



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

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**REPORT TO TOWN COUNCIL**

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Date: March 14, 2022  
Update: April 11, 2022  
From: Kendra Amaral, Town Manager  
CC: Dutch Dunkelberger, Planning Board Chair, Matt Brock, Housing Committee Chair  
Subject: Title 16 – Affordable Housing BL & BL-1 Zones  
Councilor Sponsor: Chairperson Judy Spiller

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**SUMMARY**

Please see the attached report from Adam Causey, Director of Planning and Development.

**PROPOSED SOLUTION/RECOMMENDATION**

Adopt amendment to Title 16 as proposed.

**ATTACHMENTS**

- Staff Memo summarizing the changes and process
- Draft Title 16 – Affordable Housing Business Local (BL) Zone
- Draft Title 16 – Affordable Housing Business – Local 1 (BL-1) Zone
- Draft Title 16 – Affordable Housing Enactment



**TOWN OF KITTERY**  
**Planning and Development Department**  
**200 Rogers Road, Kittery, ME 03904**  
**Telephone: 207-475-1307**

**TO:** KENDRA AMARAL, TOWN MANAGER  
**FROM:** ADAM CAUSEY, DIRECTOR OF PLANNING & DEVELOPMENT  
**SUBJECT:** BUSINESS-LOCAL AND BUSINESS LOCAL-1 ZONES  
**DATE:** MARCH 3, 2022

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This memo outlines the changes being proposed to the B-L and B-L1 zoning districts. For details on these zone locations, please consult the Town's zoning map, available through the Town's on-line GIS here: <https://www.axisgis.com/KitteryME/> . Click "agree" and select Layers on the left and then click the Zoning checkbox.

The intent of these amendments is to encourage and incentivize a variety of housing types, including modestly priced housing for sale or rent, within these zones. The zones currently allow multi-family and/or mixed-use structures, along with various types of commercial uses, but setbacks and density requirements make it difficult to develop housing projects in reality. With these amendments, the Town's affordable housing policy becomes a requirement in these zones, such that any development that includes five or more dwelling units will be required to provide affordable housing or a payment-in-lieu. It is important to note that these changes make a distinction between those areas that are on Town sewer. Areas within these zones that are not connected to public sewer will not be able to take advantage of increased density standards.

Highlights include:

- Multi-family dwellings of 3-4 dwelling units are permitted by minor site plan review
- Density incentive for a mixed-use building that proposes 5 or more units of housing and at least one commercial use on the first floor
- Density incentive for affordable housing
- Setback adjustments
- Reduced parking for studio and one-bedroom dwelling units or affordable units
- Reduced parking if within ¼ mile of public transit stop in the B-L1 zone
- Impervious surface limits replace building coverage limits
- Stormwater standards strengthened
- Landscaping requirements clarified

These amendments have been reviewed by the Housing Committee, the Economic Development Committee, and the Kittery Land Use Issues Committee within the last 18 months with subsequent

suggestions incorporated. The Planning Board reviewed these proposed changes at their February 24, 2022 meeting and voted unanimously to recommend it for adoption by Town Council.

TITLE 16
AFFORDABLE HOUSING
BUSINESS LOCAL ZONE

1. AMEND §16.4.17 Business – Local (B-L) to include affordable housing provisions as follows:

1 16.4.17 Business – Local Zone (B-L)

2 A. Purpose

3 The purpose of the Business – Local B-L Zone is to provide local sales retail, services, and business
4 space as well as a variety of housing types within a walkable context. Much of this zone serves a well-
5 traveled corridor through Kittery with many buildings, including residential structures, oriented within
6 the Town. to Route 1. Other portions of the zone serve as business hubs for the neighborhoods they are
7 situated in.

8 B. Permitted uses

9 The following uses are permitted in the B-L Zone:

- (1) Accessory Dwelling Unit
(2) Dwelling, Attached Single-Family
(3) Dwelling, Manufactured Housing
(4) Dwelling, Multi-Family
a. Development proposing three or four dwelling units are permitted through minor site plan review;
(4)b. Development proposing five or more dwelling units are permitted through major site plan review;
(5) Dwelling, Single-Family
(6) Dwellings Two-Family
(6)(7) Dwelling Units as part of a Mixed-Use Building
(7)(8) Convalescent Care Facility
(8)(9) Nursing Care Facility, Long-term
(9)(10) Residential Care Facility
(10)(11) Accessory Buildings, Structures, and Uses
(11)(12) Home Occupation, Major
(12)(13) Home Occupation, Minor
(13)(14) Day Care Facility
(14)(15) Hospital
(15)(16) Nursery School
(16)(17) Private Assembly
(17)(18) Public Facility
(18)(19) Public or Private School
(19)(20) Religious Use
(20)(21) Recreation, Public Open Space

- 35 ~~(21)~~(22) \_\_\_ Aquaculture
- 36 ~~(22)~~(23) \_\_\_ Commercial Fisheries/Maritime Activities (provided only incidental cleaning and
- 37 cooking of seafood occur at the site)
- 38 ~~(23)~~(24) \_\_\_ Commercial School
- 39 ~~(24)~~(25) \_\_\_ Art Studio or Gallery
- 40 ~~(25)~~(26) \_\_\_ Business & Professional Offices
- 41 ~~(26)~~(27) \_\_\_ Business Service
- 42 ~~(27)~~(28) \_\_\_ Conference Center
- 43 ~~(28)~~(29) \_\_\_ Personal Service
- 44 ~~(29)~~(30) \_\_\_ Restaurant
- 45 ~~(30)~~(31) \_\_\_ Retail Sales (excluding those of which the principal activity entails outdoor sales and/or
- 46 storage and excluding those specifically mentioned under Subsection C of this section)
- 47 ~~(31)~~(32) \_\_\_ Retail Sales, Building Materials & Garden Supply (excluding those of which the
- 48 principal activity entails outdoor sales and/or storage)
- 49 ~~(32)~~(33) \_\_\_ Retail Sales, Convenience
- 50 ~~(33)~~(34) \_\_\_ Specialty Food and/or Beverage Facility
- 51 ~~(34)~~(35) \_\_\_ Mass Transit Station
- 52 ~~(35)~~(36) \_\_\_ Parking Area

53 C. Special exception uses

54 The following uses are permitted as special exception uses in the B-L Zone:

55 (1) Dwellings, cottage cluster

- 56 ~~(1)~~(2) \_\_\_ Motel
- 57 ~~(2)~~(3) \_\_\_ Hotel
- 58 ~~(3)~~(4) \_\_\_ Inn
- 59 ~~(4)~~(5) \_\_\_ Rooming House
- 60 ~~(5)~~(6) \_\_\_ Funeral Home
- 61 ~~(6)~~(7) \_\_\_ Gasoline Service Station
- 62 ~~(7)~~(8) \_\_\_ Public Assembly Area
- 63 ~~(8)~~(9) \_\_\_ Theater
- 64 ~~(9)~~(10) \_\_\_ Public Utility Facility
- 65 ~~(10)~~(11) \_\_\_ Mechanical Service
- 66 ~~(11) Residential Dwelling Units, as part of a mixed-use building~~

67 D. Standards.

68 All development and the use of land in the B-L Zone must meet the following standards. Kittery's  
69 Design Handbook illustrates how these standards can be met. In addition, the design and performance  
70 standards of Chapters §16.5, §16.7 and §16.8 must be met.

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

72 (a) Minimum land area per dwelling unit:

73 [1] If served by on-site sewage disposal: 20,000 square feet;

74 [2] If served by the public sewerage system and:

75 [a] All floors are residential: 3,000 square feet; or

76 [b] When less than five dwelling units are proposed with, at minimum, one  
77 nonresidential use to be located on the first floor facing State Road or Route 1  
78 Bypass such that the use will be visible from the street:3,000 square feet. Such a  
79 nonresidential use or uses need not occupy the entire first floor but must be an  
80 independent nonresidential use, e.g., not a home office marketed with a dwelling  
81 unit as a work/live unit.

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

88 [d] 25% or more of the dwelling units will be affordable housing units as defined by  
89 this code: 2,000 square feet.

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

91 ~~(b)(1) Parking. One row of parking spaces and a related access drive may be located between the~~  
92 ~~front property line and the front wall of the building extending the full width of the lot. All~~  
93 ~~other parking must be located to the side and/or rear of the building. All new or revised~~  
94 ~~parking must be visually screened through the use of landscaping, earthen berms and/or~~  
95 ~~fencing from adjacent public streets or residential properties. (See the Design Handbook for~~  
96 ~~appropriate examples.)~~ Parking requirements are to be met on site. If meeting the parking  
97 requirements is not possible, the parking demand may be satisfied off site or through joint-  
98 use agreements as specified herein. Notwithstanding the off-street parking requirements in §  
99 16.7.11.F(4), minimum parking requirements for the uses below are modified as specified:

100 [1] Dwelling units: 1.5 parking space per dwelling unit; unless:

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

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

107 [2] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of  
108 the parking may be designated for compact cars. See § 16.7.11.F.(4) Off-Street Parking  
109 Standards.

110 [3] Electric car charging stations are allowed and encouraged in parking lots but must not  
111 interfere with pedestrian movement on sidewalks.

112 (c) Off-site parking. Required off-street parking may be satisfied at off-site locations, provided  
113 such parking is on other property owned by the applicant or is under the terms of a contractual  
114 agreement that will ensure such parking remains available for the uses served. Applicant  
115 must present evidence of a parking location and a contractual agreement prior to final

116 approval and file the same with Planning and Code office each time the contract is renewed.  
117 Any changes to the contractual agreement must be reviewed by the Code Enforcement  
118 Officer and if the location of the off-site parking changes, will require approval from the  
119 municipal permitting authority which originally approved the off-site parking.

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

126 [1] Such joint parking areas must be held under ownership of the applicant or under terms  
127 of a contractual agreement that ensures such parking remains available to all users of  
128 the shared parking spaces. Applicant must present evidence of the parking location and  
129 a contractual agreement prior to final approval and file the same with the Planning and  
130 Code office each time the contract is renewed. Any changes to the contractual agreement  
131 must be reviewed by the Code Enforcement Officer and if the municipal permitting  
132 authority which originally approved the off-site parking.

133 [2] Determination of parking adequacy will be based on a most frequent basis, not a "worst  
134 case" scenario;

135 [3] Joint use parking areas must be located within 1,500 feet to the use served, but do not  
136 need to be located on the same lot as the uses served;

137 [4] Ease and safety of pedestrian access to shared parking by the users served must be  
138 demonstrated, including any proposed improvements or shuttle service that may be  
139 offered and its requisite loading/unloading areas;

140 [5] Such joint parking areas must not be located in residential zones of the Town.

141 (e) In making determinations on off-site or joint-use parking under a development plan review,  
142 the municipal permitting authority with jurisdiction to review and approve will make a final  
143 determination of the joint-use and/or off-site spaces that constitute an acceptable combination  
144 of spaces to meet the required parking demand.

145 (f) Special parking and access situations.

146 [1] In instances where one row of parking spaces and/or a related access drive is located  
147 between the front property line and the front wall of the building extending the full width  
148 of the lot and was utilized in accordance with previous permits or approvals, for parking,  
149 display, storage, building or necessary vehicle circulation, the Planning Board may  
150 allow such improvements to remain provided all other parking meets the location  
151 requirements and provided that a landscaping plan for the property frontage is reviewed  
152 and approved by the Planning Board.

153 (g) Minimum lot size: none.

154 NOTE: Except that all screening, open space, buffering and landscaping requirements must  
155 be met or in instances where the Planning Board may modify such requirements, such  
156 modifications must be found satisfactory by the Board.

157 (h) Minimum street frontage: none.

158 NOTE: All lots must meet the requirements of § 16.5.13 Lots unless specifically modified  
159 by this section (§ 16.4.17). Street frontage must provide sufficient vehicular and pedestrian  
160 access for the uses proposed while meeting public health and safety requirements (e.g. Fire  
161 Department, Department of Public Works). The applicant must demonstrate to the municipal

162 permitting authority that the street frontage and lot design meet these requirements to the  
 163 extent practicable.

164 (i) Maximum-front setback: 20 feet.

165 NOTE: Except when a multistory building comprising 1) three or more residential dwelling  
 166 units; 2) nonresidential uses or 3) a combination of residential and nonresidential uses is  
 167 proposed directly across the street from a residential district or single-family use; in which  
 168 case a minimum of 15 is required.

169 Note: The Planning Board may, at its discretion, allow a greater setback when public  
 170 amenities such as pocket parks, outdoor dining or seating areas are proposed within the front  
 171 setback. Pocket parks must be at least 200 square feet with a minimum of three trees and a  
 172 bench for sitting required. Park must be vegetated with ground cover except for walkways.  
 173 Outdoor dining areas must meet any additional requirements specific to that use. Parking is  
 174 prohibited in the front setback except as allowed in subsection (1).(f).[1] above. ).

175 (j) Minimum rear and side: setbacks: 10 feet.

176 NOTE: Except as otherwise required by the buffer provisions of this title, and except where  
 177 the side and/or rear setbacks about a residential district or single-family use; in which case a  
 178 minimum of 15 feet or 50% of the building height is required, whichever is greater.

179 (k) Maximum building height: 40 feet. Solar apparatus is excluded from height determinations.

180 NOTE: Except that height standards for single- and two-family residential uses are the same  
 181 as for those of the Urban Residential District.

182 (l) Impervious surface: No maximum allowable, but all open space, landscaping, setbacks,  
 183 buffers, screening and street tree requirements apply. For development that is proposing 70%  
 184 or more impervious surface, the stormwater requirements in (m) below may not be modified.

185 (m) Stormwater: All new development must use LID (Low Impact Development) and BMP (Best  
 186 Management Practices), based on Maine DEP's Maine Stormwater Best Management  
 187 Practices Manual Volumes 1-III as amended from time to time, to manage 100% of the total  
 188 stormwater generated on-site. The stormwater report and plan demonstrating that this  
 189 requirement is met must be included with the application at the time of submission. A request  
 190 for a modification may be submitted to the Planning Board but it is incumbent on the  
 191 applicant to prove to the Planning Board's satisfaction that such a modification is necessary.  
 192 The Town reserves the right to submit such modification requests for independent  
 193 engineering review at the applicant's expense. The Board may also require additional  
 194 landscaping/plantings and/or LID-design features when granting such concessions.

195 (n) A minimum of fifteen percent of each lot must be designated as open space. See subsection  
 196 (4).(e).

197 (o) Minimum setback from functionally water dependent uses: zero feet.

198 (p) Minimum setback from streams, water bodies and wetlands: in accordance with § 16.5.30  
 199 and Appendix A, Fee Schedules.

200 (2) Parking design.

201 (a) Parking must be located to the side or rear of the building. If all parking cannot be located to  
 202 the rear or side, the Planning Board may allow limited parking in front of the building, but it  
 203 is incumbent upon the applicant to demonstrate why such a modification request should be  
 204 granted. In granting this concession, the Board may require more intensive landscape  
 205 plantings and/or LID-design features.

206 (b) Shared access between buildings and/or lots must be provided where feasible. Feasibility  
 207 criteria include:



- 208 [1] Fewer curb cuts required;
- 209 [2] Improved or new pedestrian access between buildings or lots;
- 210 [3] Improved internal circulation between buildings or lots; and
- 211 [4] Improved overall site design with shared access.
- 212 (c) Screening through the use of plantings and/or fencing is required for all new or revised
- 213 parking abutting public streets and/or single-family uses or residential zones. Such screening
- 214 does not require that the parking lot and vehicles within it be completely obscured from view,
- 215 rather the screening must provide visual interest and distraction from the parking area
- 216 beyond, as well as buffer vehicle headlight trespass.
- 217 [1] A landscape plan showing screening and other landscaping requirements prepared by a
- 218 registered landscape architect is a submission requirement. However, a landscape plan
- 219 done by other design professionals may be allowed at the Planning Board's discretion.
- 220 [2] Any required plantings that do not survive must be replaced within one year. This
- 221 requirement does not expire and runs with the land.
- 222 [3] Surface parking lots designed for five or more cars that will service multi-family or
- 223 mixed-use buildings with dwelling units and which abut a street, single-family use or
- 224 residential zone must provide screening in one of the following ways:
- 225 [a] Any combination of trees, shrubs, tall ornamental grasses or perennial plants in a
- 226 planting bed at least eight (8) feet wide. Climate-change tolerant Northeastern
- 227 native plants are preferred. Plantings must be sufficient, as determined by the
- 228 Planning Board, to screen the parking area from the street except for necessary
- 229 vehicular and pedestrian access. Planting beds may be mulched but no dyed
- 230 mulching material may be used. Drip irrigation is recommended.
- 231 [b] One tree per 25 feet of street frontage within a planting bed at least eight (8) feet
- 232 wide which will include other plantings such as perennials. Plantings must be
- 233 sufficient to screen the parking area from the street except for necessary vehicular
- 234 and pedestrian access. To ensure survival, trees must be planted using silva cells,
- 235 bioretention cells or tree wells. Trees must be at least 2.5-inch caliper and 12 feet
- 236 high at the time of planting. Existing large healthy trees must be preserved if
- 237 practical and will count towards this requirement. Trees proposed within the public
- 238 right-of-way must remain under 20 feet tall at maturity. Trees native to the
- 239 Northeast, selected for climate change tolerance, are preferred and must be drought
- 240 and salt tolerant when used along streets. A diversity of tree species (three to five
- 241 species per every 12 trees) is required to provide greater resiliency to threats from
- 242 introduced insect pests and diseases. Planting beds may be mulched but no dyed
- 243 mulching material may be used. Drip irrigation is recommended for plantings
- 244 proposed to accompany the trees.
- 245 [c] Fencing, no taller than six (6) feet, of a type that screens rather than blocks a view
- 246 and made of a material compatible with surrounding buildings. Chain link fences
- 247 are not allowed unless they have a PVC color coating to blend in with
- 248 surroundings. Stockade fences may only be allowed to buffer a parking lot along

249 the lot line that abuts a single-family use or residential zone. A planting bed at least  
 250 six (6) feet wide, including the fence, is required, with a combination of trees,  
 251 shrubs and perennials located on the proposed development's side of the fence.  
 252 Planting beds may be mulched but no dyed mulching material may be used. Drip  
 253 irrigation is recommended.

254 (d) A minimum of 10% of any surface parking area consisting of 10 or more spaces must be  
 255 landscaped with trees and vegetated islands. This requirement is in addition to other required  
 256 landscaping and street tree requirements.

257 (e) If 20% or more of the proposed development will be affordable dwelling units built rather  
 258 than using payment-in-lieu for required units, the Planning Board may, at its discretion,  
 259 modify surface parking lot screening and landscaping requirements under subsections (c) and  
 260 (d).

261 **A(3)** Building design standards. Kittery's characteristic buildings reflect its historic seacoast past. The  
 262 primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian,  
 263 Federal and Classical Revival. New buildings must be compatible with Kittery's characteristic  
 264 styles in form, scale, material and color. In general, buildings should be oriented with the front  
 265 of the building facing the street on which the building is located. The front or street facade must  
 266 be designed as the front of the building. The front elevation must contain one or more of the  
 267 following elements: 1) a "front door," although other provisions for access to the building may  
 268 be provided; 2) windows; or 3) display cases. (See Design Handbook for examples of acceptable  
 269 materials and designs.) Strict imitation is not required. Design techniques can be used to maintain  
 270 compatibility with characteristic styles and still leave enough flexibility for architectural variety.  
 271 To achieve this purpose, the following design standards apply to new and modified existing  
 272 building projects:

273 (a) Exterior building materials and details. Building materials and details strongly define a  
 274 project's architectural style and overall character. (See Design Handbook for examples of  
 275 acceptable materials, building scale and designs.) "One-sided" schemes are prohibited; similar  
 276 materials and details must be used on all sides of a building to achieve continuity and  
 277 completeness of design. Predominant exterior building materials must be of good quality and  
 278 characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood  
 279 shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

280 (b) Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated  
 281 to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are  
 282 gabled, gambrel, and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on"  
 283 mansards) are not acceptable as prominent roof forms except as provided above. Roof colors  
 284 must be muted. (See Design Handbook for examples.) The roof design must screen or  
 285 camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air-  
 286 handler units, exhaust vents, transformer boxes, and the like. (See Design Handbook for  
 287 examples of appropriate treatments.)

288 (c) Loading docks and overhead doors. Loading docks and overhead doors must be located on  
 289 the side or rear of the building and screened from view from adjacent properties in residential  
 290 use.

291 ~~(e)~~(d) Lighting plans, including outdoor lighting fixture designs and photometric plans, must be  
 292 included at the time of application submission. All lighting fixtures must be cutoff (dark sky

293 compliant).

294 (4) Landscaping and site design standards. A landscape plan prepared by a registered landscape  
 295 architect is a submission requirement. However, a landscape plan done by other design  
 296 professionals may be allowed at the Planning Board’s discretion. To achieve attractive and  
 297 environmentally sound site design ~~and appropriate screening of parking areas~~, in addition to the  
 298 landscaping standards contained in ~~Chapters 16.7 and 16.8~~ 16.5, the following landscaping  
 299 requirements apply to new and modified existing developments:

300 ~~B~~

301 (a) Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of  
 302 15 feet in depth adjacent to the right-of-way of all public roads or the sidewalk if it already  
 303 exists. If a sidewalk does not yet exist on-site but sidewalks do exist on adjacent properties,  
 304 the planting strip must be located so that it does not interfere with connectivity to existing  
 305 sidewalks. Planting strips which demonstrate LID functionality to assist in stormwater capture  
 306 are preferred. The Planning Board may reduce the required ~~depth~~ width of the landscape  
 307 planter ~~ing~~ strip ~~if a sidewalk~~ is provided in front of the parcel and the area between the front  
 308 property line and the front wall of the building will be designed and used as a pedestrian space,  
 309 outdoor dining as defined by this title, or a seating area. The landscape planter ~~ing~~ strip must  
 310 include the following landscape elements:

311 ~~(a)~~

312 [1] ~~Ground cover~~ Plantings. The entire landscape planter ~~ing~~ strip must be vegetated with a  
 313 combination of shrubs, perennials, and ornamental grasses except for approved  
 314 driveways, walkways, bikeways and screened utility equipment. Climate-change tolerant  
 315 Northeastern native plants are preferred. Planting beds may be mulched but no dyed  
 316 mulching material may be used. Street trees required below may be included in this  
 317 planting strip. Drip irrigation is recommended.

318 ~~(b)~~

319 [2] Street-side trees. A minimum of one tree must be planted for each 25 feet of street  
 320 frontage. The trees may be spaced along the frontage or grouped or clustered to enhance  
 321 the visual quality of the site. (See Design Handbook for examples.) The trees must be a  
 322 minimum ~~two and one half inch~~ 2.5-inch caliper and be at least 12 feet high at the time  
 323 of planting. Trees must be planted to ensure survival, using silva cells, bioretention cells  
 324 or tree wells. The species must be selected from the ~~A~~ list of ~~approved~~ street-side trees  
 325 can be found in the Design Handbook. Trees native to the Northeast, selected for climate  
 326 change tolerance, are preferred and must be drought and salt tolerant when used along  
 327 streets. A diversity of tree species (three to five species per every 12 trees) is required to  
 328 provide greater resiliency to threats from introduced insect pests and diseases. Existing  
 329 large healthy trees must be preserved if practical and will count toward this requirement.  
 330 Trees located within the public right-of-way must not exceed 20 feet in height at maturity.

331 [3] Any required plantings that do not survive must be replaced within one year. This  
 332 requirement does not expire and runs with the land.

333 ~~(e)(b)~~ Special situations.

334 ~~[H]~~ [a]. Expansions of less than 1,000 square feet to existing uses including single-family  
 335 or two-family dwellings are exempt from the landscaping standard of this  
 336 subsection.

337 ~~[2].~~[b]. ~~Depth~~ Width-of landscape planter strip. In instances where the required minimum  
 338 ~~depth~~ width of the landscape planter strip is legally utilized in accordance with  
 339 previous permits or approvals, for parking, display, storage, building or necessary  
 340 vehicle circulation, the ~~depth~~ width may be narrowed by the Planning Board to the  
 341 minimum extent necessary to achieve the objective of the proposed project,  
 342 provided that shrubs and perennials are planted along the street frontage to soften  
 343 the appearance of the development from the public street.

344 ~~[3].~~[c]. Additions and changes in use. For additions to existing buildings and changes of  
 345 residential structures to a nonresidential use, one street-side tree (see list of street  
 346 trees in Design Handbook) is required to be planted for every 1,000 square feet of  
 347 additional gross floor area added or converted to nonresidential use. In instances  
 348 where parking, display area, storage, building or necessary vehicle circulation  
 349 exists ~~at the time of enactment of this section~~, the required trees may be clustered  
 350 and/or relocated away from the road as is necessary to be practicable. The  
 351 preservation of existing large trees is encouraged; therefore, the Planning Board  
 352 may permit the preservation of existing healthy, large, mature trees within the  
 353 landscape planter ering strip or other ~~developed~~ landscaping areas of the site to be  
 354 substituted for the planting of new trees.

355 (c). Outdoor service and storage areas. Service and storage areas must be located to the side or rear  
 356 of the building. ~~Facilities for waste storage such as dumpsters must be located within an~~  
 357 ~~enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See~~  
 358 ~~Design Handbook for examples of appropriate buffering.)~~ All service areas for dumpsters,  
 359 compressors, generators and similar items must be screened by a fence at least six feet tall,  
 360 constructed of a material similar to surrounding buildings, and must surround the service area  
 361 except for the necessary ingress/egress.

362 ~~€~~(d) Traffic and circulation standards. Sidewalks and roadways must be provided ~~within the site~~ to  
 363 internally join abutting properties that are determined by the Planning Board using the criteria  
 364 in subsection D.(2).(b). ~~to be compatible.~~ In addition, safe pedestrian route(s) must be provided  
 365 to allow pedestrians to move within the site and between the principal customer entrance and  
 366 the front lot line where a sidewalk exists or will be provided or where the Planning Board  
 367 determines that such a route is needed for adequate pedestrian safety and movement. (See  
 368 Design Handbook for appropriate examples.)

369 (e) Open space standards. A minimum of fifteen percent of the total area of a lot must be provided  
 370 as o ~~Open space must be provided as a percentage of the total area of the lot,~~ including freshwater  
 371 wetlands, water bodies, streams and setbacks. ~~Fifteen percent of each lot must be designated as~~  
 372 ~~open space. Required open space must be shown on the plan with a note dedicating it as "open~~  
 373 ~~space."~~ The open space must be located to create an attractive environment on the site, minimize  
 374 environmental impacts, protect significant natural features or resources on the site and maintain  
 375 wildlife habitat. Individual large, healthy trees and areas with mature tree cover should be  
 376 included in the open space. Where possible, the open space must be located to allow the creation  
 377 of continuous open space networks in conjunction with existing or potential open space on  
 378 adjacent properties. The required amount of designated open space is reduced to 10% of each  
 379 lot that is less than 40,000 square feet in size.

380 ~~D~~—[1] In cases where creating or preserving open space to meet the 15% requirement above  
 381 is not practicable, the Planning Board may allow the required landscaping in 4.(a) above

382 to count towards meeting the open space requirement provided the proposed landscaped  
383 planting strip is expanded beyond the required width and the Planning Board finds that  
384 all criteria for open space above has been met to the greatest extent possible.

385 ~~E—The following space standards apply:~~

386 ~~(a)—Minimum land area per dwelling unit when all floors are residential: 20,000 square feet if~~  
387 ~~served by on-site sewage disposal; 8,000 square feet if served by the public sewerage system.~~

388 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~  
389 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~  
390 ~~50% of the building height is required.)~~

391 ~~(b).—Minimum land area per dwelling unit when the entire first floor is used for nonresidential~~  
392 ~~uses: 20,000 square feet if served by on-site sewage disposal; 4,000 square feet if served by the~~  
393 ~~public sewerage system.~~

394 ~~(c).—Minimum lot size: none.~~

395 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~  
396 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~  
397 ~~50% of the building height is required.)~~

398 ~~(d).—Minimum street frontage: none.~~

399 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~  
400 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~  
401 ~~50% of the building height is required.)~~

402 ~~(e).—Minimum front yard: 15 feet.~~

403 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~  
404 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~  
405 ~~50% of the building height is required.)~~

406 ~~(f).—Maximum front setback of the principal building: 60 feet.~~

407 ~~(g).—Minimum rear and side yards: 10 feet.~~

408 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~  
409 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~  
410 ~~50% of the building height is required.)~~

411 ~~(h).—Maximum building height: 40 feet.~~

412 ~~(NOTE: Except that space standards for single and two-family residential uses are the same as~~  
413 ~~for those of the Urban Residential District.)~~

414 ~~(i).—Maximum building and outdoor stored material coverage: none, except that side, rear and~~  
415 ~~front yards must be maintained~~

416 ~~(j).—Minimum water body setback for functionally water-dependent uses: zero feet.~~

417 ~~(k).—Minimum setback from streams, water bodies and wetlands: in accordance with Table~~  
418 ~~16.5.30, § 16.4.28 and Appendix A, Fee Schedules.~~

419 (5) Cottage cluster requirements:

420 (a) Cottage cluster dwelling units must either face the required common open space or the street.

421 The required open space must be held in common for use by all the cottage cluster residents  
422 and must be immediately accessible to each dwelling unit, via either the front or the back of  
423 each unit.

- 424 (b) Each cottage cluster dwelling unit must be no greater than 1,200 square feet. Spacing between  
425 units must comply with the requirements of the Fire Department and/or the State Fire  
426 Marshal’s office.
- 427 (c) Shared parking areas must be connected to each dwelling unit via a sidewalk.
- 428 (6) Affordable housing requirements:
- 429 (a) All requirements in § 16.5.4 Affordable Housing must be met.  
430
- 431 (b) Density incentives outlined above in subsection D.(1).(a).[2].[d] may be applied to projects that  
432 create affordable housing units, as defined by this code. No proportional payment-in-lieu is  
433 required if the affordable dwelling unit requirements for the density incentives are met.
- 434 ~~(4)~~(7) Gasoline Sales
- 435 (a). Gasoline Sales must not be located within 1,000 feet of an existing station;  
436 (b). not be located within 1,000 feet of any private residence; and  
437 ~~(a)~~(c). not be located within 150 feet of any existing structure.
- 438 E. Shoreland Overlay Zone OZ-SL – Business – Local Zone (B-L)
- 439 (1) Permitted uses.
- 440 (a) Accessory Buildings, Structures, and Uses
- 441 (b) Dwellings if located farther than 100 feet from the normal high-water line of any water  
442 bodies, or the upland edge of a wetland
- 443 [1] Dwelling, Attached Single-family  
444 [2] Dwelling, Manufactured housing  
445 [3] Dwelling, Multi-family  
446 [4] Dwelling, Single-family  
447 [5] Dwelling, Two-Family
- 448 ~~(b)~~(c) Recreation, Public Open Space
- 449 (2) Special exception uses.
- 450 (a). Art Studio or Gallery  
451 (b). Retail Sales, Building Materials & Garden Supply (excluding those of which the principal  
452 activity entails outdoor sales and/or storage)  
453 (c). Business Services  
454 (d). Business & Professional Offices  
455 (e). Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of  
456 seafood occur at the site)  
457 (f). Parking Area  
458 (g). Conference Center  
459 (h). Retail Sales, Convenience  
460 (i). Home Occupation, Major  
461 (j). Home Occupation, Minor  
462 (k). Mass Transit Station

- 463 (l). Motel
- 464 (m). Hotel
- 465 (n). Inn
- 466 (o). Rooming House
- 467 (p). Personal Services
- 468 (q). Public Assembly Area
- 469 (r). Theater
- 470 (s). Public Utility Facility
- 471 (t). Restaurant
- 472 (u). Retail Sales, but (excluding those of which the principal activity entails outdoor sales and/or
- 473 storage)
- 474 (v). Commercial School
- 475 (w). Public or Private School
- 476 (x). Nursery School
- 477 (y). Day Care Facility
- 478 (z). Elder Care Facility
- 479 (aa). Hospital
- 480 (bb). Nursing Care Facility, Long-term
- 481 (cc). Convalescent Care Facility
- 482 (dd). Public Facility
- 483 (ee). Religious Use
- 484 (ff). Private Assembly
- 485 (gg). Specialty Food and/or Beverage Facility

486 (3) See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL

487 E. Resource Protection Overlay Zone OZ-RP – Business – Local (B-L).

488 (1) Permitted Uses.

489 (a) Recreation, Public Open Space

490 (2) Special Exception Uses.

491 (a) Accessory Uses & Buildings

492 (b) Aquaculture

493 (c) Home Occupations, Major

494 (d) Home Occupations, Minor

495 (e) Public Utility Facilities,

496 (f) Dwelling, Single-Family

497 (3) See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone RP-SL

**TITLE 16**  
**AFFORDABLE HOUSING**  
**BUSINESS – LOCAL 1 ZONE**

**1. AMEND §16.4.18 Business – Local 1 (B-L1) to ) to include affordable housing provisions as follows:**

1 16.4.18 Business – Local 1 (B-L1)

2 A. Purpose

3 The purpose of the Business – Local 1 B-L1 Zone is to encourage a compact village ~~smart growth/urban~~  
4 design pattern that will serve as a focal point for the provision of local sales, urban residences, services  
5 and business space. The goal of this section is to create an attractive, functional and vibrant pedestrian-  
6 scaled neighborhood supporting a mix of commercial and residential uses. ~~This type of development~~  
7 ~~reflects a traditional New England pattern of building, where commercial uses are located on the first~~  
8 ~~floor and housing on the upper floors.~~

9 B. Permitted uses

10 The following uses are permitted in the B-L1 Zone:

11 (1) Accessory Dwelling Unit

12 (2) Dwelling, Attached Single-Family

13 (3) Dwelling, Manufactured Housing

14 (4) Dwelling, Multi-Family

15 (a) Development proposing three or four dwelling units are permitted through minor site plan  
16 review;

17 (b) Development proposing five or more dwelling units are permitted through major site plan  
18 review;

19 (5) Dwelling, Single-Family

20 (6) Dwelling, Two-Family

21 ~~(6)~~(7) Dwelling Units as part of a Mixed-Use Building

22 ~~(7)~~(8) Convalescent Care Facility

23 ~~(8)~~(9) Nursing Care Facility, Long-term

24 ~~(9)~~(10) Residential Care Facility

25 ~~(10)~~(11) Accessory Buildings, Structures, and Uses

26 ~~(11)~~(12) Home Occupation, Major

27 ~~(12)~~(13) Home Occupation, Minor

28 ~~(13)~~(14) Inn

29 ~~(14)~~(15) Day Care Facility

30 ~~(15)~~(16) Hospital

31 ~~(16)~~(17) Nursery School

32 ~~(17)~~(18) Private Assembly



- 33 ~~(18)~~(19) Public Facility
- 34 ~~(19)~~(20) Public or Private School
- 35 ~~(20)~~(21) Religious Use
- 36 ~~(21)~~(22) Recreation, Public Open Space
- 37 ~~(22)~~(23) Commercial School
- 38 ~~(23)~~(24) Art Studio or Gallery
- 39 ~~(24)~~(25) Business & Professional Offices
- 40 ~~(25)~~(26) Business Services
- 41 ~~(26)~~(27) Conference Center
- 42 ~~(27)~~(28) Personal Services
- 43 ~~(28)~~(29) Restaurant
- 44 ~~(29)~~(30) Retail Sales (excluding those of which the principal activity entails outdoor sales and/or storage and excluding those specifically mentioned under Subsection C of this section)
- 45
- 46 ~~(30)~~(31) Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)
- 47
- 48 ~~(31)~~(32) Retail Sales, Convenience
- 49 ~~(32)~~(33) Specialty Food and/or Beverage Facility
- 50 ~~(33)~~(34) Mass Transit Station
- 51 ~~(34)~~(35) Parking Area

52 C. Special exception uses

53 The following uses are permitted as special exception uses in the B-L1 Zone:

- 54 (1) Motel
- 55 (2) Hotel
- 56 (3) Rooming House
- 57 (4) Funeral Home
- 58 (5) Gasoline Service Station
- 59 (6) Public Assembly Area
- 60 (7) Theater
- 61 (8) Public Utility Facility
- 62 (9) Farmers Market
- 63 (10) Mechanical service
- 64 (11) Dwellings, cottage cluster; and
- 65 ~~(10)~~(12) Buildings and structures over 40 feet that conform to the provisions of Title 16.

66 D. Standards

67 All development and the use of land in the B-L1 Zone must meet the following standards. Kittery's  
68 Design Handbook illustrates how these standards can be met. In addition, the design and performance  
69 standards of Chapter § 16.5, 16.7 and 16.8 must be met.

70

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

72 (a) Minimum land area per dwelling unit:

73 [1] When all floors are residential: ~~8,000~~2,500 square feet

74 [2] When less than five dwelling units are proposed with, at minimum, one nonresidential  
 75 use to be located on the first floor facing State Road or Shapleigh Road such that the use  
 76 will be visible from the street: 2,500 square feet. Such a nonresidential use or uses need  
 77 not occupy the entire first floor but must be an independent nonresidential use, e.g., not a  
 78 home office marketed with a dwelling unit as a work/live unit.~~When the entire first floor~~  
 79 ~~is in nonresidential use: 3,500 square feet.~~

80 [3] When five or more dwelling units are proposed with, at minimum, one nonresidential use  
 81 to be located on the first floor facing State Road or Shapleigh Road such that the use will  
 82 be visible from the street: 2,000 square feet. Such a nonresidential use or uses need not  
 83 occupy the entire first floor but must be an independent nonresidential use, e.g., not a  
 84 home office marketed with a dwelling unit as a work/live unit.

85 ~~[2]~~[4] When 25% or more of the dwelling units will be affordable housing units as  
 86 defined by this code, the minimum land area per dwelling unit is: 1,500 square feet.

87 (b) Parking:

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

93 [1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:

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

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

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

103 [2] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of  
 104 the parking may be designated for compact cars. See 16.7.11.F.(4) Off-Street Parking  
 105 Standards.

106 ~~(b)~~ [3] Electric car charging stations are allowed and encouraged in parking lots but must not  
 107 interfere with pedestrian movement on sidewalks.~~Minimum parking spaces per dwelling~~  
 108 ~~unit: 1.5.~~

109 (c) Minimum lot size: ~~20,000 square feet~~None. (NOTE: Except that all screening, open space,  
 110 buffering and landscaping requirements must be met or in instances where the Planning  
 111 Board may approve modifications to such requirements, such modifications must be found  
 112 satisfactory by the Board.

113 (d) Minimum street frontage per ~~building~~lot: 50 feet.

- 114 (e) Maximum front ~~yard~~setback: ~~30-20~~ feet.
- 115 (NOTE: This area must be designed to promote a pedestrian public space, which includes,
- 116 but is not limited to, landscaping, sidewalks and sitting areas. The Planning Board may, at its
- 117 discretion, allow a greater setback when public amenities such as pocket parks, outdoor
- 118 dining or seating areas are proposed within the front setback. Pocket parks must be at least
- 119 200 square feet with a minimum of three trees and a bench for sitting required. Park must be
- 120 vegetated with ground cover except for walkways. Outdoor dining areas must meet any
- 121 additional requirements specific to that use. ~~Parking and outdoor~~ Outdoor storage ~~are~~ is
- 122 prohibited anywhere in the front yard of the structure, except for seasonal sales items.
- 123 Parking is also prohibited in the front setback except as allowed in subsection (2).(e)
- 124 below ).)
- 125 (f) Minimum rear and side ~~yards~~setbacks: 10 feet.
- 126 (NOTE: Except as otherwise required by the buffer provisions of this title, and except where
- 127 the side and/or rear ~~yards~~setbacks abut a residential zone or single-family use; in which case
- 128 a minimum of 15 feet or 50% of the building height, whichever is greater, is required.)
- 129 (g) Maximum building height: 40 feet. Solar apparatus is excluded from height determinations.
- 130 Buildings and structures higher than 40 actual feet from the lowest point of grade to the
- 131 highest point of the building or structure (see Height of Building in 16.3), permitted as a
- 132 special exception, must have side, rear and front setbacks of sufficient depth to adequately
- 133 protect the health, safety and welfare of abutting properties, which may not be less than 50%
- 134 of the actual height of the proposed building.
- 135 (h) ~~Maximum building and outdoor stored material coverage: 50%~~ The maximum impervious
- 136 surface is:-
- 137 [1] 70%; or
- 138 [2] The Planning Board may, at its discretion, allow greater than 70% if:
- 139 (i) Additional landscaped or natural areas are proposed or preserved and such areas are
- 140 integrated into the site design in an environmentally conscious way utilizing LID to
- 141 provide stormwater filtration and/or water quality improvements. Such areas must exceed
- 142 the requirement that 15% of the lot be landscaped or natural. See (4) Landscaping/Site
- 143 Improvements. When granting such a concession, the Board must find that the proposed
- 144 additional landscaping and/or natural areas and the site design provide enough benefit to
- 145 outweigh the impact of greater impervious surface; or
- 146 (ii) Affordable housing to be built, rather than a payment-in-lieu, is proposed.
- 147 ~~(h)~~ Note: If using either option above, the stormwater requirements in (i) below may not
- 148 be modified.
- 149 (i) Stormwater: All new development must use LID (Low Impact Development) and BMP (Best
- 150 Management Practices), based on Maine DEP's Maine Stormwater Best Management
- 151 Practices Manual Volumes 1-III as amended from time to time, to manage 100% of the total
- 152 stormwater generated on-site. The stormwater report and plan demonstrating that this
- 153 requirement is met must be included with the application at the time of submission. A request
- 154 for a modification may be submitted to the Planning Board but it is incumbent on the
- 155 applicant to prove to the Planning Board's satisfaction that such a modification is necessary.
- 156 The Town reserves the right to submit such modification requests for independent
- 157 engineering review at the applicant's expense. The Board may also require additional

158 landscaping/plantings and/or LID features when granting such concessions.

159 (j) Minimum area dedicated to landscaped or natural areas: 15%.

160 [1] For the purposes of this zone, a natural area is an area that is not regularly mowed, and  
 161 contains trees and/or shrubs which may not have been deliberately planted. Invasive plants,  
 162 as defined by the State of Maine, must be removed.

163 (+) [2] For multifamily dwellings, mixed-use buildings with dwelling units and attached  
 164 single-family dwellings, in cases where the property cannot meet the 15% requirement due to  
 165 existing development (including parking areas), and where redevelopment will remain at the  
 166 same or a lower percentage of the lot, the Planning Board may, at its discretion, allow a  
 167 smaller percentage of landscaped and/or natural area. In granting this concession, the Board  
 168 may require more intensive landscape plantings and/or LID-designed features.

169 (+) (k) Hours of operation must be noted on the final site plan and are determined by the  
 170 Planning Board on a case-by-case basis. All lighting other than designated security lighting  
 171 must be extinguished outside of noted hours of operation.

172 (+) (l) Minimum ~~water body~~ setback for functionally water-dependent uses: zero feet.

173 (+) (m) Minimum setback from streams, water bodies and wetlands: in accordance with Table  
 174 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

175 (m) Gasoline Sales must a) not be located within 1,000 feet of an existing station; (b) not be  
 176 located within 1,000 feet of any private residence; and (c) not be located within 150 feet of  
 177 any existing structure.

178 (2) Parking design.

179 (a) Parking must be located ~~on~~ to the side or ~~back~~ rear of the building yard; If all parking cannot  
 180 be located to the rear or side, the Planning Board may allow limited parking in front of the  
 181 building but it is incumbent upon the applicant to demonstrate why such a modification  
 182 request should be granted. In granting this concession, the Board may require more intensive  
 183 landscape plantings and/or LID-designed features.

184 (b) Shared access between buildings and/or lots must be provided where feasible; ~~and~~  
 185 Feasibility criteria include:

186 [1] Fewer curb cuts required;

187 [2] Improved or new pedestrian access between buildings or lots;

188 [3] Improved internal circulation between buildings or lots; and

189 (b) [4] Improved overall site design with shared access.

190 (c) Screening through the use of plantings and/or fencing is required for all new or revised  
 191 parking abutting public streets and/or single-family uses or residential zones. Such screening  
 192 does not require that the parking lot and vehicles within it be completely obscured from view,  
 193 rather the screening must provide visual interest and distraction from the parking area  
 194 beyond, as well as buffer vehicle headlight trespass. ~~New or revised parking must be~~  
 195 visually screened through the use of landscaping, earthen berms and/or fencing from adjacent  
 196 public streets or residential properties. (See the Design Handbook for appropriate examples.)

197 [1] A landscape plan showing screening and other landscaping requirements prepared by a  
 198 registered landscape architect is a submission requirement. However, a landscape plan done  
 199 by other design professionals may be allowed at the Planning Board's discretion.

200 [2] Any required plantings that do not survive must be replaced within one year. This

201 requirement does not expire and runs with the land.

202 [3] Surface parking areas designed for less than five cars must use solid fencing, berms  
203 and/or stone walls along the parking lot where it abuts any single-family use or residential  
204 zone must be used to prevent vehicle headlights trespass. from shining on any abutting  
205 residential property. Incorporating flowering vines and other plantings such as trees and  
206 shrubs on next to fences and blank exterior walls is encouraged.

207 [4] Surface parking lots designed for five or more cars that will service multi-family or  
208 mixed-use buildings with dwelling units and which abut a street, single-family use or  
209 residential zone must provide screening in one of the following ways:

210 i. Any combination of trees, shrubs, tall ornamental grasses or perennial plants in a  
211 planting bed at least eight (8) feet wide. Plantings must be sufficient, as determined by  
212 the Planning Board, to screen the parking area from the street except for necessary  
213 vehicular and pedestrian access. Climate-change tolerant Northeastern native plants are  
214 preferred. Planting beds may be mulched but no dyed mulching material may be used.  
215 Drip irrigation is recommended.

216 ii. One tree per 25 feet of street frontage within a planting bed at least eight (8) feet  
217 wide which will include other plantings such as perennials. Plantings must be sufficient,  
218 as determined by the Planning Board, to screen the parking area from the street except  
219 for necessary vehicular and pedestrian access. To ensure survival, trees must be planted  
220 using silva cells, bioretention cells or tree wells. Trees must be at least 2.5-inch caliper  
221 and 12 feet high at the time of planting. Existing large healthy trees must be preserved if  
222 practical and will count towards this requirement. Trees proposed within the public  
223 right-of-way must remain under 20 feet tall at maturity. Trees native to the Northeast,  
224 selected for climate change tolerance, are preferred and must be drought and salt tolerant  
225 when used along streets. A diversity of tree species (three to five species per every 12  
226 trees) is required to provide greater resiliency to threats from introduced insect pests and  
227 diseases. Planting beds may be mulched but no dyed mulching material may be used.  
228 Drip irrigation is recommended for plantings proposed to accompany the trees.

229 iii. Fencing, no taller than six (6) feet, of a type that screens rather than blocks a view  
230 and made of a material compatible with surrounding buildings. Chain link fences are not  
231 allowed unless they have a PVC color coating to blend in with surroundings. Stockade  
232 fences may only be allowed to buffer a parking lot along the lot line that abuts a single-  
233 family use or residential zone. A planting bed at least six (6) feet wide, including the  
234 fence, is required, with a combination of trees, shrubs and perennials located on the  
235 proposed development's side of the fence. Climate-change tolerant Northeastern native  
236 plants are preferred. Planting beds may be mulched but no dyed mulching material may  
237 be used. Drip irrigation is recommended.

238 (d) A minimum of 10% of any surface parking area consisting of 10 or more spaces must be  
239 landscaped with trees and vegetated islands. This requirement is in addition to other required  
240 landscaping and street tree requirements.

241 (e) In instances where one row of parking spaces and/or a related access drive is located  
242 between the front property line and the front wall of the building extending the full width of the  
243 lot and was utilized in accordance with previous permits or approvals, for parking, display,  
244 storage, building or necessary vehicle circulation, the Planning Board may allow such  
245 improvements to remain provided all other parking meets the location requirements and

246 provided that a landscaping plan for the property frontage is reviewed and approved by the  
247 Planning Board.

248 (f) If 20% or more of the proposed development will be affordable dwelling units built rather  
249 than using payment-in-lieu for required units, the Planning Board may, at its discretion, modify  
250 surface parking lot screening and landscaping requirements under subsections (c) and (d).

251 (3) Building design standards

252 Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles  
253 are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical  
254 Revival. New buildings must be compatible with Kittery's characteristic styles in form, scale,  
255 material and color. In general, buildings should be oriented to the street with the front of the  
256 building facing the street from which the building derives its street frontage. Architectural design  
257 and structure location must reinforce the human scale and pedestrian nature of the neighborhood  
258 by using orientation and building massing, exterior building materials, and roofing as set forth  
259 below. The front or street facade must be designed as the front of the building. The front  
260 elevation must contain one or more of the following elements: 1) a "front door," although other  
261 provisions for access to the building may be provided; 2) windows; or 3) display cases. (See  
262 Design Handbook for examples of acceptable materials and designs.) Main entries should be  
263 clearly visible from the street and provide adequate cover from the weather. Strict imitation is  
264 not required. Design techniques can be used to maintain compatibility with characteristic styles  
265 and still leave enough flexibility for architectural variety. To achieve this purpose, the following  
266 design standards apply to new and modified existing building projects:

267 (a) Exterior building materials and details. Building materials and details strongly define a  
268 project's architectural style and overall character. (See Design Handbook for examples of  
269 acceptable materials, building scale, and designs.) "One-sided" schemes are prohibited;  
270 similar materials and details must be used on all sides of a building to achieve continuity and  
271 completeness of design. Predominant exterior building materials must be of good quality and  
272 characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood  
273 shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

274 (b) Roofs. ~~A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated~~  
275 ~~to the Planning Board's satisfaction that this is not practicable. Acceptable roof~~ Roof styles  
276 ~~are such as~~ gabled, gambrel and hipped roofs are preferred. ~~Flat roofs, shed~~ Shed roofs and  
277 roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms unless  
278 demonstrated to the Planning Board' satisfaction that another design is not practicable. ~~except~~  
279 ~~as provided above~~. Roof colors must be muted. (See Design Handbook for examples.) Flat  
280 roofs proposed to locate heating, cooling, or other such mechanical or electrical apparatus off  
281 the ground, are acceptable provided that such apparatus are screened from view and the  
282 screening is designed as an integral part of the building to aid both aesthetics and noise  
283 attenuation. Flat roofs proposed for the purpose of solar array installations are also  
284 acceptable. ~~The roof design must screen or camouflage rooftop protrusions to minimize the~~  
285 ~~visual impact of air conditioning units, air handler units, exhaust vents, transformer boxes~~  
286 ~~and the like. (See Design Handbook for examples of appropriate treatments.)~~

287 (c) Loading docks and overhead doors. Loading docks and overhead doors must be located on  
288 the side or rear of the building and must be screened from view from adjacent properties in  
289 residential use.

290 (d) Lighting plans, including outdoor lighting fixture designs and photometric plans, must be

291 included at the time of application submission. All lighting fixtures must be cutoff (dark sky  
 292 compliant).

293 (4) Landscaping/site improvements.

294 A landscape plan prepared by a registered landscape architect is a submission requirement.

295 However, a landscape plan done by other design professionals may be allowed at the Planning  
 296 Board's discretion. Climate change-tolerant Northeastern native plants are preferred. To achieve  
 297 attractive and environmentally sound site design ~~and appropriate screening of parking areas~~, in  
 298 addition to the landscaping standards contained in § 16.7.5 ~~and § 16.8~~, the following landscaping  
 299 requirements apply to new and modified existing developments:

300 (a) Fifteen percent of site area must be landscaped and/or in a natural state as described in  
 301 D.(1).(j).[1], unless otherwise provided above;

302 (b) Outdoor spaces must be created to reinforce commercial and community activities and  
 303 pedestrian-friendly access. Outdoor spaces are encouraged throughout the site ~~with special~~  
 304 ~~attention along~~ especially in those areas to the front and sides of buildings when viewed from  
 305 the sidewalk and street. Architectural features such as decorative pavers, planters and  
 306 ~~benches~~ seating areas, as well as outdoor dining where applicable, are encouraged in the  
 307 creation of these spaces;

308 (c) The ~~space~~ setback between the ~~roadway~~ street and any buildings must be attractively  
 309 landscaped using trees, ~~flowers~~, shrubs, perennials, ornamental grasses, fencing or stone  
 310 walls to reinforce the site's unique character and building design and complement the public  
 311 use of the space;

312 (d) ~~A-Required~~ buffer setbacks that function as buffers between commercial and residential  
 313 zones/single-family uses must be ~~established and be~~ landscaped at minimum with a  
 314 combination of trees and shrubs in a planting bed at least six (6) feet wide. Planting beds may  
 315 be mulched but no dyed mulching material may be used; ~~visually pleasing mixed planting~~  
 316 ~~type;~~

317 (e) ~~Solid fencing, berms and/or stone walls must be used to prevent headlights from shining on~~  
 318 ~~abutting residential property. Incorporating flowering vines and other plantings on fences and~~  
 319 ~~blank exterior walls is encouraged;~~

320 ~~(f)~~(e) Provide street trees in a pattern reflecting the existing streetscape. For new buildings, a  
 321 minimum of one street tree must be planted for each 25 feet of street frontage. The trees may  
 322 be spaced along the frontage or grouped or clustered to enhance the visual quality of the site.  
 323 (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch  
 324 caliper and be at least 12 feet high at the time of planting. ~~The species must be selected from~~  
 325 ~~the A~~ list of approved street trees may be found in the Design Handbook. Trees native to the  
 326 Northeast, selected for climate change tolerance, are preferred and must be drought and salt  
 327 tolerant when used along streets. A diversity of tree species (three to five species per every  
 328 12 trees) is required to provide greater resiliency to threats from introduced insect pests and  
 329 diseases. Trees located within the public right-of-way must not exceed 20 feet at maturity.  
 330 Existing large healthy trees must be preserved if practical and will count toward this  
 331 requirement.

332 ~~(g)~~(f) For additions to existing buildings and changes of residential structures to a  
 333 nonresidential use, one street-side tree (see list of street trees in Design Handbook) is  
 334 required to be planted for every 1,000 square feet of additional gross floor area added or  
 335 converted to nonresidential use. In instances where parking, display area, storage, building or

336 necessary vehicle circulation exists at the time of enactment of this section, the required trees  
 337 may be clustered and/or relocated away from the road as is necessary to be practicable. The  
 338 preservation of existing large trees is encouraged; therefore, the Planning Board may permit  
 339 the preservation of existing healthy, large, mature trees within developed areas of the site to  
 340 be substituted for the planting of new trees;

341 ~~(h)~~(g) Service and storage areas must be located to the rear of the building ~~and be shielded using~~  
 342 ~~plantings and/or fencing. Facilities for waste storage such as dumpsters must be located~~  
 343 ~~within an enclosure and be visually buffered by fencing, landscaping and/or other treatments~~  
 344 ~~(see Design Handbook for examples of appropriate buffering);~~ All service areas for  
 345 dumpsters, compressors, generators and similar items must be screened by a fence at least six  
 346 feet tall, constructed of a material similar to surrounding buildings, and must surround the  
 347 service area except for the necessary ingress/egress.

348 ~~(i)~~(h) No storage may be in front of buildings except seasonal sales items;

349 ~~(j)~~(i) Lighting, including lighting fixture designs and photometric plans, and landscape plans  
 350 must be provided and approved as a part of final plan; and

351 (j) Lighting along the street must be of a pedestrian scale using a full cutoff fixture in an  
 352 architectural style fixture appropriate to the neighborhood.

353 (k) Any required plantings that do not survive must be replaced within one year. This  
 354 requirement does not expire and runs with the land.

355 ~~(k)~~ (l) If 15% or more of the proposed development will be affordable dwelling units,  
 356 the Planning Board may, at its discretion, modify landscaping requirements under [c], [d] and [e]  
 357 above.

358 (5) Traffic and circulation standards.

359 Sidewalks and roadways must be provided ~~within the site~~ to internally join abutting properties  
 360 ~~that are~~ determined by the Planning Board using the criteria in subsection D.(2).(b).to be  
 361 ~~compatible~~. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move  
 362 within the site and between the principal customer entrance and the front lot line where a  
 363 sidewalk exists or will be provided or where the Planning Board determines that such a route is  
 364 needed for adequate pedestrian safety and movement. (See Design Handbook for appropriate  
 365 examples.)

366 (6) Cottage cluster requirements:

367 (a) Cottage cluster dwelling units must either face the required common open space or the  
 368 street. The required open space must be held in common for use by all the cottage cluster  
 369 residents and must be immediately accessible to each dwelling unit, via either the front or the  
 370 back of each unit.

371 (b) Each cottage cluster dwelling unit must be no greater than 1,200 square feet. Spacing  
 372 between units must comply with the requirements of the Fire Department and/or the State Fire  
 373 Marshall's office.

374 (c) Shared parking areas must be connected to each dwelling unit via a sidewalk.

375 (7) Affordable housing requirements:

376 (a) All requirements in 16.5.4 Affordable Housing must be met.

377 (b) Density incentives outlined above in subsection D.(1).(a).[4] may be applied to projects  
 378 that create affordable housing units, as defined by this code. No proportional payment-in-lieu is



379 required if the affordable dwelling unit requirements for the density incentives are met.

380 (8) Gasoline Sales must a) not be located within 1,000 feet of an existing station; (b) not be located  
381 within 1,000 feet of any private residence; and (c) not be located within 150 feet of any existing  
382 structure.

383 E. Shoreland Overlay Zone OZ-SL – Business Local Zone (B-L1)

384 (1) Permitted uses

385 (a) Accessory Uses & Building

386 (b) Aquaculture

387 (c) Recreation, Public Open Space

388 (2) Special exception uses

389 (a) Art Studio or Gallery

390 (b) Business & Professional Offices

391 (c) Business Services

392 (d) Retail Sales, Building Materials & Garden Supply (excluding those of which the principal  
393 activity entails outdoor sales and/or storage)

394 (e) Conference Center

395 (f) Retail Sales, Convenience

396 (g) Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of  
397 seafood occur at the site)

398 (h) Parking Area

399 (i) Dwelling, Manufactured Housing

400 (j) Dwelling, Single-Family

401 (k) Dwelling, Two-Family

402 (l) Farmers market

403 (m) Funeral Home

404 (n) Home Occupation, Major

405 (o) Home Occupation, Minor

406 (p) Inn

407 (q) Mass Transit Station

408 (r) Motel

409 (s) Hotel

410 (t) Inn

411 (u) Rooming House

412 (v) Personal Service

413 (w) Public Assembly Area

414 (x) Theater

415 (y) Public Utility Facility

416 (z) Restaurant

417 (aa) Retail Sales (excluding those of which the principal activity entails outdoor sales and/or  
418 storage)

419 (bb) Specialty Food and/or Beverage Facility

420 (3) See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL

421 F. Resource Protection Overlay Zone OZ-RP – Business – Local Zone (B-L1)

- 422 (1) Permitted Uses
- 423 (a) Recreation, Public Open Space
- 424 (2) Special Exception Uses
- 425 (a) Accessory Uses & Buildings
- 426 (b) Home Occupations, Major
- 427 (c) Home Occupations, Minor
- 428 (d) Public Utility Facility
- 429 (e) Dwelling, Single-Family, including modular homes
- 430 (3) See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP