

MEMORANDUM

TO: Adam Causey, AICP, Director of Planning & Development

CC: Jaimie Steffen, Town Planner
Kittery Land Issues Committee (KLIC)

From: Ben Smith, AICP, North Star Planning

RE: Summary of changes in reorganized ordinance

Date: August 21, 2019

North Star Planning has completed the reorganization of the existing Title 16 ordinance elements. The next phase of work is to make select changes to existing ordinance language that will be updated, clarify, and in some cases add new definitions, standards, and processes. The newly reorganized ordinance framework should also make it easier to incorporate future changes into appropriate sections.

Ordinance Reorganization

The process of moving and reorganizing ordinance elements began in April 2019. The reorganization task was not to add new ordinance language or to delete existing ordinance language. All of the existing ordinance provisions have been carried over into this draft. The purpose of this approach is to show any areas of duplication, internal inconsistencies, and gaps in the existing ordinance language.

In some cases, ordinance elements were combined into single sections. For example, all elements dealing with how the ordinance is administered and enforced are now included in one section, Title 16.2. In others, ordinance elements are proposed to be separated out from each other. The existing "Title 16.10 - Development Plan and Application Review," is proposed to be broken out into its more specific elements to increase clarity and ease of use for staff, the Planning Board, and applicants. These new proposed stand alone sections are "Title 16.6 – Master Site Plan Review," "Title 16.7 – Site Plan Review," and "Title 16.8 – Subdivision Review."

Comparison of existing and proposed Title 16 sections

| Existing Ordinance Sections | Proposed Reorganization of Sections |
|---|---|
| 16.1 General Provisions | 16.1 General Provisions |
| 16.2 Definitions | 16.2 Administration and Enforcement |
| 16.3 Land Use Zone Regulations | 16.3 Definitions |
| 16.4 Administration and Enforcement | 16.4 Land Use Regulations |
| 16.5 Building/Regulated Activity Permits | 16.5 General Performance Standards |
| 16.6 Decision Appeal, Variance and Other Requests | 16.6 Master Site Development Plan Review |
| 16.7 General Development Requirements | 16.7 Site Plan Review |
| 16.8 Design and Performance Standards for Built Environment | 16.8 Subdivision Review |
| 16.9 Design and Performance Standards for Natural Environment | 16.9 Shoreland and Marine-Related Development |
| 16.10 Development Plan Application and Review | |
| 16.11 Marine-Related Development | |

Summary of major reorganizational moves

- 16.1 - General Provisions.

This section includes wording for the legal basis of the ordinance as well as guidance on interpretation issues. This section now includes not only the Purpose, Applicability, Severability and Amendment provisions, it also includes many of the General Development Requirements including Conformity, Land within street lines, Zone boundary setbacks, and the Nonconformance sections.

- 16.2 – Administration and Enforcement.

This section includes requirements and procedures for the Planning Board, the Zoning Board of Appeals, and the Port Authority, as well as outlining the roles and responsibilities of the Town Planner and the Code Enforcement Officer (CEO) in a single section. This section also contains most of the wording from the existing Building/Regulated Activity Permits sections, so that all activities that require approval from the CEO are located together. Finally, all of the wording from the existing Decision Appeal, Variance, and Other Requests section has been incorporated here, so that the entire sequence of the approval process for both the CEO and the Board of Appeals are in one place.

- 16.3 – Definitions and 16.4 – Land Use Zone Regulations.
Permitted and Special Exception Uses in the Land Use Regulations into alphabetical order, and the standards C-1, C-2, C-3 sections have been split out as individual districts for clarity.
- 16.5 – General Development Standards.
This section contains all of the general standards for how activities (permitted uses) in Kittery take place, listed in alphabetical order. These regulations include requirements, conditions, and any other standards and restrictions such as hours of operation, buffering and setback requirements, or environmental considerations for each use. This section also as well as some technical standards that go beyond Definitions, for items such as Lots and Net Residential Acreage. Most of the elements in this section come from the two existing Design and Performance Standards sections, for the Built and Natural Environment.
- 16.6 – Master Site Development Plan Review, 16.7 – Site Plan Review, and 16.8 – Subdivision Review.
These sections have been separated out from the existing 16.10 – Development Plan Application and Review. These three new sections contain the process, application requirements, approval standards and post-approval requirements for each class of application. The approval standards in the Site Plan Review and Subdivision Review sections have been brought over from the existing Design and Performance Standards sections. As opposed to general standards for uses, these standards are what the Planning Board would use to make determinations and findings on applications.
- 16.9 – Shoreland and Marine Related Development.
No change from the existing section 16.11, apart from the name change.

Next Steps

North Star Planning will be working to finalize a reorganized ordinance framework and fix internal references (highlighted yellow in draft text) and then working with town staff, KLIC, town boards, committees and other stakeholders, to make targeted changes in order to update and clarify definitions, standards, and processes.

Examples of suggested changes will include:

- General Provisions
 - Adding a Rules of Construction section to aid code interpretation decisions.
- Definitions
 - Eliminating definitions that do not show up later in the ordinance or have common dictionary meanings.
- Land Use Regulations
 - Creation of a Use Table that will communicate Permitted and Special Exception Uses by zone.
- General Performance Standards
 - Additional of new standards from definitions that include standards within the definition itself.
 - Further refinement of General Performance Standards that apply to uses anywhere in town, zoning standards that apply to uses within specific zoning districts, and approval standards in Site Plan and Subdivision Review standards used by the Board to review applications for development.
- Site Plan and Subdivision Review
 - Adding clear thresholds for applicability and new wording related to submission requirements and procedures in the placeholders added.
 - Refinement of standards that are applicable to site plan review only and subdivision review only.
 - Creation of Major and Minor Site Plan application categories that would allow for smaller, less impactful developments to proceed through a staff review process and allow the Planning Board to focus on larger projects with bigger impacts and implications for surrounding areas.