

1 **Chapter 16.1 GENERAL**

2 **16.1.1 Purpose.**

3 7. Provide-Promote an adequate transportation and circulation street system;

4
5 **Chapter 16.2 DEFINITIONS**

6
7 **Official map** means the map adopted by the municipality showing the location of public property, ways
8 used in common by more than two owners of abutting property, and approved subdivisions or site plan,
9 and any amendments thereto adopted by the municipality or additions thereto resulting from the approval
10 of a subdivision or site plans by the Planning Board and the subsequent filing for record of such plans.

11
12 **Adjacent grade** means the natural elevation of the ground surface prior to construction next to the
13 proposed walls of a structure.

14
15 **Area of a shallow flooding** means a designated AO and AH zone on a community's Flood Insurance
16 Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to
17 three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and
18 where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

19
20 **Area of special flood hazard** means the land in the floodplain having a one percent or greater chance of
21 flooding in any given year, as specifically identified in the Flood Insurance Study cited in 16.9.8.3,
22 Establishment.

23
24 **Base flood** means the flood having a one percent chance of being equaled or exceeded in any given year,
25 commonly called the one hundred (100) year flood.

26
27 **Breakaway wall** means a wall that is not part of the structural support of the building and is intended
28 through its design and construction to collapse under specific lateral loading forces, without causing
29 damage to the elevated portion of the building or supporting foundation system.

30
31 **Certificate of compliance** means a document signed by the Code Enforcement Officer stating that a
32 structure is in compliance with all of the provisions of this 16.9.8.1, et seq.

33
34 **Elevated building** means a nonbasement building:

- 35 1. Built, in the case of a building in Zones A1—30, AE, A, A99, AO or AH, to have the top of the
36 elevated floor, elevated above the ground level by means of pilings, columns, post, piers or "stilts"; and
37 2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to
38 one foot above the magnitude of the base flood.

39 In the case of Zones A1—30, AE, A, A99, AO or AH, elevated building also includes a building elevated
40 by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient
41 to facilitate the unimpeded movement of flood waters.

42
43 **Elevation certificate** means an official form (FEMA Form 81-31, 05/90, as amended) that:

- 44 1. Is used to verify compliance with the floodplain management regulations of the National Flood
45 Insurance Program; and
46 2. Is required for purchasing flood insurance.

- 48 **Flood or flooding means:**
49 1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
50 a. The overflow of inland or tidal waters,
51 b. The unusual and rapid accumulation or runoff of surface waters from any source;
52 2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of
53 erosion or undermining caused by waves or currents or water exceeding anticipated cyclical levels or
54 suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe
55 storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some
56 similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this
57 definition.
- 58
59 **Flood elevation study** means an examination, evaluation and determination of flood hazards and, if
60 appropriate, corresponding water surface elevations.
- 61
62 **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Administrator
63 of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium
64 zones applicable to the community.
- 65 **Flood Insurance Study.** See “Flood elevation study.”
- 66
67 **Floodplain or Flood-prone area** means any land area susceptible to being inundated by water from any
68 source (see flood).
- 69
70 **Floodplain management** means the operation of an overall program of corrective and preventive
71 measures for reducing flood damage, including but not limited to emergency preparedness plans, flood
72 control works, and floodplain management regulations.
- 73
74 **Floodplain management regulations** means zoning ordinances, subdivision regulations, building codes,
75 health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and
76 erosion control ordinance) and other applications of police power. The term describes such state or local
77 regulations, in any combination thereof, which provide standards for the purpose of flood damage
78 prevention and reduction.
- 79
80 **Floodproofing** means any combination of structural and nonstructural additions, changes or adjustments
81 to structures which reduce or eliminate flood damage to real estate or improved real property, water and
82 sanitary facilities, structures and contents.
- 83
84 **Floodway.** See “Regulatory floodway.”
- 85
86 **Floodway encroachment lines** means the lines marking the limits of floodways on federal, state and
87 local floodplain maps.
- 88
89 **Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of
90 floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave
91 action, bridge openings, and the hydrological effect of urbanization of the watershed, that could
92 contribute to flood heights greater than the height calculated for a selected size flood and floodway
93 conditions.
- 94

95 **Historic structure** means any structure that is:

96 1. Listed individually in the National Register of Historic Places (a listing maintained by the Department
97 of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for
98 individual listing on the National Register;

99 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
100 significance of a registered historic district or a district preliminarily determined by the Secretary of the
101 Interior to qualify as a registered historic district;

102 3. Individually listed on a state inventory of historic places in states with historic preservation programs
103 which have been approved by the Secretary of the Interior; or

104 4. Individually listed on a local inventory of historic places in communities with historic preservation
105 programs that have been certified either:

106 a. By an approved state program as determined by the Secretary of the Interior, or

107 b. Directly by the Secretary of the Interior in states without approved programs.

108

109 **Locally established datum** means, for purposes of this article, an elevation established for a specific site
110 to which all other elevations at the site are referenced. This elevation is generally not referenced to the
111 National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where
112 mean sea level is too far from a specific site to be practically used.

113

114 **Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or
115 flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other
116 than a basement area is not considered a building's lowest floor, provided that such enclosure is not built
117 so as to render the structure in violation of the applicable nonelevation design requirements described in
118 Section 16.9.8.8.

119

120 **Manufactured housing** means a structural unit or units designed for occupancy, and constructed in a
121 manufacturing facility and transported by the use of its own chassis, or placed on an independent chassis,
122 to a building site. The term includes any type of building which is constructed at a manufacturing facility
123 and then transported to a building site where it is utilized for housing, and may be purchased or sold by a
124 dealer in the interim. For purposes of this Code, two types of manufactured housing are included. ~~They~~
125 are: mobile homes and modular homes. For floodplain management purposes the term "manufactured
126 housing" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more
127 than one hundred eighty (180) consecutive days.

128

129 **Mean sea level** means, for purposes of the National Flood Insurance Program, the National Geodetic
130 Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a
131 community's Flood Insurance Rate Map are referenced.

132

133 **New construction** means structures for which the "start of construction" commenced on or after the
134 effective date of floodplain management regulations adopted by a community and includes any
135 subsequent improvements to such structures.

136

137 **One Hundred (100) Year Flood.** See "Base flood."

138

139 **Regulatory floodway:**

140 1. Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in
141 order to discharge the base flood without cumulatively increasing the water surface elevation more than
142 one foot; and

143 2. In riverine areas is considered to be the channel of a river or other watercourse and the adjacent land
144 areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark
145 to the upland limit of the floodplain.

146
147 **Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

148
149 **Special Flood Hazard Area.** See “Area of special flood hazard.”

150
151 **Start of construction** means the date the building/regulated activity permit was issued, provided the
152 actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial
153 improvement or other improvement was within one hundred eighty (180) days of the permit date. The
154 actual start means either the first placement of permanent construction of a structure on a site, such as the
155 pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the
156 stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction
157 does not include land preparation, such as clearing, grading and filling; nor does it include the installation
158 of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or
159 the erection of temporary forms; nor does it include the installation on the property of accessory
160 buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a
161 substantial improvement, the actual start of construction means the first alteration of any wall, ceiling,
162 floor, or other structural part of a building, whether or not that alteration affects the external dimensions
163 of the building.

164
165 **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring
166 the structure to its before damage condition would equal or exceed fifty (50) percent of the market value
167 of the structure before the damage occurred.

168
169 **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a
170 structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before
171 the start of construction of the improvement. This term includes structures which have incurred
172 substantial damage, regardless of the actual repair work performed. The term does not, however, include
173 either:

174 1. Any project for improvement of a structure to correct existing violations of state or local health,
175 sanitary or safety code specifications which have been identified by the local code enforcement official
176 and which are the minimum necessary to assure safe living conditions; or

177 2. Any alteration of a historic structure, provided that the alteration will not preclude the structure’s
178 continued designation as a historic structure.

179
180 **Violation** means the failure of a structure or development to comply with a community’s floodplain
181 management regulations.

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184 **Chapter 16.3 LAND USE ZONE REGULATIONS**

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

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16.3.2.3 Residential - Kittery Point Village R-KPV.

The Kittery Point Village district encompasses the Kittery Point neighborhood extending from Spruce Creek and Crockett's Brook eastward to the easterly side of Cutts Island Lane.

16.3.2.4 Residential – Urban R-U.

D. Standards.

1. The design and performance standards of Chapters 16.8 and 16.9 must be met.~~observed.~~

16.3.2.8 Business – Local B-L.

D. Standards.

1. All development and the use of land in the B-L 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.

c. Landscaping Standards.

i. Landscape Planter Strip.

(B) Street-side Trees. A minimum of one ~~street~~-tree must be planted for each twenty-five (25) feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site (See Design Handbook for examples). The trees must be a minimum 2.5 inch caliper, and be at least twelve (12) feet high at the time of planting. The species must be selected from the list of approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.

16.3.2.9 Business – Local 1 B-L1.

D. Standards.

1. The following space standards apply:

Minimum rear and side yards 10 feet*

*Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards about a Residential Zoned district or use, in which case a minimum of 15 feet, or 50 percent of the building height, whichever is greater, is required.

3. Building Design Standards.

~~3~~4. Landscaping/Site Improvements.

To achieve attractive and environmentally sound site design, and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapters 16.8 and 16.9, the following landscaping requirements apply to new and modified existing developments:

g. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (See list of street trees in Design Handbook) is required to be planted for every one thousand (1,000) square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building, or necessary vehicle circulation exists at the time of enactment of this Section, the required trees may be clustered and/or relocated away from the street as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore the Planning Board may permit the preservation of existing healthy, large, mature trees within developed areas of the site to be substituted for the planting of new trees;

233 | 45. Traffic and Circulation Standards.

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235 | **16.3.2.10 Business – Park B-PK.**

236 | **D. Standards.**

237 | 34. Other standards.

238 | a. Parking.

239 | All new or revised parking must be visually screened ~~by through the use of~~ landscaping, earthen berms,
240 | stone retaining walls and/or fencing from adjacent public streets and abutting properties (see the Design
241 | Handbook for appropriate examples).

242

243 | b. Building Design Standards.

244 | Kittery’s characteristic buildings reflect its historic seacoast past. The primary architectural styles are
245 | ~~n~~New England colonial (such as cape cod and saltbox), Georgian, Federal, and Classical Revival. New
246 | buildings must be compatible with Kittery’s characteristic styles in form, scale, material, and color. The
247 | front elevation must contain one or more of the following elements: (i) windows, or (ii) display cases (see
248 | ~~d~~Design ~~h~~Handbook for examples of acceptable materials and designs). Strict imitation is not required.
249 | Design techniques must be used to maintain compatibility with characteristic styles and still leave enough
250 | flexibility for architectural variety. To achieve this purpose, the following design standards apply to new
251 | and modified existing building projects:

252 | i. Exterior Building Materials and Details.

253 | Building materials and details strongly define a project’s architectural style and overall character (see the
254 | Design Handbook for examples of acceptable materials, building scale, and designs). “One-sided”
255 | schemes are prohibited; similar materials and details must be used on all sides of a building to achieve
256 | continuity and completeness of design. Predominant exterior building materials must be of good quality
257 | and characteristic of Kittery, such as horizontal wood ~~Board-board~~ siding, vertical wood ~~Boardsboards~~,
258 | wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

259

260 | **16.3.2.11 Commercial (C-1, C-2, C-3).**

261 | **D. Standards.**

262 | **3. C-1 Zone Standards.**

263 | All development and the use of land within the C-1 zone must meet the following standards:

264 | a. Parking.

265 | All new or revised parking must be visually screened ~~by through the use of~~ landscaping, earthen berms,
266 | and/or fencing from adjacent public streets or residential properties (See the Design Handbook for
267 | appropriate examples).

268

269 | b. Building Design Standards.

270 | i. Exterior Building Materials and Details.

271 | Building materials and details strongly define a project’s architectural style and overall character (See
272 | Design Handbook for examples of acceptable materials, building scale, and designs). “One-sided”
273 | schemes are prohibited; similar materials and details must be used on all sides of a building to achieve
274 | continuity and completeness of design. Predominant exterior building materials must be of good quality
275 | and characteristic of Kittery, such as horizontal wood ~~Board-board~~ siding, vertical wood ~~Boardsboards~~,
276 | wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

277

278 | c. ~~Landscaping/Site Improvements Standards.~~

279 | To achieve attractive and environmentally sound site design, and appropriate screening of parking areas,
280 | in addition to the landscaping standards contained in Chapter 16.8, the following landscaping
281 | requirements apply to new and modified existing developments:

282 | i. Landscape Planter Strip.

283 | A vegetated landscape planter strip must be provided a minimum of thirty (30) feet in depth adjacent to
284 | the right-of-way of all public roads and include the following landscape elements:

285 | (D) Special Situations.

286 | (2) Depth of Landscape Planter Strip. In instances where the required minimum depth of the landscape
287 | planter strip is legally utilized, in accordance with previous permits or approvals, for parking, display,
288 | storage, building, or necessary vehicle circulation, the depth may be narrowed by the Planning Board to
289 | the minimum extent necessary to achieve the objective of the proposed project, provided that the required
290 | shrubs and perennials are planted along the street frontage to soften the appearance of the development
291 | from the public street.

292 | If providing the required landscape planter strip ~~along together~~ with other required landscaping and
293 | required vegetated areas in and around wetlands would cause the project to exceed the required open
294 | space standards, the depth of the landscape planter strip and the front yard may be reduced by the
295 | Planning Board so that the open space standards are not exceeded, but in no case to less than twenty (20)
296 | feet for this reason.

297 | (3) Additions and Changes in Use. For additions to existing buildings and changes of residential
298 | structures to a nonresidential use, one street-side tree (See list of recommended street trees in Design
299 | Handbook) is required to be planted for every one thousand (1,000) square feet of additional gross floor
300 | area added or converted to nonresidential use. In instances where parking, display area, storage, building,
301 | or necessary vehicle circulation exists at the time of enactment of this Section, the required trees may be
302 | clustered and/or relocated away from the road as is necessary to be practicable. The preservation of
303 | existing large trees is encouraged; therefore the Planning Board may permit the preservation of existing
304 | healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be
305 | substituted for the planting of new trees.

306 | (4) Residences. Residential additions to existing single and two-family dwellings and proposed single
307 | and duplex family dwellings are exempt from the landscaping standards of this subsection.

308 |

309 | **4. C-2 Zone Standards.**

310 | All development and the use of land within the C-2 zone must meet the following standards:

311 | c. ~~Landscaping/Site Improvements Standards.~~

312 |

313 | **5. C-3 Zone Standards.**

314 | All development and the use of land within the C-3 zone must meet the following standards:

315 | b. ~~Building Design Standards.~~

316 | i. Exterior Building Materials and Details.

317 | Building materials and details strongly define a project's architectural style and overall character (See
318 | Design Handbook for examples of acceptable materials, building scale, and designs). "One-sided"
319 | schemes are prohibited; similar materials and details must be used on all sides of a building to achieve
320 | continuity and completeness of design. Predominant exterior building materials must be of good quality
321 | and characteristic of Kittery, such as horizontal wood ~~Board-board~~ siding, vertical wood ~~Boardsboards~~,
322 | wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

323 |

324 | c. ~~Landscaping/ Site Improvements Standards.~~

325 To achieve attractive and environmentally sound site design, and appropriate screening of parking areas,
326 in addition to the landscaping standards contained in Chapter 16.8, the following landscaping
327 requirements apply to new and modified existing developments:

328

329 i. Landscape Planter Strip.

330 (B) Street-side Trees. A minimum of one street-tree must be planted for each fifty (50) feet of street
331 frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality
332 of the site (See Design Handbook for examples). The trees must be a minimum 2.5 inch caliper, and be at
333 least twelve (12) feet high at the time of planting. The species should be selected from the list of
334 recommended street trees in the Town Design Handbook. Existing large healthy trees must be preserved
335 if practical and will count toward this requirement.

336

337 (C) Special Situations.

338 (3) Additions and Changes in Use. For additions to existing buildings and changes of residential
339 structures to a nonresidential use, one streetside-tree (See list of recommended street trees in Design
340 Handbook) is required to be planted for every one thousand (1,000) square feet of additional gross floor
341 area added or converted to nonresidential use. In instances where parking, display area, storage, building,
342 or necessary vehicle circulation exists at the time of enactment of this Section, the required trees may be
343 clustered and/or relocated away from the road as is necessary to be practicable. The preservation of
344 existing large trees is encouraged; therefore the Planning Board may permit the preservation of existing
345 healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be
346 substituted for the planting of new trees.

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348 **16.3.2.13 Mixed Use MU.**

349 **D. Standards.**

350 4. Location and Screening of Parking Areas.

351 All new parking areas must be located at the side of, and/or to the rear of, principal buildings, except that
352 ten (10) or fewer parking spaces may be located closer to the front lot line than a principal building. All
353 new or revised parking must be visually screened from U.S. Route 1, Lewis Road, Cutts Road, and Haley
354 Road by ~~through the use of~~ extensive landscaping, earthen berms, and/or fencing (See Design Handbook
355 for examples of acceptable screening).

356

357 6. Landscaping Standards.

358 a. Landscape Planter Strip.

359

360 ii. Street-side Trees. A minimum of one street-tree must be planted for each twenty-five (25) feet of
361 street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual
362 quality of the site (See Design Handbook for examples). The trees must be a minimum 2.5 inch caliper,
363 and be at least twelve (12) feet high at the time of planting. The species should be selected from the list of
364 approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical
365 and will count toward this requirement.

366

367 10. Conditions for Approving Special Exception Uses in the Mixed Use Zone.

368 ~~C. Drive-in Theater.~~

369 ~~1. To protect the tranquility and quality of life of existing residential uses in the vicinity of the proposed~~
370 ~~drive-in theater, the hours of operation must be limited to the degree necessary and/or adequate visual and~~
371 ~~sound buffers must be established.~~

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~~F. Mineral/Earth Material Extraction.
The standards for mineral/earth material exploration and removal in Section 16.8.1.2 must be met.~~

16.3.2.14 Mixed Use - Badgers Island MU - BI.

E. Appropriate Waterfront Activity Incentives.

3. Preserve the Environmental Quality of Coastal Resources. Protect existing wildlife habitat, conserve shore cover and ensure the quality of stormwater runoff by satisfying all of the following standards:

c. Implementation of a stormwater management plan endorsed by the York County Soil and Water Conservation District (SCS), or the Town's engineering peer review consultant, that treats stormwater with appropriate BMPs and removes pollutants in accordance with the most current edition ~~Volume III~~ of the Maine Department of Environmental Protection BMP Manual, —Stormwater Management for Maine, ~~January 2006~~. Pollutants sought to be removed include suspended solids, nitrates, hydrocarbons and heavy metals. Such special treatment of the first flush of runoff may include detention, infiltration, filtering and trapping of pollutants.

16.3.2.15 Mixed Use - Kittery Foreside MU-KF.

D. Standards.

4. Design Standards.

Any new building, or additions or modifications to an existing building that:
(2) is subject to shoreland overlay zoning as set forth in Section 16.7.3.5.1 must conform to the following standards.

a. Placement and Orientation of Buildings Within a Lot.
ii. Buildings and the front elevation must be oriented facing the street on which the building is located. The siting of buildings on corner lots must consider the placement of buildings on both streets.

f. Fencing and Walls.

vi. Waste receptacles, dumpsters, exterior systems, service entrances and similar areas must be screened with ~~Board-board~~ fences, ~~Board-board~~ and lattice fences, and/or landscaping.

16.3.2.17 Shoreland Overlay Zone OZ-SL.

A. Purposes.

2. Applicability and Boundaries.

The provisions of this Section apply to all uses, lots and structures within the following:

b. Shoreland Overlay Zone - Stream Protection Area - 75' - OZ-SL-75'

iii. Wherein uncertainty exists as to the exact location of the ~~s~~Shoreland ~~o~~Overlay ~~z~~Zone boundary, the Planning Board with expert consultation as may be required, is the final authority as to location.

B. Permitted and Special Exception Land Use.

The following uses in this Section are allowed in accordance with the land use standards established in the underlying base zone in Chapter 16.3, Zoning Regulations and land uses identified by the Mandatory Shoreland Zoning Act, 38 M.R.S. §435-449.

- 419 | 7. Conservation (CON).
420 |
421 | ~~415.~~ Mixed Use Zone (MU).
422 | a. Permitted Uses.
423 | ~~i. Dwellings, limited to the following:~~
424 | ~~(a). Single-family dwellings on lots of record as of April 1, 2004;~~
425 | ~~(b). Dwelling units on the upper floors of a mixed-use building that is served by public sewerage;~~
426 | ii. Agricultural uses and practices, except a piggery or the raising of poultry for commercial purposes;
427 | iii. Art studio/gallery;
428 | ~~iv.~~ Church or institution of religion;
429 | ~~v.~~ Research and development;
430 | vi. Public open space or recreation;
431 | vii. Municipal or state building or use;
432 | viii. Institution of philanthropic, fraternal, political, or social nature, which is not used for residential or
433 | overnight occupancy;
434 | ~~viii.~~ Timber harvesting;
435 | ix. Home occupations;
436 |
437 | b. Special Exception Uses.
438 | ~~i. Dwellings, limited to the following:~~
439 | ~~(a). Single-family dwellings on lots of record as of April 1, 2004;~~
440 | ~~(b). Dwelling units on the upper floors of a mixed-use building that is served by public sewerage;~~
441 | ~~ii. Business and professional offices;~~
442 | ~~iii. Boat yard;~~
443 | ~~iiii.~~ Grocery store, food store, convenience store or neighborhood grocery;
444 | ~~v.~~ Day care facility;
445 | ~~vi. Commercial parking lot or garage;~~
446 | ~~vii. Hospital;~~
447 | ~~viii. Inn;~~
448 | ~~ix.~~ Institution of education, which is not used for residential or overnight occupancy;
449 | ~~x.~~ Mass transit station;
450 | ~~xi. Restaurant;~~
451 | ~~xii. Convalescent care facility, long-term nursing care facility;~~
452 | ~~xiii. Personal services;~~
453 | ~~xiii.~~ ~~iv.~~ Repair service;
454 | ~~xiv. Selected commercial recreation;~~
455 | ~~xvi. Theater; Veterinary hospital;~~
456 | ~~xvii. Accessory buildings and uses;~~
457 | ~~xviii. Retail use, a single use not to exceed fifty thousand (50,000) square feet in gross floor area;~~
458 | ~~xix.~~ ~~viii.~~ Eldercare facility;
459 | ~~xx.~~ Housing for elderly as part of a mixed use project;
460 | ~~xxi. Commercial kennel;~~
461 | ~~xxii. Motel or hotel;~~
462 | ~~xxiii. Public utility facilities including substations, pumping stations, and sewage treatment facilities;~~
463 | ~~xxiv.~~ ~~viii.~~ Shop in pursuit of trades;
464 | ~~xxiv.~~ Transportation terminal;
465 | ~~xxvi.~~ Wholesale business;

- 466 xxvii. Warehousing/storage;
- 467 xxviii. Construction services;
- 468 xxix~~xviii~~. Funeral home;
- 469 xxx~~ix~~. Research and development.

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471 ~~45~~16. Mixed Use - Badger's Island Zone (MU-BI).

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473 ~~46~~17. Mixed Use- Kittery Foreside Zone (MU-KF).

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475 ~~47~~18. Transportation – Maine Turnpike (T-MT).

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477 **16.3.2.19 Resource Protection Overlay Zone OZ-RP.**

478 **B. Permitted and Special Exception Land Use.**

479 Land uses within each base zone that are overlaid by the Resource Protection Overlay Zone include:

480
481 7. Conservation (CON).

482
483 8. Business – Local (B-L). ~~Permitted Uses:~~

484
485 ~~9~~10. Business – Park Zone (B-PK).

486
487 ~~10~~11. Commercial – 1 Zone (C-1).

488
489 ~~11~~12. Commercial – 2 Zone (C-2).

490
491 ~~12~~13. Commercial – 3 Zone (C-3).

492
493 ~~13~~14. Industrial Zone (IND).

494
495 ~~14~~15. Mixed Use Zone (MU).

496
497 ~~15~~16. Mixed Use - Badger's Island Zone (MU-BI).

498 a. ~~Permitted Uses. Permitted land uses include:~~

499 b. ~~Special Exception Uses. Special exception land uses include:~~

500
501 ~~16~~17. Mixed Use- Kittery Foreside Zone (MU-KF).

502 a. ~~Permitted Uses. Permitted land uses include:~~

503 b. ~~Special Exception Uses. Special exception land uses include:~~

504
505 ~~17~~18. Transportation – Maine Turnpike T-MT.

506
507 **Chapter 16.4 ADMINISTRATION and ENFORCEMENT**

508 **16.4.3 Code Enforcement Officer (CEO).**

509 **16.4.4 Enforcement—General.**

510 If the Code Enforcement Officer (CEO) finds any of the provisions of this Code ~~or Chapter 8:10 Non-~~
511 ~~stormwater Discharge Ordinance as applicable~~ are being violated, the CEO must notify by certified mail,
512 return receipt requested, the person responsible for such violations, indicate the nature of the violation,

513 and order the action necessary to correct it. The CEO must order discontinuance of illegal use of land,
514 buildings or structures, removal of illegal buildings or structures or of additions, alterations or structural
515 changes thereto; a discontinuance of any illegal work being done; or take any other action authorized by
516 this title to insure compliance with or to prevent violations of its provisions.

517
518 **16.4.4.2 Modifications to an Approved Plan.**

519 Any modification to an approved plan may be considered for approval under Section 16.10.3.1 General
520 Development, Site and Subdivision Plans review, 16.10.3.2, Other Development Review and/or
521 16.10.9.1,2 Plan Revisions or 16.10.9.3, Modifications to an Approved Plan.

522
523 **16.4.4.5 Subdivision Lot Sale Monumentation Prior to Sale.**

524 Prior to the sale of any approved subdivision lot, the subdivider must provide the Planner with a letter
525 from a registered land surveyor, stating all monumentation shown on the plan has been installed.

526
527 **16.4.4.7 Maintenance of Improvements.**

528 The developer, or owner, is required to maintain all improvements and provide for snow removal on
529 streets and sidewalks/pedestrian ways/sidewalks unless and until the improvement has been accepted by
530 the Town Council.

531
532 **16.4.4.9 Subdivision Land Conveyance.**

533
534 No person, firm, corporation, or other legal entity may convey, offer, or agree to convey any land in a
535 subdivision which has not been approved by the Planning Board, and recorded in the York County
536 Registry of Deeds. ~~No person, firm, corporation, or other legal entity may convey, offer, or agree to~~
537 ~~convey any land in a subdivision which is not~~ and shown on the final plan as a separate lot.

538
539 ~~16.4.4.12 Removal of Fire Debris or Other Ruins.~~

540 ~~The owner or occupant of any land in any zone shall not allow fire debris or other ruins to remain on site,~~
541 ~~but shall remove the same within six months of the date such debris or ruins were created unless extended~~
542 ~~by the CEO for good and sufficient reason. The accumulation and or storage of hazardous materials~~
543 ~~and/or chemicals, refuse, junk cars or other ruins constitutes a violation. When a violation is discovered,~~
544 ~~the Code Enforcement Officer will order compliance by written notice of violation to the owner of any~~
545 ~~land in any zone requesting removal of such violation within six months of the date of written notice. An~~
546 ~~extension of time to correct may be made by the CEO for good and sufficient reason.~~

547
548 **16.4.4.16 Erosion Control Debris.**

549 The owner or occupant of any land in any zone must not allow erosion control materials such as plastic
550 erosion control fences and related stakes or other materials to remain on the site, but must remove the
551 same within six months of the date such erosion control materials were installed, or the date when no
552 longer required, whichever is later. When a violation is discovered, the Code Enforcement Officer will
553 order compliance by written notice of violation to the owner of any land in any Zone requesting removal
554 of such violation within 30 days of the date of written notice. An extension of time to correct may be
555 made by the Code Enforcement Officer for good and sufficient reason.
556

- 557
558 **16.4.8 Enforcement and Penalties.**
559 A. It is the duty of the Code Enforcement Officer to enforce the provisions of Chapter 16.9, Article VIII,
560 Floodplain Management, pursuant to 30-A M.R.S. §4452.
561 B. The penalties contained in 30-A M.R.S. §4452 apply to any violation of this article.
562 C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation
563 exists, is to submit a declaration to the Administrator of the Federal Insurance Administration requesting a
564 denial of flood insurance. The valid declaration is to consist of:
565 1. The name of the property owner and address or legal description of the property sufficient to confirm
566 its identity or location;
567 2. A clear and unequivocal declaration that the property is in violation of a cited state or local law,
568 regulation or ordinance;
569 3. A clear statement that the public body making the declaration has authority to do so and a citation to
570 that authority;
571 4. Evidence that the property owner has been provided notice of the violation and the prospective denial
572 of insurance; and
573 5. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National
574 Flood Insurance Act of 1968, as amended.

575
576 **Chapter 16.5 BUILDING/REGULATED ACTIVITY PERMITS**

577 **16.5.3 Application.**

578 **16.5.3.3 Fee.**

579 Except for municipality permits, application for a building/regulated activity permit must be accompanied
580 by a fee which is established by the Town Council. (See Appendix HA, fee schedule.)

581
582 **16.5.7.1 Street-numbering Map.**

583 A. All buildings must bear a distinctive street number in accordance with and as designated upon the
584 street-numbering map on file with the Town's assessing department. The Town assessor is responsible to
585 maintain and keep current said map.

586 B. No person may affix, or allow to be affixed, a different street number from the one designated on the
587 street-numbering map.

588
589 **16.5.7.2 Display of Number.**

590 The number is to be displayed upon the front of the building and/or on the side facing the street. The
591 number must be plainly visible from the street. Owners of buildings and houses that are set back out of
592 view from the road must place a post or sign at the driveway entrance with the specified numbers. Said
593 post/sign is not considered a structure which must conform to zoning ordinance setbacks. In place of a
594 post/sign, the number may be affixed to a mailbox. Said post/sign must be placed out of the Town's right-
595 of-way and be six feet in height.

596
597 **16.5.7.3 Multifamily Houses or Apartment Buildings.**

598 For multifamily houses or apartment buildings, the house number is to be displayed as outlined in Section
599 16.5.7.2. Each individual apartment or living unit must be clearly sub-lettered.

600
601 **16.5.7.4 Numbers—Dimensions and Color.**

602 Numbers must be no less than three inches in height and contrast in color with the color of the building or
603 background to which they are attached.

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16.5.7.5 Time Limit for Compliance—Violation—Penalty.

Any person who, after being notified by the police chief or any law enforcement officer from the Town, fails to comply with any of the provisions of this chapter within the time limit of not more than thirty (30) days specified in such notice is liable to a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), per violation.

16.5.8 PLUMBING AND SEPTIC SYSTEM PERMIT FEES

16.5.8.1 Applicability.

This chapter applies to fees charged by the Town for plumbing and subsurface wastewater disposal system permits issued by the Town pursuant to 30-A M.R.S. §4201 et seq. and pursuant to rules promulgated by the Department of Health and Human services (DHHS) under the authority of 30-A M.R.S. §4201 et seq. (“State Plumbing Code”). For purposes of this chapter, the terms contained in this chapter have the meanings given to them in the State Plumbing Code.

16.5.8.2 Plumbing Permit Fees.

A. At the time of issuance by the Town of a plumbing permit pursuant to 30-A M.R.S. §4201 et seq. and the State Plumbing Code, the plumbing permit applicant must pay a fee in accordance with the following schedule and at the rate provided for each classification shown herein:

1. Any person who begins any work for which a permit is required by the State Plumbing Code without first having obtained a permit therefor, if subsequently eligible to obtain a permit, is liable to pay double the permit fee fixed by this chapter for such work. However, this provision does not apply to emergency work when it is proven to the satisfaction of the local plumbing inspector that such work was urgently necessary and that it was not practical to obtain a permit before the commencement of the work. In all such emergency cases, a permit must be obtained within four working days or else a double permit fee as hereinabove provided is to be charged.

2. For the purpose of this chapter a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached is construed to be a fixture. Fees for reconnection and retest of existing plumbing systems in relocated buildings is to be based on the number of plumbing fixtures, water heaters, etc., involved.

3. The following permit fees are to be charged:

a. Minimum fee for all permits, see Appendix A.

b. Fixture fee, see Appendix A.

c. Reinspection fee, see Appendix A. A reinspection fee must be charged by the local plumbing inspector in those instances when work has not been completed upon an inspection or when work was not in compliance with the State Plumbing Code.

d. When only new water distribution and/or drainage pipes are installed or relocated in a building, but no fixtures installed, the fee is as set out in Appendix A.

e. A hook-up fee as set out in Appendix A is to be charged for the connection of a mobile home which bears the Housing and Urban Development (HUD) seal or a modular home which bears the Manufactured Housing Board seal to a building sewer.

f. A hook-up fee as set out in Appendix A is to be charged for connection to a public sewer when piping is installed beyond the jurisdiction of the sanitary district.

g. Relocated mobile homes, modular homes or any other similar structures are considered as new conventional stickbuilt structures and a plumbing fixture fee is to be charged based on this section.

650 h. A permit is valid only for the named applicant but may be transferred by payment of a transfer fee as
651 set out in Appendix A.

652

653 **16.5.8.3 Subsurface Wastewater Disposal System Fees.**

654 A. Prior to the local plumbing inspector's issuance of a subsurface wastewater disposal system permit,
655 the permit applicant must pay the local plumbing inspector a permit fee calculated in accordance with
656 schedule set out in Appendix A.

657 B. Late Permit Fee. A person who starts construction without first obtaining a subsurface wastewater
658 disposal permit must pay double the permit fee indicated in subsection A of this section.

659

660 **16.6.6.7 Appeals and Variances.**

661 The Board of Appeals may, upon written application of an aggrieved party, hear and decide appeals from
662 determinations of the Code Enforcement Officer in the administration of the provisions of this article. The
663 Board of Appeals may grant a variance from the requirements of Chapter 16.9, Article VIII, Floodplain
664 Management, Section 16.9.8.1, et seq, consistent with state law and the following criteria:

665 A. Variances may not be granted within any designated regulatory floodway if any increase in flood
666 levels during the base flood discharge would result.

667 B. Variances may be granted only upon:

668 1. A showing of good and sufficient cause; and

669 2. A determination that should a flood comparable to the base flood occur, the granting of a variance
670 will not result in increased flood heights, additional threats to public safety, public expense, or create
671 nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;
672 and

673 3. A showing that the existence of the variance will not cause a conflict with other state, federal or local
674 laws or ordinances; and

675 4. A determination that failure to grant the variance would result in "undue hardship," which in this
676 subsection means:

677 a. That the land in question cannot yield a reasonable return unless a variance is granted, and

678 b. That the need for a variance is due to the unique circumstances of the property and not to the general
679 conditions in the neighborhood, and

680 c. That the granting of a variance will not alter the essential character of the locality, and

681 d. That the hardship is not the result of action taken by the applicant or a prior owner.

682 C. Variances may only be issued upon a determination that the variance is the minimum necessary,
683 considering the flood hazard, to afford relief.

684 D. Variances may be issued by a community for new construction, substantial improvements, or other
685 development for the conduct of a functionally dependent use provided that:

686 1. Other criteria of this section and Section 16.9.8.8I are met; and

687 2. The structure or other development is protected by methods that minimize flood damages during the
688 base flood and create no additional threats to public safety.

689 E. Variances may be issued by a community for the reconstruction, rehabilitation or restoration of
690 structures listed on the National Register of Historic Places or a State Inventory of Historic Places,
691 without regard to the procedures set forth in subsections A through D of this section.

692 F. Any applicant who meets the criteria of subsections A through E of this section is to be notified by
693 the Board of Appeals in writing over the signature of the chairperson of the Board of Appeals that:

694 1. The issuance of a variance to construct a structure below the base flood level will result in greatly
695 increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) per one
696 hundred dollars (\$100.00) of insurance coverage;

- 697 | 2. Such construction below the base flood level increases risks to life and property; and
 698 | 3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of
 699 | land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against
 700 | any claims filed against it that are related to the applicant’s decision to use land located in a floodplain
 701 | and that the applicant individually releases the municipality from any claims the applicant may have
 702 | against the municipality that are related to the use of land located in a floodplain.
 703 | G. The Board of Appeals must submit to the Planning Board a report of all variance actions, including
 704 | justification for the granting of the variance and an authorization for the Code Enforcement Officer to
 705 | issue a flood hazard development permit, which includes any conditions to be attached to said permit.

706 | _____
 707 | **Article VI. Water Supply**

708 | **16.8.6.2 _____ Quality and Pressure.**

709 | The developer must demonstrate by actual test or by a signed affidavit from an authorized representative
 710 | of the servicing water company that water meeting “Maine Rules Relating to Drinking Water (10-144
 711 | A.C.M.R. 231),” can be supplied to the development at the rate of at least three hundred fifty (350)
 712 | gallons per day per dwelling unit and at an adequate pressure for ~~fire fighting~~firefighting purposes.

713 | _____
 714 | **16.8.9.4 _____ Off-street Parking Standards.**

715 | D. When determination of the number of parking spaces required results in a requirement of a fractional
 716 | space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half is
 717 | counted as one parking space.

Schools Nursing-Nursery school and daycare facilities	1 space for every 100 square feet of gross floor area used as school area.
---	---

718 | _____
 719 | **Article X. Signs**

720 | **16.8.10.2 General Requirements.**

721 | A. No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the
 722 | Code Enforcement Officer (CEO) and also approved by the Town Planner, except where Section
 723 | 16.8.10.9 provides otherwise.

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

726 | _____
 727 | **16.8.10.6 Sign Area.**

728 | A. Residential-~~Distriets~~Zones. ~~Distriets-Zones~~ designated Residential - ~~r~~Rural Ceonservation, Residential
 729 | ~~-r~~Rural residencee, Residential - ~~s~~Suburban-residencee, Residential - ~~u~~Urban-residencee, and Residential -
 730 | ~~v~~Village-residencee, and ~~resoucee~~ protection on the zoning map are residential ~~distriets-zones~~ for the
 731 | purpose of this section.

732 | B. All Other ~~Distriets~~Zones.

733 | _____
 734 | **16.8.10.9 Signs Allowed Without a Sign Permit.**

735 | E. Flags of any Government or Recognized Political Subdivision. The flag of any government or
 736 | recognized political subdivision is allowed, provided it is displayed no higher than fifty (50) feet above
 737 | the original ground level or the elevation of the centerline of the nearest street measured at the closest
 738 | point to the flag, whichever is greater. A single memorial flagpole installation sponsored by private
 739 | funding not to exceed 129 feet in height installed on Town-owned or regulated property at Memorial
 740 | Circle is allowed;
 741 | _____

742 H. Political Campaign Signs. Signs bearing political messages relating to an election, primary or
743 referendum, provided these signs may be displayed on:

744 1. Public property not earlier than thirty (30) days prior to the election, primary or referendum to which
745 they relate and are removed not later than two days thereafter,

746 [a] All signs are prohibited from being placed in the following locations:

747 1) the four street separation islands (grassy triangles) around the rotary circle;

748 2) the traffic separation island located at the intersection of Walker Street and Route One;

749 3) the traffic separation island located at the northbound off ramp at the intersection of Route One Bypass
750 and Bridge Street;

751 4) the traffic separation island located at Crocket Neck Road and Route 103, Kittery Point;

752 5) the small traffic separation island located at Lewis Square at the intersection of Haley Road and Route
753 103 Kittery Point.

754 [b] Signs may be placed in and on the grassy area of the rotary circle. These signs are limited in size to
755 no larger than 18 inches by 24 inches.

756 [c] Any sign placed in violation of H. Political Campaign Signs will be subject to immediate removal by
757 an authorized person.

758

759 **16.8.10.11 Sign Permit Application Procedures.**

760 A. No person may erect, post, enlarge, relocate, replace or modify a sign except in conformance with a
761 permit issued by the Code Enforcement Officer and also approved by the Town Planner. Notwithstanding
762 the above statement, the following signs may be erected or modified without a sign permit:

763

764 **Article XI. Cluster Residential and Cluster Mixed-Use Development.**

765 **16.8.11.4 Property Ownership.**

766 Tracts or parcels of land involved in developments proposed under this Section must be in single
767 ownership; or, must be the subject of an application filed jointly by the owners of all properties included;
768 or, must have an applicant with vested interest in all property included. Pursuant to the requirements of
769 this section, mobile home parks or mobile homes on individual lots are not eligible for clustered
770 residential development.

771

772 **16.8.11.7 Dedication and Maintenance of Common Open Space and Facilities.**

773 D. Review of Covenants. Prior to approval of the final plan by the Planning Board, covenants for
774 mandatory membership in the association, setting forth the owners' rights and interest and privileges in
775 the association and the common land, must be submitted to the Town for review by legal counsel, and be
776 referenced in the deed for each lot.

777

778 ~~**16.8.11.8 Performance Guaranty.**~~

779 ~~The applicant must file with the Town, as a condition for approval of the final plan, a performance
780 guaranty in a form acceptable to the Town manager.~~

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

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

789 ~~3. No phase of construction may commence until the required performance assurances have been met.~~
790 ~~4. Performance guarantees must be based on professionally prepared cost estimates for all approved~~
791 ~~infrastructure improvements, and include an inspection escrow agreement for site inspection equal to two~~
792 ~~percent of construction costs.~~

793
794 **16.8.12.3 Mobile Home Parks.**

795 M. The mobile home park must contain pedestrian walkways that link all units and all service and
796 recreational facilities. Such walkways are to be adequately surfaced and lit. A portion of the road surface
797 may be reserved for walkways provided the ~~roadway~~street width is increased accordingly. Walkways
798 should be a minimum of width of three feet.

799
800 S. A storm drainage plan must be prepared by a professional engineer, registered in the state of Maine,
801 in accordance with Section 16.8.8.1, Stormwater Drainage. Such plan must be approved by the York
802 County Soil and Water Conservation District or found satisfactory and compliant to the Code by the
803 Town's engineering peer reviewer prior to Planning Board approval of the final plan.

804
805 W. The owner or operator of a mobile home park is responsible for ensuring the maintenance of all park-
806 owned structures, open space areas, roads and ~~sidewalks~~pedestrian ways/sidewalks. Park management
807 must comply with state laws. Compliance with this Code does not exempt the park owner, developer, or
808 manager from complying with other applicable local, state and federal codes and regulations.

809
810 **16.8.19.4 Fees and Fines.**

811 A. A sprinkler system permit fee is to be paid with the permit request in such amount as established by
812 Council. The fee for a sprinkler permit is as set out in Appendix ~~MA~~.

813
814 **16.8.22.2 Minor Home Occupation Standards.**

815 F. Parking. A plan must be submitted showing sufficient and safe parking for customers', clients' and
816 workers' use during normal business operations. To the maximum extent practicable, parking should be
817 arranged so as to avoid vehicles backing out into the ~~roadway~~street.

818
819 **Article XXV. Accessory Dwelling Units**

820 **16.8.25.2 Applicability.**

821 An Accessory Dwelling unit is allowed in all zoning districts where the use is permitted in Chapter 16.3.
822 The unit must be located in an existing structure with a certificate of occupancy issued more than 5 years
823 prior to the date of the ADU application, on the property where the owner of the property occupies one of
824 the units. The accessory dwelling unit may be attached to, or detached from, the primary dwelling unit. No
825 expansion of a building's footprint is allowed to accommodate an accessory dwelling unit.

826
827 **16.8.25.3 Application for an Accessory Dwelling Unit.**

828 C. An accessory dwelling unit that fails to meet the unit size standards and or the development standards
829 provided in this Article may not receive administrative approval; however the accessory dwelling unit
830 may still be allowed. See Sections 16.8.2425.4.1 and 16.8.2425.4.2, below.

831
832 **16.8.25.4 Accessory Dwelling Unit Standards.**

833 **16.8.25.4.1 Lot Standards.**

834 D. Utility Connections. Accessory dwelling units must be connected to adequate water and sewer
835 services.

- 836 | 1. Public Sewer:
- 837 | a. Service: Verification in writing of adequate service to support the additional flow from the
- 838 | Superintendent of Wastewater Treatment Facilities.
- 839 | b. Fees: Payment of appropriate fees for connection to the municipal sewer system is required prior to
- 840 | obtaining the certificate of occupancy.

- 841 |
- 842 | F. Private Road or Right of Way Access. Where an applicant seeks to locate an accessory dwelling unit
- 843 | on a privately maintained road or right of way the following applies;
- 844 | 1. Applicant must provide written consent from the association or parties responsible for ~~roadway~~street
- 845 | maintenance; and

846 |

847 | **Article XXVI Campgrounds and Campsites**

848 | **16.8.26.1 Campgrounds and Campsites.**

849 | B. Individual private campsites. Individual, private campsites not associated with campgrounds may be

850 | permitted in a Shoreland Overlay Zone provided the following conditions are met:

- 851 | 1. One campsite per lot existing on the effective date of this chapter, or thirty thousand (30,000) square
- 852 | feet of lot area within the SL~~_~~OZ, whichever is less, may be permitted;

853 |

854 | **Chapter 16.9 DESIGN AND PERFORMANCE STANDARDS - NATURAL ENVIRONMENT**

855 | **16.9.1.3 Prevention of Erosion.**

856 | C. Where the Board has required a stormwater management and erosion control plan, said plan shall be

857 | endorsed by the York County soil and water conservation district or found satisfactory by the Town's

858 | Engineering peer reviewer.

859 |

860 | **16.9.1.8 Floodplain areas.**

861 | Land along rivers, streams and ponds which is subject to flooding through storm or seasonal action, called

862 | floodplain areas, may be used for woodland, grassland, agricultural or outdoor recreational use. The code

863 | enforcement officer shall maintain a map showing the latest updated federal and state information of the

864 | known floodplain areas, and no building shall be constructed herein when there are undue flooding

865 | hazards, unless it can meet all requirements of Chapter ~~15.12-16.9~~ Article VIII. Floodplain Management,

866 | relating to flood hazard permit and review procedure of this code. Floodplain areas shall be considered as

867 | those areas within the one hundred (100) year frequency floodplain, as identified by an authorized federal

868 | or state agency or where such identification is not available, are located on floodplain soils identified as

869 | described in the York County sSoil sSurvey to comprise the following soil types: Alluvial-Ondawa fsl;

870 | Podunk fsl; Rumney fsl; Saco sl.

871 |

872 | **16.9.3.2 Wetlands Boundaries.**

873 | **D. Protected land boundary markers.**

874 | Boundaries of protected land areas must be permanently marked using Town environmental boundary

875 | markers. The five boundary markers are: (1) Conservation Land, (2) Protected Wetland, (3) Protected Vernal

876 | Pool, (4) Wildlife Habitat, and (5) Wetlands. Depending on the proposed development the required

877 | markers(s), number of markers, placement and line of sight spacing of markers, and the method of mounting,

878 | must be indicated on the approved final plan.

879 |

880 | **16.9.3.3 Regulated Activities Within Wetlands.**

881 | Unless otherwise specified, all new structures and activities within wetlands, including but not limited to

882 | dredging and filling, and expansions of existing structures and activities are subject to the provisions of

883 these regulations. Proposed activities and structures, within a freshwater wetland smaller than five
884 hundred and one (501) square feet in total size, are exempt from the regulations in this Article.

885

886 | **16.9.3.4 Permitted Activities Within Regulated Wetlands.**

887 The following uses are considered to be compatible within regulated wetlands and are permitted within
888 regulated wetlands without Planning Board approval provided they are in conformance with all local,
889 federal, and state and Town regulations:

890

891 | **16.9.3.6 Procedures for the Wetlands Alteration Application.**

892 B. Submission Requirements. An application to alter a wetland must be made in accordance with the
893 submission requirements in Section 16.9.3.12 to the Town Planner, or designee ~~as determined by the~~
894 ~~Town manager~~, accompanied by a fee as determined in Appendix ~~NA~~.

895

896 | ~~16.9.3.7 Review Criteria for Approval of a Wetlands Alteration.~~ **Approval Criteria**

897 B. It is the responsibility and burden of the applicant to show that the proposed use meets the purposes
898 of this Code and the specific standards listed below to gain Planning Board approval to alter a wetland.
899 The Planning Board will not approve a wetlands alteration unless the applicant provides clear and
900 convincing evidence of compliance with the Code ordinance.

901 E. The applicant must submit applicable documentation that demonstrates there is no practicable
902 alternative to the proposed alteration of the wetland. In determining if no practicable alternative exists, the
903 Planning Board will consider the following:

904 The proposed use:

905 | 1. Use ~~utilizes~~, manages or expands one or more other areas of the site that will avoid or reduce the
906 wetland impact;²

907 F. In determining if the proposed development plan affects no more wetland than is necessary the
908 Planning Board will consider if the alternatives discussed above in subsection A of this section
909 accomplish the following project objectives:

910 | The proposed use will not;

911

912 | **16.9.3.9 Mitigation Plan.**

913 B. Required Fees and Compensation.

914 3. In addition, a Wetlands Preservation Fee for each square foot of altered wetland area, as determined
915 in Appendix ~~NA~~, Wetlands Preservation will be deposited into the account of the Town to achieve one or
916 more the following objectives related to the conservation of Kittery wetlands, with the Planning Board's
917 recommendation and release of funds by the Town Council:

918

919 | **16.9.3.12 Submission Requirements for a Wetland Alteration Application.**

920 A. Minimum requirements. Unless specifically waived by the Planning Board, all applications must
921 contain the following information:

922 | 1. Fifteen (15) ~~Thirteen (13)~~ copies of the narrative, the site plan and the vicinity map required in this
923 subsection;

924

925 | **Article IV. Wetland Setbacks for Special Situations**

926 | **16.9.4.3 Setbacks from Altered Wetlands or Water Bodies.**

927 | The illegal altering of a water body or wetland area, where the surface area of the water body ~~is~~ is
928 decreased (lowered), after May 13, 1987 may not be used to change the location from which a setback is
929 measured. The illegal filling of a water body or wetland area, where the normal water surface area of the

930 | water body ~~is~~ increased (raised), after May 13, 1987 must be measured from the most recent edge of
931 | the normal water surface elevation.
932 | Alterations to the wetland boundaries that have been approved by the Planning Board and are in
933 | compliance with regulations of the Army Corps of Engineers and the Maine Department of
934 | Environmental Protection, may be constructed per the Planning Board's approved wetlands alteration
935 | plan.

936 | _____
937 | **Article VIII. Floodplain Management**

938 | _____
939 | **16.9.8.1 Statement of Purpose and Intent.**

940 | Certain areas of the Town are subject to periodic flooding, causing serious damages to properties within
941 | these areas. Relief is available in the form of federally subsidized flood insurance as authorized by the
942 | National Flood Insurance Act of 1968.

943 | _____
944 | Therefore, the Town has chosen to become a participating community in the National Flood Insurance
945 | Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L.
946 | 90-488, as amended) as delineated in this article.

947 | _____
948 | It is the intent of the Town to require the recognition and evaluation of flood hazards in all official actions
949 | relating to land use in the floodplain areas having special flood hazards. This body has the legal authority
950 | to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S. §3001-
951 | 3007, 4352 and 4401-4407.

952 | _____
953 | **16.9.8.2 Definitions.**

954 | Unless specifically defined in Chapter 16.2, words and phrases used in this chapter have the same
955 | meaning as they have in common law to give this chapter its most reasonable application.

956 | _____
957 | **16.9.8.3 Establishment.**

958 | The Town elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-
959 | 488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that
960 | areas of the Town having a special flood hazard be identified by the Federal Emergency Management
961 | Agency and that floodplain management measures be applied in such flood hazard areas. This article
962 | establishes a flood hazard development permit system and review procedure for development activities in
963 | the designated flood hazard areas of the Town.

964 | _____
965 | The areas of special flood hazard, Zones A, A1—30, AE, AO, AH, V1—30 and/or VE, identified by the
966 | Federal Emergency Management Agency in a report entitled "Flood Insurance Study—Town of Kittery,
967 | Maine, York County," dated January 5, 1984 with accompanying "Flood Insurance Rate Map" dated July
968 | 3, 1986 is adopted by reference and declared to be a part of this article.

969 | _____
970 | **16.9.8.4 Permit Required.**

971 | Before any construction or other development (as defined in Section 16.9.8.2), including the placement of
972 | manufactured homes, begins within any areas of special flood hazard established in Section 16.9.8.3, a
973 | flood hazard development permit is to be obtained from the Code Enforcement Officer. This permit is in
974 | addition to any other building/regulated activity permits which may be required pursuant to this code.
975 | _____

976 **16.9.8.5 Application for Permit.**

977 The application for a flood hazard development permit is to be submitted to the Code Enforcement
978 Officer and include:

979 A. The name and address of the applicant;

980 B. An address and a map indicating the location of the construction site;

981 C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water
982 supply facilities, areas to be cut and filled, and lot dimensions;

983 D. A statement of the intended use of the structure;

984 E. A statement as to the type of sewage system proposed;

985 F. Specification of dimensions of the proposed structure;

986 G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established
987 datum in Zone A only, of the:

988 1. Base flood at the proposed site of all new or substantially improved structures, which is determined:

989 a. In Zones A1—30, AE, AO, AH, V1—30, and VE from data contained in the “Flood Insurance
990 Study—Town of Kittery, Maine,” as described in Section 16.9.8.3, or

991 b. In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line
992 perpendicular to the shoreline which passes along the ground through the site of the proposed building.

993 2. Highest and lowest grades at the site adjacent to the walls of the proposed building.

994 3. Lowest floor, including basement; and whether or not such structures contain a basement, and

995 4. Level, in the case of nonresidential structures only, to which the structure will be floodproofed;

996 H. A description of a base flood elevation reference point established on the site of all new or
997 substantially improved structures;

998 I. A written certification by a registered land surveyor that the elevations shown on the application are
999 accurate;

1000 J. Certification by a registered professional engineer or architect that floodproofing methods for any:

1001 1. Nonresidential structures will meet the floodproofing criteria of subsection (G)(4) of this section,
1002 subsection G of Section 16.9.8.8, and other applicable standards in Section 16.9.8.8, and

1003 2. Construction in coastal high hazard areas, Zones V1—30 and VE, will meet the floodproofing criteria
1004 of subsection K of Section 16.9.8.8, and other applicable standards in Section 16.9.8.8;

1005 K. A description of the extent to which any watercourse will be altered or relocated as a result of the
1006 proposed development; and

1007 L. A statement of construction plans describing in detail how each applicable development standard in
1008 Section 16.9.8.8 will be met.

1010 **16.9.8.6 Application Fee and Expert’s Fee.**

1011 A nonrefundable application fee as set out in Appendix A is to be paid to the Town Clerk and a copy of a
1012 receipt for the same must accompany the application.

1014 An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the
1015 assistance of a professional engineer or other expert. The expert’s fee must be paid in full by the applicant
1016 within ten (10) days after the Town submits a bill to the applicant. Failure to pay the bill constitutes a
1017 violation of the ordinance and is grounds for the issuance of a stop work order. An expert may not be
1018 hired by the municipality at the expense of an applicant until the applicant has either consented to such
1019 hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied
1020 with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

1022 **16.9.8.7 Review of Flood Hazard Development Permit Applications.**

1023 The Code Enforcement Officer must:

1024
1025 A. Review all applications for the flood hazard development permit to assure that proposed building sites
1026 are reasonably safe from flooding and to determine that all pertinent requirements of Section 16.9.8.8
1027 Development standards, have, or will be met;

1028
1029 B. Utilize, in the review of all flood hazard development permit applications, the base flood data
1030 contained in the “Flood Insurance Study—Town of Kittery, Maine,” as described in Section 16.9.8.3. In
1031 special flood hazard areas where base flood elevation data are not provided, the Code Enforcement
1032 Officer is to obtain, review and reasonably utilize any base flood elevation and floodway data from
1033 federal, state, or other sources, including information obtained pursuant to Sections 16.9.8.5(G)(1)(b),
1034 16.9.8.8I and 16.9.8.10D, in order to administer Section 16.9.8.8 of this article;

1035
1036 C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps
1037 described in Section 16.9.8.3;

1038
1039 D. In the review of flood hazard development permit applications, determine that all necessary permits
1040 have been obtained from those federal, state and local government agencies from which prior approval is
1041 required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution
1042 Control Act Amendments of 1972, 33 U.S.C. 1334;

1043
1044 E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of
1045 Community Development prior to any alteration or relocation of a water course and submit copies of such
1046 notifications to the Federal Emergency Management Agency;

1047
1048 F. Issue a two-part flood hazard development permit for elevated structures. Part I is to authorize the
1049 applicant to build a structure to and including the first horizontal floor only above the base flood level. At
1050 that time the applicant must provide the Code Enforcement Officer with an application for Part II of the
1051 flood hazard development permit and include an elevation certificate completed by a registered Maine
1052 surveyor for compliance with the elevation requirements of subsections F, G, H and K of Section
1053 16.9.8.8. Following review of the application, which review must take place within three working days of
1054 receipt of the application, the Code Enforcement Officer is to issue Part II of the flood hazard
1055 development permit. Part II authorizes the applicant to complete the construction project; and

1056
1057 G. Maintain, as a permanent record, copies of all flood hazard development permits issued and data
1058 relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of
1059 Section 16.9.8.11; and copies of elevation certificates and certificates of compliance required under the
1060 provisions of Section 16.9.8.9.

1061
1062 **16.9.8.8 Development Standards.**

1063 All developments in areas of special flood hazard are to meet the following applicable standards:

1064
1065 A. New construction or substantial improvement of any structure must:

- 1066 1. Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement
1067 of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
1068 2. Use construction materials that are resistant to flood damage;

- 1069 3. Use construction methods and practices that will minimize flood damage; and
1070 4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service
1071 facilities that are designed and/or located so as to prevent water from entering or accumulating within the
1072 components during flooding conditions.
1073
1074 B. All new and replacement water supply systems are to be designed to minimize or eliminate
1075 infiltration of flood waters into the systems.
1076
1077 C. All new and replacement sanitary sewage systems are to be designed and located to minimize or
1078 eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
1079
1080 D. On-site waste disposal systems are to be located and constructed to avoid impairment to them or
1081 contamination from them during floods.
1082
1083 E. All development is to be constructed and maintained in such a manner that no reduction occurs in the
1084 flood carrying capacity of any watercourse.
1085
1086 F. New construction or substantial improvement of any residential structure located within:
1087 1. Zones A1—30, AE and AH are to have the lowest floor (including basement) elevated to at least one
1088 foot above the base flood elevation.
1089 2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide
1090 floodwater away from the proposed structures.
1091 3. Zone AO are to have the lowest floor (including basement) elevated above the highest adjacent grade:
1092 a. At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate
1093 Map; or
1094 b. At least three feet if no depth number is specified.
1095 4. Zone A is to have the lowest floor (including basement) elevated to at least one foot above the base
1096 flood elevation utilizing information obtained pursuant to Section 16.9.8.5(G)(1)(b), 16.9.8.7B or
1097 16.9.8.10D.
1098 5. Zones V1—30 and VE are to meet the requirements of subsection K of this section.
1099
1100 G. New construction or substantial improvement of any nonresidential structure located within:
1101 1. Zones A1—30, AE and AH are to have the lowest floor (including basement) elevated to at least one
1102 foot above the base flood elevation, or together with attendant utility and sanitary facilities must:
1103 a. Be floodproofed to at least one foot above the base flood level so that below that elevation the
1104 structure is watertight with walls substantially impermeable to passage of water;
1105 b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects
1106 of buoyancy; and
1107 c. Be certified by a registered professional engineer or architect that the design and methods of
1108 construction are in accordance with accepted standards of practice for meeting the provisions of this
1109 section. Such certification must be provided with the application for a flood hazard development permit,
1110 as required by Section 16.9.8.5J and include a record of the elevation above mean sea level of the lowest
1111 floor including basement.
1112 2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide
1113 floodwater away from the proposed structures.
1114 3. Zone AO are to have the lowest floor (including basement) elevated above the highest adjacent grade:

- 1115 a. At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate
1116 Map; or
- 1117 b. At least three feet if no depth number is specified; or
- 1118 c. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation
1119 requirements of this section and floodproofing standards of subsection (G)(1) of this section.
- 1120 4. Zone A is to have the lowest floor (including basement) elevated to at least one foot above the base
1121 flood elevation utilizing information obtained pursuant to Section 16.9.8.5(G)(1)(b), 16.9.8.7B or
1122 16.9.8.10D.
- 1123 5. Zones V1—30 and VE are to meet the requirements of subsection K of this section.
- 1124
- 1125 H. New or substantially improved manufactured homes located within:
- 1126 1. Zones A1—30, AE or AH must:
- 1127 a. Be elevated on a permanent foundation such that the lowest floor is at least one foot above the base
1128 flood elevation; and
- 1129 b. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or
1130 lateral movement. Methods of anchoring may include, but are not limited to:
- 1131 i. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two
1132 additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require
1133 one additional tie per side); or by,
- 1134 ii. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points
1135 (manufactured homes less than fifty (50) feet long require four additional ties per side).
- 1136 iii. All components of the anchoring system described in subsections (H)(1)(b)(i) and (ii) of this section
1137 must be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- 1138 2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide
1139 floodwater away from the proposed structures.
- 1140 3. Zone AO is to have the lowest floor (including basement) elevated above the highest adjacent grade:
- 1141 a. At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate
1142 Map; or
- 1143 b. At least three feet if no depth number is specified; and
- 1144 c. Meet the requirements of subsections (H)(1)(a) and (b) of this section.
- 1145 4. Zone A is to have the lowest floor (including basement) elevated to at least one foot above the base
1146 flood elevation utilizing information obtained pursuant to Section 16.9.8.5(G)(1)(b), 16.9.8.7B or
1147 16.9.8.10D.
- 1148 5. Zones V1—30 and VE are to meet the requirements of subsection K of this section.
- 1149
- 1150 I. Floodways.
- 1151 1. In Zones A1—30 and AE encroachments, including fill, new construction, substantial improvement,
1152 and other development are not permitted in riverine areas, for which a regulatory floodway is designated
1153 on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a
1154 registered professional engineer is provided demonstrating that such encroachments will not result in any
1155 increase in flood levels within the community during the occurrence of the base flood discharge.
- 1156 2. In Zones A1—30 and AE riverine areas, for which no regulatory floodway is designated,
1157 encroachments, including fill, new construction, substantial improvement, and other development not
1158 permitted unless a technical evaluation certified by a registered professional engineer is provided
1159 demonstrating that the cumulative effect of the proposed development, when combined with all other
1160 existing development and anticipated development;

- 1161 a. Will not increase the water surface elevation of the base flood more than one foot at any point within
1162 the community; and
- 1163 b. Is consistent with the technical criteria contained in Section 2-7 entitled "Hydraulic Analyses," Flood
1164 Insurance Study—Guidelines and Specifications for Study Contractors, FEMA 37/September, 1985, as
1165 amended.
- 1166 3. In Zone A riverine areas, in which the regulatory floodway is determined to be the channel of the
1167 river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain
1168 as measured from the normal high water mark to the upland limit of the floodplain, encroachments,
1169 including fill, new construction, substantial improvement, and other development not permitted unless a
1170 technical evaluation certified by a registered professional engineer is provided meeting the requirements
1171 of subsection (I)(2) of this section.
- 1172
- 1173 J. New construction or substantial improvement of any structure in Zones A1—30, AE, AO, AH and A
1174 that meets the development standards of this section, including the elevation requirements of subsection
1175 F, G or H of this section and is elevated on posts, columns, piers, piles, "stilts" or crawlspaces less than
1176 three feet in height may be enclosed below the elevation requirements provided all the following criteria
1177 are met or exceeded:
- 1178 1. Walls, with the exception of crawlspaces less than three feet in height, must not be part of the
1179 structural support of the building; and
- 1180 2. Enclosed areas are not "basements" as defined in Section 16.9.8.2; and
- 1181 3. Enclosed areas are to be designed to automatically equalize hydrostatic flood forces on exterior walls
1182 by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
- 1183 a. Be certified by a registered professional engineer or architect, or
- 1184 b. Meet or exceed the following minimum criteria:
- 1185 i. A minimum of two openings having a total net area of not less than one square inch for every square
1186 foot of the enclosed area,
- 1187 ii. The bottom of all openings may be no higher than one foot above the lowest grade, and
- 1188 iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that
1189 they permit the entry and exit of flood waters automatically without any external influence or control such
1190 as human intervention, including the use of electrical and other nonautomatic mechanical means; and
- 1191 4. The enclosed area may not be used for human habitation; and
- 1192 5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of
1193 articles and equipment used for maintenance of the building.
- 1194
- 1195 K. Coastal Floodplains.
- 1196 1. All new construction located within Zones V1—30 and VE are to be located landward of the reach of
1197 the highest annual spring tide.
- 1198 2. New construction or substantial improvement of any structure located within Zones V1—30 or VE
1199 must:
- 1200 a. Be prohibited unless the following criteria are met:
- 1201 i. The area is zoned for general development or its equivalent, as defined in the Mandatory Shoreland
1202 Zoning guidelines adopted pursuant to 38 §438-A, or
- 1203 ii. The area is designated as densely developed as defined in 38 §436-A, subsection 3;
- 1204 b. Be elevated on posts or columns such that:
- 1205 i. The bottom of the lowest structural member of the lowest floor (excluding the pilings or columns) is
1206 elevated to one foot above the base flood level.

1207 ii. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to
1208 resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting
1209 simultaneously on all building components, and

1210 iii. Water loading values used must be those associated with the base flood. Wind loading values used
1211 must be those required by applicable state and local building standards;

1212 c. Have the space below the lowest floor:

1213 i. Free of obstructions, or

1214 ii. Constructed with open wood lattice-work, or insect screening intended to collapse under wind and
1215 water without causing collapse, displacement, or other structural damage to the elevated portion of the
1216 building or supporting piles or columns, or

1217 iii. Constructed with nonsupporting breakaway walls which have a design safe loading resistance of not
1218 less than ten (10) or more than twenty (20) pounds per square foot.

1219 3. A registered professional engineer or architect must:

1220 a. Develop or review the structural design, specifications and plans for the construction, which must
1221 meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA-55/February,
1222 1986); and

1223 b. Certify that the design and methods of construction to be used are in accordance with accepted
1224 standards of practice for meeting the criteria of subsection (K)(2) of this section.

1225 4. The use of fill for structural support in Zones V1—30 and VE is prohibited.

1226 5. Human alteration of sand dunes within Zones V1—30 and VE is prohibited unless it can be
1227 demonstrated that such alterations will not increase potential flood damage.

1228 6. The enclosed areas may be used solely for parking vehicles, building access, and storage.

1229
1230 **16.9.8.9 Certificate of Compliance.**

1231 No land in a special flood hazard area may be occupied or used and no structure which is constructed or
1232 substantially improved may be occupied until a certificate of compliance is issued by the Code
1233 Enforcement Officer subject to the following provisions:

1234 A. The applicant must submit an elevation certificate completed by:

1235 1. A registered Maine surveyor for compliance with subsection F, G, H or K of Section 16.9.8.8, and

1236 2. A registered professional engineer or architect, in the case of:

1237 a. Floodproofed nonresidential structures, for compliance with Section 16.9.8.8G; and

1238 b. Construction of structures in the coastal floodplains for compliance with Section 16.9.8.8(K)(3).

1239 B. The application for a certificate of compliance is to be submitted by the applicant in writing along
1240 with a completed elevation certificate to the Code Enforcement Officer.

1241 C. The Code Enforcement Officer is to review the application within ten (10) working days of receipt of
1242 the application and issue a certificate of compliance, provided the building conforms with the provisions
1243 of this article.

1244
1245 **16.9.8.10 Review of Subdivision and Development Proposals.**

1246 The Planning Board must, when reviewing subdivisions and other proposed developments that require
1247 review under other federal law, state law or local ordinances or regulations and all projects on five or
1248 more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

1249 A. All such proposals are consistent with the need to minimize flood damage.

1250 B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and
1251 constructed to minimize or eliminate flood damages.

1252 C. Adequate drainage is provided so as to reduce exposure to flood hazards.

1253 D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.

1254 E. Any proposed development plan must include a statement that the developer will require that
1255 structures on lots in the development be constructed in accordance with Section 16.9.8.80 and that such
1256 requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or
1257 expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-
1258 share interest. The statement must clearly articulate that the municipality may enforce any violation of the
1259 construction requirement and that fact is also to be included in the deed or any other document previously
1260 described. The construction requirement must also be clearly stated on any map, plat or plan to be signed
1261 by the Planning Board or local reviewing authority as part of the approval process.

1262 **Chapter 16.10 DEVELOPMENT PLAN APPLICATION AND REVIEW**

1263 **16.10.3.2 Other Development Review.**

1264 An applicant or applicant's authorized agent must obtain Planning Board approval in accordance with this
1265 Code for all development except the following; unless located within the Shoreland Overlay or Resource
1266 Protection Overlay Zones.:

1267 A. Single and duplex family dwellings, ~~except if within either a Shoreland or Resource Protection~~
1268 ~~Overlay Zone, in addition to other criteria specified in Article X of Chapter 16.10, applicable to the~~
1269 ~~granting of a special exception use request, the Planning Board must review and may approve a~~
1270 ~~development plan for a one to two family residential structure provided the applicant meets all of the~~
1271 ~~applicable Design and Performance Standards.~~

1272 **Article V. Preliminary Plan Application Review and Approval Process Phase**

1273 **16.10.5.1.2 Receipt and Scheduling Review.**

1274 Upon validation, the Town Planner must place the application on the Planning Board's agenda for
1275 Planning Board completeness review and acceptance and upon Planning Board acceptance issues a dated
1276 receipt to the applicant, which is thereafter the official time of submission.

1277 **16.10.5.1.3 Site Inspection.**

1278 In the course of the review of the plan, the Planner must, and the Planning Board may at their discretion,
1279 make a physical inspection and may make photographic record of the existing conditions on the site. No
1280 on-site inspection will be held when the ground is covered with snow.

1281 **16.10.5.2 Planner Review and Confirmation of Submittal Content - Preliminary Plan.**

1282 A completed application must be submitted to the Town Planner no later than 21 days prior to the
1283 meeting date for the item to be included on the agenda. The submission must include on the plan or
1284 attached thereto, the following items, unless upon the applicant's written request, the Planning Board, by
1285 formal action, waives or defers any requirement(s) for submission.

1286 B. Plan must include:

1287 3. Code block in the lower right-hand corner. The block must contain:

1288 a. Name(s) and address(es) of the applicant and owner,

1289 b. Name of the project.

1290 c. Name and address of the preparer of the plan, with professional seal, if applicable,

1291 ed. Date of plan preparation/revision, and a unique ID number for the plan and any revisions;

1292 10. Proposed development area conditions including, but not limited to:

1293 de. Domestic water source;

1294 ef. Parks, open space, or conservation easement locations;

1295 fg. Lot lines, interior and exterior, right-of-way, and street alignments;

- 1301 | gh. Road and other paved ways plans, profiles and typical sections including all relevant data;
- 1302 | hi. Setbacks Existing and proposed;
- 1303 | ij. Machinery permanently installed locations likely to cause appreciable noise at the lot lines;
- 1304 | jk. Raw, finished or waste materials to be stored outside the buildings, and any stored material of a toxic
- 1305 | or hazardous nature;
- 1306 | kl.— ~~___~~ Topographic contours of existing contours and finished grade elevations within the development;
- 1307 | lm.— ~~___~~ ~~Sidewalks~~ Pedestrian ways/sidewalks, curbs, driveways, fences, retaining walls and other artificial
- 1308 | features locations and dimensions proposed;
- 1309 | n.— ~~___~~ ~~Landscaping required including size and type of plant material~~;
- 1310 | mo.— ~~___~~ Temporary markers locations adequate to enable the Planning Board to readily locate and
- 1311 | appraise the layout of the development;
- 1312 | np.— ~~___~~ Land proposed to be dedicated to public use and the conditions of such dedication;
- 1313 | oq.— ~~___~~ Natural features or site elements to be preserved.

- 1314
- 1315 | C. Supporting documentation must include:
- 1316 | 6. Erosion and sedimentation control plan endorsed by the York County ~~s~~Soil and ~~w~~Water
- 1317 | ~~e~~Conservation district or the Town's engineering consultant;
- 1318 | 7. Stormwater management preliminary plan for stormwater and other surface water drainage prepared
- 1319 | by a registered professional engineer including the general location of stormwater and other surface water
- 1320 | drainage areas. ~~a Maintenance Plan and Agreement that defines maintenance responsibilities, responsible~~
- 1321 | ~~parties, shared costs, and schedule. Where applicable, a Maintenance Agreement must be included in the~~
- 1322 | ~~Document of Covenants, Homeowners Documents and/or as riders to the individual deed and recorded~~
- 1323 | ~~with the York County Registry of Deeds.~~

- 1324
- 1325 | 12. Town Sewage Department or community system authority letter, when sewage disposal is to be
- 1326 | through a public or community system, approving the connection and its location;
- 1327 | c. Additional Requirements. In its consideration of an application/plan, the Planning Board may at any
- 1328 | point in the review, require the applicant to submit additional materials, studies, analyses, and agreement
- 1329 | proposals as it may deem necessary for complete understanding of the application.
- 1330 | Such materials may include:
- 1331 | 1. Traffic impact ~~analysis~~study, including the following data:
- 1332 | e. ~~Roadway~~Street geometry and existing traffic control devices on all major streets and intersections
- 1333 | affected by the anticipated traffic generated.
- 1334 | h. Trip assignment, the anticipated utilization of study area ~~roadway~~streets by traffic generated by the
- 1335 | proposed project, must be described and diagrammed.
- 1336 | j. Existing traffic conditions in the study area will be described and diagrammed, specifically AADT,
- 1337 | appropriate peak design hour(s), traffic volumes, ~~roadway~~street and intersection capacities, and levels of
- 1338 | service.
- 1339 | l. Future traffic conditions on the ~~roadway~~street system will be estimated based on existing volumes,
- 1340 | projected traffic growth in the general study area, projected traffic from approved development, and
- 1341 | traffic generated by the proposed project, specifically AADT traffic, appropriate peak hour(s) traffic
- 1342 | volumes, ~~roadway~~street and intersection capacity, ~~roadway~~street and intersection levels of service will be
- 1343 | analyzed. When other projects are being proposed within the impact area of the project, the Planning
- 1344 | Board may require these projects to be incorporated into the analysis.
- 1345 | m. When the analysis of the proposed project's impact on traffic indicates unsatisfactory CRF, levels of
- 1346 | service or operating capacity on study area ~~roadway~~streets and intersections, a description of proposed
- 1347 | improvements to remedy identified deficiencies must be included.

1348
1349 **16.10.5.3 Planning Board Acceptance Review.**
1350 **16.10.5.3.1 Preliminary Plan Acceptance Criteria.**
1351 At a Planning Board acceptance review meeting, the Planning Board must accept or deny the preliminary
1352 plan application in accordance with the following:
1353 B. Application is complete in accordance with the requirements of Section 16.10.5.2 or the Planning
1354 Board accepts and approves by formal action any written requests for waiver of submission contents or
1355 deferment.

1356
1357 **Article VI. Preliminary Plan Review and Decision**

1358 **16.10.6.1 Planning Board Review and Decision.**
1359 A. Within six months after approval/classification of a sketch plan by the Board, the applicant must
1360 submit an application for approval of a subdivision preliminary plan or site plan preliminary final plan in
1361 the form prescribed herein.
1362
1363 G. If the final plan is not submitted to the Planning Board within six months after classification of the
1364 sketch plan, the Planning Board may refuse to act on the subdivision preliminary plan or final site plan
1365 and require resubmission of the sketch plan. All such plans resubmitted must comply with all normal
1366 application requirements.
1367 ~~16.10.6.2 Approved Preliminary Plan Signing.~~
1368 ~~A plan has final approval only when the Planning Board has indicated approval by formal action and the~~
1369 ~~plan has been properly signed by a majority of the Planning Board members or by the chair only, if so~~
1370 ~~voted by the Planning Board.~~

1371
1372 **Article VII. Final Plan Review and Decision**

1373 **16.10.7.2 Final Plan Application Submittal Content.**
1374
1375 R. Stormwater management plan for stormwater and other surface water drainage prepared by a
1376 registered professional engineer including the location of stormwater and other surface water drainage
1377 areas, a Maintenance Plan and Agreement that defines maintenance responsibilities, responsible parties,
1378 shared costs, and schedule. Where applicable, a Maintenance Agreement must be included in the
1379 Document of Covenants, Homeowners Documents and/or as riders to the individual deed and recorded
1380 with the York County Registry of Deeds.
1381
1382 S. Protected land boundary markers. Boundaries of protected land areas must be permanently marked using
1383 Town environmental boundary markers. The five boundary markers are : (1) Conservation Land, (2)
1384 Protected Wetland, (3) Protected Vernal Pool, (4) Wildlife Habitat, and (5) Wetlands. Depending on the
1385 proposed development the required markers(s), number of markers, placement and spacing (line of sight
1386 distance separation required), and the method of mounting, must be indicated on the approved final plans(s).
1387
1388 ST. Phasing Plan.
1389
1390 FU. Right-of-Way Plan.

1391
1392 **Article VIII. Planning Board Final Plan Action**

1393 **16.10.8.2.2 Performance Guaranty Conditions.**
1394 Where improvements for the common use of lessees or the general public have been approved, the
1395 Planning Board must require a performance guaranty of amount sufficient to pay for said improvements

1396 as a part of the agreement. The applicant must file with the Town, as a condition for approval of the final
1397 plan, a performance guaranty in a form acceptable to the Town manager.

1398 1. The amount must be at least equal to the total cost of furnishing, installing, connecting and completing
1399 all street grading, paving, storm drainage and utilities and other improvements specified in the
1400 development master plan and shown on the final plan, and must guarantee the satisfactory coordination
1401 with other related phases of development and satisfactory completion of all specified improvements.

1402 2. Where the Planning Board reviews and approves project phasing, the Board may also require the
1403 developer to provide performance assurances directly related to a particular phase or phases of the project
1404 where it can be demonstrated that the uncompleted portions thereof do not detrimentally affect the
1405 completed development or the current and ongoing development.

1406 3. No phase of construction may commence until the required performance assurances have been met.

1407 4. Performance guarantees must be based on professionally prepared cost estimates for all approved
1408 infrastructure improvements, and include an inspection escrow agreement for site inspection equal to two
1409 percent of construction costs.

1410
1411 **16.10.8.2.6 Conditions on Plan.**

1412 The decision of the Planning Board plus any conditions must be noted on three copies of the final plan to
1413 be recorded at the York County Registry of Deeds, when required. One copy must be returned to the
1414 applicant, one retained by the Town Planner and one forwarded to the Code Enforcement Officer.

1415
1416 **16.10.8.3.3 Agreement Distribution.**

1417 The Planning Board must send copies of the agreement to the Town Manager and Code Enforcement
1418 Officer.

1419
1420 **16.10.8.3.4 Findings of Fact.**

1421 Action by the Planning Board must be based upon findings of fact which certify or waive compliance with
1422 all the required standards of this Code, and which certify the development meets the following
1423 requirements:

1424
1425 T. For Special Exception Use – Special Exception Use Permitted.

1426 If a special exception use is requested, the special exception use will:

1427 1. not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;

1428 2. not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein
1429 the proposed use is to be located, or of permitted or legally established uses in adjacent use zones; and,

1430 3. not adversely affect safety, the health, and the welfare of the Town.

1431 4. Use will be in harmony with and promote the general purposes and intent of this Code.

1432
1433 **16.10.8.4.3 Approved Final Plan Recording.**

1434 An approved plan involving the division of land, easements, or property boundary modification must be
1435 recorded by the York County Registry of Deeds. A mylar copy of the recorded plan must be returned to
1436 the Town Planner.

1437
1438 **Article IX. Post Approval**

1439 **16.10.9.1.2 Plan Revisions after Approval.**

1440 No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan,
1441 unless in accordance with the Planner's and CEO's powers and duties as found in Chapter 16.4, or unless
1442 the plan has been resubmitted and the Planning Board specifically approves such modifications. In the

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1443 event a final plan is recorded without complying with this requirement, the same is null and void, and the
1444 Planning Board must institute proceedings to have the plan stricken from Town records and the York
1445 | County Registry of Deeds.