

1 16.7 Site Plan Review

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47 **16.7.1 General**

48 The Site Plan review provisions set forth in this section are intended to protect the public
49 health and safety, promote the general welfare of the community, and conserve the
50 environment by assuring that nonresidential and multifamily construction is designed and
51 developed in a manner which assures that adequate provisions are made for traffic safety
52 and access; emergency access; water supply; sewage disposal; management of
53 stormwater, erosion and sedimentation; protection of groundwater, environment, wildlife
54 habitat, fisheries, and unique natural areas; protection of historic and archaeological
55 resources; minimizing the adverse impacts on adjacent properties; and fitting the project
56 harmoniously into the fabric of the community.

57 **16.7.2 Applicability**

- 58 A. A person who has right, title, or interest in a parcel of land shall obtain site
59 plan approval prior to commencing any of the following activities on the
60 parcel, including contracting or offering for the conveyance regulated
61 activity permit for any structure within the development is issues, or
62 undertaking work on any improvements, including installation of roads or
63 utilities or land clearing.
- 64 (1). The construction or placement of any new building or structure for a
65 nonresidential use, including accessory buildings and structures, if such
66 buildings or structures have a total area for all floors of all structures of
67 one thousand (1,000) square feet or more measured cumulatively over a
68 five (5) year period.
- 69 (2). The expansion of an existing nonresidential building or structure,
70 including accessory buildings, if the enlargement increases the total area
71 for all floors within a five (5) year period by more than twenty (20)
72 percent of the existing total floor area or one thousand (1,000) square feet,
73 whichever is greater.
- 74 (3). The conversion of an existing building in which one thousand (1,000) or
75 more square feet of total floor area are converted from residential to
76 nonresidential use.
- 77 (4). The establishment of a new nonresidential use even if no buildings or
78 structures are proposed, that involves the Development of more than
79 twenty-five thousand (25,000) square feet of land. This includes uses such
80 as gravel pits, cemeteries, golf courses, and other nonstructural
81 nonresidential uses.
- 82 (5). The conversion of an existing nonresidential use, in whole or in part, to
83 another nonresidential use if the new use changes the basic nature of the
84 existing use such that it increases the intensity of on- or off-site impacts of
85 the use subject to the standards and criteria of site plan review described in
86 this section.
- 87 (6). The construction of a residential building containing three (3) or more
88 dwelling units.
- 89 (7). The modification or expansion of an existing residential structure that

- 90 increases the number of dwelling units in the structure by three (3) or
- 91 more in any five (5) year period.
- 92 (8). The conversion of an existing nonresidential building or structure, in
- 93 whole or in part, into three (3) or more dwelling units within a five (5)
- 94 year period.
- 95 (9). The cumulative Development of an area equal to, or greater than, one (1)
- 96 acre within any five (5) year period. The applicability of this section does
- 97 not include the construction of streets that are reviewed as part of a
- 98 Subdivision application.
- 99 B. Other development review [Amended 9-26-2011 by Ord. No. 11-15; 7-25-
- 100 2016 by Ord. No. 16-02]
- 101 Unless subject to a shoreland development plan review or Right of Way
- 102 Plan per § 16.7.3A, the following do not require Planning Board approval:
- 103 (1). Single and duplex family dwellings.
- 104 (2). Division of land into lots (i.e., two lots), which division is not otherwise
- 105 subject to Planning Board review as a subdivision.
- 106 (3). Business use as provided in § 16.2.6.D.

16.7.3 Other Potential Reviews

- 107
- 108 A. Shoreland development review. [Amended 7-25-2016 by Ord. No. 16-02]
- 109 (1). All development in the Shoreland, Resource Protection, and Commercial
- 110 Fisheries/Maritime Uses Overlay Zones involving the use, expansion,
- 111 change or replacement of an existing use or structure, or renewal of a
- 112 discontinued nonconforming use, must be reviewed and approved as
- 113 provided in § 16.11.1.5 and elsewhere in this title, and tracked as a
- 114 shoreland development for reporting purposes.
- 115 (2). All development in the Shoreland, Resource Protection, and Commercial
- 116 Fisheries/Maritime Uses Overlay Zones must be approved by the Planning
- 117 Board except for the following:
- 118 a. Proposed development of principal and accessory structures in
- 119 compliance with § 16.4.11(5)b., when not subject to Planning
- 120 Board review as explicitly required elsewhere in this title. Such
- 121 proposed development must be reviewed and approved by the
- 122 Code Enforcement Officer (CEO) prior to issuing a building
- 123 permit. The total devegetated area of the lot (that portion within the
- 124 Shoreland Overlay Zone) must be calculated by the applicant and
- 125 verified by the CEO and recorded in the Town's property records.
- 126 Any development proposed in the Resource Protection and
- 127 Shoreland - Stream Protection Area Overlay Zones must be
- 128 approved by the Planning Board.
- 129 b. Piers, docks, wharves, bridges and other structures and uses
- 130 extending over or below the highest annual tide (HAT) elevation,
- 131 subject to review and approval by the Port Authority as outlined in
- 132 Chapter 16.11, Marine-related development.

- 133 c. Division of a conforming parcel that is not subject to subdivision
- 134 as defined in § 16.3.
- 135 d. Clearing of vegetation for activities other than timber harvesting.
- 136 These are subject to review and approval by the Shoreland
- 137 Resource Officer or Code Enforcement Officer.

16.7.4 Review and Approval Authority

- 139 A. Application Classification. The review and approval authority for Site Plans
- 140 shall depend on the classification of the project.
- 141 (1). Major Site Plan. The Planning Board is authorized to review and act on
- 142 all Site Plans for Major Site Plan applications. In considering Site Plans
- 143 under this section, the Planning Board may act to approve, disapprove, or
- 144 approve with project with such conditions as are authorized by this
- 145 section.
- 146 (2). Minor Site Plan. The Kittery Director of Planning and Development
- 147 authorized to review all Site Plans for Minor Site Plan applications and
- 148 may approve, disapprove, or approve the project with such conditions as
- 149 are authorized by this section. This administrative review will be made in
- 150 consultation with the Town Planner and Code Enforcement Officer. In
- 151 addition, the Director may reclassify a Minor Site Plan as a Major Site
- 152 Plan, due to the scope or anticipated impacts of a project, and forward it to
- 153 the Planning Board with recommendations for Planning Board action.
- 154 B. Technical Review Committee Established. There is hereby created a
- 155 Technical Review Committee. The Technical Review Committee shall
- 156 provide advisory comments on all Site Plan applications. Membership will
- 157 consist of Town department heads and senior staff. The Technical Review
- 158 Committee will meet on an as needed basis, dependent upon the timing Site
- 159 Plan application submissions.

16.7.5 Classification of Projects

- 161 A. The Town Planner shall classify each project as a Major or Minor Site Plan.
- 162 Minor Site Plans are smaller scale projects for which a minor review process
- 163 is adequate to protect the Town's interest. Major Site Plans are larger, more
- 164 complex projects for which a more detailed review process and additional
- 165 information are necessary. The following review thresholds shall be used
- 166 by the Town Planner in classifying each project. The Town Planner may,
- 167 due to the scope or anticipated impacts of a project, classify any project as a
- 168 Major Site Plan.
- 169 (1). Minor Site Plans shall include those projects involving:
 - 170 a. The cumulative construction or addition of fewer than five
 - 171 thousand (5,000) square feet of gross nonresidential floor area.
 - 172 b. Any individual or cumulative construction or addition of five
 - 173 thousand (5,000) square feet or more of gross nonresidential floor
 - 174 area within an approved subdivision.

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175 c. The establishment of a new nonresidential use even if no buildings
176 or structures are proposed, that involves the Development of more
177 than twenty-five thousand (25,000) square feet but less than one
178 (1) acre of land.

179 (2). Major Site Plans shall include projects involving:

180 a. The individual or cumulative construction or addition of five
181 thousand (5,000) or more square feet of gross nonresidential floor
182 area on a lot that is not part of an approved subdivision,

183 b. The individual or cumulative Development of one (1) acre or more
184 land, unless the Development is part of a Site Plan application in
185 an approved subdivision,

186 c. Any mixed-use project that contains residential and non-residential
187 uses,

188 d. Projects that involve Wireless Communication System Facilities
189 (WCSF),

190 e. Projects that require any waiver from performance standards.

191 f. Projects that also require subdivision or special exception
192 approval, or

193 g. Other projects requiring review which are not classified as a minor
194 development.

195 **16.7.6 Application and Review Fees**

196 A. Review fee(s); reimbursements.

197 (1). All applications for plan approval for properties which come under this
198 title must be accompanied by a fee as determined by the Town Council.

199 (2). The applicant must reimburse the Town for all expenses incurred for
200 notifying abutters of the proposed plan and advertising of any public
201 hearing regarding a development.

202 B. Independent peer review.

203 [Amended 9-28-2015 by Ord. No. 15-08]

204 (1). The Planning Board or, after the Town Manager's approval, the Town
205 Planner and the Code Enforcement Officer, may require an independent
206 consultant or specialist engaged by the Town, at the applicant's expense,
207 to:

208 a. Determine compliance with all requirements of this title related to
209 public health, safety and welfare and the abatement of nuisances;
210 or

211 b. Assist with the technical review of applications submitted for new
212 or amended development.

213 C. When peer review is required of the applicant, sufficient funds, based on a
214 written estimate by the required consultant, must be deposited in an
215 applicant's service account per Chapter 3.3, prior to commencing said

216 review and continuing with the review of the development plan application.

217 **16.7.7 Applicant attendance at review meeting(s).**

218 The applicant or duly authorized representative must attend all Board meetings for which
219 the applicant's application has been placed on the agenda. Relief may be given from this
220 requirement by the Board Chairperson.

221 **16.7.8 Waivers [Amended 9-26-2011 by Ord. No. 11-14]**

222 A. Waiver authorization.
223 Where the Planning Board finds, due to special circumstances of a particular
224 plan, certain required improvements or performance standards do not
225 promote the interest of public health, safety and general welfare, , upon
226 written request, it may waive or modify such requirements, subject to
227 appropriate conditions as determined by the Planning Board.

228 B. Only waivers from submission requirements may be considered for Minor
229 Site Plans, and not waivers from performance standards. Projects seeking
230 such waivers must be classified as Major Site Plan applications to be
231 reviewed by the Planning Board.

232 C. Objectives secured.
233 In granting modifications or waivers, the Planning Board must require such
234 conditions as will, in its judgment, secure substantially the objectives of the
235 requirements so waived or modified.

236 **16.7.9 Other Requirements**

237 A. Burden of proof.
238 In all instances, the burden of proof is upon the applicant proposing the
239 development.

240 B. Comprehensive Plan.
241 Any proposed development or use must be in harmony with the Town
242 Comprehensive Plan guidance adopted into the provisions of this title.

243 C. Site inspection determination.
244 (1). At the Planning Board’s first meeting on any Site Plan application, the
245 Board should make a determination on whether a site inspection would be
246 beneficial in order for the Planning Board to be fully informed about the
247 site and in a knowledgeable position to prescribe contour intervals to be
248 employed on topographic maps and grading plans for the development, the
249 applicant must arrange a joint inspection of the site with the Planning
250 Board.
251 (2). If a site inspection is required, the applicant must stake out property
252 corners, entrance locations, and building corners, along with other site
253 features to help orient the Board and members of the public.
254 (3). The applicant must provide each Board member with a copy of the plan on
255 an 11”x17” sheet at the site walk.

256 D. Safe use.
257 The land/water area to be developed must be of such character that it can be
258 used without danger to health or peril from fire, flood, soil failure or other
259 hazard.

260 **16.7.10 Review Process and Submission Requirements**

261 A. Pre-Application and Conference

262 (1). Process. Pre-Application Conference. Applicants for Site Plan review are
263 encouraged to schedule a Pre-Application conference with the Town
264 Planner. The purpose of this meeting is to familiarize the applicant with
265 the review procedures and submission requirements, and approval criteria,
266 and to familiarize the Planner with the nature of the project.

267 a. Such review shall not cause the plan to be a pending application or
268 proceeding under 1 M.R.S.A. §302. No decisions relative to the
269 plan may be made at this meeting.

270 b. To request a Pre-Application conference the applicant shall submit,
271 at a minimum, a brief narrative describing the project, the location
272 of the project on a US Geologic Survey (USGS) topographic map,
273 a rough drawing of the proposal for the subject property, and a
274 copy of the Tax Map showing the development parcel.

275 B. Sketch Plan Review

276 (1). Major Site Plan applicants may choose to submit a development sketch
277 plan with design concept, at their discretion. The purpose of Sketch Plan
278 Review with the Planning Board is a chance for the applicant to ask
279 questions and get feedback and guidance from the Board before
280 proceeding with on concepts from the Board, and for the Board to provide
281 guidance on submission requirements.

282 Any person requiring Site Plan review must submit an application on
283 forms prescribed by the Planning Board. No more than one
284 application/plan for a piece of property may be under review before the
285 Planning Board. No more than one approved Final Plan for a piece of
286 property may exist.

287 a. A completed application must be submitted to the Town Planner
288 no later than 21 days prior to the meeting date for the item to be
289 included on the agenda.

290 i. Refer to current Planning Department application checklist
291 for required number of paper copies.

292 ii. One electronic submission in PDF format of the complete
293 submission including all forms, plans, and documentation.

294 (2). Planning Board review. The Planning Board must, within 30 days of
295 Sketch Plan submission, act upon the Sketch Plan as follows:

296 a. The Planning Board must determine whether the Sketch Plan
297 proposal complies with the standards contained herein.

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- b. Where it deems necessary, make specific suggestions in writing to be incorporated by the applicant in subsequent submissions.
 - c. The Planning Board should provide guidance as to whether or not an on-site inspection will be required.
 - d. The applicant should provide an indication as to whether or not waivers from the submission requirements or performance standards will be part of the next phase of review.
 - e. Any plan may be continued for a total period not to exceed 90 calendar days for good and sufficient reason (i.e., for revisions to be made, studies completed, or additional information submitted) and acceptable to both the applicant and the Planning Board. Such plan is automatically scheduled for the agenda of the next regular Planning Board meeting after the 90th day and action completed in accordance with the requirements and timing contained in this title, whether the applicant has accomplished the purposes for which continued or not.
 - i. The action to table by the Planning Board must be an action to temporarily suspend action and not to suppress a vote on the plan.

(3). Plan Requirements

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- a. The Sketch Plan must be submitted to the Planning Board at the time of, or prior to, the on-site inspection.
 - b. The Sketch Plan must show in simple form on a topographic map the proposed site, subdivision, landscape architectural or architectural design concept, including streets, lots, structures and other features, in relation to existing conditions and municipal land use zone(s) regulations.
 - c. The sketch may be a freehand penciled sketch and must include the data listed below.

(4). Written Submission Requirements

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- a. Any person requiring development review must submit an application on forms prescribed by the Planning Board, together with a development plan and such submission contents as may be required in § 16.7.10.C. A complete application consists of all the required elements. No more than one application/plan for a piece of property may be under review at a time. No more than one approved Final Plan for a piece of property may exist.
 - b. General project information must describe or outline the existing conditions of the site, including:
 - i. Covenants.
 - ii. Available community facilities.
 - iii. Utilities.
 - c. Proposed development, such as:

- 341 i. Number of residential or business lots and/or dwelling
- 342 units;
- 343 ii. Typical lot width and depth;
- 344 iii. Price range;
- 345 iv. Business areas;
- 346 v. Playgrounds, park areas and other public areas;
- 347 vi. Protective covenants;
- 348 vii. Utilities; and
- 349 viii. Street improvements.

350 C. Preliminary Plan Review

351 (1). General Process

- 352 a. Within six months after Planning Board acceptance of a Sketch
- 353 Plan, if applicable, the applicant must submit an application for
- 354 preliminary Site Plan approval in the form prescribed herein.
- 355 **[Amended 9-26-2011 by Ord. No. 11-15]**
- 356 b. Preliminary Plan application filing and completeness review. A
- 357 determination as to whether the Town Planner validates an
- 358 application is based on a review of the application in accordance
- 359 with the submission contents checklist filed with the plan, which
- 360 indicates all elements required under §§ 16.7.10.C and 16.7.10.D
- 361 have been received, or written request for any waivers of
- 362 submission requirements or performance standards is included.
- 363 The application must be accompanied by a plan and the required
- 364 fee, together with a certification the applicant has notified abutters
- 365 by mail of the filing of the plan application for approval.
- 366 c. Receipt and scheduling review. Upon validation, the Town Planner
- 367 must place the application on the Planning Board's agenda for
- 368 Planning Board completeness review and vote to find the
- 369 Preliminary Plan application complete and, upon Planning Board
- 370 approval, issue a dated notice to the applicant, which is thereafter
- 371 the official time of submission. [Amended 9-26-2011 by Ord. No.
- 372 11-15]
- 373 d. Site inspection. In the course of the review of the plan, the Planner
- 374 must, and the Planning Board may at its discretion, make a
- 375 physical inspection and may make photographic record of the
- 376 existing conditions on the site. [Amended 9-26-2011 by Ord. No.
- 377 11-15; 1-23-2012 by Ord. No. 12-01]
- 378 e. Advisory opinions. At any time during review, the Planner may
- 379 request an advisory opinion from the Planning Board,
- 380 Conservation Commission or Port Authority on issues related to
- 381 the application. Where applications are for land within wetland
- 382 setbacks or the Resource Protection Overlay Zone, the
- 383 Conservation Commission must be invited to review and offer

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384 recommendations from an environmental protection perspective.
385 The Planner also must make recommendation on the necessity for
386 independent review.

387 f. Planner analysis. The Planner must analyze the application and
388 forward comments and recommendations to the applicant and the
389 Planning Board. .

390 g. A completed application must be submitted to the Town Planner
391 no later than 21 days prior to the meeting date for the item to be
392 included on the agenda. The submission must include on the plan
393 or attached thereto, the requirements of subsection (4) Plan
394 Requirements and subsection (5) Written Submission
395 Requirements, unless upon the applicant's written request, the
396 Planning Board, by formal action, waives or defers any
397 requirement(s) for submission.

398 i. Refer to current Planning Department application checklist
399 for required number of paper copies.

400 ii. One electronic submission in PDF format of the complete
401 submission including all forms, plans, and documentation.

402 (2). Public hearing

403 a. Scheduling

404 i. A Major Site Plan application must be scheduled for review
405 and public hearing once the Preliminary Plan application
406 has been found complete by the Planning Board.

407 b. Public notice.

408 i. The Town Planner must place a public notice of such
409 public hearing in a newspaper of general circulation in the
410 Town at least seven and not more than 14 days prior to the
411 scheduled hearing date; said notice must also be posted in
412 at least three prominent public locations in Town at least 10
413 days prior to the hearing; and, in the case of a plan located
414 within 500 feet of the Towns of Eliot or York, Maine, must
415 be forwarded to the Southern Maine Planning and
416 Development Commission and to the Town Clerk of Eliot
417 or York, Maine, at least 10 days prior to the hearing.

418 c. Abutter notice.

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

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- ii. Abutter notice must follow applicability as described in §16.5.2 Abutter Notice.
 - iii. For a wireless communication system facility (WCSF) plan application, the Town Planner must cause written notice of the hearing sent by postage paid, first-class mail, provided by the applicant, at least seven days prior to the hearing to all owners of abutting property and property located within 1,000 feet of any property line of the property for which the permit is requested. Notice must also be given to any town located within 1,000 feet of the proposed telecommunications facility. The applicant must provide this notification and must present proof of such notification to the Town Planner. The notification must include: the name of the applicant, location of the property, a brief description of the project, and a plot plan identifying the proposed site layout in relation to nearby streets and properties.
- d. Public Hearing Procedure
- i. The Planning Board may receive oral and documentary evidence, but must exclude evidence which it considers irrelevant, immaterial or unduly repetitious.
 - ii. The Chairperson of the Planning Board must determine the order of presentation by parties to the hearing. Each party must have the right to proceed without interruption, except that rulings by the Chairperson prevail. The applicant's presentation must proceed in accordance with the checklist provided.
 - iii. Any party may be represented by agent or attorney.
 - iv. The Town Planner, in consultation with other Town officials as may have an interest in the application, must present into evidence a written summary of findings and recommendations.
 - v. The Planning Board may continue the hearing to another time and location, including the site of the development, as it deems necessary.
- (3). Planning Board review schedule and decision on Preliminary Plan application.
- a. Within 35 of a Public Hearing, the Planning Board must approve the plan, approve the plan with conditions, disapprove the plan, postpone action on the plan, or continue the review to another time/location.
 - b. Continuation or tabling of a review beyond the thirty-five-day period for Site Plan applications must be for good and sufficient reason and be acceptable to both the applicant and the Planning

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- 472 Board.
- 473 c. Any plan may be continued for a total period not to exceed 90
- 474 calendar days for good and sufficient reason (i.e., for revisions to
- 475 be made, studies completed or additional information submitted)
- 476 and acceptable to both the applicant and the Planning Board. Such
- 477 plan is automatically scheduled for the agenda of the next regular
- 478 Planning Board meeting after the 90th day and action completed in
- 479 accordance with the requirements and timing contained in this title,
- 480 whether the applicant has accomplished the purposes for which
- 481 continued or not.
- 482 d. The action to table by the Planning Board must be an action to
- 483 temporarily suspend action and not to suppress a vote on the plan.
- 484 e. Failure to act within the thirty-five-day period constitutes
- 485 disapproval of the plan, in which case the applicant may resubmit
- 486 the plan without payment of an additional application fee.
- 487 f. Conditions of approval may include, but are not limited to, type of
- 488 vegetation, increased setbacks and yard space, specifications for
- 489 sewage and water supply facilities, buffers and screens, period of
- 490 maintenance sureties, deed restrictions, locations of piers, docks,
- 491 parking or signs, type or style of construction, and the amount of
- 492 all guarantees which may be required.
- 493 g. The decision of the Planning Board plus any conditions imposed
- 494 must be noted on three copies of the Preliminary Plan. One copy
- 495 must be returned to the applicant, one retained by the Planning
- 496 Board and one forwarded to the municipal officials.
- 497 (4). Plan Requirements
- 498 a. Plan sheets drawn on a reproducible medium and must measure no
- 499 less than 11 inches by 17 inches and no larger than 24 inches by 36
- 500 inches;
- 501 b. With scale of the drawings no greater than one inch equals 30 feet
- 502 for developments less than 10 acres, and one inch equals 50 feet
- 503 for all others;
- 504 c. Code block in the lower right-hand corner. The block must
- 505 contain:
- 506 i. Name(s) and address(es) of the applicant and owner;
- 507 ii. Name of the project;
- 508 iii. Name and address of the preparer of the plan, with
- 509 professional seal, if applicable;
- 510 iv. Date of plan preparation/revision, and a unique ID number
- 511 for the plan and any revisions;
- 512 d. Standard boundary survey conducted by a surveyor licensed in the
- 513 State of Maine, in the manner recommended by the State Board of
- 514 Registration for Land Surveyors;

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- e. An arrow showing true North and the magnetic declination, a graphic scale, and signature blocks for the owner(s) and members of the Planning Board;
 - f. Locus map showing the property in relation to surrounding roads, within 2,000 feet of any property line of the development;
 - g. Vicinity map and aerial photograph showing the property in relation to surrounding properties, roads, geographic, natural resource (wetland, etc.), historic sites, applicable comprehensive plan features such as proposed park locations, land uses, zones, and other features within 500 feet from any boundary of the proposed development;
 - h. Surveyed acreage of the total parcel, of rights-of-way, wetlands, and area to be disturbed and amount of street frontage;
 - i. Names and addresses of all owners of record of property abutting the development, including those across a street;
 - j. Existing Development Area Conditions, including but not limited to:
 - i. Location and description of all structures, including signs, existing on the site, together with accesses located within 100 feet of the property line;
 - ii. Essential physical features such as watercourses, wetlands, floodplains, wildlife habitat areas, forest cover, and outcroppings;
 - iii. Utilities existing, including power, water, sewer, holding tanks, bridges, culverts and drainageways.
 - k. Proposed development area conditions including, but not limited to:
 - i. Structures: their location and description, including signs, to be placed on the site, floor plans and elevations of principal structures as well as detail of all structures, showing building materials and colors, and accesses located within 100 feet of the property line.
 - ii. Utilities proposed including power, water, sewer, holding tanks, bridges, culverts and drainageways;
 - iii. Sewage facilities type and placement. Test pit locations, at least two of which must meet the State of Maine Plumbing Code requirements, must be shown;
 - iv. Domestic water source;
 - v. Parks, open space, or conservation easement locations;
 - vi. Lot lines, interior and exterior, right-of-way, and street alignments;
 - vii. Road and other paved ways plans, profiles and typical sections including all relevant data;

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- 601 sewage disposal is to be accomplished by subsurface disposal, pits,
602 prepared by a licensed site evaluator;
- 603 j. Town Sewage Department or community system authority letter,
604 when sewage disposal is to be through a public or community
605 system, approving the connection and its location;
- 606 k. Letters of evaluation of the development by the Chief of Police,
607 Fire Chief, Commissioner of Public Works, and, for residential
608 applications, the superintendent of schools, must be collected and
609 provided by the Town Planner.
- 610 l. Additional submissions as may be required by other sections of
611 this title such as for clustered development, mobile home parks, or
612 junkyards must be provided.
- 613 (6). Additional requirements. In its consideration of an application/plan, the
614 Planning Board may at any point in the review require the applicant to
615 submit additional materials, studies, analyses, and agreement proposals as
616 it may deem necessary for complete understanding of the application.
617 Such materials may include:
- 618 a. Traffic impact analysis, for projects that are not otherwise required
619 to submit a traffic impact analysis by submission requirement
620 C.(5).h., above.
- 621 b. Environmental analysis. An analysis of the effects that the
622 development may have upon surrounding lands and resources,
623 including intensive study of groundwater, ecosystems, or pollution
624 control systems;
- 625 c. Hydrologic analysis. An analysis of the effects that the
626 development may have on groundwater must be conducted in
627 accordance with § 16.7.11.J. This analysis is always required for
628 mobile home park proposals.
- 629 (7). Additional Submittal Content Required for Review of Wireless
630 Communication Services Facilities (WCSF).
- 631 a. A visual impact analysis prepared by a landscape architect or other
632 qualified professional acceptable to the Town that quantifies the
633 amount of visual impact on properties located within 500 feet,
634 within 2,500 feet and within two miles of the WCSF. This analysis
635 will include recommendations to mitigate adverse visual impacts
636 on such properties;
- 637 b. An analysis prepared by a qualified professional acceptable to the
638 Town that describes why this site and structure is critical to the
639 operation for which it is proposed. The analysis must address, at a
640 minimum: existing and proposed service area; how this WCSF is
641 integrated with other company operations, particularly other
642 structures in Kittery and surrounding communities; future
643 expansion needs in the area; the effect on company operations if
644 this structure is not constructed in this location; other sites

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- 645 evaluated for location of this structure and how such sites compare
646 to the proposed site; other options, if any, which could be used to
647 deliver similar services, particularly if the proposed equipment can
648 be co-located (shared use) on an existing structure; and an analysis
649 to the projected life cycle of this structure and location;
- 650 c. Certification by a structural engineer that construction of the
651 structure satisfies all federal, state and local building code
652 requirements as well as the requirement of maximum permitted co-
653 location at the site as approved by the Planning Board/Town
654 Planner;
 - 655 d. A plan note stating the payment of all required performance
656 guarantees as a condition of plan approval;
 - 657 e. Payment of the Planning Board application fees;
 - 658 f. And all other requirements per this chapter.

659 D. Final Plan Review

660 (1). Process, Major Site Plan

- 661 a. Final Plan application. The applicant must, within six months after
662 approval of a Preliminary Plan, file with the Planning Board an
663 application for approval of the Final Plan in the form prescribed
664 herein.
- 665 b. Failure to submit Final Plan application. If the Final Plan is not
666 submitted to the Planning Board within six months after the
667 approval of the Preliminary Plan, the Planning Board may refuse to
668 act on the Final Plan and require resubmission of the Preliminary
669 Plan. Any plan resubmitted must comply with all application
670 requirements, including payment of fees.
- 671 c. A completed application must be submitted to the Town Planner
672 no later than 21 days prior to the meeting date for the item to be
673 included on the agenda. The submission must include on the plan
674 or attached thereto, the requirements of subsection (3) Final Plan
675 Requirements, unless upon the applicant's written request, the
676 Planning Board, by formal action, waives or defers any
677 requirement(s) for submission.
 - 678 i. Refer to current Planning Department application checklist
679 for required number of paper copies.
 - 680 ii. One electronic submission in PDF format of the complete
681 submission including all forms, plans, and documentation.
 - 682 iii. GIS data for all property corners and site plan elements.
- 683 d. Application/plan review expiration.
 - 684 i. Uncounted time. When an approved plan is required to be
685 reviewed/approved by another agency (e.g., DEP, BOA,
686 KPA), any period the plan is at such an agency or that a
687 plan is continued by the Planning Board in accordance with

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688 § 16.7.10.C(3) from time of submission to time of decision
689 inclusive, verifiable by recorded documentation, is not
690 counted as part of the cumulative time periods described in
691 this section.

692 ii. Requests for extension. The Planning Board may grant
693 extensions to expiration dates upon written request by the
694 developer, on a case-by-case basis.

695 (2). Process, Minor Site Plan

696 a. The Final Plan application may be submitted concurrently with
697 Preliminary Plan submission requirements to the Director of
698 Planning and Development for administrative review and decision.

699 (3). Final Plan Requirements

700 A complete Final Plan application must fulfill all the requirements of a
701 Preliminary Plan as indicated in § 16.7.10.C of this section and must show
702 the following items, unless the Planning Board, by formal action, upon the
703 applicant's written request, waives or defers any requirement(s) for
704 submission. If no changes occurred to the Preliminary Plan, it also may be
705 considered to be the Final Plan.

706 a. Preliminary Plan information, including vicinity map and any
707 amendments thereto suggested or required by the Planning Board
708 or other required reviewing agency.

709 b. Street names and lines, pedestrianways, lots, easements and areas
710 to be reserved for or dedicated to public use.

711 c. Street length of all straight lines, the deflection angles, radii,
712 lengths of curves and central angles of all curves, tangent distances
713 and tangent bearings.

714 d. Lots and blocks within a subdivision, numbered in accordance with
715 local practice.

716 e. Markers/permanent reference monuments: Their location, source
717 references and, where required, constructed in accordance with
718 specifications herein.

719 f. Structures: their location and description, including signs, to be
720 placed on the site, floor plans and elevations of principal structures
721 as well as detail of all structures, showing building materials and
722 colors, and accesses located within 100 feet of the property line.

723 g. Outdoor lighting and signage plan if the application involves the
724 construction of more than 5,000 square feet of nonresidential floor
725 area; or the creation of more than 20,000 square feet of impervious
726 area; or the creation of three or more dwelling units in a building
727 — prepared by a qualified lighting professional, showing at least
728 the following at the same scale as the site plan:

729 i. All buildings, parking areas, driveways, service areas,
730 pedestrian areas, landscaping and proposed exterior
731 lighting fixtures;

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- ii. All proposed lighting fixture specifications and illustrations, including photometric data, designation as "cutoff" fixtures, color rendering index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures;
 - iii. Mounting height of all exterior lighting fixtures;
 - iv. Lighting analyses and luminance level diagrams or photometric point-by-point diagrams on a twenty-foot grid, showing that the proposed installation conforms to the lighting level standards of the ordinance codified in this section together with statistical summaries documenting the average luminance, maximum luminance, minimum luminance, average-to-minimum uniformity ratio, and maximum-to-minimum uniformity ratio for each parking area, drive, canopy and sales or storage area;
 - v. Drawings of all relevant building elevations, showing the fixtures, the portions of the walls to be illuminated, the luminance levels of the walls, and the aiming points for any remote light fixtures; and
 - vi. A narrative that describes the hierarchy of site lighting and how the lighting will be used to provides safety, security and aesthetic effects.
- h. Machinery in permanently installed locations likely to cause appreciable noise at the lot lines.
 - i. Materials (raw, finished or waste) storage areas, their types and location, and any stored toxic or hazardous materials, their types and locations.
 - j. Fences, retaining walls and other artificial features locations and dimensions proposed.
 - k. Landscaping plan, including location, size and type of plant material.
 - l. Stormwater management plan for stormwater and other surface water drainage prepared by a registered professional engineer, including the location of stormwater and other surface water drainage area; a post-construction stormwater management plan that defines maintenance responsibilities, responsible parties, shared costs, and schedule for maintenance; a draft maintenance agreement for stormwater management facilities; and, where applicable, draft documents creating a homeowners' association referencing the maintenance responsibilities. Where applicable, the maintenance agreement must be included in the document of covenants, homeowners' documents and/or as riders to the individual deed and recorded with the York County Registry of Deeds. **[Added 9-26-2011 by Ord. No. 11-15;7-25-2016 by Ord. No. 16-06]**

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- 776 m. Phasing plan. Upon applicant's request, the Planning Board may
777 permit phasing of the plans, where it can be demonstrated to the
778 Planning Board's satisfaction that such phasing would result in a
779 safe and orderly development of the plan.
 - 780 i. The applicant may file a section of the approved plan with
781 the municipal officials and the York County Registry of
782 Deeds if said section constitutes at least 25% of the total
783 number of lots, or for plans including buildings, 25% of the
784 gross area, contained in the approved plan. In all
785 circumstances, plan approval of the remaining sections of
786 the plan will remain in effect for three years unless the
787 applicant requests and the Planning Board grants
788 extensions of time equivalent to the requirements for
789 approved plans in § 16.7.12.
 - 790 ii. Phasing is subject to any conditions deemed necessary to
791 assure a reasonable mixture of uses is completed within
792 each separate phase of the plan.
 - 793 iii. Where projects are to be constructed in phases, phasing of
794 stormwater management, water mains and streets are part
795 of the review process.
 - 796 iv. Portions of both the developed and undeveloped site
797 impacted by interim infrastructure conditions such as
798 unlooped water systems, stormwater runoff from
799 unfinished areas onto finished areas and vice versa, dead-
800 end streets, etc., must be clearly defined and shown on the
801 plans.
 - 802 v. The Planning Board may permit construction of phases out
803 of order only when the storm drainage plan and the water
804 plan, etc., have been reviewed, and it has been
805 demonstrated that the impact on both the developed and
806 undeveloped sections is negligible.

807 (4). Written Submission Requirements

- 808 a. Municipal impact analysis of the relationship of the revenues to the
809 Town from the development and the costs of additional publicly
810 funded resources, including:
 - 811 i. Review for impacts. A list of the construction items that
812 will be completed by the developer prior to the sale of lots.
 - 813 ii. Municipal construction and maintenance items. A list of
814 construction and maintenance items that must be borne by
815 the municipality, which must include, but not be limited to:
 - 816 a. Schools, including busing;
 - 817 b. Road maintenance and snow removal;
 - 818 c. Police and fire protection;
 - 819 d. Solid waste disposal;

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- 820 e. Recreation facilities;
- 821 f. Runoff water disposal drainageways and/or storm
- 822 sewer enlargement with sediment traps.
- 823 iii. Municipal costs and revenues. Cost estimates to the Town
- 824 for the above services and the expected tax revenue of the
- 825 development.
- 826 b. Open space land cession offers. Written offers of cession to the
- 827 municipality of all public open space shown on the plan, and
- 828 copies of agreements or other documents showing the manner in
- 829 which space(s), title to which is reserved by the subdivider, are to
- 830 be maintained.
- 831 c. Open space land cession offers acknowledgement by Town.
- 832 Written evidence that the municipal officers are satisfied with the
- 833 legal sufficiency of the documents referred to in § 16.7.10.D(4)b.
- 834 Such written evidence does not constitute an acceptance by the
- 835 municipality of any public open space referred to in
- 836 § 16.7.10.D(4)b.
- 837 d. Maintenance plan and agreement defining maintenance
- 838 responsibilities, responsible parties, shared costs and schedule.
- 839 Where applicable, a maintenance agreement must be included in
- 840 the document of covenants, homeowners' documents and/or as
- 841 riders to the individual deed.
- 842 e. Estimated costs. Specify the estimated total cost of the
- 843 development and itemize the estimated major expenses. The
- 844 itemization of major costs should include, but not be limited to, the
- 845 costs of the following activities: roads, sewers, structures, water
- 846 supply, erosion control, pollution abatement and landscaping.
- 847 (5). Findings of Fact.
- 848 a. After considering all submissions, evidence and testimony in
- 849 accordance with the requirements of all applicable state and the
- 850 Town Code, the Planning Board or Director of Planning and
- 851 Development must make a finding of facts for each and every
- 852 proposed phase of development, including the development master
- 853 plan and each subsequent development plan, and take formal
- 854 action as required in this title.
- 855 b. Findings of fact. Action by the Planning Board must be based upon
- 856 findings of fact which certify or waive compliance with all the
- 857 required standards of this title and which certify the development
- 858 meets the following requirements:
- 859 i. Development conforms to local ordinances. The proposed
- 860 development conforms to a duly adopted Comprehensive
- 861 Plan as per adopted provisions in the Town Code, zoning
- 862 ordinance, subdivision regulation or ordinance,
- 863 development plan or land use plan, if any. In making this

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- 864 determination, the municipal reviewing authority may
865 interpret these ordinances and plans.
- 866 ii. Water supply sufficient. The proposed development has
867 sufficient water available for the reasonably foreseeable
868 needs of the development.
- 869 iii. Sewage disposal adequate. The proposed development will
870 provide for adequate sewage waste disposal and will not
871 cause an unreasonable burden on municipal services, if
872 they are utilized.
- 873 iv. Stormwater managed. The proposed development will
874 provide for adequate stormwater management.
- 875 v. Traffic managed. The proposed development will:
- 876 a. Not cause unreasonable highway or public road
877 congestion or unsafe conditions with respect to the
878 use of the highways or public roads existing or
879 proposed; and
- 880 b. Provide adequate traffic circulation, both on site and
881 off site.
- 882 vi. Parking and Loading. Provisions have been made for safe
883 internal vehicular circulation, loading and service areas,
884 and parking associated with the proposed development.
- 885 vii. Utilities. The size, type, and locations of all public utilities
886 and private utilities to serve the proposed development will
887 be installed per accepted engineering practices.
- 888 viii. Erosion controlled. The proposed development will
889 not cause unreasonable soil erosion or a reduction in the
890 land's capacity to hold water so that a dangerous or
891 unhealthy condition results.
- 892 ix. Groundwater protected. The proposed development will
893 not, alone or in conjunction with existing activities,
894 adversely affect the quality or quantity of groundwater.
- 895 x. Freshwater wetlands identified. All freshwater wetlands
896 within the project area have been identified on any maps
897 submitted as part of the application, regardless of the size
898 of these wetlands.
- 899 xi. River, stream or brook identified. Any river, stream or
900 brook within or abutting the proposed project area has been
901 identified on any maps submitted as part of the application.
902 For purposes of this section, "river, stream or brook" has
903 the same meaning as in 38 M.R.S. § 480-B, subsection 9.
- 904 xii. Municipal solid waste disposal available. The proposed
905 development will not cause an unreasonable burden on the
906 municipality's ability to dispose of solid waste, if municipal
907 services are to be used.

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- 908 xiii. Water body quality and shoreline protected.
909 Whenever situated entirely or partially within 250 feet of
910 any wetland, the proposed development will not adversely
911 affect the quality of that body of water or unreasonably
912 affect the shoreline of that body of water.
- 913 xiv. Flood areas identified and development
914 conditioned. All flood-prone areas within the project area
915 have been identified on maps submitted as part of the
916 application.
- 917 xv. Water and air pollution minimized. The proposed
918 development will not result in undue water or air pollution.
919 In making this determination, the following must be
920 considered:
- 921 a. Elevation of the land above sea level and its relation
922 to the floodplains;
- 923 b. Nature of soils and subsoils and their ability to
924 adequately support waste disposal;
- 925 c. Slope of the land and its effect on effluents;
- 926 d. Availability of streams for disposal of effluents;
- 927 e. Applicable state and local health and water resource
928 rules and regulations; and
- 929 f. Safe transportation, disposal and storage of
930 hazardous materials.
- 931 xvi. Aesthetic, cultural and natural values protected. The
932 proposed development will not have an undue adverse
933 effect on the scenic or natural beauty of the area, aesthetics,
934 historic sites, significant wildlife habitat identified by the
935 Department of Inland Fisheries and Wildlife or the
936 municipality, or rare and irreplaceable natural areas, or any
937 public rights for physical or visual access to the shoreline.
- 938 xvii. Environmental Considerations. The proposed
939 development will not result in undue levels of lighting,
940 noise, vibrations, smoke, heat, glare, fumes, dust, toxic
941 matter, otors, or electromagnetic interference.
- 942 xviii. Utilization of the site. The proposed development
943 does reflect the natural capabilities of the site to support
944 development.
- 945 xix. Developer financially and technically capable.
946 Developer is financially and technically capable to meet the
947 standards of this section.
- 948 c. For wireless communication system facility (WCSF). In
949 development, the WCSF:
- 950 i. Tower or other structure height does not exceed that which

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- 951 is essential for its intended use and public safety;
- 952 ii. Proximity of tower to residential development or zones is
- 953 acceptable;
- 954 iii. Nature of uses on adjacent and nearby properties is
- 955 compatible;
- 956 iv. Surrounding topography is protected;
- 957 v. Surrounding tree coverage and foliage is protected;
- 958 vi. Design of the tower, antenna or facility with particular
- 959 reference to design characteristics effectively eliminating or
- 960 significantly reducing visual obtrusiveness is minimized;
- 961 vii. Proposed ingress and egress to the site is adequate;
- 962 viii. Co-location with another existing WCSF has been
- 963 thoroughly pursued and is not feasible;
- 964 ix. Visual impacts on view sheds, ridgelines and other impacts
- 965 caused by tower location, tree and foliage clearing and
- 966 placement of structures and associated development is
- 967 minimized;
- 968 x. Will not unreasonably interfere with the view of or from
- 969 any public park, natural scenic vista, and historic building
- 970 or major view corridor and the Kittery waterfront and
- 971 harbor;
- 972 xi. Is not constructed in such a manner as to result in needless
- 973 height, mass and guy-wire supports, with documentation
- 974 having been provided and reviewed regarding the design
- 975 capacity and/or the remaining co-location capacity of the
- 976 tower/facility; and
- 977 xii. "Stealth" technology has been pursued and is not a viable
- 978 option.
- 979 d. In Shoreland, Resource Protection or Commercial
- 980 Fisheries/Maritime Use Overlay Zones, the proposed use will:
- 981 i. Maintain safe and healthful conditions;
- 982 ii. Not result in water pollution, erosion or sedimentation to
- 983 surface waters;
- 984 iii. Adequately provide for the disposal of all wastewater;
- 985 iv. Not have an adverse impact on spawning grounds, fish,
- 986 aquatic life, bird or other wildlife habitat;
- 987 v. Conserve shore cover and visual, as well as actual, points
- 988 of access to inland and coastal waters;
- 989 vi. Protect archaeological and historic resources as designated
- 990 in the comprehensive plan;
- 991 vii. Not adversely affect existing commercial fishing or
- 992 maritime activities in a commercial fisheries/maritime

- 993 activities district;
- 994 viii. Avoid problems associated with floodplain
- 995 development and use; and
- 996 ix. Is in conformance with the provisions of this title.
- 997 e. For a right-of-way plan. The proposed right-of-way:
- 998 i. Does not create any nonconforming lots or buildings; and
- 999 ii. Could reasonably permit the right of passage for an
- 1000 automobile.
- 1001 f. For special exception use – special exception use permitted. If a
- 1002 special exception use is requested, the special exception use will:
- 1003 [Added 9-26-2011 by Ord. No. 11-15]
- 1004 i. Not prevent the orderly and reasonable use of adjacent
- 1005 properties or of properties in adjacent use zones;
- 1006 ii. Not prevent the orderly and reasonable use of permitted or
- 1007 legally established uses in the zone wherein the proposed
- 1008 use is to be located, or of permitted or legally established
- 1009 uses in adjacent use zones; and
- 1010 iii. Not adversely affect the safety, the health, and the welfare
- 1011 of the Town.
- 1012 iv. Be in harmony with and promote the general purposes and
- 1013 intent of this title.
- 1014 (6). Final Plan approval and recording.
- 1015 a. Agreement form. An approval by the Planning Board or Director
- 1016 of Planning and Development must take the form of an agreement
- 1017 between the Town and the applicant, incorporating as elements the
- 1018 application, the Planning Board's findings of fact, and such
- 1019 conditions as the Planning Board may impose upon approval.
- 1020 b. Agreement distribution. The Planning Board must send copies of
- 1021 the agreement to the Town Manager and Code Enforcement
- 1022 Officer. [Amended 9-26-2011 by Ord. No. 11-15]
- 1023 c. Updated GIS information. The applicant shall provide revised GIS
- 1024 data with any changes made during the review process for Major
- 1025 Site Plans, if necessary.
- 1026 d. Approved Final Plan signing. A plan has final approval only when
- 1027 the Planning Board has indicated approval by formal action and the
- 1028 plan has been properly signed by a majority of the Planning Board
- 1029 members or by the Chair only, if so voted by the Planning Board.
- 1030 e. Approved Final Plan recording. An approved plan involving the
- 1031 division of land, easements, or property boundary modification
- 1032 must be recorded by the York County Registry of Deeds.
- 1033 [Amended 9-26-2011 by Ord. No. 11-15]

1034 16.7.11 Performance Standards and Approval Criteria

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1040 A. Water Supply

- 1041 (1). The development shall be provided with a system of water supply that
1042 provides each use with an adequate supply of water.
- 1043 (2). If the project is to be served by a public water supply, the applicant shall
1044 secure and submit a written statement from the Kittery Water District that
1045 the proposed water supply system conforms with its design and
1046 construction standards, will not result in an undue burden on the source of
1047 distribution system, and will be installed in a manner adequate to provide
1048 needed domestic and fire protection flows.

1049 B. Sewage Disposal [Amended 10-14-2015 by Ord. No. 15-10]

1050 (1). Sewers.

- 1051 a. As per Chapter 13.1, Sewer Service System, connection to public
1052 sewer is required, provided said sewer, located within an abutting
1053 public way, is within 100 feet of the property line as measured
1054 along the said public way. Individual dwellings and structures in
1055 approved and recorded developments where public sewer becomes
1056 available as described in this subsection must connect per the
1057 requirements of Title 13, Chapter 13.1.
- 1058 b. Notwithstanding the provision above and Chapter 13.1, connection
1059 to public sewer is required for a commercial or industrial
1060 development or a residential subdivision, where public sewer,
1061 within an abutting public way, is within 1,000 feet of the property
1062 line as measured along said public way. In such an event, the
1063 developer shall connect to public sewer per the Town's
1064 Superintendent of Sewer Services (SSS) specifications and in
1065 accordance with Title 13. The developer shall provide written
1066 certification to the Planning Board from the SSS that the proposed
1067 addition to public sewer is within the capacity of the collection and
1068 wastewater treatment system.
- 1069 c. Sewer mains, service lines and related improvements must be
1070 installed at the developer's expense. Service lines must extend to
1071 each lot's boundary line. Connections to public sewer must be
1072 installed in accordance with this article and Chapter 13.1, Sewer
1073 Service System, of the Kittery Town Code.
- 1074 d. Proposal and construction drawings must be approved in writing
1075 by the Town's SSS. All required approvals must be secured before
1076 the start of Final Plan review.
- 1077 e. When public sewer connection pursuant to Subsection b above is
1078 not feasible as determined by the Planning Board or Director of
1079 Planning and Development, the applicable review authority may
1080 allow individual or common subsurface wastewater disposal
1081 systems in accordance with § 16.7.11.B(2). To determine
1082 feasibility, the developer shall submit information that considers
1083 the unique physical circumstances of the property and sewer

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1084 connection alternatives to conventional construction/installation
1085 techniques, such as, but not limited to, horizontal/directional
1086 boring and low-pressure sewer. The developer's information must
1087 be accompanied by findings and recommendations of the Town
1088 Peer Review Engineer. In determining feasibility, the Board may
1089 not base its decision solely on additional costs associated with a
1090 sewer connection. The intent of this subsection is not to avoid the
1091 requirements of Chapter 13.1, Sewer Service System, of the
1092 Kittery Town Code.

1093 (2). Subsurface wastewater disposal systems.

- 1094 a. The developer shall submit plans for subsurface wastewater
1095 disposal designed by a Maine licensed site evaluator in full
1096 compliance with the requirements of the State of Maine Plumbing
1097 Code, Subsurface Wastewater Disposal Rules, and this title.
1098 Subsurface wastewater disposal systems (SWDS) must be
1099 constructed according to the approved plan.
- 1100 b. All first-time subsurface wastewater disposal systems must be
1101 installed in conformance with State of Maine Subsurface
1102 Wastewater Disposal Rules and this title. The following also apply:
- 1103 i. The minimum setback distance for a first-time subsurface
1104 disposal system may not be reduced by variance.
- 1105 ii. Clearing or removal of woody vegetation necessary to site
1106 a first-time system, and any associated fill extensions may
1107 not extend closer than is allowed in Table 16.5.28,
1108 Minimum Setbacks from Wetlands and Water Bodies, for
1109 subsurface sewage disposal.
- 1110 c. Replacement of subsurface wastewater disposal systems (SWDS)
1111 for existing legal uses:
- 1112 i. Where no expansion is proposed, the SWDS must comply
1113 with § 16.7.11.B(2) and Table 16.5.28 to the extent
1114 practicable and otherwise are allowed per the Maine
1115 Subsurface Wastewater Disposal Rules; or
- 1116 ii. Where expansion is proposed, the SWDS must comply
1117 with § 16.7.11.B(2) and Table 16.5.28 in addition to the
1118 Maine Subsurface Wastewater Disposal Rules.
- 1119 NOTE: For the purposes of this subsection, “expansion” is
1120 defined in Section 9 of the Maine Subsurface Wastewater
1121 Disposal Rules.
- 1122 d. Subsurface wastewater disposal systems on unimproved lots
1123 created after April 26, 1990. Where public sewer connection is not
1124 feasible, the developer must submit evidence of soil suitability for
1125 subsurface wastewater disposal systems, i.e., test pit data and other
1126 information as required by the State of Maine Subsurface
1127 Wastewater Disposal Rules and this title. In addition:

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- i. On lots with a limiting factor identified as being within 24 inches of the surface, a second site with suitable soils must be shown as a reserve area for future replacement should the primary site fail. Such reserve area is to be shown on the plan; not be built upon; and, must comply with all the setback requirements of the Subsurface Wastewater Disposal Rules and this title.
 - ii. In no instance may a primary or reserve disposal area be permitted on soils or on a lot requiring a first-time system variance request per the State of Maine Subsurface Wastewater Disposal Rules.
 - iii. Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within each disposal area (primary and reserve sites) to ensure that the proposed disposal system can be located on soils and slopes that meet the criteria of the State of Maine Subsurface Wastewater Disposal Rules and the State Plumbing Code. All passing and failing test pits must be shown on the plan.
 - e. The developer shall install advanced pretreatment to subsurface wastewater disposal systems that are located inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.
- (3). Holding tanks.
- a. Holding tanks are not allowed for a first-time residential use.
- (4). (Reserved)
- (5). Sanitary facilities/restrooms.
- a. Any development containing a retail use or a food service use, or a combination thereof, exceeding 10,000 square feet must provide public toilet facilities in accordance with Subsections **b**, **c** and **d** of this section.
 - b. Public toilet facilities are to consist of at least one separate toilet for each sex; be clearly marked; maintained in a sanitary condition and in good repair. Lavatory facilities must be located within or immediately adjacent to all toilet rooms or vestibules. There may be no charge for their use.
 - c. Where a retail development exceeds 60,000 square feet, each toilet facility must contain a minimum of two water closets.
 - d. Requirements for handicapped accessibility to sanitary facilities are pursuant to applicable state standards.
- C. Stormwater and Surface Drainage
- (1). Adequate provision must be made for drainage of all stormwater generated

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- 1171 with the development and any drained groundwater through a
1172 management system of natural and constructed features. Where possible,
1173 existing natural runoff control features, such as berms, swales, terraces
1174 and wooded areas must be retained to reduce runoff and encourage
1175 infiltration of storm waters. Otherwise drainage may be accomplished by a
1176 management system of constructed features such as swales, culverts,
1177 underdrains and storm drains.
- 1178 (2). To ensure proper functioning, stormwater runoff control systems must be
1179 maintained in good working order per § 16.7.11.D, Post-construction
1180 stormwater management.
- 1181 (3). Where a development is traversed by a stream, river or surface water
1182 drainageway, or where the Planning Board or Director of Planning and
1183 Development determines that surface runoff should be controlled,
1184 easements and or drainage rights-of-way must be provided which conform
1185 substantially to the lines of existing natural drainage paths. The minimum
1186 width of the drainage easements or rights-of-way is 30 feet.
- 1187 a. The minimum pipe size for any storm drainage pipe must be 12
1188 inches. Maximum trench width at the pipe crown must be the
1189 outside diameter of the pipe plus two feet. The pipe must be
1190 bedded in a fine granular material, containing no stones larger than
1191 three inches, lumps of clay, or organic matter, reaching a minimum
1192 of six inches below the bottom of the pipe extending to six inches
1193 above the top of the pipe.
- 1194 b. Except for normal thinning and landscaping, existing vegetation
1195 must be left intact to prevent soil erosion.
- 1196 (4). When proposed development does not require Maine Department of
1197 Environmental (MDEP) approval under MDEP Chapters 500 and 502, the
1198 following applies:
- 1199 a. All components of the stormwater management system must be
1200 designed to limit peak discharge to predevelopment levels for the
1201 two-year and twenty-five-year, twenty-four-hour duration,
1202 frequencies, based on the rainfall data for Portsmouth, NH. When
1203 the development discharges directly to a major water body, peak
1204 discharge may be increased from predevelopment levels, provided
1205 downstream drainage structures are suitably sized.
- 1206 b. The stormwater management system must be designed to
1207 accommodate upstream drainage, taking into account existing
1208 conditions and approved or planned developments not yet built and
1209 must include a surplus design capacity factor of 25% for potential
1210 increases in upstream runoff.
- 1211 c. Downstream drainage requirements must be studied to determine
1212 the effect of the proposed development. The storm drainage must
1213 not overload existing or future planned storm drainage systems
1214 downstream from the development. The developer is responsible
1215 for financing any improvements to existing drainage systems

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- 1216 required to handle the increased storm flows.
- 1217 i. Wherever the storm drainage system is not within the right-
- 1218 of-way of a public street, perpetual easements must be
- 1219 provided to the Town allowing maintenance and
- 1220 improvement to the system.
- 1221 ii. All sediment and erosion control measures must be
- 1222 designed in accordance with MDEP's "Maine Erosion and
- 1223 Sediment Control BMPs," March 2003.
- 1224 iii. Catch basins in streets and roads must be installed where
- 1225 necessary and located at the curblin. In parking lots and
- 1226 other areas, catch basins must be located where necessary
- 1227 to ensure proper drainage.
- 1228 iv. Where soils require a subsurface drainage system, the
- 1229 drains must be installed and maintained separately from the
- 1230 stormwater drainage system.
- 1231 v. Where the Board has required a stormwater management
- 1232 and erosion control plan and MDEP approval under
- 1233 Chapters 500 and 502 is not required, said plan must be
- 1234 endorsed by the York County Soil and Water Conservation
- 1235 District.
- 1236 vi. Drainage easements for existing or proposed drainageways
- 1237 located outside a public way must be maintained and/or
- 1238 improved in accordance with § 16.7.11.D, Post-
- 1239 construction stormwater management.

1240 D. Post-construction stormwater management.

- 1241 (1). Purposes. This section is enacted to provide for the health, safety and
- 1242 general welfare of the citizens of Kittery through monitoring and
- 1243 enforcement of compliance with post-construction stormwater
- 1244 management plans in order to comply with minimum control measures
- 1245 requirements of the federal Clean Water Act, of federal regulations and of
- 1246 Maine's Small Municipal Separate Storm Sewer Systems General Permit.
- 1247 This section seeks to ensure that post-construction stormwater
- 1248 management plan are followed and stormwater management facilities,
- 1249 including but not limited to any parking areas, catch basins, drainage
- 1250 swales, detention basins and ponds, pipes and related structures that are
- 1251 part of the storm drainage system, are properly maintained and pose no
- 1252 threat to public safety.
- 1253 (2). Authority. The Maine Department of Environmental Protection, through
- 1254 its dissemination of the General Permit for the Discharge of Stormwater
- 1255 from Small Municipal Separate Storm Sewer Systems, has listed the Town
- 1256 of Kittery, Maine, as having a regulated small municipal separate storm
- 1257 sewer system ("small MS4"); under this general permit, listing as a
- 1258 regulated small MS4 requires enactment of this section as part of the
- 1259 Town's stormwater management program in order to satisfy the minimum

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1260 control measures required by Part IV D 5 ("Post-construction stormwater
1261 management in new development and redevelopment").

1262 (3). Applicability.

1263 a. In general. This section applies to all new development or
1264 redevelopment (any construction activity on premises already
1265 improved that alters stormwater drainage patterns) including one
1266 acre or more of disturbed area, or activity with less than one acre
1267 of total land area that is part of a subdivision, if the subdivision
1268 will ultimately disturb an area equal to or greater than one acre.
1269 [Amended 7-25-2016 by Ord. No. 16-06]

1270 b. Exception. This section does not apply to new development or
1271 redevelopment on a lot, tract or parcel where that lot, tract or
1272 parcel is part of a subdivision that has received approval of its
1273 post-construction stormwater management plan and stormwater
1274 management facilities under the Town's subdivision or other
1275 zoning, planning or other land use ordinances; said lot, tract or
1276 parcel will not require additional review under this section but
1277 must comply with the post-construction stormwater management
1278 plan for that approved subdivision.

1279 c. Post-construction stormwater management plan approval.

1280 i. General requirement. Notwithstanding any ordinance
1281 provision to the contrary, and except as provided in
1282 § 16.7.11.D(3), Exception, no applicant for a building
1283 permit, Subdivision approval, Site Plan approval or other
1284 zoning, planning or other land use approval for new
1285 development or redevelopment to which this section is
1286 applicable will receive such permit or approval for that new
1287 development or redevelopment unless the applicant also
1288 receives approval for its post-construction stormwater
1289 management plan and stormwater management facilities.

1290 ii. Notice of BMP discharge to Town's MS4. At the time of
1291 application for a building permit, subdivision approval, Site
1292 Plan approval or other zoning, planning or other land use
1293 approval for new development or redevelopment to which
1294 this section is applicable, the applicant must notify the
1295 Town Planner if its post-construction stormwater
1296 management plan includes any BMP(s) that will discharge
1297 to the Town's MS4 and must include in this notification a
1298 listing of which BMP(s) will so discharge.

1299 iii. Engineering and administrative fees. At the time of
1300 application, the applicant must pay an amount to the Town
1301 estimated to be sufficient to pay the engineering review
1302 costs and administrative costs incurred by the Town in
1303 review of the post-construction stormwater management
1304 plan. The Town will deduct from this amount the

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1305 engineering and administrative costs incurred by the Town
1306 based upon the hours of engineering review time and
1307 prevailing hourly rate for reimbursement of the Town's
1308 administrative costs. Any remaining engineering and
1309 administrative review costs owed by the applicant must be
1310 paid in full by the applicant prior to the issuance of any
1311 temporary or permanent certificate of occupancy, and any
1312 unused balance remaining at that time will be refunded to
1313 the applicant.

- 1314 d. Post-construction stormwater management plan compliance.
- 1315 i. General requirements. Any person owning, operating,
1316 leasing or having control over stormwater management
1317 facilities required by a post-construction stormwater
1318 management plan approved under the Town's Subdivision,
1319 Site Plan or other zoning, planning or other land use
1320 ordinances must demonstrate compliance with that plan as
1321 follows:
- 1322 a. That person or a qualified post-construction
1323 stormwater inspector hired by that person must, at
1324 least annually, inspect the stormwater management
1325 facilities in accordance with all municipal and state
1326 inspection, cleaning and maintenance requirements
1327 of the approved post-construction stormwater
1328 management plan;
- 1329 b. If the stormwater management facilities require
1330 maintenance to function as intended by the
1331 approved post-construction stormwater
1332 management plan, that person must take corrective
1333 action(s) to address the deficiency or deficiencies;
1334 and
- 1335 c. That person or a qualified post-construction
1336 stormwater inspector hired by that person must, on
1337 or by July 1 of each year, provide a completed and
1338 signed certification to the Code Enforcement
1339 Officer in a form provided by the Town, certifying
1340 that the person has inspected the stormwater
1341 management facilities and that they are adequately
1342 maintained and functioning as intended by the
1343 approved post-construction stormwater
1344 management plan or that they require maintenance
1345 or repair, describing any required maintenance and
1346 any deficiencies found during inspection of the
1347 stormwater management facilities, and if the
1348 stormwater management facilities require
1349 maintenance or repair of deficiencies in order to

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function as intended by the approved post-construction stormwater management plan, the person must provide a record of the required maintenance or deficiency and corrective action(s) taken.

ii. Right of entry. In order to determine compliance with this section and with the post-construction stormwater management plan, the Code Enforcement Officer may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the stormwater management facilities.

e. Annual report. Beginning July 1, 2009, and each year thereafter, the Town must include the following in its annual report to the Maine Department of Environmental Protection:

i. Cumulative number of sites that have stormwater management facilities discharging into its MS4;

ii. Summary of the number of sites that have stormwater management facilities discharging into its MS4 that were reported to the Town;

iii. Number of sites with documented functioning stormwater management facilities; and

iv. Number of sites that require routine maintenance in order to continue the original line and grade, the hydraulic capacity, and the original purpose of improvements; or remedial action to ensure that stormwater management facilities are functioning as intended.

f. Enforcement. It is the duty of the Code Enforcement Officer to enforce the provisions of this section and take appropriate actions to seek the correction of violations. Enforcement of the post-construction stormwater management regulations are conducted in accordance with Chapter 16.4.

(4). Storm drainage construction standards.

a. Materials:

i. Reinforced concrete pipe must meet the requirements of ASTM Designation C-76 (AASHTO M170). Pipe classes are required to meet the soil and traffic loads with a safety factor of 1.2 on the 0.01 inch crack strength with Class B bedding. Joints are to be of the rubber gasket type, meeting ASTM Designation C443-70, or of an approved performed plastic jointing material such as "Ramnek." Perforated concrete pipe must conform to the requirements of AASHTO M175 for the appropriate diameters.

ii. Corrugated metal pipe must be bituminous-coated, meeting the requirements of AASHTO Designation M190 Type C

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1394 for an iron or steel pipe or AASHTO Designation M196 for
1395 aluminum alloy pipe for sectional dimensions and type of
1396 bituminous coating. Pipe gauge is to be as required to meet
1397 the soil and traffic loads with a deflection of not more than
1398 5%.

- 1399 iii. SDR-35 plastic pipe installed in conformance with
1400 AASHTO bedding requirements.
- 1401 iv. Aluminized steel (AASHTO M274) and aluminum pipe
1402 (AASHTO M46).
- 1403 v. Catch basins are to be precast concrete truncated cone
1404 section construction, meeting the requirements of ASTM
1405 Designation C478, or precast concrete manhole block
1406 construction, meeting the requirements of ASTM C139,
1407 radial type. Castings are to be square cast iron sized for the
1408 particular inlet condition with the gratings perpendicular to
1409 the curbline. Bases may be cast-in-place 3,000 psi twenty-
1410 eight-day strength concrete or may be of precast concrete,
1411 placed on a compacted foundation of uniform density.
1412 Metal frames and traps must be set in a full mortar bed with
1413 tops and are to conform to the requirements of AASHTO
1414 M103 for carbon steel casings, AASHTO M105, Class 30
1415 for gray iron castings or AASHTO M183 (ASTM A283,
1416 Grade B or better) for structure steel.
- 1417 b. Drain inlet alignment is to be straight in both vertical and
1418 horizontal alignment unless specific approval for curvilinear drain
1419 is obtained in writing from the Commissioner of Public Works.
- 1420 c. Manholes are to be provided at all changes in vertical or horizontal
1421 alignment and at all junctions. On straight runs, manholes are to be
1422 placed at a maximum of three-hundred-foot intervals.
- 1423 d. Upon completion, each catch basin or manhole must be cleared of
1424 all accumulation of silt, debris or other foreign matter and kept
1425 clean until final acceptance.

1426 E. Vehicular Traffic

- 1427 (1). Adequacy of Road System. Vehicular access to the site shall be on roads
1428 which have adequate capacity to accommodate the additional traffic
1429 generated by the development. Intersections on arterial streets within a
1430 half (0.5) mile of any entrance road which are functioning at a Level of
1431 Service of D or better prior to the development shall function at a
1432 minimum at Level of Service D after development. If any such
1433 intersection is functioning at a Level of Service E or lower prior to the
1434 development, the project shall not reduce the current level of service. This
1435 requirement may be waived by the Planning Board if the project is located
1436 within a growth area designated in the Town's adopted Comprehensive
1437 Plan and the Board determines that the project will not have an

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- 1438 unnecessary adverse impact on traffic flow or safety.
- 1439 a. A development not meeting this requirement may be approved if
- 1440 the applicant demonstrates that:
- 1441 i. A public agency has committed funds to construct the
- 1442 improvements necessary to bring the level of access to this
- 1443 standard, or
- 1444 ii. The applicant will assume financial responsibility for the
- 1445 improvements necessary to bring the level of service to this
- 1446 standard and will assure the completion of the
- 1447 improvements with a financial guarantee acceptable to the
- 1448 municipality.
- 1449 (2). Traffic Impact Study. When required by the Planning Board or Director
- 1450 of Planning and Development, a Traffic Impact Study will include the
- 1451 following elements related to the project and surrounding street network.
- 1452 a. An executive summary outlining the study findings and
- 1453 recommendations.
- 1454 b. A physical description of the project site and study area
- 1455 encompassed by the report with a diagram of the site and its
- 1456 relationship to existing and proposed development sites within the
- 1457 study area.
- 1458 c. A complete description of the proposed uses for the project site (in
- 1459 cases where specific uses have not been identified, the highest
- 1460 traffic generators within the category best fitting the proposed
- 1461 development must be used to estimate traffic generators).
- 1462 d. Existing land uses and zone(s) in the vicinity of the site must be
- 1463 described. Any proposals for the development of vacant parcels or
- 1464 redevelopment of parcels within the study area of which the
- 1465 municipality makes the applicant aware, must be included in the
- 1466 description.
- 1467 e. Street geometry and existing traffic control devices on all major
- 1468 streets and intersections affected by the anticipated traffic
- 1469 generated.
- 1470 f. Trip generation must be calculated for the proposed project and
- 1471 other proposed new projects and redevelopment projects within the
- 1472 study area using the most recent data available from the Institute of
- 1473 Transportation Engineers' (ITE) Trip Generation Guide, and/or
- 1474 actual field data collected from a comparable trip generator (i.e.,
- 1475 comparable in size, location and setting). This data will be
- 1476 presented in a summary table such that assumptions on trip
- 1477 generation and rates arrived at by the engineer are fully
- 1478 understandable to the Planning Board.
- 1479 g. The anticipated trip distribution of vehicles entering and exiting
- 1480 the proposed site during the appropriate peak hour(s) must be
- 1481 described and diagrammed.

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- h. Trip assignment, the anticipated utilization of study area streets by traffic generated by the proposed project, must be described and diagrammed.
 - i. Existing traffic conditions in the study area will be identified and analyzed based upon actual field counts and/or recent available machine counts.
 - j. Existing traffic conditions in the study area will be described and diagrammed, specifically AADT, appropriate peak design hour(s), traffic volumes, street and intersection capacities, and levels of service.
 - k. Existing safety conditions must be evaluated based upon the traffic accident data available for the most current three years and described including link and node critical rate factors (CRF).
 - l. Future traffic conditions on the street system will be estimated based on existing volumes, projected traffic growth in the general study area, projected traffic from approved development, and traffic generated by the proposed project, specifically AADT traffic, appropriate peak hour(s) traffic volumes, street and intersection capacity, street and intersection levels of service will be analyzed. When other projects are being proposed within the impact area of the project, the Planning Board may require these projects to be incorporated into the analysis.
 - m. When the analysis of the proposed project's impact on traffic indicates unsatisfactory CRF, levels of service or operating capacity on study area streets and intersections, a description of proposed improvements to remedy identified deficiencies must be included.
 - n. The base data collected and analyzed during the course of the traffic impact study.
 - o. If a development that requires a traffic impact study is within 500 feet of York or Eliot, Maine, or if the study identifies impacts on segments of Route 1 or Route 236 or on their intersections located in York or Eliot, Maine, the applicant must provide evidence that a copy of the impact study has been given to the impacted municipality's chief administrative officer;
- (3). Access to the Site. Vehicular access to and from the development shall be safe and convenient.
- a. Any driveway or proposed street shall be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards.
 - b. Points of access and egress shall be located to avoid hazardous conflicts with existing turning movements and traffic flows.
 - c. The grade of any proposed drive shall be not more than $\pm 3\%$ for a minimum of fifty (50) feet, from the intersection.

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- d. The intersection of any access/egress drive or proposed street shall function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period.
 - e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot shall be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
 - f. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
 - g. Accessways shall be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
 - h. The following criteria shall be used to limit the number of driveways serving a proposed project:
 - i. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway shall be no greater than forty (40) feet wide.
 - ii. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways shall not exceed sixty (60) feet.
 - iii. The Planning Board or Development Review Committee may limit a development to one (1) point of ingress/egress onto Routes 302, 35 and 115.
- (4). Accessway Location and Spacing. Accessways shall meet the following standards:
- a. Private entrances/exits shall be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
 - b. Private accessways in or out of a development shall be separated by a minimum of seventy-five (75) feet where possible.
 - c. Accessways shall be aligned with accessways on the opposite side of a public street to the greatest extent possible.
- (5). Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.

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- a. Nonresidential projects that will be served by delivery vehicles shall provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of SU-30 vehicles.
 - i. If the project is to be served by “tractor-trailer” delivery vehicles, a clear route for such vehicles with appropriate geometric design shall allow for turning and backing for a minimum of WB-50 vehicles.
 - b. Clear routes of access shall be provided and maintained for emergency vehicles to and around buildings and shall be posted with appropriate signage (fire lane - no parking).
 - c. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot.
 - d. All roadways shall be designed as follows:
 - i. To harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion,
 - ii. By fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction,
 - iii. The road network shall provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.
 - e. Nonresidential projects that include drive-through services shall be designed and have sufficient stacking capacity to avoid the queuing of vehicles on any public street.

1598 F. Parking and Loading

1599 (1). General standards.

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- a. All development, special exceptions and changes in use must comply with the performance standards herein and, where applicable, those contained in § 16.7.12.F of this chapter. The Planning Board may impose additional reasonable requirements, which may include off-site improvements, based on the following considerations:
 - i. Sight distances along public rights-of-way;
 - ii. The existence and impact upon adjacent access points and intersections;
 - iii. Turning movements of vehicles entering and leaving the public streets;
 - iv. Snow removal; and
 - v. General condition and capacity of public streets serving the

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- 1613 facility.
- 1614 b. Such requirements are intended to maintain traffic safety and an
- 1615 acceptable level of service throughout the impact area of the
- 1616 facility.
- 1617 c. In front of areas zoned and designed for commercial use, or where
- 1618 a change of zoning to one which permits commercial use is
- 1619 contemplated, the street right-of-way and/or pavement width must
- 1620 be increased by such amount on each side as may be deemed
- 1621 necessary to assure the free flow of through traffic without
- 1622 interference by parked or parking vehicles, and to provide adequate
- 1623 and safe parking space for such commercial or business district.
- 1624 d. The Town reserves the right to designate in conjunction with the
- 1625 Maine State Department of Transportation all ingress and egress
- 1626 points to the public highway and to select areas for the grouping
- 1627 and placement of signs and traffic directions.
- 1628 e. All traffic flow in parking areas is to be clearly marked with signs
- 1629 and/or surface directions at all times.
- 1630 f. Off-street parking must be constructed in accordance with Table 2
- 1631 of this chapter, set out at the end of § 16.7.11.F, Parking Loading
- 1632 and Traffic.

1633 (2). Corner clearances.

1634 For purposes of traffic safety in all zoning districts, no building or

1635 structure other than public utility structures and traffic control devices may

1636 be erected, and no vegetation other than shade trees may be maintained

1637 above a height of two feet above the plane through the curb grades of

1638 intersection streets within a triangle, two sides of which are the edges of

1639 the traveled public ways for 20 feet measured from their point of

1640 intersection or, in the case of rounded street corners, the point of

1641 intersection of their tangents. The Town is not responsible for violations

1642 which lead to accidents. The Town will direct, however, a continued

1643 program designed to identify intersections having traffic safety problems.

- 1644 (3). Off-street loading standards.
- 1645 a. In those districts where off-street loading is required, the following
 - 1646 minimum off-street loading bays or loading berths must be
 - 1647 provided and maintained in the case of new construction,
 - 1648 alterations and changes of use:
 - 1649 i. Office buildings, hospitals, long-term nursing care
 - 1650 facilities, convalescent care facilities, elder-care facilities,
 - 1651 hotels and motels with a gross floor area of more than
 - 1652 100,000 square feet: one bay.
 - 1653 ii. Retail, wholesale, warehouse and industrial operations with
 - 1654 a gross floor area of more than 10,000 square feet:

10,001 to 40,000 square feet	1 bay
40,001 to 100,000 square feet	2 bays

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100,001 to 160,000 square feet	3 bays
160,001 to 240,000 square feet	4 bays
240,001 to 320,000 square feet	5 bays
320,001 to 400,000 square feet	6 bays
Each 90,000 square feet over 400,000	1 additional bay

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- b. Each loading bay is to have minimum dimensions of 70 feet by 14 feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading bay is to be located completely off the street. In case of trucks, trailers or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, or so that said equipment can be kept on site while awaiting loading or unloading, additional space is to be provided, so that such vehicle parks or stands completely off the street.
 - c. The provisions of this section for off-street loading do not prohibit incidental curbside business deliveries, dispatches or services, provided that they are in compliance with all applicable state and local traffic regulations.
 - d. The Board of Appeals has full authority to waive the requirements of this section if it is shown that appropriate parking and loading spaces will be maintained sufficient for intended use.
- (4). Off-street parking standards.
- a. Off-street parking, in addition to being a permitted use, is considered as an accessory use when required or provided to serve conforming uses located in any district.
 - b. The following minimum off-street parking and loading requirements must be provided and maintained in case of new construction, alterations and changes of use. Such parking may be provided in the open air in design-dependent spaces dimensioned as may be required to suit the particular use as indicated in Table 2 of this chapter, set out at the end of § 16.7.12.F, Parking Loading and Traffic, or in garages.
 - c. All spaces must be accessible from lanes of adequate size and location as per Table 2 of this chapter, set out at the end of § 16.7.12.F, Parking Loading and Traffic. In cases not specifically covered, the Town Board or officer with jurisdiction to approve the application is authorized to determine the parking requirements and projected development use intensity. Existing parking standards are to be used as a guide where applicable to ensure that a sufficient number of parking spaces are provided to accommodate the number and type of vehicles attracted to the development during peak parking demand times.
 - d. When determination of the number of parking spaces required

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results in a requirement of a fractional space, any fraction of 1/2 or less may be disregarded, while a fraction in excess of 1/2 is counted as one parking space. [Amended 9-26-2011 by Ord. No. 11-15]

Use	Parking Spaces Required
Automobile, truck and tractor repair and filling station	<ul style="list-style-type: none"> ▪ 1 parking space for each regular employee plus 1 space for each 200 square feet of floor area used for service work
Dwellings	<ul style="list-style-type: none"> ▪ 2 vehicle spaces per each dwelling unit
Age-Restricted Housing	<ul style="list-style-type: none"> ▪ 1.5 parking spaces for each dwelling unit with 2 or fewer bedrooms ▪ 2 parking spaces for each dwelling unit with more than 2 bedrooms
Residential Care facilities	<ul style="list-style-type: none"> ▪ 1 parking space per dwelling unit ▪ 0.65 parking spaces per residential care unit
Motels, hotels, tourist homes, rooming houses, or other rooming spaces associated with a permitted use	<ul style="list-style-type: none"> ▪ 1 parking space for each rental unit plus 1 space for each 100 square feet of meeting room
Schools	
Nursery school and day-care facilities	<ul style="list-style-type: none"> ▪ 1 space for every 100 square feet of gross floor area used as school area
Elementary and junior high schools	<ul style="list-style-type: none"> ▪ 1 parking space for each adult employee, plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment
Senior high schools	<ul style="list-style-type: none"> ▪ 1 parking space for each adult employee, plus 20 parking spaces for each 100 students or major fraction thereof of total enrollment
Marinas and other water-oriented recreational facilities	
With launching facilities	<ul style="list-style-type: none"> ▪ 3 parking spaces for every 2 slips or moorings, arranged for trailers
Without launching facilities	<ul style="list-style-type: none"> ▪ 1 parking space for each slip or mooring
Hospitals	<ul style="list-style-type: none"> ▪ 1 parking space per each three beds
Long-term nursing care facilities and convalescent care facilities	<ul style="list-style-type: none"> ▪ 1 parking space for each 4 beds
Theaters, auditoria, churches and arenas	<ul style="list-style-type: none"> ▪ 1 parking space for each 4 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed

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Use	Parking Spaces Required
	seats
Mortuary chapels	<ul style="list-style-type: none"> ▪ 5 parking spaces for each chapel
Retail stores and financial institutions	<ul style="list-style-type: none"> ▪ 1 parking space for each 175 square feet of gross floor area
Bowling alley	<ul style="list-style-type: none"> ▪ 4 parking spaces for each bowling lane
Drive-in restaurants, snack bars and fast food outlets	<ul style="list-style-type: none"> ▪ Minimum 15 parking spaces, plus 1 space for each three seats. Seating is calculated by dividing the total floor area with customer access by 15
Restaurant	<ul style="list-style-type: none"> ▪ 1 parking space for each three seats. Seating is calculated by dividing the total floor area with customer access by 15
Offices, professional and public buildings	<ul style="list-style-type: none"> ▪ 2 parking spaces for each office unit plus 1 space for each 250 square feet of gross floor area
Convenience stores or neighborhood grocery facilities	<ul style="list-style-type: none"> ▪ 6 spaces in the rural residential zone; all other zones, 10 parking spaces
Mobile home	<ul style="list-style-type: none"> ▪ 2 vehicle spaces per each mobile home
Transportation terminals	<p>In addition to meeting all applicable standards as enumerated above, transportation terminals must meet the following:</p> <ul style="list-style-type: none"> ▪ 1 parking space for each employee; ▪ 1 parking space for each three seats of the terminal's major carrier vehicle; and ▪ 1 parking space for each rented vehicle to be based on site
Warehouse and storage	<ul style="list-style-type: none"> ▪ 1 parking space for each 500 square feet of gross floor area except that portion of such facility which is used for retail sales and display or office area, which adds additional parking in accordance with the standards for those uses
Industry, manufacturing and business	<ul style="list-style-type: none"> ▪ 1 parking space for each 500 square feet of floor area, or major fraction thereof, or 1.1 spaces per employee on the maximum shift, for that part of every business, manufacturing and industrial building not catering to retail trade
Bus parking	<ul style="list-style-type: none"> ▪ For each 25,000 square feet of gross floor area, retail business must provide one bus parking area. Said area(s) are to be 12 feet by 50 feet in dimension, marked on the

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Use	Parking Spaces Required
	parking lot surface and labeled as such. Bus parking must be located in the parking area as far from the store entrance(s) as possible

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- e. A parking area is allowed in the Resource Protection Overlay Zone only where no reasonable alternative route or location is available outside the Resource Protection Overlay Zone, in which case a permit or Site Plan or Subdivision plan approval is required by the Planning Board.
- f. A parking area must meet the wetland and water body setback requirements for structures for the district in which such areas are located, per Table 16.5.28, Minimum Setback from Wetlands and Water Bodies; except, in the Commercial Fisheries/Maritime Uses Overlay Zone, parking area must be set back at least 25 feet from the normal high-water line or the upland edge of a wetland. The setback requirement for a parking area serving public boat-launching facilities, in zones other than the Commercial, Business-Local, Residential-Urban Zones, and the Commercial Fisheries/Maritime Uses Overlay Zone, may be reduced to no less than 50 feet from the normal high-water line or upland edge of a wetland if the Planning Board finds no other reasonable alternative exists.
- g. Parking landscaping is required for parking areas containing 10 or more parking spaces and must have at least one tree per eight spaces. Such trees are to be located either within the lot or within five feet of it. Such trees are to be at least 1 1/2 inches in diameter, with no less than 25 square feet of unpaved soil or permeable surface area per tree. At least 10% of the interior of any parking area having 25 or more spaces is to be maintained with landscaping, including trees, in plots of at least five feet in width.
- h. Required off-street parking in all residential districts is to be located on the same lot as the principal building or use, except that where it cannot reasonably be provided on the same lot, the Board of Appeals may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses served, as measured along lines of public access. Such parking areas must be held under the same ownership or lease as the residential uses served, and evidence of such control or lease is required. Leases obtained for this purpose must be reviewed by the Town Attorney at the developer's expense and include requirement for notice to the Town upon termination of lease. Approval for uses dependent on such lease is terminated upon termination of the lease.
- i. If parking spaces are provided for employees, customers or

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visitors, then accessible parking spaces must be included in each such parking area in conformance with the following table:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

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- i. Each accessible parking space must contain a rectangular area at least 19 feet long and eight feet wide with access to a designated and marked five-foot-wide aisle. All required accessible parking spaces are to be identified by a vertical sign displaying the international symbol of accessibility; pavement marking alone is not adequate to identify accessible parking spaces.
- ii. The total number of accessible parking spaces is to be distributed to serve the various accessible entrances as well as possible.
- iii. At least one accessible route is to connect from each accessible parking space to the accessible building entrance.
- j. Required off-street parking in all commercial, business and industrial zones must be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access; except that, where off-street parking cannot be provided within these limits, the Board of Appeals may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access. Such parking areas must be held under the same ownership or lease, and evidence of such control or lease is required. Such lots must be located within business or industrial districts.
- k. The Planning Board or Board of Appeals may, in specific cases of hardship, reduce the requirements for off-street parking where it is

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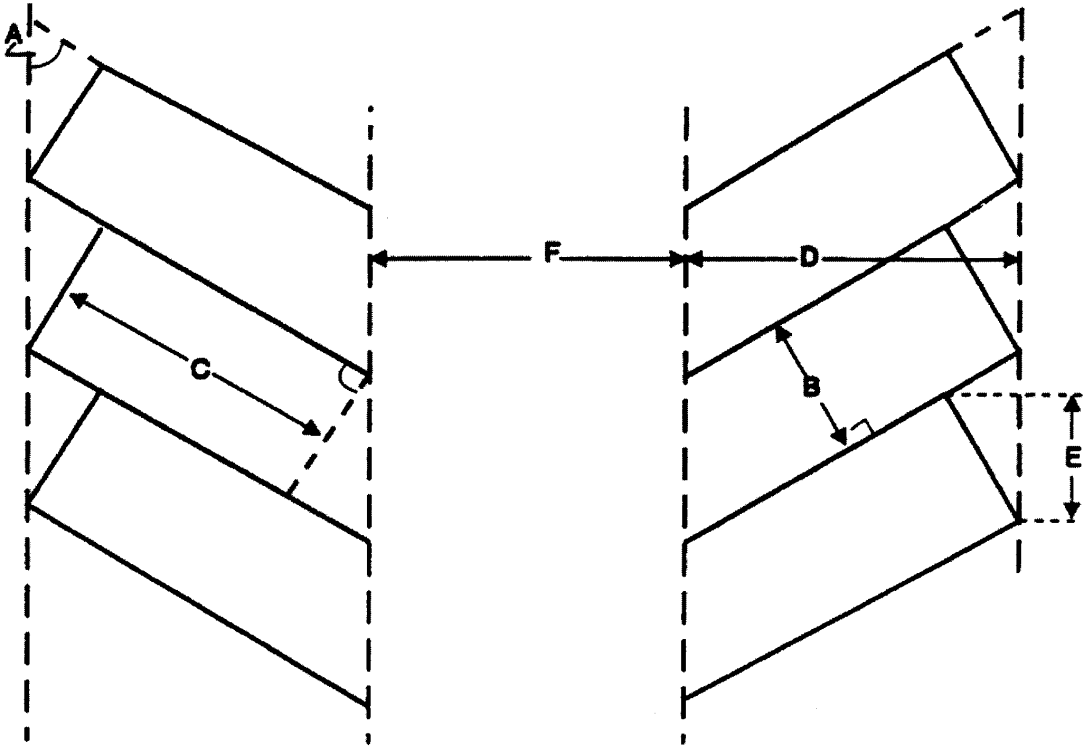
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clearly demonstrated that such reduction will not detract from neighborhood values, inconvenience the public or increase congestion in the streets.

1. The Planning Board or Board of Appeals may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

Table 16.7.11.F Parking Space Design (minimum dimensions) (Dimensions in feet unless otherwise indicated.)							
	A	B	C	D	E	F	
						(Aisle Width)	
To curb	Angle (degrees)	Stall Width	Stall Depth	Stall to Curb	Skew Width	One-Way Traffic	Two-Way Traffic
Parallel	0	9	22	9.0	22.0	13	19
Diagonal	30	9	19	17.3	18.0	11	20
Diagonal	45	9	19	19.8	12.9	13	21
Diagonal	60	9	19	21.0	10.5	18	23
Perpendicular	90	9	19	19.0	9.0	24	24

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G. Utilities

- (1). Approval.
The size, type and location of public utilities, such as streetlights, electricity, telephone, cable television, natural gas lines, fire hydrants, water and sewer lines, etc., must be approved by the Board and installed in accordance with accepted engineering practice.
- (2). Underground installation.
Utilities, where feasible, are to be installed underground. The Board must require the developer to adopt a prudent avoidance approach when aboveground electrical installations are approved.

H. Exterior Lighting [Amended 3-25-2013 by Ord. No. 13-01]

- (1). General requirements.
All new or revised exterior lighting, including the replacement or modification of existing lighting fixtures that result in a change in the lighting characteristics of the fixture, must be designed to provide only the minimum lighting necessary to ensure adequate vision, safety and comfort and may not cause glare beyond the limits of the property boundaries. New and replacement exterior lighting must conform to the current recommended practices of the Illuminating Engineering Society of North America (IESNA) unless more restrictive requirements are established by this article. Exterior lighting should also be consistent with the Design Handbook. When the lamps or bulbs of existing lighting installations are

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1801 replaced, the replacements must conform to the requirements of IESNA
1802 and this article to the extent reasonable.

1803 (2). Lighting fixtures.

1804 All new or replacement exterior lighting fixtures and installations for
1805 multifamily housing and nonresidential uses other than outdoor sports and
1806 recreational facilities that are located outside the right-of-way of a public
1807 street must meet the following standards:

1808 a. Lighting fixtures mounted on masts or poles must be cutoff
1809 fixtures except for period or historical fixtures meeting the
1810 provisions of Subsection **g** of this section.

1811 b. Floodlighting or other directional lighting may be used for
1812 supplemental illumination of sales or storage areas, provided that
1813 the floodlights are installed no higher than 12 feet above ground
1814 level, are aimed to avoid the source of the light being seen from
1815 adjacent streets or properties, and utilize lamps with an initial
1816 lumen rating not exceeding 39,000 lumens. The Town has the right
1817 to inspect the completed lighting installation and, if floodlights are
1818 used, to require that the floodlights be re-aimed or fitted with face
1819 louvers if necessary to control direct brightness or glare.

1820 c. Except for ornamental lighting fixtures that utilize lamps with
1821 initial lumen ratings of 8,500 lumens or less, wall-mounted
1822 building lights must include full-face shielding consisting of either
1823 a solid panel or full-face louvers. Exposed lamps, reflectors or
1824 refractors may not be visible from any part of the fixture except the
1825 bottom light-emitting surface.

1826 d. Light fixtures located on or within canopies must be recessed into
1827 the ceiling of the canopy so that the lamp, reflector and lens are not
1828 visible from public streets. Fixtures must limit the direction of light
1829 as required for a cutoff fixture. Refractors or diffusing panels that
1830 are dropped below the canopy ceiling surface are not permitted.

1831 e. Light fixtures must be mounted at the lowest level that allows
1832 reasonable compliance with IESNA-recommended practices and
1833 the provisions of this article.

1834 i. In approving new or modified lighting, the Planning Board
1835 may permit a maximum light fixture height for pole-
1836 mounted or mast-mounted light fixtures located between
1837 the building and the front lot line of not more than 15 feet,
1838 unless the applicant demonstrates that a higher height is
1839 necessary to allow reasonable compliance with the lighting
1840 standards and the Planning Board finds that no practicable
1841 alternative for lighting of the site exists.

1842 ii. The Planning Board may permit a maximum light fixture
1843 height for pole-mounted or mast-mounted light fixtures for
1844 other areas of the site of not more than 20 feet, unless the
1845 applicant demonstrates that a higher height is necessary to

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- 1846 allow reasonable compliance with the lighting standards
1847 and the Planning Board finds that no practicable alternative
1848 for lighting of that area of the site exists.
- 1849 iii. The maximum light fixture height for building-mounted
1850 light fixtures is the equivalent of that allowed for a pole-
1851 mounted light illuminating the same area. See the Design
1852 Handbook for examples of acceptable lighting installations.
- 1853 f. Lamps in exterior light fixtures must be incandescent, metal halide,
1854 high-pressure sodium, compact fluorescent or light-emitting diode
1855 (LED). This provision does not prohibit the use of fluorescent
1856 lamps in internally lighted signs where such signs are otherwise
1857 permitted, provided such signs meet the requirements of this
1858 article. See the Design Handbook for appropriate examples of
1859 signs. With the use of LED lighting, the applicant is required to
1860 demonstrate that standards within this article are met and/or meet
1861 comparable accepted standards for LED exterior lighting. Required
1862 photometric test reports for LED lighting must be based on the
1863 IESNA LM-79-08 test procedure.
- 1864 g. Period or historical fixtures that do not meet the requirements of
1865 this section may be used as an alternative to cutoff fixtures,
1866 provided the maximum initial lumens generated by each fixture
1867 does not exceed 2,000. The maximum initial lumens for metal
1868 halide lamps may be increased to 8,500 if the lamp is internally
1869 recessed within the fixture or is shielded by internal louvers or
1870 refractors. The mounting height of period or historical fixtures may
1871 not exceed 12 feet above the adjacent ground. See the Design
1872 Handbook for examples.
- 1873 h. State and national flags that are flown on flagpoles may be
1874 illuminated by ground-mounted lighting that shines vertically as
1875 long as exposed lamps, reflectors or refractors are not visible from
1876 any public street.
- 1877 (3). Illumination standards for nonresidential uses and multifamily housing.
1878 New or revised exterior lighting serving nonresidential uses and
1879 multifamily housing must conform to the following standards:
- 1880 a. The illumination of access drives must provide for a uniformity
1881 ratio of not more than 4:1 (ratio of average to minimum
1882 luminance). The illumination of parking lots and outdoor sales and
1883 service areas must provide for a uniformity ratio of not more than
1884 20:1 (ratio of maximum to minimum luminance).
- 1885 b. The maximum illumination level within access drives, parking lots
1886 and sales and service areas may not exceed eight footcandles
1887 measured at the ground surface.
- 1888 c. The maximum illumination level at the property line of a
1889 nonresidential or multifamily housing use with abutting properties
1890 in a residential district may not exceed 0.1 footcandle.

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- 1891 d. Areas directly under canopies must be illuminated so that the
- 1892 uniformity ratio (ratio of average to minimum luminance) will be
- 1893 not greater than 3:1 with an average illumination level at ground
- 1894 level of not more than 30 footcandles. Areas of access drives,
- 1895 parking lots, sales display areas, etc., which are adjacent to
- 1896 canopies must taper down in illumination level from the
- 1897 illumination level permitted under the canopy to the maximum
- 1898 illumination level permitted in Subsection **b** of this section for the
- 1899 access drive, parking lot or sales display area adjacent to the
- 1900 canopy within a horizontal distance equivalent to the height of the
- 1901 canopy.
- 1902 e. The maximum illumination levels and uniformity ratios for areas
- 1903 other than parking lots, access drives and canopies must be
- 1904 consistent with IESNA-recommended practices and be compatible
- 1905 with the overall lighting of the project and be specifically approved
- 1906 by the Planning Board.
- 1907 f. Illuminated signs must not produce glare and are otherwise
- 1908 governed by § 16.7.11.H of this chapter.
- 1909 (4). Illumination standards for outdoor sports and recreational facilities.
- 1910 New or revised exterior lighting serving sports fields and outdoor
- 1911 recreational facilities, including commercial recreational uses, must
- 1912 conform to the following standards:
 - 1913 a. Such fields and facilities may be illuminated for use during
 - 1914 daylight hours and until 10:00 p.m. unless the Planning Board
 - 1915 specifically approves a later time based upon the applicant
 - 1916 demonstrating that such later time is needed for the reasonable
 - 1917 operation of the facility and will be compatible with and will not
 - 1918 result in adverse impacts on neighboring properties. If a later hour
 - 1919 is approved, the Planning Board may impose conditions on the
 - 1920 approval, including provisions for the periodic review of the time
 - 1921 limit.
 - 1922 b. The illumination levels and mounting heights of the lighting
 - 1923 fixtures may not exceed the minimum necessary to provide
 - 1924 reasonable illumination for the proposed use consistent with
 - 1925 IESNA-recommended practices.
 - 1926 c. The maximum illumination level at the property line of the use
 - 1927 with abutting properties in a residential district may not exceed 0.1
 - 1928 footcandle.
- 1929 (5). Illumination standards for single- and two-family residential uses.
- 1930 New or revised exterior lighting serving single- and two-family residential
- 1931 uses must be located and designed so that it does not result in excessive
- 1932 illumination levels on adjoining properties such as to amount to a public or
- 1933 private nuisance and must be compatible with the zone requirements in the
- 1934 neighborhood in which it is located. A maximum illumination level at the
- 1935 property line of more than 0.1 footcandle is considered to be excessive if

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1936 the lighting level is in dispute. In the case of a major home occupation, the
1937 application must include a lighting plan meeting the requirements of
1938 § 16.7.10.D(3)g.

1939 I. Prevention of erosion

1940 [Amended 9-26-2011 by Ord. No. 11-15; 10-26-2015 by Ord. No. 15-12]

1941 (1). No person may perform any act or use the land in a manner which would
1942 cause substantial or avoidable erosion, create a nuisance, or alter existing
1943 patterns of natural water flow in the Town. This does not affect any
1944 extractive operations complying with the standards of performance
1945 specified elsewhere in this title.

1946 a. When an excavation contractor, as defined in § 16.3, performs an
1947 activity that requires or results in more than one cubic yard of soil
1948 disturbance within the Shoreland or Resource Protection Overlay
1949 Zones, there must be a person responsible for management of
1950 erosion and sedimentation control practices on site, and that person
1951 must be certified in erosion control practices by the Maine
1952 Department of Environmental Protection. This person must be
1953 present at the site each day earthmoving activity occurs for a
1954 duration that is sufficient to ensure that proper erosion and
1955 sedimentation control practices are followed. This is required until
1956 erosion and sedimentation control measures have been installed,
1957 which will either stay in place permanently or stay in place until
1958 the area is sufficiently covered with vegetation necessary to
1959 prevent soil erosion. The name and certification number of the
1960 person who will oversee the activity causing or resulting in soil
1961 disturbance must be included on the permit application. Excavation
1962 contractors will have one year from the date of the adoption of this
1963 subsection to comply with certification requirements.

1964 b. The above requirement of § 16.7.11.I(1)a does not apply to a
1965 property owner performing work themselves, or a person or firm
1966 engaged in agriculture or timber harvesting when best management
1967 practices for erosion and sedimentation control are used.

1968 c. The above requirement of § 16.7.11.I(1)a only applies to regulated
1969 activities requiring local, state or federal permits and/or Planning
1970 Board approval.

1971 (2). All development must generally comply with the provisions of the
1972 "Environmental Quality Handbook, Erosion and Sediment Control,"
1973 published by the Maine Soil and Water Conservation Commission.

1974 a. The developer must:

1975 i. Select a site with the right soil properties, including natural
1976 drainage and topography, for the intended use;

1977 ii. Utilize for open space uses those areas with soil unsuitable
1978 for construction;

1979 iii. Preserve trees and other vegetation wherever possible;

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- iv. Hold lot grading to a minimum by fitting the development to the natural contour of the land; avoid substantial areas of excessive grade;
 - v. Spread jute matting, straw or other suitable material during construction in critical areas subject to erosion;
 - vi. Construct sediment basins to trap sediment from runoff waters during development; expose as small an area of subsoil as possible at any one time during development and for as short a period as possible;
 - vii. Provide for disposing of increased runoff caused by changed land formation, paving and construction, and for avoiding sedimentation of runoff channels on or off the site;
 - viii. Plant permanent and, where applicable, indigenous, vegetation and install structures as soon as possible for the purpose of soil stabilization and revegetation;
- b. All logging or woodlot roads must be located, constructed and maintained in conformance with the erosion prevention provisions of "Permanent Logging Roads for Better Woodlot Management," published by the United States Department of Agriculture.
- (3). Where the Board has required a stormwater management and erosion control plan, said plan must be endorsed by the York County Soil and Water Conservation District or found satisfactory by the Town's Engineering Peer Reviewer.
- (4). All activities which involve filling, grading, excavation or other similar activities that potentially may result in unstable soil conditions, and which require a permit, must be made known in a written soil erosion and sedimentation control plan in accordance with the "Maine Erosion and Sediment Control Practices Field Guide for Contractors," 2015, and as amended. The plan must be submitted to the permitting authority for approval and must include, where applicable, provisions for:
- a. Mulching and revegetation of disturbed soil;
 - b. Temporary runoff control features, such as straw bales, silt fencing, filter socks or diversion ditches;
 - c. Permanent stabilization structures, such as retaining walls or riprap.
- (5). To create the least potential for erosion, development must be designed to fit with the topography and soil of the site. Areas of steep slopes where high cuts and fills may be required are to be avoided wherever possible, and natural contours must be followed as closely as possible.
- (6). Erosion and sedimentation control measures apply to all aspects of the proposed project involving land disturbance and must be in operation during all stages of the activity. The amount of exposed soil at every phase of construction must be minimized to reduce the potential for erosion.

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- (7). Any exposed ground area must be temporarily or permanently stabilized in accordance with the "Maine Erosion and Sediment Control Practices Field Guide for Contractors," 2015, and as amended. All erosion control measures that are no longer necessary as determined by the CEO or Shoreland Resource Officer must be removed at the owner's expense.
- (8). Natural and man-made drainageways and drainage outlets must be protected from erosion from water flowing through them. Drainageways must be designed and constructed in order to carry water from a twenty-five-year storm or greater and be stabilized with vegetation or lined with riprap.
- J. Water quality and wastewater pollution
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- (1). No activity is allowed to deposit on or into the ground or discharge to any river, stream or brook, pond, or wetland any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body.
- (2). Wastewater to be discharged into Kittery Sewer Department sewers, should they be available, must be in such quantities and/or of such quality as to be compatible with standards established by the municipality or the Sewer Department.
- (3). To meet those standards, the municipality or Sewer Department may require that such wastes undergo pretreatment or full treatment at the site in order to render them acceptable for the treatment processes.
- (4). The disposal of wastewater by means other than a public system must comply with the laws of the State of Maine and the Town concerning water pollution. Where a public sanitary sewer system is located within 200 feet of the property line as measured along a public way, the Town requires individual entrance into said sewer.
- (5). Discharge of sanitary wastes to any water body is subject to the issuance of Maine State Department of Environmental Protection licenses, but no such off-site discharge will be allowed unless same is buried or not visible to a point below normal low water and is secured against damage and uncovering by the tides, erosion or other foreseeable action.
- (6). Flood prone areas must be identified on plan submissions, and based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant.
- (7). If the proposed development, or any part of it, is in such an area, the applicant must determine the one-hundred-year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one-hundred-year flood elevation.
- K. Air pollution

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2067 All air pollution control shall comply with the minimum state requirements,
2068 and detailed plans shall be submitted to the State of Maine Department of
2069 Environmental Protection for approval before a building/regulated activity
2070 permit is granted. In any case, no objectionable odor, dust or smoke shall be
2071 detectable beyond the property line.

2072 L. Noise abatement

- 2073 (1). Excessive noise at unreasonable hours shall be controlled so as not to be
2074 objectionable due to intermittence, beat frequency, shrillness or volume.
- 2075 (2). The maximum permissible sound pressure level of any continuous, regular
2076 or frequent source of sound produced by any activity regulated by this title
2077 shall be as established by the time period and type of land use district
2078 listed below. Sound pressure levels shall be measured at all major lot lines
2079 at a height of at least four feet above the ground surface. Sound from any
2080 source controlled by this title shall not exceed the following limits at the
2081 property line of the "receiver" premises.

2082

Sound Pressure Level Limit Measured in dBs		
Districts	7:00 a.m. to 9:00 p.m.	9:00 p.m. to 7:00 a.m.
Industrial	65	60
Commercial and Business	60	50
Residential Districts, Kittery Foreside District, Badgers Island District, Rural Conservation and Resource Protection	55	45

- 2083
- 2084 a. Where the emitting and receiving premises are in different zones,
2085 the limits governing the stricter zone shall apply to any regulated
2086 noise entering that zone.
- 2087 b. The levels specified may be exceeded by 10 dB for a single period
2088 no longer than 15 minutes in any one day.
- 2089 (3). Noise shall be measured with a sound level meter meeting the standards of
2090 the American National Standards Institute (ANSI S1.4-1961, American
2091 Standard Specification for General Purpose Sound Level Meters). The
2092 instrument shall be set to the A-weighted response scale and the meter to
2093 the slow response. Measurements shall be conducted in accordance with
2094 ANSI S1.2-1962, American Standard Meter for the Physical
2095 Measurements of Sound.
- 2096 (4). No person shall engage in, cause or permit to be engaged in construction
2097 activities producing excessive noise on a site abutting any residential use
2098 between the hours of 9:00 p.m. on one day and 7:00 a.m. of the following
2099 day. Construction activities shall be subject to the maximum permissible
2100 sound level specified for commercial districts for the periods within which
2101 construction is to be completed pursuant to any applicable
2102 building/regulated activity permit.

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- 2103 (5). The following uses and activities shall be exempt from the sound pressure
2104 level regulations:
- 2105 a. Home maintenance activities (i.e., mowing lawns, cutting one's
2106 own firewood, etc.) between the hours of 7:00 a.m. and 9:00 p.m.;
 - 2107 b. Timber harvesting (felling trees and removing logs from the
2108 woods);
 - 2109 c. Noise created by construction and maintenance activities between
2110 7:00 a.m. and 9:00 p.m.;
 - 2111 d. The noises of safety signals, warning devices and emergency
2112 pressure relief valves and any other public emergency activity; and
 - 2113 e. Traffic noise on existing public roads, railways or airports.
- 2114 (6). These noise regulations are enforceable by law enforcement officers and
2115 by the Code Enforcement Officer (who may measure noise levels, and
2116 who shall report documented violations to the police). For the purposes of
2117 enforcement, sounds exceeding the above limits shall be deemed to
2118 constitute "loud and unreasonable noise" under Title 17-A M.R.S. § 501-A
2119 ("disorderly conduct").

2120 M. Radiation

2121 No dangerous radiation shall be detectable at the property line, in
2122 accordance with the applicable state and federal laws. In the case of
2123 electromagnetic pulses emanating from electrical service components, the
2124 Planning Board or Director of Planning and Development shall require the
2125 developer to adopt a "prudent avoidance" approach, wherever possible.

2127 N. Utilization of the Site

- 2128 (1). The plan for the development shall reflect the natural capabilities of the
2129 site to support development. Buildings, lots, and support facilities shall be
2130 clustered in those portions of the site that have the most suitable
2131 conditions for development. Environmentally sensitive areas, including
2132 but not limited to, wetlands, steep slopes, floodplains, significant wildlife
2133 habitats, fisheries, scenic areas, habitat for rare and endangered plants and
2134 animals, unique natural communities and natural areas, and sand and
2135 gravel aquifers shall be maintained and preserved to the maximum extent.
2136 Natural drainage areas shall also be preserved to the maximum extent. The
2137 development shall include appropriate measures for protecting these
2138 resources, including but not limited to, modification of the proposed
2139 design of the site, timing of construction, and limiting the extent of
2140 excavation.

2141 O. Storage of Materials

- 2142 (1). Exposed nonresidential storage areas, exposed machinery, and areas used
2143 for the storage or collection of discarded automobiles, auto parts, metals or
2144 other articles of salvage or refuse shall have sufficient setbacks and
2145 screening (such as a stockade fence or a dense evergreen hedge) to provide

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- 2146 a visual buffer sufficient to minimize their impact on abutting residential
2147 uses and users of public streets.
- 2148 (2). All dumpsters or similar large collection receptacles for trash or other
2149 wastes shall be located on level surfaces which are paved or graveled. The
2150 dumpster or receptacle shall be screened by fencing or landscaping.
- 2151 (3). Where a potential safety hazard to children is likely to arise, physical
2152 screening sufficient to deter small children from entering the premises
2153 shall be provided and maintained in good condition.
- 2154 P. Technical and Financial Capacity
- 2155 (1). Financial Capacity. The applicant shall have adequate financial resources
2156 to construct the proposed improvements and meet the criteria of the
2157 standards of these regulations. In making its determination the Planning
2158 Board shall consider all relevant evidence to the effect that the developer
2159 has the financial capacity to construct, operate, and maintain all aspects of
2160 the development.
- 2161 (2). Technical Capacity. The applicant shall retain qualified contractors and
2162 consultants to supervise, construct and inspect the required improvements
2163 in the proposed site plan.
- 2164 a. In determining the applicant's technical ability the Planning Board
2165 shall consider the applicant's previous experience, the experience
2166 and training of the applicant's consultants and contractors, and the
2167 existence of violations of previous approvals granted to the
2168 applicant.

16.7.12 Post-Approval

- 2169 A. Approved plan expiration. [Amended 1-28-2015 by Ord. No. 15-01]
- 2170
- 2171 (1). A Site Plan approval will expire if work has not commenced within one
2172 year from the date of Planning Board or Director of Planning and
2173 Development approval. Where work has commenced within one year of
2174 such approval, the approval will expire if work is not complete within two
2175 years of the original date of approval.
- 2176 (2). Prior to expiration, the Planning Board or Director of Planning and
2177 Development may, on a case-by-case basis, grant extensions to an
2178 approved plan expiration date upon written request by the developer for an
2179 inclusive period from the original approval date, not to exceed three years.
- 2180 (3). When a plan's approval expires, the applicant may reapply subject to the
2181 Town Code current at the time of reapplication.
- 2182 B. Inspection of required improvements.
- 2183 [Amended 9-28-2015 by Ord. No. 15-08]
- 2184 (1). A preconstruction meeting is required for an approved Site Plan. Prior to
2185 the commencement of any work associated with development approved in
2186 accordance with this title, the developer or duly authorized representative
2187 must provide a schedule of expected construction activities by phase to the

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- 2188 inspecting official [the Code Enforcement Officer (CEO) or their
2189 representative or, when applicable, the Town's Peer Review Engineer],
2190 and coordinate a preconstruction meeting. Attendance at said meeting
2191 must at a minimum include authorized representation from the Town, the
2192 developer and their general contractor. Meeting minutes must be prepared
2193 by the Town's representative and distributed to all attendees and the Town
2194 Planner.
- 2195 (2). The developer or general contractor shall coordinate inspections with the
2196 inspecting official and provide written notice at least seven days prior to
2197 commencing each major phase of construction as outlined in the
2198 construction schedule. When all phases of work are complete, the general
2199 contractor shall request a final inspection from the inspecting official, who
2200 shall prepare a punch list of any outstanding items to be completed, within
2201 seven days of the final inspection. Once all outstanding items have been
2202 completed, the developer or the general contractor shall coordinate a final
2203 walk-through where the inspecting official determines if the construction
2204 has been completed in accordance with the approved plans. The inspecting
2205 official shall provide, in writing, to the developer or the general contractor
2206 within seven days of the final walk-through what, if any, construction is
2207 not complete or confirm that the development is complete and has been
2208 constructed according to the approved plans.
- 2209 (3). If the inspecting official finds, upon inspection of the required
2210 improvements, that any of the required improvements have not been
2211 constructed in accordance with the approved plans and specifications, the
2212 inspecting official must report, in writing, to the Town Planner, the
2213 developer or duly authorized representative of the developer, and, when
2214 applicable, the CEO. The Town Planner shall inform the Planning Board
2215 of any issues identified by the inspections. The Town shall take any steps
2216 necessary to preserve the municipality's rights.
- 2217 (4). Where applicable and in advance of any construction, the developer must
2218 deposit sufficient funds for said inspections in an applicant's service
2219 account per Chapter 3.3. The amount is based on a scope of services and
2220 fee prepared by the Town's Peer Review Engineer after review of the
2221 developer's construction estimate prepared by a professional engineer or a
2222 qualified contractor.
- 2223 (5). Stormwater and erosion control inspection.
- 2224 a. During October to November of each year in which construction
2225 for grading, paving and landscaping occurs on a development site,
2226 the Town will, at the expense of the developer, cause the site to be
2227 inspected by a qualified individual. By December 1, the inspector
2228 must submit a site report to the Town Planner that describes the
2229 inspection findings and indicates whether stormwater and erosion
2230 control measures (both temporary and permanent) are in place and
2231 properly installed. The report must include a discussion and
2232 recommendation on any and all problem areas encountered.

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- 2233 b. After major construction activities have been completed on a
2234 development site, the developer must, on or by July 1 of each year,
2235 provide a completed and signed certification to the Code
2236 Enforcement Officer per § 16.7.11.E, Post-construction stormwater
2237 management.
- 2238 c. Erosion control debris. The owner or occupant of any land in any
2239 zone must not allow erosion control materials, such as plastic
2240 erosion control fences and related stakes or other materials, to
2241 remain on the site but must remove the same within six months of
2242 the date such erosion control materials were installed, or the date
2243 when no longer required, whichever is later. When a violation is
2244 discovered, the Code Enforcement Officer will order compliance
2245 by written notice of violation to the owner of any land in any zone
2246 requesting removal of such violation within 30 days of the date of
2247 written notice. An extension of time to correct may be made by the
2248 Code Enforcement Officer for good and sufficient reason.
- 2249 C. Plan revisions after approval.
- 2250 No changes, erasures, modifications or revisions may be made to any
2251 Planning Board approved Final Plan, unless in accordance with the Planner's
2252 and CEO's powers and duties as found in § 16.2, or unless the plan has been
2253 resubmitted and the Planning Board specifically approves such
2254 modifications. In the event a Final Plan is recorded without complying with
2255 this requirement, the same is null and void, and the Planning Board must
2256 institute proceedings to have the plan stricken from Town records and the
2257 York County Registry of Deeds. [Amended 9-26-2011 by Ord. No. 11-15]
- 2258 (1). Field changes. [Amended 9-24-2012 by Ord. No. 12-11]
- 2259 a. If at any time before or during the construction of the required
2260 improvements it appears to be necessary or desirable to modify the
2261 required improvements, the Code Enforcement Officer and Town
2262 Planner are authorized to approve minor plan amendments due to
2263 unforeseen field circumstances, such as encountering hidden
2264 outcrops of bedrock, natural springs, etc. The Code Enforcement
2265 Officer and Town Planner must issue any approval under this
2266 subsection in writing and transmit a copy of the approval to the
2267 Planning Board. Revised plans must be filed with the Town and
2268 recorded, where appropriate. The developer must provide the
2269 revised plan to the Town Planner, and it shall be recorded in the
2270 York County Register of Deeds when applicable.
- 2271 (2). Modifications to approved plan.
- 2272 a. Minor modifications. Modifications to an approved plan that do
2273 not require review per § 16.7.2.B may be approved by the Code
2274 Enforcement Officer and Town Planner. Such approvals must be
2275 issued in writing to the developer with a copy to the Planning
2276 Board. The developer must provide the revised plan to the Town
2277 Planner, and it shall be recorded in the York County Register of

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2278 Deeds, when applicable. [Amended 9-24-2012 by Ord. No. 12-11]
2279 b. Major modifications. Major modifications (e.g., relocations of
2280 principal structures, rights-of-way or property boundaries; changes
2281 of grade by more than 1%) require Planning Board or Director of
2282 Planning and Development approval.

2283 D. Maintenance of improvements.

2284 The developer, or owner, is required to maintain all improvements and
2285 provide for snow removal on streets and pedestrianways/sidewalks unless
2286 and until the improvement has been accepted by the Town Council.

2287 E. Acceptance of Streets and Ways

2288 (1). Conditions. A street or way constructed on private lands by the owner(s)
2289 thereof and not dedicated for public travel prior to the enactment of this
2290 title must be laid out and accepted as a public street or way by the Town
2291 Council only upon the following conditions:

2292 a. The owners must give the Town a deed to the property within the
2293 boundaries of the street at the time of acceptance by the Town.

2294 b. A plan of said street or way must be recorded in the York County
2295 Registry of Deeds at the time of its acceptance.

2296 c. A petition for laying out and acceptance of said street or way must
2297 be submitted to the Town Council upon a form prescribed by the
2298 Commissioner of Public Works. Said petition must be
2299 accompanied by a plan, profile and cross section of said street as
2300 follows:

2301 i. A plan drawn, when practical, to a scale of 40 feet to one
2302 inch and to be on one or more sheets of paper not
2303 exceeding 24 inches by 36 inches in size. Said plan must
2304 show the North point; the location and ownership of all
2305 adjoining lots of land; rights-of-way and easements;
2306 streetlights and electric lines; boundary monuments;
2307 waterways, topography and natural drainage courses with
2308 contour at not greater than two-foot intervals; all angles,
2309 bearings and radii necessary for the plotting of said street
2310 and lots and their reproduction on the ground; the distance
2311 to the nearest established street or way, together with the
2312 stations of their side lines;

2313 ii. A profile of said street or way drawn to a horizontal scale
2314 of 40 feet to one inch and a vertical scale of four feet to one
2315 inch. Said profile must show the profile of the side lines
2316 and center line of said street or way and the proposed
2317 grades thereof. Any buildings abutting the street or way
2318 must be shown on said profile;

2319 iii. A cross section of said street or way drawn to a horizontal
2320 scale of five feet to one inch and a vertical scale of one foot

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- 2321 to one inch; and
- 2322 iv. The location and size of water and sewer mains and surface
- 2323 water drainage systems, as installed.
- 2324 (2). Such street or way must have been previously constructed in accordance
- 2325 with the standards and criteria established in § 16.5.25 of this chapter.
- 2326 (3). Acceptance of streets and ways required in public interest.
- 2327 a. Notwithstanding the provisions of any other section hereof, the
- 2328 Town may at any time lay out and accept any street or way in the
- 2329 Town as a public street or way of said Town whenever the general
- 2330 public interest so requires. The cost of said street or way may be
- 2331 borne by the Town.
- 2332 (4). Easements.
- 2333 a. The Board may require easements for sewerage, other utilities,
- 2334 drainage and stream protection. In general, easements may not be
- 2335 less than 20 feet in width. Wider easements may be required.
- 2336 (5). No street or way to be accepted until after report.
- 2337 a. No street or way may be laid out and accepted by the Town
- 2338 Council until the Planning Board and the Public Works
- 2339 Commissioner have made a careful investigation thereof and
- 2340 reported to the Town Council their recommendations in writing
- 2341 with respect thereto.
- 2342 b. Upon completion of construction of any street/road intended for
- 2343 proposal for acceptance as a Town way, a written certification that
- 2344 such way meets or exceeds the design and construction standards
- 2345 of this title, signed by a professional engineer registered by the
- 2346 State of Maine, prepared at the developer's expense, must be
- 2347 submitted to the Board. If underground utilities are laid in such
- 2348 way, the developer must also provide written certification from the
- 2349 servicing utility(ies), that such installation was in a manner
- 2350 acceptable to the utility. The Board is to review the proposal and
- 2351 forward a recommendation to the Town Council regarding
- 2352 acceptance.
- 2353 F. Recordkeeping in Shoreland and Resource Protection Overlay Zones.
- 2354 The Code Enforcement Officer is to keep a complete record of all essential
- 2355 transactions of development in the Shoreland and Resource Protection
- 2356 Overlay Zones, including applications submitted, permits granted or denied,
- 2357 variances granted or denied, revocation actions, revocation of permits,
- 2358 appeals, court actions, violations investigated, violations found, and fees
- 2359 collected. On a biennial basis, a summary of this record must be submitted
- 2360 to the Director of the Bureau of Land and Water Quality within the
- 2361 Department of Environmental Protection.
- 2362 G. Nonstormwater discharge.
- 2363 No person, except where exempted in § 16.5.18, may create, initiate,

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2364 originate, or maintain a nonstormwater discharge to the storm drainage
2365 system. Such nonstormwater discharges are prohibited notwithstanding the
2366 fact that the municipality may have approved the connections, drains or
2367 conveyances by which a person discharges unallowable nonstormwater
2368 discharges to the storm drainage system. [Amended 5-22-2017 by Ord. No.
2369 17-06; 5-30-2018 by Ord. No. 04-18]

2370 H. Nuisances.

2371 Any violation of this title is deemed to be a nuisance.

2372