action, grant extensions for an inclusive period from original approval date not to exceed three years.~~

C. ~~The Planning Board may, on a case-by-case basis, grant extensions to an approved plan expiration date upon written request by the developer for an inclusive period from the original approval date, not to exceed five (5) years for a subdivision plan and three (3) years for all other development plans.~~

D. ~~When a plan's approval expires the applicant may re-apply subject to the current Town Code.~~

16.10.9.1.5 Requests for Extension.

~~The Planning Board may grant extensions to expiration dates upon written request by the developer, on a case-by-case basis. {Modified and moved to C. above}~~

Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS - NATURAL ENVIRONMENT

Article III. Conservation of Wetlands Including Vernal Pools

16.9.3.8 Expiration of Wetlands Alteration Approval.

A. ~~Wetlands Alteration Approval will expire if work on the development has not commenced within one (1) year of Planning Board date of approval. or is not substantially Where work has commenced within one (1) year of approval, such approval will expire unless work is complete within (2) two years of the original approval date, the approval for work in the wetlands will expire. The Board may, by formal action, grant extensions to the approval provided the request is submitted to the Board prior to the expiration of approval.~~

B. ~~The Planning Board may, on a case-by-case basis, grant extensions to an approved plan expiration date upon written request by the developer for an inclusive period from the original approval date, not to exceed five (5) years for a subdivision plan and three (3) years for all other development plans.~~

**Town of Kittery
Ordinance Revision Memorandum**

| | |
|--|--|
| Originator(s): T. Emerson, Planning Board Chair; | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: Workshop: 9/8/14 Meeting: November 10, 2014 | Title: various provisions related to Shoreland Zoning |
| Town code section: Title 16, §16.3.2.17, 16.7.3.5.6 through 16.7.3.6.1, 16.8.28, and 16.2 | History: amended proposal |

ENCLOSURES: CODE AMENDMENT, ENACTMENT ORDINANCE, AND PLANNING BOARD REVIEW NOTES

1 PURPOSE OF PROPOSAL:

2
3 The proposal allows for compliance with the State's Mandatory Shoreland Zoning Act.
4
5

6 SUMMARY OF PROPOSAL/AMENDMENT:

7
8 It became evident while working with Michael Morse OF the Maine Department of Environmental
9 Protection (MDEP) on various Shoreland Zoning provisions that the Town is not fully in compliance
10 with the State's Mandatory Shoreland Zoning Act, specifically to MDEP conditional approvals, orders
11 #5-99 (dated 12/29/1999) and #23-10 (dated 9/2/2010), see ATT. A and B. A modification to order #5-
12 99 (5-99-A) was issued 8/4/2000 allowing the less restrictive provisions for Badger Island, see ATT. C.
13 The conditions of approval noted in the 1999 and 2010 orders were never fully implemented.
14
15

16
17 JUSTIFICATION:

18
19 The Town, per 38 M.R.S.A. SECTION 438-A(4), is obligated to adopt "zoning and land use ordinances
20 that are consistent with or are no less stringent than the minimum guidelines adopted by the
21 {Environmental Protection} Board".
22
23

24 FISCAL IMPACT:

25
26 None

27 **CODE AMENDMENT**

28 **Chapter 16.2 DEFINITIONS**

29 **16.2.2 Definitions.**

30 **Dwelling** means a building designed or used as the living quarters for one or more families. The term does not
31 include motel, rooming house, hotel, inn, club, trailer, or structures solely used for transient or overnight
32 occupancy.

33
34 **Dwelling unit** means a room or group of rooms forming a habitable unit for one family with facilities used or
35 intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred
36 fifty (650) square feet of habitable floor space, except for elderly housing, an accessory dwelling unit, or a
37 temporary, intra-family dwelling unit. The term does not include a trailer.

38
39 Dwelling unit (in the Shoreland and Resource Protection Overlay Zones) means a room or group of rooms
40 designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one
41 family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and
42 rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational
43 vehicles are not dwelling units.

44
45 **Easement** means the authorization of a property owner for the use by another, and for a specified purpose, of
46 any designated part of the owner's property.

48
49 **Chapter 16.3 LAND USE ZONE REGULATIONS**

50 **Article II. Zone Definitions, Uses, Standards**

51 **16.3.2.13 Mixed Use MU.**

52
53 **D. Standards.**

54 1. All development and the use of land in the MU zone must meet the following standards. Kittery's Design
55 Handbook illustrates how these standards can be met. In addition, the design and performance standards of
56 Chapters 16.8 and 16.9 must be met.

57
58 2. Minimum Dimensional Standards.

59 The following apply:

60
61 Minimum lot size:

| | |
|-------------------------------------|---------------------|
| 62 lots with frontage on Route 1 | 200,000 square feet |
| 63 lots without frontage on Route 1 | 80,000 square feet |

| | |
|--|----------|
| 64 65 Minimum street frontage on road with access along | |
| 66 U.S. Route 1, Haley Road, Lewis Road, or Cutts Road | 250 feet |
| 67 other streets or approved ways | 150 feet |

| | |
|---|---------|
| 68 69 Minimum front yard | 60 feet |
| 70 Minimum rear and side yards | 30 feet |
| 71 Maximum building height | 40 feet |
| 72 Maximum height above grade of building-mounted signs | 40 feet |

| | |
|---|--------|
| 73 74 Minimum setback from water body and wetland water dependent uses | 0 feet |
|---|--------|

| | |
|--|-------------------------------|
| 75 76 Minimum setback from streams, water bodies and wetlands | in accordance with |
| 77 | Table 16.9, Section 16.3.2.17 |
| 78 | and Appendix A, Fee |

| | |
|--|-------------------|
| 79 80 Minimum land area per unit for eldercare facilities that are connected to the public sewerage system: | |
| 81 dwelling unit with two or more bedrooms | 5,000 square feet |
| 82 dwelling unit with less than two bedrooms | 4,000 square feet |
| 83 residential care unit | 2,500 square feet |

| | | |
|----|--|-------------------|
| 85 | Minimum land area per bed for nursing care and convalescent | |
| 86 | care facilities that are connected to the public sewerage system | 2,000 square feet |
| 87 | | |
| 88 | Buffer to I-95 ROW | 40 feet |
| 89 | Buffer to neighboring lot with an existing residence | |
| 90 | within 100 feet of the lot line | 40 feet |
| 91 | Vegetated buffer to be maintained between the MU and R-RL zones | 40 feet |
| 92 | | |

93 **NOTE 1:** For single-family dwellings, one dwelling unit is allowed for each two hundred thousand (200,000)
94 square feet of land area. A lot of record having a land area of more than two hundred thousand (200,000) square
95 feet that was improved with a single-family dwelling as of April 1, 2004 may be divided into two lots with a single-
96 family dwelling on each lot provided that each of the lots contains at least forty thousand (40,000) square feet of
97 land area and meets the other dimensional standards of the zone. Sections 16.3.2.1 D.1 and D.2 as set forth in
98 the Residential - Rural zone apply and no further subdivision is allowed.
99

100 **NOTE 2:** ~~For dwelling units that are part of a mixed-use building and are connected to the public sewerage-~~
101 ~~system, one dwelling unit is allowed for each twenty thousand (20,000) square feet of buildable land area. If the~~
102 ~~parking for the residential units is integrated into the building, the minimum required buildable land area per~~
103 ~~dwelling unit is reduced to fifteen thousand (15,000) square feet. For dwelling units that are part of a mixed-use~~
104 ~~building and are connected to the public sewerage system, one dwelling unit is allowed for each twenty~~
105 ~~thousand (20,000) square feet of buildable land area. Within the Resource Protection and Shoreland Overlay~~
106 ~~zones, one dwelling unit is allowed for each forty thousand (40,000) square feet of land area within these zones.~~
107 ~~If the parking for the residential units is encompassed within the building, the minimum required buildable land~~
108 ~~area per dwelling unit is reduced to fifteen thousand (15,000) square feet, except in the Resource Protection and~~
109 ~~Shoreland Overlay zones where the area per dwelling unit remains forty thousand (40,000) square feet.~~

110 **NOTE 3:** For elderly housing dwelling units that are connected to the public sewerage system, one dwelling unit
111 is allowed for each fifteen thousand (15,000) square feet of buildable land area. Within the Resource Protection
112 and Shoreland Overlay zones, one dwelling unit is allowed for each forty thousand (40,000) square feet of land
113 within these zones. If the parking for the elderly units is integrated into encompassed within the building, the
114 minimum required buildable land area per dwelling unit is reduced to ten thousand (10,000) square feet, except
115 in the Resource Protection and Shoreland Overlay zones where the area per dwelling unit remains forty
116 thousand (40,000) square feet.

117
118 3. Retail Use Limitation.
119 Retail use, including parking areas and other supporting unvegetated areas for retail use, is limited to not more
120 than fifteen percent (15%) of the developable area of any lot or portion of a lot within the mixed use zone.
121

122 **16.3.2.17 Shoreland Overlay Zone OZ-SL.**

123
124 **D. Standards.**

125
126 1. Minimum lot standards

| | | |
|-----|---|---------------------------|
| 127 | a. Minimum lot size by base zone, within the | |
| 128 | Residential-Village (R-V) zone | 8,000 square feet |
| 129 | Residential-Urban (R-U) zone | 20,000 square feet |
| 130 | Residential-Rural (R-RL), Residential-Suburban (R-S) <u>and</u> | |
| 131 | Residential-Kittery Point Village (R-KPV) zones | 40,000 square feet |
| 132 | Commercial (C1), (C2), (C3), Industrial (IND), Business-Local (B-L) | |
| 133 | and Business-Local 1 (B-L1) zones | 60,000 square feet |
| 134 | Residential-Rural Conservation (R-RLC) zone | 80,000 square feet |
| 135 | Business-Park (B-PK) zone | 120,000 square feet |
| 136 | <u>Mixed-Use Badgers Island (MU-BI) zone</u> | <u>6,000 square feet</u> |
| 137 | <u>Mixed-Use Kittery Foreside (MU-KF) zone</u> | <u>10,000 square feet</u> |
| 138 | | |
| 139 | | |

| | | |
|-----|---|-------------------|
| 140 | b. Minimum land area per dwelling unit by base zone, within the | |
| 141 | Residential-Village (R-V) zone | 8,000 square feet |

| | | |
|-----|---|---------------------------|
| 142 | Business-Park (B-PK) zone | 10,000 square feet |
| 143 | Residential-Urban (R-U), Business-Local (B-L) and | |
| 144 | Business-Local 1 (B-L1) zones | 20,000 square feet |
| 145 | Mixed Use (M-U), Residential-Rural (R-RL), | |
| 146 | Residential-Suburban (R-S) <u>and</u> | |
| 147 | Residential-Kittery Point Village (R-KPV) zones | 40,000 square feet. |
| 148 | Residential-Rural Conservation (R-RLC) zone | 80,000 square feet. |
| 149 | <u>Mixed-Use Badgers Island (MU-BI) zone</u> | <u>6,000 square feet*</u> |
| 150 | <u>* 3,000 square feet for the first two dwelling units</u> | |
| 151 | <u>Mixed-Use Kittery Foreside (MU-KF) zone</u> | <u>10,000 square feet</u> |

152
153
154 c. Minimum Shore frontage by base zone per lot and dwelling unit

| | | |
|-----|---|----------------|
| 155 | <u>Mixed Use-Badgers Island (MU-BI)</u> | <u>25 feet</u> |
| 156 | Residential-Village (R-V) and Residential Urban (R-U) zones | |
| 157 | <u>Mixed-Use Kittery Foreside (MU-KF) zones</u> | <u>50 feet</u> |
| 158 | Mixed Use (M-U), Commercial (C1), (C2), (C3), Industrial (IND), | |
| 159 | Business-Park (B-PK), Business-Local (B-L) and | |
| 160 | Business-Local 1 (B-L1) zones (shore frontage per lot) | 150 feet |
| 161 | (shore frontage per dwelling unit) | 50 feet |
| 162 | Residential-Rural (R-RL), Residential-Suburban (R-S), | |
| 163 | and Residential-Kittery Point Village (R-KPV) | |
| 164 | zones (shore frontage per lot) | 150 feet |
| 165 | (shore frontage per dwelling unit) | 100 feet |
| 166 | Residential-Rural Conservation (R-RLC) zone (per lot and dwelling unit) | 250 feet |

167
168 The minimum shore frontage requirement for public and private recreational facilities is the same as that
169 for residential development in the respective zone.
170

171 d. The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not
172 exceed twenty (20) percent of the lot area, including existing development, except in the following zones:
173

- 174 i. Mixed Use -Badgers Island (MU-BI) and Mixed Use Kittery Foreside (MU-KF) Zones, where the
175 maximum lot coverage is sixty (60) percent. The Board of Appeals may approve a miscellaneous appeal
176 application to increase allowable lot coverage in the Mixed Use -Badgers Island (MU-BI) zone to seventy
177 (70) percent where it is clearly demonstrated that no practicable alternative exists to accommodate a water-
178 dependent use.
- 179 ii. Commercial (C1, C-2, C-3), Business – Local (B-L and B-L1), and Industrial (IND) Zones where the
180 maximum lot coverage is seventy (70) percent.
- 181 iii. Notwithstanding the above limits, vegetated surfaces must exceed fifty (50) percent of the lot area when
182 the lot, being no greater in size than ten thousand (10,000) square feet, is situated in both the Residential -
183 Urban Zone (R-U) and the Shoreland Overlay Zone.
- 184 iv. In the shoreland zone within the Mixed Use (M-U) zone, the maximum lot coverage is 20%.
185
186
187
188
189

190 2. Principal and Accessory Structures – Setbacks and Development.

191
192 a. All new principal and accessory structures (except certain patios and decks per Section 16.3.2.17.D.2.b,
193 must be set back as follows:
194

- 195 i. At least one hundred (100) feet, horizontal distance, from the normal high water line of any water bodies,
196 tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland, and
197 seventy-five (75) feet, horizontal distance, from the normal high-water line of any water bodies, or the upland
198 edge of a wetland on the Mixed Use - Badgers Island and the Kittery Foreside Zones, unless modified
199 according to the terms of Sections 16.3.2.14.D & E and 16.3.2.15.D & E., except that in the Commercial
200 Fisheries/Maritime Uses Overlay Zone there is no minimum setback requirement. In the Resource Protection
201 Overlay Zone the setback requirement is 250 feet, horizontal distance, except for structures, roads, parking

spaces or other regulated objects specifically allowed in the zone, in which case the setback requirements specified above apply.

ii. The water body, tributary stream, or wetland setback provision does not apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers and retaining walls, nor does it apply to other functionally water-dependent uses.

b. Accessory patios or decks no larger than five hundred (500) square feet in area must be set back at least seventy-five (75) feet from the normal high water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone.

c. If there is a bluff, setback measurements for principal structures, water and wetland must be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and Code Enforcement Officer are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant is responsible for the employment a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, or a Maine State Geologist qualified to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

d. Public access to the waterfront must be discouraged through the use of visually compatible fencing and/or landscape barriers where parking lots, driveways or pedestrian routes abut the protective buffer. The planting or retention of thorny shrubs, such as wild rose or raspberry plants, or dense shrubbery along the perimeter of the protective buffer is encouraged as a landscape barrier. If hedges are used as an element of a landscape barrier, they must form a solid continuous visual screen of at least three feet in height immediately upon planting.

e. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed eighty (80) square feet in area nor eight (8) feet in height, and must be located as far from the shoreline or tributary stream as practical and meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case will the structure be allowed to be situated closer to the shoreline or tributary stream than the existing principal structure.

f. The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.

g. The total footprint of areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones:

i. Badgers Island and Kittery Foreside Zones, where the maximum lot coverage is sixty (60) percent. The Board of Appeals may approve a miscellaneous appeal application to increase allowable lot coverage in the Badgers Island district to seventy (70) percent where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.

ii. Commercial (C-1, C-2, C3), Mixed Use (MU), Business – Local (B-L and B-L1), and Industrial (IND) Zones where the maximum lot coverage is seventy (70) percent.

Notwithstanding the above limits, non-vegetated surfaces must not exceed fifty (50) percent of the lot area when the lot, being no greater in size than ten thousand (10,000) square feet, is situated in both the Residential - Urban Zone (R-U) and the Shoreland Overlay Zone

h. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided the:

i. structure is limited to a maximum of four feet in width;

ii. structure does not extend below or over the normal high-water line of a water body or upland edge of a

262 wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources
263 Protection Act, 38 M.R.S. §480-C); and

264
265 iii. applicant demonstrates that no reasonable access alternative exists on the property.

266
267 i. If more than one dwelling unit, principal governmental, institutional, commercial or industrial structure or use,
268 or combination thereof, is constructed or established on a single parcel in the shoreland zone, all dimensional
269 requirements shall be met for each additional dwelling unit, principal structure, or use.
270

271
272 **Article III. Nonconformance** (Ordained 9-26-11; Effective 10-27-11)

273
274 **16.7.3.5.4 Nonconforming Structure Relocation.**

275
276 C. When it is necessary to remove vegetation within the water or wetland setback area to relocate a structure,
277 ~~the Board of Appeals or Planning Board (in cases where the structure is located in a Shoreland Overlay or~~
278 ~~Resources Protection Overlay Zone.), may require replanting of native vegetation to compensate for the~~
279 ~~destroyed vegetation is required,; and The Board of Appeals or Planning Board (in cases where the structure is~~
280 ~~located in a Shoreland Overlay or Resources Protection Overlay Zone.) may restrict mowing around and pruning~~
281 ~~of the replanted native vegetation to encourage a more natural state of growth. Replanting will be is required as~~
282 ~~follows:~~

283
284
285
286 **16.7.3.5.6 Nonconforming Structure Reconstruction.**

287
288 A. Any nonconforming structure which is located less than the required setback from a water body, tributary
289 stream, or wetland and which is removed, damaged or destroyed, ~~by any~~regardless of the cause, by more than
290 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or
291 replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction,
292 or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary
293 stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board (in
294 cases where the structure is located in a Shoreland Overlay of Resources Protection Overlay Zone) or Code
295 Enforcement Officer, in accordance with this Code.

296
297 B. In no case will a structure be reconstructed or replaced so as to increase its non-conformity. If the
298 reconstructed or replacement structure is less than the required setback it may not be any larger than the
299 original structure, except as allowed pursuant to Section 16.7.3.5.5, Nonconforming Structures Repair and/or
300 Expansion and 16.7.3.6.1 Nonconforming Structure Expansion, as determined by the nonconforming floor area
301 and volume of the reconstructed or replaced structure at its new location.

302
303 C. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond
304 the required setback area, no portion of the relocated or reconstructed structure may be replaced or constructed
305 ~~reconstructed~~ at less than the setback requirement for a new structure. When it is necessary to remove
306 vegetation to replace or reconstruct a structure, vegetation ~~will shall~~ must be replanted in accordance with
307 Section 16.7.3.5.4.C, Nonconforming Structure Relocation. Application for a demolition permit for any structure
308 that has been partially damaged must be made to the Code Enforcement Officer.

309
310 D. Any nonconforming structure which is located less than the required setback from a water body, tributary
311 stream, or wetland and removed, damaged or destroyed by ~~any cause through no fault of action by the owner by~~
312 50% or less of the market value of the structure before such damage, destruction or removal, may be
313 reconstructed in-place if a permit is obtained from the Code Enforcement Officer or the Planning Board (in cases
314 where the structure was located in the Shoreland Overlay or Resources Protection Overlay Zone) within twelve
315 (12) months of the established date of damage, ~~or~~ destruction, or removal.

316
317 E. In determining whether the structure reconstruction or replacement meets the setback to the greatest practical
318 extent the Planning Board or Code Enforcement Officer must consider, in addition to the criteria in Section
319 16.7.3.5.4, Nonconforming Structure Relocation, the physical condition and type of foundation present, if any.

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16.7.3.5.7 Nonconforming Use Expansion.

Expansion of a nonconforming use of any structure or land area other than that occupied as such when created is not permitted with the following exceptions:

A. uses in conformity with Chapter 16.7; and

B. nonconforming residential uses located within the Resource Protection Overlay, or Shoreland Overlay Zone with Planning Board approval, may expand by thirty (30) percent or less of the structure, in floor area or volume, during the lifetime of the structure if the applicant can prove the proposal is consistent with the review standards in Section 16.3.2.17.D.2.

16.7.3.5.8 Nonconforming Use Change – Review Authority and Evaluations.

The reviewing authority per subsections A B. and C below, may require evaluations be prepared by a person certified and/or qualified to perform the required evaluation. It is the burden and responsibility of the applicant to bear the costs for such evaluations. In the event there are existing official maps, data and/or reports for general use, the applicant is encouraged to submit copies of these documents to the reviewing authority. In determining that no greater adverse impact will occur, the applicant may be required to submit an evaluation in writing regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

A. Administratively. The Town Planner and the Code Enforcement Officer may approve the change of use of a nonconforming structure where it can be deemed the proposed use is a conforming use and the proposed use does not impact a water body, tributary stream, or wetland. See Section 16.4.3.5.

B. By Board of Appeals. Outside the areas regulated by Shoreland Overlay Zone or Resource Protection Overlay Zone, an existing nonconforming use may be changed to another nonconforming use with approval of the Board of Appeals provided the proposed use is not more nonconforming.

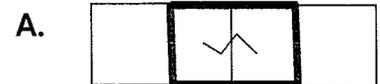
C. By Planning Board. Within areas regulated by Shoreland Overlay Zone or Resource Protection Overlay Zone, an existing nonconforming use may be changed to another nonconforming use with the approval of the Planning Board per Section ~~16.7.3.5.2~~ 16.7.3.6.2.

16.7.3.5.9 Nonconforming Lots of Record. (Ordained 1-23-12; Effective 2-23-12)

A. Nonconforming Lots: In any district, notwithstanding limitations imposed by other sections of this Code, single noncontiguous lots legally created when recorded may be built upon consistent with the uses in the particular zone. These provisions apply even though such lots fail to meet the minimum requirements for area or width, or both, which are applicable in the zone, provided that yard dimensions and other requirements, not involving area or width, or both, of the lot conform to the regulation for the zone in which such lot is located. Relaxation of yard and other requirements not involving area or width may be obtained only through miscellaneous variation request to the Board of Appeals.

16.7.3.5.10 Contiguous Non-Conforming Lots. (Ordained 1-23-12; Effective 2-23-12)

A. Contiguous Nonconforming Lots. If two or more contiguous nonconforming lots or portions thereof are in single or joint ownership of record, and if all or part of the lots do not meet the dimensional requirements of this Code, and if one or more of the lots are vacant or contain no principal structure, the lots shall must be combined to the extent necessary to meet the dimensional requirements, common ownership and if a combination of such lots or a portion thereof constitutes a lot of nearer conforming size, such combination is



374 deemed to constitute a single lot.

375
376 B. Contiguous Built Upon Nonconforming Lots. If two or more
377 contiguous lots or parcels are in a single or joint ownership of record
378 at the time of adoption of this Code, if all or part of the lots do not
379 meet the dimensional requirements of this Code, and if a principal use
380 or structure exists on each lot, the non-conforming lots may be
381 conveyed separately or together, provided that the State Minimum Lot
382 Size Law (12 MRSA §4807-A through 4807-D) and the State of Maine
383 Subsurface Wastewater Disposal Rules are complied with.
384 ~~If there exists a legally created principal structure on each of the~~
385 ~~contiguous nonconforming lots or portions thereof that would~~
386 ~~otherwise require the lots to be combined as provided herein, the~~
387 ~~contiguous lots need not be combined to create a single lot as~~
388 ~~required by Section A above.~~



389
390 C. Contiguous Partially Built Upon Lot. If two or more contiguous
391 lots or parcels are in a single or joint ownership of record at the time of
392 or since adoption or amendment of this Code, if any of these lots do
393 not individually meet the dimensional requirements of this Code or
394 subsequent amendments, and if one or more of the lots are vacant or
395 contain no principal structure, the lots shall be combined to the extent
396 necessary to meet the dimensional requirements. If one or more of
397 the contiguous nonconforming lots is vacant or contains no principal
398 structure, the lots must be combined to the extent necessary to meet
399 the purposes of this Code as required by Section A above.



400 This subsection does not apply:

- 401
402 1. to any Planning Board approved subdivision located outside the Shoreland Overlay Zone which was
403 recorded in the York County Registry of Deeds on, or before July 13, 1977;
404 2. if one or more of the contiguous lots is served by a public sewer, or can accommodate a subsurface
405 sewage disposal system in conformance with this Code Section 16.8.7.4 ~~Septic Waste Disposal~~, and the State
406 of Maine Subsurface Wastewater Disposal Rules; and
407 i. if each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
408 ii. if any lot(s) that do not meet the frontage and lot size requirements of Section 16.3.2.17.D.1 are
409 reconfigured or combined so each new lot contains at least 100 feet of shore frontage and 20,000 square
410 feet of lot area.

411
412 D.C. Single Lot Division.

413 If two principal structures existing on a single lot legally created when recorded, each may be sold on a separate lot
414 provided the Board of Appeals determines that each resulting lot is as conforming as practicable to the dimensional
415 requirements of this Code. If three or more principal structures existing on a single lot legally created when
416 recorded, each may be sold on a separate lot provided the Planning Board determines that each resulting lot is as
417 conforming as practicable to the dimensional requirements of this Code.

418 (Ordained 1-23-12; Effective 2-23-12)

419
420 **16.7.3.5.11 Nonconforming Parking or Loading Space.** (Ordained 9-26-11; Effective 10-27-11)

421 A structure and/or use which is nonconforming as to the requirements for off-street loading and/or parking
422 spaces may not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements
423 of this Code for both the original and addition or enlargement of the structure or use.

424
425 **16.7.3.5.12 Nonconforming Steps.** (Ordained 9-26-11; Effective 10-27-11)

426 The addition of steps and landings, exterior to the structure does not constitute expansion. Such steps are not to
427 be considered part of the structure for such determination. Step landings may not exceed three feet by three feet
428 (3'x3') in size.

429
430
431 **16.7.3.6 Nonconforming Structures in Shoreland and Resource Protection Overlay Zones.**

432 (Ordained 9-26-11; Effective 10-27-11)

433

434 **16.7.3.6.1 Nonconforming Structure Expansion.**

435 A nonconforming structure may be added to, or expanded, after obtaining Planning Board approval and a permit
436 from the Code Enforcement Officer. Such addition or expansion must not increase the non-conformity of the
437 structure and must be in accordance with the subparagraphs below.

438

439 A. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-
440 water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure will
441 not be permitted to expand, as measured in floor area or volume, by thirty percent (30%) or more during the
442 lifetime of the structure.

443

444 B. If a replacement structure conforms to the requirements of Section ~~16.7.3.6.1.A~~ 16.7.3.5.4 and Section
445 16.7.3.5.6 and is less than the required setback from a water body, tributary stream or wetland, the replacement
446 structure will not be permitted to expand if the original structure existing on January 1, 1989, has been expanded
447 by 30% in floor area and volume since that date.

448

449 C. Whenever a new, expanded or replacement foundation is constructed under a nonconforming structure, the
450 structure and new foundation must be placed such that the setback requirement is met to the greatest practical
451 extent as determined by the Planning Board, basing its decision on the criteria specified in Section 16.7.3.5.4 B,
452 Nonconforming Structure Relocation. If the completed foundation does not extend beyond the exterior
453 dimensions of the structure, except for expansion in conformity with Section 16.7.3.6.1.A, and the foundation
454 does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill
455 side of the structure (from original ground level to the bottom of the first floor sill), it will not be considered to be
456 an expansion of the structure.

457

458 **16.7.3.6.2 Nonconforming Use Change.**

459 An existing nonconforming use may be changed to another nonconforming use with the approval of the Planning
460 Board provided the proposed use has no greater adverse impact on any water body or wetland, or on the
461 subject and adjacent properties and resources, including water dependent uses in the Commercial
462 Fisheries/Maritime Uses Overlay Zone than the former use, as determined by the Planning Board. Within the
463 area regulated by Shoreland Overlay Zone or Resource Protection Overlay Zone, for the determination of no
464 greater adverse impact, the Planning Board may require written documentation from the applicant, regarding the
465 probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat,
466 vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management,
467 archaeological and historic resources, and commercial fishing and maritime activities, and other functionally
468 water-dependent uses.

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472 **Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT**

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Article XXVIII. Single and Duplex Family Dwellings

16.8.28.1 Single and Duplex Family Dwellings in Resource Protection and Shoreland Overlay Zones.

In addition to the criteria specified in Section 16.6.6 and ~~176~~ 10.8.3.4, applicable to the granting of a special
exception use request, the Planning Board may approve an application for a single or duplex family dwelling
special exception use request, where applicable, provided the applicant demonstrates all of the following
conditions are met:

A. There is no location on the property, other than a location within the Shoreland Overlay or Resource
Protection Overlay Zones, where a single family dwelling the structure can be built, or similarly for a duplex in
the Shoreland Overlay zone.

486 B. The lot on which the structure is proposed is undeveloped and was established and recorded in the York
487 County Registry of Deeds before inclusion in the Shoreland or Resource Protection Overlay Zones.

**Town of Kittery
Ordinance Revision Memorandum**

| | |
|---|--|
| Originator(s): T. Emerson, Planning Board Chair | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: | Title: Adjustment of Common Boundary Line of Non-conforming lots. |
| Town code section: Title 16, §16.7.3.5.10 through 12 | History: new proposal |

**ENCLOSURES: CODE AMENDMENT (PG. 2) AND ENACTMENT ORDINANCE {FORTHCOMING},
PURPOSE OF PROPOSAL:**

The proposal would simplify the process by which to approve limited adjustments to lot lines of developed, legally nonconforming lots within and outside the Shoreland Overlay zone.

SUMMARY OF PROPOSAL/AMENDMENT:

Section 16.7.3.5.12.A.1 (line 106) would permit the Code Enforcement Officer to approve a simple, equal swap of land when there is no change to the square area of either adjusted legally nonconforming lots.

Section 16.7.3.5.12.A.2 (line 110) would permit the Board of Appeals to approve adjustments to lot lines outside the Shoreland Overlay zone, even if the resulting lot size would be made more non-conforming. This would only apply if the new lots are 20,000 sq. feet or greater (if connected to septics); or 5,000 sq. feet or greater (if connected to town sewer).

Section 16.7.3.5.12.A.3 (line 119) would permit the Planning Board to approve adjustments to lot lines that result in a more non-conforming lot within the Shoreland Overlay zone, if the resulting lots conform as much as is practicable to the Maine Department of Environmental Protection (MDEP) Mandatory Shoreland zoning minimum lot standards and shoreline requirements.

Under no circumstances could the resulting lots be smaller than 20,000 sq. feet or have less than 100 feet of shoreline. If the lots currently conform to the minimum standard (30,000 sq. feet or greater, with 150 feet of shoreline) they would have to remain conforming. If both lots currently do not meet MDEP minimum standards, lot lines would not be permitted to be adjusted.

JUSTIFICATION:

This amendment would give the town needed flexibility to approve lot size changes, while protecting the environment within the Shoreland Overlay zone.

Current law does not permit the Town to make minor lot size adjustments to legally non-conforming developed lots, even if there are good reasons to do so.

This amendment is needed to permit lot adjustments that would result in less irregular lot lines and more practical access to utilities or existing structures.

FISCAL IMPACT: None.

CODE AMENDMENT

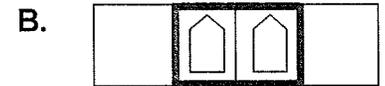
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16.7.3.5.10 Contiguous Nonconforming Lots. (Ordained 1-23-12; Effective 2-23-12)

A. Contiguous Nonconforming Lots. If two or more contiguous nonconforming lots or portions thereof are in common ownership and if a combination of such lots or a portion thereof constitutes a lot of nearer conforming size, such combination is deemed to constitute a single lot.



B. Contiguous Built Upon Nonconforming Lots. If there exists a legally created principal structure on each of the contiguous nonconforming lots or portions thereof that would otherwise require the lots to be combined as provided herein, the contiguous lots need not be combined to create a single lot as required by Section A above.



C. Contiguous Partially Built Upon Lot. If one or more of the contiguous nonconforming lots is vacant or contains no principal structure, the lots must be combined to the extent necessary to meet the purposes of this Code as required by Section A above.



This subsection does not apply:

1. to any Planning Board approved subdivision which was recorded in the York County Registry of Deeds on, or before July 13, 1977;
2. if one or more of the contiguous lots is served by a public sewer, or can accommodate a subsurface sewage disposal system in conformance with this Code Section 16.8.7.1 – Septic Waste Disposal, and the State of Maine Subsurface Wastewater Disposal Rules; and
 - i. if each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
 - ii. if any lot(s) that do not meet the frontage and lot size requirements of Section 16.3.2.17D.1 are reconfigured or combined so each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

16.7.3.5.11C. Single Lot Division of a Nonconforming Lot.

If two principal structures ~~existing~~exist on a single lot legally created when recorded, each may be sold on a separate lot provided the Board of Appeals determines that each resulting lot is as conforming as practicable to the dimensional requirements of this Code. If three or more principal structures ~~existing~~exist on a single lot legally created when recorded, each may be sold on a separate lot provided the Planning Board determines that each resulting lot is as conforming as practicable to the dimensional requirements of this Code. (Ordained 1-23-12; Effective 2-23-12)

~~**16.7.3.5.11 Nonconforming Parking or Loading Space.** (Ordained 9-26-11; Effective 10-27-11)~~

~~A structure and/or use which is nonconforming as to the requirements for off-street loading and/or parking spaces may not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements of this Code for both the original and addition or enlargement of the structure or use. {MOVED AND RENUMBERED 16.7.3.5.13}~~

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~~16.7.3.5.12 Nonconforming Steps. (Ordained 9-26-11; Effective 10-27-11)~~

~~The addition of steps and landings exterior to the structure does not constitute expansion. Such steps are not to be considered part of the structure for such determination. Step landings may not exceed three feet by three feet (3'x3') in size. {MOVED AND RENUMBERED 16.7.3.5.14}~~

16.7.3.5.12 Adjustment of Common Boundary Line of Nonconforming Lots.

A. The common property line of two nonconforming lots of record, each with legally created principal structures, can be adjusted if:

1. The Code Enforcement Officer (CEO) determines that the resulting lots are not more nonconforming than the existing lots with respect to the dimensional requirements of this Code; or

2. Where the lots are located entirely outside the Shoreland Overlay Zone and the CEO determines the proposed lot line adjustment makes the lot more nonconforming, the Board of Appeals determines that each resulting lot is as conforming as practicable to the dimensional requirements of this Code; and

- a. each resulting lot is not less than 20,000 S.F. in lot size when not served by public sewer; or
- b. each resulting lot is not less than the smallest residential lot permitted under the town's land use base zones, Title 16.3, when served by public sewer.

3. Where all or part of either lot is located in the Shoreland Overlay Zone and the CEO determines the proposed lot line adjustment makes the lot more nonconforming, the Planning Board determines that each resulting lot is as conforming as practicable to the Maine Department of Environmental Protection (MDEP) Mandatory Shoreland Zoning minimum lot standards for principal structures and uses¹; and

- a. each resulting lot is not less than 20,000 S.F. in lot size and not less than 100 feet in shore frontage^{2,3}; and
- b. a lot that is conforming to the MDEP Mandatory Shoreland Zoning minimum lot standards for principal structures and uses remains conforming to those requirements¹; and
- c. common boundary lines may not be adjusted when both subject lots are non-conforming per state minimum lot size requirement.³

¹ Chapter 1000: Guidelines for Municipal Shoreland Zoning Ordinances, Section 15.A Minimum Lot Standards; adjacent to Tidal Areas: 30,000 S.F. lot size with 150 feet of shore frontage; and adjacent to Non-Tidal Areas: 40,000 S.F. lot size with 200 feet of shore frontage.

² Title 16.7.3.5.12.A.3.a is allowed only when both subject lots are under the same single or joint ownership

³ Adherence to State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and State of Maine Subsurface Wastewater Disposal Rules or public sewer is required

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B. It is not the intention of the above subsection (*Adjustment of Common Boundary Line of Non-Conforming Lots*) to allow for the creation of an additional lot. A property line adjustment in accordance with this subsection and Title 16.7 does not constitute the creation of a new lot and the adjusted lot remains a legally non-conforming lot of record, not applicable to the joining of lots.

{NEW}

16.7.3.5.143 Nonconforming Parking or Loading Space. (Ordained 9-26-11; Effective 10-27-11)

A structure and/or use which is nonconforming as to the requirements for off-street loading and/or parking spaces may not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements of this Code for both the original and addition or enlargement of the structure or use. {MOVED AND ONLY AMENDED SECTION NUMBER}

16.7.3.5. 124 Nonconforming Steps. (Ordained 9-26-11; Effective 10-27-11)

The addition of steps and landings exterior to the structure does not constitute expansion. Such steps are not to be considered part of the structure for such determination. Step landings may not exceed three feet by three feet (3'x3') in size. . {MOVED AND ONLY AMENDED SECTION NUMBER}

**Town of Kittery
Ordinance Revision Memorandum**

| | |
|---|--|
| Originator(s): T. Emerson, Planning Board Chair; | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 Joint Workshop Meeting: 9/08/14 | Title: Land Not Suitable for Development (Current) Net Residential Acreage Calculation (Proposed) |
| Town code section: Title 16, §16.7.8 | History: new proposal |

CODE AMENDMENT (PG. 2), ENACTMENT ORDINANCE {FORTHCOMING}

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2 PURPOSE OF PROPOSAL:

3

4 This proposal would amend the Town's Land Use and Development Code, Title 16 (LUDC) which in its
5 present form does not permit the Planning Board to approve most subdivision development where septic
6 systems are required.

7

8 SUMMARY OF PROPOSAL/AMENDMENT:

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10 The proposal would amend the LUDC with regard to the calculation of Net Residential Acreage, which
11 establishes the maximum number of dwelling units allowed in a new subdivision. (Lines 60-63)

12

13 It would repeal the statutory reliance upon an outdated reference known as *The Soil Suitability Guide for*
14 *Land Use Planning in the State of Maine* and would substitute standards that comply with the
15 Comprehensive Plan. (Lines 53-54 & 108-109)

16

17 To arrive at Net Residential Acreage, the amendment would require subtracting the sum of all portions of
18 land wherein dwelling units cannot possibly be built due to wetlands, easements, burying grounds,
19 rights-of-way, etc., or where there are substantial constraints to development. In certain cases where
20 constraints are present, partial credit would be granted, adding to the buildable net acreage. (Lines 60-
21 88 & 83-84)

22

23 JUSTIFICATION:

24

25 Absent this amendment, few new subdivision developments are likely to be approved by the Planning
26 Board. The amendment would correct this serious problem.

27

28 The current ordinance prohibits septic systems on soils identified as "poor or very poor". The outdated
29 reference classifies most land in Kittery as "poor or very poor". The amendment is necessary before
30 subdivisions requiring septic systems may go forward.

31

32 The amendment was drafted after gathering information from a panel of local soil scientists and
33 engineers and reviewing similar ordinances from other towns in southern Maine.

34

35 This amendment would implement the Comprehensive Plan's requirement to manage density, to protect
36 natural resources and features and to preserve property values. It would be fair to developers and does
37 not burden small land owners because non-subdivision projects would be subject to fewer deductions
38 under the calculation for 'minimum land area per dwelling unit.

39

40 FISCAL IMPACT:

41 None.

42 **PROPOSED AMENDMENT**

43 **Article VIII. Land Not Suitable for Development**

44

45 **16.7.8.1 — Locations and Sewage.**

46 The Planning Board may not approve portions of any proposed development that:

- 47 1. Are situated below sea level;
- 48 2. Are located within the one hundred (100) year frequency floodplain as found in the definition;
- 49 3. Are located on land which must be filled or drained, or on land created by diverting a watercourse, except the Planning Board may grant approval if central sewage collection and disposal system is provided.
- 50 4. Has any part of the development located on filled tidal wetlands.
- 51 5. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability
- 52 Guide for Land Use Planning in the State of Maine.
- 53

54

55 **Chapter 16.7 GENERAL DEVELOPMENT REQUIREMENTS**

56

57 **Article VIII. Net Residential Acreage**

58

59 **16.7.8.1 Net Residential Acreage Calculation**

60 Net Residential Acreage determines the maximum number of dwelling units allowed on a parcel subject to

61 subdivision. To calculate Net Residential Acreage the land area listed below must be subtracted from a

62 parcel's gross area. Where land areas to be subtracted overlap, the area therein shall be subtracted once.

- 63 A. All land located below the Highest Annual Tide elevation as published in the *Maine DEP Highest Annual*
- 64 *Tide (HAT) levels* for the most current year.
- 65 B. All land located within the floodplain as defined in Title 16.2, *Flood, One Hundred (100) Year.*
- 66 C. All wetlands as defined in Title 16.2 *Wetland*, as well as vernal pools, ponds, lakes, streams and other
- 67 *water bodies, including fifty (50) percent of the associated setbacks described in *Other Buildings and**
- 68 *Structures*, Table 16.9, Chapter 9 in this Title.
- 69 D. All land located on filled tidal lands, per Title 16.2 *Tidal Land, Filled.*
- 70 E. All land located within existing rights-of-way and other existing easements wherein dwelling units cannot
- 71 be built.
- 72 F. All land located within proposed rights-of-way including parking and travel ways. Driveways are excluded.
- 73 G. All land isolated from the primary portion of the parcel by a road/street, existing land uses, or any
- 74 physical feature, natural or manmade, such that it creates a barrier to the central development of the site
- 75 and no means of access is proposed nor likely to be provided in the future. However, to demonstrate
- 76 that identified isolated land may be considered developable for the purpose of this calculation, the
- 77 applicant must submit a plan and supporting documentation for the Board's consideration.
- 78 H. All land zoned commercial.
- 79 I. All land one (1) acre or more contiguous area with sustained slopes of 20% or greater.
- 80 J. All land identified as exposed bedrock, or soils with a drainage class of *poorly drained*, and/or very
- 81 *poorly drained* as defined in Title 16.2 *Soils.*
- 82 K. Fifty (50) percent of all land characterized as drainage class of *somewhat poorly drained*, unless public
- 83 *sewer is used*, in which case no land area is subtracted.
- 84 L. All land area within a cemetery/burying ground as defined in Title 16.2, including associated setback per
- 85 MRS Title 13 §1371-A *Limitations on construction and excavation near burial sites.*
- 86 M. All land within a Commercial Fisheries/Maritime Uses Overlay Zone or Resource Protection Overlay
- 87 Zone not included in 16.7.8.1.A-L.

88

89 **16.7.8.2 Documentation**

90 The Net Residential Acreage calculation must be supported by verifiable information and accurate data and

91 shown on the subdivision plan or other plan when applicable.

92
93 **16.7.8.3 Residential development not subject to subdivision**

94 The maximum number of dwelling units for residential development not subject to subdivision shall be based
95 on minimum land area per dwelling unit defined in Chapter 2 Definitions of this Title.

96
97 **Chapter 16.2 DEFINITIONS**
98 **Title 16.2 Definitions**

100 **Tidal Land, Filled** means portions of the submerged and intertidal lands that have been rendered by human
101 activity to be no longer subject to tidal action or below the natural low-water mark after October 1, 1975.

102
103 **Soils.**

104 ~~1. "Poorly drained soils" means soils where water is removed so slowly that the water table is at or within~~
105 ~~twelve (12) inches of the ground surface for six to nine months of the year.~~

106
107 ~~2. "Very poorly drained soils" means soils in an area where water is removed so slowly that the water table~~
108 ~~is at or within twelve (12) inches of the ground surface for nine to ten (10) months of the year.~~

109 A soil's drainage class must be determined by a Maine Certified Soil Scientist and based on the most recent
110 Natural Resources Conservation Service Supplemental Key for the Identification of Soil Drainage Class that
111 reflects the Maine Association of Professional Soil Scientists, Key to Drainage Classes.

112 **Cemetery and Burying Ground:** A private or public place set apart for the interment of the dead. In the
113 absence of an apparent boundary, i.e., fence, stone wall, survey markers, survey plan, or information from
114 the Kittery Historical and Naval Society or other reliable historic sources, the perimeter of the interment area
115 is determined by starting with a 10-foot distance from existing tombstones and expanded, where necessary,
116 to form a final rectilinear area.

117 **Net residential acreage** means the land area identified for regulatory purposes as developable and is
118 means the gross available acreage less minus the area required for streets or access and less the areas of
119 any portions of the site which are unsuitable for development land area identified as outlined in Article VIII of
120 Chapter 16.7 Net Residential Acreage. The Net Residential Acreage Calculation is used to determine the
121 maximum number of dwelling units allowed on a parcel subject to subdivision.

122
123 **Minimum land area per dwelling unit.**

124 Minimum land area referenced in Chapter 3, Article II Zoning Definitions, Uses, Standards of this Title means
125 the gross area of a parcel not subject to subdivision minus the land area listed below. Where land areas to
126 be subtracted overlap, the area therein shall be subtracted once. For land area subject to subdivision see
127 'Net Residential Acreage'.

128 A. All land located below the Highest Annual Tide elevation as published in the Maine DEP Highest Annual
129 Tide (HAT) levels for the most current year.

130 B. All wetlands as defined in Title 16.2 Wetland, as well as vernal pools, ponds, lakes, streams and other
131 water bodies.

132 C. All land located on filled tidal lands, per Title 16.2 Tidal Land, Filled.

133 D. All land located within existing rights-of-way and other existing easements wherein dwelling units cannot
134 be built.

135
136 **Chapter 16.3 LAND USE ZONE REGULATIONS**
137 **Article III. Zone Definitions, Uses, Standards**

138
139 **16.3.2.1 Residential – Rural R-RL.**

140 **D. Standards**

141 2. Dimensional Standards:

142
143 Minimum land area per dwelling unit 40,000 square feet*

145 *As per Chapter 16.2 definition of ~~net residential density~~ minimum land area per dwelling unit except to
146 exempt properties which are unable to meet the square feet required for a single family dwelling unit,
147 provided the lot was conforming prior to ~~the date of this enactment~~ October 25, 2012. ~~-(Ordained 9/24/12; effective~~
148 ~~10/25/12)~~

149 **16.3.2.2 Residential – Suburban R-S.**

150 **D. Standards**

151 2. Dimensional Standards:

152
153 Minimum land area per dwelling unit*
154 without public sewage disposal 40,000 square feet
155 with public sewage disposal 30,000 square feet
156 unless reduced in accordance
157 with Note A.
158

159 *As per Chapter 16.2 definition of ~~net residential density~~ minimum land area per dwelling unit except to
160 exempt properties which are unable to meet the square feet required for a single family dwelling unit,
161 provided the lot was conforming prior to ~~the date of this enactment~~ October 25, 2012. ~~-(Ordained 9/24/12; effective~~
162 ~~10/25/12)~~

163 **16.3.2.3 Residential - Kittery Point Village R-KPV.**

164 **D. Standards**

165 2. Dimensional Standards:

166
167 Minimum land area per dwelling unit 40,000 square feet*

169 *As per Chapter 16.2 definition of ~~net residential density~~ minimum land area per dwelling unit except to
170 exempt properties which are unable to meet the square feet required for a single family dwelling unit,
171 provided the lot was conforming prior to ~~the date of this enactment~~ October 25, 2012. ~~-(Ordained 9/24/12; effective~~
172 ~~10/25/12)~~

173 **16.3.2.4 Residential – Urban R-U.**

174 **D. Standards**

175 2. Dimensional Standards:

176
177 Minimum land area per dwelling unit 20,000 square feet*

179 *As per Chapter 16.2 definition of ~~net residential density~~ minimum land area per dwelling unit except to
180 exempt properties which are unable to meet the square feet required for a single family dwelling unit,
181 provided the lot was conforming prior to ~~the date of this enactment~~ October 25, 2012. ~~-(Ordained 9/24/12; effective~~
182 ~~10/25/12)~~

183 **16.3.2.5 Residential - Village R-V.**

184 **D. Standards**

185 2. The following space standards apply:

186
187 Minimum land area per dwelling unit 4,000 square feet*

189 *As per Chapter 16.2 definition of ~~net residential density~~ minimum land area per dwelling unit except to
190 exempt properties which are unable to meet the square feet required for a single family dwelling unit,
191 provided the lot was conforming prior to ~~the date of this enactment~~ October 25, 2012. ~~-(Ordained 9/24/12; effective~~
192 ~~10/25/12)~~

194 **16.3.2.6 Residential- Rural Conservation R-RC**

195 **D. Standards**

196 2. The following dimensional standards apply:

197
198 Minimum land area per dwelling unit 80,000 square feet*

200 *As per Chapter 16.2 definition of *minimum land area per dwelling unit* except to exempt properties which
201 are unable to meet the square feet required for a single family dwelling unit, provided the lot was conforming

202 prior to October 25, 2012.
203

204 **Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT**

205
206 **16.8.11.5 Application Procedure.**

207 All development reviewed under this Article is subject to the application procedures in Chapter 16.10,
208 Development Plan Application and Review, and the following:

209 A. In addition to the requirements of Chapter 16.10, the following are required at submittal of the Sketch
210 Plan:

- 211
212 1. Calculations and maps to illustrate:
213 a. proposed dimensional modifications and the dimensional standards required in the zone in which the
214 development will be located;
215 b. ~~non-buildable area (land not suitable for development as defined in Article VIII of Chapter 16.7~~ All land
216 area identified in Title 16.7.8.1 Net Residential Acreage; and
217 ~~c. net residential acreage and Net Residential Density; and~~
218 d. open space as defined in Section 16.8.11.6.D.2 of this Article.

Town of Kittery Ordinance Revision Memorandum

| | |
|---|--|
| Originator(s): T. Emerson, Planning Board Chair; | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 Joint Workshop Meeting: 9/08/14 and 10/6/14 | Title: Sewage Disposal (Sewer only) |
| Town code section: Title 16, §16.8.7.1 | History: Amendment |

ENCLOSURES: CODE AMENDMENT (PG. 5) AND ENACTMENT ORDINANCE {FORTHCOMING}

1 PURPOSE OF PROPOSAL:

2
3 The proposal would amend 16.8.7.1, currently titled Sanitary Sewer and Septic Disposal to comply with
4 Kittery Town Charter Section 2.14. The charter requires that there be only one topic per ordinance.
5 Items related to sewer would be consolidated in 16.8.7.1. Subsurface wastewater disposal regulations
6 would become 16.8.7.2. (See separate memorandum)

7
8 Revisions align Town Code Title 16 with Title 13 (Public Services/Sewer) and clarify the waiver process.

9
10 SUMMARY OF PROPOSAL/AMENDMENT:

11
12 Section 16.8.7.1.A (line 100). This provision would define sewer hook-up requirements for individual
13 structures, as well as for subdivisions, in order to clarify and codify what is current practice.

14
15 Section 16.8.7.1.E (line 120). This provision would permit a developer to request a waiver from the
16 mandatory sewer hook-up requirement should conditions make it infeasible to do. Guidelines for the
17 request and for the Board's deliberations are described.

18
19 JUSTIFICATION:

- 20
- 21 • These amendments would make sewer hook-up guidelines clearer and easier to find for
22 both developers and owners of single structures with sanitary facilities.
 - 23
 - 24 • Rules governing sewer hook-ups for individual structures would be added to Title 16. The
25 additions would align with and refer readers to Title 13 requirements.
 - 26
 - 27 • Clarifying the process by which a developer may request a waiver from the requirement to
28 hook-up to the Town sewer system would ensure that all requests are treated equitably.

29
30 FISCAL IMPACT: None

Town of Kittery

Ordinance Revision Memorandum

| | |
|---|---|
| Originator(s): T. Emerson, Planning Board Chair | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 Joint Workshop Meeting: 9/08/14 and 10/6/14 | Title: Sewage Disposal (Subsurface wastewater disposal only) |
| Town code section: Title 16, §16.8.7.2 and to Title 16.2.2 Definitions | History: Amendment |

ENCLOSURES: CODE AMENDMENT (PG. 5) AND ENACTMENT ORDINANCE {FORTHCOMING}.

33 PURPOSE OF PROPOSAL:

34

35 MRS 30-A §4352 requires that "a zoning ordinance must be pursuant to and consistent with a
36 comprehensive plan." This proposal contains amendments that would implement Kittery's
37 Comprehensive Plan in many significant ways.

38

39 It would also eliminate a reference to an outdated soil manual that restricts the siting of subsurface
40 wastewater disposal (SWD) systems in a manner that does not reflect modern soil science or best
41 practices.

42

43 The proposal would bring this section into compliance with Town Charter section 2.14, which requires a
44 single topic per ordinance.

45

46 SUMMARY OF PROPOSAL/AMENDMENT:

47

48 Section 16.8.7.1.C (line 137) would be deleted. This subsection limits septic use based on the outdated
49 *Soil Suitability Guide*.

50

51 Section 16.8.7.2.A (line 152) is modified and moved from Section 16.8.7.2.

52

53 Section 16.8.7.2.D.1 (line 195) would permit current soil-depth requirements to be followed where a
54 replacement SWD system, with the same capacity as the original, cannot meet the newer standards.

55

56 Section 16.8.7.2.D.3 (line 204) would increase the depth of soil required for passing test pits by six (6)
57 inches, instead of mandating prohibitively-expensive advanced pretreatment for all new SWD systems.

58

59 Section 16.8.7.2.E (line 212) would require advanced pretreatment in new construction that is within
60 100 ft. of porous sand-and-gravel aquifers. There are only two small sand-and-gravel aquifers in Kittery,
61 both are in the vicinity of Cutts Ridge.

62

63 Title 16.2.2 Definitions: New definitions for the following, relative to sewage disposal:

64

- Septic System
- Subsurface wastewater disposal system
- Wastewater
- Domestic wastewater

65

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JUSTIFICATION:

- Proposed amendments are pursuant to and consistent with the Kittery Comprehensive Plan. They would:
- Protect sensitive environmental resources such as groundwater, wetlands, watersheds and sand-and-gravel aquifers (Comp. Plan pp.43-44, pp.62-64, p.125)

In addition:

- Requiring deeper soil for passing test pits ensures greater separation between a SWD system and the water table or bedrock. This improves the filtering of effluents. Although no current SWD system can filter excreted pharmaceuticals or all household chemicals, better soil filtration would provide greater protection from nitrogen and phosphorous contamination, called "nutrient pollution", of our groundwater, watersheds and wetlands. Soil scientists confirmed the value of this strategy.
- The proposal would not create a disincentive for the routine replacement of old or failing SWD systems. Such routine replacements would be held to less-stringent standards than those for new systems and systems being enlarged due to expanded use.
- Removing the outdated soil manual reference allows current best practices to be employed when siting SWD systems. This protects the Town's interests and the applicant's.
- Removing other topics from this subsection would make SWD regulations less confusing.

FISCAL IMPACT:

None

99 CODE AMENDMENT

100 Chapter 16.8 DESIGN AND PERFORMANCE STANDARDS – BUILT ENVIRONMENT

101 Article VII. Sewage Disposal

102 16.8.7.1 Sanitary Sewer System and Septic Disposal.

103
104 A. An existing or new dwelling unit or structure that requires wastewater disposal must connect to town sewer
105 where sewer is within 100 feet of the property line per Town Code Title 13, Chapter 13.1 Public Sewer System.
106 Individual dwellings and structures in approved and recorded developments where town sewer becomes available
107 as described in this paragraph must connect per the requirements of Title 13, Chapter 13.1. {NEW}
108

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

115 C. Sewer mains, service lines and related improvements must be installed at the developer's expense. Service
116 lines must extend to each lot's boundary line. Connections to town sewer must be installed in accordance to this
117 Article and Title 13 Public Services in the Kittery Town Code.
118 {MOVED FROM 16.8.7.1.E}
119

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

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

133 ~~A. Public sanitary sewer disposal system connections must be installed, in accordance to Article VII o Chapter~~
134 ~~16.8, with proposal and construction drawings reviewed and approved in writing by the servicing sanitary sewer~~
135 ~~agency. {Moved and Modified, SEE 16.8.7.1.D}~~
136

137 ~~B. If, in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may~~
138 ~~allow individual subsurface waste disposal, or a separate central sewage collection system to be used in~~
139 ~~accordance with Section 16.8.7.4. {Moved and Modified, SEE 16.8.7.1.E}~~
140

141 ~~C. In no instance may an initial installation septic disposal system be allowed in soils rated poor or very poor for~~
142 ~~such purpose by the Soil Suitability Guide for Land Use Planning in Maine. {DELETED}~~
143

144 ~~D. If the developer proposes individual subsurface waste disposal or central collection system and waste~~
145 ~~generated is of a "significant" nature, or if waste is to be discharged, treated or untreated, into any body of water,~~
146 ~~approval must be obtained in writing from the Maine Department of Environmental Protection. {DELETED}~~
147

148 ~~E. Sanitary sewer disposal systems must be installed, at the expense of the developer, to the individual lot~~
149 ~~boundary line. {Moved and Modified, SEE 16.8.7.1.C}~~
150

151 ~~F. All required approvals of a sewage disposal system must be secured before official submission of a final plan.~~
152 ~~{Moved and Modified, SEE 16.8.7.1.D}~~
153

154 **16.8.7.2 Subsurface Wastewater Disposal System**

155
156 A. The developer shall submit plans for subsurface wastewater disposal designed by a Maine Licensed Site
157 Evaluator in full compliance with the requirements of the State of Maine Plumbing Code, Subsurface Wastewater

158 Disposal Rules, and this Code. Subsurface wastewater disposal systems must be constructed according to the
159 approved plan. {MODIFIED & MOVED FROM 16.8.7.2}

160
161 ~~B.G.~~ All first-time subsurface wastewater subsurface—sewage disposal systems must be installed in
162 conformance with the State of Maine Subsurface Wastewater Disposal Rules and this Code. The ~~Maine~~
163 ~~Subsurface Wastewater Disposal rules~~ require new systems, excluding fill extensions, to be constructed no less
164 than one hundred (100) feet, horizontal distance, from the normal high water line of a perennial water body. The
165 minimum setback distance for a new subsurface disposal system may not be reduced by variance. {Moved to item
166 1 below} The following also apply:

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

169 42. Clearing or removal of woody vegetation necessary to site a first-time system and any associated fill
170 extensions, ~~must~~ may not extend closer than one hundred (100) feet, horizontal distance, from the normal high
171 water line of a water body or the upland edge of a wetland. {MODIFIED & MOVED FROM 16.8.7.1.G.1}

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

174
175 C. Replacement of subsurface wastewater disposal systems for existing legal uses:

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

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

179 {NEW}

180 181 ~~16.8.7.2 — Design and Standards.~~

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

185 186 ~~16.8.7.3 — Public Sewer Connection Required.~~

187 ~~Where a public sanitary sewer line is located within one thousand (1,000) feet of a proposed development at its~~
188 ~~nearest point, the developer must connect with such sanitary sewer line with a main as required by the sewer~~
189 ~~department, and provide written certification to the Board from the department that the proposed addition to~~
190 ~~service is within the capacity of the system's collection and treatment system. {MOVED AND MODIFIED, SEE~~
191 ~~16.8.7.1.B}~~

192 193 ~~D. 16.8.7.4 Private Subsurface Wastewater Disposal Systems; on Unimproved Lots Created after April 26,~~ 194 ~~1990.~~

195
196 ~~A. Where public sewer connection is not feasible, the developer must submit evidence of soil suitability for~~
197 ~~subsurface sewage wastewater disposal systems, i.e. test pit data and other information as required by the State~~
198 ~~of Maine Subsurface Wastewater Disposal Rules and this Code. In addition:~~

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

203
204 2.B. ~~In no instance may a primary or reserve disposal area be permitted on soils or on a lot which requires~~
205 ~~requiring a First-Time System Variance Request from per the State of Maine Subsurface Wastewater Disposal~~
206 ~~Rules.~~

207
208 3.C. ~~Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within~~
209 ~~the each disposal area (primary and reserve sites) to assure ensure that the proposed disposal area system can~~
210 ~~be located on soils and slopes which that meet the criteria of the State of Maine Subsurface Wastewater Disposal~~
211 ~~Rules and the State Plumbing Code. Passing test pits must have a minimum of fifteen (15) inches of existing~~
212 ~~natural mineral soil above the limiting factor, except in the Shoreland and Resource Protection Overlay Zones~~
213 ~~where passing test pits must have a minimum of twenty-one (21) inches of natural mineral soil above the limiting~~
214 ~~factor. All passing and failing test pits must be shown on plan.~~

215
216 E. The developer shall install advanced pre-treatment to subsurface wastewater disposal systems that are located
217 inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of
218 Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.
219 {NEW}

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16.8.7.3 Holding Tanks

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

Chapter 16.2 DEFINITIONS

16.2.2 Definitions

~~**Subsurface sewage disposal system** means a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term does not include any wastewater discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system licensed under 38 M.R.S. §413, §1A, or any public sewer. The term does not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S. §13.1.~~

Septic System (see Subsurface wastewater disposal system)

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

Wastewater means any domestic wastewater, or other wastewater from commercial, industrial or residential sources that has attributes similar to those of domestic wastewater. This term specifically excludes hazardous or toxic wastes and materials.

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

ENACTMENT ORDINANCE {FORTHCOMING}

Town of Kittery Ordinance Revision Memorandum

| | |
|---|---|
| Originator(s): T. Emerson, Planning Board Chair | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 Joint Workshop Meeting: 9/08/14 and 10/6/14 | Title: Lots |
| Town code section: Title 16, §16.8.16 | History: Amendment |

ENCLOSURES: CODE AMENDMENT AND ENACTMENT ORDINANCE {FORTHCOMING}

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PURPOSE OF PROPOSAL:

This proposal would move lot-size restrictions from 16.9.1.4 Soil Suitability, and put them in section 16.8.16 Lots.

Other changes would create an incentive for the use of advanced pretreatment subsurface wastewater disposal (SWD) systems, improve ordinance clarity and prioritize items within this section.

SUMMARY OF PROPOSAL/AMENDMENT:

16.8.16.2.A (lines 48-50) Lot shape requirements have been modified slightly to improve clarity as was recommended by the Maine Municipal Association's legal department.

Section 16.8.16.3 (lines 57-64). Moves lot size provisions from 16.9.1.4 to new subsection 16.8.16.3. Under this proposal, single land divisions would no longer be subject to lot-size restrictions.

(lines 62-64) Developers would be allowed to count a substantially higher percentage of wetland to satisfy minimum lot-size requirements if they use advanced pretreatment SWD systems.

JUSTIFICATION:

- This proposal would permit small land owners to make a single land division without being subject to wetland-percentage restrictions. This is a substantial benefit to such landowners.
- The proposal would create an incentive for developers to use advanced pretreatment SWD systems, which will help protect the environment.
- The technical change of moving the provisions on lot-size restrictions to the section titled Lots will make this information easier to find, and is in compliance with Kittery Town Charter 2.14.

FISCAL IMPACT: None

38 **CODE AMENDMENT**

39 **CHAPTER 16.8 DESIGN AND PERFORMANCE STANDARDS**

40 **Article XVI. Lots**

41 **16.8.16.1 Dimensions.**

42 The lot size, width, depth and shape and orientation and the minimum building setback lines must be appropriate
43 for the location of the development and for the type of development and use contemplated. The lot configuration
44 should be designed to maximize access to solar energy for building sites with suitable orientation.
45

46 **16.8.16.2 Lot Shape.**

47
48 A. The ratio of lot length to width shall ~~shall~~ must not be more than three to one. Flag-shaped lots are prohibited. and
49 Other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size
50 requirements are also prohibited. {MOVED AND MODIFIED FROM 16.8.16.9.A}
51

52 B. Spaghetti-Lots Prohibited. If any lots in a proposed subdivision have shore frontage on a river, stream, brook
53 or coastal wetland as these features are defined in Code 38, M.R.S. §480-B, none of the lots created within the
54 subdivision may have a lot depth to shore frontage ratio greater than five to one.
55 {MOVED AND ONLY AMENDED SECTION NUMBER}
56

57 **16.8.16.3 Lot Size Restrictions.** *add poorly and*

58 Lot size determination for all developments requiring subsurface wastewater disposal is as follows:
59 Areas containing very poorly drained soils may be used to fulfill twenty-five (25) percent of the minimum lot size
60 required by this Code, provided that the remaining area is sufficient in size and configuration to safely and
61 adequately accommodate all buildings and required utilities such as water supply and wastewater disposal,
62 including primary and reserve disposal field locations, within required zoning setbacks. Where advanced pre-
63 treatment is used in conjunction with wastewater disposal, said soils may satisfy seventy-five (75) percent of the
64 minimum lot size. {MODIFIED AND MOVED FROM 16.91.4.C SOIL SUITABILITY}
65

66 ~~**16.8.16.2 Off-street Parking.** {MOVED AND RENUMBERED; 16.8.16.9 BELOW}~~

67 ~~Depth and width of properties reserved or laid out for all purposes must be adequate to provide for off-street~~
68 ~~parking and service facilities for vehicles required by type of development and use contemplated.~~
69

70 ~~**16.8.16.3 Land Subdivision.** {MOVED AND RENUMBERED; 16.8.16.11 BELOW}~~

71 ~~The subdividing of land must conform to the requirements of Chapter 16.3.~~
72

73 **16.8.16.4 Double/Reverse Frontage Lots.**

74 Double frontage and reverse frontage lots are to be avoided except where essential to provide separation of
75 residential development from traffic arteries or to overcome specific disadvantages of topography and
76 orientation. A planting screen easement of at least ten (10) feet, across which there may be no right of access, is
77 to be provided along the lot lines abutting such a traffic artery or other disadvantageous use.
78

79 **16.8.16.5 Side-lot Lines.**

80 Side-lot lines must be substantially at right angles or radial to street lines.
81

82 **16.8.16.6 Substantially Larger Lots.**

83 Where a tract is subdivided into lots substantially larger than the minimum size required in the zone in which a
84 subdivision is located, and where no covenants exist to preclude lots from resubdivision, the Board may require
85 that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements
86 contained in these standards.
87

88 **16.8.16.7 Multiple Frontages.**

89 When lots have frontage on two or more streets, the plan and deed restrictions must indicate vehicular access to
90 be located only on the least-traveled way.
91

92 **16.8.16.8 Divided Lots.**

93 If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements
94 for lot size, it may not be combined with a lot on the other side of such barrier to meet the minimum lot size
95 unless in conformance with Article II of Chapter 16.7.
96

97 **~~16.8.16.9~~ Lot Shape.** {MOVED, MODIFIED AND RENUMBERED; 16.8.16.2 ABOVE}
98

99 A. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd-shaped lots in
100 which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
101

102 B. ~~Spaghetti Lots Prohibited.~~ If any lots in a proposed subdivision have shore frontage on a river, stream, brook
103 or coastal wetland as these features are defined in Code 38, M.R.S. §480-B, none of the lots created within the
104 subdivision may have a lot depth to shore frontage ratio greater than five to one.
105

106 **16.8.16.29 Off-street Parking.**

107 Depth and width of properties reserved or laid out for all purposes must be adequate to provide for off-street
108 parking and service facilities for vehicles required by type of development and use contemplated.
109 {MOVED AND ONLY AMENDED SECTION NUMBER}
110

111 **16.8.16.10 Access to Arterial Street.**

112 Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have
113 vehicular access directly onto the arterial street. This requirement must be noted on the plan and in the deed of
114 any lot with frontage on the arterial street.
115

116 **16.8.16.311 Land Subdivision.**

117 The subdividing of land must conform to the requirements of Chapter 16.3.
118 {MOVED AND ONLY AMENDED SECTION NUMBER}

119

Town of Kittery Ordinance Revision Memorandum

| | |
|---|---|
| Originator(s): T. Emerson, Planning Board Chair | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 Joint Workshop Meeting: 9/08/14 and 10/6/14 | Title: Soil Suitability |
| Town code section: Title 16, §16.9.1.4 | History: Amendment |

ENCLOSURES: CODE AMENDMENT AND ENACTMENT ORDINANCE (FORTHCOMING)

1 **PURPOSE OF PROPOSAL:**

2
3 The proposal would bring clarity to the law with respect to soil assessment and would codify what is
4 current practice. It would also move lot-size restrictions to section 16.8.16 Lots.

5
6 **SUMMARY OF PROPOSAL/AMENDMENT:**

7 Section 16.9.1.4.C (lines 51-64)

8 This section would codify current best practices as endorsed by the Maine Association of Professional
9 Soil Scientists.

10 Section 16.9.1.4.C (lines 85-94)

11 This section, which contains lot-size restrictions, would be deleted and moved to 16.8.16 Lots, to
12 simplify locating the information and to comply with Kittery Town Charter 2.14.

13 Section 16.9.1.4.E (lines 75-76)

14 This section would require soil reports, class A high-intensity soil surveys and soil mapping for cluster
15 developments and other high-intensity land uses.

16 Section 16.9.1.4.F (lines 79-83)

17 This section would permit the Planning Board to grant a waiver from the above requirements for a low-
18 intensity, non-clustered development upon the applicant's request. The Board would be required to
19 consider the report of the Peer Review Engineer prior to granting a waiver.

20 **JUSTIFICATION:**

- 21
22
23
24
25
26
27 • The current code lacks clarity in describing various soil assessment requirements. It is
28 hard to understand and implement. The amendment would correct these problems.
- 29
30 • Small building projects will not be made to meet the same high standards that are required
31 of high-intensity developments.
- 32
33 • The amendment would permit the Board to grant regulatory relief on a case-by-case basis
34 which will save the applicant both time and money.
- 35
36 • The proposal would amend the ordinance to use current terminology and is consistent with
37 the recommendations of the Maine Association of Professional Soil Scientists.

38
39 **FISCAL IMPACT:** None

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}

~~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 *Soil Survey for York County* or information from the Maine NRCS shows soils with severe restrictions for development, a Class A (High Intensity) 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 review, 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.~~

{MODIFIED AND MOVED TO 16.8.16 LOTS}

98 ~~D~~F. 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.
103

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}
115

116 **ENACTMENT ORDINANCE**
117 {FORTHCOMING}
118

**Town of Kittery
Ordinance Revision Memorandum**

| | |
|---|---|
| Originator(s): T. Emerson, Planning Board Chair | Council Sponsor(s): J. Thomson, Chair |
| Council meeting date: November 10, 2014 | Title: Signs – General Requirements (LED lighting) |
| Town code section: Title.16.8.10.2.C | History: Amendment |

ENCLOSURES: CODE AMENDMENT AND ENACTMENT ORDINANCE {FORTHCOMING}

PURPOSE OF PROPOSAL:

LED lit signage is currently prohibited. However, the prohibition of this type of lighting appears to be a burden on applicants requesting sign permits when sign manufacturers (i.e. for gas signage) provide no other alternative. Additionally, the reduced long-term cost of LED lighting is appealing to business owners.

SUMMARY OF PROPOSAL/AMENDMENT:

Remove reference to LED lighting in Title 16.8.10.2.C. as follows:

C. No sign may contain a moving message board, ~~LED lighting~~ or intermittent illumination, except where necessary in time/temperature/date signs.

JUSTIFICATION:

Allows the use of the more long-term economical, environmentally sensitive LED lights and, in some instances, the only available lighting method for new or replacement signage.

FISCAL IMPACT:

NONE

34 *CODE AMENDMENT*
35 *CHAPTER 16.8 – DESIGN AND PERFORMANCE STANDARDS-BUILT ENVIRONMENT*
36 *ARTICLE X-SIGNS*

37 **16.8.10.2 General Requirements.**
38

- 39 A. No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the
40 Code Enforcement Officer (CEO) and also approved by the Town Planner, except where Section
41 16.8.10.9 provides otherwise.
42 (Ordained 9/26/11; effective 10/27/11)
43
- 44 B. No exterior sign may be artificially illuminated except where hooded or shielded or otherwise
45 designed to prevent direct light spilling onto traveled ways or neighboring property.
46
- 47 C. No sign may contain a moving message board, ~~LED lighting~~ or intermittent illumination, except where
48 necessary in time/temperature/date signs.
49
- 50 D. Any sign that interferes with or closely imitates any official traffic sign, signal or device is prohibited.
51
- 52 E. No sign designed to be transported by means of wheels is allowed, unless said vehicle is used in the
53 normal day-to-day transportation operations of the business. All trailer signs are prohibited.
54
- 55 F. Any changeable message signs must be integrated into a permanently-mounted sign. Such a
56 changeable message Board is to be mounted a minimum of three and one-half feet above ground level.
57
- 58 G. All signs must be maintained in a safe and sound structural condition.
- 59
- 60 H. Advertising. No advertising or signage is permitted on wireless communication services facilities.
61
- 62 I. Any sign not expressly permitted herein is prohibited.

63

KITTERY SCHOOL DEPARTMENT

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TO: Maryann Place, Town Clerk
FROM: Superintendent Allyn W. Hutton
DATE: November 19, 2014



The Kittery School Committee at their regular meeting held on Tuesday, November 18th appointed the following School Committee members to sign the *Disbursement Warrants for School Employee Wages and Benefits*. The following have been **appointed (Pro tem) until the December 2nd meeting**. We did not have a full Board on November 18th.

David Batchelder, Pro tem Chair

Patti Ayer, Alternate, Pro tem

Kim Bedard, Alternate, Pro tem