

REPLACE in 16.2 DEFINITIONS Best Management Practice**Best Management Practice (BMP)**

~~Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of water bodies. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.~~

Best Management Practice (BMP) means a structure or practice designed to minimize the flushing by stormwater and the discharge of pollutants to waterbodies by temporarily storing and treating urban runoff. BMPs must be used to achieve four stormwater management objectives identified by Maine DEP: effective pollutant removal, cooling, channel protection and flood control.

ADD to 16.2 DEFINITIONS Liner Building and Low Impact Development

Liner building means a building that lines the edge of a street or other public space. Liner buildings are typically used to shield public space, like a street or sidewalk, from something less desirable to view, such as a parking garage. They can also be used to enclose a space such as protecting a courtyard from a busy street. Where allowed, a liner building must be a minimum of 8 feet deep and a maximum of 14 feet deep.

Low Impact Development (LID) means the site-based process of developing land while minimizing impacts on water resources and infrastructure. LID replicates the natural hydrology of a site.

AMEND 16.3 Table of Zones**16.3.1.2 Establishment of zones.**

To implement the provision of this title, the Town is divided into the following base and overlay zones:

A. Base zones.

~~Business—Park~~Mixed Use – Neighborhood

~~B-PK~~MU-N

DELETE 16.3.2.10 Business – Park - BP and REPLACE with the following:**16.3.2.10 Mixed Use – Neighborhood (MU-N)**

A. Purpose: To encourage higher density, mixed-use development that provides increased housing opportunities and a desirable setting for business while balancing such increased development with environmentally-conscious and ecologically-sensitive use of land.

B. Permitted Uses.

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1. Accessory buildings and uses including minor or major home occupations;
2. Art studio/gallery;
3. Business and professional offices;
4. Business Services;
5. Conference Center;
6. Convalescent care facility;
7. Convenience Store, neighborhood grocery facilities excluding the sale of gasoline;
8. Day care facility;
9. Dwellings, limited to the following:
 - i. Multiunit residential;
 - ii. Dwelling units on the upper floors of a mixed-use building that is served by public sewer;
10. Eldercare facility, attached dwelling units only
11. Elderly daycare facility;
12. Food Store;
13. Grocery store;
14. Hospital;
15. Hotel;
16. Industry, light (less than or equal to twenty thousand (20,000) square feet in gross floor area);
17. Inn;
18. Liner buildings, as part of a mixed-use building;
19. Low intensity recreation;
20. Nursing care facility, long term;
21. Personal services;
22. Public open space or recreation;
23. Public utility facilities including substations, pumping stations, and treatment facilities;
24. Repair service;
25. Research and development;
26. Restaurant;
27. Retail use, not to exceed thirty thousand (30,000) square feet in gross floor area unless part of a mixed-use building;
28. Selected commercial recreation, except shooting and archery ranges;
29. Shop in pursuit of trades;
30. Specialty food and/or beverage facility.
31. Theater;
32. Veterinary hospital;

C. Special Exception Uses.

1. Commercial kennel;

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2. Commercial parking lot or garage
3. Construction services
4. Equipment sales and rentals (only on lots with frontage on Route 236)
5. Gas service station (only on lots with frontage on Route 236);
6. Industry, light (greater than twenty thousand (20,000) square feet in gross floor area);
7. Mass transit station;
8. Mechanical service;
9. New or used motor vehicle sales, (only on lots with frontage on Route 236);
10. Repair garage; (only on lots with frontage on Route 236)
11. Retail use, greater than thirty thousand (30,000) square feet in gross floor area and less than fifty thousand (50,000) square feet in gross floor area;
12. Undefined Use; additional commercial/business uses not defined by 16.2

Undefined Uses ~~uses may be considered if:~~

- ~~1. The use is not defined by 16.2.~~

~~Such uses~~ will be considered ~~special exceptions uses and must be reviewed~~ by the Planning Board based on the following criteria:

1. If the use is consistent with the Comprehensive Plan and zoning district purposes and
2. If the use meets special exception criteria found in 16.6.4.4.

In addition, the Undefined Use ~~use~~ must meet one or both of the following criteria:

1. If the proposed use has substantially similar impacts as a listed use.
2. If the proposed use is compatible with existing uses within the zoning district for which it is proposed.

[NOTE to Council (not part of ordinance proposal): Planning Board has jurisdiction over special exception uses where site plan is required. When site plan is not required Board of Appeals has jurisdiction (16.4.6). An applicant wishing to appeal the Planning Board or the BOA must go to Superior Court (16.6.2). The other option available to the Council is to eliminate the Undefined Uses (lines 83 through 92) until the recodification can be complete. Recodification is expected to address the general issues of use definition]

D. Standards.

1. All development and the use of land in the MU-N zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of Chapters 16.8 and 16.9 must be met unless noted otherwise below.

All submissions must include a lighting plan. Hours of operation and number of employees for businesses must also be provided.

106 2. The following space standards apply:

Minimum land area per dwelling unit – mixed-use building:

4,000 square feet for first residential unit plus 3,000 square feet for each additional unit, no minimum land area for business or commercial uses when combined in a building with residential uses except that the total lot size must be at least 20,000 square feet.*

107 **NOTE:**

108 *1) ADA-compliant units may be located on the first floor
 109 through a special exception permit by the Planning Board but only
 110 50% of the first floor may be such ADA- compliant residential units.

Minimum land area per dwelling unit – multiunit residential:

4,000 square feet for first unit, plus 2,500 square feet for each additional unit up to 16 units per acre of lot size. Total lot size must be a minimum of 20,000 square feet.

111 Mixed-use or multiunit residential buildings which encompass at least 50% of required parking within the building

Two additional residential units may be added to each story above the parking with no additional land area required

112 Mixed-use buildings which encompass at least 50% of required parking within the building and include a liner building for non-residential uses buffering parking from the street:

One additional residential unit may be added to each story with no additional land area required.

113 Minimum land area per bed for long-term nursing care and

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114	<u>convalescent care facilities that are connected to public sewer</u>	<u>2,000 square feet</u>
115	<u>Minimum land area per residential unit for eldercare facilities that</u>	
116	<u>are connected to public sewer</u>	<u>3,000 square feet</u>
117	<u>Minimum lot size</u>	<u>20,000 square feet</u>
118	<u>Minimum street frontage</u>	<u>75 feet</u>
119	<u>Minimum front setback on Route 236</u>	<u>30 feet</u>
120	<u>Minimum front setback on Dennett Road</u>	<u>4050 feet</u>
121	<u>Minimum front setback on Martin Road</u>	<u>40-50 feet</u>
122	<u>Maximum front setback all other roads</u>	<u>20 feet</u>
123	<u>Spacing between buildings</u>	<u>15 feet*</u>
124	<u>Maximum rear and side setbacks</u>	<u>20 feet**</u>
125	<u>NOTES:</u>	
126	<u>* Or as required by the Fire Department or State Fire Marshal's office.</u>	
127	<u>** Except as may be required by the buffer provisions</u>	
128	<u>of Code. See Landscaping, Screening and Buffers 16.3.2.10.E.8.</u>	
	<u>Maximum building height</u>	<u>50 feet (exclusive of solar apparatus)</u>
129	<u>Maximum impervious and outdoor stored material coverage</u>	<u>70%*</u>
130	<u>*NOTE:</u>	
131	<u>1) With Best Management Practices (BMPs) and Low Impact</u>	
132	<u>Development Practices (LIDs) as defined in 16.2 and based on Maine</u>	
133	<u>DEP's Maine Stormwater Best Management Practices Manual,</u>	
134	<u>Volumes I - III, as amended from time to time, incorporated in site</u>	
135	<u>design, otherwise 60%. Maximum on-site stormwater infiltration is the</u>	
136	<u>desired and measurable outcome.</u>	
137	<u>Minimum setback from streams, water bodies and wetlands in accordance with</u>	
138		<u>Table 16.9*</u>

***NOTES:**

1) With Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) as defined in 16.2 and based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I - III, as amended from time to time, incorporated in site design, then wetland setbacks pursuant only to Maine Department of Environmental Protection (MDEP) Rules Chapters 305 and 310.

Without Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) as defined in 16.2 and based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I - III, as amended from time to time, incorporated in site design, wetland setbacks pursuant to Kittery Town Code Title 16, Table 16.9.

2) The Town shall retain expert consultation (qualified wetland scientist and/or Maine-certified soil scientist) to determine wetland delineations and classifications and to perform soil testing as needed, all of which shall be paid for by the applicant at the time of sketch plan. The qualified wetlands scientist and/or Maine certified soil scientist shall determine through field investigation the presence, location and configuration of wetlands on the area proposed for use. Any wetland alterations proposed must also be reviewed by the Town's consultant(s) at the applicant's expense. These requirements are in addition to engineering, stormwater management/BMPs, traffic or other types of peer review that may also be required.

Minimum open space:

Lot size less than 100,000 square feet	15 percent*
Lot size greater than 100,000 square feet	25 percent*

***NOTE:**

1) This requirement may be met by a payment-in-lieu to the Wetland Mitigation Fund. These fees shall be set by Town Council. Landscaping, screening and buffer requirements must still be met.

3. Parking:

Parking is encouraged within buildings. New or revised surface parking areas, garages, and entrances to parking within buildings must be located to the rear of buildings. If a rear location is not achievable, as determined by the Planning Board, parking, garages and entrances to parking must be located to the side of the building. Screening and/or fencing is required for surface parking areas along a street. See 8. Landscaping, Screening and Buffers.

Parking requirements are based on the Institute of Transportation Engineers (ITE) parking generation rates.

Joint use agreements (between businesses and residences) for parking are encouraged. A plan describing how joint use parking needs will be met is required as part of any development that proposes such parking and must be reviewed and approved by the Planning Board.

Parking requirements for non-residential uses may be met partially or in full by parking on the street except that no parking is allowed on Route 236, Dennett Road, or Martin Road. Such on-street parking plans must be reviewed by planning staff prior to submission and then reviewed and approved by the Planning Board.

Electric car charging stations are allowed in parking lots but must not interfere with pedestrian movement on sidewalks.

a. Parking for development that includes trails and low intensity recreation:

Development that includes the creation of public trails and low intensity recreational opportunities such as wildlife observation stations or boardwalks may apply the pertinent off-street parking standards below. All other off-street parking standards as found in 16.8.9.4 shall apply.

<u>Multiunit residential buildings and mixed-use buildings that include residential</u>	<u>1 parking space for studio and one bedroom dwelling units</u>
	<u>1.5 parking spaces for two bedroom dwelling units plus 1 guest parking space per every 4 dwelling units.</u>
	<u>2 parking spaces for more than two bedroom dwelling units</u>

4. Loading Docks, Overhead Doors, Service Areas and Outdoor Storage Areas:

Loading docks and overhead doors must be located on the rear or side of the building.

Loading docks must be screened from view by adjacent residential uses. This screening must consist of the following:

a. A fence, constructed of a material similar to surrounding buildings, of sufficient height as determined by the Planning Board to accomplish the screening. No fence may be less than six feet tall.

All service areas for dumpsters, compressors, generators and similar items as well as any outdoor storage areas must be screened by a fence at least six feet tall, constructed of a material similar to surrounding buildings, and must surround the service or storage area except for the necessary ingress/egress.

204 5. Site Design

205 Site design and building placement must be attentive to the surrounding environment
 206 including sun, wind and shade patterns related to proposed and existing buildings. A
 207 sun/shade analysis may be required by the Planning Board.

208 6. Energy and Sustainability

209 Energy efficiency is allowed and encouraged through the use of solar power, geothermal, and
 210 other alternative and sustainable power sources.

211 7. Building Design Standards

212 New buildings must meet the general design principles set forth in the Design Handbook
 213 except as noted below. In general, buildings should be oriented to the street from which they
 214 derive frontage, with the front of the building facing the street. The front façade must contain
 215 the following:

216 a. A front door for pedestrian access

217 b. Windows

218 Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical
 219 apparatus off the ground, are acceptable provided that such apparatus are screened from view
 220 and the screening is designed as an integral part of the building to aid both aesthetics and
 221 noise attenuation. Flat roofs proposed for the purpose of solar array installations are also
 222 acceptable.

223 8. Landscaping, Screening and Buffers:

224 A landscape plan prepared by a registered landscape architect is a submission requirement.
 225 However, a landscape plan done by other design professionals may be allowed at the
 226 Planning Board's discretion.

227 Native trees, shrubs and herbaceous plantings are preferred and must be drought and salt
 228 tolerant when used along streets. A diversity of tree species (3-5 species per every 12 trees) is
 229 required to provide greater resiliency to threats from introduced insect pests and diseases.

230 Any required plantings approved by the Planning Board that do not survive must be replaced
 231 within one year.

232 a. Landscaping along the street frontage of each building must consist of one of the
 233 following:

234 i. Street Trees. A minimum of one street tree must be planted for each 20 feet of street
 235 frontage. Trees may be planted in groups or spaced along the frontage. However,
 236 trees must be planted to ensure survival, using silva cells, bioretention cells or tree
 237 wells. Trees are to be a minimum of 2.5" caliper and 12 feet high at the time of

- 238 planting. Existing large healthy trees must be preserved if practical and will count
 239 towards this requirement.
- 240 ii. Pocket Park. The park must be at least 200 square feet. A minimum of three trees and
 241 a bench for sitting are required. Park must be vegetated with ground cover except for
 242 walkways.
- 243 b. Surface parking areas that abut a street must provide screening in one of the following
 244 ways:
- 245 i. One tree per 25 feet of street frontage backed by a fence constructed of a material
 246 similar to surrounding buildings which must screen the parking area from the street
 247 except for necessary vehicular and pedestrian access. Trees must be at least
 248 2.5" caliper and 12 feet high at the time of planting
- 249 ii. A combination of trees and shrubs including at least 50% evergreen species, all at
 250 least 6 feet high at time of planting, in a planting bed at least 8 feet wide. Plantings
 251 must be sufficient, as determined by the Planning Board, to screen the parking area
 252 from the street except for necessary vehicular and pedestrian access. Planting beds
 253 may be mulched but no orange or red-dyed mulching material may be used.
- 254 c. A minimum of 10% of any surface parking area consisting of 10 or more parking spaces
 255 must be landscaped with trees and vegetated islands. This requirement is in addition to
 256 the screening requirements in b. above if the parking area abuts a street. Bioretention
 257 cells and rain gardens may be utilized to meet the landscaping requirements and perform
 258 stormwater management.
- 259 d. Buffers required between residential uses and mixed use or non-residential uses, and
 260 between adjacent residential zones and this zone must be ~~forty~~ fifty feet (4050') wide and
 261 consist of one of the following as determined by the Planning Board:
- 262 i. Existing natural woodland and vegetation
- 263 ii. Existing natural woodland augmented by the planting of additional trees consisting
 264 of a variety of species at least 2.5" caliper and 12 feet high
- 265 iii. A fence at least six feet high, constructed of material similar to surrounding
 266 buildings, with plantings of trees and shrubs at least 6 feet tall on either side of the
 267 fence.

268 9. Open Space

269 Open space must be provided as a percentage of the total parcel area including freshwater
 270 wetlands, water bodies, streams and setbacks. Required open space must be shown on the site
 271 plan with a note dedicating it as open space. The open space must be situated to protect
 272 significant natural features and resources, minimize environmental impacts and promote an
 273 aesthetically pleasing site.

- a. Wherever possible, large healthy trees and areas with mature tree cover must be included in the open space.
- b. Location of open space must promote the continuity of open space networks across adjacent parcels
- c. Where possible, open space and open space networks must include public trails and low intensity recreational opportunities.

10. Special Situations

Expansions or modifications of 1,000 square feet or less to existing uses are exempt from landscaping, screening and buffer requirements.

11. Conditions for Approving Special Exception Uses in the Neighborhood Mixed Use Zone

All applications must include a narrative describing why the use proposed will promote the general welfare (specifics may be found in Chapter 2 Definitions for **special exception**) of the Town of Kittery, how the use proposed will meet the special exception criteria found in 16.6.4.4 and how the proposed development will adapt and relate to the natural environmental conditions found on the site.

REMOVE from 16.3.2.17 the Business Park Zone and renumber subsequent sections

16.3.2.17 Shoreland Overlay Zone OZ-SL.

~~(10) Business—Park Zone (B-PK).~~

~~(a) Permitted uses.~~

~~[1] The following land uses are permitted for projects that are cluster mixed-use developments:~~

~~[a] Art studio/gallery;~~

~~[b] Mass transit station;~~

~~[c] Public open space recreational uses, recreational facilities, and selected commercial recreation;~~

~~[d] Research and development; and~~

~~[e] Public utility facilities, including substations, pumping stations, and sewage treatment facilities.~~

~~[2] The following land uses are permitted for projects that are not cluster mixed-use developments:~~

~~[a] Accessory uses and buildings.~~

~~(b) Special exception uses. The following uses are permitted in a cluster mixed-use development as a special exception:~~

~~[1] Business and professional offices;~~

~~[2] Business services;~~

~~[3] Commercial parking lot or parking garage;~~

~~[4] Conference center;~~

~~[5] Cluster residential development;~~

~~[6] Grocery, food store, convenience store, including gas station;~~

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- ~~[7] Mechanical services, excluding junkyard;~~
- ~~[8] Motel, hotel, rooming house, inn;~~
- ~~[9] Personal service;~~
- ~~[10] Place of public assembly, including theater;~~
- ~~[11] Repair services;~~
- ~~[12] Restaurant;~~
- ~~[13] Retail uses and wholesale businesses, excluding used car lots and junkyards;~~
- ~~[14] School (including day nursery), university, museum, hospital, municipal or state building or use, church, or any other institution of educational, religious, philanthropic, fraternal, political or social nature;~~
- ~~[15] Shops in pursuit of trade;~~
- ~~[16] Veterinary hospital;~~
- ~~[17] Warehousing and storage; and~~
- ~~[18] Specialty food and/or beverage facility.~~

REMOVE from 16.3.2.19 the Business Park Zone

16.3.2.19 Resource Protection Overlay Zone OZ-RP

- ~~(10) Business Park Zone (B-PK).~~
- ~~(a) Permitted uses — cluster and noncluster development.~~
- ~~[1] Public open space recreational use.~~
- ~~(b) Special exception uses — cluster development.~~
- ~~[1] Public utility facilities, including substations, pumping stations and sewage treatment facilities.~~
- ~~(c) Special exception uses — noncluster. Special exception uses for projects not designed as a cluster mixed-use development include:~~
- ~~[1] Accessory uses and buildings.~~

ADD NEW SUBSECTION to 16.7.8.4 Exemptions to Net Residential Acreage Calculations

16.7.8.4 Exemptions to Net Residential Acreage Calculations

- A. The maximum number of dwelling units for residential development not subject to subdivision is based on minimum land area per dwelling unit defined in Chapter 2 Definitions of this Title.
- B. The creation of dwelling units subject to subdivision within existing buildings that are connected to town sewer and are located in the Mixed Use -Kittery Foreside; Mixed Use-Badgers Island; Residential Village; Business Local; or Business Local -1 zones are exempt from the net residential acreage calculations in 16.7.8.4. Total number of dwelling units permitted is determined by dividing the gross lot area by the minimum land area per dwelling unit allowed in the zone. The exemption is allowed in the above base zones when subject to the Shoreland Overlay Zone.
- C. The Mixed-Use – Neighborhood Zone (MU-N) is exempt from Title 16.7.8.2 Net Residential Acreage Calculation but is subject to the minimum land area per dwelling unit as defined

in Chapter 2 Definitions except that 50% of all wetlands may be subtracted, rather than 100%.

REMOVE from 16.8.11.2 the Business Park zone

16.8.11.2 Permitted zones.

A. Cluster residential development is permitted in various zones as indicated in Chapter 16.3.

~~B. Cluster mixed-use development is permitted only in the Business Park (B-P) Zone.~~

REMOVE from 16.8.11.6 the Business Park Zone

16.8.11.6 Standards.

E. Open space requirements.

(5) Open space must also be for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life, and wildlife cover as identified in the applicant's written statement. In the ~~Business Park (BP)~~ Mixed Use - Neighborhood Zone, open space may be both man-made and natural. Man-made open space must be for the development of recreational areas, pedestrian ways and aesthetics that serve to interconnect and unify the built and natural environments.

~~F. In the Business Park (BP) Zone, the maximum building height is 40 feet. If the Planning Board finds that provisions for firesafety are adequate to allow buildings of greater height, then the Board may allow a building height of up to 60 feet as a part of the development plan review and approval process.~~

REMOVE from 16.8.11.7 the Business Park Zone

16.8.11.7 Open space dedication and maintenance.

C. If any, or all, of the open space is to be reserved for ownership by the residents and/or by commercial entities, the bylaws of the proposed homeowners' or similar governing association for commercial owners ~~(in the Business Park Zone)~~ and/or the recorded covenants must specify maintenance responsibilities and be submitted to the Planning Board prior to approval. See Subsection A above.