

TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 | Fax: (207) 439-6806
towncomments@kitteryme.org | www.kitteryme.gov

Kittery Town Council Workshop
Title 6 - Fowl
March 25, 2024 | 5:00 PM | Council Chambers & Zoom

Workshops may be watched in person, on Channel 22, the Town's website, or Kittery Channel 22 Facebook page.

The public may submit public comments via email, US Mail, or by dropping off written comments at the Town Hall. Emailed comments should be sent to: TownComments@kitteryme.org.

The public may watch via Zoom webinar. **To register for the Zoom webinar, click this link:**

https://us02web.zoom.us/webinar/register/WN_0ndKKAtBTgK0uXLbdmpe8A

The Town Council intends to welcome public discussion at this workshop on the stated workshop topic: Title 6 – Fowl.

Posted: March 21, 2024



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REPORT TO TOWN COUNCIL

Meeting Date: February 26, 2024
Update: March 25, 2024
From: Kendra Amaral, Town Manager
Subject: Title 6 - Fowl
Councilor Sponsor: Chairperson Judy Spiller

OVERVIEW

The Council has requested an ordinance to address the safe and sanitary keeping of chickens for domestic, non-farming purposes. The request was brought forward due to growing complaints from different neighborhoods where chickens and roosters are causing real and perceived negative community impacts relative to noise, odor, and increased rodents and predators.

Title 16 Land Use Code currently includes regulations regarding Poultry Facilities; however these regulations only pertain to the keeping of 10 or more chickens.

Maine Law 7 MRS §§151 – 164 provides for the protection of farming and agricultural operations in general.

The Town's Climate Action Strategies includes the preservation of local farms/food producers which includes food from the keeping of domestic fowl (e.g.: eggs).

These existing laws and strategies, in addition to example ordinances from other communities in Maine were used to develop the proposed ordinance.

PROPOSED ORDINANCE

The ordinance as currently drafted:

- covers several types of fowl, in recognition and understanding that domestic fowl raising is regaining popularity and expanding to ducks, geese and turkeys.
- applies to the keeping of 9 or fewer fowl; addressing the regulatory gap that currently exists in Town Code.
- prohibits roosters for domestic fowl keeping.
- establishes a pen or enclosure is a structure, thereby requiring it to conform to Title 16 setback requirements.
- provides for minimum standards for safe keeping of the fowl, and maintenance of the pen or enclosure to limit unsanitary conditions, rodents, and odor.
- sets a means by which impacts to abutters can be identified and verified,

namely by establishing that noise, odor, or other adverse impact must be perceptible at the property boundary.

The Council is asked to articulate its expectations or thoughts on initial implementation of the ordinance, if adopted. Specifically, the administration needs direction on how the Council expects staff to handle situations of existing fowl and fowl enclosure that may not be in compliance upon adoption of the proposed ordinance. Staff are mindful that fowl are often kept as pets and families often have an emotional bond with their fowl.

UPDATE

The text has been updated to address two specific issues. Updated language is highlighted in yellow.

The first makes the ordinance applicable to all non-commercial keeping of fowl; and thereby makes the maintenance standards and securing of fowl applicable regardless of the number of fowl.

The second is to clarify that the rooster prohibition only impacts noncommercial keeping of fowl. Commercial operations, which fall under Title 16.4 as a Land Use are exempted from the rooster prohibition, but must meet all of the §16.4 performance standards.

Included in the packet is additional information requested by a Councilor. The additional information provides the number of lot sizes, categorized as either under 1 acre or 1 acre + in size, for various zones in Kittery. Also included is the average lot size by zone as well.

ATTACHMENTS

- Draft Title 6.15 - Keeping of Fowl
- Draft Title 6.15 – Keeping of Fowl Enactment
- §16.5.7 Land Use General Performance Standards – Poultry Facility
- Lot Size analysis by Zone

TITLE 6: ANIMALS

KEEPING OF FOWL

1. ADD Fowl definition to Title 6.1.2 Definitions as follows:

1 **FOWL**

2 Domestic fowl such as chickens, turkeys, ducks, or geese.

2. ADD Keeping of Fowl as 6.1.15 as follows, and renumber subsequent sections in 6.1 accordingly:

3 **6.1.15.1 KEEPING OF FOWL FOR NONCOMMERCIAL USE**

4 A. The following applies to the keeping of **no more than nine** fowl for
5 noncommercial use.

6 B. The keeping **of Raising** of more than nine fowl is **also** subject to §16.4 Land Use
7 Regulations and §16.5.7 General Performance Standards Poultry Facility.

8 C. This section does not pertain to farming operations protected by the Maine
9 Agricultural Act (7 MRS §151 et seq.)

10 D. Roosters are prohibited unless the property lot is more than one acre in size **for**
11 **noncommercial use.**

12 **6.1.15.2 FOWL ENCLOSURES**

13 A. An enclosure or pen shall be provided for the fowl.

14 B. Fowl shall be secured in the enclosure during non-daylight hours. During daylight
15 hours fowl can be located within the enclosure or outside of the enclosure in a
16 securely fenced yard or portable pen.

17 C. Enclosures shall be considered a building in accordance with §16.3.2 and must
18 meet all applicable land use standards and regulations, including setback
19 standards.

20 **6.1.15.3 MAINTENANCE**

21 A. The fowl enclosure must be kept clean, neat, and in a sanitary condition at all
22 times, in a manner that will not disturb the use or enjoyment of neighboring lots
23 due to perceptible noise and odor at the property boundary, or other adverse
24 impacts directly related to the keeping of fowl.

25 B. All manure, uneaten feed, and other waste or trash associated with the keeping of
26 fowl shall not be allowed to accumulate or provide for a breeding place for insects
27 or rodents.

28 C. The fowl enclosure must provide adequate ventilation and be impermeable to
29 rodents and predators, including dogs and cats.

KITTERY TOWN CODE
TITLE 6
ANIMAL CONTROL
KEEPING OF FOWL

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

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

10 **WHEREAS**, the Town of Kittery seeks to improve the control of animals for the safe
11 and sanitary keeping of domestic fowl for non-farming purposes;

12 **NOW THEREFORE**, IN ACCORDANCE WITH TITLES 30-A MRS §3001 AND TOWN
13 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENTS TO TITLE
14 6 OF THE TOWN CODE, AS PRESENTED.

15 **INTRODUCED** and read in a public session of the Town Council on the ____ day of
16 _____, 20____, by:_____ {NAME} Motion to approve by Councilor
17 _____ {NAME}, as seconded by Councilor _____ {NAME} and
18 passed by a vote of _____.

19 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of
20 Kittery, Maine on the ____ day of _____, 20____, {NAME}, _____ ,
21 Chairperson

22 **Attest:** {NAME}, _____Town Clerk

§ 16.5.7. Agriculture, poultry facility.

- A. Number of animals. These standards apply to the keeping of 10 or more poultry animals that are six months old or older in zoning districts in which agriculture, poultry facility is either a permitted use or a special exception use.
- B. Setbacks. The following distances are from the identified nearest property not owned or controlled by the operator/owner of the poultry facility:
 - (1) Structure, including barn or coops: 50 feet.
 - (2) Feed lots, pens and extensively used areas: 100 feet.
- C. Erosion and sediment control. The property owner shall demonstrate to the Code Enforcement Officer that erosion and sediment runoff will not enter an abutting property.
- D. Spreading or disposal of manure. All spreading or disposal of manure shall be accomplished in conformance with the, "Manual of Best Management Practices for Maine Agriculture," published by the Maine Department of Agriculture in January 2007 and as this may be amended or superseded.

**LOT SIZE ANALYSIS
BY ZONE**

Zone	Lots		Grand Total
	< 1 Acre	1+ Acre	
BUSINESS LOCAL	90	14	104
BUSINESS LOCAL 1	36	10	46
COMMERCIAL 1	8	29	37
COMMERCIAL 2	19	19	38
COMMERICAL 3	61	30	91
CONSERVATION	6	34	40
MIXED USE	191	38	229
MIXED USE BADGERS ISL	73	2	75
MIXED USE KITTELY FORESIDE	285	6	291
BUSINESS PARK	1	3	4
RES KITTELY POINT VILLAGE	360	138	498
RES RURAL	662	885	1,547
RES RURAL CONSERV	57	158	215
RESIDENTAL SUBURBAN	371	176	547
RESIDENTAL VILLAGE	270	6	276
URBAN RESIDENTAL	832	100	932

Zone	Average Lot Size (acres)
BUSINESS LOCAL	0.66
BUSINESS LOCAL 1	0.75
COMMERCIAL 1	3.24
COMMERCIAL 2	1.56
COMMERICAL 3	1.22
CONSERVATION	21.47
MIXED USE	1.80
MIXED USE BADGERS ISL	0.16
MIXED USE KITTELY FORESIDE	0.20
BUSINESS PARK	29.41
RES KITTELY POINT VILLAGE	0.91
RES RURAL	3.63
RES RURAL CONSERV	2.74
RESIDENTAL SUBURBAN	1.33
RESIDENTAL VILLAGE	0.28
URBAN RESIDENTAL	0.69

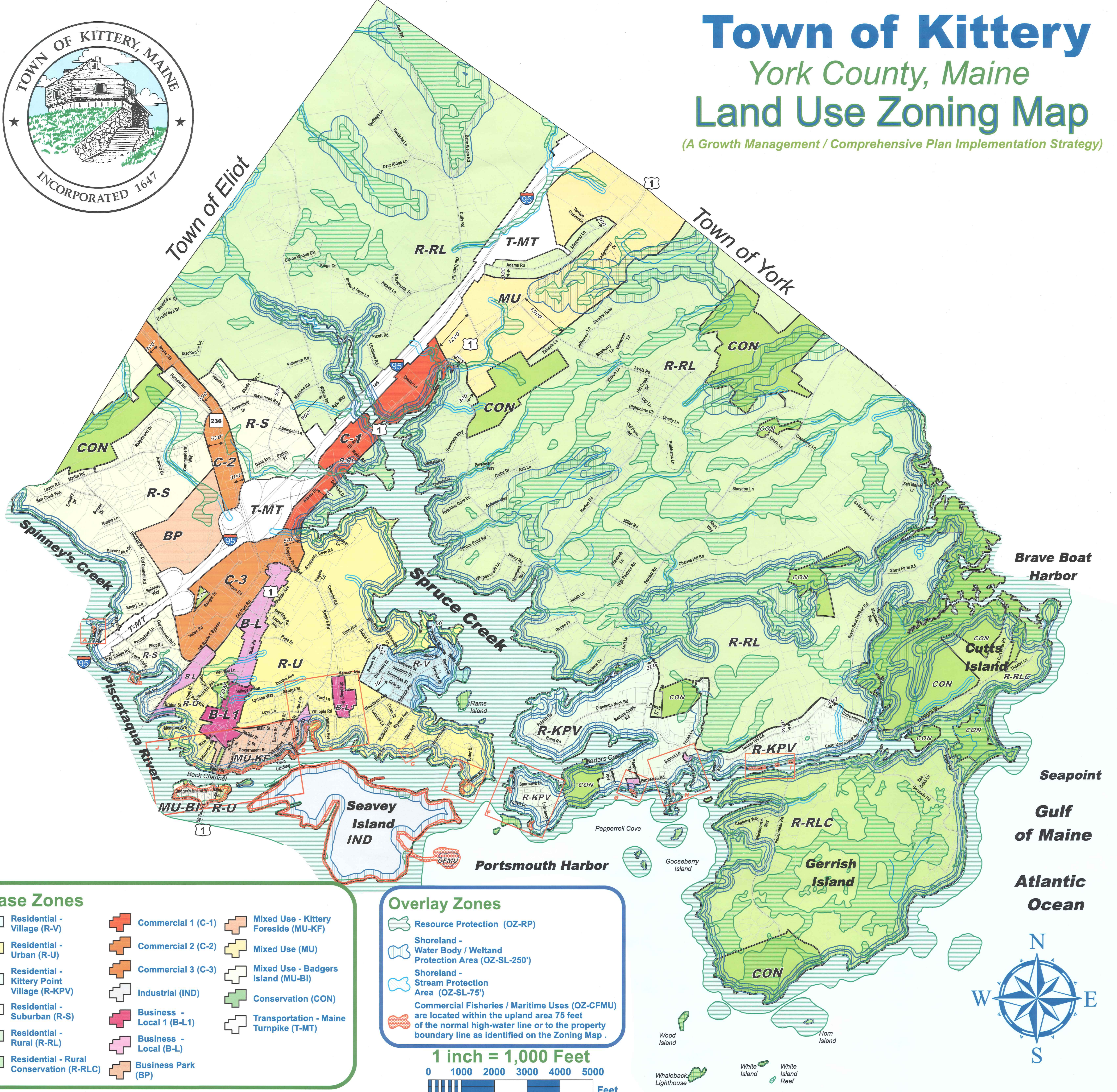


Town of Kittery

York County, Maine

Land Use Zoning Map

(A Growth Management / Comprehensive Plan Implementation Strategy)



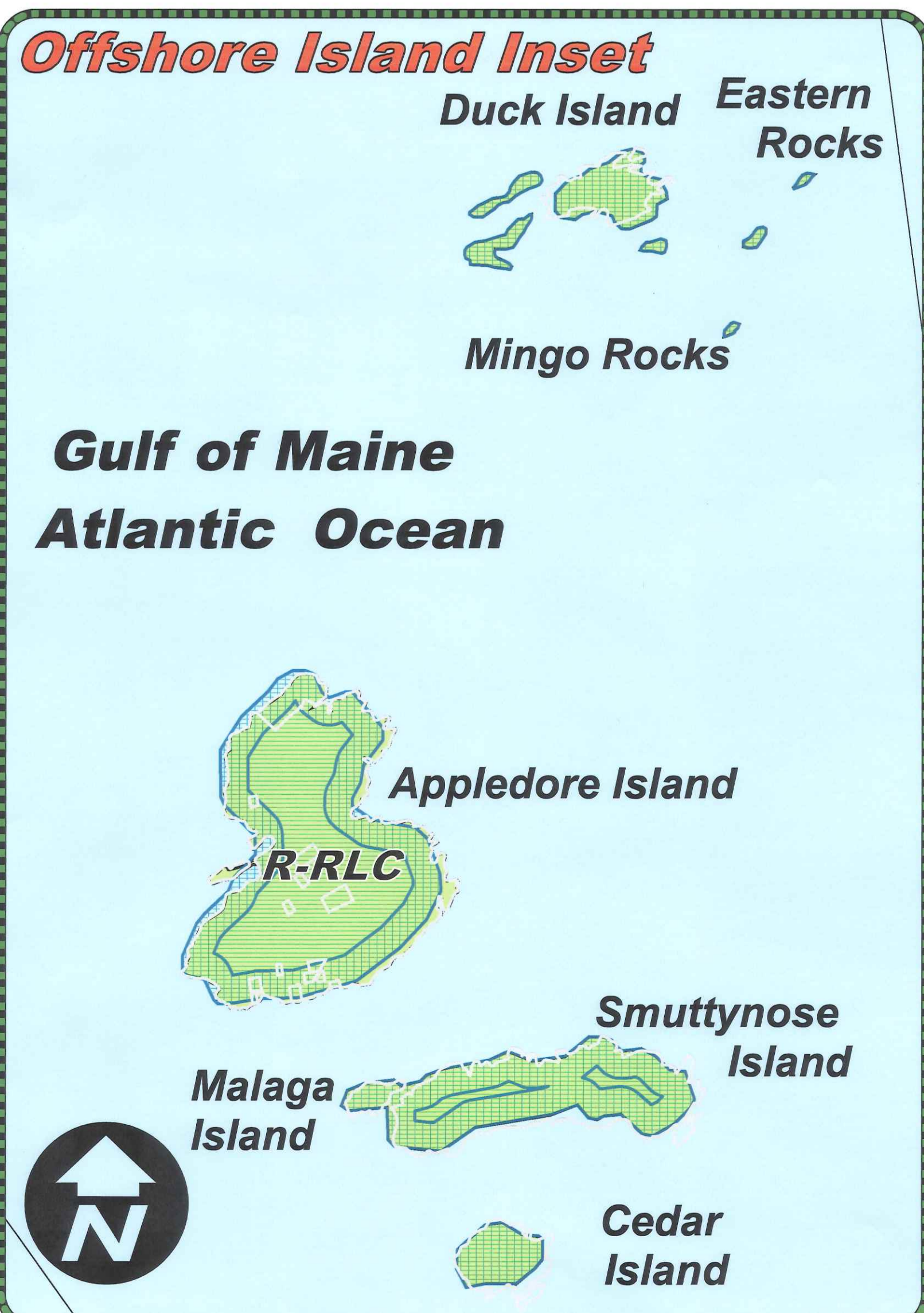
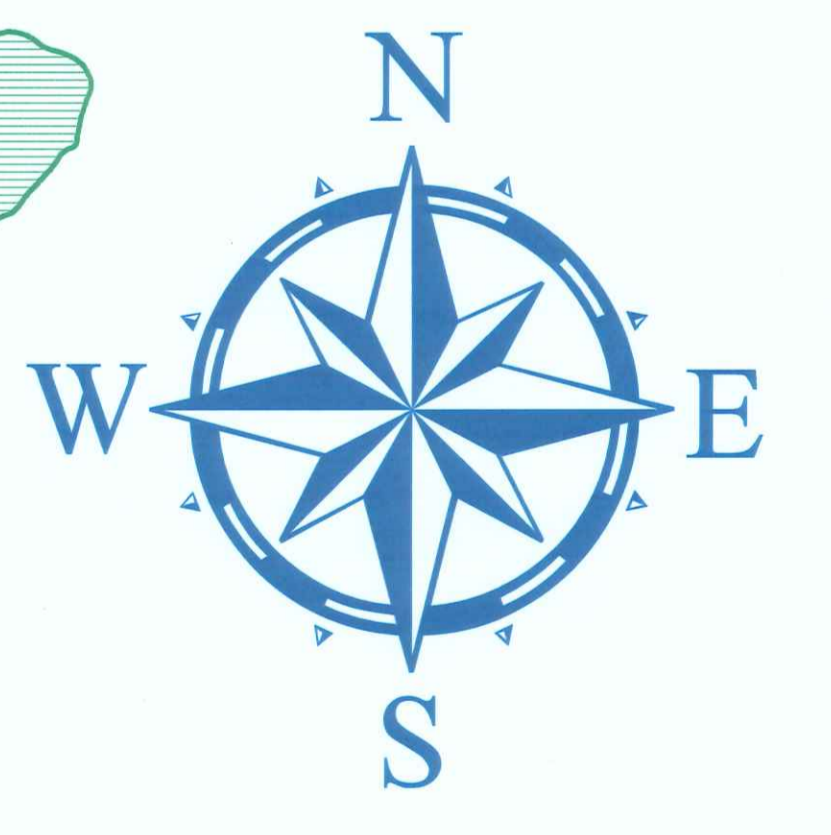
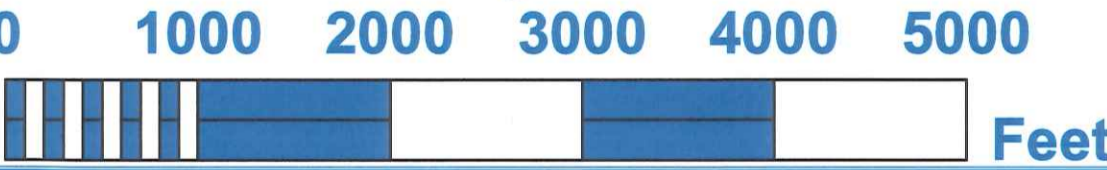
Base Zones

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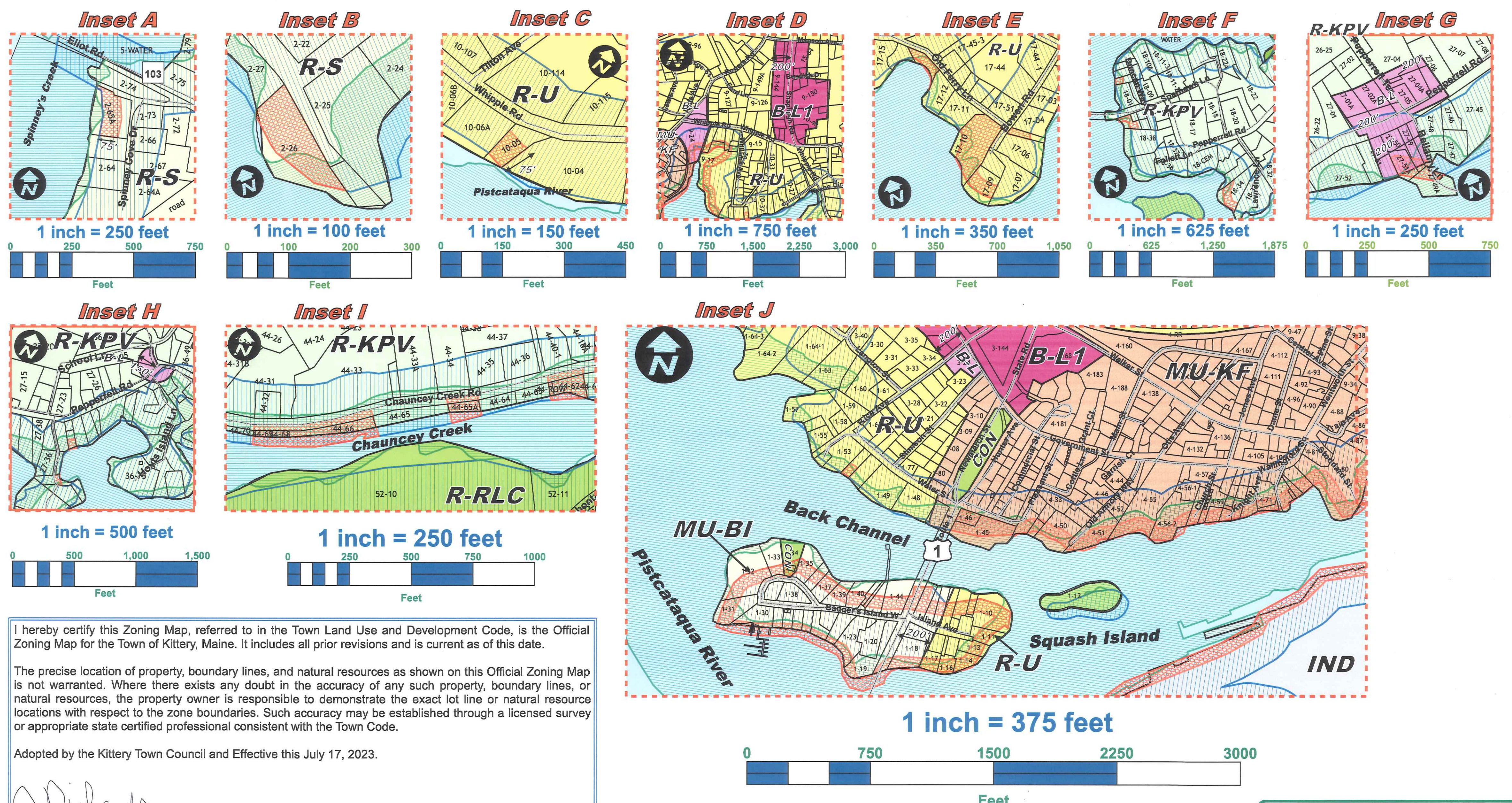
Overlay Zones

- Resource Protection (OZ-RP)
- Shoreland - Water Body / Wetland Protection Area (OZ-SL-250')
- Shoreland - Stream Protection Area (OZ-SL-75')
- Commercial Fisheries / Maritime Uses (OZ-CF) are located within the upland area 75 feet of the normal high-water line or to the property boundary line as identified on the Zoning Map.

1 inch = 1,000 Feet



1 inch = 1,000 feet



I hereby certify this Zoning Map, referred to in the Town Land Use and Development Code, is the Official Zoning Map for the Town of Kittery, Maine. It includes all prior revisions and is current as of this date.

The precise location of property, boundary lines, and natural resources as shown on this Official Zoning Map is not warranted. Where there exists any doubt in the accuracy of any such property, boundary lines, or natural resources, the property owner is responsible to demonstrate the exact lot line or natural resource locations with respect to the zone boundaries. Such accuracy may be established through a licensed survey or appropriate state certified professional consistent with the Town Code.

Adopted by the Kittery Town Council and Effective this July 17, 2023.

J. Dickards
Town Clerk