



TOWN OF KITTERY

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

KITTERY TOWN COUNCIL

October 14, 2020

6:00PM

The public may submit public comments for the DISCUSSION agenda item via email, US Mail, or by dropping written comments in the Drop Box outside the Town Hall entrance. Emailed comments should be sent to TownComments@kitteryme.org.

The public may also participate in the meeting via Zoom webinar. **Register in advance for the webinar at** https://us02web.zoom.us/webinar/register/WN_dAKMjWXiS7mdAc5PNQXcOQ

After registering, you will receive a confirmation email containing information about joining the webinar. Webinar participants will be able to submit questions and comments during a public hearing.

Comments received by **noon on the day of the meeting** will become part of the public record and may be read in whole or in summary by the Council Chair.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes
8. All items involving the town attorney, town engineers, town employees or other town consultants or requested offices.

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.

9. PUBLIC HEARINGS

- a. (100120-1) The Kittery Town Council moves to hold a public hearing on Title 3 – Proceeds from the Sale of Tax-Foreclosed Properties.
- b. (100120-2) The Kittery Town Council moves to hold a public hearing on Title 4 – Kittery Housing Committee.
- c. (100120-3) The Kittery Town Council moves to hold a public hearing on Title 16 – Affordable Housing.
- d. (100120-4) The Kittery Town Council moves to hold a public hearing on the establishment of an Affordable Housing Fund.
- e. (100120-5) The Kittery Town Council moves to hold a public hearing on Title 6 – Animal Control – Phase 1.

10. DISCUSSION

- a. The public may submit public comments in writing or raise their hand in the webinar for the DISCUSSION agenda.
- b. Chairperson will read written comments into the record.
- c. Chairperson's response to public comments.

11. UNFINISHED BUSINESS

12. NEW BUSINESS

- a. Donations/gifts received for Council disposition

13. COUNCILOR ISSUES OR COMMENTS

EXECUTIVE SESSION –

- a. (100120-6) The Kittery Town Council moves to go into Executive Session to complete the Town Manager's annual review.

14. ADJOURNMENT

Posted: October 8, 2020

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.



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

kamaral@kitteryme.org

Town Manager's Report to the Town Council October 14, 2020

1. **Election** – As of October 8, approximately 3,600 absentee ballots have been requested and approximately 1,000 have been returned. The Town Clerk's office has a new secure ballot drop box available outside of Town Hall. Voters may drop their completed ballots in the drop box, no postage needed.

Absentee ballots may be requested up to election day. To request an absentee ballot or vote absentee please contact the Clerk's Office at 207-475-1313.

2. **Halloween** – Trick or Treating will be allowed in Kittery this year, with the strong recommendation that residents celebrate safely, follow CDC guidelines, and avoid high risk activity such as traditional trick-or-treating where treats are handed out door-to-door. Trick or treating occurs on October 30.

We are working on planning some community activities that will offer safe alternatives for families to celebrate Halloween. More information will be available in the coming days.

3. **Foreside Outdoor Dining** – The jersey barriers will be removed from the Foreside the week of November 2nd to make the road safe for winter snow and ice operations. We are in talks with the businesses to propose additional temporary parking changes that support increased curbside pickup during the winter months.

The reaction to the outdoor dining throughout town has been generally very positive. Staff are in the process of drafting a proposal to amend Title 16 and Title 5 to allow outdoor dining as a seasonal option going forward.

Upcoming Dates:

- Absentee Ballots Available – Town Clerk
- Voter Registration Night – October 28, 6PM – 8PM, Town Hall
- Presidential/State/Local Election – November 3, 8AM to 8PM, Kittery Community Center

Respectfully Submitted,

Kendra Amaral
Town Manager



TOWN OF KITTERY
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REPORT TO TOWN COUNCIL

Meeting Date: September 28, 2020
UPDATE: Workshop October 5, 2020, October 14, 2020
From: Kendra Amaral, Town Manager
Subject: Affordable Housing Package
Sponsor: Vice Chairperson Matthew Brock

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.

Minor updates to the language have been made to address typos and minor inconsistencies.

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
- 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 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** dwelling units. 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.

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

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

16.12.4 Location

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

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

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

16.12.5 Incentives

A. Zoning districts having density incentives may be reviewed under the pertinent zone located in §16.3 Land Use Zone Regulations.

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

1) For developments comprised of 10% – 15% affordable housing units: 10% off total permitting costs except for sewer connection fees.

2) For developments comprised of 16% – 24% affordable housing units: 15% off total permitting costs except for sewer connection fees.

3) For developments comprised of 25% and over affordable housing units: 20% off total permitting costs except for sewer connection fees.

16.12.6 Standards

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

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

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

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

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

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

16.12.7 Eligibility and Restrictions

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

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

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

B. Affordable housing units that will be leased must be:

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

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

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

16.12.8 Marketing and Pricing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Use the formula below to calculate the monthly rent:

0.30 x (annual income based on minimum household size/12) minus utilities = affordable rental unit rent.

F. The Town Manager or designee, with recommendation from the Affordable Housing Committee, may modify the requirements in 16.12.8 as needed to advance Kittery's affordable housing goals and objectives.

16.12.9 Supplemental Standards for Approval

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

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

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

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

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

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

2. ADD definitions to §16.2 as follows:

AFFORDABLE

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

AFFORDABLE HOUSING UNIT

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

AFFORDABLE HOUSING FOR RENT

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

in the HUD York-Kittery-South Berwick Metro Fair Market Area (HMFA) median income figures for a household of that size.

AFFORDABLE HOUSING FOR SALE

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

COTTAGE CLUSTER

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

DISTRIBUTION CENTER

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

FULFILLMENT CENTER

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

IMPERVIOUS SURFACE

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

SHOPPING FULFILLMENT CENTERS

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

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

DWELLING UNIT

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

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

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

A. Purpose.

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

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

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

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

To reflect the differing character of various parts of the commercial areas, it is divided into three zones 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

(24) Where the standards or requirements for the zones vary, the provisions for the zone in which the 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:

(1) C-1 permitted uses.

(w) Dwelling, two-family.

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

(3) C-3 permitted uses.

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

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

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

(d) Business and professional offices;

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

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

299 (aa) Dwelling, two-family.

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

300 (1) C-1 special exception uses.

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

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

304 (~~eb~~) Funeral home;

305 (~~dc~~) Place of assembly, including theater;

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

307 (~~fe~~) Warehousing and storage;

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

310 (~~hg~~) Research and development;

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

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

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

320 (~~lk~~) Temporary, intrafamily dwelling unit;

321 (~~m~~) ~~New motor vehicle sales;~~

322 (~~nl~~) Mechanical services, excluding junkyard; ~~and~~

- 323 ~~(m)~~ Aquaculture;
- 324 ~~(n)~~ Cottage cluster;
- 325 ~~(o)~~ Dwelling, attached single-family;
- 326 ~~(p)~~ Dwelling, multifamily; and
- 327 ~~(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:

- 328 (3) C-3 special exception uses.
- 329 ~~(a) —Used car lot not connected with new car sales;~~
- 330 ~~(b)~~ Gasoline sales if: i) not located within 1,000 feet of an existing station or private residence; and ii)
- 331 not located within 150 feet of an existing structure;
- 332 ~~(c)~~ Funeral home;
- 333 ~~(d)~~ Place of assembly, including theater;
- 334 ~~(e)~~ Transportation terminal excluding truck stops;
- 335 ~~(f)~~ Warehousing and storage;
- 336 ~~(g)~~ Mini storage not located within 2,000 feet from an existing mini storage facility located in the same
- 337 zoning district;
- 338 ~~(h)~~ Research and development;
- 339 ~~(i)~~ Manufacturing operations that conform to the provisions of § 16.1.3.2.2 and Chapters 16.8 and 16.9;
- 340 ~~(j)~~ Repair garages not located within 150 feet of a private dwelling or existing structure;
- 341 ~~(k)~~ Buildings and structures over 40 feet that conform to the provisions of Chapters 16.8 and 16.9.
- 342 Buildings and structures, other than multifamily dwellings and dwelling units as part of a mixed-use
- 343 building in the C-3 Zone, west of Route 1, which are taller as allowed in 16.3.2.11.D (2)(e), higher
- 344 than 40 actual feet from the lowest point of grade to the highest point of the building or structure
- 345 must have side, rear and front yards of sufficient depth to adequately protect the health, safety and
- 346 welfare of abutting properties, and which may not be less than current standards or 50% of actual
- 347 height, whichever is greater;

348 (k) Temporary, intrafamily dwelling unit;

349 (m) Commercial greenhouses;

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

352 (o) Shops in pursuit of trade; ~~and~~

353 (p) Construction services;

354 (o) Cottage cluster;

355 (p) Dwelling, attached single-family;

356 (q) Dwelling, multifamily; and

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

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

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

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

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

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

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

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

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

10. AMEND §16.3.2.11.D standards as follows:

366 D. Standards.

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

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

372 (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>		

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

376 (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>

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

382 (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>

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

(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>

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

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

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

(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>		

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

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

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

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

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

[1] Is 70%; or

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

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

[1] Is 60% or

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

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

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

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

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

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

(i) Affordable housing requirements:

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

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

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

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

(l) Cottage cluster requirements:

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

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

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

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

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

(a) Design standards.

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

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

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

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

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

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

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

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

(b) Open space standards.

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

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

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

(c) Parking standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Landscaping and screening

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

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

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

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

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

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

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

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

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

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

(e) Buffers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) C-2 Zone standards.

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

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

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

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

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> (Aisle Width)	
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	TBD 16.0	12	18 19
Diagonal	45	8	16	TBD 17.0	TBD 5.7	13 5	18 20
Diagonal	46 to 60	8	16	TBD 17.8	TBD 6.9	18	18 20
Perpendicular	61 to 90	8	16	TBD 16.0	TBD 8.0	22	22

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

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

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

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

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

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

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

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

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

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

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

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

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

Attest: {NAME}, _____ Town Clerk

**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:

§ 3.2.10 Disposal of property.

A. All municipally owned property, real or personal, must be disposed of either by:

(1) Trade-in on purchase of new equipment. Any item that is offered as a trade-in must also be offered for sale by competitive bid. The higher amount of the two (trade-in allowance or bid) must be accepted;

(2) Sealed bids; or

(3) Auction.

B. Monies Received from the disposal of property.

(1) Real Property Obtained Through Tax Foreclosure: Unless otherwise requested by the Town Manager and so directed by the Council, monies received from the disposal of real property obtained through tax foreclosure, pursuant to Subsection A(2) and (3), must be credited to the housing reserve fund, net of taxes owed on the property, fines and fees associated with the foreclosure and sale of the property, and any and all municipal fines and fees associated with the property.

(2) Personal Property: Unless otherwise requested by the Town Manager and so directed by the Council, monies received from the disposal of personal property pursuant to Subsection A(2) and (3) above must be credited to the vehicle or equipment reserve fund revenue account designated as the current vehicle or equipment fund used by the department for which it was purchased.

(3) Other Property: Unless otherwise requested by the Town Manager and so directed by the Council, all other monies received from the disposal of property, real or personal, must be credited to the undesignated reserve fund, net of any fines, fees, or taxes associated with the property or its disposal.

C. This chapter does not apply to disposal of:

(1) Items commonly termed refuse, waste or trash;

(2) Recycled material emanating from the solid waste facility;

(3) Compost or sludge materials developed by treatment of sewage;

(4) Interdepartmental transfers approved by the Town Manager; or

(5) Property whose estimated value is less than \$100.

D. The above procedure must be followed at all times unless prior approval is obtained from the Town Council.

KITTERY TOWN CODE
TITLE 3
DISPOSAL OF TAX FORECLOSURE PROPERTY

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

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

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

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

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

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

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

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

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

22 § 4.18.3 Membership

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

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

KITTERY TOWN CODE
TITLE 4
KITTERY HOUSING COMMITTEE

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

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

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

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

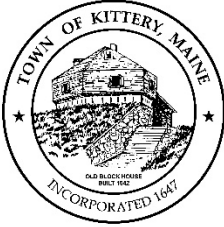
WHEREAS, the Kittery Town Council seeks to create a committee to seek options to make Kittery more affordable, to research and advance policies and initiatives that will result in an increase in affordable housing supply for a wide array of residents, and to recommend uses for the Housing Reserve Fund;

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

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

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

Attest: {NAME}, _____ Town Clerk



ESTABLISHMENT OF A HOUSING RESERVE FUND

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

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

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

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

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

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

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

Motion to approve made by Councilor _____ and seconded by Councilor _____

_____, and passed by a vote of _____ on the _____ day of _____

_____, 2020.



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: February 10, 2020
UPDATED: March 9, 2020, June 8, 2020, August 17, 2020, September 9, 2020,
September 28, 2020, October 14, 2020
From: Kendra Amaral, Town Manager
Subject: Title 6 – Animal Control
Councilor Sponsor: Chairperson Judy Spiller

The Town Council requested proposed revisions to Title 6 that reflect and respond to the discussion at the Council/Parks Commission workshop in December.

The revisions build upon the amendment proposal presented by Councilor Denault in July 2019. That version contained a number of improvements to address voice control, impounding, and consolidating animal regulations into one Title. Additional amendments reflect the input of our new Animal Control Officer Robert Byrnes and Police Chief Richter.

The community has been discussing dogs at town parks for years. The challenge continues to lie in balancing the various wants and needs at our parks. The Parks Commission has studied the matter in depth, conducted surveys, and participated in multiple workshops with the Council. There is no one answer that will satisfy all those interested in this matter.

There will always be a challenge of resource allocation for the enforcement of ordinances like these, where the offending party has to be witnessed by an Officer in the act of violating the ordinance. We have one full-time animal control officer. Therefore, it must be acknowledged that the proposed ordinance revisions will improve the tools available to the Animal Control Officer in enforcement, but they will not automatically eliminate all dog waste, unwanted dog contact at our parks, and other animal related complaints.

The attached proposal includes some options that may be too restrictive, particularly for the beaches and Fort Foster. This is intentional and done to facilitate the effort to move the debate forward.

Below is a description of some of the major amendments proposed. Adjustments to the proposed amendments have been made to reflect Councilor feedback. Further adjustments were made to address the yet unresolved feral cat issue, highlighted in yellow.

Dog Waste

Closes the loophole on the bagged waste being left along the entrance roads and areas of Fort Foster, Seapoint, and other popular parks. ACO Byrnes identified that the current language does not expressly prohibit this practice.

Control of Dogs at Public Parks

Limits the number of dogs one person is responsible for at a time, and the number of dogs one person can have off leash and under voice control at a time, while on public property. It is expected these limitations should help reduce the number of incidents of unwanted dog contact and uncollected dog waste at our parks.

The revised proposal does not include a limitation on the number of dogs one person is responsible for off leash at a time.

Prohibition/Restrictions of dogs at various parks

Multiple options were given for the Council to consider regarding dog access at popular parks. They ranged in impact/restrictiveness and were proposed to facilitate discussion.

The staff recommend having consistent regulations for Fort Foster and Seapoint and Crescent beaches to avoid confusion.

The current version removes all proposed amendments to Fort Foster, Seapoint and Crescent beaches, and Rogers Park.

Welfare

ACO Byrnes has noted that state statute already grants him authority to address animal welfare relative to prolonged tethering and animals exposed to prolonged weather conditions. However, two Councilors expressed interest in having the ordinance cover animal welfare/cruelty.

Fines

Focuses on a single rate for the fine rather than a graduated approach for all violation except disturbing the peace. The ACO would also like codified that he can issue a No Trespass order to address repeat offenders.

Other Titles

Refers animal control back to Title 6 for Fort Foster, Seapoint and Crescent Beaches, and Town Farm. Rogers Park already refers directly back to Title 6.1. The proposed also corrects the Title of Town Farm to Town Farm Forest (unrelated to animal control).

Public Comment

Due to COVID related precautions on in-person Council meetings, the Town has been receiving written public comment for Council meetings and public hearings through its "Town Comments" email. Attached are the comments received from June through September 3. Any additional comments received by noon of September 9 will be uploaded to the online packet prior to the public hearing.

In reviewing the comments, a few patterns appear to emerge. Based on a high-level scan of the comments, approximately:

-
- 33% are solely expressing opposition to “banning dogs” at Seapoint and/or Fort Foster. Generally, there was no reference in the comments to Kittery’s existing animal control ordinances or the proposed ordinance amendments being considered.
 - 28% oppose “banning dogs” at Seapoint and/or Fort Foster and recommend existing ordinances remain unchanged.
 - 37% oppose “banning dogs” at Seapoint and/or Fort Foster and encourage the Council look at enacting “other” restrictions instead. The specific comments ranged from proposing:
 - o restrictions currently in place
 - o the restrictions currently being considered by the Council
 - o different restrictions than currently being considered by the Council
 - o waste receptacles
 - 2% vary including supporting “banning dogs” at Seapoint and/or Fort Foster, and other related or unrelated animal control topics.

The comment analysis was not in depth and involved scanning the text of the comments and attempting to sort them into a few broad categories:

- General “don’t ban dogs”
- Keep Current Restrictions
- Consider Different Restrictions
- Other

The purpose of the analysis was simply to provide some at-a-glance info that may be useful as the Council considers each comment specifically.

Public comments packet has been updated to include emailed comments received through September 23, 2020.

PROPOSED SOLUTION/RECOMMENDATION

Hold a public hearing on the amendments and determine which amendments proposed are acceptable to the community for approval.

ATTACHMENTS

- Proposed Title 6 – Animal Control – Phase 1
- Proposed Title 6 - Animal Control - Enactment

Title 6 Animal Control

AMEND Title 6 as follows:

Title 6.1 ~~Dogs~~Animal Control

§ 6.1.01 Conflict with other laws.

~~If in conflict with any section of this chapter, the provisions of Chapter 12.4 (Seapoint/Crescent Beaches) or Chapter 12.5 (Fort Foster) will apply.~~ In the event of any conflict in the provisions of this article with the provisions of any present or future statute relating thereto, the most restrictive or that imposing the higher standards governs.

§ 6.1.~~1~~2 Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section.

ANIMAL CONTROL OFFICER Includes municipal police officer.

AT LARGE Off the premises of the owner, unless:

- A. Controlled by a leash, ~~cord or chain of not more than eight feet in length;~~
- B. Within a vehicle or under restraint in an open vehicle being driven or parked on a public way; or
- C. Under ~~the control of a person whose personal presence and attention would control the conduct of the dog.~~ Voice Control.

LEASH A cord or chain not more than 10 feet in length.

OWNER Any person keeping or harboring a dog or other animal.

PET Any animal domesticated to serve as a companion, excluding service dogs.

RESPONSIBLE PARTY Any person who has possession, custody, or control of an animal.

VOICE CONTROL An animal under control of the responsible party by voice command such that the animal returns immediately to the responsible party upon calling, and remains by their side ~~and in sight.~~

§ 6.1.~~2~~3 ~~Applicability to visiting nonresidents~~License required.

No dog may be kept within the Town unless licensed by its owners in accordance with applicable state statutes of the owners' resident state. ~~The licensing provisions of this chapter do not apply to any dog belonging to a nonresident visiting within the Town without the intention of becoming a resident, but the owner of such dog must comply with the remaining provisions of this chapter.~~

Proof of current dog license must be provided to the animal control officer upon request.

§6.1.4. Control of pets on public property.

A. No pet is allowed to be at large, as defined above, on any public property, or on private property without the consent of the property owner. This section does not prohibit the owner from using a

dog for hunting, where hunting is permitted, provided the dog is under the voice control of its owner.

B. No dog is allowed to ~~approach within ten (10) feet or~~ have contact with of any person other than the owner or responsible party unless such person has communicated to the owner or responsible party, by word or gesture, their consent to be approached by the dog.

C. Owners must immediately collect and properly dispose of or secure feces left by their pet(s) on any improved portion of public ways or sidewalks, and in public parks. Owners or responsible parties must maintain possession of their pet's feces while on public property.

D. No person may be a responsible party for more than 3 dogs at any time while in a Town park.

E. Dogs must be on a leash at all times when on public ways or sidewalks.

F. John Paul Jones Park

1. Dogs are prohibited at all times.

G. All Playing Fields in Kittery

1. Dogs are prohibited at all times.

§ 6.1.5 Menacing activity.

The owner of ~~an~~ animal not confined on private property or not in a vehicle may not permit that animal to menace or bite any person.

§ 6.1.3-6 Right of entry to inspect ~~license, dog.~~

For the purpose of discharging the duties imposed by this chapter and to enforce the provisions of this chapter, ~~any the~~ animal control officer is empowered, with the consent of the owner or occupant thereof, to enter upon any premises on which ~~an dog animal~~ is kept or harbored, and ~~to~~ demand the exhibition by the owner ~~of the dog and of~~ the license ~~of such~~ if the animal is a dog.

§ 6.1.4-7 Hindering officers, improperly releasing dogs prohibited.

No person may interfere with, hinder or molest ~~any the~~ animal control officer in the performance of the officer's duty or seek to release any ~~dog pet~~ in the custody of ~~an the~~ animal control authority, except as provided in this chapter.

§ 6.1.5-8 Record to be kept by animal control officer; contents.

It is the duty of ~~an the~~ animal control officer to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all ~~dogs animals~~ coming into the officer's custody.

~~§ 6.1.6 License required.~~

~~No dog may be kept within the limits of the Town unless such dog has been licensed by its owner in accordance with the statutes of the state.~~

§ 6.1.7-9 Impoundment authorized.

Unlicensed dogs, wherever found, or dogs and other pets found running at large ~~will may~~ be taken by ~~an the~~ animal control officer and impounded in an animal shelter. Such animal may be confined for a period of not fewer than 10 days unless earlier reclaimed under the provisions of § 6.1.911.

§ 6.1.~~8-10~~ **Impoundment fees.**

Any ~~dog-pet~~ impounded in accordance with this chapter may be reclaimed upon payment of the total fees for board. This fee is paid to the keeper of the animal.

§ 6.1.~~9-11~~ **Disposition of impounded ~~dogpet~~, notification of impoundment.**

A. A ~~dog-pet~~ owner may reclaim an impounded ~~dog-pet~~ upon compliance with ~~§ 6.1.6 and~~ licensing as applicable, upon payment of assessed fines and the boarding fees set forth in § 6.1.~~810~~. Any ~~dog-pet~~ impounded under the provisions of this chapter and not claimed by the owner within the ten-day period is considered abandoned by the owner and the property of the animal shelter. The ~~dog-animal~~ may be given, after consultation with the Humane Society and/or the Animal Refuge League, to the Humane Society or the Animal Refuge League, any no kill shelter, or to any person deemed to be responsible and a suitable owner, who will agree to comply with the provisions of this chapter or humanely destroy the animal.

B. Where the ownership of an impounded ~~dog-pet~~ is known, or can be reasonably ascertained by ~~an-the~~ animal control officer, such officer shall, if possible, notify the owner within three days of such impoundment, but failure to give such notice does not impose any liability upon the Town for the destruction or transfer to another of any ~~dog-pet~~ so impounded and not reclaimed within the required period.

C. Where the ownership of an impounded pet cannot be reasonably ascertained, the animal control officer shall post in the Town Hall, on the Town website, and at the Kittery Community Center, for seven (7) days, a notice giving a description of the pet, where it was impounded, and how it may be recovered.

§ 6.1.~~10-12~~ **Disposition of dog biting person.**

Whenever any dog bites a person, the owner of such dog must immediately notify ~~an-the~~ animal control officer, who may order the dog held on the owner's premises or have it impounded for a period of ~~two-2~~ weeks. The dog must be examined immediately after it has bitten any person and again at the end of the two-week period. If at the end of the ~~two-2~~ weeks a veterinarian is convinced that the dog is then free from rabies, the dog is released from quarantine or from the pound, as the case may be. If the dog dies within the period, ~~its head must be sent to~~ the State Department of Health must be notified to perform a ~~for~~ rabies examination.

§ 6.1.~~11-13~~ **Disturbing the peace.**

No owner or responsible party may keep or maintain a pet which creates a nuisance by continued or repeated barking, howling, yelping, or making of other loud or unusual noises for a half hour or intermittently for two hours, and can be heard at or beyond the boundary of the property on which the pet is located. ~~No person owning any dog may suffer or permit such dog to disturb the peace and quiet of the neighborhood by continuous barking, by making other loud or unusual noises, or by running through or across cultivated gardens or fields.~~

~~§ 6.1.12 Running at large prohibited.~~

~~No dog is permitted to run at large within the limits of the Town; however, this section does not prohibit~~

~~the owner of a dog from using such dog for hunting, provided the dog is under the control of its owner.~~

~~§ 6.1.13 Animal waste.~~

~~It is a violation of this chapter for any owner of a dog to fail to remove and properly dispose of feces left by his or her dog(s) on any improved portion of public ways or sidewalks.~~

§ 6.1.14 Proper shelter, protection from the weather and humanely clean conditions.

A. Dogs may not be tethered for periods of time exceeding 24 consecutive hours, unless otherwise permitted by state law.

B. Dogs may not be tethered outside without proper shelter in temperatures 32 degrees Fahrenheit or lower, or 95 degrees Fahrenheit or greater, for more than 30 minutes, unless otherwise permitted by state law.

§ 6.1.14 Feral Cats

No person may feed or shelter a feral cat or feral cat colony.

A person found providing food or shelter for a feral cat will be deemed the responsible party of that cat and/or that cat's colony. The responsible party for feral cats and cat colonies will be required to trap and spay or neuter the cat(s).

§ 6.1.14-15 Violations and penalties.

Any violation of this chapter will be assessed a penalty under Title 1, Chapter 1-3 of \$50.00, except violations of §6.1.13 Disturbing the Peace will be assessed a penalty of \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for each offense thereafter.

Repeat offenders and/or those who fail to pay fines in accordance with this Title may be issued a NO TRESPASS order for town parks for one year.

§6.1.16 Review of ordinance.

No later than one year from the date of enacting amendments, the Kittery Town Council will receive a report from the Town Manager on the status of compliance with the ordinance, to determine if additional amendments are necessary.

AMEND Title 12.7 Section 3.C Dogs and correct name of the site to "Town Farm Forest" throughout:

Title 12.7 Town Farm Forest

§ 12.7.1 Title.

The ordinance codified in this chapter is called the "Town Farm Forest Ordinance."

B. "Town Farm Forest" means the site of the former Town farm at 77 Haley Road (see Kittery Tax Map No. 48, Lot No. 7] and includes all land bounded within the following: on the north and west by the land now or formerly of David E. and Ann E. Blake, Harold L. Durgin Trust, Hilda M. Wilson and Brenda E. Lawrence and Lynda W. Clark and Jefferson L. Wilson; on the south and east by land now or formerly of Eugene and Hildred C. Lewis and the estate of Marion F. Lewis; excepting the Central Maine Power Company power line easement going through the property.

140 § 12.7.3 **Restrictions.**

- 141 A. No person may remove, injure or otherwise damage or deface any thing, plant material, sign,
142 marker, bench or structure within the Town Farm Forest. Use of metal detectors or similar devices
143 is prohibited. "Paint-ball" activities and materials are prohibited.
- 144 C. ~~Control of dogs is governed by Chapter 6.1. Dogs must be on a leash at all times unless under the~~
145 ~~control of the owner or keeper. This limitation does not apply to service dogs when used as~~
146 ~~such~~ Dogs are subject to Town Code 6.1 Animal Control.
- 147 D. No person may start or allow to burn any fire within the bounds of the Town Farm Forest.
- 148 F. No person may engage in indecent conduct within the Town Farm Forest. As used in this section,
149 "public indecency" is defined as put forth in Title 17-A, § 854 of the Maine Criminal Code.
- 150 G. No person may drink or consume any alcoholic, spirituous, vinous, fermented or other alcoholic
151 beverage, or combination of liquors and mix liquors within the bounds of the Town Farm Forest.

152 § 12.7.5 **Enforcement.**

153 This chapter is enforced by the Police Department. The Conservation Commission is responsible for the
154 management of the Town Farm ~~forest~~ Forest in accordance with the Town Farm ~~forest~~ Forest
155 management plan duly adopted by the Town Council.

KITTERY TOWN CODE
TITLE 6
ANIMAL CONTROL

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

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

WHEREAS, the Town of Kittery seeks to improve the control of animals for the protection of residents and the use and enjoyment of public property, by addressing animals at-large, animal feces on public property, and nuisance or menacing animals; and

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

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

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

Attest: {NAME}, _____ Town Clerk