

**TITLE 16
AMENDMENTS TO CONFORM WITH LD 2003:
AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMISSION
TO INCREASE HOUSING OPPORTUNITIES IN MAINE**

1. AMEND § 16.3.2 Definitions as follows:

~~**DWELLING, ATTACHED SINGLE-FAMILY**~~

~~A dwelling unit, located on its own lot that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25% of the length of the side of the dwelling.~~

DWELLING, MULTIFAMILY

A structure that contains ~~three~~ **five** or more dwelling units that share common walls or floors/ceilings with one or more units. The land underneath the structure is not divided into separate lots.

DWELLING, MULTIFAMILY 2-4 (“Limited”)

A structure that contains two, three, or four dwelling units that share common walls or floors/ceilings with one or more units.

LOT AREA

- The area of land enclosed within the boundary lines of a lot, minus:
- A. Land below the normal high-water line of a water body or upland edge of a coastal wetland;
 - B. Areas beneath Planning-Board-approved right-of-way; and
 - C. Land within public street rights-of-way.

LOT AREA PER DWELLING UNIT

The number of dwelling units in a development per lot area as defined in this code. Calculations which result in a fraction of .5 or greater shall be rounded up to the nearest whole number. Calculations which result in a fraction less than 0.5 shall be rounded down.

~~**MINIMUM LAND AREA PER DWELLING UNIT**~~

~~The gross area of a parcel not subject to subdivision regulations minus the land area listed below. Where land areas to be subtracted overlap, the area therein shall be subtracted once. For land area subject to subdivision, see "net residential acreage."~~

- ~~A. All land located below the highest annual tide elevation as published in the Maine DEP Highest Annual Tide (HAT) levels for the most current year.~~
- ~~B. All wetlands as defined in the definition of "wetland," as well as vernal pools, ponds, streams and other water bodies.~~
- ~~C. All land located on filled tidal lands, per the definition of "tidal land, filled."~~

40 D.—All land located within existing rights-of-way and other existing easements wherein
41 dwelling units cannot be built.

42 **NET RESIDENTIAL ACREAGE**

43 The total area of the parcel(s) of record subject to development land area subject to
44 subdivision that is identified for regulatory purposes as developable and is the gross
45 available acreage minus land area identified in § 16.5.18, Net residential acreage, unless
46 otherwise exempt in § 16.5.18D, Exemptions to net residential acreage calculations.

47 **NET RESIDENTIAL DENSITY**

48 The number of dwelling units in a subdivision development per net residential acre.
49 This is calculated by dividing the net residential acreage by the square feet specified as
50 minimum land area per dwelling unit in the dimensional standards in § 16.4 for the
51 relevant base zone or overlay zone(s) where applicable. Net residential density
52 calculations which result in a fraction shall be rounded down to the nearest whole
53 number.

54 **2. Amend § 16.4.10 Residential — Rural (R-RL) zoning as follows:**

55 B. Permitted uses. The following uses are permitted in the R-RL Zone:

- 56 (1) Accessory dwelling unit.
- 57 (2) Conservation subdivision. [Amended 10-24-2022]
- 58 (3) Dwelling, manufactured housing.
- 59 (4) Dwelling, single-family.
- 60 **(5) Dwelling, multifamily 2-4 “Limited”, as follows:**

	<u>Total maximum # of units allowed on lot (attached or detached)</u>	
<u># of Existing Units</u>	<u>Public Sewer and Water Available</u>	<u>Public sewer and water not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

61

62 E. Shoreland Overlay Zone OZ-SL — Residential — Rural Zone (R-RL).

- 63 (1) Permitted uses.
 - 64 (a) Accessory buildings, structures, and uses.
 - 65 (b) Agriculture.
 - 66 (c) Dwelling, single family, if located farther than 100 feet from the normal high-
67 water line of any water bodies, or the upland edge of a wetland individual private

68 campsite.
69 ~~[1] Dwelling, single-family.~~
70

71 **3. Amend § 16.4.11 Residential — Suburban (R-RS) zoning as follows:**

72 B. Permitted uses. The following uses are permitted in the R-S Zone:

- 73 (1) Accessory dwelling unit.
- 74 (2) Conservation Subdivision.
- 75 ~~(3) Dwelling, attached single-family.~~
- 76 (4) Dwelling, multifamily 2-4 “Limited”
- 77 (5) Dwelling, single-family.
- 78 ~~(6) Dwelling, two-family.~~

79
80 D. Standards. The following standards must be met unless modified per §16.8.10,
81 Conservation Subdivision:

- 82 (1) Design and performance standards. The design and performance standards of
83 Chapters **16.5**, **16.7** and **16.8** must be met. The Design Handbook provides examples
84 of appropriate design for nonresidential and multiunit residential projects.
- 85 (2) Dimensional standards.
 - 86 (a) Minimum land **Lot** area per dwelling unit (~~note: as per Chapter 16.3 definition~~
87 ~~of "minimum land area per dwelling unit,"~~ except to exempt properties which
88 are unable to meet the square feet required for a single-family dwelling unit,
89 provided the lot was conforming prior to October 25, 2012):
 - 90 [1] Without public sewage disposal: 40,000 square feet.
 - 91 [2] With public sewage disposal: 30,000 square feet unless reduced in
92 accordance with Note A.
 - 93 **[3] When more than 50% of the dwelling units proposed will be**
94 **affordable as defined by this Code and have public sewer: 12,000**
95 **square feet**
 - 96 (b) Minimum lot size:
 - 97 [1] Without public sewage disposal: 40,000 square feet.
 - 98 [2] With public sewage disposal: 30,000 square feet unless reduced in
99 accordance with Note A.
 - 100 (c) Minimum street frontage: 150 feet unless reduced in accordance with Note A.
 - 101 (d) Minimum front yard: 40 feet.
 - 102 (e) Maximum building coverage: 20%.
 - 103 (f) Minimum rear and side yards: 15 feet.
104 (Note: Buildings higher than 40 actual feet must have side and rear yards not
105 less than 50% of the building height.)
 - 106 (g) Maximum building height: 35 feet.
107 (Note: Minimum distance between principal buildings on the same lot is the
108 height equivalent to the taller building.)

- 109 (h) Minimum water body setback for functionally water-dependent uses: zero feet.
110 (i) Minimum setback from streams, water bodies and wetlands: in accordance with
111 Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

Note A:

The required minimum ~~land~~ **Lot** area per dwelling unit and/or minimum lot size for residential uses that are served by public sewage disposal and that are located outside of areas subject to shoreland zoning may be less than 30,000 square feet per lot/unit if the established average density of development in the immediate area of the use as determined below is less than 30,000 square feet.

If the average of the lot sizes and/or ~~land~~ **Lot** area per dwelling unit of the developed residential lots that are located on the same street and within 500 feet of the parcel is less than 30,000 square feet, the required minimum lot size or required minimum ~~land~~ **Lot** area per dwelling unit is the calculated average lot size or average ~~land~~ **Lot** area per dwelling unit but not less than 20,000 square feet.

If the required minimum lot size is reduced, the required minimum street frontage for new residential uses served by public sewerage may also be reduced to the average of the lot frontage of existing developed residential lots that are located on the same street and within 500 feet of the parcel but in no case to less than 100 feet.

- 112
113 (3) Subdivision types and standards. ~~Subject to net residential acreage and net~~
114 ~~residential density per Chapter 16.3.~~
115 (a) Conservation Subdivision. In a conservation subdivision, the above standards
116 may be modified in accordance with special provisions of §16.8.10, including
117 that there is no minimum lot size, and with the conditions that:
118 [1] Minimum principal building separation as required by the Fire Chief, but
119 not less than 15 feet.
120 (b) Subdivision development (per special exception uses, §16.4.11C). In a
121 subdivision development, standards in §16.4.11D(1) and (2) apply and include:
122 [1] Minimum percentage of common open space: 15%.
123 (4) Mobile homes. Mobile homes must meet the standards of §16.5.17.
124 **(5) Parking. When more than 50% of the dwelling units provided while be**
125 **affordable as defined by this code: two parking spaces per three dwelling units.**
126 **(6) Affordable housing requirements:**
127 **(a) All requirements in §16.5.4 Affordable Housing must be met.**
128 **(b) Density incentives outlined above in subsection D.(2).(a).[3] may be applied**
129 **to projects that create affordable housing units, as defined by this code. No**
130 **proportional payment-in-lieu is required if the affordable dwelling unit**
131 **requirements for the density incentives are met.**
132

133 E. Shoreland Overlay Zone OZ-SL — Residential — Suburban Zone (R-S).

- 134 (1) Permitted uses.
135 (a) Day-care facility.
136 (b) Dwellings if located farther than 100 feet from the normal high-water line of any

- 137 water bodies, or the upland edge of a wetland.
- 138 [1] ~~Dwelling, attached single-family.~~
- 139 [2] ~~Dwelling, multifamily (not more than four units per building).~~
- 140 [3] Dwelling, single-family.
- 141 [4] Dwelling, two-family.
- 142

143 **4. Amend § 16.4.12 Residential — Kittery Point Village (R-KPV) zoning as follows:**

144 B. Permitted uses. The following uses are permitted in the R-KPV Zone:

- 145 (1) Accessory dwelling units.
- 146 (2) Conservation subdivision.
- 147 ~~(3) Dwelling, attached single-family.~~
- 148 (4) Dwelling, multifamily ~~(not more than four units per building).~~ 2-4 "Limited"
- 149 (5) Dwelling, single-family.
- 150 ~~(6) Dwelling, two-family.~~

151

152 D. Standards. The following standards must be met unless modified per § 16.8.10,

153 Conservation subdivision.

- 154 (1) Design and performance standards in Chapters 16.5, 16.7 and 16.8. The Design
- 155 Handbook provides examples of appropriate design for nonresidential and multiunit
- 156 residential projects.
- 157 (2) Dimensional standards.
 - 158 (a) Minimum ~~land~~ lot area per dwelling unit: 40,000 square feet. (Note: As per
 - 159 ~~Chapter 16.3~~ definition of "minimum land area per dwelling unit," except to
 - 160 exempt properties which are unable to meet the square feet required for a
 - 161 single-family dwelling unit, provided the lot was conforming prior to October
 - 162 25, 2012).
 - 163 (b) Minimum lot size: 40,000 square feet.
 - 164 (c) Minimum street frontage: 150 feet unless reduced in accordance with Note A.
 - 165 (d) Minimum front yard: 40 feet.
 - 166 (e) Maximum building coverage: 20%.
 - 167 (f) Minimum rear and side yards: 15 feet. (Note: Buildings higher than 40 actual
 - 168 feet must have side and rear yards not less than 50% of the building height.)
 - 169 (g) Maximum building height: 35 feet. (Note: Minimum distance between principal
 - 170 buildings on the same lot is the height equivalent to the taller building.)
 - 171 (h) Minimum water body setback for functionally water-dependent uses: zero feet.
 - 172 (i) Minimum setback from streams, water bodies and wetlands: in accordance with
 - 173 Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules. Subdivision types
 - 174 and standards.

175 ~~(3) Subject to net residential acreage and net residential density per Chapter 16.3.~~

176

177 E. Shoreland Overlay Zone OZ-SL — Residential — Kittery Point Village (R-KPV).

- 178 (1) Permitted uses.
179 (a) Agriculture.
180 (b) Accessory buildings, structures, and uses.
181 (c) Day-care facility.
182 (d) Dwellings if located farther than 100 feet from the normal high-water line of
183 any water bodies, or the upland edge of a wetland.
184 [1] Dwelling, attached single-family.
185 [2] Dwelling, ~~multifamily (not more than four units per building).~~ **Two-**
186 **family**
187

188 **5. Amend § 16.4.13 Residential — Urban (R-U) zoning as follows:**

189 B. Permitted uses. The following uses are permitted in the R-U Zone:

- 190 (1) Accessory dwelling units.
191 (2) Conservation subdivision.
192 ~~(3) Dwelling, attached single-family.~~
193 (4) Dwelling, manufactured housing.
194 (5) Dwelling, multifamily.
195 (6) Dwelling, single-family.
196 (7) Dwelling, ~~two-family.~~ **multifamily 2-4 "Limited"**
197

198 D. Standards. The following standards must be met unless modified per §16.8.10
199 Conservation Subdivision:

- 200 (1) The design and performance standards in Chapters 16.5, 16.7 and 16.8.
201 (2) Dimensional standards:
202 (a) Minimum ~~land~~ **lot** area per dwelling unit: 20,000 square feet. ~~(Note: As per~~
203 ~~Chapter 16.3 definition of "minimum land area per dwelling unit," except to~~
204 ~~exempt properties which are unable to meet the square feet required for a~~
205 ~~single-family dwelling unit, provided the lot was conforming prior to~~
206 ~~October 25, 2012.)~~
207 **(b) When more than 50% of the dwelling units proposed will be affordable**
208 **as defined by this code: With public sewer: 8,000 square feet**
209 (b) Minimum lot size: 20,000 square feet.
210 (c) Minimum street frontage: 100 feet.
211 (d) Minimum front yard, all buildings: 30 feet.
212 (e) Minimum rear and side yards, all buildings: 15 feet.
213 (Note: Buildings higher than 40 actual feet must have side and rear yards not
214 less than 50% of building height.)
215 (f) Maximum building height: 35 feet.
216 (Note: Minimum distance between principal buildings on the same lot is the
217 height equivalent to the taller building.)
218 (g) Maximum building coverage: 20%.
219 (h) Minimum water body setback for functionally water-dependent uses: zero

- 220 feet.
- 221 (i) Minimum setback from streams, water bodies and wetlands: in accordance
222 with Table 16.5.30 § 16.4.28 and Appendix A, Fee Schedules.
- 223 (3) Subdivision types and standards. ~~Subject to net residential acreage and net~~
224 ~~residential density per Chapter 16.3.~~
- 225 (a) Conservation Subdivision. In a subdivision, the above standards may be
226 modified in accordance with special provisions of §16.8.10, including that
227 there is no minimum lot size, and with the conditions that:
- 228 [1] Minimum principal building separation as required by the Fire Chief,
229 but not less than 15 feet.
- 230 (b) Subdivision development (special exception uses, §16.4.13C). In a
231 subdivision development, standards in §16.4.13D(1) and (2) apply and
232 include:
- 233 [1] Minimum percentage of common open space: 15%.
- 234 (4) Age-restricted housing. In the case of age-restricted housing, the above standards
235 may be modified in accordance with the special provisions of §16.5.15 and with
236 the condition that:
- 237 (a) Municipal sewerage and water must be provided.
- 238 (b) A minimum land area of three acres must be provided.
- 239 (c) The maximum net density may not exceed four dwelling units per net
240 residential acre. In no event may the Planning Board authorize a departure
241 which increases the total number of dwelling units greater than that specified
242 under the applicable zoning ordinance.
- 243 (d) A single-bedroom unit may not be less than 550 square feet and a two-
244 bedroom unit not less than 650 square feet.
- 245 (5) Manufactured housing. Manufactured housing must meet standards of §16.5.15.
- 246 **(6) Parking. When more than 50% of the dwelling units provided while be**
247 **affordable as defined by this code: two parking spaces per three dwelling units.**
- 248 **(7) Affordable housing requirements:**
- 249 **(a) All requirements in §16.5.4 Affordable Housing must be met.**
- 250 **(b) Density incentives outlined above in subsection D.(2).(a).[3] may be**
251 **applied to projects that create affordable housing units, as defined by this**
252 **code. No proportional payment-in-lieu is required if the affordable**
253 **dwelling unit requirements for the density incentives are met.**

254

255 E. Shoreland Overlay Zone OZ-SL — Residential — Urban Zone (R-U).

- 256 (1) Permitted uses.
- 257 (a) Accessory buildings, structures, and uses.
- 258 (b) Day-care facility.
- 259 (c) Dwellings if located farther than 100 feet from the normal high-water line
260 of any water bodies, or the upland edge of a wetland.
- 261 [1] ~~Dwelling, attached single family.~~
- 262 [2] Dwelling, manufactured housing.

- 263 [3] ~~Dwelling, multifamily.~~
- 264 [4] Dwelling, single-family.
- 265 [5] Dwelling, two-family.

266
267

6. Amend § 16.4.14 Residential — Village (R-V) zoning as follows:

268 B. Permitted uses. The following uses are permitted in the R-V Zone:

- 269 (1) Accessory dwelling unit.
- 270 (2) Dwelling, ~~attached single-family.~~ multifamily 2-4 “Limited”
- 271 (3) Dwelling, manufactured housing.
- 272 (4) Dwelling, single-family.
- 273 ~~(5) Dwelling, two-family.~~

274

275 D. Standards. All development and the use of land in the R-V Zone must meet the
276 following standards. In addition, the design and performance standards of Chapters
277 **16.5, 16.7** and **16.8** must be met. The Design Handbook provides examples of
278 appropriate design for nonresidential and multiunit residential projects.

279 (1) The following space standards apply:

- 280 (a) Minimum ~~land~~ lot area per dwelling unit: 4,000 square feet. (~~Note: As per~~
281 ~~Chapter 16.3 definition of "minimum land area per dwelling unit,"~~ except to
282 exempt properties which are unable to meet the square feet required for a
283 single-family dwelling unit, provided the lot was conforming prior to October
284 25, 2012.)

285

286 E. Shoreland Overlay Zone OZ-SL — Residential — Village Zone (R-V).

287 (1) Permitted uses.

- 288 (a) Accessory buildings, structures, and uses.
- 289 (b) Dwellings if located farther than 100 feet from the normal high-water line of
290 any water bodies, or the upland edge of a wetland Public Facility.
- 291 ~~[1] Dwelling, attached single-family.~~
- 292 [2] Dwelling, manufactured housing.
- 293 [3] Dwelling, single-family.
- 294 [4] Dwelling, two-family.

295

296 **7. Amend § 16.4.15 Residential — Rural Conservation (R-RC) zoning as follows:**

297 B. Permitted use. The following uses are permitted in the R-RC Zone:

- 298 (1) Accessory dwelling units.
- 299 (2) Conservation subdivision.
- 300 (3) Dwelling, manufactured housing.
- 301 (4) Dwelling, single-family.
- 302 (5) Dwelling, multifamily 2-4 as follows

	<u>Total maximum # of units allowed on lot (attached or detached)</u>	
<u># of Existing Units</u>	<u>Public Sewer and Water Available</u>	<u>Public sewer and water not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

303

304 D. Standards. The following standards must be met unless modified per §16.8.10,
305 Conservation Subdivision:

306 (1) The design and performance standards of Chapters 16.5, 16.7 and 16.8 must be
307 met.

308 (2) The following dimensional standards apply:

309 (a) Minimum ~~land area~~ net residential acreage per dwelling unit: 80,000 square
310 feet. (~~Note: As per Chapter 16.3 definition of "minimum land area per~~
311 ~~dwelling unit,"~~ except to exempt properties which are unable to meet the
312 square feet required for a single-family dwelling unit, provided the lot was
313 conforming prior to October 25, 2012.)

314

315 **8. Amend §16.4.17 Business — Local (B-L) zoning as follows:**

316 B. Permitted uses. The following uses are permitted in the B-L Zone:

317 (1) Accessory dwelling unit.

318 (2) Dwelling, ~~attached single family.~~ multifamily 2-4

319

320 D. Standards. All development and the use of land in the B-L Zone must meet the following
321 standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the
322 design and performance standards of Chapters 16.5, 16.7 and 16.8 must be met. [Amended 9-12-
323 2022]

324 (1) The following space and dimensional standards apply:

325 (a) Minimum ~~land~~ lot area per dwelling unit:

326 [1] If served by on-site sewage disposal: 20,000 square feet;

327 [2] If served by the public sewerage system and:

328 [a] When no frontage on State Road or Route 1 Bypass exists: 3,000 square
329 feet;

330 [b] When less than five dwelling units are proposed at minimum, one
331 nonresidential use must be located on the first floor facing State Road or
332 Route 1 Bypass such that the use will be visible from the street: 3,000

333 square feet. Such a nonresidential use or uses need not occupy the entire
334 first floor but must be an independent nonresidential use, e.g., not a
335 home office marketed with a dwelling unit as a work/live unit;

336 [c] When five or more dwelling units are proposed at minimum, one
337 nonresidential use must be located on the first floor facing State Road or
338 Route 1 Bypass such that the use will be visible from the street: 2,500
339 square feet. Such a nonresidential use or uses need not occupy the entire
340 first floor but must be an independent nonresidential use, e.g., not a
341 home office marketed with a dwelling unit as a work/live unit; or

342 [d] 25% or more of the dwelling units will be affordable housing units as
343 defined by this code: 1,000 square feet.

344 Note: Except as otherwise required by the buffer provisions of this title.

345 (b) Parking. Parking requirements are to be met on site. If meeting the parking
346 requirements is not possible, the parking demand may be satisfied off site or
347 through joint-use agreements as specified herein. Notwithstanding the off-street
348 parking requirements in § 16.7.11F(4), minimum parking requirements for the
349 uses below are modified as specified:

350 [1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:

351 [a] Affordable housing as defined by this code is proposed, in which case
352 the parking requirements may be reduced to one parking space per
353 dwelling unit at the Planning Board's discretion; and/or

354 [b] Some or all of the proposed dwelling units are one-bedroom or
355 studio-type units, in which case parking requirements for these types
356 of units may be reduced to one parking space for each unit so
357 described.

358 [c] More than 50% of the dwelling units proposed will be affordable
359 as defined by this code in which case parking is reduced to two
360 spaces per three dwelling units.

361

362 E. Shoreland Overlay Zone OZ-SL — Business — Local Zone (B-L).

363 (1) Permitted uses.

364 (a) Accessory buildings, structures, and uses.

365 (b) Dwellings if located farther than 100 feet from the normal high-water line of
366 any water bodies, or the upland edge of a wetland.

367 ~~[1] Dwelling, attached single-family.~~

368 [2] Dwelling, manufactured housing.

369 ~~[3] Dwelling, multifamily.~~

370 [4] Dwelling, single-family.

371 [5] Dwellings two-family.

372

373 **9. Amend §16.4.18 Business — Local 1 (B-L1) zoning as follows:**

374 B. Permitted uses. The following uses are permitted in the B-L1 Zone:

375 (1) Accessory dwelling unit.

- 376 (2) Dwelling, ~~attached single-family.~~ multifamily 2-4 “Limited”
- 377 (3) Dwelling, manufactured housing.
- 378 (4) Dwelling, multifamily. **[Amended 9-12-2022]**
- 379 (a) ~~Development proposing three or four dwelling units is permitted through~~
- 380 ~~minor site plan review;~~
- 381 (b) ~~Development proposing five or more dwelling units is permitted through~~
- 382 ~~major site plan review;~~
- 383 (5) Dwelling, single-family.
- 384 (6) ~~Dwelling, two-family.~~

385

386 D. Standards. All development and the use of land in the B-L1 Zone must meet the

387 following standards. Kittery's Design Handbook illustrates how these standards can be

388 met. In addition, the design and performance standards of Chapter **16.5** must be met.

389 **[Amended 9-12-2022]**

- 390 (1) The following space and dimensional standards apply:
- 391 (a) Minimum ~~land~~ lot area per dwelling unit:
- 392 [1] When no frontage on State Road or Shapleigh Road: 2,500 square feet.
- 393 [2] When less than five dwelling units are proposed with, at minimum, one
- 394 nonresidential use must be located on the first floor facing State Road or
- 395 Shapleigh Road such that the use will be visible from the street: 2,500
- 396 square feet. Such a nonresidential use or uses need not occupy the entire
- 397 first floor but must be an independent nonresidential use, e.g., not a home
- 398 office marketed with a dwelling unit as a work/live unit.
- 399 [3] When five or more dwelling units are proposed with, at minimum, one
- 400 nonresidential use must be located on the first floor facing State Road or
- 401 Shapleigh Road such that the use will be visible from the street: 2,000
- 402 square feet. Such a nonresidential use or uses need not occupy the entire
- 403 first floor but must be an independent nonresidential use, e.g., not a home
- 404 office marketed with a dwelling unit as a work/live unit.
- 405 [4] When 25% or more of the dwelling units will be affordable housing units
- 406 as defined by this code, the minimum land area per dwelling unit is 1,500
- 407 square feet.
- 408 **[5] When 50% or more of the dwelling units will be affordable housing**
- 409 **units as defined by this code, the minimum land area per dwelling**
- 410 **unit is 1,000 square feet.**
- 411 (b) Minimum lot size: none.
- 412 (Note: Except that all screening, open space, buffering and landscaping
- 413 requirements must be met; or in instances where the Planning Board may
- 414 approve modifications to such requirements, such modifications must be
- 415 found satisfactory by the Board.
- 416 (c) Minimum street frontage per lot: 50 feet.
- 417 (d) Maximum front setback: 20 feet.
- 418 (Note: This area must be designed to promote a pedestrian public space,
- 419 which includes, but is not limited to, landscaping, sidewalks and sitting

420 areas. The Planning Board may, at its discretion, allow a greater setback
421 when public amenities such as pocket parks, outdoor dining or seating areas
422 are proposed within the front setback. Pocket parks must be at least 200
423 square feet with a minimum of three trees and a bench for sitting required.
424 Park must be vegetated with ground cover, except for walkways. Outdoor
425 dining areas must meet any additional requirements specific to that use.
426 Outdoor storage is prohibited anywhere in the front yard of the structure,
427 except for seasonal sales items. Parking is also prohibited in the front
428 setback, except as allowed in Subsection **D(2)(e)** below.

- 429 (e) Minimum rear and side setbacks: 10 feet.
430 (Note: Except as otherwise required by the buffer provisions of this title, and
431 except where the side and/or rear setbacks abut a residential zone or single-
432 family use; in which case a minimum of 15 feet or 50% of the building
433 height, whichever is greater, is required.)
- 434 (f) Maximum building height: 40 feet. Solar apparatus is excluded from height
435 determinations.
- 436 (g) The maximum impervious surface is:
 - 437 [1] Seventy percent; or
 - 438 [2] The Planning Board may, at its discretion, allow greater than 70% if:
 - 439 [i] Additional landscaped or natural areas are proposed or preserved
440 and such areas are integrated into the site design in an
441 environmentally conscious way utilizing LID to provide
442 stormwater filtration and/or water quality improvements. Such
443 areas must exceed the requirement that 15% of the lot be
444 landscaped or natural. See Subsection **D(4)**, Landscaping/Site
445 improvements. When granting such a concession, the Board must
446 find that the proposed additional landscaping and/or natural areas
447 and the site design provide enough benefit to outweigh the impact
448 of greater impervious surface; or
 - 449 [ii] Affordable housing to be built, rather than a payment-in-lieu, is
450 proposed.

451 Note: If using either option above, the stormwater requirements in
452 Subsection **D(1)(i)** below may not be modified.

- 453 (h) Stormwater. All new development must use LID (low-impact development)
454 and BMP (best management practices), based on Maine DEP's Maine
455 Stormwater Best Management Practices Manual Volumes I through III, as
456 amended from time to time, to manage 100% of the total stormwater
457 generated on-site. The stormwater report and plan demonstrating that this
458 requirement is met must be included with the application at the time of
459 submission. A request for a modification may be submitted to the Planning
460 Board, but it is incumbent on the applicant to prove to the Planning Board's
461 satisfaction that such a modification is necessary. The Town reserves the
462 right to submit such modification requests for independent engineering
463 review at the applicant's expense. The Board may also require additional
464 landscaping/plannings and/or LID features when granting such concessions.

- 465 (i) Minimum area dedicated to landscaped or natural areas: 15%.
466 [1] For the purposes of this zone, a natural area is an area that is not
467 regularly mowed, and contains trees and/or shrubs which may not have
468 been deliberately planted. Invasive plants, as defined by the State of
469 Maine, must be removed.
470 [2] For multifamily dwelling, mixed-use buildings with dwelling units and
471 attached single-family dwellings, in cases where the property cannot
472 meet the 15% requirement due to existing development (including
473 parking areas), and where redevelopment will remain at the same or a
474 lower percentage of the lot, the Planning Board may, at its discretion,
475 allow a smaller percentage of landscaped and/or natural area. In
476 granting this concession, the Board may require more intensive
477 landscape plantings and/or LID-designed features.
478 (j) Hours of operation must be noted on the final site plan and are determined by
479 the Planning Board on a case-by-case basis. All lighting other than
480 designated security lighting must be extinguished outside of noted hours of
481 operation.
482 (k) Minimum setback for functionally water-dependent uses: zero feet.
483 (l) Minimum setback from streams, water bodies and wetlands: in accordance
484 with Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

485 (2) Parking design:

486 Parking requirements are to be met on-site. If meeting the parking
487 requirements is not possible, the parking demand may be satisfied off-site or
488 through joint-use agreements as specified in 16.4.17.D.(1).(c) -
489 16.4.17.D.(1).(e) under the B-L Zone. Notwithstanding the off-street parking
490 requirements in 16.7.11.F.(4), minimum parking requirements for the uses
491 below are modified as specified:

492 [1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:

493 [i] Affordable housing as defined by this code is proposed in which case the
494 parking requirements may be reduced to a minimum of 1/2 spaces per
495 dwelling unit at the Planning Board's discretion; and/or

496 [ii] Housing is proposed within ¼ mile of a public transit stop, in
497 which case the parking requirements may be reduced to a minimum of 1/2
498 spaces per dwelling unit at the Planning Board's discretion; and/or

499 [iii] Some or all of the proposed dwelling units are one-bedroom or
500 studio type units in which case parking requirements for these types of units
501 are reduced to one parking space for each unit so described.

502 [iv] More than 50% of the dwelling units proposed will be affordable as
503 defined by this code in which case parking is reduced to two spaces per three
504 dwelling units.

505 [2] For multifamily dwellings, if more than ten parking spaces are
506 required, up to 20% of the parking may be designated for compact cars. See
507 16.7.11.F.(4) Off-Street Parking Standards.

508 (b) [3] Electric car charging stations are allowed and encouraged in parking
509 lots but must not interfere with pedestrian movement on sidewalks.

510 **10. Amend §16.4.28 Shoreland Overlay Zone (OZ-SL) as follows:**

511 E. Standards.

512 (1) Minimum lot standards.

513 (a) Minimum lot size by base zone, within the:

514 [1] Residential-Village (R-V) Zone: 8,000 square feet.

515 [2] Residential-Urban (R-U) Zone: 20,000 square feet.

516 [3] Residential-Rural (R-RL), Residential-Suburban (R-S) and
517 Residential-Kittery Point Village (R-KPV) Zones: 40,000 square feet.

518 [4] Commercial (C1), (C2), (C3), Industrial (IND), Business-Local (B-
519 L) and Business-Local 1 (B-L1) Zones: 60,000 square feet.

520 [5] Residential-Rural Conservation (R-RLC) Zone: 80,000 square feet.

521 [6] Business-Park (B-PK) Zone: 120,000 square feet.

522 [7] Mixed-Use Badgers Island (MU-BI) Zone: 6,000 square feet.

523 [8] Mixed-Use Kittery Foreside (MU-KF) Zone: 10,000 square feet.

524 (b) Minimum ~~land area per dwelling unit~~ net residential density by base
525 zone, within the:

526 [1] Residential-Village (R-V) Zone: 8,000 square feet.

527 [2] Business-Park (B-PK) Zone: 10,000 square feet.

528 [3] Residential-Urban (R-U), Business-Local (B-L) and Business-
529 Local 1 (B-L1) Zones: 20,000 square feet.

530 [4] Mixed-Use (M-U), Residential-Rural (R-RL), Residential-
531 Suburban (R-S) and Residential-Kittery Point Village (R-KPV) Zones:
532 40,000 square feet.

533 [5] Residential-Rural Conservation (R-RLC) Zone: 80,000 square feet.

534 [6] Mixed-Use Badgers Island (MU-BI) Zone: 6,000 square feet.

535 [NOTE: 3,000 square feet for the first two dwelling units.]

536 [7] Mixed-Use Kittery Foreside (MU-KF) Zone: 10,000 square feet.

537

538 **11. Amend §16.5.3 Accessory dwelling units as follows:**

539 B. Applicability.

540 (1) An accessory dwelling unit is allowed in all zoning districts where the use is
541 permitted in Chapter 16.4. The unit must be located:

542 (a) Within an existing structure, either principal or accessory on the property; or

543 (b) Attached to the existing principal structure, sharing a common wall; or

544 (c) Within a new accessory structure constructed for this purpose on the property.

545 **(d) Outside of the shoreland overlay zone, as defined in Chapter 16.4.**

546 (2) Accessory dwelling units that have a valid certificate of occupancy or have vested
547 rights in the permitting process with an active building permit as of April 28, 2020, are
548 exempted from the use standard, § **16.5.3D(3)**.

549

550 D. Accessory dwelling unit standards.

551 (1) Lot standards.

552 (a) Legal lot/residence. An accessory dwelling unit is allowed only on lots within the
553 Town that contain one legal, single-family residence as the primary unit.

554 (b) Number of accessory dwelling units per lot. No more than one accessory dwelling
555 unit is permitted on a lot.

556 (c) Zone lot size and unit density. The property on which an accessory dwelling unit is
557 located must meet the size required by the applicable zoning standards for the
558 principal residence, except in the case of legally nonconforming lots. However, an
559 accessory dwelling unit is exempt from the density requirements of the zone in
560 which it is located.

561 (d) Setbacks and coverage. Yard setbacks for the zone must be met. However, for
562 legally nonconforming lots where a proposed accessory dwelling unit will be
563 attached to a principal dwelling unit and cannot meet the zone's side and rear yard
564 setbacks, the percentage by which a lot is smaller than the required lot size for the
565 zone will dictate the required setback for that lot. For example, a 30,000 square foot
566 legally nonconforming lot in a zone that requires 40,000 square feet would require
567 side and rear yard setbacks that are 75% of the zone's side and rear yard setbacks.
568 Building coverage requirements will remain as required by the zone.

569 (e) Utility connections. Accessory dwelling units must be connected to adequate water
570 and wastewater services.

571 [1] Public sewer.

572 [a] Service: written verification must be provided of adequate service to support the
573 additional flow from the Superintendent of Wastewater Treatment Facilities.

574 [b] Fees. Payment of appropriate fees for connection to the municipal sewer system is
575 required prior to obtaining the certificate of occupancy.

576 [2] Septic systems. Verification of adequate sewage disposal for subsurface waste
577 disposal is required. The septic system, existing or proposed, must be verified as
578 adequate or reconstructed as required, **pursuant to 30-A M.R.S. §4221**. Plans for
579 subsurface waste disposal must be prepared by a Maine-licensed site evaluator in
580 full compliance with the State of Maine Subsurface Wastewater Disposal Rules, 10-
581 144 CMR Ch. 241.

582 [3] Public water. Verification, in writing, is required from the Kittery water district for
583 volume and supply.

584 [4] Wells. Verification of the potable water supply for private wells is required. Tests of
585 the existing well or proposed well, if applicable, must indicate that the water supply
586 is potable and acceptable for domestic use and must conform to the
587 recommendations included in **01-672 C.M.R. ch. 10, section 10.25(J), Land Use**

588 Districts and Standards, the "Manual for Evaluating Public Drinking Water
589 Supplies, Public Health Service No. 1180 (1969)."

- 590 (f) ~~Parking. Each accessory dwelling unit must have one on-site parking space in~~
591 ~~addition to the parking for the primary dwelling unit. Tandem parking is permitted.~~

592 No additional parking space is required for the accessory dwelling unit but the
593 primary dwelling unit must have on-site parking.

- 594 (g) Private road or right-of-way access. Where an applicant seeks to locate an accessory
595 dwelling unit on a privately maintained road or right-of-way the following applies:

- 596 [1] Applicant must submit written consent from the road or homeowner's association or
597 owner and parties responsible for street maintenance.

598 (2) Unit standards.

- 599 (a) Unit size. The size of an accessory dwelling unit must meet the minimum size for a
600 dwelling unit as set by building code standards adopted and amended from time to
601 time by ~~Maine's Bureau of Building Codes and Standards~~ Technical Building code
602 and Standards Board, pursuant to 10 M.R.S. § 9722, and be no larger than 1,000
603 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory
604 dwelling unit may be no greater than 80% of the size of the principal dwelling unit,
605 as measured in square feet. An accessory dwelling unit may have no more than two
606 bedrooms.

- 607 (b) Unit location.

- 608 [1] An accessory dwelling unit must meet one or more of the following conditions:

- 609 [a] Be fully constructed within the existing footprint of any legal residence or accessory
610 building; or

- 611 [b] Share a common wall with the principal residence, providing yard setbacks per
612 § 16.5.3D(2)(a); or

- 613 [c] Be constructed as a new accessory building containing an accessory dwelling unit,
614 providing yard setbacks can be met for the zone.

- 615 [2] Accessory dwelling units will be allowed to be fully constructed within the principal
616 residence even if the building does not meet yard setbacks.

- 617 [3] Accessory dwelling units will not be allowed in accessory buildings encroaching on
618 yard setbacks.

- 619 (3) Use standards. The accessory dwelling unit may not be rented to the same person or
620 party for less than a thirty-day period.

- 621 (4) Development standards. Should an accessory dwelling unit fail to meet the
622 applicable unit standards listed in this article, the accessory dwelling unit may still
623 be allowed if the applicant obtains approval from the Board of Appeals under the
624 provisions of a miscellaneous variation request, as outlines in § 16.2.12. The Board
625 of Appeals shall review any appeal decision in conformance with § 16.2.12F, Basis
626 for decision.

- 627 (5) Violations. A violation of the use standard § 16.5.3D(3) will lose the certificate of
628 occupancy for the unit for no less than 30 days, and be assessed a penalty of \$500.

629 **12. Amend §16.5.18 Net residential acreage as follows:**

- 630 A. Purpose. Net residential acreage is used to determine the maximum number of dwelling

631 units allowed on a parcel that is ~~subject to subdivision~~ located outside of targeted
632 growth areas identified in the Comprehensive Plan. The total number of dwelling
633 units allowed is equal to the net residential acreage divided by the minimum land area
634 per dwelling unit for a given land use zone.

635 **B. Applicability. Applies to development of land located in limited growth areas as**
636 **designated in the Comprehensive Plan. Development of parcels located in growth**
637 **areas are subject to provisions for lot area as defined in Chapter 16.3 for**
638 **calculating lot area, lot coverage, or unit density.**

639 ~~B.~~ **C.** Net residential acreage calculation. To calculate net residential acreage, the land
640 area listed below must be subtracted from a parcel's gross area. Where land areas to be
641 subtracted overlap, the area therein is subtracted once.

- 642 (1) All land located below the highest annual tide elevation as published in the Maine DEP
643 Highest Annual Tide (HAT) levels for the most-current year.
- 644 (2) All land located within the floodplain as defined in the definition of "flood, 100-year" in
645 Chapter **16.3**.
- 646 (3) All wetlands as defined in the definition of "wetland" in Chapter **16.3**, as well as vernal
647 pools, ponds, lakes, streams and other water bodies, including 50% of the associated
648 setbacks described in other buildings and structures, Table 16.5.30, Chapter **16.5** of this
649 title.
- 650 (4) All land located on filled tidal lands, per the definition of "tidal land, filled" in Chapter
651 **16.3**.
- 652 (5) All land located within existing rights-of-way and other existing easements wherein
653 dwelling units cannot be built.
- 654 (6) All land located within proposed rights-of-way, including parking and travel ways.
655 Driveways are excluded.
- 656 (7) All land isolated from the principal location for development on the parcel by a
657 road/street, existing land uses, or any physical feature, natural or man-made, such that it
658 creates a barrier to the central development of the site and no means of access is
659 proposed nor likely to be provided in the future. However, to demonstrate that identified
660 isolated land may be considered developable for the purpose of this calculation, the
661 applicant must submit a plan and supporting documentation for the Board's
662 consideration.
- 663 ~~(8) All land zoned commercial (C 1, C 2, or C 3).~~
- 664 (9) All land one acre or more of contiguous area with sustained slopes of 20% or greater.
- 665 (10) All land identified as exposed bedrock, and soils with a drainage class of "poorly
666 drained" and/or "very poorly drained" as defined in the definition of "soils" in Chapter
667 **16.3**.
- 668 (11) Fifty percent of all land characterized as drainage class of "somewhat poorly drained,"
669 unless public sewer is used, in which case no land area is subtracted.
- 670 (12) All land area within a cemetery and burying ground as defined in Chapter **16.3**,
671 including associated setback per 13 M.R.S.A. § 1371-A, Limitations on construction
672 and excavation near burial sites.
- 673 (13) All land within a Commercial Fisheries/Maritime Uses Overlay Zone or Resource
674 Protection Overlay Zone not included in Subsection **B(12)** above.

675 C. Documentation. The net residential acreage calculation must be supported by verifiable
676 information and accurate data and be shown on the subdivision plan or other plan when
677 applicable.

678 ~~D. Exemptions to net residential acreage calculations.~~

679 ~~(1) The maximum number of dwelling units for residential development not subject to~~
680 ~~subdivision is based on minimum land area per dwelling unit defined in Chapter 16.3,~~
681 ~~Definitions, of this title.~~

682 ~~(2) The creation of dwelling units subject to subdivision within existing buildings that are~~
683 ~~connected to Town sewer and are located in the Mixed Use Kittery Foreside, Mixed~~
684 ~~Use Badgers Island, Residential Village, Business Local, or Business Local 1 Zones~~
685 ~~are exempt from the net residential acreage calculations in § 16.5.18A. The total number~~
686 ~~of dwelling units permitted is determined by dividing the gross lot area by the minimum~~
687 ~~land area per dwelling unit allowed in the zone. The exemption is allowed in the above~~
688 ~~base zones when subject to the Shoreland Overlay Zone.~~

689 ~~(3) The Mixed Use Neighborhood Zone (MU-N) and certain residential uses in the C-1 and~~
690 ~~C-3 Zones as noted in §§ 16.4.19 and 16.4.21 are exempt from § 16.5.18, Net residential~~
691 ~~acreage calculation, but are subject to the minimum land area per dwelling unit as~~
692 ~~defined in Chapter 16.3, Definitions, except that 50% of all wetlands may be subtracted,~~
693 ~~rather than 100%.~~

694

695

696 **13. Amend §16.7.2 Applicability (Site Plan Review) as follows:**

697 A. A person who has right, title, or interest in a parcel of land shall obtain site plan approval
698 prior to commencing any of the following activities on the parcel, including contracting or
699 offering for the conveyance regulated activity permit for any structure within the
700 development is issues, or undertaking work on any improvements, including installation of
701 roads or utilities or land clearing.

702 (1) The construction or placement of any new building or structure for a nonresidential
703 use, including accessory buildings and structures, if such buildings or structures have a
704 total area for all floors of all structures of 1,000 square feet or more measured
705 cumulatively over a five-year period.

706 (2) The expansion of an existing nonresidential building or structure, including accessory
707 buildings, if the enlargement increases the total area for all floors within a five-year
708 period by more than 20% of the existing total floor area or 1,000 square feet,
709 whichever is greater.

710 (3) The conversion of an existing building in which 1,000 or more square feet of total floor
711 area are converted from residential to nonresidential use.

712 (4) The establishment of a new nonresidential use even if no buildings or structures are
713 proposed, that involves the development of more than 25,000 square feet of land. This
714 includes uses such as gravel pits, cemeteries, golf courses, and other nonstructural
715 nonresidential uses.

716 (5) The conversion of an existing nonresidential use, in whole or in part, to another
717 nonresidential use if the new use changes the basic nature of the existing use such that
718 it increases the intensity of on- or off-site impacts of the use subject to the standards

- 719 and criteria of site plan review described in this chapter.
- 720 (6) The construction of a residential building containing three or more dwelling units.
- 721 (a) Development proposing three or four dwelling units is permitted through
- 722 minor site plan review;
- 723 (b) Development proposing five or more dwelling units is permitted through
- 724 major site plan review;
- 725 (7) The modification or expansion of an existing residential structure that increases the
- 726 number of dwelling units in the structure by three or more in any five-year period.
- 727 (8) The conversion of an existing nonresidential building or structure, in whole or in part,
- 728 into three or more dwelling units within a five-year period.
- 729 (a) Development proposing three or four dwelling units is permitted through
- 730 minor site plan review;
- 731 (b) Development proposing five or more dwelling units is permitted through
- 732 major site plan review;
- 733 (9) The cumulative development of an area equal to, or greater than, one acre within any
- 734 five-year period. The applicability of this chapter does not include the construction of
- 735 streets that are reviewed as part of a subdivision application.
- 736 (10) Marijuana businesses and medical marijuana registered caregiver home establishments.
- 737 B. Other development review. Unless subject to a shoreland development plan review or right-
- 738 of-way plan per § 16.7.3A, the following do not require Planning Board approval:
- 739 (1) Single and duplex family dwellings.
- 740 (2) Division of land into lots (i.e., two lots), which division is not otherwise subject to
- 741 Planning Board review as a subdivision.
- 742 (3) Business use as provided in § 16.4.26C(13).
- 743 (4) Small-scale ground-mounted solar energy systems below or equal to 1,000 square feet
- 744 in area. [Added 4-11-2022]
- 745 (5) Multifamily 2-4 “Limited” dwellings (attached or detached)
- 746
- 747
- 748
- 749