



# **TOWN OF KITTERY**

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

## **WORKSHOP**

**Town Council and Planning Board**

**Title 16 – Affordable Housing**

**October 5, 2020**

**5:00PM**

**Due to the Declaration of a State of Emergency for the State of Maine and Town of Kittery, this meeting will be held remotely in accordance with LD 2167. The meeting will be broadcast on Channel 22, Facebook, and live broadcast from the Town's website.**



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**REPORT TO TOWN COUNCIL**

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Meeting Date: September 28, 2020  
UPDATE: Workshop October 5, 2020  
From: Kendra Amaral, Town Manager  
Subject: Affordable Housing Package  
Sponsor: Vice Chairperson Matthew Brock

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**OVERVIEW**

The Housing Working Group was formed in the spring of 2018 to identify solutions and recommendations to address the town's growing challenge of housing affordability. The Working Group is made up of volunteers including Councilor Matt Brock, Planning Board members Drew Fitch and Russell White, and interested residents, non-profit agencies, and business owners including Debbie Driscoll, Emily Flinkstrom, Stephen Kosacz, and Tom Emerson.

One of the Working Group's goals is to recommend and advance ideas to increase housing supply that is accessible for people of low to moderate incomes. It coordinated with the Seacoast Workforce Housing to host a workforce housing workshop in October 2018. The Working Group proposed an ordinance revision for the Accessory Dwelling Unit code which was adopted in late 2019. The Committee has also focused on developing affordable housing amendments to Title 16, and supporting ordinance revisions to advance the generation, conversion, and rehabilitation of affordable housing units in Kittery.

The Working Group has been supported by Town planning staff. Staff have attended their meetings, assisted the members in developing concepts, researching other communities for precedent and model language, and generating draft ordinance language to reflect the Working Group's goals. The Working Group also had discussions with Maine Housing and various municipal and non-profit housing organizations.

**TITLE 16 – AFFORDABLE HOUSING**

The Working Group has developed an extensive Title 16 package to make affordable housing a specific goal of the zoning code, to identify locations ripe for affordable housing opportunities, and to offer incentives for affordable housing development, either for rent or sale.

The proposed Title 16 amendments include defining affordable housing and setting minimum requirements for affordable units on projects of 5 units or more. The package establishes various incentive bonuses for density, fee reductions, and parking. Further it establishes a minimum requirement for affordable housing, and a payment in lieu program (see Affordable Housing Fund below).

The package also includes amending the C-1 and C-3 zones to allow housing, which is current prohibited. With the shifting market for retail malls, and the significant public infrastructure, these zones are ripe for redevelopment. To note, the amendments *add* housing as an allowable use among the list of other allowable uses

The amendment defines “affordable” as 80% of area median income for the York-Kittery-South-Berwick Maine Metro Fair Market Area. 80% of area median income for our area is currently \$73,120.

The Planning Board has reviewed the draft Title 16 package and made amendments that improved clarity, controls and outcomes. The Planning Board also added some use changes to address other items of interest associated with the two targeted zones for Affordable Housing, specifically C-1 and C-3.

### **AFFORDABLE HOUSING FUND**

The proposed Title 16 ordinance gives developers the option to build units or make a payment-in-lieu that is proposed to go into a fund to support affordable housing efforts in town. The Council is being asked to consider the establishment of an Affordable Housing Fund to receive the payments in lieu and other monies such as grants, and sale proceeds for the purpose of supporting the creation, rehabilitation, and retention of affordable housing units in Kittery.

The fund would be used for activities such as financial grants and loans for conversion, rehabilitation, and renovation of existing housing (single family/multi-family), purchase of land, construction of affordable housing units, loans and grants for private development of affordable units, and oversight and administration of projects and activities associated with these efforts.

Examples of uses include revolving loans and grants to qualifying residents to rehabilitate their homes, so they can remain in place, land purchases that can be leased to private/nonprofit developers for the creation of affordable units, bridge loans for qualifying first-time homebuyers.

The funds will be kept separate from the operating funds, and as proposed, can only be spent with approval of the Town Council.

### **TITLE 3 – PROCEEDS FROM SALE OF TAX-FORECLOSED PROPERTIES**

In addition to state and federal grants, and payment-in-lieu funds, the Working Group proposes utilizing proceeds from the sale of property obtained through tax-foreclosure to be directed to the Affordable Housing Fund. Not all tax-foreclosures are the result of financial hardship, though some are. Directing the proceeds of such sales back into the generation and retention of affordable units is a fitting use of the funds and supports the goals of ensuring the Town is affordable to people of all incomes.

### **TITLE 4 – HOUSING COMMITTEE**

The final piece of the package is a proposal to establish a standing Housing Committee to continue work on the affordable housing challenge, and to recommend policy and use of the Housing Fund.

The proposal transitions the Working Group into a full committee with a membership that represents a diversity of expertise and perspective.

### **PROCESS**

The Working Group drafted the proposed ordinances and policies following extensive research and discussion with other agencies and municipalities working to address affordable housing issues.

The Kittery Land Issues Committee reviewed the draft Affordable Housing Ordinance and the C-1 and C-3 changes in February of 2020.

The Planning Board began its review process on May 28, 2020. The public hearings were held in July and August (July 23, Aug 13 & 27), and a workshop was held on September 15, 2020 with the Working Group and Economic Development Committee to review the proposed Title 16 amendments. The Planning

Board voted unanimously to recommend the zoning amendments to the Council at their meeting on September 24, 2020. The written minutes of the meetings are still being developed, but video of all of the meetings are available on the Town's website.

**RECOMMENDATION**

Schedule a Workshop with the Planning Board and schedule public hearings for each proposed measure.

**ATTACHMENTS**

- Proposed Title 16 Amendment (note: will not reflect changes made by PB on Sep 24)
- Proposed Ordainment of Affordable Housing Fund
- Proposed Title 3 – Proceeds from Sale of Tax-Foreclosed Properties
- Proposed Title 4 – Housing Committee
- Proposed Appendix A – Affordable Housing Fee in Lieu

**TITLE 16  
AFFORDABLE HOUSING &  
C-1 AND C-3 ZONES AMENDMENTS**

**NOTE: formatting and numbering will be finalized/fixed by General Code upon adoption.**

**1. ADD §16.12 Affordable Housing as follows:**

**16.12 Affordable Housing**

**16.12.1 Purpose**

Recognizing that the market alone will not provide the range and diversity of housing types needed for a vibrant community, the Town of Kittery desires to encourage affordable housing for households of modest means and for all ages. The purpose of this ordinance is to offer incentives to developers to include affordable housing, either for lease or sale, particularly in those zones that offer utilities and/or services, and to mitigate the impacts of market-rate housing development on the limited supply of land available for suitable housing. The Town looks to its comprehensive plan and finds that this ordinance will assist in meeting housing goals and in promoting the public health, safety and welfare of its residents.

**16.12.2 Applicability**

A. Affordable housing regulations are applicable **only in zones which explicitly state so** and as follows:

1) All development **in the C-1, C-3, B-L, and B-L1 zones** involving three or more new dwelling units. The proposed dwelling units may be new construction, created through a change of use or created through a renovation, rehabilitation or remodel. Projects may not be phased or segmented to avoid compliance with these requirements.

2) All major subdivisions, including those planned in phases, in all zones that create 5 or more lots. Minor subdivisions are exempt.

3) All developments as described in 1) and 2) above whether the dwelling units proposed are intended for sale or for lease.

B. Affordable housing regulations do not apply to hotels, motels, rooming houses, inns, bed and breakfasts, residential care facilities or elder care facilities.

**16.12.3 Requirements**

A. For projects proposing five (5) or more dwelling units, at least 10% of the units, rounded down to the nearest whole number, must be affordable housing units, as defined by this code. Any fractional unit obligation left after the rounding results in a proportional payment-in-lieu (see 3) below). For example, if 15 units are proposed, then one affordable unit is required plus 50% of a payment-in-lieu. If an additional affordable unit is offered for the fractional unit obligation, no payment-in-lieu is required.

B. The affordable housing units must remain affordable (via a recorded land use restriction, deed restriction or other legal instrument, a copy of which must be submitted to the Town prior to issuance of any building permits) for the longest term permitted under federal, state and local laws and ordinances, or 30 years, whichever is greater.

34 C. As an alternative to providing affordable housing units, projects may pay a fee in lieu of some or all  
35 of the units. In-lieu fees shall be paid into the Kittery Housing Reserve Fund, as ordained by the Kittery  
36 Town Council. The fee for affordable units not provided shall be annually established by the Kittery  
37 Town Council in the schedule of fees.

38 D. If the developer prefers to provide a payment-in-lieu instead of the required affordable housing  
39 units, that proportional payment will be calculated based on the number of affordable housing units that  
40 are required plus any fractional unit obligation. Using the example above, if 15 units are proposed, the  
41 developer would provide 1.5 times the current rate set by the Town.

#### 42 16.12.4 Location

43 A. Required affordable housing may be located either on-site with any market rate dwelling units or  
44 off-site within areas appropriately zoned for residential use. For development proposed in the C-1, C-3,  
45 B-L and B-L1 zones, any off-site affordable housing must be located within one of those zones.

46 B. Off-site affordable housing may be new construction, a rehabilitation, remodel or renovation of an  
47 existing structure, or a change of use from non-residential to residential.

48 C. Developers of market-rate units for sale who seek to provide the required affordable housing units  
49 off-site may opt to provide such dwelling units as rentals, subject to review and approval by the Town or  
50 the Town's designee.

#### 51 16.12.5 Incentives

52 A. Zoning districts C-1, C-3, B-L and B-L1 each have density incentives which can be reviewed  
53 under the pertinent zone in 16.3. having density incentives may be reviewed under the pertinent zone  
54 located in §16.3 Land Use Zone Regulations.

55 B. The Town will reduce the permitting costs for developments including affordable housing as  
56 follows:

- 57 1) For developments comprised of 10% – 15% affordable housing units: 10% off total permitting  
58 costs except for sewer connection fees.
- 59 2) For developments comprised of 16% – 24% affordable housing units: 15% off total permitting  
60 costs except for sewer connection fees.
- 61 3) For developments comprised of 25% and over affordable housing units: 20% off total permitting  
62 costs except for sewer connection fees.

#### 63 16.12.6 Standards

64 A. Affordable housing units must be built in reasonable accordance with any market-rate units such  
65 that at minimum, for every five market rate units built, one affordable unit must be completed. All  
66 affordable housing units in a development must have received a certificate of occupancy before the final  
67 market rate unit receives such. If a development is proposed for five dwelling units, including one  
68 affordable unit, that affordable unit must be completed before the last market rate unit receives its  
69 certificate of occupancy.

70 B. When affordable housing units are part of a development which also includes market rate housing  
71 units, the outside appearance of affordable units must be similar to the market rate units and any  
72 affordable units must be integrated into the development as a whole. Affordable units cannot be confined

73 to one building of a multiple building development except in the cases of cottage clusters, accessory  
74 dwelling units or two-family residences.

75 C. Affordable housing units need not be the same size as market rate housing units but the number of  
76 bedrooms in each such dwelling unit may not be less than 10% of the total number of market rate  
77 bedrooms in the development, rounded up when the fractional portion is .5 or more. For example, a five-  
78 unit multi-family dwelling with four market rate housing units of 2 bedrooms each would be required to  
79 provide one affordable housing unit with one bedroom.

80 1) Studio dwelling units will be counted as a one-bedroom unit. In cases where a development is  
81 providing only studio apartments and one-bedroom apartments, the Planning Board has the authority  
82 to decide whether each required affordable housing unit will be a studio or one-bedroom unit.

83 D. Affordable housing units to be located off-site must be of comparable quality with the same  
84 number of bedrooms (see 3) above) as any new affordable housing units that would be created by the  
85 project on-site. The Town will not accept off-site units that are run-down or show signs of substantial  
86 wear or deterioration. This includes but is not limited to: heating and cooling systems, plumbing, wiring,  
87 appliances, flooring, walls, counters, cabinets, and fixtures as well as roofing, siding, doors and  
88 windows.

89 **16.12.7 Eligibility and Restrictions**

90 A. Affordable housing units or lots that will be owner-occupied shall be:

91 1) Restricted to households having an income that does not exceed 120% of the area median income  
92 for the family size having the same number of persons as the subject household for the York-Kittery-  
93 South Berwick, Maine, Metro Fair Market Area (HMFA), as published by the U.S. Department of  
94 Housing and Urban Development as of the date of the buyer's application, and whose housing and  
95 utility costs do not exceed 30 percent of the household's annual gross income; and

96 2) Maintained as affordable housing units through a land use restriction agreement with the Town of  
97 Kittery or its designee for a period no less than the maximum period permitted by Maine law or thirty  
98 (30) years, whichever is longer.

99 B. Affordable housing units that will be leased shall be:

100 1) Restricted to households having an income that does not exceed 80% of the area median income  
101 for the family size having the same number of persons as the subject household for the Y York-  
102 Kittery-South Berwick, Maine, Metro Fair Market Area, as published by the U.S. Department of  
103 Housing and Urban Development as of the date of the household's application, and whose housing  
104 and utility costs do not exceed 30 percent of the household's annual gross income; and

105 2) Maintained as affordable housing units through a land use restriction agreement with the Town of  
106 Kittery or its designee for a period no less than the maximum period permitted Maine law or thirty  
107 (30) years, whichever is longer.

108 C. Subleasing of any leased affordable housing unit is not permitted. Leasing or renting, including  
109 short-term rentals, of any owner-occupied affordable housing unit is not permitted.

110 **16.12.8 Marketing and Pricing**

111 A. Affordable housing units shall be actively marketed for sale or lease, as applicable, to eligible  
112 households, which active marketing shall include, as a minimum, the following:

113 1) The owner shall provide a notice of availability to the Town of intent to lease or sell an affordable  
114 housing unit. Such notice must be given at least 14 days prior to advertising the unit.

115 2) The owner or their authorized representative shall provide an affidavit to the Town confirming  
116 that household eligibility requirements have been met upon successful sale or lease of an affordable  
117 housing unit. Any lease agreement shall be in writing and provided to the Town upon request.

118 3) A non-eligible household may occupy an affordable housing unit if, despite active marketing, an  
119 eligible household is not available to lease the housing unit. If an affordable housing unit is being  
120 offered for lease, a non-eligible household may occupy it under the following conditions:

121 i. The housing unit must be marketed for 90 days after the Town’s receipt of notice of availability.

122 ii. If no eligible household is found, a lease may be signed with a non-eligible household 14 days  
123 after the Town is notified of the failure to lease, with the condition that the next housing unit that  
124 becomes available in the development must be offered as an affordable unit so that the affordable  
125 housing requirements for the development continue to be met.

126 4) If, 120 days after the Town’s receipt of notice of availability, the initial sale of an affordable  
127 housing unit by the developer has not occurred, a non-eligible household may occupy it but that  
128 household may only lease the unit for one year from the developer thus preserving the affordable  
129 restrictions. The unit must again be offered for sale upon termination of the one-year lease. The lease  
130 may not be renewed. The Town must be notified of the failure to sell 14 days before the lease is  
131 signed and of the subsequent lease agreement within 30 days of such lease being signed.

132 B. Initial maximum sale pricing of new affordable units must be set as follows:

133 1) Establish the target percentage of area median income level from the York-Kittery-South Berwick,  
134 Maine, Metro Fair market Area (HMFA), as published by the U.S. Department of Housing and Urban  
135 Development that the unit will be marketed to. For projects being funded privately, that number must  
136 be 110% of area median income. For projects that include state, federal or municipal funding, that  
137 number will be influenced by the stipulations attached to the funding.

138 2) From the table below, determine the minimum household size based on the number of bedrooms  
139 in the unit

	<u>1-bedroom</u> <u>or studio</u>	<u>2-bedroom</u>	<u>3-bedroom</u>	<u>4-bedroom</u>
<u>Minimum</u> <u>Household</u> <u>Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>

140 3) Calculate 30% of the gross median income based on the area median income from the York-  
141 Kittery-South Berwick, Maine, Metro Fair market Area (HMFA), as published by the U.S.  
142 Department of Housing and Urban Development for the minimum household size based on the  
143 number of bedrooms.



144 For example: (Household’s 110% AMI x .30)/12 = monthly income available for housing-related  
 145 expenses

146 4) The amount obtained from the formula above should then have other housing-related expenses,  
 147 such as mortgage insurance, real estate taxes, home insurance and any HOA/condominium fees  
 148 removed. Mortgage insurance must be estimated similar to current rates utilized by the Federal  
 149 Housing Administration unless otherwise agreed to by the Town or its designee. What remains after  
 150 removing non-mortgage related housing expenses is that portion of a household’s monthly income  
 151 which is available for a mortgage payment.

152 5) The sale price will then be set based on a 30-year fixed-rate mortgage with a minimum 3.5% down  
 153 payment. Larger down payments will not change the maximum allowable sale price.

154 6) No affordable housing unit may be sold for more than the maximum sale price.

155 C. Affordable housing units located in a development for which a home owner association (HOA) or  
 156 condominium association will be established must obtain the Town’s review and approval of the draft  
 157 budget and condominium/HOA documents. The Town or its designee may request quotes for costs such  
 158 as replacement reserves and insurance. Fees will be shared proportionately based on the Town’s tax  
 159 assessment of the properties or if that information is not available, on the initial sales price of the units.  
 160 Affordable units will be assessed with consideration given to the associated restrictions. The  
 161 condominium/HOA fees may not increase more than 5% any given year and cannot exceed 15% within  
 162 any five-year period without a supermajority 67% vote of the association. The Town may choose to have  
 163 a consultant or the Town Attorney review the condominium/HOA documents, which fee is payable by  
 164 the developer.

165 D. Maximum resale pricing of affordable units must be set as follows:

166 1) Calculate the average percentage change in the area median income used for the initial pricing for  
 167 the relevant minimum household size between the year of purchase and the present.

168 2) Using that percentage number, calculate the new selling price. For example, if the average  
 169 percentage change in area median income over the time the home was owned is 2% then: (original  
 170 purchase price) \* 1.02) = new selling price.

171 E. Monthly rental costs for affordable housing units will be set based on the following:

172 1) Find the minimum household size based on the number of bedrooms from the table below:

	<u>1-bedroom</u> <u>or studio</u>	<u>2-bedroom</u>	<u>3-bedroom</u>	<u>4-bedroom</u>
<u>Minimum</u> <u>Household</u> <u>Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>

173 Use the formula below to calculate the monthly rent:

174 0.30 x (annual income based on minimum household size/12) minus utilities = affordable rental unit  
175 rent.  
176 F. The Town, with guidance from the Affordable Housing Committee, reserves the right to modify  
177 the requirements in H. as needed to advance Kittery’s affordable housing goals and objectives.

178 **16.12.9 Supplemental Standards for Approval**

179 A. Prior to submission of any plan for review by a Town land use board such as the Planning Board  
180 or Board of Appeals, the developer shall submit a Housing Plan to the Planning Department outlining the  
181 incentives sought, target median income percentage for the affordable units, proposed location of  
182 affordable housing and standards satisfied from this section.

183 B. The Town must review the plan and certify in writing that the development for which approval is  
184 sought, as described in the Housing Plan, is consistent with all applicable requirements of this Section. If  
185 the plan does not meet the requirements, the Town must notify the developer and the project may not  
186 proceed to the applicable land use board.

187 C. In addition, all housing-related projects in the C-1 zone must undergo master site plan review even  
188 if only one building is proposed. See Chapter 16.6.

189 D. Prior to the submittal of any development application for consideration by a Town land use board,  
190 a pre-application conference between the developer and the Town is required to discuss the application,  
191 site design and relevant requirements of the certified Housing Plan.

192 E. Prior to issuance of a building permit, a land use restriction agreement shall be executed between  
193 the Town Manager and the developer, in a form promulgated by the Town and approved by the Town  
194 Attorney, based on the Housing Plan, which land use restriction agreement sets forth the land use  
195 restrictions required by this section.

196 F. Prior to issuance of the certificate of occupancy for a development subject to this section, the  
197 developer shall provide the Town with a fully executed copy of the land use restriction agreement as  
198 recorded in the real property records maintained by the York County Registry of Deeds.

199

**2. ADD definitions to §16.2 as follows:**

200 AFFORDABLE

201 The percentage of income a household is charged in rent and other housing expenses, or must pay in  
202 monthly mortgage payments (including insurance, HOA fees, and taxes), does not exceed 30% of a  
203 household’s gross income, or other amount established in town regulations that does not vary  
204 significantly from this amount.

205 AFFORDABLE HOUSING UNIT

206 One dwelling unit of either affordable housing for rent or affordable housing for sale.

207 AFFORDABLE HOUSING FOR RENT

208 A dwelling unit that may be rented for year-round occupancy for which the rental cost does not exceed  
209 the maximum cost set forth for households making up to 80% of area median income, as determined by  
210 HUD’s York-Kittery-South Berwick Metro Fair Market Area (HMFA) limits. Annual rent increases are  
211 limited by deed restriction, lease agreement or other legally binding agreement to the percentage increase  
212 in the HUD York-Kittery-South Berwick Metro Fair Market Area (HMFA) median income figures for a

213 household of that size.

214 AFFORDABLE HOUSING FOR SALE

215 A dwelling unit that may be purchased for year-round occupancy for which the selling price does not  
216 exceed the maximum price set forth for households making up to 120% of area median income, as  
217 determined by HUD's York-Kittery-South Berwick Metro Fair Market Area (HMFA) limits. The resale  
218 price is limited by deed restriction or other legally binding agreement for all future sales of the unit, or a  
219 lesser term if permitted by regulations, to the percentage increase in the HUD York-Kittery-South  
220 Berwick Metro Fair Market Area (HMFA) median income figures for a household of that size.

221 COTTAGE CLUSTER

222 A group of size-restricted single-family detached dwelling units that share a common lot as well as  
223 common open space and may share a parking area and/or accessory structures.

224 DISTRIBUTION CENTER

225 A warehouse or specialized building with refrigeration or climate control, stocked with products to be  
226 shipped to retailers, wholesalers or directly to consumers.

227 FULFILLMENT CENTER

228 A physical location, often a warehouse or a specialized building with automation, from which a  
229 fulfillment provider fills customer orders from multiple e-commerce retailers.

230 IMPERVIOUS SURFACE

231 The total area of a parcel that consists of buildings and any associated structures as well as roads,  
232 driveways, and parking areas, whether paved or unpaved and any additional area that is covered with a  
233 low-permeability material such as asphalt, stone or concrete or compacted through design or use to reduce  
234 permeability.

235 SHOPPING FULFILLMENT CENTERS

236 A physical location that combines a business's retail functions and its warehouse or distribution activities  
237 into one building. These facilities provide customers options for viewing goods and placing orders online  
238 or onsite. Products are stored and orders are processed onsite.

**3. AMEND the definition of Dwelling in §16.2 as follows:**

239 **DWELLING UNIT**

240 A room or group of rooms forming a habitable unit for one ~~family household~~, with facilities used or  
241 intended to be used for living, sleeping, cooking, eating and sanitary facilities. ~~It comprises at least 650-~~  
242 ~~square feet of habitable floor space, except for elderly housing, an accessory dwelling unit or a~~  
243 ~~temporary, intrafamily dwelling unit. The term does not include a trailer.~~ Such a unit must meet the  
244 building code standards adopted and amended from time to time by Maine's Bureau of Building Codes  
245 and Standards.

**4. AMEND §16.3.2.11 purpose of C ZONES as follows:**

246 § 16.3.2.11 **Commercial (C-1, C-2, C-3).**

247 A. Purpose.

248 (1) The C-1 (Route 1 Commercial) Zone proposes to add a range of uses and building types, including  
249 residential, to a vehicle-dependent predominately retail-oriented shopping area with proximity to several

250 small neighborhoods. The presence of significant existing infrastructure and the opportunity to redevelop  
251 under-utilized properties for a diversity of housing types, restaurants, services and shops with increased  
252 pedestrian access will allow the Town to advance Comprehensive Plan housing and economic  
253 development goals and meet the needs of residents into the future.

254 (2) The purpose of the ~~Commercial (C-1, C-2, C-3)~~ (Route 236 Commercial) Zone is to provide-  
255 ~~general retail sales~~, services, industry and business space within the Town in a locations capable of  
256 conveniently serving community-wide and/or regional trade areas and oriented primarily to ~~automobile-~~  
257 vehicular access.

258 (3) The C-3 (Bypass/Old Post Road Commercial) Zone proposed to introduce a mix of housing,  
259 businesses and services to an area that serves as one of the gateways to and through Kittery. Existing  
260 infrastructure, proximity to residential neighborhoods, and direct access to I-95 give this zone  
261 opportunities for housing and commercial uses, as well as advancing pedestrian access, serving residents  
262 and the region.

263 To reflect the differing character of various parts of the commercial areas, it is divided into three zones  
264 that are shown on the Zoning Map:

C-1	Route 1 Commercial Zone
C-2	Route 236 Commercial Zone
C-3	Bypass/Old Post Road Commercial Zone

265 (24) Where the standards or requirements for the zones vary, the provisions for the zone in which the  
266 parcel is located apply.

**5. ADD §16.3.2.11.B (1) Dwelling Units to §16.3.2.11.B (1) C-1 permitted uses as follows:**

267 (1) C-1 permitted uses.

268 (w) Dwelling, two-family.

**6. AMEND §16.3.2.11.B (3) C-3 permitted uses as follows:**

269 (3) C-3 permitted uses.

270 (a) Public open space recreational uses, recreational facilities and selected commercial recreation;

271 (b) School (including nursery school), hospital, elder-care facility, long-term nursing care facility,  
272 convalescent care facility, municipal or state building or use, church or any other institution of  
273 educational, religious, philanthropic, fraternal, political or social nature;

274 (c) Accessory uses and buildings including minor or major home occupations;

275 (d) Business and professional offices;

- 276 (e) Mass transit station;
- 277 (f) Commercial parking lot or parking garage;
- 278 (g) Retail uses and wholesale businesses, excluding used car lots and junkyards;
- 279 (h) Service establishments;
- 280 (i) Public utility facilities, including substations, pumping stations and sewage treatment facilities;
- 281 (j) Restaurant;
- 282 (k) Veterinary hospital;
- 283 (l) Motel, hotel, rooming house, inn;
- 284 (m) Art studio/gallery;
- 285 (n) Grocery, food store, convenience store;
- 286 (o) Day-care facility;
- 287 (p) Business service;
- 288 (q) Personal service;
- 289 (r) Building materials and garden supply;
- 290 (s) Conference center;
- 291 (t) Repair services;
- 292 ~~(u) New motor vehicle sales;~~
- 293 (~~v~~u) Boatyard;
- 294 (~~w~~v) Mechanical services, excluding junkyard;
- 295 (~~x~~w) Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of  
296 seafood occur at the site;
- 297 (~~y~~x) Aquaculture;
- 298 (~~z~~y) Accessory dwelling unit; ~~and~~

299 (~~aa~~) Specialty food and/or beverage facility; and

300 (aa) Dwelling, two-family.

**7. AMEND §16.3.2.11.C (1) C-1 special exception uses as follows:**

301 (1) C-1 special exception uses.

302 ~~(a) Used car lot not connected with new car sales;~~

303 ~~(ba)~~ Gasoline sales if: i) not located within 1,000 feet of an existing station or private residence; and ii)  
304 not located within 150 feet of an existing structure;

305 ~~(eb)~~ Funeral home;

306 ~~(ec)~~ Place of assembly, including theater;

307 ~~(ed)~~ Transportation terminal excluding truck stops;

308 ~~(ee)~~ Warehousing and storage;

309 ~~(ef)~~ Mini storage not located within 2,000 feet from an existing mini storage facility located in the same  
310 zoning district;

311 ~~(eg)~~ Research and development;

312 ~~(eh)~~ Manufacturing operations that conform to the provisions of § 16.1.3.2.2 and Chapters 16.8 and 16.9;

313 ~~(ei)~~ Repair garages not located within 150 feet of a private dwelling or existing structure;

314 ~~(ej)~~ Buildings and structures over 40 feet that conform to the provisions of Chapters 16.8 and 16.9.  
315 Buildings and structures, other than multifamily dwellings and dwelling units as part of a mixed-use  
316 building in the C-1 Zone, west of Route 1, which are taller as allowed in 16.3.2.11.D (2)(e), higher  
317 than 40 actual feet from the lowest point of grade to the highest point of the building or structure  
318 must have side, rear and front yards of sufficient depth to adequately protect the health, safety and  
319 welfare of abutting properties and which may not be less than current standards or 50% of actual  
320 height, whichever is greater;

321 ~~(ek)~~ Temporary, intrafamily dwelling unit;

322 ~~(em)~~ New motor vehicle sales;

323 ~~(el)~~ Mechanical services, excluding junkyard; ~~and~~

324 ~~(m)~~ Aquaculture-;

325 (n) Cottage cluster;

326 (o) Dwelling, attached single-family;

327 (p) Dwelling, multifamily; and

328 (q) Dwelling units as part of a mixed-use building.

**8. AMEND §16.3.2.11.C (3) C-3 special exception uses as follows:**

329 (3) C-3 special exception uses.

330 ~~(a) Used car lot not connected with new car sales;~~

331 ~~(b)~~ Gasoline sales if: i) not located within 1,000 feet of an existing station or private residence; and ii)  
332 not located within 150 feet of an existing structure;

333 ~~(b)~~ Funeral home;

334 ~~(c)~~ Place of assembly, including theater;

335 ~~(d)~~ Transportation terminal excluding truck stops;

336 ~~(e)~~ Warehousing and storage;

337 ~~(f)~~ Mini storage not located within 2,000 feet from an existing mini storage facility located in the same  
338 zoning district;

339 ~~(g)~~ Research and development;

340 ~~(h)~~ Manufacturing operations that conform to the provisions of § 16.1.3.2.2 and Chapters 16.8 and 16.9;

341 ~~(i)~~ Repair garages not located within 150 feet of a private dwelling or existing structure;

342 ~~(j)~~ Buildings and structures over 40 feet that conform to the provisions of Chapters 16.8 and 16.9.  
343 Buildings and structures, other than multifamily dwellings and dwelling units as part of a mixed-use  
344 building in the C-3 Zone, west of Route 1, which are taller as allowed in 16.3.2.11.D (2)(e), higher  
345 than 40 actual feet from the lowest point of grade to the highest point of the building or structure  
346 must have side, rear and front yards of sufficient depth to adequately protect the health, safety and  
347 welfare of abutting properties, and which may not be less than current standards or 50% of actual  
348 height, whichever is greater;

349 (~~l~~k) Temporary, intrafamily dwelling unit;

350 (~~m~~l) Commercial greenhouses;

351 ~~(n) Adult entertainment establishment not located within 1,000 feet of an existing private residence,~~  
352 ~~school or place of worship;~~

353 (~~o~~m) Shops in pursuit of trade; ~~and~~

354 (~~p~~n) Construction services;

355 (o) Cottage cluster;

356 (p) Dwelling, attached single-family;

357 (q) Dwelling, multifamily; and

358 (r) Dwelling units as part of a mixed-use building.

**9. ADD §16.3.2.11.C (4) Undefined Uses as follows:**

359 (4) Undefined Uses in C-1 and C-3 Zones

360 Undefined uses will be considered by the Planning Board based on the following criteria:

361 (a) If the use is consistent with the Comprehensive Plan and zoning district purposes; and

362 (b) If the use meets special exception criteria found in §16.6.4.4.

363 In addition, the undefined use must meet one or both of the following criteria:

364 (a) If the proposed use has substantially similar impacts as a listed use.

365 (b) If the proposed use is compatible with existing uses within the zoning district for which it is  
366 proposed.

**10. AMEND §16.3.2.11.D standards as follows:**

367 D. Standards.

368 (1) C Zone standards. All development and the use of land in the C Zone must meet the following  
369 standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the  
370 design and performance standards of Chapters 16.8 and 16.9 must be met unless noted otherwise  
371 below.



372 (2) The following space standards apply in the C-1, C-2 and C-3 Zones:

373 (a) Minimum lot size: ~~40,000 square feet.~~ or density:

<u>C-1 and C-3 Zones</u>		<u>C-2 Zone</u>	
<u>Cottage Cluster; Dwelling, Attached Single-Family, Dwelling, Multi-Family, Dwelling, Two-Family, Dwelling Units as part of a Mixed-Use Building *</u>	<u>16 units per acre unless 25% of units are affordable housing units as defined by this code, in which case 20 units per acre are allowed.*</u>	<u>All uses</u>	<u>40,000 square feet</u>
<u>All other uses</u>	<u>40,000 square feet</u>		

374 \*NOTE: These uses are exempt from net residential acreage calculations but are subject to minimum land  
 375 area per dwelling unit requirements as described in § 16.7.8.4 Exemptions to net residential acreage  
 376 calculations.

377 (b) Minimum street frontage: ~~150 feet.~~

<u>C-1 and C-3 Zones</u>		<u>C-2 Zone</u>	
<u>All uses</u>	<u>No minimum*</u>	<u>All uses</u>	<u>150 feet</u>

378 \*NOTE: All lots must meet the requirements of Article XVI Lots unless specifically modified by this  
 379 section (16.3.2.11). Street frontage must provide sufficient vehicular and pedestrian access for the uses  
 380 proposed while meeting public health and safety requirements (e.g. Fire Department, Department of  
 381 Public Works). The applicant must demonstrate to the municipal permitting authority, that the street  
 382 frontage and lot design meet these requirements to the extent practicable.

383 (c) ~~Minimum~~ Maximum front ~~yard: 50 feet.~~ setback:

<u>C-1 and C-3 Zone</u>		<u>C-2 Zone</u>	
<u>All uses</u>	<u>15 feet*</u>	<u>All uses</u>	<u>50 feet</u>

384 \*NOTE: The Planning Board may, at its discretion, allow a greater setback when public amenities such as  
 385 benches, pocket parks, outdoor dining or seating areas are proposed. Properties in the C-3 Zone with  
 386 frontage on Old Post Road, including those lots which also have frontage on Route 1 Bypass, are required  
 387 to have at least a 15-foot setback on Old Post Road.

388 (d) Minimum rear and side ~~yards~~setbacks: -30 feet.

<u>C-1 Zone</u>		<u>C-2 Zone</u>		<u>C-3 Zone</u>	
<u>All uses</u>	<u>10 feet*</u>	<u>All uses</u>	<u>30 feet**</u>	<u>All uses</u>	<u>10 feet***</u>

389 \*NOTE: Except where side and/or rear setbacks of proposed new uses abut a single-family use and/or any  
 390 properties located on the east side of Route 1 from the southernmost extent of the C-1 zone north to  
 391 properties abutting Ox Point Drive in which case a minimum of 30 feet is required. See  
 392 16.3.2.11.C.(4).(e) for buffer requirements.

393 (\*\*NOTE: Except as may be required by the buffer provisions of this title, and where the side and/or rear  
 394 yards of the proposed nonresidential use abut a residential zone or use; in which case a minimum of 40  
 395 feet is required.)

396 \*\*\*NOTE: Except where side and/or rear setbacks of proposed new uses abut a single-family use in  
 397 which case a minimum of 15 feet is required.

398 (e) Maximum building height: ~~40 feet.~~

<u>C-1 Zone</u>		<u>C-3 Zone</u>	<u>C-2 Zone</u>	
<u>Dwelling, Multifamily, Dwelling Units as part of a Mixed-Use Building</u>	<u>50 feet on the west side of Route 1, not including solar apparatus* and 40 feet on the east side of Route 1, not including solar apparatus*.</u>	<u>40 feet*</u>	<u>All uses</u>	<u>40 feet</u>
<u>All other uses</u>	<u>40 feet</u>	<u>40 feet</u>		

399 \*NOTE: Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical apparatus

400 off the ground, are acceptable provided that such apparatus is screened from view and the screening is  
401 designed as an integral part of the building to aid both aesthetics and noise attenuation. Flat roofs  
402 proposed for the purpose of solar array installations are also acceptable.

403 \*\*NOTE: For properties in the C-3 Zone with frontage on Old Post Road, including those lots which also  
404 have frontage on Route 1 Bypass, the setback on Old Post Road must be 15 feet or greater as provided by  
405 section (c) above and building heights must not exceed 25 feet for the first 15 feet beyond the minimum  
406 15-foot setback.

407 (f) ~~Maximum building and outdoor stored material coverage: 40%.~~ Impervious surface:

408 For lots in the C-1 and C-3 zones which are currently developed and for which new multi-family,  
409 attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of mixed-use  
410 building are proposed, either with or without existing or new commercial uses on the same lot, the  
411 maximum impervious surface, including but not limited to driveways, buildings, sidewalks and parking  
412 areas:

413 [1] Is 70%; or

414 [2] The Planning Board may, at its discretion, allow greater than 70% if proof that all  
415 stormwater will be managed on-site, utilizing LID (Low Impact Development) and BMP (Best  
416 Management Practice) systems based on Maine DEP's Maine Stormwater Best Management  
417 Practices Manual, Volumes 1-III as amended from time to time. The stormwater report and plan  
418 demonstrating that this requirement is met must be included with the application at the time of  
419 submission.

420 For lots in the C-3 zone which are currently vacant (no existing structure) and for which new multi-  
421 family, attached single-family, or two-family dwellings, cottage clusters, or dwelling units as part of  
422 mixed-use building are proposed, the maximum impervious surface, including driveways, buildings,  
423 sidewalks and parking areas:

424 [1] Is 60% or

425 [2] The Planning Board may, at its discretion, allow greater than 60% if proof that all  
426 stormwater will be managed on-site utilizing LID (Low Impact Development) and BMP  
427 (Best Management Practice) systems based on Maine DEP's Maine Stormwater Best  
428 Management Practices Manual, Volumes 1-III as amended from time to time. The  
429 stormwater report and plan demonstrating that this requirement is met must be included  
430 with the application at the time of submission.

431 For lots in the C-1 or C-3 zones which are currently developed and for which redevelopment is proposed  
432 with new non-residential structures, the maximum impervious surface, including but not limited to  
433 driveways, buildings, sidewalks and parking areas:

434 [1] Is 70%; and all stormwater must be managed on-site, utilizing LID (Low Impact  
435 Development) and BMP (Best Management Practice) systems based on Maine DEP's  
436 Maine Stormwater Best Management Practices Manual, Volumes 1-III as amended from  
437 time to time. The stormwater report and plan demonstrating that this requirement is met  
438 must be included with the application at the time of submission.

439 For all uses in the C-2 Zone, building and outdoor material coverage must not exceed 40%.

440 (g) ~~Minimum setback from~~ water body ~~and wetland~~ setback for functionally water-dependent uses: zero  
441 feet.

442 (h) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.9,  
443 § 16.3.2.17 and Appendix A, Fee Schedules.

444 (i) Affordable housing requirements:

445 [1] All requirements in 16.12. Affordable Housing must be met.

446  
447 [2] Density incentives outlined above in (2).(a) may be applied to projects that create  
448 affordable housing units, as defined by this code. No proportional payment-in-lieu is  
449 required if the affordable dwelling unit requirements for the density incentives are met.

450  
451 (j). Mixed-use buildings must have non-residential uses comprising at least 50% of the street-facing  
452 first floor.

453  
454 (k) Underground utilities are required. The Planning Board may allow an alternative but it is incumbent  
455 upon the applicant to demonstrate why such a modification request should be granted.

456 (l) Cottage cluster requirements:

457  
458 [1] Cottage cluster dwelling units must either face the required common open space or the  
459 street. The required open space must be held in common for use by all the cottage cluster  
460 residents and must be immediately accessible to each dwelling unit, via either the front or  
461 the back of each unit.

462  
463 [2] Each cottage cluster dwelling unit must be no greater than 1,200 square feet. Spacing  
464 between units must comply with the requirements of the Fire Department and/or the State  
465 Fire Marshall's office.

466  
467 [3] Shared parking areas must be connected to each dwelling unit via a sidewalk

468 (3) C-1 Zone standards. All development and the use of land except for new multifamily, attached  
469 single-family or two-family dwellings, cottage clusters, or dwelling units as part of a mixed-use  
470 building within the C-1 Zone must meet the following standards:

471 (4) C-1 and C-3 Zone standards for attached single-family dwellings, multi-family dwellings, two-  
472 family dwellings where more than one two-family dwelling is proposed for a single lot, cottage  
473 clusters, and dwelling units as part of a mixed-use building:

474 (a) Design standards.

475 See Kittery's Design Handbook for further information on how these standards can be met.

476 [1] Sidewalks must be installed within the right-of-way to meet minimum requirements as  
477 specified in 16.8 Table 1, subject to review and approval by the Department of Public Works  
478 and MaineDOT if required.

479 [2] Connectivity between new housing development and adjacent existing or new commercial  
480 areas is required. This connectivity must, at minimum, include sidewalks or walkways. In  
481 the C-1 zone, connectivity may also include vehicular access coupled with sidewalks or  
482 walkways between residential and commercial areas. Connectivity must be pedestrian-  
483 friendly with appropriately scaled improvements such as eight-foot wide sidewalks and  
484 human-scaled lighting.

485 [3] On-street parking is encouraged on new or existing private roads off Route 1, and may be  
486 considered as a part of a joint use parking plan when such on-street parking is proposed as  
487 part of a development or redevelopment plan.

488 [4] All service areas for dumpsters, compressors, generators and similar items must be screened  
489 by a fence at least six feet tall, constructed of a material similar to surrounding buildings,  
490 and must surround the service area except for the necessary ingress/egress.

491 [5] Parking must be located behind multifamily dwellings and mixed-use buildings with  
492 residential dwelling units when viewed from the street. The Planning Board may allow  
493 parking to the side or front of such residential or mixed-use buildings at its discretion, but it  
494 is incumbent upon the applicant to demonstrate why rear parking is not feasible.

495 [6] Lighting plans, including lighting fixture designs and photometric plans must be included at  
496 the time of application submission. All fixtures must be cut-off to prevent light trespass and  
497 meet all requirements of Chapter 16.8 Article XXIV.

498 [7] A single new two-family dwelling proposed for a lot, the addition of another dwelling unit to  
499 an existing single-family residence to create a two-family dwelling and the addition of an  
500 ADU (Accessory Dwelling Unit) to a single-family residence is exempt from these design  
501 standards.

502 (b) Open space standards.

503 [1] Open space must be provided as a percentage of the total area of the lot, and may include  
504 wetlands, water bodies, streams, and setbacks. Fifteen percent (15%) of each lot must be  
505 designated as open space.

506 [2] For multifamily dwellings, mixed-use buildings with residential dwelling units and attached  
507 single-family dwellings, in cases where the property does not meet the 15% requirement due  
508 to existing development, and where redevelopment will remain at the same or comprise a

509 lower percentage of the lot, the Planning Board may, at its discretion, allow a smaller  
510 percentage of open space. In granting this concession, the Board may require more intensive  
511 landscape plantings.

512 (c) Parking standards.

513 The following minimum off-street parking requirements must be provided and maintained in  
514 case of new construction, alterations, and changes of use:

515 [1] Parking requirements must be met on site unless an existing building covers so much of the  
516 lot as to make the provision of parking impractical in whole or in part. If meeting the parking  
517 requirements is not practical, then the parking demand may be satisfied off site or through  
518 joint-use agreements as specified herein. Notwithstanding the off-street parking requirements  
519 in Article IX of Chapter 16.8, minimum parking requirements for the uses below are  
520 modified as specified:

521 [a] Dwelling units: 1 parking space per dwelling unit.

522 [b] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of the  
523 parking may be designated for compact cars. See 16.8.9.4 Off-Street Parking Standards.

524 [2] Off-site parking. Required off-street parking may be satisfied at off-site locations, provided  
525 such parking is on other property owned by the applicant or is under the terms of a  
526 contractual agreement that will ensure such parking remains available for the uses served.  
527 Applicant must present evidence of a parking location and a contractual agreement;

528 [3] Joint-use parking. Required off-street parking may also be satisfied by the joint use of  
529 parking space by two or more uses if the applicant can show that parking demand is  
530 nonconflicting and will reasonably provide adequate parking for the multiple uses without  
531 parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime  
532 as opposed to evening hours of operation or weekday as opposed to weekends or seasonal  
533 variation in parking demand.

534 [a] Such joint parking areas must be held under ownership of the applicant or under terms of  
535 a contractual agreement that ensures such parking remains available to all users of the  
536 shared parking spaces;

537 [b] Determination of parking adequacy will be based on a most frequent basis, not a "worst  
538 case" scenario;

539 [c] Joint use parking areas must be located within 1,500 feet of the uses served, but do not  
540 need to be located on the same lot as the uses served;

541 [d] Ease and safety of pedestrian access to shared parking by the users served must be  
542 demonstrated to the municipal permitting authority's satisfaction, including any  
543 proposed improvements, such as crosswalks or shuttle service that may be offered and its  
544 requisite loading/unloading areas;

545 [e] Such joint parking areas must not be located in residential zones of the Town.

546 [4] In making determinations on off-site or joint-use parking under a development plan review,  
547 the municipal permitting authority with jurisdiction to review and approve will make a final

548 determination of the joint-use and/or off-site spaces that constitute an acceptable combination  
549 of spaces to meet the required parking demand.

550 [5] Electric car charging stations are allowed in parking lots but must not interfere with  
551 pedestrian movement on sidewalks.

552 (d) Landscaping and screening

553 [1] For new multi-family, attached single-family, or dwelling units as part of a mixed-use  
554 building or any new residential use that will create more than three dwelling units on a site,  
555 the following standards apply:

556 [a] A landscape plan prepared by a registered landscape architect is a submission  
557 requirement. However, a landscape plan done by other design professionals may be  
558 allowed at the Planning Board's discretion.

559 [b] A minimum of one street tree must be planted for each 25 feet of street frontage. Trees  
560 may be planted in groups or spaced along the frontage. However, trees must be planted  
561 to ensure survival, using silva cells, bioretention cells or tree wells. Trees are to be a  
562 minimum of 2.5-inch caliper and 12 feet high at the time of planting. Existing large  
563 healthy trees must be preserved if practical and will count towards this requirement.  
564 Trees proposed within the right-of-way must remain under 20 feet tall at maturity.

565 [c] Surface parking lots designed for five or more cars that will service multifamily or  
566 mixed-use buildings with dwelling units and which abut a street must provide  
567 screening in one of the following ways:

568 i. One tree per 25 feet of street frontage backed by a fence constructed of a  
569 material similar to surrounding buildings which must screen the parking area  
570 from the street except for necessary vehicular and pedestrian access. To  
571 ensure survival, trees must be planted using silva cells, bioretention cells or  
572 tree wells. Trees must be at least 2.5-inch caliper and 12 feet high at the time  
573 of planting. Existing large healthy trees must be preserved if practical and  
574 will count towards this requirement. Trees proposed within the right-of-way  
575 must remain under 20 feet tall at maturity.

576 ii. A combination of trees and shrubs including at least 50% evergreen species,  
577 all at least six feet high at time of planting, in a planting bed at least eight  
578 feet wide. Plantings must be sufficient, as determined by the Planning Board,  
579 to screen the parking area from the street except for necessary vehicular and  
580 pedestrian access. Planting beds may be mulched but no dyed-mulching  
581 material may be used.

582 [d] A minimum of 10% of any surface parking area consisting of 10 or more spaces must  
583 be landscaped with trees and vegetated islands. This requirement is in addition to the  
584 aforementioned screening and street tree requirements.

585 [e] Native trees are preferred and must be drought and salt tolerant when used along  
586 streets. A diversity of tree species (three to five species per every 12 trees) is required  
587 to provide greater resiliency to threats from introduced insect pests and diseases.

588 [f] Any required plantings that do not survive must be replaced within one year. This  
589 requirement does not expire and runs with the land.

590 [g] If 25% of the proposed development will be affordable dwelling units, the Planning  
591 Board may, at its discretion, modify surface parking lot landscaping and screening  
592 requirements under [c] and [d].

593 (e) Buffers.

594 [1] Buffers are required between new residential uses and existing nonresidential uses and  
595 must be at least 10 feet wide. A buffer plan must be prepared in conjunction with the  
596 landscape plan as described in [d].[1].(a) above and consist of:

597 [a] A fence at least six feet high, constructed of material similar to surrounding buildings,  
598 with plantings of trees at least six feet tall at time of planting and shrubs on the new  
599 residential side of the fence.

600 [b] Ground cover plantings such as perennials or ornamental grasses must be used where  
601 appropriate.

602 [c] Plantings must be provided with irrigation to enhance survival unless they are part of a  
603 bioretention cell, rain garden or tree well.

604 [d] Any required plantings that do not survive must be replaced within one year. This  
605 requirement does not expire and runs with the land.

606 [e] If 25% of the proposed development will be affordable housing dwelling units, the  
607 Planning Board may, at its discretion, modify buffer requirements under [a] and [b].

608 [2] Buffers are required between new residential uses and existing single-family uses and must  
609 be at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape  
610 plan as described in [d].[1].(a) above and consist of:

611 [a] A fence at least six feet high, constructed of material similar to surrounding buildings,  
612 with plantings of trees and shrubs at least six feet tall on the new residential side of the  
613 fence; or

614 [b] Plantings of trees at least six feet tall and shrubs, including at least 50% evergreen  
615 species. Such plantings must ensure adequate buffering and screening is achieved as  
616 determined by the Planning Board.

617 [c] Ground cover plantings, such as perennials or ornamental grasses must be used where  
618 appropriate.

619 [d] Plantings must be provided with irrigation to enhance survival unless they are part of a  
620 bioretention cell, rain garden or tree well.

621 [e] Any required plantings that do not survive must be replaced within one year. This  
622 requirement does not expire and runs with the land.



623 [f] If 25% of the proposed development will be affordable housing dwelling units, the  
 624 Planning Board may, at its discretion, modify buffer requirements under [a], [b] and  
 625 [c].

**11. RENUMBER §16.3.2.11.D (4) C-2 Zone standards to (5) as follows:**

626 ~~(4)~~ C-2 Zone standards.

**12. AMEND §16.3.2.11.D (5) to as follows:**

627 ~~(5)~~ C-3 Zone standards. All development and the use of land except for new multifamily, attached  
 628 single-family or two-family dwellings, cottage clusters or dwelling units as part of a mixed-use  
 629 building, within the C-3 Zone must meet the following standards:

**13. AMEND §16.7.8.4 Exemptions to net residential acreage calculations as follows:**

630 C. The Mixed-Use – Neighborhood Zone (MU-N) and certain residential uses in the C-1 and C-3  
 631 zones as noted in 16.3.2.11 are exempt from § 16.7.8.2, Net residential acreage calculation, but is  
 632 subject to the minimum land area per dwelling unit as defined in Chapter 2, Definitions, except that 50%  
 633 of all wetlands may be subtracted, rather than 100%.

**14. AMEND §16.8.9.4 Off-street parking standards as follows:**

634 Table 2-A Parking Space Design

Compact Car Parking

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u> <u>(Aisle Width)</u>	
To curb	Angle of Parking (degrees)	Stall Width (feet)	Stall Depth (feet)	Stall to Curb (feet)	Skew (feet)	One-Way Traffic (feet)	Two-Way Traffic (feet)
Parallel	0	8	16	8.0	<del>TBD</del> 16.0	12	<del>18</del> 19
Diagonal	45	8	16	<del>TBD</del> 17.0	<del>TBD</del> 5.7	13.5	<del>18</del> 20
Diagonal	<del>46 to</del> 60	8	16	<del>TBD</del> 17.8	<del>TBD</del> 6.9	18	<del>18</del> 20
Perpendicular	<del>61 to</del> 90	8	16	<del>TBD</del> 16.0	<del>TBD</del> 8.0	22	22

**15. ADD §16.8.9.4 Off-street parking standards as follows:**

635 N. Compact-size parking spaces, unless restricted for use by and located adjacent to a dwelling unit,  
 636 must be located in one (1) or more continuous areas and cannot be intermixed with spaces designed for  
 637 full size vehicles.

638 O. Compact-size parking spaces shall be clearly designated by pavement marking and by direction  
 639 signs in conformance with 16.8.10.9.

**KITTERY TOWN CODE –  
TITLE 16  
AFFORDABLE HOUSING**

1 **AN ORDINANCE** relating to the municipality’s authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers  
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town of Kittery desires to promote and retain a diverse community of residents  
11 who provide essential services to the Town, cultural enrichment, a variety of ages and  
12 backgrounds, or who currently live in Kittery on modest means; and

13 **WHEREAS**, the Town of Kittery recognizes that municipal support provided through a  
14 combination of policy, ordinances, and funds are needed for the creation, rehabilitation, and  
15 retention of affordable housing units in Kittery; and

16 **WHEREAS**, the Town of Kittery seeks to remove barriers and incentivize the creation,  
17 rehabilitation, and retention of affordable housing units through its zoning code;

18 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN  
19 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS TITLE 16, LAND USE and  
20 DEVELOPMENT CODE, AFFORDABLE HOUSING AMENDMENTS OF THE TOWN CODE,  
21 AS PRESENTED.

22 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
23 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
24 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
25 passed by a vote of \_\_\_\_\_.

26 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
27 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

28 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk

## Appendix A Affordable Housing Fees

Add Chapter 16.12 Affordable Housing Fee in Lieu as follows:

Chapter 16.12.3 AFFORDABLE HOUSING

1. Fee in lieu, per affordable housing unit required \$35,000



## ESTABLISHMENT OF A HOUSING RESERVE FUND

1 **WHEREAS**, the Town of Kittery recognizes that the market alone will not provide the range and  
2 diversity of housing types needed for a vibrant community; and

3 **WHEREAS**, Whereas the Town of Kittery desires to promote and retain a diverse community  
4 of residents who provide essential services to the Town, cultural enrichment, a variety of ages  
5 and backgrounds, or who currently live in Kittery on modest means; and

6 **WHEREAS**, the Town of Kittery recognizes that municipal support provided through a  
7 combination of policy, ordinance, and funds are needed for the creation, rehabilitation, and  
8 retention of affordable housing units in Kittery;

9 **NOW, THEREFORE**, the Kittery Town Council hereby establishes a Housing Reserve Fund,  
10 held and applied solely for the purpose of creation, rehabilitation, and retention of affordable  
11 housing units in Kittery as defined by Title 16.

12 The Housing Reserve Fund will receive monies from the sale of foreclosed properties in  
13 accordance with Title 3.2.10(B)(1), affordable unit payment-in-lieu fees in accordance with  
14 Title 16, grants, and charitable donations. Upon approval of the Town Council other funds  
15 may be transferred or allocated to the Housing Reserve Fund in accordance with Town  
16 Charter 6.09.

17 Monies in the Housing Reserve Fund will be appropriated for the purpose of supporting the  
18 creation, rehabilitation, and retention of affordable housing units in Kittery. These activities  
19 may include but are not limited to: purchase of land, construction of affordable housing units,  
20 financial grants and loans for private development and construction of affordable housing  
21 units, conversion, rehabilitation, and renovation of existing affordable housing units, and  
22 oversight and administration of programs and projects associated with these activities in  
23 support of the Town's affordable housing goals and objectives.

24 The Kittery Housing Committee will make recommendations to the Town Council for use of  
25 funds in the Housing Reserve Fund, in accordance with Title 4.18. Unless otherwise  
26 approved by the Town Council, monies must be appropriated by the Town Council, prior to  
27 incurring obligations or expenses against the fund.

28 **Motion to approve made by Councilor \_\_\_\_\_ and seconded by**  
29 **Councilor**

30 \_\_\_\_\_, and passed by a vote of \_\_\_\_\_ on the \_\_\_\_\_ day  
31 of

32 \_\_\_\_\_, 2020.

**TITLE 3  
DISPOSAL OF TAX FORECLOSURE PROPERTY**

**AMEND §3.2.10 Disposal of property to allow for the allocation of proceeds from tax foreclosed property sales to support affordable housing initiatives, as follows:**

- 1 § 3.2.10 **Disposal of property.**
- 2 A. All municipally owned property, real or personal, must be disposed of either by:
- 3 (1) Trade-in on purchase of new equipment. Any item that is offered as a trade-in must also be offered for  
4 sale by competitive bid. The higher amount of the two (trade-in allowance or bid) must be accepted;
- 5 (2) Sealed bids; or
- 6 (3) Auction.
- 7 B. Monies Received from the disposal of property.
- 8 (1) Real Property Obtained Through Tax Foreclosure: Unless otherwise requested by the Town Manager  
9 and so directed by the Council, monies received from the disposal of real property obtained through tax  
10 foreclosure, pursuant to Subsection A(2) and (3), must be credited to the housing reserve fund, net of  
11 taxes owed on the property, fines and fees associated with the foreclosure and sale of the property, and  
12 any and all municipal fines and fees associated with the property.
- 13 (2) Personal Property: Unless otherwise requested by the Town Manager and so directed by the Council,  
14 monies received from the disposal of personal property pursuant to Subsection **A(2)** and **(3)** above must  
15 be credited to the vehicle or equipment reserve fund revenue account designated as the current vehicle or  
16 equipment fund used by the department for which it was purchased.
- 17 (3) Other Property: Unless otherwise requested by the Town Manager and so directed by the Council, all  
18 other monies received from the disposal of property, real or personal, must be credited to the  
19 undesignated reserve fund, net of any fines, fees, or taxes associated with the property or its disposal.
- 20 C. This chapter does not apply to disposal of:
- 21 (1) Items commonly termed refuse, waste or trash;
- 22 (2) Recycled material emanating from the solid waste facility;
- 23 (3) Compost or sludge materials developed by treatment of sewage;
- 24 (4) Interdepartmental transfers approved by the Town Manager; or
- 25 (5) Property whose estimated value is less than \$100.
- 26 D. The above procedure must be followed at all times unless prior approval is obtained from the Town  
27 Council.

**KITTERY TOWN CODE**  
**TITLE 3**  
**DISPOSAL OF TAX FORECLOSURE PROPERTY**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that  
7 authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town of Kittery desires to promote and retain a diverse community of residents  
11 who provide essential services to the Town, cultural enrichment, a variety of ages and  
12 backgrounds, or who currently live in Kittery on modest means; and

13 **WHEREAS**, the Town of Kittery recognizes that municipal support provided through a  
14 combination of policy, ordinances, and funds are needed for the creation, rehabilitation, and  
15 retention of affordable housing units in Kittery; and

16 **WHEREAS**, the Kittery Town Council seeks to utilize proceeds from the sale of tax foreclosed  
17 properties to support affordable housing initiatives and goals of the Town;

18 **NOW THEREFORE** IN ACCORDANCE WITH TITLES 30-A MRS §3001 AND TOWN  
19 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 3  
20 OF THE TOWN CODE, AS PRESENTED.

21 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
22 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
23 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
24 passed by a vote of \_\_\_\_\_.

25 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
26 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

27 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk

**TITLE 4  
KITTERY HOUSING COMMITTEE**

**ADD §4.18 Kittery Housing Committee as follows:**

1 Chapter 4.18 Kittery Housing Committee

2 § 4.18.1 Purpose

3 The Housing Committee will seek options to make Kittery more affordable by researching and advancing  
4 policies and initiatives that will result in an increase in affordable housing supply for a wide array of  
5 residents. The Committee will also recommend the use of the Housing Reserve Funds according to Title  
6 3, and approved policies and procedures.

7  
8 § 4.18.2 Duties

9 The Committee may:

- 10 A. Assess annually the affordability of Kittery housing and identify trends and barriers to achieving a  
11 broad housing supply that is accessible to those at or below the median area income;
- 12 B. Develop recommendations and propose ordinances, policies, projects and objectives to increase the  
13 number of affordable housing units available in Kittery;
- 14 C. Propose policies, for adoption by the Town Council, for the appropriation of Housing Reserve  
15 Funds to support the creation, rehabilitation, and retention of affordable housing;
- 16 D. Recommend to the Council the allocation of housing reserve funds in accordance with the  
17 establishment of the fund and approved policies;
- 18 E. Provide education and information regarding the affordability of housing in Kittery; and
- 19 F. Collaborate with surrounding communities and the State on regional and statewide affordable  
20 housing efforts.

21 § 4.18.3 Membership

22 Upon adoption of this ordinance, the existing members of the Housing Working Group will become  
23 members of the Committee, with all terms to expire December 31, 2021.

24 Thereafter, the Committee consists of one (1) Town Councilors, one representative from each of the  
25 following: Planning Board and Economic Development Committee; the Town Manager (or designee);  
26 two (2) representatives with affordable and/or market-rate housing development experience in the region,  
27 and (3) citizen members. Except if appointed as a representative of the Council, Planning Board, and  
28 Town employees, all members are appointed for three (3) year terms. The members representing housing  
29 development are not required to be citizens of Kittery.

**KITTERY TOWN CODE**  
**TITLE 4**  
**KITTERY HOUSING COMMITTEE**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that  
7 authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town of Kittery desires to promote and retain a diverse community of residents  
11 who provide essential services to the Town, cultural enrichment, a variety of ages and  
12 backgrounds, or who currently live in Kittery on modest means; and

13 **WHEREAS**, the Town of Kittery recognizes that municipal support provided through a  
14 combination of policy, ordinances, and funds are needed for the creation, rehabilitation, and  
15 retention of affordable housing units in Kittery; and

16 **WHEREAS**, the Kittery Town Council seeks to create a committee to seek options to make  
17 Kittery more affordable, to research and advance policies and initiatives that will result in an  
18 increase in affordable housing supply for a wide array of residents, and to recommend uses for  
19 the Housing Reserve Fund;

20 **NOW THEREFORE** IN ACCORDANCE WITH TITLES 30-A MRS §3001 AND TOWN  
21 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 4  
22 OF THE TOWN CODE, AS PRESENTED.

23 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
24 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
25 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
26 passed by a vote of \_\_\_\_\_.

27 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
28 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

29 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk