

1 **AN ORDINANCE** to amend Title 3 of the Town of Kittery Town Code, as more particularly set  
2 forth herein.

3  
4 **WHEREAS**, the Kittery Town Council is enacting this amendment to the Town Code, in exercise  
5 of powers and functions which the Legislature has conferred upon it, which are not denied either  
6 expressly or by clear implication, and in exercise of powers and functions granted to the  
7 municipality by the Constitution of Maine, general law, or charter.

8  
9 The Council is authorized to enact this Ordinance, as specified in Section 2.07 (3) of the Town  
10 Charter; Title 30-A MRS §3001, pursuant to its powers that authorize the Town, under certain  
11 circumstances, to provide for public health, welfare and safety; and, Title 30-A MRS Chapter  
12 206, §5221 and §5242, pursuant to legislative authority to establish municipal development and  
13 tax increment financing districts. The Council does not intend for this Ordinance to conflict with  
14 any existing state or federal laws.

15  
16 **WHEREAS**, the Town is authorized to designate specified areas within the Town as Municipal  
17 Development and Tax Increment Financing Districts and to adopt a Development Program for  
18 the designated Districts; and

19  
20 **WHEREAS**, there is a need for economic development in the Town, in the surrounding region,  
21 and in the State of Maine; and

22  
23 **WHEREAS**, there is a need to improve and broaden the tax base of the Town; improve the  
24 general economy of the Town and the surrounding region; and

25  
26 **WHEREAS**, implementation of the Development Program will help to improve and broaden the  
27 tax base in the Town and improve the economy of the Town and the region by attracting  
28 business development to the Districts; and

29  
30 **WHEREAS**, there is a need to implement continued economic development initiatives in the  
31 designated areas of the Town through the establishment of these Districts in accordance with  
32 the provision of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended; and

33  
34 **WHEREAS**, the Town desires to designate the Districts and to adopt the Development  
35 Programs; and

36  
37 **WHEREAS**, it is expected that approval will be obtained from the State of Maine Department of  
38 Economic and Community Development, approving the designation of the Districts and the  
39 adoption of the Development Programs for the Districts.

40

41 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER  
42 SECTION 2.14,

43  
44 **THE TOWN OF KITTERY HEREBY ORDAINS AN AMENDMENT TO TOWN CODE TITLE 3**  
45 **AS PRESENTED, HAVING BEEN ON FILE IN THE TOWN CLERK’S OFFICE; AFTER**  
46 **PUBLIC HEARING AT THIS REGULAR TOWN COUNCIL MEETING; AND, MADE A PART**  
47 **HEREOF. SAID AMENDMENT DESIGNATES THREE MUNICIPAL DEVELOPMENT**  
48 **DISTRICTS IN THE TOWN; MAKES THE FINDINGS SET FORTH IN THE DEVELOPMENT**  
49 **PROGRAMS; AND, ADOPTS THE FINANCIAL PLAN INCLUDING THE PERCENTAGE OF**  
50 **INCREASED ASSESSED VALUE OF SAID DISTRICTS TO BE RETAINED AS CAPTURED**  
51 **ASSESSED VALUE IN ACCORDANCE WITH THE DEVELOPMENT PROGRAMS.**

52  
53 **Approved as to form:** {NAME}, Town Attorney

54  
55 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_ day of \_\_\_\_\_,  
56 2\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion Councilor as seconded by  
57 \_\_\_\_\_ {NAME} Councilor and passed by a vote of TBD.

58  
59 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
60 Maine on the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, {NAME}, Chairperson

61  
62 **Attest:** {NAME}, Town Clerk

63  
64  
65  
66 **SEPARATE MOTION TO AUTHORIZE SUBMISSION OF APPLICATION**

67 *Note: This language is part of the Ordinance which does not take effect for 30 days. This motion would*  
68 *permit immediate submission*

69  
70 “The Town Manager is hereby authorized and directed, on behalf of the Town to execute and  
71 submit to the State of Maine Commissioner of Economic and Community Development for  
72 approval such applications and further documentation as may be necessary or appropriate for  
73 final approval and establishment of three designated Districts as Municipal Development and  
74 Tax Increment Financing Districts and approval of the Development Programs and financial  
75 plans pursuant to Title 30-A MRS Chapter 206; and the Town Manager be, and hereby is,  
76 authorized and empowered, in his discretion, from time to time, to make such technical revisions  
77 to the Development Programs for the Districts as he deems reasonably necessary or convenient  
78 in order to facilitate the process for review and approval by the Department of Economic and  
79 Community Development, so long as such revisions are not inconsistent with the basic structure  
80 and intent of the Development Programs”

81

82 **Title 3 REVENUE and FINANCE**  
83 (1) Chapter 3.4 MUNICIPAL DEVELOPMENT and TAX INCREMENT  
84 FINANCING DISTRICTS

85  
86 **3.4.1 District Designations and Adoption.**

87 Three Municipal Development and Tax Increment Financing Districts are hereby designated to  
88 be known as District #1 (Mixed Use); District #2 (Shopping Corridor); and, District #3 (Business  
89 Park) and herewith are adopted the Development Programs for such Districts; such  
90 designations and adoptions to be pursuant to the following findings, terms, and provisions.

91  
92 **3.4.2 Findings and Determinations.**

93 The Town Council hereby finds and determines that:

94  
95 a. At least twenty-five percent (25%), by area, of the real property within the Districts as herein  
96 designated, meets at least one of the following statutory criteria (1) must be a blighted area; (2)  
97 must be in need of rehabilitation, redevelopment or conservation work; or (3) must be suitable  
98 for commercial uses; and

99  
100 b. The total area of the individual Districts does not exceed two percent (2%) of the total  
101 acreage of the Town, and the total area of all three Districts within the Town does not exceed  
102 five percent (5%) of the total acreage of the Town; and

103  
104 c. The original assessed value of all existing and proposed tax increment financing districts  
105 does not exceed five percent (5%) of the total value of equalized taxable property within the  
106 Town as of March 31, 2010; and,

107  
108 d. The designation of the Districts and pursuit of the Development Program will make a  
109 contribution to the economic growth and well-being of the Town and the surrounding region, and  
110 will contribute to the betterment of the health, welfare, and safety of the inhabitants of the Town,  
111 including a broadened and improved tax base and economic stimulus, and any adverse  
112 economic effect on or detriment to any existing business is outweighed by the contribution made  
113 by the District and the Development Programs to the economic growth or well-being of the Town  
114 and the betterment of the health, welfare and safety of its inhabitants, and the Town Council  
115 makes the further findings set forth in the Development Programs, and therefore constitutes a  
116 good and valid public purpose.

117  
118 **3.4.3 Retention of Captured Assessed Value.**

119 Pursuant to the provisions of Title 30-A MRS §5227, the percentage of increased assessed  
120 value to be retained as captured assessed value in accordance with the Development Programs  
121 is hereby established as set forth in the Development Programs.

122  
123 **3.4.5 Submission Authority.**

124 The Town Manager is hereby authorized, empowered and directed to submit the proposed  
125 designation of the three Districts and the proposed Development Programs for the Districts to  
126 the State of Maine Department of Economic and Community Development for review and  
127 approval pursuant to the requirements of Title 30-A MRS §5226.

128

129 **3.4.6 Full Force and Effect.**

130 The foregoing designation of the three Districts and the adoption of the Development Programs  
131 for the Districts automatically becomes final and takes full force and effect upon receipt by the  
132 Town of approval of the designation of the Districts and adoption of the Development Programs  
133 by the State of Maine Department of Economic and Community Development, without  
134 requirement of further action by the Town, the Town Council, or any other party.

135  
136 **3.4.7 Development Program Revisions.**

137 The Town Manager is hereby authorized and empowered, as may be necessary from time to  
138 time, to make such revisions to the Development Programs for the three Districts as the Town  
139 Council deems reasonably necessary or convenient in order to facilitate the process for review  
140 and approval of the District by the State of Maine Department of Economic and Community  
141 Development, or for any other reason, so long as such revisions are not inconsistent with these  
142 resolutions or the basic structure and intent of the Development Programs.

143  
144 **3.4.8 Credit Enhancement Agreements (CEA).**

145 A description of the terms and conditions of the agreements, contracts and obligations to be  
146 entered by the Town is set forth in the model Credit Enhancement Agreement that may entered  
147 into by the Town and one or more Developers which will be in the form approved by the Town  
148 Council as part of the application to the State, with such changes thereto as determined  
149 appropriate by the Town Council.

150  
151 Credit Enhancement Agreements are to set forth the obligations of the Town to pay to the  
152 applicable Developer each year during the term of that Agreement the applicable Tax Increment  
153 (Developer's Share) as described in the model agreement .

154  
155 The obligations of the Town to make such payments are a limited obligation payable solely from  
156 that portion of the Tax Increment constituting the Tax Increment (Developer's Share) actually  
157 paid by the applicable Developer as property tax, and do not constitute a general debt or  
158 obligation on the part of the Town or a general obligation or charge against or pledge of the faith  
159 and credit or taxing power of the Town.

160  
161 **3.4.9 No Use Without Development.**

162 With establishment of the District(s) and implementation of the Development Programs, no tax  
163 revenues generated for the Development Programs may be used for municipal improvements,  
164 or other reason, until and unless private development within the District(s) is approved,  
165 warranting the need for such improvements.

166

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