

1 **16.5 General Performance Standards**

2 **Contents**

3 16.5 General Performance Standards ..... 5-1  
4 16.5.1 General ..... 5-2  
5 16.5.2 Abutter Notice ..... 5-2  
6 16.5.3 Accessory Dwelling Units ..... 5-3  
7 16.5.4 Agriculture ..... 5-4  
8 16.5.5 Agriculture, Piggery ..... 5-6  
9 16.5.6 Agriculture, Poultry Facility ..... 5-6  
10 16.5.7 Campgrounds and Campsites ..... 5-6  
11 16.5.8 Conservation of Wetlands Including Vernal Pools ..... 5-7  
12 16.5.9 Essential Services ..... 5-16  
13 16.5.10 Floodplain Management ..... 5-16  
14 16.5.11 Home Occupation ..... 5-24  
15 16.5.12 Junkyards and/or Automobile Salvage Yards ..... 5-28  
16 16.5.13 Lots ..... 5-29  
17 16.5.14 Manufactured Housing ..... 5-30  
18 16.5.15 Mineral/earth material exploration and removal ..... 5-30  
19 16.5.16 Mobile Home Parks, Recreational Vehicle Parks and Campgrounds ..... 5-32  
20 16.5.17 Net Residential Acreage ..... 5-37  
21 16.5.18 Nonstormwater Discharge ..... 5-38  
22 16.5.19 Overboard Discharge Systems ..... 5-40  
23 16.5.20 Piers, Wharves, Marinas and Other Uses Projecting into Water Bodies ..... 5-43  
24 16.5.21 Signs ..... 5-44  
25 16.5.22 Single- and Duplex-Family Dwellings ..... 5-51  
26 16.5.23 Sprinkler Systems ..... 5-52  
27 16.5.24 Street Signage ..... 5-54  
28 16.5.25 Streets and Pedestrianways/Sidewalks Site Design Standards ..... 5-54  
29 16.5.26 Temporary Housing ..... 5-60  
30 16.5.27 Timber Harvesting ..... 5-60  
31 16.5.28 Wetland Setbacks for Special Situations ..... 5-61  
32 16.5.29 Wireless Communication Services Facilities ..... 5-64

33  
34

35

**16.5.1 General**

The purpose of this chapter is to outline development design and performance standards to ensure public health, safety and welfare.

**16.5.2 Abutter Notice**

A. Purpose.

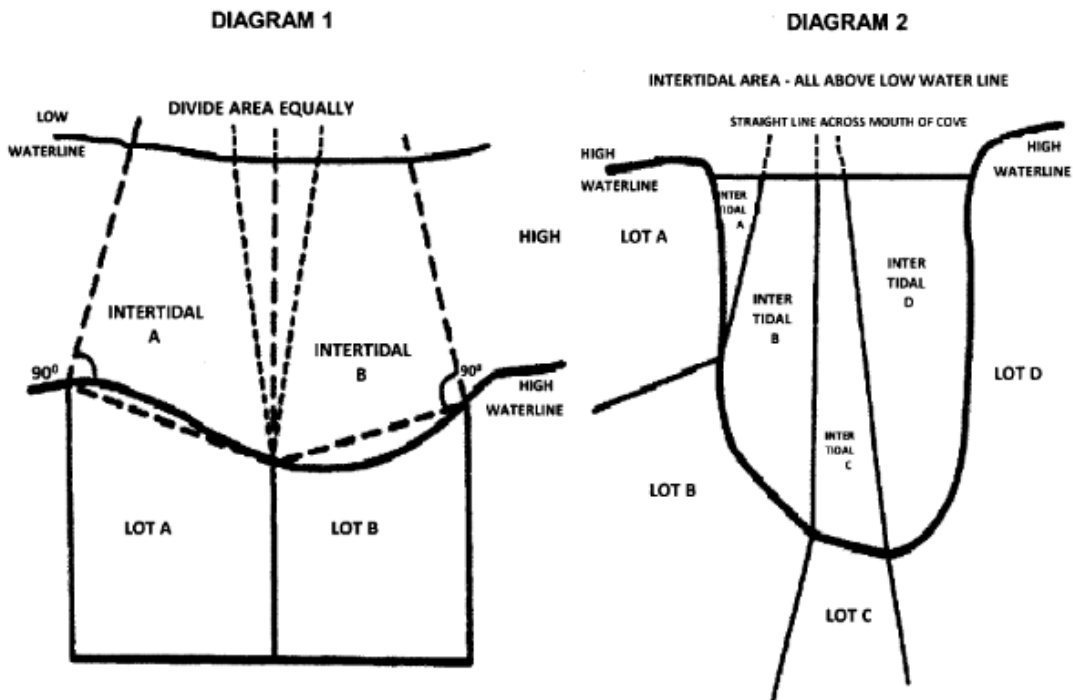
It is the intent of this article to impose standards to identify abutting property owners who must be notified in writing when new development or redevelopment is proposed within 150 feet of their property boundary(ies).

B. Applicability.

(1) The Town Planner must cause written notice of the public hearing to be sent by postage paid, first-class mail (cost to be paid by applicant) to all owners of abutting property, as herein defined (within 150 feet of the property), and by regular mail to the Code Enforcement Officer, the Commissioner of Public Works, and where applicable, the Port Authority or Conservation Commission, at least seven days prior to the scheduled date. Failure of the parties to receive said notices does not invalidate any Board action.

(2) As used herein, relates solely to the notification of property owners who must be notified in writing when new development or redevelopment is proposed within 150 feet of their property boundary(ies). This notification must include intertidal land below the normal high-water line, but not that land beyond 100 rods (1,650 feet) distant from the normal high water line, or that land below the normal low-water line. Where question exists regarding to ownership of intertidal lands, consult Figure 1 entitled, "Formula for Determining Ownership of Intertidal Land as a Guide for Identifying Abutters," attached to this chapter.

Figure 1. Formula for Determining Ownership of Intertidal Land as a Guide for Identifying Abutters



- 62 (3) For a wireless communication system facility (WCSF) plan application, the Town Planner  
63 must cause written notice of the hearing sent by postage paid, first-class mail, provided by  
64 the applicant, at least seven days prior to the hearing to all owners of abutting property and  
65 property located within 1,000 feet of any property line of the property located within 1,000  
66 feet of the proposed telecommunications facility. The applicant must provide this  
67 notification and must present proof of such notification to the Town Planner. The  
68 notification must include: the name of the applicant, location of the property, a brief  
69 description of the project, and a plot plan identifying the proposed site layout in relation to  
70 nearby streets and properties.

### 71 **16.5.3 Accessory Dwelling Units**

72 [Amended 9-26-2011 by Ord. No. 11-15; 10-28-2019 by Ord. No. 19-09]

#### 73 A. Purpose.

74 It is the intent of this article to provide standards that enable homeowners to create accessory  
75 dwelling units that are compatible with this title and to provide a means for residents, including  
76 seniors, single parents, and families with grown children, to remain in their homes and  
77 neighborhoods, and increase the housing stock of existing neighborhoods in a manner that is  
78 compatible with their size and scale, and allow more efficient use of existing housing stock and  
79 infrastructure, and provide a broader range of affordable housing options. The purpose of this  
80 article is not intended to create a new supply of short-term rental (STR) units, such as those  
81 commonly advertised to tourists.

#### 82 B. Applicability.

- 83 1) An accessory dwelling unit is allowed in all zoning districts where the use is permitted in  
84 Chapter 16.3. The unit must be located:

- 85 a. Within an existing structure, either principal or accessory on the property; or  
86 b. Attached to the existing principal structure, sharing a  
87 common wall; or  
88 c. Within a new accessory structure constructed for this  
89 purpose on the property.

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

#### 93 C. Application for accessory dwelling unit.

- 94 (1) An application for an accessory dwelling unit must be made by the owner of the parcel on  
95 which the primary residential unit sits. The completed application and associated fees must  
96 be submitted to the Code Enforcement Officer for review.  
97 (2) Applications for an accessory dwelling unit that meets the unit size standards and  
98 development standards contained in this article may be approved administratively and  
99 require approval by the Code Enforcement Officer.  
100 (3) An accessory dwelling unit that fails to meet the standards provided in this article may not  
101 receive administrative approval; however, the accessory dwelling unit may still be  
102 allowed. See § 16.5.3.D.(4) below.

#### 103 D. Accessory dwelling unit standards.

##### 104 (1) Lot standards.

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

108 (b.) Number of accessory dwelling units per lot. No more than one accessory

109 dwelling unit is permitted on a lot.

110 (c.) Zone lot size and unit density. The property on which an accessory dwelling  
111 unit is located must meet the size required by the applicable zoning  
112 standards for the principal residence, except in the case of legally  
113 nonconforming lots. However, an accessory dwelling unit is exempt from  
114 the density requirements of the zone in which they are located.

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

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

126 [1.] Public sewer.

127 (a.) Service: verification in writing, of adequate service to  
128 support the additional flow from the Superintendent of  
129 Wastewater Treatment Facilities

130 (a.) Fees: Payment of appropriate fees for connection to the  
131 municipal sewer system is required prior to obtaining the  
132 certificate of occupancy.

133 [2.] Septic systems. Verification of adequate sewage disposal for  
134 subsurface waste disposal is required. The septic system, existing or  
135 proposed, must be verified as adequate or reconstructed as required.  
136 Plans for subsurface waste disposal must be prepared by a Maine-  
137 licensed site evaluator in full compliance with the State of Maine  
138 Subsurface Wastewater Disposal Rules, 10-144 C.M.R. 241.

139 [3.] Public water. Verification in writing is required from the Kittery  
140 Water District for volume and supply.

141 [4.] Wells. Verification of the potable water supply for private wells is  
142 required. Tests of the existing well or proposed well, if applicable,  
143 must indicate that the water supply is potable and acceptable for  
144 domestic use and must conform to the recommendations included in  
145 the "Manual for Evaluating Public Drinking Water Supplies, Public  
146 Health Service No. 1180 (1969)."

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

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

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

156 (2) Unit standards.

157 (a) Unit size. The size of an accessory dwelling unit must meet the minimum size for a  
158 dwelling unit as set by building code standards adopted and amended from time to  
159 time by Maine's Bureau of Building Codes and Standards, and be no larger than

1,000 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory dwelling unit may be no greater than 80% of the size of the principal dwelling unit, as measured in square feet. An accessory dwelling unit may have no more than two bedrooms.

(b) Unit location.

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

- [a] Be fully constructed within the existing footprint of any legal primary residence or accessory building; or
- [b] Share a common wall with the principal residence, providing yard setbacks per § 16.5.3.D.(2)(a); or
- [c] Be constructed as a new accessory building containing an accessory dwelling unit, providing yard setbacks can be met for the zone.

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

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

- (3) Use standards. The accessory dwelling unit may not be rented to the same person or party for less than a thirty-day period.
- (4) Development standards. Should an accessory dwelling unit fail to meet the applicable unit standards listed in this article, the accessory dwelling unit may still be allowed if the applicant obtains approval from the Board of Appeals under the provisions of a miscellaneous variation request, as outlined in § 16.2.12.D.(4). The Board of Appeals shall review any appeal decision in conformance with § 16.2.12.F, Basis for decision.

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

## 16.5.2 Agriculture

- A. Agricultural practices must be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichment of groundwater and surface waters.
- B. All spreading or disposal of manure must be accomplished in conformance with the Manure Utilization Guidelines, November 1, 2001, published by the Maine Department of Agriculture and the Nutrient Management Act (7 M.R.S. §§ 4201 to 4214).
- C. Manure must not be stored or stockpiled within 100 feet, horizontal distance, of the normal high-water line of any water bodies, tributary streams, coastal wetlands or freshwater wetlands shown on the Map. Within five years of the effective date of this chapter, all manure storage areas within the Shoreland Overlay and Resource Protection Overlay Zones must be constructed or modified so the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain, but must meet the no-discharge provision within the above five-year period.
- D. Owners of agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure within the Shoreland Overlay Zone are required to submit a soil and water conservation plan to the Planning Board for review and approval. Nonconformance with the provisions of said approved plan will be considered to be a violation of this section.
- E. New tilling of soil within 100 feet, horizontal distance, of the normal high-water line of water bodies or coastal wetlands; within 25 feet, horizontal distance, of the normal high-water line of tributary streams and freshwater wetlands shown on the Map is prohibited. Operations in existence

209 on the effective date of this chapter and not in conformance with this provision may be  
210 maintained.

211 F. After the effective date of this section, newly established livestock grazing areas will not be  
212 permitted within 100 feet, horizontal distance, of the normal high-water line of any water bodies  
213 or coastal wetlands or within 25 feet, horizontal distance, of the normal high-water line of  
214 tributary streams and freshwater wetlands shown on the Zoning Map. Livestock grazing  
215 associated with ongoing farm activities, and which are not in conformance with the above setback  
216 provision, may continue, provided that such grazing is conducted in accordance with a soil and  
217 water conservation plan that has been approved by the Planning Board.

### 218 **16.5.3 Agriculture, Piggery**

219 A. Number of animals. These standards apply to the keeping of two (2) or more pigs that are six (6)  
220 months old or older. These standards do not apply to the raising and selling of any number of pigs  
221 that are under six (6) months of age.

222 B. Setbacks. The following distances are from the identified use to the nearest property not owned or  
223 controlled by the operator/owner of the piggery:

224 (3) Structures: 50 ft.

225 (4) Feed lots, pens and extensively used areas: 100 ft.

226

227 C. Erosion and Sediment Control. The property owner shall demonstrate to the Code Enforcement  
228 Officer that erosion and sediment runoff will not enter an abutting property.

229 D. Spreading or Disposal of Manure. All spreading or disposal of manure shall be accomplished in  
230 conformance with the, "Manual of Best Management Practices for Maine Agriculture," published  
231 by the Maine Department of Agriculture in January 2007, and as this may be amended or  
232 superseded.

### 233 **16.5.4 Agriculture, Poultry Facility**

234 A. Number of Animals. These standards apply to the keeping of thirteen (13) or more poultry animals  
235 that are six (6) months old or older in zoning districts in which Agriculture, Poultry Facility is  
236 either a permitted use or a special exception use. These standards do not apply to the raising and  
237 selling of any number of poultry that are under six (6) months of age.

238 B. Setbacks. The following distances are from the identified nearest property not owned or controlled  
239 by the operator/owner of the poultry facility:

240 (3) Structure, including Barn or Coops: 50 ft.

241 (4) Feed lots, pens and extensively used areas: 100 ft.

242 C. Erosion and Sediment Control. The property owner shall demonstrate to the Code Enforcement  
243 Officer that erosion and sediment runoff will not enter an abutting property.

244 D. Spreading or Disposal of Manure. All spreading or disposal of manure shall be accomplished in  
245 conformance with the, "Manual of Best Management Practices for Maine Agriculture," published  
246 by the Maine Department of Agriculture in January 2007, and as this may be amended or  
247 superseded.

### 248 **16.5.5 Campgrounds and Campsites**

249 A. Campgrounds. Campgrounds must meet the minimum requirements according to state licensing  
250 procedures and the following:

251 (3) Campgrounds must contain a minimum of 5,000 square feet of land, not including roads  
252 and driveways, for each site.

253 (4) Land supporting wetland vegetation and land below the normal high-water line of a water  
254 body is not to be included in calculating land area per site.

- 255 (5) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and  
256 service buildings must be set back a minimum of 75 feet, horizontal distance, from the  
257 normal high-water line of water bodies, tributary streams or the upland edge of a wetland.
- 258 B. Individual private campsites. Individual private campsites not associated with campgrounds may  
259 be permitted in a Shoreland Overlay Zone, provided the following conditions are met:
- 260 (3) One campsite per lot existing on the effective date of this chapter or 30,000 square feet of  
261 lot area within the SL-OZ, whichever is less, may be permitted. [Amended 9-26-2011 by  
262 Ord. No. 11-15]
- 263 (4) Campsite placement on any lot, including the area intended for a recreational vehicle or  
264 tent platform, must be set back 75 feet, horizontal distance, from the normal high-water  
265 line of water bodies, tributary streams or the upland edge of a wetland.
- 266 (5) Only one recreational vehicle is allowed on a campsite. Permanent foundations for  
267 recreational vehicles are prohibited. Gravel pads for temporary recreational vehicle  
268 parking are permissible. No structures, other than canopies, are allowed for attachment to  
269 the recreational vehicle.
- 270 (6) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter  
271 in a Resource Protection Overlay Zone is limited to 1,000 square feet.
- 272 (7) A written sewage disposal plan describing the proposed method and location of sewage  
273 disposal is required for each campsite and must be approved by the local Plumbing  
274 Inspector. Where disposal is off site, written authorization from the receiving facility or  
275 property owner is required.
- 276 (8) Recreational vehicles, tents or similar shelters are not allowed to remain on site for a  
277 period longer than 120 days per year, unless it can be demonstrated that all requirements  
278 for residential structures have been met, including the installation of a subsurface sewage  
279 disposal system in compliance with the State of Maine Subsurface Wastewater Disposal  
280 Rules and/or the site is served by public sewage facilities.

### 281 **16.5.6 Conservation of Wetlands Including Vernal Pools**

#### 282 A. Purpose.

283 Wetlands are a fragile natural resource which, in their natural state, directly and indirectly  
284 benefit the public by serving valuable functions such as pollution filtration systems (i.e.,  
285 retention of suspended solids, phosphorus and other nutrients), control of floodwaters,  
286 erosion control, groundwater recharge, educational and scientific study, wildlife habitat,  
287 open space and recreation. Considerable wetland acreage has been lost or impaired by  
288 draining, dredging, filling, excavating, building, pollution and other acts inconsistent with  
289 the valuable functions and natural limitations of wetlands. It is, therefore, the intent of the  
290 Town to:

- 291 (a.) Prevent the development of structures and land uses within wetlands and  
292 wetland setback areas that may contribute to the pollution of surface water  
293 and groundwater by sewage or toxic substances;
- 294 (b.) Prevent the destruction of, or significant changes to, wetlands which  
295 provide flood and shoreline protection, recharge groundwater supplies, and  
296 augment stream flow during dry periods;
- 297 (c.) Protect wetland areas and promote healthy wetland buffers that will  
298 preserve and enhance the wetlands;
- 299 (d.) Protect wildlife habitats, such as vernal pools, deer habitat, nesting sites,  
300 etc., and maintain ecological balances; and
- 301 (e.) Establish maintenance responsibility and/or fees to protect and maintain the  
302 wetland areas.

- 303 (3) The number of healthy, functional wetlands in Kittery is decreasing; therefore, practices

304 and strategies, such as buffering and the avoidance of wetland alterations that serve to  
305 protect functional wetlands and the repair of degraded wetlands, are encouraged. The  
306 reviewing authority will review plans for proposed development within 100 feet of a  
307 wetland to determine if wetlands of special significance are impacted. The applicant may  
308 be required to pay the cost of an independent study. For the reviewing authorities, refer to  
309 § 16.2.

- 310 (4) Wetlands of special significance have one or more of the following characteristics:
- 311 (a.) Critically imperiled or imperiled community. The freshwater wetland  
312 contains a natural community that is "critically imperiled" as defined by the  
313 Maine Natural Areas Program.
  - 314 (b.) Significant wildlife habitat. The freshwater wetland contains significant  
315 wildlife habitat as defined by 38 M.R.S. §480-B(10).
  - 316 (c.) Location near coastal wetland. The freshwater wetland is located within 250  
317 feet of a coastal wetland.
  - 318 (d.) Location near a water body. The freshwater wetland is located within 250  
319 feet of the normal high-water line and within the same watershed of a lake  
320 or pond.
  - 321 (e.) Aquatic vegetation, emergent marsh vegetation or open water. The  
322 freshwater wetland contains, under normal circumstances, at least 20,000  
323 square feet of aquatic vegetation, emergent marsh vegetation or open water,  
324 unless the twenty-thousand or more square foot area is the result of an  
325 artificial pond or impoundment.
  - 326 (f.) Wetlands subject to flooding. The freshwater wetland is inundated with  
327 floodwater during a one-hundred-year flood event based on flood insurance  
328 maps produced by the Federal Emergency Management Agency or other  
329 site-specific information.
  - 330 (g.) Peatlands. The freshwater wetland is or contains peatlands, except that the  
331 Planning Board may determine that a previously mined peatland, or portion  
332 thereof, is not a wetland of special significance.
  - 333 (h.) River, stream or brook. The freshwater wetland is located within 25 feet of  
334 a river, stream or brook.
  - 335 (i.) Monetary value. An estimation can be determined based on the importance  
336 of the wetland with respect to the individual or collective functions it  
337 provides.
  - 338 (j.) Vernal pools. The wetland contains a particular aquatic habitat as defined  
339 by the Maine Department of Environmental Protection (MDEP), including  
340 those mapped as significant vernal pools by MDEP.

341 B. Wetlands boundaries.

342 The definition of wetland boundaries is as described in this section and in § 16.3. Planning Board  
343 approval to alter a wetland area one acre or larger in size will not be issued until the applicant has  
344 submitted to the Town a wetlands delineation map and summary prepared by a qualified wetlands  
345 scientist or a Maine-certified soil scientist, at the applicant's expense. The qualified wetlands  
346 scientist or Maine-certified soil scientist must determine through field investigation the presence,  
347 location and configuration of wetlands on the area proposed for use.

- 348 (3) Disturbed areas. An area which has been disturbed or modified such that natural  
349 vegetation, hydrology or soils are altered or removed may still satisfy the wetland criteria.  
350 In the event disturbance of a wetland causes the wetland boundary to be altered, a new  
351 boundary may need to be delineated in order to determine if the wetland is a regulated  
352 wetland. Wetland boundaries are to be delineated according to procedures described in  
353 the Corps of Engineers Wetlands Delineation Manual — Waterways Experiment Station  
354 Technical Report Y-87-1, January 1987, (1987 Manual). Notwithstanding the above,



355 areas legally disturbed or modified prior to May 13, 1987 will be considered "wetlands"  
356 for the purpose of this title if such disturbed areas currently meet the normal criteria for  
357 delineating undisturbed wetlands.

- 358 (4) Settling disputes over wetland boundaries. If there is a dispute regarding the existence or  
359 boundaries of the wetlands, the boundaries of the wetland are to be determined, at the  
360 expense of the applicant, by a qualified wetlands scientist or a qualified Maine-certified  
361 soils scientist agreeable to both the Planning Board and the applicant.
- 362 (5) Permits required from other agencies. The determination of wetlands boundaries for  
363 Town jurisdiction by the Town Planning Board, the Conservation Commission, or the  
364 Code Enforcement Officer does not eliminate the need for the applicant to seek  
365 jurisdictional determinations and/or permits from the Maine Department of  
366 Environmental Protection and the United States Army Corps of Engineers when required.

367 C. Regulated activities within wetlands. [Amended 9-26-2011 by Ord. No. 11-15]

- 368 (3) Unless otherwise specified, all new structures and activities within wetlands, including  
369 but not limited to dredging and filling and expansions of existing structures and activities,  
370 are subject to the provisions of these regulations. Proposed activities and structures within  
371 a freshwater wetland smaller than 501 square feet in total size are exempt from the  
372 regulations in this article.

373 D. Permitted activities within regulated wetlands. [Amended 9-26-2011 by Ord. No. 11-15] The  
374 following uses are considered to be compatible within regulated wetlands and are permitted within  
375 regulated wetlands without Planning Board approval, provided they are in conformance with all  
376 local, federal and state regulations:

- 377 (3) Agriculture, including pasturing, farming, haying and harvesting of wild crops. Such  
378 agriculture must not cause or contribute to surface water or groundwater pollution by use  
379 of pesticides, toxic chemicals or other pollutants and must not cause soil erosion;
- 380 (4) Conservation areas and nature trails;
- 381 (5) Education and scientific research;
- 382 (6) Forestry, tree farming and timber harvesting using the best management practices in order  
383 to protect streams from damage and prevent sedimentation. Timber harvesting must be  
384 conducted during periods when the ground is frozen. The practice known as "clear  
385 cutting" is not permitted by right and requires a special permit under § 16.5.27;
- 386 (7) Low-intensity recreation;
- 387 (8) Repair and maintenance of existing ways, roads, driveways, railroad beds, wharfs, docks  
388 or utilities. Such repair and maintenance must not negatively impact the wetland or alter  
389 the existing watercourse and related hydrology;
- 390 (9) Repair and maintenance of existing permanent structures requiring the addition or  
391 removal of 10 cubic yards or less of earth material to (form) a water body or wetland;
- 392 (10) Placement of drainage outfall pipes requiring the addition or removal of less than 10  
393 cubic yards of material;
- 394 (11) Repair in kind, maintenance and necessary upgrade of existing drainage facilities;
- 395 (12) Repair in kind and maintenance of existing transportation facilities;
- 396 (13) Placement of moorings, subject to Harbormaster approval;
- 397 (14) Wilderness areas and natural wildlife refuges;
- 398 (15) Piers, fences, blinds, footbridges and shelters to enhance wildlife, provided they do not  
399 involve draining, grading, filling or dredging within the wetland. All such structures must  
400 be constructed of nontoxic materials and designed in such a manner to permit the  
401 unobstructed flow of waters and must preserve the natural contour and hydrology of the  
402 wetland, unless otherwise authorized by special permit as per § 16.5.8.D;
- 403 (16) Emergency public safety operations; and

404 (17) Any other activity as determined by the Planning Board that does not result in a  
405 measurable alteration of the wetland.

406 E. Prohibited uses within regulated wetlands.

407 The following structures and activities are considered to be incompatible with protecting wetlands  
408 and are prohibited within regulated wetlands:

409 (3) Disposal or storage of waste and/or hazardous materials;

410 (4) Manure stockpiles;

411 (5) Road salt stockpiles;

412 (6) Topsoil removal except as permitted in § 16.5.8.D or with Planning Board approval;

413 (7) Bulk fuel storage;

414 (8) Herbicidal spraying;

415 (9) Invasive nonnative wetland plants; and

416 (10) Snow dumping.

417 F. Procedures for wetlands alteration application.

418 (3) Application and review process. The application and review process for the review of  
419 proposals within regulated wetlands must conform to the procedures explained in § 16.5.8  
420 of this chapter, except where specifically stated otherwise in this section.

421 (4) Submission requirements. An application to alter a wetland must be made in accordance  
422 with the submission requirements in § 16.5.8.L to the Town Planner, or designee,  
423 accompanied by a fee as determined in Appendix A. **[Amended 9-26-2011 by Ord. No.  
424 11-15]**

425 (5) Advisory opinion. The Planning Board may request the Town Planner to acquire more  
426 specific data and analysis from qualified sources and/or the opinion of the Conservation  
427 Commission concerning the proposed activity.

428 (6) Timing after Board acceptance. The Planning Board will issue its decision within 35 days  
429 of receipt of the completed wetlands alteration application, unless a public hearing is  
430 necessary. A hearing is not necessary if the Planning Board finds that the activity is so  
431 minor that it will not significantly affect the wetland or that the hearing will not produce  
432 additional information useful to the review. A decision may be rendered at the scheduling  
433 hearing if the Board determines that a complete application has been received and no  
434 public hearing is necessary. If a public hearing is held, the Planning Board is required to  
435 issue its decision within 35 days of completion of the public hearing.

436 (7) Abutter notice. Owners of property within 150 feet, horizontal distance, of the proposed  
437 alteration must be notified by first class U.S. Mail of any public hearing on the  
438 application for wetlands alteration.

439 (8) Coordination. Submission requirements for an application for a wetlands alteration will  
440 be integrated into the required submissions for a subdivision or development review  
441 application to the Planning Board.

442 G. Wetlands alteration approval criteria. [Amended 9-26-2011 by Ord. No. 11-15]

443 (3) In making the final determination as to whether a wetland application should be  
444 approved, the Planning Board will consider existing wetland destruction and the  
445 cumulative effect of reasonably anticipated future uses similar to the one proposed.  
446 Preference will be given to activities that meet wetland setbacks, have a reasonable  
447 stormwater management plan (subject to Planning Board review and approval), and that  
448 dedicate easements for the purposes of maintaining the wetland and the associated  
449 drainage system. Approval to alter a wetland will not be granted for dredging or ditching  
450 solely for the purpose of draining wetlands and creating dry buildable land areas. An  
451 application for a wetlands alteration will not be approved for the purpose of creating a  
452 sedimentation or retention basin in the wetland. Increased peak runoff rates resulting from

- 453 an increase in impermeable surfaces from development activities are not allowed.
- 454 (4) It is the responsibility and burden of the applicant to show that the proposed use meets the  
455 purposes of this title and the specific standards listed below to gain Planning Board  
456 approval to alter a wetland. The Planning Board will not approve a wetlands alteration  
457 unless the applicant provides clear and convincing evidence of compliance with this title.
- 458 (5) In evaluating the proposed activity, the Planning Board may need to acquire expert  
459 advisory opinions. The applicant must be notified in writing, by the Town Planner at the  
460 Planning Board's request, that the applicant will bear the expenses incurred for the expert  
461 persons or agencies. The Planning Board will consider the advisory opinion, including  
462 any recommendations and conditions, provided by the Conservation Commission.
- 463 (6) When the Planning Board finds the demonstrated public benefits of the project as  
464 proposed, or modified, clearly outweigh the detrimental environmental impacts, the  
465 Planning Board may approve such development, but not prior to granting approval of a  
466 reasonable and practicable mitigation plan (see § 16.5.8.I) and not prior to the completion  
467 of all performance guaranties for the project (see § 16.8.9.D(11)).
- 468 (7) The applicant must submit applicable documentation that demonstrates there is no  
469 practicable alternative to the proposed alteration of the wetland. In determining if no  
470 practicable alternative exists, the Planning Board will consider the following:
- 471 (a.) The proposed use:
- 472 [1.] Uses, manages or expands one or more other areas of the site that  
473 will avoid or reduce the wetland impact;
- 474 [2.] Reduces the size, scope, configuration or density of the project as  
475 proposed, thereby avoiding or reducing the wetland impact;
- 476 [3.] Provides alternative project designs, such as cluster development,  
477 roof gardens, bridges, etc., that avoid or lessen the wetland impact;  
478 and
- 479 [4.] Demonstrates that the proposed development meets or exceeds best  
480 management practices for stormwater management in the wetland  
481 areas.
- 482 (8) In determining if the proposed development plan affects no more wetland than is  
483 necessary, the Planning Board will consider if the alternatives discussed above in  
484 Subsection (1) of this section accomplish the following project objectives:
- 485 (a.) The proposed use will not:
- 486 [1.] Unreasonably impair or diminish the wetland's existing capacity to  
487 absorb, store and slowly release stormwater and surface water  
488 runoff;
- 489 [2.] Unreasonably increase the flow of surface waters through the  
490 wetland;
- 491 [3.] Result in a measurable increase in the discharge of surface waters  
492 from the wetland;
- 493 [4.] Unreasonably impair or diminish the wetland's capacity for retention  
494 and absorption of silt, organic matter, and nutrients;
- 495 [5.] Result in an unreasonable loss of important feeding, nesting,  
496 breeding or wintering habitat for wildlife or aquatic life; all  
497 crossings must be designed to provide a moist soil bed in culvert  
498 inverts and to not significantly impede the natural migration of  
499 wildlife across the filled area;
- 500 [6.] Result in a measurable increase of the existing seasonal temperature  
501 of surface waters in the wetland or surface waters discharged from  
502 the wetlands; or

[7.]Result in a measurable alteration or destruction of a vernal pool.

H. Expiration of wetlands alteration approval. [Amended 1-28-2015 by Ord. No. 15-01]

- (3) Wetlands alteration approval will expire if work has not commenced within one year of the Planning Board date of approval. Where work has commenced within one year of approval, such approval will expire unless work is complete within two years of the original approval date.
- (4) Prior to expiration, the Planning Board may, on a case-by-case basis, grant extensions to an approved plan expiration date upon written request by the developer for an inclusive period from the original approval date, not to exceed five years for a subdivision plan and three years for all other development plans.

I. Mitigation plan.

- (3) Mitigation activities are actions taken to offset potential adverse environmental impact, as well as the remittance of fees and a plan for the preservation of buildable/usable upland areas when the applicant has proven to the Planning Board's satisfaction that there are no practical alternatives to impacting a wetland.
- (4) Required fees and compensation.
  - (a.) For activities which in total will alter or fill less than 501 square feet of regulated wetlands, the mitigation plan must include the preservation of an undisturbed upland buffer zone adjacent to the wetland boundary equal in size to the area of the wetland to be altered.
  - (b.) For activities which in total alter or fill a five-hundred-and-one-square foot to twenty-thousand-square-foot wetland, the mitigation plan must include the preservation of an undisturbed upland buffer zone adjacent to the wetland boundary equal in size to the area of the wetland to be altered. The undisturbed buffer zone from the wetland boundary must be placed in deed restrictions and be located and configured in a manner acceptable to the Planning Board.
  - (c.) In addition, a wetlands preservation fee for each square foot of altered wetland area, as determined in Appendix A, will be deposited into the account of the Town to achieve one or more of the following objectives related to the conservation of Kittery wetlands, with the Planning Board's recommendation and release of funds by the Town Council: [Amended 9-26-2011 by Ord. No. 11-15]
    - [1.] Restoration and preservation of wetlands;
    - [2.] Purchase of buffer areas for wetlands deemed at risk;
    - [3.] Monitoring and improvement of water quality;
    - [4.] Environmental and conservation projects, such as, but not limited to, education;
    - [5.] Matching grant funds;
    - [6.] Open space land purchases in conjunction with the Open Space Committee;
    - [7.] Assistance to the Kittery Land Trust; and/or
    - [8.] Purchase of signage to denote sensitive and wetland areas.
  - (d.) Assessment. A functional assessment and report of the wetlands to be altered must be conducted in accordance with the requirements in § 16.5.8.L(3). The assessment must demonstrate the existing wetland functions and functional value and summarize the impairments, degradation and/or loss of function due to the proposed development.
    - [1.] When required. Fees for deposit to the wetlands preservation

552 account are required whenever wetland areas or wetland functions  
553 will be lost or degraded due to the project, as identified by the  
554 functional assessment.

555 [2.]Where required. Fees for deposit to the wetlands preservation  
556 account must be used on the proposed site or on parcels adjacent to  
557 the project site when possible. If not possible, the fees must be used  
558 within the same watershed as the proposed alteration, or within the  
559 project vicinity, except as allowed for mitigation banking approved  
560 in writing by the Maine Department of Environmental Protection. In  
561 all cases, use of the fees must occur within the boundaries of the  
562 Town.

563 [3.]Wetland impact mitigation process. Fees or developable land, or a  
564 combination thereof, as determined by the Planning Board, will be  
565 used to replace lost wetlands and wetland functions. Where the  
566 Maine Department of Environmental Protection and this title require  
567 and the Planning Board has approved a mitigation plan, such plan is  
568 deemed to satisfy Town standards.

569 (e.) Homeowners' association documents, deed covenants, maintenance  
570 agreements, and easements must establish responsibility for the  
571 maintenance of wetlands. The association documents must stipulate  
572 periodic maintenance of the surface and subsurface stormwater system,  
573 including but not limited to catch basins, stormwater manholes, pipes,  
574 ditches, curbs, settling basins and other structures designed to direct, retain  
575 and/or discharge stormwater runoff. In the event the Code Enforcement  
576 Officer and/or the Town's Engineer finds the wetlands are not in a natural  
577 healthy state, the association will be required to hire a qualified wetlands  
578 scientist or a Maine-certified soils scientists to evaluate all wetlands within  
579 the development at the association's expense.

580 J. Coordination.

581 To reduce delays, the applicant may, upon written notice to the Town Planner, simultaneously  
582 apply to the Army Corps of Engineers and the Maine Department of Environmental Protection for  
583 permits during the Town review process. In addition, the applicant may simultaneously apply for  
584 other local land use regulation approvals while applying for wetlands alteration approval.

585 K. Enforcement.

586 The provisions of this Section (§16.5.8), Conservation of Wetlands Including Vernal Pools, are to  
587 be administered and enforced pursuant to the provisions of § 16.2, Administration and  
588 Enforcement.

589 L. Submission requirements for wetland alteration application.

590 (3) Minimum requirements. Unless specifically waived by the Planning Board, all  
591 applications must contain the following information:

592 (a.) Fifteen copies of the narrative, the site plan and the vicinity map required in  
593 this subsection. [Amended 9-26-2011 by Ord. No. 11-15]

594 (b.) A copy of the official documents showing legal interest of the applicant in  
595 the property to be affected.

596 (c.) A narrative, describing:

597 [1.] The purpose of the project;

598 [2.] The type of alteration to the wetland (fill, culvert, dredge, etc.);

599 [3.] Why there is no practicable alternative to impacting the wetland;  
600 and

601 [4.] How the proposed activity has been designed to minimize the

602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651

impact on the wetland.

(d.) A plan view showing the site as viewed from above is required. The plan view must:

- [1.] Be drawn at an appropriate scale, but no smaller scale than one inch equals 100 feet, and show the proposed activity, the location and size of all existing and proposed structures, roads, parking areas and sewage treatment facilities.
- [2.] Contain a code block in the lower right-hand corner. The block must contain the:
  - a. Name(s) and address(es) of the applicant or owner;
  - b. Name and address of the preparer of the plan, with professional seal, if applicable;
  - c. Name of plan, date of plan preparation, and a revision number and date, if applicable; and
  - d. Map and lot number(s), according to Kittery tax maps, shown in the lower right-hand corner in bold lettering and 1/4 inch high.
- [3.] Show a North arrow.
- [4.] Show property boundaries.
- [5.] Show the location of any wetlands, shorelines and floodplains. Wetland boundaries must be delineated using the Corps of Engineers Wetlands Delineation Manual — "Waterways Experiment Station Technical Report Y-87-1, January 1987," (1987 Manual).
- [6.] Show the location (tied by measurement to identifiable structures or boundary points) of all proposed draining, fill, grading, dredging and vegetation removal, including specification of amount of materials to be added or removed and procedures to be used.
- [7.] Indicate the square footage of wetlands to be affected by the proposed activity.
- [8.] Show the direction of natural water flow over the land, in the wetland, and in the proposed alteration area.
- [9.] Show the location of the one-hundred-year floodway and flood hazard boundaries as shown on the current effective National Flood Insurance Program maps, if applicable.
- [10.] Specify the number of cubic yards and type of material to be used as fill, if fill material is involved.
- [11.] Specify the type of material, number of cubic yards, method of handling, and the location of fill and spoil disposal area, if dredge material is involved.
  - a. Show all owners of property within 150 feet of the proposed alteration, together with their mailing addresses and map and lot designations from the Assessor's records.

(e.) A vicinity map, utilizing a topographic map at a scale no smaller than one inch equals 600 feet, showing the boundary of the proposed activity.

(f.) One set of photographs, taken during the growing season if possible, showing the wetland, adjacent water bodies if applicable, and the alteration area before development begins.

(4) Additional requirements. In its consideration of an application, the Board may at any point in the review require the applicant to submit additional materials, studies, analyses and agreement proposals that the Board may deem necessary for a complete

652 understanding of the application. Such material may include the following items:

- 653 (a.) A site plan showing existing and proposed topographic contours at two-foot  
654 intervals;
- 655 (b.) A hydrologic analysis in accordance with the requirements of this chapter;
- 656 (c.) Cross-section drawings showing the nature of the construction, the depth of  
657 excavation or height of fill, if applicable, and surface water and  
658 groundwater elevations; and
- 659 (d.) An evaluation, by a qualified wetlands scientist or a Maine-certified soils  
660 scientist, assessing the functions of the wetland and the impact of the  
661 proposed activity on these functions.

662 (5) Wetlands mitigation plan and report. A wetlands mitigation plan and report is required for  
663 activities which, in total, affect or fill more than 500 square feet of wetlands.

664 (a.) The wetland mitigation plan and report must contain the following:

- 665 [1.] Plan at a scale of one inch equals 100 feet that shows two-foot  
666 contour intervals, existing wetland boundaries, the area of wetland  
667 to be altered, project dimensions and all off-site wetlands being  
668 extensions of the wetland to be altered;
- 669 [2.] Existing wetland characteristics, including water depth, vegetation  
670 and fauna;
- 671 [3.] Functional assessment, conducted by a qualified wetlands scientist  
672 or a Maine-certified soils scientist, on the wetland to be altered,  
673 which analyzes the wetland's value based on the functions it serves  
674 and how the wetland will be affected by the proposed alteration. The  
675 Wetland Evaluation Technique (WET) methodology, published by  
676 the U.S. Army Corps of Engineers, is one acceptable methodology.  
677 Other comparable assessment techniques may be accepted, provided  
678 the applicant submits documentation of how the methodology was  
679 developed, how the wetland functions and values are determined,  
680 and how much field testing the technique has undergone; and
- 681 [4.] Photographs of the wetland to be altered which show its  
682 characteristics.

683 (b.) Description of the overall proposed activity with particular reference to its  
684 impact on the wetland, including the precise location of the activity, its  
685 dimensions, the amount and type of fill (if any proposed), any proposed  
686 drainage, the timing and procedures proposed for the alteration, and any  
687 efforts proposed for reducing impacts. The Planning Board may require  
688 certain fill areas (such as stormwater storage basins, solid waste landfills,  
689 fill behind retaining walls, etc.) to be structurally engineered.

690 (c.) Plan for the proposed wetlands work, if any, including a topographic plan at  
691 the scale of one inch equals 100 feet, showing two-foot contour intervals  
692 and proposed wetland boundaries. This plan must also include:

- 693 [1.] Proposed boundaries and characteristics of the mitigation site,  
694 including elevation, sources of water, and proposed vegetation;
- 695 [2.] Narrative describing the specific goals in terms of particular wetland  
696 functions and values. These goals must be related to those of the  
697 original wetland;
- 698 [3.] Narrative describing the available literature or experience to date (if  
699 any) for carrying out the mitigation work;
- 700 [4.] Proposed implementation and management procedures for the  
701 wetlands work;

- 702 [5.]Description of the short-term and long-term sources of water for this  
703 wetland, including the water quality of these sources;
- 704 [6.]Plans for replanting, including a description of plant species, sizes  
705 and sources of plant material, as well as how, when and where  
706 seeding or planting will take place;
- 707 [7.]Proposed buffers or protective measures, such as sediment control  
708 methods;
- 709 [8.]Plans for monitoring the wetlands work, showing capability for mid-  
710 course corrections; and
- 711 [9.]Plans, if any, for control of nonindigenous plant species.
- 712 (d.)For wetlands work involving creation, restoration and/or enhancement of  
713 degraded wetlands, a maintenance agreement must be approved by the  
714 Board and recorded in the York County Registry of Deeds. The  
715 maintenance agreement must be conveyed or a deed restriction imposed,  
716 and such maintenance responsibility is not dissolvable without Council  
717 approval. The maintenance agreement must meet or exceed the criteria  
718 listed in § 16.5.8.I.
- 719 (e.)For projects involving preservation of wetlands or adjacent uplands, a  
720 conservation easement must be conveyed or deed restriction imposed so  
721 that the parcel will remain undeveloped in perpetuity.

### 722 **16.5.7 Essential Services**

- 723 A. Installation.  
724 Where feasible, the installation of essential services will be limited to existing public ways and  
725 existing service corridors.
- 726 B. Location in CON or OZ-RP Zone.  
727 The installation of essential services is not permitted in a Conservation Zone or Resource  
728 Protection Overlay Zone, except to provide services to a permitted use within said zone, or except  
729 where the applicant demonstrates no reasonable alternative exists. Where permitted, such  
730 structures and facilities must be located to minimize any adverse impacts on surrounding uses and  
731 resources, including visual impacts.
- 732 C. Replacement of equipment without permit.  
733 Damaged or destroyed public utility transmission and distribution lines, towers and related  
734 equipment may be replaced or reconstructed without a permit.

### 735 **16.5.8 Floodplain Management**

736 [Added 9-26-2011 by Ord. No. 11-15]

- 737 A. Statement of purpose and intent.
- 738 (3) Certain areas of the Town are subject to periodic flooding, causing serious damages to  
739 properties within these areas. Relief is available in the form of federally subsidized flood  
740 insurance as authorized by the National Flood Insurance Act of 1968.
- 741 (4) Therefore, the Town has chosen to become a participating community in the National  
742 Flood Insurance Program and agrees to comply with the requirements of the National  
743 Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this article.
- 744 (5) It is the intent of the Town to require the recognition and evaluation of flood hazards in  
745 all official actions relating to land use in the floodplain areas having special flood  
746 hazards. This body has the legal authority to adopt land use and control measures to  
747 reduce future flood losses pursuant to 30-A M.R.S §§ 3001-3007, 4352 and 4401-4407.
- 748 B. Definitions.  
749 Unless specifically defined in § 16.3, words and phrases used in this article have the same



750 meanings as they have in common law to give this article its most reasonable application.

751 C. Establishment of areas.

752 (3) The Town elects to comply with the requirements of the National Flood Insurance Act of  
753 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in  
754 the aforesaid Act, provides that areas of the Town having a special flood hazard be  
755 identified by the Federal Emergency Management Agency and that floodplain  
756 management measures be applied in such flood hazard areas. This article establishes a  
757 flood hazard development permit system and review procedure for development activities  
758 in the designated flood hazard areas of the Town.

759 (4) The areas of special flood hazard, Zones A, A1 — 30, AE, AO, AH, V1 — 30 and/or VE,  
760 identified by the Federal Emergency Management Agency in a report entitled "Flood  
761 Insurance Study — Town of Kittery, Maine, York County," dated January 5, 1984, with  
762 accompanying Flood Insurance Rate Map dated July 3, 1986, are adopted by reference  
763 and declared to be a part of this article.

764 D. Permit required.

765 Before any construction or other development (as defined in § 16.9.8.2), including the placement  
766 of manufactured homes, begins within any areas of special flood hazard established in  
767 § 16.5.10.C, a flood hazard development permit is to be obtained from the Code Enforcement  
768 Officer. This permit is in addition to any other building/regulated activity permits which may be  
769 required pursuant to this title.

770 E. Application for permit.

771 The application for a flood hazard development permit is to be submitted to the Code Enforcement  
772 Officer and include:

773 (3) The name and address of the applicant.

774 (4) An address and a map indicating the location of the construction site.

775 (5) A site plan showing the location of existing and/or proposed structures, sewage disposal  
776 facilities, water supply facilities, areas to be cut and filled, and lot dimensions.

777 (6) A statement of the intended use of the structure.

778 (7) A statement as to the type of sewage system proposed.

779 (8) Specification of dimensions of the proposed structure.

780 (9) The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally  
781 established datum in Zone A only, of the:

782 (a.) Base flood at the proposed site of all new or substantially improved  
783 structures, which is determined:

784 [1.] In Zones A1 — 30, AE, AO, AH, V1 — 30, and VE, from data  
785 contained in the "Flood Insurance Study — Town of Kittery,  
786 Maine," as described in § 16.5.10.C or

787 [2.] In Zone A, to be the elevation of the ground at the intersection of the  
788 floodplain boundary and a line perpendicular to the shoreline which  
789 passes along the ground through the site of the proposed building.

790 (b.) Highest and lowest grades at the site adjacent to the walls of the proposed  
791 building.

792 (c.) Lowest floor, including basement, and whether or not such structures  
793 contain a basement.

794 (d.) Level, in the case of nonresidential structures only, to which the structure  
795 will be floodproofed.

796 (10) A description of a base flood elevation reference point established on the site of all new  
797 or substantially improved structures.

- 798 (11) A written certification by a registered land surveyor that the elevations shown on the  
799 application are accurate.
- 800 (12) Certification by a registered professional engineer or architect that floodproofing methods  
801 for any:
- 802 (a.) Nonresidential structures will meet the floodproofing criteria of Subsection  
803 7(d) of this section. Subsection 7 of § 16.5.10.H, and other applicable  
804 standards in § 16.5.10.H; and
- 805 (b.) Construction in coastal high-hazard areas, Zones V1 — 30 and VE, will  
806 meet the floodproofing criteria of Subsection 11 of § 16.5.10.H and other  
807 applicable standards in § 16.5.10.H
- 808 (13) A description of the extent to which any watercourse will be altered or relocated as a  
809 result of the proposed development.
- 810 (14) A statement of construction plans describing in detail how each applicable development  
811 standard in § 16.5.10.H will be met.

812 F. Application fee and expert's fee.

- 813 (3) A nonrefundable application fee as set out in Appendix A is to be paid to the Town Clerk,  
814 and a copy of a receipt for the same must accompany the application.
- 815 (4) An additional fee may be charged if the Code Enforcement Officer and/or Board of  
816 Appeals needs the assistance of a professional engineer or other expert. The expert's fee  
817 must be paid in full by the applicant within 10 days after the Town submits a bill to the  
818 applicant. Failure to pay the bill constitutes a violation of this title and is grounds for the  
819 issuance of a stop-work order. An expert may not be hired by the municipality at the  
820 expense of an applicant until the applicant has either consented to such hiring in writing  
821 or been given an opportunity to be heard on the subject. An applicant who is dissatisfied  
822 with a decision of the Code Enforcement Officer may appeal that decision to the Board of  
823 Appeals.

824 G. Review of flood hazard development permit applications.

825 The Code Enforcement Officer must:

- 826 (3) Review all applications for a flood hazard development permit to assure that proposed  
827 building sites are reasonably safe from flooding and to determine that all pertinent  
828 requirements of § 16.5.10.H, Development standards, have or will be met.
- 829 (4) Utilize, in the review of all flood hazard development permit applications, the base flood  
830 data contained in the "Flood Insurance Study — Town of Kittery, Maine," as described in  
831 § 16.5.10.C. In special flood hazard areas where base flood elevation data are not  
832 provided, the Code Enforcement Officer is to obtain, review and reasonably utilize any  
833 base flood elevation and floodway data from federal, state, or other sources, including  
834 information obtained pursuant to §16.5.10.E(7)a.ii, § 16.5.10.H(9) and §16.5.10.J, in  
835 order to administer § 16.5.10.H of this article.
- 836 (5) Make interpretations of the location of boundaries of special flood hazard areas shown on  
837 the maps described in § 16.5.10.C.
- 838 (6) In the review of flood hazard development permit applications, determine that all  
839 necessary permits have been obtained from those federal, state and local government  
840 agencies from which prior approval is required by federal or state law, including, but not  
841 limited to, Section 404 of the Federal Water Pollution Control Act Amendments of 1972,  
842 33 U.S.C. § 1334.
- 843 (7) Notify adjacent municipalities, the Department of Environmental Protection, and the  
844 Maine Office of Community Development prior to any alteration or relocation of a  
845 watercourse and submit copies of such notifications to the Federal Emergency  
846 Management Agency.
- 847 (8) Issue a two-part flood hazard development permit for elevated structures. Part I is to

848 authorize the applicant to build a structure to and including the first horizontal floor only  
849 above the base flood level. At that time the applicant must provide the Code Enforcement  
850 Officer with an application for Part II of the flood hazard development permit and include  
851 an elevation certificate completed by a registered Maine surveyor for compliance with the  
852 elevation requirements of Subsections 6, 7, 8 and 11 of § 16.5.10.H. Following review of  
853 the application, which review must take place within three working days of receipt of the  
854 application, the Code Enforcement Officer is to issue Part II of the flood hazard  
855 development permit. Part II authorizes the applicant to complete the construction project.

- 856 (9) Maintain, as a permanent record, copies of all flood hazard development permits issued  
857 and data relevant thereto, including reports of the Board of Appeals on variances granted  
858 under the provisions of § 16.2.3; and copies of elevation certificates and certificates of  
859 compliance required under the provisions of § 16.5.10.I.

860 H. Development standards.

861 All developments in areas of special flood hazard are to meet the following applicable standards:

- 862 (3) New construction or substantial improvement of any structure must:
- 863 (a.) Be designed or modified and adequately anchored to prevent flotation,  
864 collapse or lateral movement of the structure resulting from hydrodynamic  
865 and hydrostatic loads, including the effects of buoyancy;
  - 866 (b.) Use construction materials that are resistant to flood damage;
  - 867 (c.) Use construction methods and practices that will minimize flood damage;  
868 and
  - 869 (d.) Use electrical, heating, ventilation, plumbing, and air-conditioning  
870 equipment, and other service facilities, that are designed and/or located so  
871 as to prevent water from entering or accumulating within the components  
872 during flooding conditions.
- 873 (4) All new and replacement water supply systems are to be designed to minimize or  
874 eliminate infiltration of floodwaters into the systems.
- 875 (5) All new and replacement sanitary sewage systems are to be designed and located to  
876 minimize or eliminate infiltration of floodwaters into the system and discharges from the  
877 system into floodwaters.
- 878 (6) On-site waste disposal systems are to be located and constructed to avoid impairment to  
879 them or contamination from them during floods.
- 880 (7) All development is to be constructed and maintained in such a manner that no reduction  
881 occurs in the flood-carrying capacity of any watercourse.
- 882 (8) New construction or substantial improvement of any residential structure located within:
- 883 (a.) Zones A1 — 30, AE and AH is to have the lowest floor (including  
884 basement) elevated to at least one foot above the base flood elevation.
  - 885 (b.) Zones AO and AH is to have adequate drainage paths around structures on  
886 slopes, to guide floodwater away from the proposed structures.
  - 887 (c.) Zone AO is to have the lowest floor (including basement) elevated above  
888 the highest adjacent grade:
    - 889 [1.] At least one foot higher than the depth specified in feet on the  
890 community's Flood Insurance Rate Map; or
    - 891 [2.] At least three feet if no depth number is specified.
  - 892 (d.) Zone A is to have the lowest floor (including basement) elevated to at least  
893 one foot above the base flood elevation utilizing information obtained  
894 pursuant to § 16.5.10.E(7)a.ii, 16.5.10.G(2) or 16.5.10.J(4).
  - 895 (e.) Zones V1 — 30 and VE is to meet the requirements of Subsection **11** of  
896 this section.

- 897 (9) New construction or substantial improvement of any nonresidential structure located  
898 within:
- 899 (a.) Zones A1 — 30, AE and AH is to have the lowest floor (including  
900 basement) elevated to at least one foot above the base flood elevation or,  
901 together with attendant utility and sanitary facilities, must:
- 902 [1.] Be floodproofed to at least one foot above the base flood level so  
903 that below that elevation the structure is watertight with walls  
904 substantially impermeable to passage of water;
- 905 [2.] Have structural components capable of resisting hydrostatic and  
906 hydrodynamic loads and the effects of buoyancy; and
- 907 [3.] Be certified by a registered professional engineer or architect that  
908 the design and methods of construction are in accordance with  
909 accepted standards of practice for meeting the provisions of this  
910 section. Such certification must be provided with the application for  
911 a flood hazard development permit, as required by § 16.5.10.E(10),  
912 and include a record of the elevation above mean sea level of the  
913 lowest floor, including basement.
- 914 (b.) Zones AO and AH is to have adequate drainage paths around structures on  
915 slopes, to guide floodwater away from the proposed structures.
- 916 (c.) Zone AO is to have the lowest floor (including basement) elevated above  
917 the highest adjacent grade:
- 918 [1.] At least one foot higher than the depth specified in feet on the  
919 community's Flood Insurance Rate Map; or
- 920 [2.] At least three feet if no depth number is specified; or
- 921 [3.] Together with attendant utility and sanitary facilities, be  
922 floodproofed to meet the elevation requirements of this section and  
923 floodproofing standards of Subsection 7(a) of this section.
- 924 (d.) Zone A is to have the lowest floor (including basement) elevated to at least  
925 one foot above the base flood elevation utilizing information obtained  
926 pursuant to § 16.5.10.E(7)a.ii, 16.5.10.G(2) or 16.5.10.J
- 927 (e.) Zones V1 — 30 and VE is to meet the requirements of Subsection 11 of  
928 this section.
- 929 (10) New or substantially improved manufactured homes located within:
- 930 (a.) Zones A1 — 30, AE or AH must:
- 931 [1.] Be elevated on a permanent foundation such that the lowest floor is  
932 at least one foot above the base flood elevation; and
- 933 [2.] Be securely anchored to an adequately anchored foundation system  
934 to resist flotation, collapse, or lateral movement. Methods of  
935 anchoring may include, but are not limited to:
- 936 a. Over-the-top ties anchored to the ground at the four corners  
937 of the manufactured home, plus two additional ties per side  
938 at intermediate points (manufactured homes less than 50 feet  
939 long require one additional tie per side); or
- 940 b. By frame ties at each corner of the home, plus five  
941 additional ties along each side at intermediate points  
942 (manufactured homes less than 50 feet long require four  
943 additional ties per side).
- 944 c. All components of the anchoring system described in  
945 Subsection 8(a)(ii)[a] and [b] of this section must be capable  
946 of carrying a force of 4,800 pounds.

- 947 (b.) Zones AO and AH are to have adequate drainage paths around structures on  
948 slopes, to guide floodwater away from the proposed structures.
- 949 (c.) Zone AO are to have the lowest floor (including basement) elevated above  
950 the highest adjacent grade:
- 951 [1.] At least one foot higher than the depth specified in feet on the  
952 community's Flood Insurance Rate Map; or
- 953 [2.] At least three feet if no depth number is specified; and
- 954 [3.] Meet the requirements of Subsection 8(a)(i) and (ii) of this section.
- 955 (d.) Zone A are to have the lowest floor (including basement) elevated to at  
956 least one foot above the base flood elevation utilizing information obtained  
957 pursuant to § 16.5.10.E(7)a.ii, 16.5.10.G(2) or 16.5.10.J.
- 958 (e.) Zones V1 — 30 and VE are to meet the requirements of Subsection 11 of  
959 this section.

960 (11) Floodways.

- 961 (a.) In Zones A1 — 30 and AE, encroachments, including fill, new  
962 construction, substantial improvement, and other development, are not  
963 permitted in riverine areas, for which a regulatory floodway is designated  
964 on the community's "Flood Boundary and Floodway Map," unless a  
965 technical evaluation certified by a registered professional engineer is  
966 provided demonstrating that such encroachments will not result in any  
967 increase in flood levels within the community during the occurrence of the  
968 base flood discharge.
- 969 (b.) In Zones A1 — 30 and AE riverine areas, for which no regulatory floodway  
970 is designated, encroachments, including fill, new construction, substantial  
971 improvement, and other development, are not permitted unless a technical  
972 evaluation certified by a registered professional engineer is provided  
973 demonstrating that the cumulative effect of the proposed development,  
974 when combined with all other existing development and anticipated  
975 development:
- 976 [1.] Will not increase the water surface elevation of the base flood more  
977 than one foot at any point within the community; and
- 978 [2.] Is consistent with the technical criteria contained in Section 2-7,  
979 entitled "Hydraulic Analyses," Flood Insurance Study — Guidelines  
980 and Specifications for Study Contractors, FEMA 37/September,  
981 1985, as amended.
- 982 (c.) In Zone A riverine areas, in which the regulatory floodway is determined to  
983 be the channel of the river or other watercourse and the adjacent land areas  
984 to a distance of 1/2 the width of the floodplain as measured from the normal  
985 high-water mark to the upland limit of the floodplain, encroachments,  
986 including fill, new construction, substantial improvement, and other  
987 development, are not permitted unless a technical evaluation certified by a  
988 registered professional engineer is provided meeting the requirements of  
989 Subsection 9(b) of this section.

990 (12) New construction or substantial improvement of any structure in Zones A1 — 30, AE,  
991 AO, AH and A that meets the development standards of this section, including the  
992 elevation requirements of Subsection 6, 7 or 8 of this section, and is elevated on posts,  
993 columns, piers, piles, "stilts" or crawl spaces less than three feet in height may be  
994 enclosed below the elevation requirements provided all the following criteria are met or  
995 exceeded:

- 996 (a.) Walls, with the exception of crawl spaces less than three feet in height,  
997 must not be part of the structural support of the building; and

- 998 (b.) Enclosed areas are not "basements" as defined in § 16.5.10.B; and  
999  
1000 (c.) Enclosed areas are to be designed to automatically equalize hydrostatic  
1001 flood forces on exterior walls by allowing for the entry and exit of  
1002 floodwater. Designs for meeting this requirement must either:  
1003 [1.] Be certified by a registered professional engineer or architect; or  
1004 [2.] Meet or exceed the following minimum criteria:  
1005 a. A minimum of two openings having a total net area of not  
1006 less than one square inch for every square foot of the  
1007 enclosed area;  
1008 b. The bottom of all openings may be no higher than one foot  
1009 above the lowest grade; and  
1010 c. Openings may be equipped with screens, louvers, valves, or  
1011 other coverings or devices, provided that they permit the  
1012 entry and exit of floodwaters automatically without any  
1013 external influence or control, such as human intervention,  
1014 including the use of electrical and other nonautomatic  
1015 mechanical means; and  
1016 (d.) The enclosed area may not be used for human habitation; and  
1017 (e.) The enclosed area may be used for building maintenance, access, parking  
1018 vehicles, or storing of articles and equipment used for maintenance of the  
1019 building.
- (13) Coastal floodplains.
- 1020 (a.) All new construction located within Zones V1 — 30 and VE is to be  
1021 located landward of the reach of the highest annual spring tide.
- 1022 (b.) New construction or substantial improvement of any structure located  
1023 within Zones V1 — 30 or VE must:  
1024 [1.] Be prohibited unless the following criteria are met:  
1025 a. The area is zoned for general development or its equivalent,  
1026 as defined in the Mandatory Shoreland Zoning guidelines  
1027 adopted pursuant to 38 M.R.S. § 438-A; or  
1028 b. The area is designated as densely developed as defined in 38  
1029 M.R.S. § 436-A, Subsection 3.  
1030 [2.] Be elevated on posts or columns such that:  
1031 a. The bottom of the lowest structural member of the lowest  
1032 floor (excluding the pilings or columns) is elevated to one  
1033 foot above the base flood level;  
1034 b. The pile or column foundation and the elevated portion of  
1035 the structure attached thereto is anchored to resist flotation,  
1036 collapse, and lateral movement due to the effects of wind  
1037 and water loads acting simultaneously on all building  
1038 components; and  
1039 c. Water loading values used must be those associated with the  
1040 base flood. Wind loading values used must be those required  
1041 by applicable state and local building standards.  
1042 [3.] Have the space below the lowest floor:  
1043 a. Free of obstructions; or  
1044 b. Constructed with open wood lattice-work, or insect  
1045 screening intended to collapse under wind and water without  
1046 causing collapse, displacement, or other structural damage to

- 1047 the elevated portion of the building or supporting piles or  
1048 columns; or
- 1049 c. Constructed with nonsupporting breakaway walls which  
1050 have a design safe loading resistance of not less than 10 nor  
1051 more than 20 pounds per square foot.
- 1052 (c.) A registered professional engineer or architect must:
- 1053 [1.] Develop or review the structural design, specifications and plans for  
1054 the construction, which must meet or exceed the technical criteria  
1055 contained in the Coastal Construction Manual (FEMA-55/February,  
1056 1986); and
- 1057 [2.] Certify that the design and methods of construction to be used are in  
1058 accordance with accepted standards of practice for meeting the  
1059 criteria of Subsection **11(b)** of this section.
- 1060 (d.) The use of fill for structural support in Zones V1 — 30 and VE is  
1061 prohibited.
- 1062 (e.) Human alteration of sand dunes within Zones V1 — 30 and VE is  
1063 prohibited unless it can be demonstrated that such alterations will not  
1064 increase potential flood damage.
- 1065 (f.) The enclosed areas may be used solely for parking vehicles, building  
1066 access, and storage.

1067 I. Certificate of compliance.  
1068 No land in a special flood hazard area may be occupied or used and no structure which is  
1069 constructed or substantially improved may be occupied until a certificate of compliance is issued  
1070 by the Code Enforcement Officer subject to the following provisions:

- 1071 (3) The applicant must submit an elevation certificate completed by:
- 1072 (a.) A registered Maine surveyor for compliance with Subsection 6, 7, 8 or 11  
1073 of § 16.5.10.H; and
- 1074 (b.) A registered professional engineer or architect in the case of:
- 1075 [1.] Floodproofed, nonresidential structures, for compliance with  
1076 § 16.5.10.H(7); and
- 1077 [2.] Construction of structures in the coastal floodplains for compliance  
1078 with § 16.5.10.H(11)c.
- 1079 (4) The application for a certificate of compliance is to be submitted by the applicant in  
1080 writing, along with a completed elevation certificate, to the Code Enforcement Officer.
- 1081 (5) The Code Enforcement Officer is to review the application within 10 working days of  
1082 receipt of the application and issue a certificate of compliance, provided the building  
1083 conforms with the provisions of this article.

1084 J. Review of subdivision and development proposals.  
1085 The Planning Board must, when reviewing subdivisions and other proposed developments that  
1086 require review under other federal law, state law or local ordinances or regulations, and all  
1087 projects on five or more acres, or in the case of manufactured home parks divided into two or  
1088 more lots, assure that:

- 1089 (3) All such proposals are consistent with the need to minimize flood damage.
- 1090 (4) All public utilities and facilities, such as sewer, gas, electrical and water systems, are  
1091 located and constructed to minimize or eliminate flood damages.
- 1092 (5) Adequate drainage is provided so as to reduce exposure to flood hazards.
- 1093 (6) All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- 1094 (7) Any proposed development plan must include a statement that the developer will require

1095 that structures on lots in the development be constructed in accordance with § 16.5.10.H  
1096 and that such requirement will be included in any deed, lease, purchase and sale  
1097 agreement, or document transferring or expressing an intent to transfer any interest in real  
1098 estate or structure, including, but not limited to, a time-share interest. The statement must  
1099 clearly articulate that the municipality may enforce any violation of the construction  
1100 requirement and that fact is also to be included in the deed or any other document  
1101 previously described. The construction requirement must also be clearly stated on any  
1102 map, plat or plan to be signed by the Planning Board or local reviewing authority as part  
1103 of the approval process.

## 1104 **16.5.9 Home Occupation**

### 1105 A. Purpose.

- 1106 (3) It is the intent of these regulations governing home occupations to balance the economic  
1107 and community benefits of allowing home-based businesses with the goal of protecting  
1108 the quality of life of the surrounding residential neighborhood from unreasonable or  
1109 unsafe intrusions and nuisances inappropriate to a residential setting. The regulations  
1110 attempt to ensure that any home-based business operates in a manner that respects the  
1111 neighborhood in which it is situated.
- 1112 (4) Regulation of home occupations should not prohibit beneficial and unobtrusive uses and  
1113 should provide standards to protect the health, safety and general welfare of the  
1114 surrounding neighborhood. A home occupation should not degrade the residential  
1115 character of the neighborhood.
- 1116 (5) These regulations take a two-tier approach to regulating home occupations. At the least  
1117 intrusive level are business activities that by their nature and intensity will be compatible  
1118 with a residential location. These types of businesses are considered minor home  
1119 occupations and require only review by the Code Enforcement Officer for compliance  
1120 with the standards. A major home occupation in a residential district has the potential to  
1121 be incompatible with its neighborhood setting. Therefore, a public hearing with  
1122 notification to abutting property owners and BOA approval is necessary.
- 1123 (6) A more extensive business activity that does not satisfy the standards for a major home  
1124 occupation is treated as a type of commercial use and does not qualify as an acceptable  
1125 type of home occupation. Such businesses should be located in an appropriately zoned  
1126 area of the Town.

### 1127 B. Minor home occupation standards.

- 1128 (3) Compliance with the definition of a "home occupation."
- 1129 (a.) An applicant must be a resident of a dwelling on the premises where the  
1130 home occupation will occur. An applicant who is not the owner of the  
1131 property, but is residing on the premises, must submit written permission of  
1132 the property owner for the proposed home occupation.
- 1133 (b.) As an accessory use, the home occupation(s) must be subordinate to the  
1134 principal use. Quantitative measures that may be considered in determining  
1135 whether a proposed activity is an accessory use include, but are not limited to,  
1136 percentage and/or total amount of square footage attributed to the home  
1137 occupation(s) use in relation to the residential use. Qualitative factors  
1138 include, but are not limited to, the projected activity level of the home  
1139 occupation(s) on the premises in relation to the residential use and whether  
1140 the proposed home occupation is a traditional accessory use in the  
1141 community.
- 1142 (4) Number of workers. There must be no more than three persons, inclusive of residents of  
1143 the premises, working in the home occupation(s) at the site at any one time.
- 1144 (5) Prohibited uses. The following uses are categorically prohibited as minor home



- 1145 occupations: motor vehicle repair; motor vehicle sales or rental; commercial parking;  
1146 commercial outdoor storage; machine shop; wholesale use; junkyard; auto salvage yard;  
1147 seafood cooking; processing and/or cleaning; bait sales; marijuana retail use; and  
1148 marijuana medical use. [Amended 5-22-2017 by Ord. No. 17-09]
- 1149 (6) Business hours. Business activities involving clients or customers on the premises or  
1150 vehicular traffic to and from the premises must not be conducted between the hours of  
1151 7:00 p.m. and 8:00 a.m., except for a bed-and-breakfast, a day-care facility or a  
1152 functionally water-dependent use.
- 1153 (7) Nuisances.
- 1154 (a.) Any excessive noise, dust, smoke, vibrations, glare, direct lighting,  
1155 objectionable fumes, traffic or electrical interference detected at the  
1156 property boundary must not be greater in duration or intensity than that  
1157 expected in the surrounding residential neighborhood.
- 1158 (b.) When reviewing a functionally water-dependent use, the above standards  
1159 allow customary noises and smells caused by the use if all practicable steps  
1160 are taken to manage and minimize the adverse impact on abutting property  
1161 owners.
- 1162 (8) Parking. A plan must be submitted showing sufficient and safe parking for customers',  
1163 clients' and workers' use during normal business operations. To the maximum extent  
1164 practicable, parking should be arranged so as to avoid vehicles backing out into the street.  
1165 In addition to parking required for the residence, the following parking is required:  
1166 [Amended 9-26-2011 by Ord. No. 11-15]
- 1167 (a.) One parking space per nonresident worker at the site during the peak shift;  
1168 (b.) One parking space if clients or customers frequently visit the site;  
1169 (c.) One parking space per adult student up to the maximum class size; or  
1170 (d.) One parking space per rental unit.
- 1171 (9) The parking design standards in Table 16.7.11.F of § 16.7 Site Plan Review, set out at the  
1172 end of § 16.7.11.F, Parking Loading and Traffic (e.g., aisle width, stall size, etc.), may be  
1173 modified for parking by workers if the parking arrangement will still provide for practical  
1174 off-street parking adequate to prevent parking from overflowing the site.
- 1175 (10) With the exception of a bed-and-breakfast with more than three rooms for rent, three  
1176 additional off-street parking spaces should satisfy the parking demand for a minor home  
1177 occupation. Any recurring observed parking overflow is a violation of these standards.
- 1178 (11) The CEO may approve the joint use of a parking area where it is clearly demonstrated  
1179 that the parking area will be available for use by customers or workers during the hours of  
1180 operation due to the variation in time of use.
- 1181 (12) Outdoor storage. All outdoor storage of equipment, vehicles, items or equipment  
1182 associated with the home occupation is prohibited except for the following:
- 1183 (a.) One vehicle used in conjunction with the home occupation;  
1184 (b.) Seasonal storage of items necessary for functionally water-dependent uses,  
1185 such as lobster traps; and  
1186 (c.) Vehicles owned by residents of the premises with valid license plates.  
1187 (d.) All bait must be stored indoors and must be kept refrigerated or otherwise  
1188 stored to prevent offensive odors.
- 1189 (13) Business conduct. All business activities on the site must take place within the dwelling  
1190 or enclosed buildings, except for outdoor recreational uses, agriculturally oriented uses or  
1191 functionally water-dependent uses.
- 1192 (14) Refuse and recyclables. All refuse and recyclables must be stored within an enclosed  
1193 building. No outdoor dumpsters are allowed. All waste materials from the home  
1194 occupation must be removed from the premises on at least a monthly basis.

- 1195 (15) Traffic. The home occupation must not result in creating or significantly exacerbating a  
1196 traffic hazard. Recurring vehicle traffic involving vehicles larger than a twenty-foot fixed  
1197 axle, thirty-foot total length truck is prohibited.
- 1198 (16) Retail sales. Retail sales in which customers do not come to the premises are permissible,  
1199 such as mail order or telephone sales. On-site retail sales are limited to the following:
- 1200 (a.) Sales of products grown, raised or produced on the premises. For the  
1201 purposes of this subsection, the term "produced" is not to be construed to  
1202 allow the assembly of a product from components produced elsewhere; and
- 1203 (b.) Sales of items customarily incidental and subordinate to a nonretail home  
1204 occupation, such as sales of shampoo and hair brushes at a beauty salon.
- 1205 (c.) All other on-site retail sales are prohibited as a minor home occupation.
- 1206 (17) Health and safety. The proposed use must not create a health or safety hazard.

1207 C. Major home occupation standards.

1208 [Amended 5-22-2017 by Ord. No. 17-10]

1209 (3) Compliance with the Definition of a "Home Occupation."

- 1210 (a.) An applicant must be a resident of a dwelling on the premises where the  
1211 home occupation will occur. An applicant who is not the owner of the  
1212 property, but is residing on the premises, must submit written permission of  
1213 the property owner for the proposed home occupation.
- 1214 (b.) As an accessory use, the home occupation(s) must be subordinate to the  
1215 principal use. Quantitative measures that may be considered in determining  
1216 whether a proposed activity is an accessory use include, but are not limited to,  
1217 percentage and/or total amount of square footage attributed to the home  
1218 occupation(s) use in relation to the residential use. Qualitative factors  
1219 include, but are not limited to, the projected activity level of the home  
1220 occupation(s) on the premises in relation to the residential use and whether  
1221 the proposed home occupation is a traditional accessory use in the  
1222 community.

1223 (4) Number of workers. There must be no more than five persons, inclusive of residents of  
1224 the premises, working in the home occupation(s) at the site at any one time.

1225 (5) Prohibited uses. The following uses are categorically prohibited as major home  
1226 occupations: motor vehicle repair; motor vehicle sales or rental; commercial parking;  
1227 commercial outdoor storage; junkyard; auto salvage yard; marijuana retail use; and  
1228 marijuana medical use except the activities of a primary caregiver registered under 22  
1229 M.R.S. § 2425.

1230 (6) Business hours. Business activities involving clients or customers on the premises or  
1231 vehicular traffic to and from the premises must not be conducted between the hours of  
1232 7:00 p.m. and 7:00 a.m., except for a bed-and-breakfast, a day-care facility or a  
1233 functionally water-dependent use. This limitation may be modified by the BOA provided  
1234 the proposal satisfies the intent of this section.

1235 (7) Nuisances.

- 1236 (a.) Any excessive noise, dust, smoke, vibrations, glare, direct lighting,  
1237 obnoxious fumes or odors, traffic, or electrical interference detected at the  
1238 property boundary must not be greater in duration or intensity than that  
1239 expected in the surrounding residential neighborhood.
- 1240 (b.) When reviewing a functionally water-dependent use, the above standards  
1241 allow customary noises and smells caused by the use if all practicable steps  
1242 are taken to manage and minimize the adverse impact on abutting  
1243 properties.

1244 (8) Parking. A plan must be submitted that provides safe and sufficient off-street parking to

- 1245 meet the needs of the business to prevent parking from overflowing off the site. Any  
1246 recurring observed parking overflow is a violation of these standards. The creation of  
1247 more than four off-street parking spaces must be located, designed, screened and  
1248 landscaped to minimize adverse impact on abutting properties.
- 1249 (9) Outdoor storage. All outdoor storage of equipment, vehicles or items associated with the  
1250 home occupation must be screened from view of abutting properties and from all streets  
1251 except for the following:
- 1252 (a.) One vehicle used in conjunction with the home occupation;
  - 1253 (b.) Seasonal storage of items necessary for functionally water-dependent uses,  
1254 such as lobster traps; and
  - 1255 (c.) Vehicles owned by residents of the premises with valid license plates.
  - 1256 (d.) All bait must be stored indoors and must be kept refrigerated or otherwise  
1257 stored to prevent offensive odors.
- 1258 (10) Business conduct. All business activities on the site must take place within an enclosed  
1259 building or be screened from view of abutting properties and from all publicly maintained  
1260 streets, except for outdoor recreational uses, agriculturally oriented uses or functionally  
1261 water-dependent uses. This standard may be modified by the BOA provided the proposal  
1262 satisfies the intent of this section.
- 1263 (11) Refuse and recyclables. All refuse and recyclables must be stored in containers that are  
1264 screened from view of abutting properties and from streets. No emptying of dumpsters is  
1265 allowed before 8:00 a.m. or after 7:00 p.m.
- 1266 (12) Traffic. The home occupation must not result in creating or significantly exacerbating a  
1267 traffic hazard. Furthermore, the home occupation must not create an objectionable  
1268 increase in vehicle traffic considering the type, time and amount of vehicle traffic  
1269 generated and the design and capacity of the roads to the site and traffic normal for the  
1270 neighborhood.
- 1271 (13) Retail sales. Retail sales on the premises are limited to the following:
- 1272 (a.) Sales in which customers do not come to the premises, such as mail order  
1273 or telephone sales;
  - 1274 (b.) Sales of products grown, raised or produced on the premises;
  - 1275 (c.) Sales of seafood harvested by the residents of the premises;
  - 1276 (d.) Sales of items customarily incidental and subordinate to a nonretail home  
1277 occupation, such as sales of shampoo and hair brushes at a beauty salon;  
1278 and/or
  - 1279 (e.) Sales by appointment only for which any signage identifying the business  
1280 states a "by appointment only" policy.
- 1281 (14) Health and safety. The proposed use must not create a health or safety hazard.
- 1282 (15) Neighborhood compatibility. The proposed use is determined to be compatible with the  
1283 surrounding neighborhood. In reaching this determination, the following factors are to be  
1284 considered:
- 1285 (a.) The nature of the property;
  - 1286 (b.) The physical characteristics of the neighborhood, including the amount of  
1287 nonresidential activity;
  - 1288 (c.) Hours of operation;
  - 1289 (d.) Intensity of the activity;
  - 1290 (e.) Potential to degrade the quality of life for residents of the surrounding  
1291 neighborhood; and
  - 1292 (f.) The cumulative impact of existing home occupations and other accessory  
1293 uses both on the premises and in the surrounding neighborhood.

- 1294 (g.) Medical marijuana use is restricted to single-family residences only.
- 1295 (16) Large lots. When a seventy-five-foot-deep buffer yard is provided between all business
- 1296 activities (including storage and parking, except a driveway) and contiguous properties,
- 1297 and the buffer yard is sufficiently vegetated, fenced or otherwise screened so as to
- 1298 obscure the home occupation activities from an abutting property, the BOA may relax the
- 1299 above standards, except those pertaining to nuisances and prohibited uses, if the use is
- 1300 considered to comply with the intent of this subsection.
- 1301 (17) Annual renewal.
- 1302 (a.) Upon approval of a major home occupation by the Board of Appeals, the
- 1303 Code Enforcement Officer is authorized to issue a certificate of occupancy
- 1304 permit for not more than a one-year time period. Such permit may be
- 1305 renewed annually upon application to the Code Enforcement Officer.
- 1306 Operation of a major home occupation with an expired certificate of
- 1307 occupancy is a violation of this Code.
- 1308 (b.) The annual permit may be renewed only if the Code Enforcement Officer
- 1309 finds the major home occupation complies with all applicable standards of
- 1310 this Code and any conditions required by the Board of Appeals in the
- 1311 original approval.

### 1312 **16.5.10 Junkyards and/or Automobile Salvage Yards**

- 1313 A. Buffering.
- 1314 Buffering will be 100 feet on all sides except on the street, where 200 feet will be the minimum.
- 1315 Trees, shrubbery and fencing not less than eight feet in height, or all three, may be required by the
- 1316 Board to restrict visibility of the area from the road and neighbors. Land contour is to be taken
- 1317 into consideration. Approval of the junkyard plan is required by the Police, Highway and Fire
- 1318 Departments before any permit is presented to the Town Council for consideration.
- 1319 B. Buildings.
- 1320 Office, control or storage building must be inside the buffered area and no more than a maximum
- 1321 of 30 feet in height. The adequacy of buffering is to be considered in allowing heights over 20
- 1322 feet.
- 1323 C. Junk piles.
- 1324 Junk piles may only be inside the buffered area and piled no higher than 15 feet.
- 1325 D. Waste.
- 1326 No garbage, toxic waste or liquid or sanitary wastes are permitted. The Maine State Plumbing
- 1327 Code will apply for sanitary waste and any state laws regulating toxic waste. Separate storage
- 1328 must be maintained for toxic waste, including but not limited to oil, grease, gasoline and solvents.
- 1329 This waste must be removed at least twice a year by an accredited dealer in such wastes. All tanks
- 1330 of vehicles must be drained and contents properly disposed of.
- 1331 E. Drainage.
- 1332 Provision must be made for proper drainage of stormwater or other wastewater, so that
- 1333 contaminated, rusted or other noticeable effluent does not go beyond actual junk area or into
- 1334 buffering. Special attention is to be given to acceptable drainage of normal stormwater. §
- 1335 16.7.11.C of this chapter also applies.
- 1336 F. Hours of operation.
- 1337 Work in connection with demolishing or wrecking cars or purchasing or selling items is permitted
- 1338 only on Monday through Saturday between the hours of 7:00 a.m. and 6:00 p.m.
- 1339 G. Signs.
- 1340 One four-foot-by-six-foot maximum, non-illuminated sign is permitted at the entrance to the
- 1341 property.
- 1342 H. Cleanliness.

1343 Junkyards and salvage yards should be kept reasonably neat and clean, with no debris or other  
1344 nuisance permitted outside of the buffered area.

1345 I. Permits.

1346 A permit for not more than one year's operation is required in addition to the state permit. The  
1347 Town fee is as set by the Town Council. Periodic inspections must be made by the Code  
1348 Enforcement Officer during the year to ensure compliance with the state and local ordinances.

1349 J. Other standards application.

1350 All other applicable standards of this chapter not specifically mentioned here, such as parking,  
1351 noise, etc., also apply to this use.

1352 **16.5.11 Lots**

1353 [Amended 9-28-2015 by Ord. No. 15-06]

1354 A. Dimensions.

1355 The lot size, width, depth and shape and orientation and the minimum building setback lines must  
1356 be appropriate for the location of the development and for the type of development and use  
1357 contemplated. The lot configuration should be designed to maximize access to solar energy for  
1358 building sites with suitable orientation.

1359 B. Lot shape.

1360 (3) The ratio of lot length to width must not be more than 3:1. Flag-shaped lots are  
1361 prohibited. Other odd-shaped lots in which narrow strips are joined to other parcels in  
1362 order to meet minimum lot size requirements are also prohibited.

1363 (4) Spaghetti lots prohibited. If any lots in a proposed subdivision have shore frontage on a  
1364 river, stream, brook or coastal wetland, as these features are defined in 38 M.R.S. §480-B,  
1365 none of the lots created within the subdivision may have a lot depth to shore frontage  
1366 ratio greater than 5:1.

1367 C. Double/reverse-frontage lots.

1368 Double-frontage and reverse-frontage lots are to be avoided except where essential to provide  
1369 separation of residential development from traffic arteries or to overcome specific disadvantages  
1370 of topography and orientation. A planting screen easement of at least 10 feet, across which there  
1371 may be no right of access, is to be provided along the lot lines abutting such a traffic artery or  
1372 other disadvantageous use.

1373 D. Side lot lines.

1374 Side lot lines must be substantially at right angles or radial to street lines.

1375 E. Substantially larger lots.

1376 Where a tract is subdivided into lots substantially larger than the minimum size required in the  
1377 zone in which a subdivision is located, and where no covenants exist to preclude lots from  
1378 resubdivision, the Board may require that streets and lots be laid out so as to permit future  
1379 resubdivision in accordance with the requirements contained in these standards.

1380 F. Multiple frontages.

1381 When lots have frontage on two or more streets, the plan and deed restrictions must indicate  
1382 vehicular access to be located only on the least-traveled way.

1383 G. Divided lots.

1384 If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum  
1385 requirements for lot size, it may not be combined with a lot on the other side of such barrier to  
1386 meet the minimum lot size unless in conformance with § 16.1.8.B, General Development  
1387 Requirements, Conformity.

1388 H. Off-street parking.

1389 Depth and width of properties reserved or laid out for all purposes must be adequate to provide for  
1390 off-street parking and service facilities for vehicles required by type of development and use

1391 contemplated.

1392 I. Access to arterial street.

1393 Where a major subdivision abuts or contains an existing or proposed arterial street, no residential  
1394 lot may have vehicular access directly onto the arterial street. This requirement must be noted on  
1395 the plan and in the deed of any lot with frontage on the arterial street.

1396 J. Land subdivision.

1397 The subdividing of land must conform to the requirements of § 16.4.

### 1398 **16.5.12 Manufactured Housing**

1399 A. Standards.

1400 Standards for manufactured housing include the following:

- 1401 (3) All mobile home units must be manufactured after June 15, 1976, and shall have a  
1402 manufacturer-installed sticker indicating HUD approval.
- 1403 (4) All units must be manufactured with a pitched, shingled roof, with a minimum slope three  
1404 inches on 12 inches (3:12).
- 1405 (5) All units must have residential-type siding, such as clapboards, shakes, horizontally  
1406 applied aluminum, or vinyl resembling clapboards.
- 1407 (6) All units, excluding individual mobile home park installations, must have a permanent  
1408 foundation, which may be either a full basement or a poured or block frost wall.
- 1409 (7) All other sections of this title must be adhered to.

### 1410 **16.5.13 Mineral/earth material exploration and removal**

1411 A. Topsoil, rock, sand, gravel and similar earth materials may be removed from locations where  
1412 permitted under the terms of this title, only after a special permit for such operations has been  
1413 issued by the Code Enforcement Officer, upon approval and review of plans by the Planning  
1414 Board in accordance with the provisions of this title, and provided that nothing herein may be  
1415 deemed to apply to normal excavation operations incidental to construction activities for which a  
1416 valid permit is held. The following standards must be met:

- 1417 (3) The applicant must submit to the Code Enforcement Officer plans of the proposed  
1418 extraction site, showing the property lines and names of all abutting owners and ways,  
1419 indicating by not greater than five-foot contour intervals related to U.S. Geodetic Survey  
1420 data, the location and slope of the grades existing and as proposed upon completion of the  
1421 extraction operation; proposed fencing; buffer strips; signs; lighting; parking and loading  
1422 areas; entrances and exits, together with a written statement of the proposed method,  
1423 regularity, working hours and total proposed rehabilitation and restoration of the site upon  
1424 completion of the operation.
- 1425 (4) Said plans and statement are to be promptly submitted with the recommendations of the  
1426 Code Enforcement Officer to the Planning Board for its consideration with respect to the  
1427 effect of the proposed operation upon existing and foreseeable traffic patterns within the  
1428 Town, upon existing or approved land uses which might be affected by the operations.  
1429 The Planning Board may recommend changes to the applicant for resubmission to the  
1430 Planning Board. The Planning Board is to promptly call and hold a public hearing upon  
1431 the final application in the same manner as provided for any final plan review.
- 1432 (5) The Planning Board shall render a written decision as to whether, and under what  
1433 conditions, the proposed operation may be permitted, consistent with public health and  
1434 safety; the preservation of attractive natural features; compatibility, despite temporary and  
1435 reasonable disturbance, with existing or approved land uses which might be affected; and  
1436 implementation of the Comprehensive Plan. If the Planning Board approves the  
1437 application, it may condition the special permit upon such alterations in the proposed  
1438 operation or upon the performance or omission of such acts as it may deem proper to  
1439 assure attainment of the objectives set forth in the preceding sentence, and it may require

1440 filing of a performance guaranty in an amount and form acceptable to the Town Manager  
1441 to indemnify the Town against any claims arising from the proposed operations and to  
1442 assure satisfactory performance of all conditions imposed or otherwise applicable.

1443 B. Mandatory restrictions. All extraction operations and sites within the Town must be conducted and  
1444 maintained in accordance with, and the Planning Board shall impose, such conditions upon any  
1445 special permit issued under this subsection as it deems necessary or desirable to assure compliance  
1446 with the following requirements:

- 1447 (3) Mineral exploration to determine the nature or extent of mineral resources must be  
1448 accomplished by hand sampling, test boring, or other methods which create minimal  
1449 disturbance of less than 100 square feet of ground surface. A permit from the Code  
1450 Enforcement Officer is required for mineral exploration which exceeds the above  
1451 limitation. All excavations, including test pits and holes, must immediately be capped,  
1452 filled or secured by other equally effective measures so as to restore disturbed areas and  
1453 to protect the public health and safety.
- 1454 (4) Mineral extraction, including sand and gravel extraction, is prohibited within the  
1455 Conservation, Shoreland Overlay and Resource Protection Overlay Zones.
- 1456 (5) No part of any extraction operation may be permitted within 100 feet of any property or  
1457 street line, and natural vegetation must be left and maintained on the undisturbed land.  
1458 Minimize the volume of earth cut and fill, in general, with no cut or fill greater than seven  
1459 feet for construction in an urban residential zone. Topographical change will not result in  
1460 cuts or fills exceeding seven feet.
- 1461 (6) No standing water may be permitted in any extraction site during or after extraction  
1462 operations; except that, during or after extraction operations, standing water may be  
1463 permitted under strict conditions with respect to fencing, safe levels of coliform bacteria  
1464 count, and treatment to prevent breeding of insects so as to assure the public health and  
1465 safety, as determined by the Town Health Officer.
- 1466 (7) No slopes steeper than three feet horizontal to one foot vertical may be permitted at any  
1467 extraction site unless a fence at least three feet high is erected to limit access to such  
1468 locations.
- 1469 (8) Before commencing removal of any earth materials, the owner or operator of the  
1470 extraction site must present evidence to the Planning Board of insurance against liability  
1471 arising from the proposed extraction operations and maintain such insurance throughout  
1472 the period of operation.
- 1473 (9) Any topsoil and subsoil suitable for purposes of revegetation must, to the extent required  
1474 for restoration, be stripped from the locations of extraction operations and stockpiled for  
1475 use in restoring the location after extraction operations have ceased.
- 1476 (10) Upon completion of active extraction operations, the land must be left so that natural  
1477 storm drainage and watercourses leave the location at the original natural drainage points  
1478 and in a manner such that the amount of drainage at any point is not significantly  
1479 increased.
- 1480 (11) The hours of operation at any extraction site are to be limited as the Planning Board  
1481 deems advisable to ensure operational compatibility with residents of the Town.
- 1482 (12) Loaded vehicles must be suitably covered to prevent dust and contents from spilling or  
1483 blowing from the load, and all trucking routes and methods are subject to approval by the  
1484 Chief of Police.
- 1485 (13) All access roads leading from the extraction site to public ways must be treated with  
1486 stone, calcium or other suitable materials to reduce dust and mud for a distance of at least  
1487 100 feet from such public ways.
- 1488 (14) No equipment, debris, junk or other material is permitted at an extraction site except those  
1489 directly relating to active extraction operations, and any temporary shelters or buildings  
1490 erected for such operations and equipment used in connection therewith must be removed

1491 within 30 days following completion of active extraction operations.

- 1492 (15) Following the completion of extraction operations at any extraction site or at any one or  
1493 more locations within any extraction site, ground levels and grades must be established in  
1494 accordance with the approved plans filed with the Planning Board; all debris, stumps,  
1495 boulders and similar materials must be removed and disposed of in an approved location  
1496 or, in the case of inorganic material, buried and covered with a minimum of two feet of  
1497 soil. Sufficient topsoil or loam must be retained to cover all disturbed areas, so that they  
1498 must be revegetated and properly restored to a stable condition adequate to meet the  
1499 provisions of the "Maine Erosion and Sediment Control BMPs," March 2003.

- 1500 C. Issuance and renewal of permits. Special permits may be issued in accordance with the foregoing  
1501 provisions for a period not to exceed one year, and they are renewable only upon application by  
1502 the owner, after a finding by the Planning Board that the conduct of the operation has been  
1503 substantially in accordance with any and all conditions imposed or material representations made  
1504 in connection with the original special permit, and upon such additional and altered conditions as  
1505 the Board may deem necessary in accordance with Subsection A(3) of this section.

#### 1506 **16.5.14 Mobile Home Parks, Recreational Vehicle Parks and Campgrounds**

- 1507 A. Permit required. No person, firm, corporation or other legal entity may establish or maintain a  
1508 Mobile Home Park, Recreational Vehicle Park or Campground within the Town without a permit  
1509 issued in conformity with the provisions of this title. It is the park operator's responsibility to  
1510 obtain the permit.

- 1511 (3) Application. Application for a Mobile Home Park, Recreational Vehicle Park or  
1512 Campground permit must be filed with the Code Enforcement Officer, who will present  
1513 said application to the Planning Board for review as a subdivision, except that permit  
1514 renewals are not subject to Board review. The Board must review the proposal in  
1515 accordance with the standards contained herein and inform the CEO of its decision. The  
1516 CEO shall then act on the application as required.
- 1517 (4) Fee and expiration. Each application for a permit or a renewal thereof must be  
1518 accompanied by a fee as established by the Town Council for a Mobile Home Park,  
1519 Recreational Vehicle Park or Campground designed for the accommodation of no more  
1520 than 10 Manufactured Housing units, Recreational Vehicles or tent sites and an additional  
1521 fee, as established by the Town Council, for each additional Manufactured Housing unit,  
1522 Recreational Vehicle or tent site located at the site. (See Appendix A for annual mobile  
1523 home park fee schedule.) Permits expire on the first day of April next following date of  
1524 issuance. Before any permit is renewed, the premises are subject to inspection by the  
1525 Health Officer and CEO. If all requirements of this and other federal, state and local laws  
1526 have been complied with, the same is to be certified and the permit renewed.
- 1527 (5) Permit display. Permits issued under this section must be conspicuously posted on the  
1528 premises at all times and are not transferable.
- 1529 (6) Revocation. The CEO is authorized to revoke any permit issued under this section  
1530 pursuant to the terms of this title if, after due investigation, it is determined the holder  
1531 thereof has violated any of the provisions of this or any applicable code, law or statute.

- 1532 B. Compliance.  
1533 Applications for development of Mobile Home Parks, Recreational Vehicle Parks or  
1534 Campgrounds must comply with all state laws and local ordinances and meet the requirements of  
1535 subdivision law, except as stipulated below. Such developments in existence prior to adoption of  
1536 this title may be enlarged only if the extension complies with the terms specified herein.

- 1537 C. Recreational Vehicle Parks and Campgrounds.  
1538 In any district where Campgrounds or Recreational Vehicle Parks are permitted under the terms  
1539 of this title, the following regulations and minimum standards apply:

- 1540 (3) A time limit is placed on the occupancy of any one camping space on a continuing basis



- 1541 as follows: 12 weeks for the period May 15 to October 15 of each year and two weeks for  
1542 all other periods. No Recreational Vehicles or Manufactured Housing units other than  
1543 such as are camping units, as defined herein, are permitted within any camper park,  
1544 temporarily or otherwise.
- 1545 (4) A Campground or Recreational Vehicle Park may not be constructed on less than five  
1546 acres of land.
- 1547 (5) Each tent site must be provided with a masonry or metal fireplace approved by the Fire  
1548 Chief.
- 1549 (6) Spaces in Campgrounds and Recreational Vehicle Parks may be used by travel trailers,  
1550 equivalent facilities constructed in or on automotive vehicles, tents or other short-term  
1551 shelter devices.
- 1552 (7) A Recreational Vehicle Park or Campground must provide water and sewerage systems,  
1553 sanitary stations and convenience facilities in accordance with the regulations of the State  
1554 Plumbing Code and the Maine Department of Human Services. In no case may less than  
1555 one toilet, lavatory and shower be provided for each sex for every 10 camping and tent  
1556 sites or major portion thereof.
- 1557 (8) Recreational Vehicles must be parked on sites containing a minimum of 2,500 square feet  
1558 and having a minimum frontage along the traveled way of 50 feet, exclusive of drives and  
1559 aisles.
- 1560 (9) Tent sites must contain a minimum of 2,500 square feet. There must be a minimum of 30  
1561 feet between tents.
- 1562 (10) Recreational Vehicles must be so parked in spaces that:
- 1563 (a.) There will be a minimum of 15 feet between vehicles.
- 1564 (b.) There will be a minimum of 15 feet between all Recreational Vehicles and  
1565 the exterior boundary of the park.
- 1566 (c.) There will be a minimum of 25 feet between all Recreational Vehicles and  
1567 all public rights-of-way located inside the boundaries of the Recreational  
1568 Vehicle Park or Campground. Setbacks from roads outside the Recreational  
1569 Vehicle Park will be a minimum of 150 feet.
- 1570 (d.) No camping unit or structure may be located less than 100 feet from any  
1571 residence.
- 1572 (e.) Buffering: planting, landscaping, disposition and form of building and other  
1573 improvements, or fencing and screening is to be utilized to integrate the  
1574 proposed development with the landscape and the character of any  
1575 surrounding development.
- 1576 (11) The storage, collection and disposal of refuse must not create health hazards, rodent  
1577 harborage, insect breeding areas, accident hazards or air pollution.
- 1578 (12) No unoccupied camping unit may be stored or exhibited for sale for commercial purposes  
1579 within the park.

1580 D. Mobile Home Parks.

- 1581 (3) Mobile Home Parks, by special exception, may be located as indicated in § 16.4.
- 1582 (4) Lots within a shoreland zoning district must meet the lot area, setback and shore frontage  
1583 requirements for that district.
- 1584 (5) Lots in a Mobile Home Park must meet the following lot size, width and density  
1585 requirements:
- 1586 (a.) Lots by public sewer.
- 1587 [1.] Minimum lot area: 6,000 square feet.
- 1588 [2.] Minimum lot width: 50 feet.
- 1589 (b.) Lots served by individual on-site subsurface wastewater disposal system.

- 1590 [1.]Minimum lot area: 20,000 square feet.  
1591 [2.]Minimum lot width: 100 feet.  
1592 (c.) Lots served by a central on-site subsurface wastewater disposal system\*.  
1593 \* The overall density of a Mobile Home Park served by a central on-site  
1594 subsurface wastewater disposal system may be no greater than one unit per  
1595 20,000 square feet of total park area  
1596 [1.]Minimum lot area: 12,000 square feet.  
1597 [2.]Minimum lot width: 75 feet.  
1598 (d.)The overall density of the Mobile Home Park is the combined area of its  
1599 mobile home lots plus:  
1600 [1.]The area required for road rights-of-way;  
1601 [2.]The area required for buffer strips, if any;  
1602 [3.]For areas served by public sewer, an open space area for storage and  
1603 recreation equal to 10% of the combined area of the individual lots;  
1604 and  
1605 [4.]The area within the municipality's shoreland setback.  
1606 (e.) All buildings on the lot, including accessory buildings and structures, but  
1607 excluding open decks and parking spaces, may not cover more than 50% of  
1608 the lot area.  
1609 (6) The following setback rules apply to all mobile homes and accessory buildings:  
1610 (a.) Front and side setbacks are to be 20 feet; rear setbacks, 10 feet. If these  
1611 requirements conflict with the requirements of the title, 38 M.R.S. § 435 et  
1612 seq., Mandatory Shoreland Zoning, or subsequent amendments or revisions  
1613 thereto, the stricter standards apply.  
1614 (b.) If a lot is on a public road, the setback must conform with the residential  
1615 setback requirements applicable to other residential dwelling units in the  
1616 zone.  
1617 (c.) So as to avoid monotony and sameness, the Code Enforcement Officer may  
1618 allow:  
1619 [1.]The front setback on a private road within a mobile home park to be  
1620 varied, provided no mobile home may be closer than 10 feet from  
1621 the right-of-way and the average distance is at least 20 feet for all  
1622 units.  
1623 [2.]The replacement and/or relocation of a mobile home to be located  
1624 no closer to the front yard setback than the existing mobile home or  
1625 pad.  
1626 (d.) Carports of noncombustible materials are not subject to setback  
1627 requirements.  
1628 (e.) The CEO may allow side yard setbacks to be reduced to five feet, provided  
1629 a distance of 20 feet is maintained between mobile homes for the purpose of  
1630 providing more usable yard space on one side of the home.  
1631 (f.) A minimum twenty-foot separation must be maintained between all mobile  
1632 homes in all directions.  
1633 (7) All buildings on the lot, including accessory buildings and structures, but excluding open  
1634 decks and parking spaces, may cover not more than 50% of the lot area.  
1635 (8) Where a developer elects to create a Mobile Home Park where all land is under unified  
1636 ownership, the park plan must demonstrate that the development standards described  
1637 herein are met.  
1638 (9) Privately owned roads within the Mobile Home Park must be designed by a professional

- 1639 engineer, registered in the State of Maine, and built according to accepted engineering  
1640 standards.
- 1641 (a.) The layout and general development plan for major and minor access streets  
1642 within the Mobile Home Park, together with the location and dimensions of  
1643 access junctions with existing public streets and rights-of-way must be  
1644 approved by the Planning Board.
- 1645 (b.) For Mobile Home Park expected to generate 200 trips per day or more,  
1646 there must be at least two entrances from public streets or roads.
- 1647 (10) Mobile home park streets which intersect with public roads must meet the following  
1648 standards:
- 1649 (a.) Angle of intersection. The desired angle of intersection is to be 90°. The  
1650 minimum angle of intersection is to be 75°.
- 1651 (b.) Grade. The maximum permissible grade within 75 feet of the intersection is  
1652 2%.
- 1653 (c.) Minimum sight distance. The minimum sight distance must be 10 times the  
1654 posted speed limit on the existing road. Sight distance is measured from the  
1655 driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder  
1656 line with the height of the eye 3 1/2 feet above the pavement and the height  
1657 of an object 4 1/4 feet.
- 1658 (d.) Distance from other intersections. The center line of any street within a park  
1659 intersecting an existing public street must be at least 125 feet from the  
1660 center line of any other street intersecting that public street.
- 1661 (11) Right-of-way and pavement width are to be as follows:
- 1662 (a.) Two-way park roads must have a minimum right-of-way of 23 feet and a  
1663 minimum paved surface of 20 feet. On-street parking is prohibited.
- 1664 (b.) One-way streets must have a minimum right-of-way of 18 feet and a  
1665 minimum paved surface of 14 feet. On-street parking is prohibited.
- 1666 (c.) Parking lanes are to be a minimum of eight feet in width, if provided.
- 1667 (d.) Cul-de-sac turnarounds are to have minimum radii of 50 feet at the outer  
1668 edge of the pavement, exclusive of any parking areas.
- 1669 (e.) Curvilinear streets must be utilized wherever possible. No street within the  
1670 park may be more than 200 feet without a curve or bend.
- 1671 (f.) If the developer intends to dedicate park streets to the public, such streets  
1672 must meet municipal standards as contained in § 16.7.12.F and § 16.8.11.L  
1673 of this chapter.
- 1674 (12) No mobile home lot may have vehicular access directly onto a state highway.
- 1675 (13) A traffic impact analysis is required if the park will generate more than 500 trips/day.
- 1676 (14) Parking requirements for Mobile Home Park areas follows:
- 1677 (a.) For each mobile home lot there must be provided and maintained at least  
1678 two off-street parking spaces. This requirement may be waived if an  
1679 equivalent number of spaces are provided by a parking lane. Each space is  
1680 design-dependent as indicated in Table 16.7.11.F of this chapter, set out at  
1681 the end of § 16.7.11, Parking Loading and Traffic. This requirement may be  
1682 waived if an equivalent number of spaces are provided by a parking lane.
- 1683 (b.) In addition to occupant parking, off-street guest and service parking must  
1684 be provided within the boundaries of the park at a ratio of one space for  
1685 each four mobile home lots. Such parking must be reserved for that sole  
1686 use. This requirement may be waived if a parking lane provides an  
1687 equivalent number of spaces.
- 1688 (c.) On-street parking is prohibited unless an eight-foot parking lane is

- 1689 provided, in which case on-street parking may be permitted on the side of  
 1690 the road where the parking lane is located.
- 1691 (15) The mobile home park must contain pedestrian walkways that link all units and all service  
 1692 and recreational facilities. Such walkways are to be adequately surfaced and lit. A portion  
 1693 of the road surface may be reserved for walkways, provided the street width is increased  
 1694 accordingly. Walkways should be a minimum of width of three feet. [Amended 9-26-  
 1695 2011 by Ord. No. 11-15]
- 1696 (16) Outdoor lighting is to be provided to adequately illuminate internal streets and pedestrian  
 1697 walkways. Lights are to be sized and directed to avoid adverse impacts on adjacent  
 1698 properties and vehicular traffic.
- 1699 (17) Open space calculations are as follows:
- 1700 (a.) For Mobile Home Park served by a public sewer, an area amounting to 10%  
 1701 of the total area devoted to individual lots must be set aside for open space  
 1702 and/or recreation. Such space is to be accessible and usable by all residents  
 1703 of the park. Parking space, driveways and streets and buffer areas are not  
 1704 considered usable open space but community recreation buildings, pools  
 1705 and courts are considered as open space.
- 1706 (b.) At least 50% of the required open space must consist of land that is suitable  
 1707 for active recreation.
- 1708 (c.) All developed open space is to be designed and landscaped for the use and  
 1709 enjoyment of the park residents and maintained for their long-term use.  
 1710 Plans for these areas must be submitted by the developer.
- 1711 (d.) To the maximum extent possible, undeveloped open space must be left in  
 1712 its natural state. Improvements to make trails for walking and jogging or to  
 1713 make picnic areas are permitted.
- 1714 (e.) The developer must submit, as part of the application, a copy of that portion  
 1715 of the proposed park rules and a plan which specify how the open space is  
 1716 to be used and maintained and what conditions apply to its use. The plan  
 1717 must specify the area to be dedicated open space or recreation.
- 1718 (f.) Open space must be maintained and used for its approved purposes.
- 1719 (18) All Mobile Home Park must provide permanent electrical, water and sewage disposal  
 1720 connections to each mobile home in accordance with applicable state and local rules and  
 1721 regulations. If other than public water is to be utilized, the water system(s) must be  
 1722 capable of delivering 250 gallons per day per lot of water certified to be of primary  
 1723 drinking water standards.
- 1724 (19) Signs and advertising devices are prohibited in a Mobile Home Park, except:
- 1725 (a.) One identifying sign at each entrance of the Mobile Home Park sized in  
 1726 compliance with § 16.5.16 of this chapter may be installed.
- 1727 (b.) Directional and informational signs for the convenience of tenants and the  
 1728 public relative to parking, office, traffic movement, etc., are permitted.
- 1729 (c.) Mobile/manufactured home "for sale" signs, provided that such signs that  
 1730 face a public road may be no more than 10 square feet and limited to two  
 1731 signs per Mobile Home Park.
- 1732 (d.) Mobile/manufactured homes address signs are permitted when in  
 1733 compliance with § 16.5.16 of this chapter.
- 1734 (e.) The styles and location of the identifying sign must not interfere with  
 1735 vehicle sight distance and be constructed in accordance with § 16.5.16 of  
 1736 this chapter.
- 1737 (20) At least 300 cubic feet of enclosed tenant storage facilities must be conveniently provided  
 1738 on or near each mobile home lot for the storage of materials and equipment.

- 1739 (21) A storm drainage plan must be prepared by a professional engineer, registered in the State  
1740 of Maine, in accordance with § 16.7.11.C, Stormwater drainage. Such plan must be  
1741 approved by the York County Soil and Water Conservation District or found satisfactory  
1742 and compliant to the Code by the Town's Engineering Peer Reviewer prior to Planning  
1743 Board approval of the final plan. [Amended 9-26-2011 by Ord. No. 11-15]
- 1744 (22) Groundwater requirements for Mobile Home Park are as contained in § 16.7.11.J, which  
1745 must be complied with for all Mobile Home Park applications.
- 1746 (23) Each mobile home lot must be provided with an area for refuse storage. Within a  
1747 maximum 150 feet from each mobile home lot, there must be a fly tight, watertight and  
1748 rodent proof container capable of storing the amount of refuse that the mobile home park  
1749 for which it was designed could generate within one week as well as any separation  
1750 containers as required by the Kittery recycling program. The park management is  
1751 responsible for disposal of refuse from such containers at least once a week.
- 1752 (24) Buffering requirements are as follows:
- 1753 (a.) A fifty-foot-wide buffer strip must be provided along all property boundary  
1754 lines that:
- 1755 [1.] Abut residential land which has a gross density of less than half that  
1756 proposed in the park; or
- 1757 [2.] Abut residential land that is zoned at a density of less than half that  
1758 proposed in the park.
- 1759 (b.) Further, no structures, streets or utilities may be placed in the buffer strip,  
1760 except that they may cross a buffer strip to provide services to the park.
- 1761 (c.) Within 25 feet of any property line and within the buffer strip, visual  
1762 screening and/or landscaping must be provided. The visual screening may  
1763 consist of fences, berms, landscaping (such as shrubs or trees) and/or  
1764 natural existing vegetation. This screening is to effectively screen at least  
1765 80% of the homes from view from the adjacent property and be maintained  
1766 throughout the life of the project.
- 1767 (25) The owner or operator of a mobile home park is responsible for ensuring the maintenance  
1768 of all park-owned structures, open space areas, roads and pedestrianways/sidewalks. Park  
1769 management must comply with state laws. Compliance with this title does not exempt the  
1770 park owner, developer or manager from complying with other applicable local, state and  
1771 federal codes and regulations. [Amended 9-26-2011 by Ord. No. 11-15]
- 1772 (26) No development or subdivision which is approved under this section as a mobile home  
1773 park may be conveyed to another use without the approval of the Planning Board and  
1774 meeting the appropriate lot size, lot width, setback and other requirements contained in  
1775 this title. The approved final plan is to be recorded at the York County Registry of Deeds  
1776 and filed with the Town and have noted the following restrictions as well as any other  
1777 notes or conditions of approval: (1) "The land within this park must remain in a unified  
1778 ownership and the fee to lots or portions of lots not be transferred." (2) "No dwelling unit  
1779 other than a mobile home unit may be located within the park."

### 16.5.15 Net Residential Acreage

[Added 9-28-2015 by Ord. No. 15-05]

#### A. Purpose.

To determine for regulatory purposes the land area suitable for dwelling units. This land area, the net residential acreage, is used to determine the maximum number of dwelling units allowed on a parcel that is subject to subdivision. The total number of dwelling units allowed is equal to the net residential acreage divided by the minimum land area per dwelling unit for a given land use zone.

#### B. Net residential acreage calculation.

To calculate net residential acreage, the land area listed below must be subtracted from a parcel's

- 1789 gross area. Where land areas to be subtracted overlap, the area therein is subtracted once.
- 1790 (3) All land located below the highest annual tide elevation as published in the Maine DEP  
1791 Highest Annual Tide (HAT) levels for the most-current year.
- 1792 (4) All land located within the floodplain as defined in the definition of "flood, one-hundred-  
1793 year" in § 16.3.
- 1794 (5) All wetlands as defined in the definition of "wetland" in § 16.3, as well as vernal pools,  
1795 ponds, lakes, streams and other water bodies, including 50% of the associated setbacks  
1796 described in other Buildings and Structures, Table 16.5.28, § 16.5 of this title.
- 1797 (6) All land located on filled tidal lands, per the definition of "tidal land, filled" in § 16.3.
- 1798 (7) All land located within existing rights-of-way and other existing easements wherein  
1799 dwelling units cannot be built.
- 1800 (8) All land located within proposed rights-of-way, including parking and travel ways.  
1801 Driveways are excluded.
- 1802 (9) All land isolated from the principal location for development on the parcel by a  
1803 road/street, existing land uses, or any physical feature, natural or man-made, such that it  
1804 creates a barrier to the central development of the site and no means of access is proposed  
1805 nor likely to be provided in the future. However, to demonstrate that identified isolated  
1806 land may be considered developable for the purpose of this calculation, the applicant must  
1807 submit a plan and supporting documentation for the Board's consideration.
- 1808 (10) All land zoned commercial (C-1, C-2, or C-3).
- 1809 (11) All land one acre or more of contiguous area with sustained slopes of 20% or greater.
- 1810 (12) All land identified as exposed bedrock, and soils with a drainage class of "poorly drained"  
1811 and/or "very poorly drained" as defined in the definition of "soils" in § 16.3.
- 1812 (13) Fifty percent of all land characterized as drainage class of "somewhat poorly drained,"  
1813 unless public sewer is used, in which case no land area is subtracted.
- 1814 (14) All land area within a cemetery and burying ground as defined in § 16.3, including  
1815 associated setback per 13 M.R.S.A. § 1371-A, Limitations on construction and excavation  
1816 near burial sites.
- 1817 (15) All land within a Commercial Fisheries/Maritime Uses Overlay Zone or Resource  
1818 Protection Overlay Zone not included in Subsection 12 above.

1819 C. Documentation.

1820 The net residential acreage calculation must be supported by verifiable information and accurate  
1821 data and be shown on the subdivision plan or other plan when applicable.

1822 D. Exemptions to net residential acreage calculations.

- 1823 (3) The maximum number of dwelling units for residential development not subject to  
1824 subdivision is based on minimum land area per dwelling unit defined in § 16.2,  
1825 Definitions of this title.
- 1826 (4) The creation of dwelling units subject to subdivision within existing buildings that are  
1827 connected to Town sewer and are located in the Mixed Use - Kittery Foreside, Mixed Use  
1828 - Badgers Island, Residential Village, Business Local, or Business Local-1 Zones are  
1829 exempt from the net residential acreage calculations in § 16.5.17.A. The total number of  
1830 dwelling units permitted is determined by dividing the gross lot area by the minimum  
1831 land area per dwelling unit allowed in the zone. The exemption is allowed in the above  
1832 base zones when subject to the Shoreland Overlay Zone.

1833 **16.5.16 Nonstormwater Discharge**

1834 [Amended 5-22-2017 by Ord. No. 17-06]

1835 A. Basis/purpose/objectives.

- 1836 (3) The Maine Department of Environmental Protection, through its promulgation of the  
1837 "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm  
1838 Sewer Systems" dated July 2013, has listed the Town of Kittery as having a regulated  
1839 small municipal separate storm sewer system ("small MS4"); under this general permit,  
1840 listing as a regulated small MS4 necessitates enactment of this article as part of the  
1841 municipality's stormwater management plan.
- 1842 (4) The purpose of this article is to provide for the health, safety, and general welfare of the  
1843 citizens of the Town of Kittery, through the regulation of nonstormwater discharges to the  
1844 municipality's storm drainage system as required by federal and state law. This article  
1845 establishes methods for controlling the introduction of pollutants into the Town's storm  
1846 drainage system in order to comply with requirements of the federal Clean Water Act and  
1847 state law.
- 1848 (5) The objectives of this article are:
- 1849 (a.) To prohibit unpermitted or unapproved nonstormwater discharges to the  
1850 storm drainage system; and
- 1851 (b.) To set forth the legal authority and procedures to carry out all inspection,  
1852 monitoring and enforcement activities necessary to ensure compliance with  
1853 this article.
- 1854 B. Applicability.  
1855 This article shall apply to all persons discharging stormwater and/or nonstormwater discharge  
1856 from any premise into the storm drainage system.
- 1857 C. Responsibility for administration.  
1858 The Code Enforcement Officer is the enforcement authority who shall administer, implement, and  
1859 enforce the provisions of this article.
- 1860 D. Prohibition of nonstormwater discharges.
- 1861 (3) Except as allowed or exempted herein, a person may not create, initiate, originate or  
1862 maintain a nonstormwater discharge to the storm drainage system. Such nonstormwater  
1863 discharges are prohibited even where the municipality has approved the connections,  
1864 drains or conveyances through which a person creates an illicit nonstormwater discharge  
1865 to the storm drainage system.
- 1866 (4) The creation, initiation, origination and maintenance of the following nonstormwater  
1867 discharges to the storm drainage system are allowed as long as they do not cause or  
1868 contribute to a violation of the state's water quality standards:
- 1869 (a.) Flow: Landscape irrigation; diverted stream flows; rising groundwaters;  
1870 uncontaminated groundwater infiltration [as defined at 40 CFR  
1871 35.2005(20)]; uncontaminated pumped groundwater; uncontaminated flows  
1872 from foundation drains; air conditioning and compressor condensate;  
1873 irrigation water; flows from uncontaminated springs; uncontaminated water  
1874 from crawlspace pumps; uncontaminated flows from footing drains; lawn  
1875 watering runoff; flows from riparian habitats and wetlands; residual street  
1876 wash water (where spills/leaks of toxic or hazardous materials have not  
1877 occurred, unless all spilled material has been removed and detergents are  
1878 not used); hydrant flushing and firefighting activity runoff; water line  
1879 flushing and discharges from potable water sources; individual residential  
1880 car washing; and dechlorinated swimming pool discharges, as defined as  
1881 having 0.5 ppm or less. Pools may only be emptied a minimum of 48 hours  
1882 after any chemical treatments were added.
- 1883 (b.) Discharges specified in writing by the enforcement authority as being  
1884 necessary to protect public health and safety; and
- 1885 (c.) Dye testing, with verbal notification to the enforcement authority prior to

1886

the time of the test.

1887

E. Exempt person or discharge.

1888

This article shall not apply to an exempt person or discharge, except that the enforcement authority may request from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the discharge(s).

1889

1890

1891

F. Suspension of access to municipality's storm drainage system.

1892

(3) The enforcement authority may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened nonstormwater discharge to the storm drainage system which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize a nonstormwater discharge to the storm drainage system.

1893

1894

1895

1896

1897

1898

1899

1900

(4) If the person fails to comply with a suspension order issued in an emergency, the enforcement authority may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons. Only with the consent of the premises' owner, occupant or agent may the enforcement authority enter the premises that are the source of the actual or threatened nonstormwater discharge to the storm drainage system.

1901

1902

1903

1904

1905

1906

1907

G. Monitoring of discharges.

1908

In order to determine compliance with this article, the enforcement authority may enter upon and inspect premises subject to this article at reasonable hours with the consent of the premises' owner, occupant or agent: to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

1909

1910

1911

1912

H. Enforcement and penalties.

1913

See §§ 16.2.7 and 16.2.13.

1914

I. Ultimate responsibility of discharger.

1915

The standards set forth herein are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This article shall not create liability on the part of the municipality, or any officer agent or employee thereof for any damages that result from any person's reliance on this article or any administrative decision lawfully made hereunder.

1916

1917

1918

1919

1920

1921

**16.5.17 Overboard Discharge Systems**

1922

A. Treated overboard discharge system defined.

1923

"Treated overboard discharge system" means any sand-filter system, mechanical system or primary treatment with disinfection system designed to State of Maine Department of Environmental Protection specifications which discharges effluent or other liquids into any water body or watercourse.

1924

1925

1926

1927

B. Permit requirement.

1928

No person, firm or corporation may construct, install or maintain any treated overboard discharge system without first obtaining a Town permit for the same. Such permit is in addition to any other permit or license required by state or federal authorities for the same.

1929

1930

1931

C. Permit application.

1932

(3) Application for permit; fee. All applicants for permits must first apply to the Board of Appeals with a copy of the application given to the Code Enforcement Officer. The application form for a treated overboard discharge system must include the property

1933

1934



1935 owner's name and mailing address and telephone number, the applicant's name and  
1936 address and telephone number, the location address; tax maps and lot numbers; engineer's  
1937 scale drawing showing all relevant details of the system; and any other information  
1938 deemed relevant or necessary by either the Board of Appeals or the Code Enforcement  
1939 Officer. A fee as set out in Appendix A is required for each application. Application  
1940 forms are to be available from the Code Enforcement Officer.

1941 (4) Issuance of permits; fee. The treated overboard discharge permit may be issued by the  
1942 Code Enforcement Officer only after Board of Appeals approval. A permit issue fee as set  
1943 out in Appendix A is required for each system.

1944 (5) Notice of hearing.  
1945 (a.) Upon receipt of the completed application, the Board must timely notify the  
1946 Code Enforcement Officer of the established hearing date, which may be no  
1947 more than 30 days from the date of the receipted application. The Code  
1948 Enforcement Officer must also notify the Planning Board, abutters and  
1949 applicant of the hearing date. The Code Enforcement Officer must also give  
1950 public notice of the permit hearing date by advertising the same in a  
1951 newspaper of general circulation within the Town at least seven days prior  
1952 to the hearing date.

1953 (b.) For the purposes of this section, the abutting owners of property are  
1954 considered to be the parties listed by the Assessors of taxes for the Town as  
1955 those against whom taxes are assessed. Failure of any property owner to  
1956 receive a notice of public hearing does not necessitate another hearing or  
1957 invalidate any action by the Board of Appeals.

1958 (6) Conduct of hearing and standards. The Board must conduct the hearing on the application  
1959 for a treated overboard discharge system permit by following the same procedures  
1960 established for the consideration of a special exception under the terms of § 16.2.12.F.

1961 (a.) The Board may receive oral and documentary evidence and testimony. At  
1962 the close of the evidentiary portion of the hearing, the Board must consider  
1963 whether the effluent or discharge from the proposed treated overboard  
1964 discharge system will have a negative impact on any aquatic or fowl life,  
1965 will lower the water quality standard or impair the uses designated by the  
1966 classification of the receiving waters. In addition, the Board may consider  
1967 any relevant provisions of the performance standards set forth in § 16.7 and  
1968 16.8.

1969 (b.) The Board may also consider any relevant state or federal statute, rules or  
1970 regulations bearing on the same. After applying the standards contained  
1971 herein, the Board must issue its decision containing its findings of fact and  
1972 conclusions and approve the application if the Board is satisfied that the  
1973 standards have been met.

1974 (7) Notice of decision. The Board of Appeals must notify the applicant in writing of its  
1975 decision no later than 10 days thereafter.

1976 D. Systems exempted.

1977 The permit requirement of this chapter does not apply to any sewage disposal system in operation  
1978 at the time this chapter is adopted or the subsequent repair or replacement of any such system,  
1979 including replacement by treated overboard discharge system, except that any treated overboard  
1980 discharge system, as defined herein and operating as of the date of the adoption of this chapter or  
1981 subsequently installed as a replacement for an existing malfunction in-ground or overboard system  
1982 under license by the State of Maine, is required to conform to the standards of maintenance and  
1983 monitoring set forth in § 16.5.19.E.

1984 E. Standards of maintenance and monitoring.

1985 Treated overboard discharge systems that are operating by virtue of a permit issued under the

1986 terms of this chapter, or any such system operating as of the date of the enactment of this chapter  
1987 pursuant to a license issued by the State of Maine, must be maintained and monitored pursuant to  
1988 the following standards:

- 1989 (3) Disinfection. Disinfection is to be provided in a manner acceptable to the Maine  
1990 Department of Environmental Protection. An approved disinfectant must be used and  
1991 maintained according to the replacement or renewal schedule established by the  
1992 Department of Environmental Protection.
- 1993 (4) Septic tanks. Septic tanks which are part of an overboard discharge system must be  
1994 pumped annually to ensure that the accumulated sludge is never nearer than 12 inches to  
1995 the invert of the outlet pipe leading from the septic tank to the sand filter.
- 1996 (5) Monitoring.
- 1997 (a.) The permit holder and/or the property owner must supply to the Code  
1998 Enforcement Officer, prior to August 1 of each year, a report of the effluent  
1999 analysis conducted by a recognized testing laboratory. All water samples  
2000 for evaluation must be obtained and analyzed during the month of July.  
2001 Each analysis must include the following tests:
- 2002 [1.] Fecal coliform (number of colonies per milligram of water);  
2003 [2.] Biological oxygen demand (BOD) and suspended solids (mg/l); and  
2004 [3.] Settleable solids (mg/l after a twenty-minute settling period in an  
2005 Imhoff cone).
- 2006 (b.) In addition to the requirements contained in this subsection, the Code  
2007 Enforcement Officer may require periodic operational reports from  
2008 recognized laboratories in such form and containing such information as the  
2009 Code Enforcement Officer may require.
- 2010 (6) Sand filters. Whenever the BOD levels exceed the limits specified in the regulations of  
2011 the Maine Department of Environmental Protection, or when there are other indications of  
2012 the sand-filter malfunctioning, the sand filter is to be inspected by a qualified  
2013 professional. If the sand filter is found to be clogged, it must be replaced with new  
2014 material meeting specifications of the Maine Department of Environmental Protection.
- 2015 (7) Emergency measures. In the event that a treated overboard discharge system is found to  
2016 be malfunctioning, for any reason, the septic or settling tank must be pumped  
2017 immediately and continue to be pumped as often as required until the malfunctioning is  
2018 corrected.

2019 F. Malfunctioning of systems.

2020 The permit owner and/or property owner must immediately notify the Code Enforcement Officer  
2021 of any malfunction of any component of the treated overboard discharge system. In the event that  
2022 the system malfunctions, the Code Enforcement Officer may order that the effluent discharge  
2023 cease within a time set by the Code Enforcement Officer.

2024 G. System construction.

- 2025 (3) Notice to Code Enforcement Officer and DEP. Before any work is undertaken pursuant to  
2026 a permit issued under the terms of this chapter, the permit holder and/or property owner  
2027 must notify the Code Enforcement Officer and the Department of Environmental  
2028 Protection (DEP) at least seven days prior to commencement of the system's construction  
2029 in order that all proper inspections of the proposed construction may be made by the Code  
2030 Enforcement Officer and the DEP.
- 2031 (4) Certificate of compliance. Upon the completion of the construction of the treated  
2032 overboard discharge system and prior to its operation, the Code Enforcement Officer is to  
2033 issue a certificate of compliance, certifying that the system complies with all municipal  
2034 ordinances, rules and regulations.

2035 H. Violations and penalties.

2036 Failure to conform to the provisions of the chapter constitutes a violation. A written notice of  
2037 violation must be sent by the Code Enforcement Officer to the permit holder and/or the property  
2038 owner operating the treated overboard discharge system which is in noncompliance with this  
2039 chapter.

2040 (3) This notice is to be sent by certified mail, return receipt requested, and must inform the  
2041 permit holder and/or property owner of the deadline for correcting the malfunction. The  
2042 permit holder and/or property owner is to be given a reasonable time, not to exceed 30  
2043 days, to correct the malfunction.

2044 (4) If the violation is not corrected within this specified time period, the Code Enforcement  
2045 Officer must notify the permit holder and/or the property owner by certified mail, return  
2046 receipt requested, that the permit is revoked.

2047 (5) Each day that the system is allowed to discharge after the notice of permit revocation is  
2048 received constitutes a separate offense. A fine of not more than \$100 will be levied for  
2049 each such separate offense. In addition to the remedy contained herein, said violation  
2050 constitutes a nuisance for which the municipality, through its Code Enforcement Officer,  
2051 may seek adequate remedy.

2052 (6) Any actual and direct expenses incurred by the Town in abatement of such nuisance may  
2053 be recovered from the permit holder and/or property owner by civil complaint.

2054 I. Property rights.

2055 The issuance of any permit authorized by this chapter does not convey any property rights to the  
2056 permit holder. The permit holder and/or the property owner, by accepting the permit under the  
2057 terms of this chapter, consent to allow the Code Enforcement Officer or authorized agent, at all  
2058 reasonable and proper times, to enter upon the property for inspection of the system or otherwise  
2059 enforce the terms of this chapter.

2060 J. Permit expiration date.

2061 Such permit automatically expires within 90 days after the municipal sanitary sewer system  
2062 becomes available within 200 feet of the property line of the lot or parcel of land on which the  
2063 treated overboard discharge system is located, as measured along the public way.

2064 **16.5.18 Piers, Wharves, Marinas and Other Uses Projecting into Water Bodies**

2065 A. Standards.

2066 Development involving piers, wharves, marinas and other uses projecting into water bodies must  
2067 conform to the following standards:

2068 (3) In accordance with 38 M.R.S. § 435 et seq., Mandatory Shoreland Zoning, all  
2069 dimensional and other standards (excluding setbacks from water bodies) of this title apply  
2070 to structures and uses projecting into a water body beyond the normal high-water mark.

2071 (4) Boathouses, while convenient to locate near the water, are not considered functionally  
2072 water-dependent uses and must meet the same setback requirement as principal structures.  
2073 The State of Maine no longer issues permits for construction of boathouses below the  
2074 normal high-water line due to the adverse environmental impact; therefore, new  
2075 boathouses must be located on uplands.

2076 (5) Only functionally water-dependent uses are allowed on, over or abutting a pier, wharf or  
2077 other structure beyond the normal high-water line.

2078 (6) Access from shore must be developed on soils appropriate for such use and constructed so  
2079 as to control erosion.

2080 (7) The location must not interfere with existing developed recreational and maritime  
2081 commerce or natural beach areas.

2082 (8) The facility must be located so as to minimize adverse effects on fisheries.

2083 (9) The facility must be a water-dependent use and no larger in dimension than necessary to  
2084 carry on the activity and must be consistent with existing conditions, use and character of

- 2085 the area.
- 2086 (10) No new structure may be built on, over or abutting a pier, wharf, dock or other structure  
2087 extending beyond the normal high-water line of a water body or within a wetland unless  
2088 the structure requires direct access to the water as an operational necessity.
- 2089 (11) No existing structures built on, over or abutting a pier, dock, wharf or other structure  
2090 extending beyond the normal high-water line of a water body or within a wetland may be  
2091 converted to residential dwelling units in any district.
- 2092 (12) Except in the Commercial Fisheries/Maritime Uses Overlay Zone, structures built on,  
2093 over or abutting a pier, wharf, dock or other structure extending beyond the normal high-  
2094 water line of a water body or within a wetland must not exceed 20 feet in height above the  
2095 pier, wharf, dock or other structure.
- 2096 (13) Applicants proposing any construction or fill activities in a waterway or wetland requiring  
2097 approval by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean  
2098 Water Act, Section 9 or 10 of the Rivers and Harbors Act, or Section 103 of the Marine  
2099 Protection, Research and Sanctuaries Act, must submit proof of a valid permit issued.
- 2100 (14) Proposals for any principal marine structure use, any residential joint- and/or shared-use  
2101 pier, or any residential-development-use pier require Planning Board approval.
- 2102 (15) A residential development containing five or more lots in a zone permitting a residential-  
2103 development-use pier may construct only one residential development use pier.
- 2104 (16) Commercial development of the shorefront must provide for access by the general public  
2105 as part of a shorefront development plan.
- 2106 (17) Only one pier, ramp and float structure is permitted on any noncommercial or  
2107 nonindustrial lot.
- 2108 (18) Marine-related permanent structures located below the mean low-water line require the  
2109 following permits, leases and approvals:
- 2110 (a.) Port Authority approval;
- 2111 (b.) Department of Environmental Protection permit pursuant to the Natural  
2112 Resources Protection Act, 38 M.R.S. § 480-C;
- 2113 (c.) Army Corps of Engineers permit;
- 2114 (d.) Maine State Department of Conservation, Bureau of Parks and Lands,  
2115 Submerged Land Coordinator approval; and
- 2116 (e.) Building permit.

### 2117 **16.5.19 Signs**

#### 2118 A. Purpose.

2119 The purpose of this article is to balance the need for adequate identification and advertising for  
2120 land uses to promote the economic well-being of the Town with the need to protect the public  
2121 safety and maintain and enhance the physical appearance of the community. This objective is to be  
2122 achieved by:

- 2123 (3) Allowing adequate signage for the effective use of signs as a means of identifying,  
2124 advertising and communication of land uses;
- 2125 (4) Establishing the appropriate bounds for location, size, number, type and use of signs to  
2126 protect traffic safety, preserve property values and to promote visual order and clarity;  
2127 and
- 2128 (5) Establishing procedures and regulations for the fair and consistent administration and  
2129 enforcement of these sign restrictions.

#### 2130 B. Nonconforming existing signs.

- 2131 (3) All signs lawfully existing on October 1, 1997 that do not conform to the terms of this  
2132 article may be continued and maintained, subject to § 16.5.21.B(2), but may neither be

enlarged nor substantially altered except in conformity with this article.

- (4) Lawfully nonconforming signs must be made to conform or be removed if any of the following circumstances occur, individually or in combination, for a consecutive three-year time period:

(a.) The sign has ceased to be accurate by reason of vacancy or closure of the business which the sign advertises.

(b.) The sign face is blank, illegible, obscured, painted over, concealed or otherwise not decipherable.

- (5) In no event may the degree of nonconformity of any sign or type of signage on any lot be increased.

#### C. General requirements.

- (3) No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the Code Enforcement Officer (CEO) and also approved by the Town Planner, except where § 16.5.21.J provides otherwise. [Amended 9-26-2011 by Ord. No. 11-15]

- (4) No exterior sign may be artificially illuminated except where hooded or shielded or otherwise designed to prevent direct light spilling onto traveled ways or neighboring property.

- (5) No sign may contain a moving message board or intermittent illumination, except where necessary in time/temperature/date signs. [Amended 9-26-2011 by Ord. No. 11-15; 12-8-2014 by Ord. No. 14-08]

- (6) Any sign that interferes with or closely imitates any official traffic sign, signal or device is prohibited.

- (7) No sign designed to be transported by means of wheels is allowed, unless said vehicle is used in the normal day-to-day transportation operations of the business. All trailer signs are prohibited.

- (8) Any changeable message signs must be integrated into a permanently-mounted sign. Such a changeable message board is to be mounted a minimum of 3 1/2 feet above ground level.

- (9) All signs must be maintained in a safe and sound structural condition.

- (10) Advertising. No advertising or signage is permitted on wireless communication services facilities.

- (11) Any sign not expressly permitted herein is prohibited.

#### D. Sign location.

- (3) All signs must be permanently installed on the premises of the activity to which the advertising message refers, except where § 16.5.21.H provides otherwise or upon approval by the Town Council.

- (4) All signs must be located outside the full width of the right-of-way of any public way, unless authorized by the Town Council.

- (5) Except for signs authorized in §§ 16.5.21.H and 16.5.21.J, freestanding signs erected after October 1, 1997 must be located at least 33 feet from the center line of any U.S. or state numbered highway less than 66 feet in width and at least 20 feet from the outside edge of the paved portion of any travel lane of any U.S. or state numbered highway which has both more than two travel lanes and a total paved portion in excess of 24 feet in width.

- (6) Signs must not be placed on or above the roof of any building. All signs must be located below the level of the eaves of the portion of building where the sign is to be erected, except as follows:

(c.) Signage may be located above the eaves on a gable or dormer of a building, providing it does not extend above or beyond the roofline of the gable or dormer; and

2182 (d.) Signage may be located on a parapet wall, provided the sign neither extends  
2183 any more than eight feet above the roof-wall junction of the parapet wall  
2184 nor extends beyond the height of the parapet wall.

2185 Note: Please see Figure 3 of § 16.5 at the end of this article to assist the  
2186 reader in understanding acceptable and unacceptable locations of building-  
2187 mounted signs according to the terms of § 16.5.21.D

- 2188 (7) Building-mounted signs which extend more than six inches from the surface of the  
2189 structure must provide a minimum of eight feet of vertical clearance to a walkway,  
2190 parking area, private drive and ground surface. Such signs must not extend beyond the  
2191 street right-of-way boundary unless authorized by the Town Council.
- 2192 (8) Freestanding signs must not extend higher than 20 feet above the original ground level or  
2193 the elevation of the center line of the nearest street measured at the closest point to the  
2194 sign, whichever is greater.
- 2195 (9) Signs must not be posted on trees, utility poles, traffic control devices, or unregistered  
2196 motor vehicles or trailers. Signs posted on fences are treated as a type of freestanding  
2197 sign. Any unpermitted and unallowed sign located in a public road right-of-way may be  
2198 caused to be removed by the Town without notice to the owner of such sign.
- 2199 (10) No sign may be located so that it interferes with the safe sight distances necessary for  
2200 motorists to proceed safely through intersections or to enter onto or exit from public  
2201 streets, private roads or driveways.
- 2202 (11) All building-mounted signs must be located only on the building that contains the  
2203 activities or businesses advertised, except that up to 10% of the allowed signage for  
2204 building-mounted signs in § 16.5.21.K may be allocated to signs mounted on fuel pumps  
2205 and/or fuel pump canopies.
- 2206 (12) In cases where multiple freestanding signs are permitted, any additional allowed smaller  
2207 freestanding sign must face and be located along a separate publicly maintained street.

2208 E. Number of freestanding signs.

- 2209 (3) Except as otherwise authorized in this section, as well as §§ 16.5.21.I and 16.5.21.J, each  
2210 development is prohibited from having more than one freestanding sign.
- 2211 (4) Multisided signs are considered as one sign; however, the square footage of each sign  
2212 face is calculated to determine total sign area.
- 2213 (5) Where a development fronts on two publicly maintained streets and has designed and  
2214 approved access onto both those publicly maintained streets, the development is allowed  
2215 one additional freestanding sign that faces and is located along a second publicly  
2216 maintained street in accordance with § 16.5.21.G.
- 2217 (6) Where a development fronts on three publicly maintained streets and has designed and  
2218 approved access onto each publicly maintained street, a third freestanding sign facing and  
2219 located along the third publicly maintained street may be authorized at the Planning  
2220 Board's discretion if it finds that other freestanding signage is not visible from the third  
2221 street and that there is a need for a third freestanding sign to adequately communicate the  
2222 business location to travelers on a third road fronted by the business.

2223 F. Number of building-mounted signs.

2224 To prevent sign clutter, except for those signs authorized by § 16.5.21.I or 16.5.21.J, each business  
2225 facility which is on a site where two or more businesses occupy the same building, lot or  
2226 development is prohibited from having more than two building-mounted, nontemporary signs.

2227 G. Sign area.

2228 [Amended 9-26-2011 by Ord. No. 11-15]

- 2229 (3) Residential Zones. Zones designated Residential - Rural Conservation, Residential -  
2230 Rural, Residential - Suburban, Residential - Urban, and Residential - Village on the  
2231 Zoning Map are residential zones for the purpose of this section.

- 2232 (a.) Accessory uses, including home occupations, are allowed sign area no  
2233 greater than eight square feet.
- 2234 (b.) Other permitted uses are allowed sign area no greater than 16 square feet,  
2235 except as otherwise provided. Residential developments are also allowed 24  
2236 square feet, provided that signs are located within the development on  
2237 premises owned by the developer or an owners' association.
- 2238 (4) All other zones.
- 2239 (a.) A single business situated on a lot of record is allowed a total sign area no  
2240 greater than 300 square feet or 1 1/2 square feet for every linear foot of  
2241 building frontage, whichever is smaller. In any case, a single business on a  
2242 lot of record is allowed a minimum sign area of 72 square feet.
- 2243 (b.) Where two or more business facilities occupy the same building, lot or  
2244 development, allowable sign area is calculated as follows:
- 2245 [1.] Total building-mounted sign area equals 1 1/2 square feet per linear  
2246 foot of building frontage for each business facility. The total  
2247 allowed building-mounted sign area may be allocated among  
2248 individual business facilities at the property owner's discretion.
- 2249 [2.] The development is allowed one freestanding sign not greater than  
2250 150 square feet in sign area. An additional freestanding sign no  
2251 greater than 72 square feet in sign area facing and located along that  
2252 secondary street is allowed if the development fronts on multiple  
2253 streets and has designed and approved access onto each publicly  
2254 maintained street. A third freestanding sign may be permitted at the  
2255 Planning Board's discretion in accordance with § 16.5.21.E.

2256 H. Off-premises signs.

- 2257 (3) An individual business or service, upon application, may be assigned no more than three  
2258 off-premises business directional signs (OBDS). An OBDS must be designed and located  
2259 so as to avoid conflict with other signs and minimize impact on the scenic environment  
2260 through the following standards:
- 2261 (a.) Dimensions: 12 inches by 48 inches.
- 2262 (b.) Coloring: state standard blue background, white lettering, logo may be any  
2263 color.
- 2264 (c.) Reflectorization: optional.
- 2265 (d.) Location: on existing assemblies (posts) where possible. No more than two  
2266 assemblies per intersection approach.
- 2267 (e.) Restricted areas: An OBDS must not be placed on an inbound leg of the  
2268 Kittery traffic circle within 400 feet of its outer perimeter, or adjacent to  
2269 points of scenic or historical interest, including but not limited to federal,  
2270 state and local parks and reserves, recognized historic sites and buildings,  
2271 water bridges and cemeteries.
- 2272 (4) An off-premises sign which advertises commercial or other activity without advertising  
2273 any specific enterprise (generic signs) may be approved by the Planning Board at size and  
2274 location to be specified.

2275 I. Temporary signs.

2276 All temporary signs must be installed on the premises of the activity to which the advertising  
2277 message refers. Moveable signs are prohibited as temporary signs. The following types of  
2278 temporary signs are allowed with an approved sign permit:

- 2279 (3) The use of one temporary sign, other than a trailer sign, at any one time per business, that  
2280 is mounted to the building or attached to a freestanding sign structure for the purpose of  
2281 advertising special events, provided that such signs are displayed for no longer than a

2282 combined total of 21 days in any calendar quarter (January 1 to March 30, etc.), may be  
2283 permitted. Total sign area for a temporary sign must not exceed 72 square feet. The  
2284 allowed twenty-one-day display period may be divided into no more than three separate,  
2285 nonoverlapping temporary periods of not less than seven days.

- 2286 (4) One additional temporary sign, other than a trailer sign, mounted to the building or to a  
2287 freestanding sign structure, is permitted per legally participating site for the duration of  
2288 each Town Council-approved sidewalk sales event.

2289 J. Signs allowed without sign permit.

2290 The following types of signs, in sizes and under conditions stated, are allowed without a Town  
2291 sign permit, but must conform with all other provisions of § 16.5.21 of this chapter except for the  
2292 provisions restricting the number of signs (§§ 16.5.21.E and 16.5.21.F) and limiting the total sign  
2293 area (§ 16.5.21.G).

- 2294 (3) Public information signs. Signs for the control of traffic and other regulatory purposes,  
2295 route markers, street signs, warning signs, utility, danger or warning signs, signs which  
2296 indicate direction to hospitals, churches or other places of worship, or other public  
2297 facilities.
- 2298 (4) General information signs. Signs which provide direction or instruction, such as location  
2299 of telephone, restrooms, parking, automatic teller machines (ATMs), transit stops,  
2300 entrances and exits, open and closed signs, where installed entirely upon the property to  
2301 which they pertain. "Enter" and "Exit" signs must not exceed four square feet in size. All  
2302 other general information signs must not exceed two square feet in size. Except for  
2303 identifying approved off-premises parking stalls, no logos, trademarks or names of  
2304 businesses are permitted on general information signs. The Planning Board may approve  
2305 increased sizes and/or the use of logos or names of businesses on general information  
2306 signs when considered necessary to promote safety or eliminate confusion.
- 2307 (5) Memorial tablets. Grave markers, signs commemorating a historical figure or event,  
2308 names or dates of buildings to which a sign is attached.
- 2309 (6) Public notices and community signs. Official notices posted by public employees in  
2310 performance of their duties, and any sign for Town sponsored or supported events or  
2311 facilities as approved by the Town Council.
- 2312 (7) Flags of any government or recognized political subdivision. The flag of any government  
2313 or recognized political subdivision is allowed, provided it is displayed no higher than 50  
2314 feet above the original ground level or the elevation of the center line of the nearest street  
2315 measured at the closest point to the flag, whichever is greater. A single memorial flagpole  
2316 installation sponsored by private funding not to exceed 129 feet in height installed on  
2317 Town-owned or regulated property at Memorial Circle is allowed. [Amended 9-26-2011  
2318 by Ord. No. 11-15]
- 2319 (8) Religious symbols.
- 2320 (9) Building street numbers. In accordance with the street-numbering map on file with the  
2321 Town Assessing Department;
- 2322 (10) Political campaign signs. Signs bearing political messages relating to an election, primary  
2323 or referendum, provided these signs may be displayed on: [Amended 9-26-2011 by Ord.  
2324 No. 11-15]
- 2325 (a.) Public property not earlier than 30 days prior to the election, primary or  
2326 referendum to which they relate and are removed not later than two days  
2327 thereafter.
- 2328 (b.) Private property without time constraints.
- 2329 (11) Interior signs. Signs placed inside a building which are located at least 10 feet inside the  
2330 building or otherwise not oriented to be viewed from outside the building;
- 2331 (12) Vehicular signs. Signs painted on or affixed to registered motor vehicles or trailers where



- 2332 such signs are clearly incidental to the regular transportation function of the vehicle.
- 2333 (13) Service club signs. Service club signs may be placed within the right-of-way of a street  
2334 with approval of the Commissioner of Public Works. Such signs are encouraged to be  
2335 consolidated on a single designated assembly structure at major entranceways to the  
2336 Town. In addition, such signs not exceeding four feet in size may be erected at locations  
2337 where meetings of such service clubs are convened.
- 2338 (14) Real estate signs. Any sign advertising real estate for sale, lease or rent, provided:  
2339 (a.) Each sign does not exceed 12 square feet;  
2340 (b.) Each sign is located on the property being advertised, except one sign may  
2341 be located as an off-premises directional sign, provided the sign does not  
2342 restrict safe sight distances or impair safety;  
2343 (c.) No more than two signs are erected per property being advertised; and  
2344 (d.) Each sign is removed within 60 days of transfer of title.
- 2345 (15) Window signs. Any sign that is placed inside a window and is visible from the exterior of  
2346 the window, provided such signage covers no more than 50% of the area of any window.
- 2347 (16) Legally required signs. Any sign required by local, state or federal law with sign area no  
2348 greater than two square feet or the minimum size required by law, whichever is larger.
- 2349 (17) Food menu signs. Up to two signs advertising food items for sale on the premises at a  
2350 legally existing restaurant, fast-food outlet, drive-in restaurant, or snack bar are allowed,  
2351 provided that:  
2352 (a.) The total sign area of each such food menu sign on the site must not exceed  
2353 32 square feet; and  
2354 (b.) Such food menu signs must either be building-mounted or comply with the  
2355 front yard requirements for structures and be located within 75 feet of the  
2356 restaurant.
- 2357 (18) Undercanopy, pedestrian-oriented signs. One building-mounted business identification  
2358 sign per business facility, not to exceed 10 square feet in size per sign, where two or more  
2359 businesses occupy the same building with a pedestrian walkway and canopy that parallels  
2360 and connects the front entrances of the business facilities. The sign must be oriented  
2361 toward pedestrians using the walkway, be located under the canopy near the main  
2362 entrance to the business advertised and solely identify the business name or logo.
- 2363 (19) Construction phase and contractor signs. Signs, other than trailer signs, identifying the  
2364 name of a contractor working on the premises or describing a construction project,  
2365 erected only during the construction phase of a development, provided each sign does not  
2366 exceed 75 square feet.
- 2367 (20) Garage sale signs as allowed by § 5.4.9A(2).

2368 K. Signs in Shoreland Overlay and Resource Protection Overlay Zones.

2369 The following provisions govern signs in the Conservation, Shoreland Overlay and Resource  
2370 Protection Overlay Zones, except where either is overlaid by the Commercial Fisheries/Maritime  
2371 Uses Overlay Zone:

- 2372 (3) Signs relating to goods and services sold on the premises are allowed, provided such signs  
2373 do not exceed six square feet in area and do not exceed two signs per premises.
- 2374 (4) Signs relating to goods or services not sold or rendered on the premises are prohibited.
- 2375 (5) Name signs are allowed, provided such signs do not exceed two signs per premises and  
2376 do not exceed 12 square feet in the aggregate.
- 2377 (6) Residential users may display a temporary single sign not over three square feet in area  
2378 relating to the sale, rental or lease of the premises.
- 2379 (7) Signs relating to trespassing and hunting are allowed without restriction as to number,  
2380 provided no such sign exceeds two square feet in area.

- 2381 (8) Signs relating to public safety are allowed without restriction.  
2382 (9) Signs higher than 20 feet above the ground are prohibited.  
2383 (10) Signs may be illuminated only by shielded, nonflashing lights.

2384 L. Sign permit application procedures.

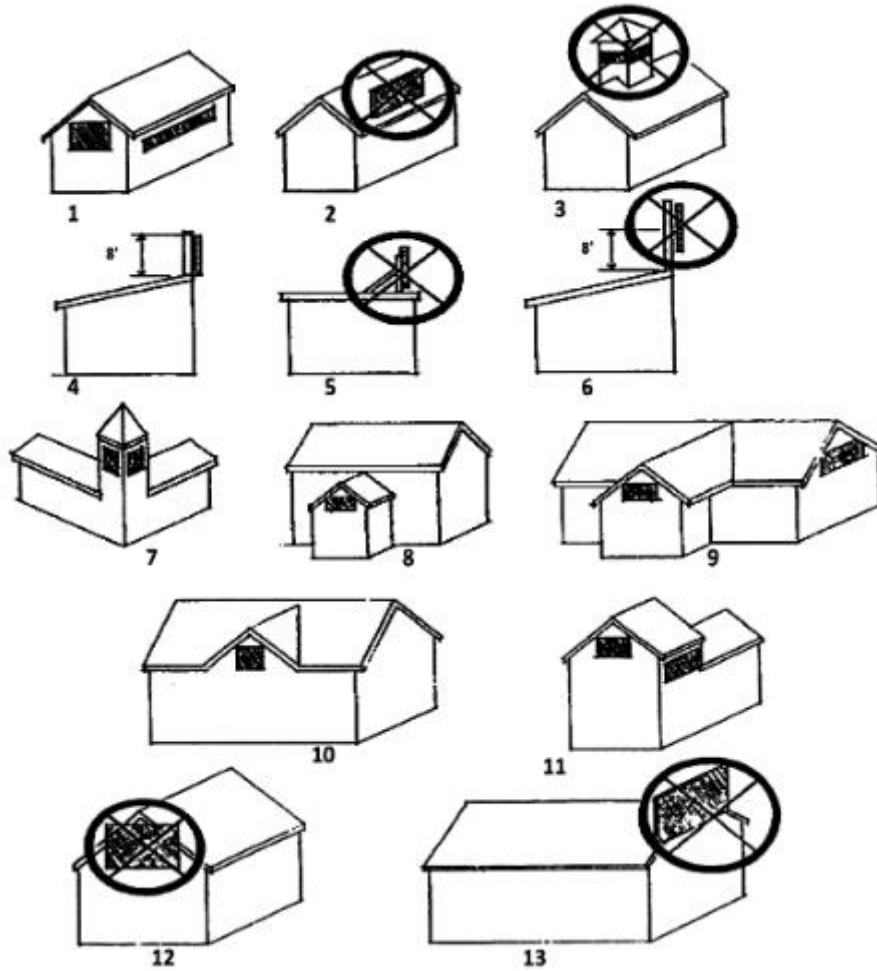
- 2385 (3) No person may erect, post, enlarge, relocate, replace or modify a sign except in  
2386 conformance with a permit issued by the Code Enforcement Officer and also approved by  
2387 the Town Planner. Notwithstanding the above statement, the following signs may be  
2388 erected or modified without a sign permit: [Amended 9-26-2011 by Ord. No. 11-15]
- 2389 (a.) Signs authorized in § 16.5.21.J.
  - 2390 (b.) Changes to nameplates or "shingles" to reflect occupancy changes on an  
2391 existing approved freestanding sign identifying individual occupants on the  
2392 site, provided no change is made to the shape or size of the sign or sign  
2393 area.
  - 2394 (c.) Characters, letters and numbers may be changed on approved changeable  
2395 message signs without a sign permit, provided no other change is made to  
2396 the sign.
  - 2397 (d.) Signs may be maintained, cleaned or repainted, provided no change is made  
2398 to the shape or size of the sign or to the sign area, and provided no new  
2399 business name is advertised.
- 2400 (4) A complete sign application submission consists of the following items submitted to the  
2401 Code Enforcement Officer:
- 2402 (a.) A completed sign permit application form provided by the Town;
  - 2403 (b.) An application fee in accordance with a fee schedule established by the  
2404 Town Council; and
  - 2405 (c.) A self-addressed, stamped envelope.
- 2406 (5) Complete applications must be reviewed by the CEO for compliance with this title.  
2407 Complete sign permit application submissions must be returned by the CEO after  
2408 rendering a decision to the applicant if accompanied by an SASE. Incomplete sign permit  
2409 application submissions will only be returned to the applicant if accompanied by an  
2410 SASE.
- 2411 (6) Unless the proposed sign is located within the Shoreland Zone, the CEO must issue, deny  
2412 or seek a formal Planning Board opinion within 14 working days of receiving a complete  
2413 sign permit application submission. If either a Planning Board opinion is sought or the  
2414 proposed sign is located within the Shoreland Zone, the CEO must issue or deny the  
2415 application within 35 calendar days of receiving a complete sign permit application  
2416 submission.
- 2417 (7) The sign permit must be approved if the proposed sign conforms in every respect with the  
2418 requirements of this article. In the CEO's absence, or if no action is taken by the CEO  
2419 within the above time limits, the Town Manager or the Town Manager's designee may  
2420 approve or deny the sign permit application submission.

2421 M. Sign violations and appeal.

- 2422 (3) The CEO must notify and order the owner to immediately correct any sign that endangers  
2423 public safety. Signs that endanger public safety include, but are not limited to, those  
2424 which are dangerous by reason of structural defect or those that interfere or obstruct a  
2425 driver's safe operation of a motor vehicle.
- 2426 (4) A nonconforming sign which is required to conform to the sign regulations per  
2427 § 16.5.21.B must be brought into conformity.
- 2428 (5) Enforcement of the provisions of this article is in accordance with §16.2.  
2429

2430  
2431  
2432  
2433  
2434

**Figure 3**  
**Examples of Allowed and Prohibited Sign Placement**  
These drawings are illustrative and meant to be an aid to the reader; refer to § 16.5.21, for full details.



2435

2436

### 16.5.20 Single- and Duplex-Family Dwellings

2437 A. Dwellings in Resource Protection and Shoreland Overlay Zones.

2438 [Amended 1-28-2015 by Ord. No. 15-01]

2439 The Code Enforcement Officer may issue a building permit for a new dwelling outside the  
2440 base zone setback in the Shoreland Overlay Zone only provided the structure is  
2441 conforming with all base zone standards. In addition to the criteria specified in § 16.2.12.F,  
2442 § 16.8.9.D(5) and § 16.7.10.D(6), applicable to the granting of a special exception use  
2443 request, the Planning Board may approve an application for a single- or family dwelling  
2444 special exception use request within the Resource Protection Overlay Zone, provided the  
2445 applicant demonstrates all of the following conditions are met:

- 2446 (3) There is no location on the property, other than a location within the Resource Protection  
2447 Overlay Zones, where a single-family dwelling can be built, provided the structure is  
2448 conforming with all base zone standards.
- 2449 (4) The lot on which the structure is proposed is undeveloped and was established and  
2450 recorded in the York County Registry of Deeds before inclusion in the Shoreland or  
2451 Resource Protection Overlay Zones.
- 2452 (5) All proposed buildings, sewage disposal systems, other than municipal sewer, and other  
2453 improvements are located:
- 2454 (a.) On natural ground slopes of less than 20%;

- 2455 (b.) Outside the floodway of the one-hundred-year floodplain along rivers; and  
2456 (c.) Outside the velocity zone in areas subject to tides, based on detailed flood  
2457 insurance studies and as delineated on the Federal Emergency Management  
2458 Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate  
2459 Maps.
- 2460 (6) The lowest floor elevation or openings of all buildings and structures, including  
2461 basements, must be elevated at least one foot above the elevation of the one-hundred-year  
2462 flood, the flood of record or, in the absence of these, the flood as defined by soil types  
2463 identified as recent floodplain soils.
- 2464 (7) If the floodway is not shown on the Federal Emergency Management Agency Maps, it is  
2465 deemed to be 1/2 the width of the one-hundred-year floodplain.
- 2466 (8) The total ground-floor area, including cantilevered or similar overhanging extensions, of  
2467 all principal and accessory structures is limited to a maximum of 1,500 square feet. This  
2468 limitation may not be altered by variance.
- 2469 (9) All structures, except functionally water-dependent structures, are set back from the  
2470 normal high-water line of a water body, tributary stream or upland edge of a wetland to  
2471 the greatest practical extent but not less than 75 feet horizontal distance. In determining  
2472 the greatest practical extent, the Planning Board must consider the depth of the lot, the  
2473 slope of the land, the potential for soil erosion, the type and amount of vegetation to be  
2474 removed, the proposed building site's elevation in regard to the floodplain and its  
2475 proximity to the wetlands.

### 2476 **16.5.21 Sprinkler Systems**

#### 2477 A. Requirement.

- 2478 (3) An approved automatic sprinkler system must be installed in all areas of new buildings  
2479 meeting any or all of the following criteria:
- 2480 (a.) Three or more stories in height; or
  - 2481 (b.) Thirty-six or more feet in height; or
  - 2482 (c.) One hundred thousand cubic feet in volume or 10,000 square feet in floor  
2483 area; or
  - 2484 (d.) Multiple-family or multiple-occupant dwelling and/or all lodging units; or
  - 2485 (e.) Any single-family attached units, such as garden apartments or townhouse  
2486 with three or more units attached together; or
  - 2487 (f.) All motels, hotels, rooming houses, inns or other structures containing more  
2488 than two dwelling or living units, hotel or motel rooms.
- 2489 (4) An approved automatic sprinkler system must be installed in new additions to existing  
2490 buildings and to the existing building(s) meeting any or all of the following criteria:
- 2491 (a.) When the addition causes the building to become three or more stories in  
2492 height; or
  - 2493 (b.) When the addition causes the building to become 36 or more feet in height;  
2494 or
  - 2495 (c.) When the addition causes the building to become 100,000 cubic feet in  
2496 volume or 10,000 square feet in area;
  - 2497 (d.) When the addition to or renovation of the existing building results in the  
2498 end use becoming a motel, hotel, rooming house, inn or other structure  
2499 which contains more than two dwelling or living units, hotel or motel  
2500 rooms; or
  - 2501 (e.) When the addition to or renovation of the existing building results in the  
2502 end use becoming single-family attached units, such as garden apartments  
2503 or townhouses with three or more units attached together.

2504

B. Sprinkler system standards.

2505

2506

2507

2508

2509

- (3) An approved automatic sprinkler system means a system installed in accordance with the National Fire Protection Association (NFPA) Standard 13 or NFPA 13D, or a system otherwise lawfully approved in writing by the State Fire Marshal's office; provided, however, any such system remains subject to the Fire Chief's approval under Subsection (3) of this section.

2510

2511

- (4) Any structure requiring the installation of a NFPA Standard 13 system must have a Fire Department connection with location approved by the Fire Chief.

2512

2513

2514

- (5) The type of system to be installed and its adequacy of life safety from fire in accordance with the provisions of this title must be reviewed and approved by the Fire Chief or duly authorized designee, provided adequate provision is made for life and property safety.

2515

- (6) All sprinkler systems installed under this title must have the following:

2516

(a.) A tamper-switch alarm at the system shutoff.

2517

2518

2519

(b.) An evacuation alarm for the building that will sound when the sprinkler system is activated; such evacuation alarm is to be audible throughout the entire structure.

2520

(c.) An outside water-flow alarm.

2521

(d.) Butterfly valves will not be allowed on any Standard 13 system.

2522

2523

2524

2525

2526

2527

2528

2529

- (7) Occupied or unoccupied buildings or portions thereof or any under construction having a sprinkler system in place must maintain all sprinklers and standpipe systems and all component parts in a workable condition at all times, and it is unlawful for any owner, occupant or other person whatever to reduce the effectiveness of the protection these systems provide, except that this does not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary for the purposes of conducting tests, repairs, alterations or additions, provided that the test, repairs, alterations or additions are done in such a way as to avoid the creation of a safety hazard.

2530

2531

2532

2533

2534

2535

- (8) For the purposes of this section, the term "building" means any structure excluding single-family dwellings, two-family dwellings and any barn or stable used exclusively for agricultural purposes, having a roof supported by columns or walls and intended for the shelter, storage, housing or enclosure of persons, animals or property. The term "building" also includes any garage, outbuilding or other accessory building used for any commercial or industrial purposes.

2536

2537

2538

2539

2540

- (9) Any building having more than one sprinkler riser must have the risers separately zoned and wired to a local energy alarm panel to provide zone identification upon activation. The energy alarm panel is to be located as near as possible to the main exit door. There must also be a building map located at the energy alarm panel showing each zone of the building.

2541

2542

2543

2544

- (10) A lock box must be provided outside the main entrance to any buildings regulated hereunder, containing a key to allow access to all Fire Department areas. So as to be compatible with existing lock box systems, the type of lock box must be approved by the Fire Chief.

2545

2546

2547

- (11) Any structure containing a sprinkler system is required to have a yearly test completed on the system by a qualified sprinkler technician. A written copy of the yearly test report must be forwarded to the Fire Chief.

2548

C. Permit.

2549

2550

2551

- (3) A permit must be obtained from the Fire Chief before the start of construction of the system and a set of blueprints showing the entire sprinkler system and the rate of flow provided to and approved by the Fire Chief in order to obtain the permit.

2552

2553

- (4) A copy of the permit must be forwarded to the CEO, and no certificate of occupancy may be issued until the system has been properly installed, tested by a qualified technician and

2554 approved by the Fire Chief or duly authorized designee.

2555 D. Fees and fines.

2556 (3) A sprinkler system permit fee is to be paid with the permit request in such amount as  
2557 established by Council. The fee for a sprinkler permit is as set out in Appendix A.  
2558 [Amended 9-26-2011 by Ord. No. 11-15]

2559 (4) Any person, firm or corporation being the owner or having control or use of any building  
2560 or premises who violates this section of this title will be assessed a penalty under Title 1,  
2561 Chapter 1.3. Each day such violation is permitted to exist after notification constitutes a  
2562 separate offense.

2563 E. Sprinkler administrative appeal.

2564 If any party is aggrieved by a determination of the Fire Chief under the requirements of this  
2565 section, a written appeal may be filed with the BOA within 10 days from the date of notification  
2566 of such determination by the Fire Chief. Such written appeal must set forth a concise statement of  
2567 the grounds upon which the party contends the Fire Chief's determination to be in error.

2568 **16.5.22 Street Signage**

2569 A. Names.

2570 Streets which join or are in alignment with streets of abutting or neighboring properties must bear  
2571 the same name. Names of new streets may not duplicate, nor bear phonetic resemblance to, the  
2572 names of existing streets within the municipality and are subject to the approval of the Planning  
2573 Board.

2574 B. Signs provided.

2575 Street name signs are to be furnished and installed by the developer; the type, size and location to  
2576 be approved by the Commissioner of Public Works.

2577 **16.5.23 Streets and Pedestrianways/Sidewalks Site Design Standards**

2578 [Amended 9-24-2012 by Ord. No. 12-11]

2579 A. Purpose.

2580 The design of streets must provide for proper continuation of streets from adjacent development  
2581 and for proper projection into adjacent undeveloped and open land. These design standards must  
2582 be met by all streets within Kittery and control street shoulders, curbs, pedestrianways/sidewalks,  
2583 drainage systems, culverts and other appurtenances.

2584 B. Layout.

2585 (3) Streets are to be designed to discourage through traffic on minor streets within a  
2586 residential subdivision.

2587 (4) Reserve strips controlling access to streets are prohibited except where control is  
2588 definitely placed with the municipality.

2589 (5) Any development expected to generate average daily traffic of 201 or more trips per day  
2590 is to have at least two street connections with existing public street(s).

2591 (6) Where a development borders an existing narrow street (below standards set herein) or  
2592 when the Comprehensive Plan indicates plans for realignment or widening of a street that  
2593 would require use of some of the land in a development, the plans must indicate reserved  
2594 areas for widening or realigning such streets, marked on the plan "reserved for street  
2595 widening/realignment purposes." Land reserved for such purposes may not be included in  
2596 computing lot area or setback requirements of this title.

2597 (7) Where a development abuts or contains an existing or proposed arterial street, the Board  
2598 may require marginal access streets (i.e., street parallel to arterial street providing access  
2599 to adjacent lots), reverse frontage (i.e., frontage on a street other than the existing or  
2600 proposed arterial street) with screen planting contained in a non-access reservation along  
2601 the rear property line, or such other treatments as may be necessary for adequate

2602 protection of residential properties and to afford separation of through and local traffic.  
2603 (8) Entrances onto existing or proposed arterial highways/secondary arterials may not exceed  
2604 a frequency of one per 1,000 feet of street frontage.

2605 C. Street classification.

2606 Streets are classified by purpose, function and use frequency.

- 2607 (3) Arterial highways are major traffic ways that provide connections with other thoroughfare  
2608 or interstate roads and have a high potential for the location of significant community  
2609 activity centers as well as retail, commercial and industrial facilities. The average daily  
2610 traffic count (ADT) would be 9,001 or more trip ends.
- 2611 (4) Secondary arterials carry relatively high volumes of traffic to or from arterial highways,  
2612 adjacent communities and through local residential areas, activity centers and minor  
2613 commercial establishments. The ADT would be 3,001 to 9,000 trip ends.
- 2614 (5) Commercial, light industrial and mixed-use zone developments are located in areas where  
2615 street design is oriented to accommodate community-wide and regional interests with  
2616 limited residential uses. The intended uses, ADT, peak hour traffic, and any other  
2617 additional information that may be required by the Board will determine their  
2618 classification, which may not be lower than a secondary collector.
- 2619 (6) Primary collectors may be residential or business, or both, and serve both as collectors to  
2620 lesser residential streets and as connections to or between arterials. The ADT would be  
2621 from 801 to 3,000 trip ends, and in the interests of traffic and public safety must be owned  
2622 and maintained by the Town.
- 2623 (7) Secondary collectors may be residential or business, or both, and connect to or between  
2624 streets of a higher classification, and/or may collect traffic from minor streets or private  
2625 ways. The ADT would be 201 to 800 trip ends.
- 2626 (8) Minor streets are predominantly single-family residential short or dead-end streets, which  
2627 may have branching minor streets, private lanes or private ways and conduct traffic to  
2628 streets of higher classification. This is the lowest level of public street in the hierarchy  
2629 and must serve at least four dwelling units. The ADT would be 35 to 200 trip ends.
- 2630 (9) Private streets function exclusively as residential streets serving high-density housing  
2631 developments, including clustered housing, multi-family dwellings, elderly housing, and  
2632 mobile home parks, and may not be dedicated for public acceptance. Maintenance and  
2633 improvements must be controlled by proprietorship, corporation, association or deed  
2634 covenants. The ADT would be 72 to 800 trip ends. Design and construction is to be in  
2635 accordance with the applicable standards and specifications for minor streets or secondary  
2636 collectors.
- 2637 (10) Private lanes are short low-traffic volume residential dead-end streets which may serve  
2638 part of a high-density development or other residential uses conforming to the applicable  
2639 standard residential space requirements enumerated in this title. Private ways may not be  
2640 dedicated for public acceptance, and improvements must be controlled by proprietorship,  
2641 corporation, association or deed covenants. The ADT would be 35 to 71 trip ends.
- 2642 (11) Private ways are dead-end, very-low-volume residential streets that connect to streets of a  
2643 higher classification and function similar to an individual driveway by providing a low  
2644 standard two-way traffic flow. Private ways may not be used in high-density residential  
2645 developments or subdivisions of four or more lots. Private ways cannot be dedicated for  
2646 public acceptance, and all maintenance and improvements must be controlled by  
2647 proprietorship, corporation, association or deed covenants. The ADT would be 12 to 35  
2648 trip ends.
- 2649 (12) Average daily traffic (ADT) is computed using the latest Institute for Transportation  
2650 Engineers (ITE) codes and figures.

2651 D. Street design standards.

2652 Design standards for classified streets and sidewalks are those contained in attachment Table 1  
2653 Design and Construction Standards for Streets and Pedestrianways, which is attached to this  
2654 chapter.

2655 E. Access control and traffic impacts.

2656 Provision must be made for vehicular access to a development and circulation upon the lot in such  
2657 a manner as to safeguard against hazards to traffic and pedestrians in the street and within the  
2658 development, to avoid traffic congestion on any street and to provide safe and convenient  
2659 circulation on public streets and within the development. Access and circulation must also  
2660 conform to the standards and criteria listed below.

- 2661 (3) Vehicular access to the development must be arranged to avoid traffic use of local  
2662 residential streets.
- 2663 (4) Where a lot has frontage on two or more streets, the access to the lot must be provided to  
2664 the lot across the frontage and to the street where there is lesser potential for traffic  
2665 congestion and for hazards to traffic and pedestrians.
- 2666 (5) The street giving access to the lot and neighboring streets which can be expected to carry  
2667 traffic to and from the development must have traffic-carrying capacity and be suitably  
2668 improved to accommodate the amount and types of traffic generated by the proposed use.  
2669 No development may increase the volume/capacity ratio of any street above 0.8 nor  
2670 reduce any intersection or link level of service to "D" or below.
- 2671 (6) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid  
2672 traffic congestion, provision must be made for turning lanes, traffic directional islands,  
2673 frontage roads, driveways and traffic controls within public streets.
- 2674 (7) Accessways must be of a design and have sufficient capacity to avoid hazardous queuing  
2675 of entering vehicles on any street.
- 2676 (8) Where topographic and other conditions allow, provision must be made for circulation  
2677 driveway connections to adjoining lots of similar existing or potential use:
- 2678 (a.) When such driveway connection will facilitate fire protection services as  
2679 approved by the Fire Chief; or
- 2680 (b.) When such driveway will enable the public to travel between two existing  
2681 or potential uses, generally open to the public, without need to travel upon a  
2682 street.

2683 F. Center line.

2684 The center line of a roadway must be the center line of the right-of-way.

2685 G. Dead-end streets.

- 2686 (3) Where a permanent cul-de-sac is placed in an area, wooded prior to development, a stand  
2687 of trees must be maintained within the center of the cul-de-sac.
- 2688 (4) The Board may require the reservation of a twenty-foot easement in line with the street to  
2689 provide continuation of pedestrian traffic or utilities to the next street.
- 2690 (5) The Board may also require the reservation of a fifty-foot easement in line with the street  
2691 to provide for continuation of the road where future development is possible.

2692 H. Grades, intersections and sight distances.

- 2693 (3) Grades of all streets are to conform, where feasible, to the terrain, so that cut and fill are  
2694 minimized while maintaining the grade standards of this title.
- 2695 (4) All changes in grade are to be corrected by vertical curves in order to provide the  
2696 following minimum stopping distance where based on street design speed calculated with  
2697 a height of eye at 3.5 feet and the height of object at 0.5 feet:

Design speed (mph)	20	25	30	35
Stopping sight distance (feet)	125	150	200	250



- 2698 (5) Intersections of streets are to be at angles as close to 90° as possible, and in no case may  
 2699 two streets intersect at an angle smaller than 60°. To this end, where one street approaches  
 2700 another between 60° and 90°, the former street should be curved approaching the  
 2701 intersection.
- 2702 (6) Where new street intersections or curb cuts are proposed, sight distances, as measured  
 2703 along the street onto which traffic would be turning, is based on the posted speed limit  
 2704 and must conform to the table following:

Posted speed limit (mph)	25	30	35	40	45	50	55
Sight distance (feet)	250	300	350	400	450	500	550

- 2705 (a.) Sight distance is the length of roadway visible to a driver exiting an  
 2706 intersection or curb cut. Such sign distance is measured from a point that is  
 2707 located at the center line of the exit lane and 15 feet back from the edge of  
 2708 the travel way to the center line of the oncoming lane(s), with the height of  
 2709 eye at 3.5 feet and the height of an object 4.25 feet above the pavement.
- 2710 (b.) When the actual traveling speed of normal traffic on a road is substantially  
 2711 higher than the posted speed limit, the sight distance is computed by  
 2712 multiplying the 85th percentile of such speed as measured by a qualified  
 2713 traffic engineer by a factor of 10. The result, in feet, is the minimum sight  
 2714 distance required.
- 2715 (c.) Where necessary, corner lots must be cleared of all growth or other sight  
 2716 obstructions, including ground excavations, to achieve the required  
 2717 visibility.

2718 (7) Cross (four-cornered) intersections are to be avoided insofar as possible.

2719 I. Side slopes.

2720 Side slopes of all streets must be graded, covered with appropriate compost or loamed, fertilized  
 2721 and seeded in accordance with the specifications of the erosion and sedimentation plan.

2722 J. Right-of-way (ROW) grading.

2723 Streets are to be rough-graded full width.

2724 K. Street construction standards.

- 2725 (3) The subgrade of the roadway. On soils which have been identified by the Commissioner  
 2726 of Public Works as not suitable for roadways, the subsoil must be removed from such  
 2727 locations to a depth of two feet below subgrade and replaced with material meeting the  
 2728 specifications for gravel aggregate subbase or a substitute acceptable to the Commissioner  
 2729 of Public Works.
- 2730 (4) The aggregate subbase course must be sand or gravel of hard, durable particles, free from  
 2731 vegetative matter, lumps or balls of clay and other deleterious substances. The gradation  
 2732 of the part that passes a three-inch-square mesh sieve must meet the following grading  
 2733 requirements and contain no particles of rock exceeding four inches in diameter [MDOT  
 2734 Specification 703.06(b) Type D]:

Sieve Designation Percent by Weight Passing Square Mesh Sieve	
1/4 inch	25% to 70%
No. 40	0% to 30%
No. 200	0% to 7%

- 2735 (5) The aggregate base course must be sand or gravel of hard, durable particles, free from  
 2736 vegetative matter, lumps or balls of clay and other deleterious substances. The gradation  
 2737 of the part that passes a three-inch square mesh sieve must meet the following  
 2738 requirements [MDOT Specification 703.06(a) Type A]:

Sieve Designation Percent by Weight Passing Square Mesh Sieve	
---	--

Sieve Designation Percent by Weight Passing Square Mesh Sieve	
1/2 inch	45% to 70%
1/4 inch	30% to 55%
No. 40	0% to 20%
No. 200	0% to 5%

- 2739 L. Street plantings.  
2740 When appropriate, the Board may require a street design that incorporates a green space/planting  
2741 area within the street's ROW. Said plantings must be installed at the developer's expense  
2742 according to a plan drawn up by a landscape architect.
- 2743 M. Sidewalks.
- 2744 (3) Where required, sidewalks must be installed to meet minimum requirements as specified  
2745 in Table 1 of this chapter.
- 2746 (4) The position of any sidewalk within the street ROW in relation to the pavement surface is  
2747 to be determined by the Planning Board.
- 2748 N. Road and driveway standards in Shoreland and Resource Protection Overlay Zones.
- 2749 (3) Road construction and parking facilities are allowed in the Resource Protection Overlay  
2750 Zone only where no reasonable alternative route or location is available outside the  
2751 Resource Protection Overlay Zone, in which case a permit or site plan or subdivision plan  
2752 approval is required by the Planning Board.
- 2753 (4) The following standards apply to the construction of roads and/or driveways and drainage  
2754 systems, culverts and other related features in the Shoreland and Resource Protection  
2755 Overlay Zones:
- 2756 (a.) Roads and driveways must be set back:
- 2757 [1.] At least 100 feet from the normal high-water line of any water  
2758 bodies, tributary streams, the upland edge of a coastal wetland, or  
2759 the upland edge of a freshwater wetland; and
- 2760 [2.] Seventy-five feet from the normal high-water line of any water  
2761 bodies or the upland edge of a wetland on Badgers Island, unless no  
2762 reasonable alternative exists, as determined by the Planning Board.
- 2763 [3.] If no other reasonable alternative exists, the Planning Board may  
2764 reduce the road and/or driveway setback requirement to no less than  
2765 50 feet upon clear showing by the applicant that appropriate  
2766 techniques will be used to prevent sedimentation of the water body.  
2767 Said erosion and sediment control measures for roads and driveways  
2768 must meet "Maine Erosion and Sediment Control Best Management  
2769 Practices," March 2003.
- 2770 (b.) On slopes of greater than 20%, the road and/or driveway setback must be  
2771 increased by 10 feet, horizontal distance, for each five-percent increase in  
2772 slope above 20%.
- 2773 (c.) Existing public roads may be expanded within the legal road right-of-way,  
2774 regardless of their setback from a water body.
- 2775 (d.) New roads and driveways are prohibited in a Resource Protection Overlay  
2776 Zone, except the Planning Board may grant a permit to construct a road or  
2777 driveway to provide access to permitted uses within the zone. A road or  
2778 driveway also may be approved by the Planning Board in a Resource  
2779 Protection Overlay Zone, upon a finding no reasonable alternative route or  
2780 location is available outside the zone. When a road or driveway is permitted  
2781 in a Resource Protection Overlay Zone, the road and/or driveway must be

2782  
2783  
2784  
2785  
2786  
2787  
2788  
2789  
2790  
2791  
2792  
2793  
2794  
2795  
2796  
2797  
2798  
2799  
2800  
2801  
2802  
2803  
2804  
2805

set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

- (e.) The maximum slope for road and driveway banks is two horizontal to one vertical (2:1). Bank slopes must be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section.
- (f.) The maximum slope for road and driveway grades is 10%, except for segments of less than 200 feet.
- (g.) To prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways must be designed, constructed and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope [50 feet + (2 x S average)], in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream or upland edge of a wetland. Surface drainage that is directed to an unscarified buffer strip must be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (h.) Ditch relief (cross drainage) culverts, drainage dips and points of stormwater discharge must be designed and constructed so that drainage is diverted onto unscarified buffer strips before the flow gains sufficient volume or head. The following criteria should be implemented where possible to deter and prevent excessive erosion:

[1.] Ditch relief culverts, drainage dips and associated water turnouts must be spaced along the road or driveway at intervals no greater than indicated in the following table:

<b>Grade (percent)</b>	<b>Spacing (feet)</b>
0 to 2%	250 maximum
3 to 5%	135 to 200 maximum
6 to 10%	80 to 100 maximum
11 to 14% maximum	60 to 80 maximum

2806  
2807  
2808  
2809  
2810  
2811  
2812  
2813  
2814  
2815  
2816  
2817  
2818  
2819  
2820  
2821  
2822  
2823  
2824  
2825

[2.] Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.

[3.] On sections having slopes greater than 10%, ditch relief culverts must be placed at approximately a thirty-degree angle downslope from a line perpendicular to the center line of the road or driveway.

[4.] Ditch relief culverts must be sufficiently sized and properly installed to allow for effective functioning, and their inlet and outlet ends appropriately stabilized with acceptable materials and construction techniques.

- (i.) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways must be maintained by the owner(s) on a regular basis to assure effective functioning.
- (j.) In a Shoreland or Resource Protection Overlay Zone, when replacing an existing culvert the watercourse must be protected so the crossing does not block fish passage, and adequate erosion control measures must be taken to prevent sedimentation of the water in the watercourse.
- (k.) A permit is not required for the replacement of an existing road culvert, provided the replacement culvert is:

[1.] Not more than one standard culvert size larger in diameter than the

2826 culvert being replaced;  
2827 [2.]Not more than 25% longer than the culvert being replaced; and

2828 **16.5.24 Not longer than 75 feet. Temporary Housing**

2829 A. Purpose. The intent of this section is to provide temporary housing for resident owners (exclusive  
2830 of corporations, trusts and estates) and their immediate families who have lost primary dwellings  
2831 through fire or natural disaster.

2832 B. Dwellings uninhabitable by disaster. In case a fire or natural disaster destroys, or damages, or  
2833 renders a dwelling or dwelling unit uninhabitable, the following apply:

- 2834 (3) The dwelling owner may apply to the CEO for a permit to place a mobile home on the lot  
2835 as a temporary residence for the dwelling owner for a period of six months;
- 2836 (4) The applicant must file such an application within six months from the date of the disaster  
2837 and agree, in writing, that a time limit of six months is acceptable. Proof of financial  
2838 ability to reconstruct the building must be furnished;
- 2839 (5) If at the end of six months substantial work has been completed to the satisfaction of the  
2840 CEO, the permit may be extended for an additional six months. No further extensions  
2841 may be granted;
- 2842 (6) A multifamily dwelling may be temporarily replaced by a single mobile home unit for the  
2843 use of the dwelling owner only; and
- 2844 (7) Setback requirements may be waived for temporary mobile homes by the CEO, provided  
2845 matters of public health and safety are not impaired.

2846 **16.5.25 Timber Harvesting**

2847 A. Timber harvesting (as permitted in R-RLC and MU Zones).

2848 (3) Repeal of the timber harvesting regulation. Subsequent to the establishment of the State  
2849 of Maine Department of Conservation's Bureau of Forestry Timber Harvesting Standards,  
2850 the state will commence administration of all timber harvesting within the Shoreland  
2851 Overlay Zone. Under 38 M.R.S. § 438-A(5), the following provisions of this title will be  
2852 repealed: In § 16.3, the definitions of "forest management activities" and "residual basal  
2853 area."

2854 (4) Timber harvesting must conform to the following provisions:

2855 (a.) Selective cutting of no more than 40% of the total volume of trees four  
2856 inches or more in diameter, measured at 4 1/2 feet above ground level, on  
2857 any lot in any ten-year period is permitted. In addition:

2858 [1.] Within 75 feet, horizontal distance, of the normal high-water line of  
2859 water bodies, tributary streams or the upland edge of a wetland,  
2860 clear-cut openings are prohibited and a well-distributed stand of  
2861 trees and other vegetation, including existing ground cover, must be  
2862 maintained.

2863 [2.] At distances greater than 75 feet, horizontal distance, of the normal  
2864 high-water line of water bodies or the upland edge of a wetland,  
2865 harvesting operations are limited to single clear-cut openings of  
2866 10,000 square feet or less in the forest canopy. Where such openings  
2867 exceed 5,000 square feet, they must be at least 100 feet, horizontal  
2868 distance, apart. Such clear-cut openings must be included in the  
2869 calculation of total volume removal. For purposes of these  
2870 standards, volume may be considered equivalent to basal area.

2871 (b.) Timber harvesting operations exceeding the forty-percent limitation in  
2872 § 16.5.27(2)a above may be allowed by the Planning Board upon a clear  
2873 showing, including a forest management plan signed by a Maine-licensed

2874 professional forester, that such an exception is necessary for good forest  
 2875 management and will be carried out in accordance with the purposes of this  
 2876 title. The Planning Board is required to notify the Commissioner of the  
 2877 Department of Environmental Protection of each exception allowed within  
 2878 14 days of the Planning Board's decision.

2879 (c.) No accumulation of slash is to be left within 50 feet, horizontal distance, of  
 2880 the normal high-water line of a water body. In all other areas slash must  
 2881 either be removed or disposed of in such a manner that it lies on the ground  
 2882 and no part thereof extends more than four feet above the ground. Any  
 2883 debris that falls below the normal high-water line of a water body or  
 2884 tributary stream must be removed.

2885 (d.) Timber harvesting equipment is prohibited from using stream channels as  
 2886 travel routes, except when:

2887 [1.] Surface waters are frozen; and  
 2888 [2.] The activity will not result in any ground disturbance.

2889 (e.) All crossings of flowing water require a bridge or culvert, except in areas  
 2890 with low banks and channel beds which are composed of gravel, rock or  
 2891 similar hard surface which would not be eroded or otherwise damaged.

2892 (f.) Skid trail approaches to water crossings must be located and designed to  
 2893 prevent water runoff from directly entering the water body or tributary  
 2894 stream. Upon completion of timber harvesting, temporary bridges and  
 2895 culverts must be removed and areas of exposed soil revegetated.

2896 (g.) Except for water crossings, skid trails and other sites where the operation of  
 2897 machinery used in timber harvesting results in the exposure of mineral soil  
 2898 must be located so an unscarified strip of vegetation of at least 75 feet,  
 2899 horizontal distance, in width for slopes up to 10% must be retained between  
 2900 the exposed mineral soil and the normal high-water line of a water body or  
 2901 upland edge of a wetland. For each ten-percent increase in slope, the  
 2902 unscarified strip must be increased by 20 feet, horizontal distance. The  
 2903 provisions of this section apply only to a face sloping toward the water  
 2904 body or wetland; provided, however, that no portion of such exposed  
 2905 mineral soil on a back face can be closer than 25 feet, horizontal distance,  
 2906 from the normal high-water line of a water body or upland edge of a  
 2907 wetland.

2908 **16.5.26 Wetland Setbacks for Special Situations**

- 2909 A. Wetland setbacks extending beyond publicly accepted streets.  
 2910 The required setback distances do not extend beyond the center line of publicly accepted street  
 2911 that generally parallels the normal high-water line of a water body, tributary stream or the upland  
 2912 edge of a wetland.
- 2913 B. Newly created wetlands and water bodies.  
 2914 Setbacks are not required from a wetland or water body created from upland land area, provided  
 2915 the newly created wetland or water body is not part of a required mitigation plan.
- 2916 (3) Wetland setbacks for the zoning district and the Shoreland Overlay District apply.  
 2917 (4) A performance guarantee, such as an escrow or bond, is required to guarantee that new  
 2918 vegetation will survive. Prior to the release or drawdown of funds in such accounts, a  
 2919 written statement from a qualified wetlands scientist that says the vegetation is thriving  
 2920 must be submitted to the Town Manager.
- 2921 C. Setbacks from altered wetlands or water bodies. [Amended 9-26-2011 by Ord. No. 11-15]  
 2922 (3) The illegal altering of a water body or wetland area, where the surface area of the water

- 2923 body is decreased (lowered), after May 13, 1987, may not be used to change the location  
 2924 from which a setback is measured. The illegal filling of a water body or wetland area,  
 2925 where the normal water surface area of the water body is increased (raised), after May 13,  
 2926 1987, must be measured from the most recent edge of the normal water surface elevation.
- 2927 (4) Alterations to the wetland boundaries that have been approved by the Planning Board and  
 2928 are in compliance with regulations of the Army Corps of Engineers and the Maine  
 2929 Department of Environmental Protection may be constructed per the Planning Board's  
 2930 approved wetlands alteration plan.
- 2931 D. Setbacks for utility poles.  
 2932 Setbacks for utility poles must be shown and identified on the development plans. Distances from  
 2933 utility pole structures and the upland edge of wetlands of any type may not have to be set back  
 2934 from the wetland. Such setback distances require Planning Board approval.
- 2935 E. Utilities within wetland.  
 2936 Where it is demonstrated that there is no alternative to avoid utilities within a wetland, the  
 2937 applicant's engineer must provide trench details for depth, distance between pipes, if applicable,  
 2938 fill materials, minimum compaction and/or encasement.
- 2939 (3) Rotted material, muck and unsuitable soils must be removed from the trench and replaced  
 2940 with select materials that provide the required compaction, pipe support and protection.
- 2941 (4) Trenches for shallow-depth pipes (having less than four feet of cover) must be designed  
 2942 to avoid pipe movement that may result in breakage.

<b>Table 16.5.28</b>			
<b>Minimum Setbacks from Wetlands and Water Bodies* [Amended 9-24-2012 by Ord. No. 12-11]</b>			
<b>Structure/Activity</b>	<b>Total Size of Wetland and/or Water Body</b>		
	<b>Less than 501 square feet (feet)</b>	<b>501 square feet to 1 acre and Intermittent Streams (feet)</b>	<b>Greater than 1 acre (feet)</b>
Local distribution utility pole, fence, flagpole, signs or drainage structure	0	0	0
Functionally water-dependent uses	0	0	0
<b>Roads and Driveways</b>			
Traveled way of road or driveway of 18 feet or less in width <sup>1</sup>	0	10 from toe of slope	10 from toe of slope
Traveled way of road or driveway greater than 18 feet in width <sup>1</sup>	0	30 or 10 from toe of slope, whichever is greater	30 or 10 from toe of slope, whichever is greater
<b>Parking Areas</b>			
Parking areas for one- and two-family residential uses	0	10	20
1 to 5 stall parking area	0	30	50
6 to 20 stall parking area incorporating BMPs for stormwater management <sup>2</sup>	0	40	75
6 to 20 stall parking area without incorporating BMPs for stormwater management <sup>2</sup>	0	75	100
21 or more stall parking area <sup>3</sup> incorporating BMPs for stormwater management	0	50	75
<b>Patios, Decks, Accessory Buildings</b>			
Patio or deck area no larger than 500 square feet in size	0	30	50

**Table 16.5.28  
Minimum Setbacks from Wetlands and Water Bodies\* [Amended 9-24-2012 by Ord. No. 12-11]**

Structure/Activity	Total Size of Wetland and/or Water Body		
	Less than 501 square feet (feet)	501 square feet to 1 acre and Intermittent Streams (feet)	Greater than 1 acre (feet)
Detached residential storage shed no larger than 120 square feet in size	0	30	50
<b>Other Buildings and Structures</b>			
Building or structure (including patio or deck area larger than 500 square feet in size)	0	50	100
Activities and structures permitted within regulated wetlands	0	0	0
<b>Subsurface Sewage Disposal</b>			
Treatment tanks and disposal areas for new subsurface sewage disposal systems with design flows of less than 2,000 GPD	0	50	100
Treatment tanks and disposal areas for new subsurface sewage disposal systems with design flows of 2,000 GPD or more	0	100	100
<b>Recreational Uses and Structures</b>			
Low-intensity recreation	0	0	0
Recreational facility or structure excluding a golf course	0	50	100
<b>Topsoil Removal</b>			
Removal of more than 10 cubic yards of topsoil except for approved projects	0	50	100
Topsoil removal with a Soil Conservation Service-endorsed erosion and sedimentation plan	0	25	25
<b>Special Uses</b>			
Junkyard <sup>1</sup>	0	100	150
Bulk salt storage not in an enclosed structure <sup>1</sup>	0	100	150
Gravel and mineral extraction or processing <sup>1</sup>	0	100	150
Storage of hazardous chemicals or special wastes other than amounts normally associated with individual households/farms <sup>1</sup>	0	100	150
Commercial painting, wood preserving or furniture stripping <sup>1</sup>	0	100	150
Laundromats, auto wash, printing, dry-cleaning, photographic processing, if not connected to a sanitary sewer <sup>4</sup>	0	100	150
Metal plating, finishing, polishing <sup>1</sup>	0	100	150
<b>NOTES:</b>			

<b>Table 16.5.28</b>			
<b>Minimum Setbacks from Wetlands and Water Bodies* [Amended 9-24-2012 by Ord. No. 12-11]</b>			
<b>Structure/Activity</b>	<b>Total Size of Wetland and/or Water Body</b>		
	<b>Less than 501 square feet (feet)</b>	<b>501 square feet to 1 acre and Intermittent Streams (feet)</b>	<b>Greater than 1 acre (feet)</b>
*	All vernal pools, including those having an area less than 501 square feet, are regulated by MDEP 06-096 Chapter 335.9.		
1	The street setback does not serve to negate a wetland crossing project for which a wetlands permit has been approved by the Planning Board.		
2	Written endorsement by the York County Soil and Water Conservation District (YCSWCD) or the Town's Peer Review Consultant that best management practices (BMPs) for protecting water quality by minimizing pollutants leaving the site in the stormwater runoff are incorporated to the maximum extent practicable is required to satisfy this condition. The Planning Board may waive the requirement for written endorsement by the SWCD or the Town's Peer Review Consultant when it finds a drainage plan has adequately protected the wetland from adverse impacts.		
3	Parking areas with 21 or more stalls must incorporate BMPs.		
4	Wetland setback may be reduced to 100 feet if the YCSWCD or the Town's Peer Review Consultant finds the stormwater management plan incorporates BMPs for protecting water quality by minimizing pollutants leaving the site in the stormwater.		

2943 **16.5.27 Wireless Communication Services Facilities**

2944 A. Purpose. This article is designed and intended to balance the interests of the residents of the Town,  
 2945 telecommunications providers, and telecommunications customers in the siting of wireless  
 2946 communication services facilities (WCSF) within the Town. These standards are also intended:

- 2947 (3) To avoid or minimize the adverse impacts of such facilities on visual, environmental,  
 2948 historically significant areas, health and safety, and property value;
- 2949 (4) To require the use of alternative structures for the purposes of co-location of carriers and  
 2950 minimize the total number of towers located within the Town;
- 2951 (5) To permit the construction of new towers only where all other opportunities have been  
 2952 exhausted;
- 2953 (6) To require the users of WCSF and antenna structures to configure them in a way that  
 2954 minimizes the need for additional WCSF in the Town;
- 2955 (7) To provide for the removal of WCSF and associated development which are no longer  
 2956 being used for telecommunications purposes;
- 2957 (8) These regulations are not intended to place any restrictions on privately operated and  
 2958 licensed amateur radio operators as per FCC regulations.

2959 B. Location, height and setback requirements.

- 2960 (3) New WCSF are permitted within 1,000 feet from the I-95 corridor center line north of  
 2961 Dennett Road with Planning Board approval conforming to the performance standards  
 2962 and dimensional requirements. Shared use of preexisting accessory-use towers and  
 2963 alternative tower structures in all zones is permitted with Town Planner's approval,  
 2964 provided the tower or structure height is not increased. Location on existing structures in  
 2965 a manner that camouflages or conceals the presence of antennas or towers, also referred  
 2966 by the industry as "stealth," is permitted with Town Planner's approval in all districts  
 2967 except the Resource Conservation, Shoreland and Resource Protection Overlay Zones.  
 2968 The Town Planner may request Planning Board review of any proposed siting of a WCSF  
 2969 facility.
- 2970 (4) Height. Towers, antennas and all WCSF may not exceed a height of 150 feet, except for



2971 those towers expressly satisfying all co-location requirements for four or more carriers,  
2972 which may be constructed to a maximum height of 199 feet.

2973 (5) Setbacks.

2974 (h.) All telecommunications towers must be set back from the lot lines a  
2975 distance equal to at least 125% of the tower height.

2976 (i.) Tower, guyed wires and accessory facilities must meet the minimum zoning  
2977 district setback requirements.

2978 C. Aesthetics, landscaping, buffers and fencing.

2979 (3) Towers and antennas are to have a neutral finish or be painted a neutral color as approved  
2980 so as to reduce visual impact.

2981 (4) All WCSF must maintain the required setbacks as undisturbed vegetated buffers, except  
2982 for the access road. Access roads are to be constructed in a nonlinear manner so as not to  
2983 provide a direct view corridor to the support structures. The Planning Board/Town  
2984 Planner may require additional plantings in the buffer area to enhance the quality and  
2985 effectiveness of the buffer area to serve as a visual screen. The size and quantity of  
2986 plantings is subject to Planning Board/Town Planner approval.

2987 (5) At a WCSF, the design of the buildings and related structures must, to the extent possible,  
2988 use materials, colors, textures, screenings and landscaping that will blend the facilities to  
2989 be compatible with the natural setting and built environment. The building and related  
2990 structures must be planned in a manner to accept equipment of co-locators. Underground  
2991 utilities must be used to serve the WCSF.

2992 (6) Towers may not be artificially lighted.

2993 (7) Road access to the telecommunications structure is to be the minimum size necessary to  
2994 allow safe access.

2995 (8) The base of a telecommunications tower may not be located in wetland, floodplain,  
2996 Resource Conservation, Shoreland and Resource Protection Overlay Zones.

2997 (9) A security fence to be approved by the Planning Board/Town Planner of not fewer than  
2998 eight feet in height from the finished grade is to be provided around the tower and painted  
2999 a neutral color as approved to minimize visual impacts. Access to the tower is to be  
3000 through a gate that can be secured.

3001 D. Investigation of existing alternative towers, sites and structures.

3002 Applicants must identify all existing and proposed towers, including their heights, located in the  
3003 Town and within two miles beyond Town boundaries. Applicants must provide evidence of the  
3004 lack of antenna space on all such towers and identify alternative tower structures and sites which  
3005 have been investigated as an alternative to constructing a new tower. Applicant must address the  
3006 pros and cons of utilizing co-location and other alternative tower structures with respect to their  
3007 application and demonstrate that they cannot provide adequate communication service utilizing  
3008 such existing towers or structures.

3009 E. Co-location.

3010 (3) The applicant and owner must allow other future wireless service carriers, including  
3011 providing space at no charge to public agencies (including but not limited to police, fire,  
3012 ambulance, communications and highway if requested at the time of review by the  
3013 Planning Board), using functionally equivalent personal wireless technology to co-locate  
3014 antennas, equipment and facilities on a telecommunications tower and site, unless  
3015 satisfactory evidence is presented and the Planning Board/Town Planner concurs that  
3016 technical constraints prohibit co-location. Applicant and other wireless service carriers  
3017 must provide a mechanism for the construction and maintenance of shared facilities and  
3018 infrastructure and for reasonable sharing of cost in accordance with industry standards. (A  
3019 reasonable charge for shared use is based on generally accepted accounting principles.

3020 (4) This charge may include, but not be limited to, a pro rata share of the cost of site

3021 selection, planning, project administration, land costs, site design, construction and  
3022 maintenance, financing, return of equity, depreciation and all of the costs of adapting the  
3023 tower or equipment to accommodate a shared user without causing electromagnetic  
3024 interference, all being pertinent to the southern Maine market area.)  
3025 (5) To ensure co-location, the Planning Board/Town Planner may require co-location on a  
3026 tower so as to prevent the need for new carriers to build new towers, may deny an  
3027 application for a telecommunications facility because of inadequate provisions and/or  
3028 arrangements for co-location, and may require an existing tower to be extended in height  
3029 (provided that a structural analysis indicates that such extension is structurally feasible  
3030 and safe) in order to provide for co-location.

3031 F. Performance guarantees.

3032 No building permit may be issued until the applicant has filed a performance guarantee and  
3033 approved by the Town Manager equal to 125% of the cost of completing the following  
3034 improvements:

- 3035 (3) The construction of any drainage systems involving piping, culverts, or retention or  
3036 detention facilities;  
3037 (4) The construction of erosion and sedimentation control measures or landscaping required  
3038 to meet the standards of this article; and  
3039 (5) Other site improvements required by the Board/Town Planner to meet the standards of  
3040 this article.

3041 G. Removal of abandoned or unused facilities.

- 3042 (3) The owner of a telecommunications facility is required to remove the tower and  
3043 associated facilities should it not be used for the use or uses approved for a period of 90  
3044 consecutive days. This period may be extended by the Planning Board/Town Planner if  
3045 there are extenuating circumstances beyond the control of the applicant. An applicant for  
3046 a permit under this article must post a performance guarantee approved by the Town  
3047 Manager with the Town prior to obtaining a permit that is equal to 125% of the cost of  
3048 removing the structure. The performance guarantee must be in effect for the life of the  
3049 WCSF;  
3050 (4) The performance guarantee covering such removal must be reviewed for renewal at a  
3051 maximum term of five years, to account for cost adjustments. It must contain a  
3052 mechanism, satisfactory to the Town, for review of the cost of removal of the structure  
3053 every five years and a mechanism for increasing the amount of the guarantee should the  
3054 revised cost estimate so necessitate.

3055 H. Annual permit renewal.

3056 To ensure compliance with the prescribed ordinances, all approvals will be subject to an annual  
3057 permit renewal conducted by the Town Planner. The Town Planner at a minimum is to review the  
3058 continued use of the facility; maintenance of the facility and site improvements; availability for  
3059 co-location of new service; and review of bonding documents. The documents and permit renewal  
3060 fee must be submitted to the Town Planner no later than October 1 of each year following the  
3061 original approval.