

16.4 Land Use Zone Regulations

Contents

16.4 Land Use Zone Regulations	4-1
Contents	4-1
16.4.1 Purpose.....	4-2
16.4.2 Establishment of Zones	4-2
16.4.3 Base zones.....	4-2
16.4.4 Overlay zones.....	4-2
16.4.5 Zoning Map.....	4-2
16.4.6 Boundary line interpretation	4-3
16.4.7 Overlay zone	4-3
16.4.8 Zoning Map amendments to Resource Protection and Shoreland Overlay Zones	4-3
16.4.9 Prohibited uses	4-3
16.4.10 Residential – Rural (R-RL)	4-4
16.4.11 Residential – Suburban (R-S).....	4-8
16.4.12 Residential – Kittery Point Village (R-KPV).....	4-12
16.4.13 Residential – Urban (R-U)	4-15
16.4.14 Residential – Village (R-V).....	4-18
16.4.15 Residential – Rural Conservation (R-RC).....	4-21
16.4.16 Conservation (CON).....	4-24
16.4.17 Business – Local Zone (B-L)	4-26
16.4.18 Business – Local 1 (B-L1).....	4-32
16.4.19 Commercial 1, Route 1 Commercial Zone (C-1).....	4-38
16.4.20 Commercial 2, Route 236 Commercial Zone (C-2).....	4-45
16.4.21 Commercial 3, Bypass/Old Post Road Commercial Zone (C-3).....	4-51
16.4.22 Industrial (IND).....	4-58
16.4.23 Mixed-Use (MU).....	4-60
16.4.24 Mixed-Use – Badger Island (MU-BI)	4-71
16.4.25 Mixed-Use – Kittery Foreside (MU-KF)	4-77
16.4.26 Mixed-Use-Neighborhood MU-N.....	4-83
16.4.27 Transportation – Maine Turnpike T-MT.....	4-90
16.4.28 Shoreland Overlay Zone OZ-SL	4-91
16.4.29 Resource Protection Overlay Zone OZ-RP	4-95
16.4.30 Commercial Fisheries/Maritime Activities Overlay Zone OZ-CFMU	4-97

16.4.1 Purpose

The purpose of this chapter is to establish zones, uses, standards and dimensional requirements for the Town to implement the adopted Comprehensive Plan.

16.4.2 Establishment of Zones

To implement the provision of this title, the Town is divided into the following base and overlay zones:

16.4.3 Base zones

A. Residential – Rural	R-RL
B. Residential – Suburban	R-S
C. Residential – Kittery Point Village	R-KPV
D. Residential – Urban	R-U
E. Residential – Village	R-V
F. Residential – Rural Conservation	R-RC
G. Conservation	CON
H. Business – Local	B-L
I. Business – Local 1	B-L1
J. Commercial 1	C-1
K. Commercial 2	C-2
L. Commercial 3	C-3
M. Industrial	IND
N. Mixed-Use	MU
O. Mixed-Use – Badgers Island	MU-BI
P. Mixed-Use – Kittery Foreside	MU-KF
Q. Mixed Use – Neighborhood	MU-N
R. Transportation – Maine Turnpike	T-MT

16.4.4 Overlay zones

A. Shoreland Overlay Zones	
(1). Water Body/Wetland Protection Area – 250 feet	OZ-SL-250
(2). Stream Protection Area – 75 feet	OZ-SL-75
B. Commercial Fisheries/Maritime Uses Overlay Zone	OZ-CFMU
C. Resource Protection Overlay Zone	OZ-RP

16.4.5 Zoning Map

A. Zone boundaries

The location and boundaries of the zones are established as shown on the current Official Zoning Map titled "Town of Kittery Maine Land Use Zoning Map," as may be amended

by law. The Zoning Map with all explanatory matter thereon is hereby made part of this title and must be kept on file at the Town office. Said Zoning Map must be drawn at a scale of not less than one-inch equals 1,000 feet. Zone boundaries must be clearly delineated, and the Map must have a legend indicating the name and symbol for each zone.

16.4.6 Boundary line interpretation

Where uncertainty exists with respect to property or natural resource boundaries of the various zones as shown on the Zoning Map, the following rules apply:

- (1). Unless otherwise shown, zone boundary lines are coincidental with street center lines and lot lines. Where zone boundary lines are designated on the Zoning Map, those lines are construed to be the boundary of the zone.
- (2). Where the zone boundary lines are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the zone boundaries are construed to be the lot lines, and where the zones designated on the Map accompanying and made a part of this title are bounded approximately by lot lines, the lot lines are construed to be the boundary of the zones unless the boundary lines are otherwise indicated on the Zoning Map.
- (3). Where unsubdivided property lies within two or more zones, the zone boundary lines on the Zoning Map are determined by use of the scale appearing on the Zoning Map.
- (4). Where there is uncertainty regarding a zone boundary, the Planning Board is the local decision authority as to the exact location of said boundary. In the Shoreland and Resource Protection Overlay Zones, boundary redefinition must be supported by documentation from an appropriately licensed or certified Maine state professional.

16.4.7 Overlay zone

An overlay zone is a special purpose zone where additional regulations, beyond those set forth in the base zone, apply. The regulations of the underlying zone must apply unless specified otherwise in the overlay zone.

16.4.8 Zoning Map amendments to Resource Protection and Shoreland Overlay Zones

If Zoning Map amendments are adopted that change the Shoreland or Resource Protection Overlay Zones, said amendments also must be approved by the Maine Commissioner of the State Department of Environmental Protection and then implemented within 30 days of approval.

16.4.9 Prohibited uses

Uses in all zones are defined in § 16.3 of this ordinance by zone as permitted or special exception uses. Any use not listed as a permitted or a special exception use is prohibited in the zone.

16.4.10 Residential – Rural (R-RL)

A. Purpose

The purpose of the Residential – Rural R-RL Zone is to protect the prevailing rural character of the Town and its natural rural quality from development sprawl by prescribing the most appropriate uses and standards.

B. Permitted uses

The following uses are permitted in the R-RL Zone:

- (1). Accessory Dwelling Unit
- (2). Cluster Residential Development [Added 9-24-2012 by Ord. No. 12-10]
- (3). Dwelling, Manufactured Housing
- (4). Dwelling, Multi-Family
- (5). Dwelling, Single-Family
- (6). Dwelling, Two-Family
- (7). Convalescent Care Facility
- (8). Nursing Care Facility, Long-Term
- (9). Accessory Use & Building
- (10). Home Occupation, Minor
- (11). Individual Private Campsite
- (12). Day Care Facility
- (13). Hospital
- (14). Private Assembly
- (15). Public Facility
- (16). Public or Private School
- (17). Religious Use
- (18). Recreation, Public Open Space
- (19). Agriculture
- (20). Commercial School

C. Special exception uses

- (1). The following uses are permitted as special exception uses in the R-RL Zone:
- (2). Mobile Home Park, subject to § 16.5.16.D
- (3). Home Occupation, Major
- (4). Campgrounds
- (5). Recreational Vehicle Park
- (6). Rooming House
- (7). Public Utility Facility
- (8). Recreation, Commercial Indoor
- (9). Recreation, Commercial Outdoor
- (10). Agriculture, Piggery
- (11). Commercial Kennel
- (12). Sawmill, Permanent
- (13). Sawmill, Temporary
- (14). Veterinary Hospital
- (15). Cemetery

- (16). Shops in Pursuit of Trade
- (17). Junkyard
- (18). Mineral extraction, subject to § 16.5.15
- (19). Major or Minor Subdivision [Added 9-24-2012 by Ord. No. 12-10]

D. Standards

The following standards must be met unless modified per § 16.8.H, Cluster Residential Development: [Amended 9-24-2012 by Ord. No. 12-10]

- (1). Design and performance standards in § 16.7 and 16.8
- (2). Dimensional standards:
 - a. Minimum land area per dwelling unit: 40,000 square feet.*
 - *As per §16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012. [Amended 9-28-2015 by Ord. No. 15-05]
 - b. Minimum lot size: 40,000 square feet.
 - c. Minimum street frontage: 150 feet.
 - d. Minimum front yard: 40 feet.
 - e. Maximum building coverage: 15%.
 - f. Minimum rear and side yards: 20 feet
(NOTE: Buildings higher than 40 actual feet are to have side and rear yards not less than 50% of building height.)
 - g. Maximum building height: 35 feet
(NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)
 - h. Minimum setback from water body and wetland water-dependent uses: zero feet
 - i. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.
- (3). Subdivision types and standards
 - Subject to net residential acreage and net residential density per § 16.3. [Amended 9-28-2015 by Ord. No. 15-05]
 - a. Cluster residential development
 - In a cluster residential development, the above standards may be modified in accordance with special provisions of § 16.8.H, including that there is no minimum lot size, and with the conditions that:
 - i. Minimum principal building separation as required by the Fire Chief, but not less than 20 feet.
 - b. Subdivision development [per special exception uses, § 16.4.10.A(3)].
 - In a subdivision development, standards in § 16.4.10.A(5) and (6) apply and include:
 - i. Minimum percentage of common open space: 15%
- (4). Junkyards
 - In the case of junkyards, the following special standards apply, which are in addition to the standards and provisions prescribed in Maine State Statutes, 30-A M.R.S. §§ 3751 to 3760, and any changes thereto:
 - a. Minimum land area: 400,000 square feet.

- b. Minimum street frontage: 600 feet.
 - c. Minimum distance from street or highway to junk concentration area: 200 feet.
 - d. Other standards as prescribed in § 16.5.12.
- (5). Mobile Home Parks
- In the case of Mobile Home Parks, sites must be at least 10 acres, subject to the special provisions of § 16.5.16.
- E. Shoreland Overlay Zone OZ-SL – Residential – Rural Zone (R-RL)
- (1). Permitted uses
 - a. Accessory Use & Building
 - b. Agriculture
 - c. Individual Private Campsite
 - d. Recreation, Public Open Space
 - (2). Special exception uses
 - a. Dwelling, Single-Family
 - b. Dwelling, Two-Family
 - c. Day Care Facility
 - d. Home occupation, Major
 - e. Home Occupation, Minor
 - f. Mineral extraction subject to § 16.5.15;
 - g. Public Utility Facility
 - h. Recreation, Commercial Indoor
 - i. Recreation, Commercial Outdoor
 - j. Commercial School
 - k. Public or Private School
 - l. Hospital
 - m. Nursing Care Facility, Long-Term
 - n. Convalescent Care Facility
 - o. Public Facility
 - p. Religious Use
 - q. Private Assembly
 - (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Residential – Rural Zone (R-RL)
- (1). Permitted uses
 - a. Individual Private Campsite
 - b. Recreation, Public Open Space
 - (2). Special exception uses
 - a. Accessory Use & Building
 - b. Agriculture
 - c. Home Occupation, Major
 - d. Home Occupation, Minor
 - e. Dwelling, Single-Family
 - f. Dwelling, Manufactured Housing
 - g. Commercial School, less than 6,000 square feet

- h. Public or Private School, less than 6,000 square feet
 - i. Religious Use, less than 6,000 square feet
 - j. Private Assembly, less than 6,000 square feet
 - k. Public Utility Facility
- (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.11 Residential – Suburban (R-S)

A. Purpose

The purpose of the Residential – Suburban R-S Zone is to provide areas adjacent to the developed urban areas for future residential growth consistent with the availability of public utilities. To this end, the following apply:

B. Permitted uses

- (1). The following uses are permitted in the R-S Zone:
- (2). Accessory Dwelling Unit
- (3). Cluster Residential Development [Added 9-24-2012 by Ord. No. 12-10]
- (4). Dwelling, Attached Single-Family
- (5). Dwelling, Multi-Family (not more than four (4) units per building)
- (6). Dwelling, Single-Family
- (7). Dwelling, Two-Family
- (8). Convalescent Care Facility (may not occupy more than 5,000 square feet of floor area)
- (9). Nursing Care Facility, Long-term (may not occupy more than 5,000 square feet of floor area)
- (10). Residential Care Facility (may not occupy more than 5,000 square feet of floor area)
- (11). Accessory Use & Building
- (12). Home Occupation, Minor
- (13). Day Care Facility
- (14). Elderly Day Care Facility
- (15). Hospital (may not occupy more than 5,000 square feet of floor area)
- (16). Nursery School (may not occupy more than 5,000 square feet of floor area)
- (17). Private Assembly (may not occupy more than 5,000 square feet of floor area)
- (18). Public Facility (may not occupy more than 5,000 square feet of floor area)
- (19). Public or Private School (may not occupy more than 5,000 square feet of floor area)
- (20). Religious Use (may not occupy more than 5,000 square feet of floor area)
- (21). Recreation, Public Open Space
- (22). Agriculture
- (23). Commercial School (may not occupy more than 5,000 square feet of floor area)

C. Special exception uses

The following uses are permitted as special exception uses in the R-S Zone:

- (1). Dwelling, Multi-Family (five to twelve (5-12) units per building)
- (2). Home Occupations, Major
- (3). Rooming House
- (4). Public Utility Facility
- (5). Cemetery
- (6). Retail Sales, Convenience (excluding the sale of gasoline)
- (7). Any use listed in Subsection B(12-20) (permitted uses) of this section that occupies more than 5,000 square feet of floor area

- (8). Mineral Extraction, subject to § 16.5.15
- (9). Major or Minor Subdivision [Added 9-24-2012 by Ord. No. 12-10]

D. Standards

The following standards must be met unless modified per § 16.8.H, Cluster Residential Development: [Amended 9-24-2012 by Ord. No. 12-10]

(1). Design and performance standards.

The design and performance standards of § 16.7 and 16.8 must be met. The Design Handbook provides examples of appropriate design for nonresidential and multiunit residential projects.

(2). Dimensional standards.

a. Minimum land area per dwelling unit:*

- i. Without public sewage disposal: 40,000 square feet.
- ii. With public sewage disposal: 30,000 square feet unless reduced in accordance with Note A.

*As per § 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012. [Amended 9-28-2015 by Ord. No. 15-05]

b. Minimum lot size:

- i. Without public sewage disposal: 40,000 square feet.
- ii. With public sewage disposal: 30,000 square feet unless reduced in accordance with Note A.

c. Minimum street frontage: 150 feet unless reduced in accordance with Note A.

d. Minimum front yard: 40 feet.

e. Maximum building coverage: 20%.

f. Minimum rear and side yards: 15 feet

(NOTE: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of the building height.)

g. Maximum building height: 35 feet

(NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)

h. Minimum setback from water body and wetland water-dependent uses: zero feet.

i. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

Note A:

- The required minimum land area per dwelling unit and/or minimum lot size for residential uses that are served by public sewage disposal and that are located outside of areas subject to shoreland zoning may be less than 30,000 square feet per lot/unit if the established average density of development in the immediate area of the use as determined below is less than 30,000 square feet.
- If the average of the lot sizes and/or land area per dwelling unit of the developed residential lots that are located on the same street and within 500 feet of the parcel is less than 30,000 square feet, the required minimum lot size or required

minimum land area per dwelling unit is the calculated average lot size or average land area per dwelling unit but not less than 20,000 square feet.

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

(3). Subdivision types and standards

Subject to net residential acreage and net residential density per § 16.3 [Amended 9-28-2015 by Ord. No. 15-05]

a. Cluster residential development

In a cluster residential development, the above standards may be modified in accordance with special provisions of § 16.8.H, including that there is no minimum lot size, and with the conditions that:

- i. Minimum principal building separation as required by the Fire Chief, but not less than 15 feet.

b. Subdivision development [per special exception uses, § 16.4.10.A(3)].

In a subdivision development, standards in § 16.4.10.A(5) and (6) apply and include:

- i. Minimum percentage of common open space: 15%.

(4). Mobile Homes

Mobile Homes must meet the standards of § 16.5.16.

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

(1). Permitted uses

- a. Day Care Facility
- b. Elderly Day Care Facility
- c. Recreation, Public Open Space

(2). Special exception uses

- a. Dwelling, Multi-Family (not more than four (4) units per building)
- b. Home Occupation, Major
- c. Home Occupation, Minor
- d. Mineral Extraction subject to § 16.5.15
- e. Public Utility Facility
- f. Commercial School (must not occupy more than 5,000 square feet of floor area)
- g. Public or Private School (must not occupy more than 5,000 square feet of floor area)
- h. Residential Care Facility (must not occupy more than 5,000 square feet of floor area)
- i. Hospital (must not occupy more than 5,000 square feet of floor area)
- j. Nursing Care Facility, Long-term (must not occupy more than 5,000 square feet of floor area)
- k. Public Facility (must not occupy more than 5,000 square feet of floor area)
- l. Religious Use (must not occupy more than 5,000 square feet of floor area)
- m. Private Assembly (must not occupy more than 5,000 square feet of floor area)

area)

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

F. Resource Protection Overlay Zone OZ-RP – Residential Suburban Zone (R-S)

(1). Permitted Uses

a. Recreation, Public Open Space

(2). Special Exception Uses

a. Accessory Use & Building

b. Agriculture

c. Home Occupation, Major

d. Home Occupation, Minor

e. Public Utility Facility

f. Dwelling, Single-Family

g. Dwelling, Manufactured Housing

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

16.4.12 Residential – Kittery Point Village (R-KPV)

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

A. Purpose

The purpose of the Residential – Kittery Point Village R-KPV Zone is to preserve the established character and development pattern of the Kittery Point neighborhood while assuring that any new development is consistent with this historical development pattern and is environmentally suitable. To this end, the following apply:

B. Permitted uses

The following uses are permitted in the R-KPV Zone:

- (1). Accessory Dwelling Units
- (2). Cluster Residential Development [Added 9-24-2012 by Ord. No. 12-10]
- (3). Dwelling, Attached Single-Family
- (4). Dwelling, Multi-Family (not more than four (4) units per building)
- (5). Dwelling, Single-Family
- (6). Dwelling, Two-Family
- (7). Accessory Use & Building
- (8). Home Occupations, Minor
- (9). Day Care Facility
- (10). Nursery School (must not occupy more than 5,000 square feet of floor area)
- (11). Private Assembly (must not occupy more than 5,000 square feet of floor area)
- (12). Public Facility (must not occupy more than 5,000 square feet of floor area)
- (13). Public or Private School (must not occupy more than 5,000 square feet of floor area)
- (14). Religious Use (must not occupy more than 5,000 square feet of floor area)
- (15). Recreation, Public Open Space
- (16). Agriculture
- (17). Commercial School (must not occupy more than 5,000 square feet of floor area)

C. Special exception uses

The following uses are permitted as special exception uses in the R-KPV Zone:

- (1). Rooming House
- (2). Any use listed in Subsection B(11-15) of this section (permitted uses) that occupies more than 5,000 square feet of floor area
- (3). Public Utility Facility
- (4). Cemetery
- (5). Retail Sales, Convenience (excluding sale of gasoline)
- (6). Home Occupation, Major
- (7). The reuse of a designated historic building, in nonresidential use as of the effective date of this provision, as an art studio/gallery, museum, or business and professional office subject to standards for a minor home occupation as set forth in § 16.5.11.
- (8). Major or Minor Subdivision [Added 9-24-2012 by Ord. No. 12-10]

D. Standards

The following standards must be met unless modified per § 16.8.H , Cluster Residential Development: [Amended 9-24-2012 by Ord. No. 12-10]

(1). Design and performance standards in §16.7 and 16.8.

The Design Handbook provides examples of appropriate design for nonresidential and multiunit residential projects.

(2). Dimensional standards.

a. Minimum land area per dwelling unit: 40,000 square feet.*

*As per Chapter 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012. [Amended 9-28-2015 by Ord. No. 15-05]

b. Minimum lot size: 40,000 square feet.

c. Minimum street frontage: 150 feet unless reduced in accordance with Note A.

Note A:

- The required minimum street frontage for a new lot may be less than 150 feet if the established pattern of street frontage in the immediate area of the lot as determined below is less than 150 feet per lot.
- The required minimum street frontage in this case is the average of the street frontage of existing developed residential lots that are located on the same street and within 500 feet of the parcel, but in no case less than 100 feet.

d. Minimum front yard: 40 feet

e. Maximum building coverage: 20%.

f. Minimum rear and side yards: 15 feet. (NOTE: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of the building height.)

g. Maximum building height: 35 feet. (NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)

h. Minimum setback from water body and wetland water-dependent uses: zero feet.

i. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

(3). Subdivision types and standards

Subject to net residential acreage and net residential density per § 16.3. [Amended 9-28-2015 by Ord. No. 15-05]

a. Cluster residential development

In a cluster residential development, the above standards may be modified in accordance with special provisions of § 16.8.H, including that there is no minimum lot size, and with the conditions that:

- i. Minimum principal building separation as required by the Fire Chief, but not less than 15 feet.

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

(1). Permitted uses.

a. Agriculture

- b. Accessory Use & Building
 - c. Day Care Facility
 - (2). Special exception uses.
 - a. Dwelling, Manufactured Housing
 - b. Dwelling, Single-Family
 - c. Dwelling, Two-Family
 - d. Home Occupation, Major
 - e. Home Occupation, Minor
 - f. Public Utility Facility
 - g. Commercial School (must not occupy more than 5,000 square feet of floor area)
 - h. Public or Private School (must not occupy more than 5,000 square feet of floor area)
 - i. Nursery School (must not occupy more than 5,000 square feet of floor area)
 - j. Public Facility (must not occupy more than 5,000 square feet of floor area)
 - k. Religious Use (must not occupy more than 5,000 square feet of floor area)
 - l. Private Assembly (must not occupy more than 5,000 square feet of floor area)
 - (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Residential – Kittery Point Village Zone (R-KPV)
 - (1). Permitted Uses
 - a. Recreation, Public Open Space
 - (2). Special Exception Uses
 - a. Accessory Use & Building
 - b. Agriculture
 - c. Home Occupations, Major
 - d. Home Occupations, Minor
 - e. Public Utility Facility
 - f. Dwelling, Single-Family
 - g. Dwelling, Manufactured Housing
 - (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.13 Residential – Urban (R-U)

A. Purpose

The purpose of the Residential – Urban R-U Zone is to preserve the physical, aesthetic and social quality of Kittery's urban area and, consistent with this goal, to provide therein for the location of a variety of residential uses in accordance with the standards of this title. To this end, the following apply:

B. Permitted uses

The following uses are permitted in the R-U Zone:

- (1). Accessory Dwelling Units
- (2). Cluster Residential Development [Added 9-24-2012 by Ord. No. 12-10]
- (3). Dwelling, Attached Single-Family
- (4). Dwelling, Manufactured Housing
- (5). Dwelling, Multi-Family
- (6). Dwelling, Single-family
- (7). Dwelling, Two-Family
- (8). Convalescent Care Facility
- (9). Nursing Care Facility, Long-term
- (10). Accessory Use & Building
- (11). Home Occupations, Minor
- (12). Day Care Facility
- (13). Hospital
- (14). Nursery School
- (15). Private Assembly
- (16). Public Facility
- (17). Public or Private School
- (18). Religious Use
- (19). Recreation, Public Open Space
- (20). Commercial School
- (21). Conference Center

C. Special exception uses

The following uses are permitted as special exception uses in the R-U Zone:

- (1). Rooming House
- (2). Business & Professional Offices
- (3). Funeral Home
- (4). Art Studio or Gallery
- (5). Recreation, Public Facility
- (6). Recreation, Commercial Indoor
- (7). Recreation, Commercial Outdoor
- (8). Public Utility Facility
- (9). Inn
- (10). Home Occupations, Major
- (11). Age-Restricted Housing
- (12). Major or Minor Subdivision [Added 9-24-2012 by Ord. No. 12-10]

D. Standards

The following standards must be met unless modified per § 16.8.H, Cluster Residential Development: [Amended 9-26-2011 by Ord. No. 11-15; 9-24-2012 by Ord. No. 12-10]

- (1). The design and performance standards in § 16.7 and 16.8.
- (2). Dimensional standards:
 - a. Minimum land area per dwelling unit: 20,000 square feet.*

*As per Chapter 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012. [Amended 9-28-2015 by Ord. No. 15-05]
 - b. Minimum lot size: 20,000 square feet.
 - c. Minimum street frontage: 100 feet.
 - d. Minimum front yard, all buildings: 30 feet.
 - e. Minimum rear and side yards, all buildings: 15 feet.

(NOTE: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of building height.)
 - f. Maximum building height: 35 feet.

(NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)
 - g. Maximum building coverage: 20%.
 - h. Minimum setback from water body and wetland water-dependent uses: zero feet.
 - i. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.
- (3). Subdivision types and standards

Subject to net residential acreage and net residential density per § 16.3. [Amended 9-28-2015 by Ord. No. 15-05]

 - a. Cluster residential development

In a cluster residential development, the above standards may be modified in accordance with special provisions of § 16.8.H, including that there is no minimum lot size, and with the conditions that:

 - i. Minimum principal building separation as required by the Fire Chief, but not less than 15 feet.
 - b. Subdivision development [special exception uses, § 16.4.10.A(3)].

In a subdivision development, standards in § 16.4.10.A(5) and (6) apply and include:

 - i. Minimum percentage of common open space: 15%.
- (4). Age-Restricted Housing

In the case of Age-Restricted Housing, the above standards may be modified in accordance with the special provisions of § 16.5.14 and with the condition that:

 - a. Municipal sewerage and water must be provided.
 - b. A minimum land area of three acres must be provided.
 - c. The maximum net density may not exceed four dwelling units per net residential acre. In no event may the Planning Board authorize a departure which increases the total number of dwelling units greater than that

specified under the applicable zoning ordinance.

- d. A single bedroom unit may not be less than 550 square feet and a two-bedroom unit not less than 650 square feet.

(5). Manufactured Housing

Manufactured Housing must meet standards of § 16.5.14

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

(1). Permitted uses.

- a. Accessory Use & Building
- b. Day Care Facility
- c. Recreation, Public Open Space

(2). Special exception uses.

- a. Dwelling, Manufactured Housing
- b. Dwelling, Single-Family
- c. Dwelling, Two-Family
- d. Home Occupation, Major
- e. Home Occupation, Minor
- f. Inn
- g. Public Utility Facility
- h. Recreation, Commercial Indoor
- i. Recreation, Commercial Outdoor
- j. Commercial School
- k. Public or Private School
- l. Nursery School
- m. Hospital
- n. Nursing Care Facility, Long-term
- o. Convalescent Care Facility
- p. Public Facility
- q. Religious Use
- e. Private Assembly

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

F. Resource Protection Overlay Zone OZ-RP – Residential – Urban Zone (R-U)

(1). Permitted Uses

- a. Recreation, Public Open Space

(2). Special Exception Uses

- a. Accessory Use & Building
- b. Home Occupation, Major
- c. Home Occupation, Minor
- d. Public Utility Facility
- e. Dwelling, Single-Family
- f. Dwelling, Manufactured Housing

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

16.4.14 Residential – Village (R-V)

A. Purpose

The purpose of the Residential – Village R-V Zone is to recognize the special nature of the Admiralty Village neighborhood as a densely developed residential zone composed primarily of affordable housing on small lots serviced by sewer and water and to encourage reinvestment in maintaining and upgrading the neighborhood. Consistent with this goal, the zone provides for uses that reinforce the residential character and establish building standards that allow improvements on typical lots to enhance the residential quality of life in the neighborhood. To this end, the following will apply:

B. Permitted uses

The following uses are permitted in the R-V Zone:

- (1). Accessory Dwelling Unit
- (2). Dwelling, Attached Single-Family
- (3). Dwelling, Manufactured Housing
- (4). Dwelling, Single-Family
- (5). Dwelling, Two-Family
- (6). Accessory Use & Building
- (7). Home Occupation, Minor
- (8). Day Care Facility (limited to twelve (12) or fewer persons in care, in conformance with the standards for a Home Occupation, Minor. See § 16.5.11)
- (9). Nursery School (limited to twelve (12) or fewer persons in care, in conformance with the standards for a Home Occupation, Minor See § 16.5.11)
- (10). Public Facility
- (11). Recreation, Public Facility
- (12). Recreation, Public Open Space

C. Special exception uses

The following uses are permitted as special exception uses in the R-V Zone:

- (1). Public Utility Facility
- (2). Home Occupations, Major
- (3). Day Care Facility (for thirteen (13) or more persons in care, in conformance with the standards for a Home Occupation, Major. See § 16.5.11)
- (4). Nursery School (for thirteen (13) or more persons in care, in conformance with the standards for a Home Occupation, Major. See § 16.5.11)

D. Standards.

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

- (1). The following space standards apply:
 - a. Minimum land area per dwelling unit: 4,000 square feet.*

*As per Chapter 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012. [Amended 9-24-2012]

by Ord. No. 12-10; 9-28-2015 by Ord. No. 15-05]

- b. Minimum lot size: 6,000 square feet.
- c. Minimum street frontage: 50 feet.
- d. Minimum front yard: 15 feet.
- e. Minimum rear yard, dwellings/structures: 15 feet.
- f. Minimum side yard, dwellings/structures: 10 feet.
- g. Minimum rear and side yards for accessory buildings/structures that are accessory to a residential use and located at least four feet behind the predominant rear line of the principal building: three feet.
- h. Maximum structure coverage: 40%.
- i. Maximum height of principal dwellings/structures: 35 feet.
- j. Maximum height of accessory buildings/structures located closer than 10 feet to a lot line: 15 feet.
- k. Maximum building coverage: 20%.
- l. Minimum setback from water body and wetland water-dependent uses: zero feet.
- m. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

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

(1). Permitted uses

- a. Accessory Use & Building
- b. Public Facility
- c. Recreation, Public Facility
- d. Recreation, Public Open Space

(2). Special exception uses

- a. Day Care Facility (for thirteen (13) or more persons in care, in conformance with the standards for a major home occupation see § 16.5.11);
- b. Nursery School (for thirteen (13) or more persons in care, in conformance with the standards for a major home occupation (see § 16.5.11);
- c. Dwelling, Manufactured Housing
- d. Dwelling, Multi-Family
- e. Dwelling, Single-Family
- f. Home occupation, Major
- g. Home Occupation, Minor
- h. Public Utility Facility

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

F. Resource Protection Overlay Zone OZ-RP – Residential – Village Zone (R-V)

(1). Permitted Uses: none

(2). Special Exception Uses

- a. Accessory Use & Buildings
- b. Home Occupations, Major
- c. Home Occupations, Minor
- d. Public Utility Facility
- e. Dwelling, Manufactured Housing
- f. Dwelling, Single-Family

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

16.4.15 Residential – Rural Conservation (R-RC)

A. Purpose

The purpose of the Residential – Rural Conservation R-RC Zone is to conserve and protect land areas of the Town which by their location and character require special measures to ensure low-density development. To this end, the following apply:

B. Permitted use.

The following uses are permitted in the R-RC Zone:

- (1). Accessory Dwelling Units
- (2). Cluster Residential Development [Added 9-24-2012 by Ord. No. 12-10]
- (3). Dwelling, Manufactured Housing
- (4). Dwelling, Single-Family
- (5). Dwelling, Two-Family
- (6). Accessory Use & Building
- (7). Home Occupations, Minor
- (8). Recreation, Public Facility
- (9). Recreation, Public Open Space
- (10). Agriculture
- (11). Timber Harvesting

C. Special exception uses

The following uses are permitted as special exception uses in the R-RC Zone:

- (1). Home Occupations, Major
- (2). Day Care Facility
- (3). Private Assembly
- (4). Public Facility
- (5). Public or Private School
- (6). Public Utility Facility
- (7). Religious Use
- (8). Recreation, Commercial Indoor
- (9). Recreation, Commercial Outdoor
- (10). Commercial School
- (11). Cemetery
- (12). Major or Minor Subdivision [Added 9-24-2012 by Ord. No. 12-10]

D. Standards

The following standards must be met unless as may be modified per § 16.8.H, Cluster Residential Development: [Amended 9-24-2012 by Ord. No. 12-10]

- (1). The design and performance standards of Chapters 16.7 and 16.8 must be met.
- (2). The following dimensional standards apply:
 - a. Minimum land area per dwelling unit: 80,000 square feet.*

*As per Chapter 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012. [Amended 9-28-2015 by Ord. No. 15-05]

- b. Minimum lot size: 80,000 square feet.
- c. Minimum street frontage: 200 feet.
- d. Minimum front yard: 40 feet.
- e. Maximum building coverage: 6%.
- f. Minimum rear and side yards: 20 feet.
(NOTE: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of building height.)
- g. Maximum building height: 35 feet.
(NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)
- h. Minimum setback from water body and wetland water-dependent uses: zero feet.
- i. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

(3). Subdivision types and standards.

Subject to net residential acreage and net residential density per § 16.2.2.
[Amended 9-28-2015 by Ord. No. 15-05]

- a. Cluster residential development.
In a cluster residential development, the above standards may be modified in accordance with special provisions of § 16.8.H, including that there is no minimum lot size, and with the conditions that:
 - i. Minimum principal building separation as required by the Fire Chief, but not less than 20 feet.
- b. Subdivision development [special exception uses, § 16.4.10.A(3)].
In a subdivision development, standards in § 16.4.10.A(5) and (6) apply and include:
 - i. Minimum percentage of common open space: 15%.

E. Shoreland Overlay Zone – Residential Conservation Zone (R-RC)

(1). Permitted uses

- a. Accessory Use & Building
- b. Agriculture
- c. Recreation, Public Facility
- d. Recreation, Public Open Space
- e. Timber Harvesting

(2). Special exception uses

- a. Day Care Facility
- b. Dwelling, Manufactured Housing
- c. Dwelling, Single-Family
- d. Dwelling, Two-Family
- e. Home occupation, Major
- f. Home Occupation, Minor
- g. Recreation, Selected Commercial
- h. Public Utility Facility
- i. Commercial School
- j. Public or Private School
- k. Public Facility

- l. Religious Use
- m. Private Assembly
- (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Residential – Rural Conservation Zone (R-RC)
 - (1). Permitted Uses
 - a. Recreation, Public Facility
 - b. Recreation, Public Open Space
 - c. Timber Harvesting
 - (2). Special Exception Uses
 - a. Accessory Use & Buildings
 - b. Agriculture
 - c. Home Occupations, Major
 - d. Home Occupations, Minor
 - e. Recreation, Commercial Indoor
 - f. Recreation, Commercial Outdoor (exclusive of golf courses)
 - g. Public Utility Facility
 - h. Dwelling, Single-Family
 - i. Dwelling, Manufactured Housing
 - (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.16 Conservation (CON)

A. Purpose

The purposes of the Conservation Zone are to preserve and protect natural environmental areas, conservation lands, park and other areas, including but not limited to the Rachel Carson Wildlife Preserve, Town Forest, state and local parklands, and land with conservation easements that prohibit development in perpetuity; further the maintenance of safe and healthful conditions; prevent and control potential water pollution sources; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; and conserve shore cover, visual as well as actual point of access to inland and coastal waters and natural beauty.

B. Permitted uses

The following uses are permitted in the CON Zone:

- (1). Accessory Use & Building
- (2). Open Space, Reserved
- (3). Recreation, Public Facility
- (4). Recreation, Public Open Space
- (5). Existing Land Conservation Uses

C. Special exception uses

The following uses are permitted as special exception uses in the CON Zone:

- (1). Public Facility

D. Standards.

- (1). The design and performance standards of Chapters 16.7 and 16.8 must be met.
- (2). Dimensional standards:
 - a. Minimum land area per dwelling unit: not applicable.
 - b. Minimum lot size: none.
 - c. Minimum street frontage: none.
 - d. Minimum front yard: 40 feet.
 - e. Maximum building coverage: 6%.
 - f. Minimum rear and side yards: 20 feet. (NOTE: If by variance or existing conditions a building is higher than 40 actual feet, it must have side and rear yards not less than 50% of building height.)
 - g. Maximum building height: 35 feet. (NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)
 - h. Minimum setback from water body and wetland water-dependent uses: zero feet.
 - i. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

E. Shoreland Overlay Zone OZ-SL – Conservation (CON)

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

- (1). Permitted uses.
 - a. Open Space, Reserved
 - b. Recreation, Public Facility
 - c. Recreation, Public Open Space

- d. Accessory Use & Building
 - e. Existing Land Conservation Uses
 - (2). Special exception uses.
 - Public facility
 - (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Conservation (CON)
 - (1). Permitted Uses.
 - a. Accessory Use & Building
 - b. Existing Land Conservation Uses
 - c. Recreation, Public Facility
 - d. Recreation, Public Open Space
 - (2). Special Exception Uses
 - a. Public Facility
 - (3). See 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.17 Business – Local Zone (B-L)

A. Purpose

The purpose of the Business – Local B-L Zone is to provide local sales, services and business space within the Town.

B. Permitted uses

- (1). The following uses are permitted in the B-L Zone:
- (2). Accessory Dwelling Unit
- (3). Dwelling, Attached Single-Family
- (4). Dwelling, Manufactured Housing
- (5). Dwelling, Multi-Family
- (6). Dwelling, Single-Family
- (7). Dwellings Two-Family
- (8). Convalescent Care Facility
- (9). Nursing Care Facility, Long-term
- (10). Residential Care Facility
- (11). Accessory Use & Building
- (12). Home Occupation, Major
- (13). Home Occupation, Minor
- (14). Day Care Facility
- (15). Hospital
- (16). Nursery School
- (17). Private Assembly
- (18). Public Facility
- (19). Public or Private School
- (20). Religious Use
- (21). Recreation, Public Open Space
- (22). Aquaculture
- (23). Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- (24). Commercial School
- (25). Art Studio or Gallery
- (26). Business & Professional Offices
- (27). Business Service
- (28). Conference Center
- (29). Personal Service
- (30). Restaurant
- (31). Retail Sales (excluding those of which the principle activity entails outdoor sales and/or storage and excluding those specifically mentioned under Subsection C of this section)
- (32). Retail Sales, Building Materials & Garden Supply (excluding those of which the principle activity entails outdoor sales and/or storage)
- (33). Retail Sales, Convenience
- (34). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]

- (35). Mass Transit Station
- (36). Parking Area

C. Special exception uses

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

- (1). Motel
- (2). Hotel
- (3). Inn
- (4). Rooming House
- (5). Funeral Home
- (6). Gasoline Service Station
- (7). Public Assembly Area
- (8). Theater
- (9). Public Utility Facility
- (10). Mechanical Service
- (11). Residential Dwelling Units, as part of a mixed-use building

D. Standards.

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

- (1). Parking. One row of parking spaces and a related access drive may be located between the front property line and the front wall of the building extending the full width of the lot. All other parking must be located to the side and/or rear of the building. All new or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
- (2). Building design standards. Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical Revival. New buildings must be compatible with Kittery's characteristic styles in form, scale, material and color. In general, buildings should be oriented with the front of the building facing the street on which the building is located. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements: 1) a "front door," although other provisions for access to the building may be provided; 2) windows; or 3) display cases. (See Design Handbook for examples of acceptable materials and designs.) Strict imitation is not required. Design techniques can be used to maintain compatibility with characteristic styles and still leave enough flexibility for architectural variety. To achieve this purpose, the following design standards apply to new and modified existing building projects:
 - a. Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character. (See Design Handbook for examples of acceptable materials, building scale and designs.) "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

- b. Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel, and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. Roof colors must be muted. (See Design Handbook for examples.) The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air-handler units, exhaust vents, transformer boxes, and the like. (See Design Handbook for examples of appropriate treatments.)
 - c. Loading docks and overhead doors. Loading docks and overhead doors must be located on the side or rear of the building and screened from view from adjacent properties in residential use.
- (3). Landscaping standards. To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapters 16.7 and 16.8 the following landscaping requirements apply to new and modified existing developments:
- a. Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 15 feet in depth adjacent to the right-of-way of all public roads. The Planning Board may reduce the required depth of the landscape planter strip if a sidewalk is provided in front of the parcel and the area between the front property line and the front wall of the building will be designed and used as a pedestrian space. The landscape planter strip must include the following landscape elements:
 - b. Ground cover. The entire landscape planter must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.
 - c. Street-side trees. A minimum of one tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species must be selected from the list of approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement. [Amended 9-26-2011 by Ord. No. 11-15]
 - d. Special situations.
 - i. Expansions of less than 1,000 square feet to existing uses are exempt from the landscaping standard of this subsection.
 - ii. Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized in accordance with previous permits or approvals, for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street.
 - iii. Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (see list of street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the

required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.

- e. Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)
- (4). Traffic and circulation standards. Sidewalks and roadways must be provided within the site to internally join abutting properties that are determined by the Planning Board to be compatible. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move within the site and between the principal customer entrance and the front lot line where a sidewalk exists or will be provided or where the Planning Board determines that such a route is needed for adequate pedestrian safety and movement. (See Design Handbook for appropriate examples.)
 - (5). Open space standards. Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams and setbacks. Fifteen percent of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as "open space." The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site and maintain wildlife habitat. Individual large, healthy trees and areas with mature tree cover should be included in the open space. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties. The required amount of designated open space is reduced to 10% of each lot that is less than 40,000 square feet in size.
 - (6). The following space standards apply:
 - a. Minimum land area per dwelling unit when all floors are residential: 20,000 square feet if served by on-site sewage disposal; 8,000 square feet if served by the public sewerage system.

(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)
 - b. Minimum land area per dwelling unit when the entire first floor is used for nonresidential uses: 20,000 square feet if served by on-site sewage disposal; 4,000 square feet if served by the public sewerage system.
 - c. Minimum lot size: none.

(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)
 - d. Minimum street frontage: none.

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

- e. Minimum front yard: 15 feet.
(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)
- f. Maximum front setback of the principal building: 60 feet.
- g. Minimum rear and side yards: 10 feet.
(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)
- h. Maximum building height: 40 feet.
(NOTE: Except that space standards for single- and two-family residential uses are the same as for those of the Urban Residential District.)
- i. Maximum building and outdoor stored material coverage: none, except that side, rear and front yards must be maintained
- j. Minimum setback from water body and wetland water-dependent uses: zero feet.
- k. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

(7). Gasoline Sales

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

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

(1). Permitted uses.

- a. Accessory Use & Building
- b. Recreation, Public Open Space

(2). Special exception uses.

- a. Residential Dwelling Units, as part of a mixed-use building.
- b. Dwelling, Manufactured Housing
- c. Dwelling, Single-Family
- d. Dwelling, Two-Family
- e. Dwelling, Multi-Family
- f. Art Studio or Gallery
- g. Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)
- h. Business Services
- i. Business & Professional Offices
- j. Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- k. Parking Area
- l. Conference Center
- m. Retail Sales, Convenience
- n. Home Occupation, Major
- o. Home Occupation, Minor

- p. Mass Transit Station
- q. Motel
- r. Hotel
- s. Inn
- t. Rooming House
- u. Personal Services
- v. Public Assembly Area
- w. Theater
- x. Public Utility Facility
- y. Restaurant
- z. Retail Sales, but (excluding those of which the principal activity entails outdoor sales and/or storage)
- aa. Commercial School
- bb. Public or Private School
- cc. Nursery School
- dd. Day Care Facility
- ee. Elder Care Facility
- ff. Hospital
- gg. Nursing Care Facility, Long-term
- hh. Convalescent Care Facility
- ii. Public Facility
- jj. Religious Use
- kk. Private Assembly
- ll. Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]

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

F. Resource Protection Overlay Zone OZ-RP – Business – Local (B-L). [Amended 9-26-2011 by Ord. No. 11-15]

(1). Permitted Uses.

- a. Recreation, Public Open Space

(2). Special Exception Uses.

- a. Accessory Uses & Buildings
- b. Aquaculture
- c. Home Occupations, Major
- d. Home Occupations, Minor
- e. Public Utility Facilities,
- f. Dwelling, Single-Family
- g. Dwelling, Manufactured Housing

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

16.4.18 Business – Local 1 (B-L1)

A. Purpose

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

B. Permitted uses

- (1). The following uses are permitted in the B-L1 Zone:
- (2). Accessory Dwelling Unit
- (3). Dwelling, Attached Single-Family
- (4). Dwelling, Manufactured Housing
- (5). Dwelling, Multi-Family
- (6). Dwelling, Single-Family
- (7). Dwelling, Two-Family
- (8). Convalescent Care Facility
- (9). Nursing Care Facility, Long-term
- (10). Residential Care Facility
- (11). Accessory Use & Building
- (12). Home Occupation, Major
- (13). Home Occupation, Minor
- (14). Inn
- (15). Day Care Facility
- (16). Hospital
- (17). Nursery School
- (18). Private Assembly
- (19). Public Facility
- (20). Public or Private School
- (21). Religious Use
- (22). Recreation, Public Open Space
- (23). Commercial School
- (24). Art Studio or Gallery
- (25). Business & Professional Offices
- (26). Business Services
- (27). Conference Center
- (28). Personal Services
- (29). Restaurant
- (30). Retail Sales (excluding those of which the principal activity entails outdoor sales and/or storage and excluding those specifically mentioned under Subsection C of this section)
- (31). Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)

- (32). Retail Sales, Convenience
- (33). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- (34). Mass Transit Station
- (35). Parking Area

C. Special exception uses

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

- (1). Motel
- (2). Hotel
- (3). Rooming House
- (4). Funeral Home
- (5). Gasoline Service Station
- (6). Public Assembly Area
- (7). Theater
- (8). Public Utility Facility
- (9). Farmers Market
- (10). Mechanical service

D. Standards

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

- (1). The following space standards apply
 - a. Minimum land area per dwelling unit:
 - i. When all floors are residential: 8,000 square feet
 - ii. When the entire first floor is in nonresidential use: 3,500 square feet.
 - b. Minimum parking spaces per dwelling unit: 1.5.
 - c. Minimum lot size: 20,000 square feet.
 - d. Minimum street frontage per building: 50 feet.
 - e. Maximum front yard: 30 feet.
(NOTE: This area must be designed to promote a pedestrian public space, which includes, but is not limited to, landscaping, sidewalks and sitting areas. Parking and outdoor storage are prohibited anywhere in the front yard of the structure, except for seasonal sales items.)
 - f. Minimum rear and side yards: 10 feet.
(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential zone or use; in which case a minimum of 15 feet or 50% of the building height, whichever is greater, is required.) [Amended 9-26-2011 by Ord. No. 11-15]
 - g. Maximum building height: 40 feet.
 - h. Maximum building and outdoor stored material coverage: 50%.
 - i. Minimum area dedicated to landscaped area: 15%.
 - j. Hours of operation must be noted on the final site plan and are determined by the Planning Board on a case-by-case basis. All lighting other than designated security lighting must be extinguished outside of noted hours of operation.
 - k. Minimum setback from water body and wetland water-dependent uses: zero feet.

- l. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.
 - m. Gasoline Sales must a) not be located within 1,000 feet of an existing station; (b) not be located within 1,000 feet of any private residence; and (c) not be located within 150 feet of any existing structure.
- (2). Parking.
- a. Parking must be on the side or back yard;
 - b. Shared access must be provided where feasible; and
 - c. New or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
 - d. Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year round.

(3). Building design standards

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

- a. Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character. (See Design Handbook for examples of acceptable materials, building scale, and designs.) "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.
- b. Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. Roof

colors must be muted. (See Design Handbook for examples.) The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air handler units, exhaust vents, transformer boxes and the like. (See Design Handbook for examples of appropriate treatments.)

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

(4). Landscaping/site improvements.

To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in § 16.7 and § 16.8, the following landscaping requirements apply to new and modified existing developments:

- a. Fifteen percent of site area must be landscaped;
- b. Outdoor spaces must be created to reinforce commercial activities and pedestrian-friendly access. Outdoor spaces are encouraged throughout the site with special attention along the sidewalk and street. Architectural features such as decorative pavers, planters and benches are encouraged in the creation of these spaces;
- c. The space between the roadway and any buildings must be attractively landscaped using trees, flowers, shrubs, fencing or stone walls to reinforce the site's unique character and building design;
- d. A buffer between commercial and residential zones must be established and be landscaped with a visually pleasing mixed planting type;
- e. Solid fencing, berms and/or stone walls must be used to prevent headlights from shining on abutting residential property. Incorporating flowering vines and other plantings on fences and blank exterior walls is encouraged;
- f. Provide street trees in a pattern reflecting the existing streetscape. For new buildings, a minimum of one street tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species must be selected from the list of approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
- g. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (see list of street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within developed areas of the site to be substituted for the planting of new trees; [Amended 9-26-2011 by Ord. No. 11-15]
- h. Service and storage areas must be located to the rear of the building and be shielded using plantings and/or fencing. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by

fencing, landscaping and/or other treatments (see Design Handbook for examples of appropriate buffering);

- i. No storage may be in front of buildings except seasonal sales items;
 - j. Lighting and landscape plans must be provided and approved as a part of final plan; and
 - k. Lighting along the street must be of a pedestrian scale using an architectural fixture appropriate to the neighborhood.
- (5). Traffic and circulation standards.

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

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

(1). Permitted uses

- a. Accessory Uses & Building
- b. Aquaculture
- c. Recreation, Public Open Space

(2). Special exception uses

- a. Art Studio or Gallery
- b. Business & Professional Offices
- c. Business Services
- d. Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)
- e. Conference Center
- f. Retail Sales, Convenience
- g. Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- h. Parking Area
- i. Dwelling, Manufactured Housing
- j. Dwelling, Single-Family
- k. Dwelling, Two-Family
- l. Farmers market
- m. Funeral Home
- n. Home Occupation, Major
- o. Home Occupation, Minor
- p. Inn
- q. Mass Transit Station
- r. Motel
- s. Hotel
- t. Inn
- u. Rooming House
- v. Personal Service
- w. Public Assembly Area

- x. Theater
 - y. Public Utility Facility
 - z. Restaurant
 - aa. Retail Sales (excluding those of which the principal activity entails outdoor sales and/or storage)
 - bb. Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Business – Local Zone (B-L1)
- (1). Permitted Uses
 - a. Recreation, Public Open Space
 - (2). Special Exception Uses
 - a. Accessory Uses & Buildings
 - b. Home Occupations, Major
 - c. Home Occupations, Minor
 - d. Public Utility Facility
 - e. Dwelling, Manufactured Housing
 - f. Dwelling, Single-Family
 - (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.19 Commercial 1, Route 1 Commercial Zone (C-1)

A. Purpose.

The purpose of the Commercial (C-1, C-2, C-3) Zone is to provide general retail sales, services and business space within the Town in locations capable of conveniently serving community-wide and/or regional trade areas and oriented primarily to automobile access. To reflect the differing character of various parts of the commercial areas, it is divided into three zones that are shown on the Zoning Map:

C-1 Route 1 Commercial Zone

C-2 Route 236 Commercial Zone

C-3 Bypass/Old Post Road Commercial Zone

Where the standards or requirements for the zones vary, the provisions for the zone in which the parcel is located apply.

B. Permitted uses

The following uses are permitted in the C-1 Zone:

- (1). Accessory Dwelling Unit
- (2). Convalescent Care Facility
- (3). Nursing Care Facility, Long-term
- (4). Accessory Use & Building
- (5). Home Occupation, Major
- (6). Home Occupation, Minor
- (7). Hotel
- (8). Inn
- (9). Motel
- (10). Rooming House
- (11). Day Care Facility
- (12). Hospital
- (13). Nursery School
- (14). Private Assembly
- (15). Public Facility
- (16). Public or Private School
- (17). Public Utility Facility
- (18). Religious Use
- (19). Recreation, Commercial Indoor
- (20). Recreation, Commercial Outdoor
- (21). Recreation, Public Open Space
- (22). Recreation, Public Facility
- (23). Commercial School
- (24). Veterinary Hospital
- (25). Art Studio or Gallery
- (26). Business & Professional Offices
- (27). Business Services
- (28). Conference Center
- (29). Personal Services

- (30). Repair Services
- (31). Restaurant
- (32). Retail Sales
- (33). Retail Sales, Building Materials & Garden Supply
- (34). Retail Sales, Convenience
- (35). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- (36). Mass Transit Station
- (37). Parking Area
- (38). Wholesale Businesses

C. Special exception uses

- (1). The following uses are permitted as special exception uses in the C-1 Zone:
- (2). Aquaculture
- (3). Buildings and structures over 40 feet that conform to the provisions of § 16.7 and 16.8. Buildings and structures higher than 40 actual feet from the lowest point of grade to the highest point of the building or structure must have side, rear and front yards of sufficient depth to adequately protect the health, safety and welfare of abutting properties and which may not be less than current standards or 50% of actual height, whichever is greater;
- (4). Funeral Home
- (5). Gasoline Service Station
- (6). Manufacturing Operations, Light
- (7). Mechanical Services
- (8). Mini Storage
- (9). New Motor Vehicle Sales
- (10). Public Assembly Area
- (11). Theater
- (12). Repair Garage
- (13). Research & Development
- (14). Transportation Terminal
- (15). Used Car Lot
- (16). Warehousing & Storage

D. Standards.

C Zone standards. All development and the use of land in the C Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of § 16.7 and 16.8 must be met.

- (1). The following space standards apply in the C-1 Zone:
 - a. Lot size: 40,000 square feet.
 - b. Minimum street frontage: 150 feet.
 - c. Minimum front yard: 50 feet.
 - d. Minimum rear and side yards: 30 feet. (NOTE: Except as may be required by the buffer provisions of this title, and where the side and/or rear yards of the proposed nonresidential use abut a residential zone or use; in which case a minimum of 40 feet is required.)
 - e. Maximum building height: 40 feet.
 - f. Maximum building and outdoor stored material coverage: 40%.

- g. Minimum setback from water body and wetland water-dependent uses: zero feet.
- h. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.9, § 16.3.2.17 and Appendix A, Fee Schedules.
- i. Gasoline Sales i) not located within 1,000 feet of an existing station or private residence; and ii) not located within 150 feet of an existing structure.
- j. Repair Garages must not be located within 150 feet of a private dwelling or existing structure.

(2). Parking.

- a. All new or revised parking must be visually screened by landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
[Amended 9-26-2011 by Ord. No. 11-15]

Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year round.

(3). Building design standards.

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

- a. Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character. (See Design Handbook for examples of acceptable materials, building scale, and designs.) "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard. [Amended 9-26-2011 by Ord. No. 11-15]
- b. Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. The roof

design must screen or camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air handler units, exhaust vents, transformer boxes, and the like. (See Design Handbook for examples of appropriate treatments.)

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

(4). Landscaping site improvements

To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter 16.8 the following landscaping requirements apply to new and modified existing developments: [Amended 9-26-2011 by Ord. No. 11-15]

- a. Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 30 feet in depth adjacent to the right-of-way of all public roads and include the following landscape elements:
 - i. Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.
 - ii. Street-side trees. A minimum of one street tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species should be selected from the list of recommended street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
 - iii. Planter strip. Shrubs and flowering perennials must be planted at a minimum of 10 plants per 40 linear feet of street frontage unless existing woodlands are being retained or such planting is inconsistent with the retention of rural landscape features. The plant material should be selected from the list of recommended materials in the Design Handbook. The plants must be placed within the planter strip to enhance the visual character of the site and augment natural features and vegetation. (See Design Handbook for examples of appropriate treatments.)
 - iv. Special situations.
 - 1. Expansions of less than 2,000 square feet to existing uses are exempt from the landscaping standard of this subsection.
 - 2. Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized, in accordance with previous permits or approvals, for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street. If providing the required landscape planter strip together with other required landscaping and required vegetated areas in and around wetlands would cause the project to exceed the required open space standards, the

depth of the landscape planter strip and the front yard may be reduced by the Planning Board so the open space standards are not exceeded, but in no case to less than 20 feet for this reason.

3. Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (see list of recommended street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.
4. Residences. Residential additions to existing single- and two-family dwellings and proposed single- and duplex-family dwellings are exempt from the landscaping standards of this subsection.

- v. Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)

(5). Traffic and circulation standards

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

(6). Open space standards

Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams and setbacks. Twenty-five percent of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as "open space." The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site, and maintain wildlife habitat. Individual large, healthy trees and areas with mature tree cover should be included in the open space. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties. The required amount of designated open space is reduced to 15% of each lot that is less than 100,000 square feet in size.

- a. Minimum land area per unit for elder-care facilities that are connected to the public sewerage system:

- i. Dwelling unit with two or more bedrooms: 3,000 square feet.
- ii. Dwelling unit with less than two bedrooms: 2,000 square feet.
- iii. Residential care unit: 1,500 square feet.
- iv. Minimum land area per bed for nursing care and convalescent care facilities that are connected to the public sewerage system: 1,200 square feet.

E. Shoreland Overlay Zone OZ-SL – Commercial – 1 Zone (C-1)

(1). Permitted uses

- a. Accessory Use & Building
- b. Home Occupation, Major
- c. Home Occupation, Minor
- d. Recreation, Public Facility
- e. Recreation, Public Open Space
- f. Recreation, Selected Commercial
- g. Public Utility Facility
- h. Commercial School
- i. Public or Private School
- j. Nursery School
- k. Hospital
- l. Nursing Care Facility, Long-term
- m. Convalescent Care Facility
- n. Public Facility
- o. Religious Use
- p. Private Assembly

(2). Special exception uses

- a. Aquaculture
- b. Art Studio or Gallery
- c. Retail Sales, Building Materials& Garden Supply;
- d. Business & Professional Offices
- e. Business Services
- f. Parking Area
- g. Conference Center
- h. Day Care Facility
- i. Retail Sales
- j. Retail Sales, Convenience
- k. Mass Transit Station
- l. Mini Storage
- m. Motel
- n. Hotel
- o. Rooming House
- p. Inn
- q. Personal Services
- r. Repair Services
- s. Public Assembly Area

- t. Theater
- u. Research & Development
- v. Restaurant
- w. Retail Sales
- x. Wholesale Businesses
- y. Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- z. Transportation Terminal
- aa. Veterinary Hospital
- bb. Warehousing & Storage

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

F. Resource Protection Overlay Zone OZ-RP – Commercial – 1 Zone (C-1).

(1). Permitted uses.

- a. Recreation, Public Open Space

(2). Special exception uses.

- a. Accessory Uses & Buildings
- b. Aquaculture
- c. Home Occupations, Major
- d. Home Occupations, Minor
- e. Public Utility Facilities
- f. Research & Development

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

16.4.20 Commercial 2, Route 236 Commercial Zone (C-2)

A. Purpose

The purpose of the Commercial (C-1, C-2, C-3) Zone is to provide general retail sales, services and business space within the Town in locations capable of conveniently serving community-wide and/or regional trade areas and oriented primarily to automobile access. To reflect the differing character of various parts of the commercial areas, it is divided into three zones that are shown on the Zoning Map:

C-1 Route 1 Commercial Zone

C-2 Route 236 Commercial Zone

C-3 Bypass/Old Post Road Commercial Zone

Where the standards or requirements for the zones vary, the provisions for the zone in which the parcel is located apply.

B. Permitted uses

- (1). The following uses are permitted in the C-2 Zone:
- (2). Accessory Dwelling Unit
- (3). Convalescent Care Facility
- (4). Nursing Care Facility, Long-term
- (5). Accessory Use & Building
- (6). Home Occupation, Major
- (7). Home Occupation, Minor
- (8). Hotel
- (9). Inn
- (10). Motel
- (11). Rooming House
- (12). Day Care Facility
- (13). Hospital
- (14). Nursery School
- (15). Private Assembly
- (16). Public Facility
- (17). Public or Private School
- (18). Public Utility Facility
- (19). Religious Use
- (20). Recreation, Commercial Indoor
- (21). Recreation, Commercial Outdoor
- (22). Recreation, Public Open Space
- (23). Recreation, Public Facility
- (24). Aquaculture
- (25). Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- (26). Commercial School
- (27). Veterinary Hospital
- (28). Art Studio or Gallery
- (29). Business & Professional Offices

- (30). Business Service
- (31). Conference Center
- (32). Personal Service
- (33). Repair Service
- (34). Restaurant
- (35). Retail Sales
- (36). Retail Sales, Building Materials & Garden Supply
- (37). Retail Sales, Convenience
- (38). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- (39). Boatyard
- (40). Mass Transit Station
- (41). Mechanical Services
- (42). New Motor Vehicle Sales
- (43). Parking Area
- (44). Wholesale Business

C. Special Exceptions

The following land uses are permitted as special exception uses in the C-2 Zone:

- (1). Adult Entertainment Establishment
- (2). Buildings and structures over 40 feet that conform to the provisions of § 16.7 and 16.8. Buildings and structures higher than 40 actual feet from the lowest point of grade to the highest point of the building or structure must have side, rear and front yards of sufficient depth to adequately protect the health, safety and welfare of abutting properties, and which may not be less than current standards or 50% of actual height, whichever is greater;
- (3). Commercial Greenhouse
- (4). Construction Services
- (5). Funeral Home
- (6). Gasoline Service Station
- (7). Manufacturing Operations, Light
- (8). Mini Storage
- (9). Repair Garage
- (10). Public Assembly Area
- (11). Theater
- (12). Research & Development
- (13). Shops in Pursuit of Trade
- (14). Transportation Terminal
- (15). Used Car Lot
- (16). Warehousing & Storage

D. Standards

C Zone standards. All development and the use of land in the C Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of § 16.7 and 16.8 must be met.

- (1). The following space standards apply in the C-2 Zones:
 - a. Lot size: 40,000 square feet.

- b. Minimum street frontage: 150 feet.
- c. Minimum front yard: 50 feet.
- d. Minimum rear and side yards: 30 feet. (NOTE: Except as may be required by the buffer provisions of this title, and where the side and/or rear yards of the proposed nonresidential use abut a residential zone or use; in which case a minimum of 40 feet is required.)
- e. Maximum building height: 40 feet.
- f. Maximum building and outdoor stored material coverage: 40%.
- g. Minimum setback from water body and wetland water-dependent uses: zero feet.
- h. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.
- i. Gasoline Sales: i) not located within 1,000 feet of an existing station or private residence; and ii) not located within 150 feet of an existing structure.
- j. Adult Entertainment Establishment not located within 1,000 feet of an existing private residence, school or place of worship.
- k. Repair Garages not located within 150 feet of a private dwelling or existing structure.

(2). Parking

- a. All new or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
- b. Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year round.

(3). Building design standards

- a. New buildings should meet the general design principles set forth in the Design Handbook. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements:
 - i. A "front door," although other provisions for access to the building may be provided;
 - ii. Windows; or
 - iii. Display cases.
- b. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. (See Design Handbook for examples of acceptable designs.)

- (4). Landscaping site improvements. To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter 16.8 the following landscaping

requirements apply to new and modified existing developments: [Amended 9-26-2011 by Ord. No. 11-15]

- a. Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 20 feet in depth adjacent to the right-of-way of all public roads and include the following landscape elements:
 - i. Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.
 - ii. Street-side trees. A minimum of one street tree must be planted for each 50 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species should be selected from the list of recommended street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
 - iii. Special situations
 1. Expansions of less than 2,000 square feet to existing uses are exempt from the landscaping standard of this subsection.
 2. Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized, in accordance with previous permits or approvals for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street.
 3. Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (see list of recommended street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.
 4. Residences. Residential additions to existing single- and two-family dwellings and proposed single and duplex family dwellings are exempt from the landscaping standards of this subsection.
- b. Outdoor service and storage areas. No areas for the storage of raw materials, equipment or finished products other than small areas for the display of samples of products available for sale or rent may be located

between the front property line and the front facade of the building. Display areas may not be located within the required landscape planter strip. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)

(5). Traffic and circulation standards

Vehicular and pedestrian circulation must meet the general provisions of the Design Handbook.

E. Shoreland Overlay Zone OZ-SL – Commercial – 2 Zone (C-2)

(1). Permitted uses

- a. Accessory Use & Building
- b. Home Occupation, Major
- c. Home Occupation, Minor
- d. Aquaculture
- e. Recreation, Public Facility
- f. Recreation, Public Open Space
- g. Recreation, Selected Commercial
- h. Public Utility Facility
- i. Commercial School
- j. Public or Private School
- k. Nursery School
- l. Hospital
- m. Nursing Care Facility, Long-term
- n. Convalescent Care Facility
- o. Public Facility
- p. Religious Institution
- q. Private Assembly

(2). Special exception uses

- a. Adult Entertainment Establishment, not located within 1,000 feet of an existing private residence, school or place of worship
- b. Art Studio or Gallery
- c. Boatyard
- d. Business & Professional Offices
- e. Business Services
- f. Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- g. Parking Area
- h. Conference Center
- i. Construction Services
- j. Day Care Facility
- k. Retail Sales, Convenience
- l. Retail Sales
- m. Mass Transit Station
- n. Mini Storage
- o. Motel

- p. Hotel
- q. Rooming House
- r. Inn
- s. Personal Service
- t. Public Assembly Area
- u. Theater
- v. Research & Development
- w. Restaurant
- x. Wholesale Business
- y. Repair Services
- z. Shops in Pursuit of Trade
- aa. Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- bb. Transportation Terminal
- cc. Veterinary Hospital
- dd. Warehousing & Storage

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

F. Resource Protection Overlay Zone OZ-RP – Commercial – 2 Zone (C-2).

(1). Permitted Uses.

- a. Recreation, Public Open Space

(2). Special Exception Uses.

- a. Accessory Uses & Buildings
- b. Aquaculture
- c. Home Occupations, Major
- d. Home Occupations, Minor
- e. Public Utility Facility

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

16.4.21 Commercial 3, Bypass/Old Post Road Commercial Zone (C-3)

A. Purpose.

The purpose of the Commercial (C-1, C-2, C-3) Zone is to provide general retail sales, services and business space within the Town in locations capable of conveniently serving community-wide and/or regional trade areas and oriented primarily to automobile access. To reflect the differing character of various parts of the commercial areas, it is divided into three zones that are shown on the Zoning Map:

C-1 Route 1 Commercial Zone

C-2 Route 236 Commercial Zone

C-3 Bypass/Old Post Road Commercial Zone

Where the standards or requirements for the zones vary, the provisions for the zone in which the parcel is located apply.

B. Permitted uses

- (1). The following uses are permitted in the C-3 Zone:
- (2). Accessory Dwelling Unit
- (3). Convalescent Care Facility
- (4). Nursing Care Facility, Long-term
- (5). Residential Care Facility
- (6). Accessory Use & Building
- (7). Home Occupation, Major
- (8). Home Occupation, Minor
- (9). Hotel
- (10). Inn
- (11). Motel
- (12). Rooming House
- (13). Day Care Facility
- (14). Hospital
- (15). Nursery School
- (16). Private Assembly
- (17). Public Facility
- (18). Public or Private School
- (19). Public Utility Facility
- (20). Religious Use
- (21). Recreation, Commercial Indoor
- (22). Recreation, Commercial Outdoor
- (23). Recreation, Public Open Space
- (24). Recreation, Public Facility
- (25). Aquaculture
- (26). Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- (27). Commercial School
- (28). Veterinary Hospital
- (29). Art Studio or Gallery

- (30). Business & Professional Offices
- (31). Business Services
- (32). Conference Center
- (33). Personal Services
- (34). Repair Service
- (35). Restaurant
- (36). Retail Sales
- (37). Retail Sales, Building Materials & Garden Supply
- (38). Retail Sales, Convenience
- (39). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- (40). Boatyard
- (41). Mass Transit Station
- (42). Mechanical Services
- (43). New Motor Vehicle Sales
- (44). Parking Area
- (45). Wholesale Business

C. Special exception uses

The following uses are permitted by special exception uses in the C-3 Zone:

- (1). Adult Entertainment Establishment not located within 1,000 feet of an existing private residence, school or place of worship;
- (2). Buildings and structures over 40 feet that conform to the provisions of § 16.7 and 16.8. Buildings and structures higher than 40 actual feet from the lowest point of grade to the highest point of the building or structure must have side, rear and front yards of sufficient depth to adequately protect the health, safety and welfare of abutting properties, and which may not be less than current standards or 50% of actual height, whichever is greater;
- (3). Commercial Greenhouses
- (4). Construction Services
- (5). Funeral Home
- (6). Gasoline Service Station
- (7). Manufacturing Operations, Light
- (8). Mini Storage
- (9). Public Assembly Area
- (10). Theater
- (11). Repair Garage
- (12). Research & Development
- (13). Shops in Pursuit of Trade
- (14). Transportation Terminal (excluding truck stops)
- (15). Used Car Lot
- (16). Warehousing & Storage

D. Standards.

C Zone standards. All development and the use of land in the C Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of Chapters 16.7 and 16.8 must be met.

(1). The following space standards apply in the C-3 Zone:

- a. Lot size: 40,000 square feet.
- b. Minimum street frontage: 150 feet.
- c. Minimum front yard: 50 feet.
- d. Minimum rear and side yards: 30 feet.

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

- e. Maximum building height: 40 feet.
- f. Maximum building and outdoor stored material coverage: 40%.
- g. Minimum setback from water body and wetland water-dependent uses: zero feet.
- h. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.
- i. Adult entertainment establishment not located within 1,000 feet of an existing private residence, school or place of worship.

(2). Gasoline Sales

Gasoline Sales: i) not located within 1,000 feet of an existing station or private residence; and ii) not located within 150 feet of an existing structure.

(3). Repair Garages

Repair Garages must not located within 150 feet of a private dwelling or existing structure.

(4). Parking.

- a. All new or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
- b. Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year round.

(5). Building design

Kittery's characteristic buildings reflect its historical seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical Revival. New buildings must be compatible with Kittery's characteristic styles in form, scale, material and color. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements: 1) a "front door," although other provisions for access to the building may be provided; 2) windows; or 3) display cases. (See Design Handbook for examples of acceptable materials and designs.) Strict imitation is not required. Design techniques can be used to maintain compatibility with characteristic styles and still leave enough flexibility for architectural variety. To achieve this purpose, the following design standards apply to new and remodeled building projects: [Amended 9-26-2011 by Ord. No. 11-15]

- a. Exterior building materials and details. Building materials and details

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

- b. Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air handler units, exhaust vents, transformer boxes and the like. (See Design Handbook for examples of appropriate treatments.)
 - c. Loading docks and overhead doors. Loading docks and overhead doors must be located on the side or rear of the building and screened from view from adjacent properties in residential use.
- (6). Landscaping site improvements

To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in § 16.7 the following landscaping requirements apply to new and modified existing developments: [Amended 9-26-2011 by Ord. No. 11-15]

- a. Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 15 feet in depth adjacent to the right-of-way of all public roads and include the following landscape elements:
 - i. Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.
 - ii. Street-side trees. A minimum of one tree must be planted for each 50 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species should be selected from the list of recommended street trees in the Town Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
 - iii. Special situations.
 - 1. Expansions of less than 1,000 square feet to existing uses are exempt from the landscaping standard of this subsection.
 - 2. Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized, in accordance with previous permits or approvals, for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development

from the public street.

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

b. Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)

(7). Traffic and circulation standards

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

(8). Open space standards

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

E. Shoreland Overlay Zone OZ-SL – Commercial – 3 Zone (C-3)

(1). Permitted uses

- a. Accessory Use & Building
- b. Home Occupation, Major
- c. Home Occupation, Minor
- d. Aquaculture
- e. Recreation, Public Facility
- f. Recreation, Public Open Space

- g. Recreation, Selected Commercial
 - h. Public Utility Facility
 - i. Commercial School
 - j. Public or Private School
 - k. Nursery School
 - l. Hospital
 - m. Elder Care Facility
 - n. Nursing Care Facility, Long-term
 - o. Convalescent Care Facility
 - p. Public Facility
 - q. Religious Use
 - r. Private Assembly
- (2). Special exception uses
- a. Adult Entertainment Establishment, not located within 1,000 feet of an existing private residence, school or place of worship
 - b. Art Studio or Gallery
 - c. Boatyard
 - d. Business & Professional Offices
 - e. Business Services
 - f. Commercial Fisheries/Maritime Activities, provided only incidental cleaning and cooking of seafood occur at the site
 - g. Parking Area
 - h. Conference Center
 - i. Construction Services
 - j. Day Care Facility
 - k. Funeral Home
 - l. Retail Sales, Convenience
 - m. Mass Transit Station
 - n. Motel
 - o. Hotel
 - p. Rooming House
 - q. Inn
 - r. Mini Storage
 - s. Personal Service
 - t. Public Assembly Area
 - u. Theater
 - v. Research & Development
 - w. Restaurant
 - x. Retail Sales
 - y. Wholesale Business
 - z. Shops in Pursuit of Trade
 - aa. Transportation Terminal (excluding truck stops)
 - bb. Veterinary Hospital
 - cc. Warehousing & Storage

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

F. Resource Protection Overlay Zone OZ-RP – Commercial – 3 Zone (C-3)

- (1). Permitted Uses
 - a. Recreation, Public Open Space
- (2). Special Exception Uses
 - a. Accessory Uses & Buildings
 - b. Aquaculture
 - c. Home Occupations, Major
 - d. Home Occupations, Minor
 - e. Public Utility Facility
- (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.22 Industrial (IND)

A. Purpose

The purpose of the Industrial IND Zone is to provide areas within the Town for manufacturing, processing, treatment and research, to which end all the performance standards set forth in this title apply.

B. Permitted uses

The following uses are permitted in the IND Zone:

- (1). Accessory Use & Building
- (2). Home Occupation, Major
- (3). Home Occupation, Minor
- (4). Research & Development
- (5). Manufacturing Processing and Treatment, Heavy

C. Special exception uses

The following uses are permitted as special exception uses in the IND Zone:

- (1). Public Facility
- (2). Public Utility Facility

D. Standards

- (1). The design and performance standards of § 16.7 and 16.8 must be met.
- (2). The following space standards apply:

- a. Minimum area of lot: none.
- b. Minimum street frontage: none.
- c. Minimum front yard: none.
- d. Minimum rear and side yards: 30 feet.

(NOTE: Except as may be required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential zone or use; in which case a minimum of 50 feet or 50% of the building or outdoor stored material height, whichever is greater, is required.)

- e. Maximum building height: none.
- f. Maximum building coverage: none.
- g. Minimum setback from water body and wetland water-dependent uses: zero feet.
- h. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.

E. Shoreland Overlay Zone OZ-SL – Industrial Zone (IND)

(1). Permitted uses

- a. Accessory Use & Building
- b. Home Occupation, Major
- c. Home Occupation, Minor
- d. Research & Development

(2). Special exception uses

- a. Manufacturing Processing & Treatment, Heavy
- b. Public Facility
- c. Public Utility Facility

- (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Industrial Zone (IND)
 - (1). Permitted Uses
 - a. Research & Development
 - (2). Special Exception Uses
 - a. Accessory Uses & Buildings
 - b. Home Occupations, Major
 - c. Home Occupations, Minor
 - d. Public Facility
 - e. Public Utility Facility
 - (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

NOTE: It is recognized that federal ownership of this zone at the time of enactment of the ordinance codified in this title precludes enforcement of any local regulations.

16.4.23 Mixed-Use (MU)

A. Purpose

To provide opportunities for a mix of office, service, and limited residential and retail uses, to alter the pattern of commercial activity on Route 1, to serve Kittery's needs, and to minimize traffic congestion. A mix of uses on a site is desired and, in some cases, required; a continuation of strip development is not encouraged in this zone. The Mixed-Use Zone is intended to accommodate growth.

The purpose of large lot sizes, open space standards, and frontage requirements is to limit the number of access points along U.S. Route 1, to encourage the development of service roads which may serve several developments, and to create development that will retain the predominant rural character of the zone. Other objectives are to encourage an orderly and safe traffic flow along U.S. Route 1, pedestrian safety, and an attractive site design enhanced by landscaping, open space, and restrictions on the locations of parking. These development goals are supported by the principles and objectives identified in the Town's Design Handbook, Kittery Maine.

B. Permitted uses

- (1). Accessory Dwelling Units
- (2). Dwelling, Single-Family (limited to lots of record as of April 1, 2004)
- (3). Dwelling, Multi-Family (limited to the upper floors of mixed-use building that is served by public sewerage)
- (4). Convalescent Care Facility
- (5). Nursing Care Facility, Long-term
- (6). Residential Care Facility
- (7). Accessory Use & Building
- (8). Home Occupations, Major
- (9). Home Occupations, Minor
- (10). Inn
- (11). Day Care Facility
- (12). Hospital
- (13). Private Assembly (which is not used for residential or overnight occupancy)
- (14). Public Facility
- (15). Public or Private School (which is not used for residential or overnight occupancy)
- (16). Recreation, Commercial Indoor
- (17). Recreation, Commercial Outdoor
- (18). Recreation, Public Open Space
- (19). Agriculture
- (20). Commercial School (which is not used for residential or overnight occupancy)
- (21). Timber Harvesting
- (22). Veterinary Hospital
- (23). Art Studio or Gallery
- (24). Business & Professional Offices
- (25). Funeral Home
- (26). Personal Services
- (27). Repair Service

- (28). Research & Development
- (29). Restaurant
- (30). Retail Sales (a single use not to exceed 50,000 square feet in gross floor area)
- (31). Retail Sales, Building Materials & Garden Supply
- (32). Retail Sales, Convenience
- (33). Specialty Food and/or Beverage Facility
- (34). Theater
- (35). Boat Yard
- (36). Mass Transit Station
- (37). Parking Area
- (38). Manufacturing Operations, Light (less than or equal to 20,000 square feet in gross floor area)

C. Special exception uses

- (1). Campground
- (2). Recreational Vehicle Park
- (3). Construction Services
- (4). Commercial Kennel
- (5). Commercial Greenhouses
- (6). Theater, Drive-in
- (7). Gas Service Station
- (8). Elderly Housing
- (9). Manufacturing Operations, Light (greater than 20,000 square feet in gross floor area)
- (10). Mechanical Services
- (11). Motel
- (12). Hotel
- (13). New Motor Vehicle Sales
- (14). Public Utility Facilities
- (15). Repair Garage
- (16). Retail Sales (a single use greater than 50,000 square feet in gross floor area and less than 150,000 square feet in gross floor area)
- (17). Shop in Pursuit of Trade
- (18). Transportation Terminal
- (19). Warehousing & Storage
- (20). Wholesale Business

D. Standards

- (1). All development and the use of land in the MU Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of § 16.7 and § 16.8 must be met.
- (2). Minimum dimensional standards. The following apply:
 - a. Minimum lot size:
 - i. Lots with frontage on Route 1: 200,000 square feet.
 - ii. Lots without frontage on Route 1: 80,000 square feet.
 - b. Minimum street frontage on road with access along U.S. Route 1, Haley

Road, Lewis Road, or Cutts Road: 250 feet.

- i. Other streets or approved ways: 150 feet.
- c. Minimum front yard: 30 feet.
- d. Minimum rear and side yards: 30 feet.
- e. Maximum building height: 40 feet.
- f. Maximum height above grade of building-mounted signs: 40 feet.
- g. Minimum setback from water body and wetland water dependent uses: zero feet.
- h. Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.28, § 16.4.28 and Appendix A, Fee Schedules.
- i. Minimum land area per unit for eldercare facilities that are connected to the public sewerage system:
 - i. Dwelling unit with two or more bedrooms: 5,000 square feet.
 - ii. Dwelling unit with less than two bedrooms: 4,000 square feet.
 - iii. Residential care unit: 2,500 square feet.
- j. Minimum land area per bed for nursing care and convalescent care facilities that are connected to the public sewerage system: 2,000 square feet.
- k. Buffer to I-95 right-of-way: 40 feet.
- l. Buffer to neighboring lot with an existing residence within 100 feet of the lot line: 40 feet.
- m. Vegetated buffer to be maintained between the MU and R-RL Zones: 40 feet.

NOTE 1: For single-family dwellings, one dwelling unit is allowed for each 200,000 square feet of land area. A lot of record having a land area of more than 200,000 square feet that was improved with a single-family dwelling as of April 1, 2004, may be divided into two lots with a single-family dwelling on each lot provided that each of the lots contains at least 40,000 square feet of land area and meets the other dimensional standards of the zone. § 16.4.10.A(4) through (6) as set forth in the Residential - Rural Zone apply and no further subdivision is allowed.

NOTE 2: For dwelling units that are part of a mixed-use building and are connected to the public sewerage system, one dwelling unit is allowed for each 10,000 square feet of buildable land area. Within the Resource Protection and Shoreland Overlay Zones, one dwelling unit is allowed for each 40,000 square feet of land area within these zones. If the parking for the residential units is encompassed within the building, the minimum required buildable land area per dwelling unit is reduced to 7,500 square feet, except in the Resource Protection and Shoreland Overlay Zones where the area per dwelling unit remains 40,000 square feet.

NOTE 3: For elderly housing dwelling units that are connected to the public sewerage system, one dwelling unit is allowed for each 15,000 square feet of buildable land area. Within the Resource Protection and Shoreland Overlay Zones, one dwelling unit is allowed for each 40,000 square feet of land within these zones. If the parking for the elderly units is encompassed within the building, the minimum required buildable land area per dwelling unit is reduced to 10,000 square feet, except in the Resource Protection and Shoreland Overlay Zones where the area per dwelling unit remains 40,000 square feet.

(3). Retail use limitation

Retail use, including parking areas and other supporting unvegetated areas for
16.4 Land Use Zones Regulations - Page 62 of 97

retail use, is limited to not more than 30% of the developable area of any lot or portion of a lot within the Mixed-Use Zone.

(4). Mixed-use requirement

The Mixed-Use Zone is intended for the creation of an area in the Town that has a mix of uses and in which no single type of use predominates. To this end, larger scale projects must incorporate a mix of principal uses into the development. Any new development that creates more than 20,000 square feet of gross floor area must include at least two principal uses as set forth in the list of permitted uses and special exceptions. To fulfill this requirement, the smaller use or combination of smaller uses must contain at least 10% of the gross floor area. The combination of retail uses that are permitted uses and one larger retail use allowed as a special exception does not fulfill this requirement. This provision does not apply to the development of a single lot of record as of April 1, 2004, that has a lot area of less than 200,000 square feet.

(5). Location and screening of parking areas

All new parking areas must be located at the side of, and/or to the rear of, principal buildings. Where unique circumstances exist and it is demonstrated to the Planning Board that prohibition of parking in front of the principal building is not practicable, with the Board's approval, 10 or fewer parking spaces may be located closer to the front lot line than a principal building. All new or altered parking must be visually screened from U.S. Route 1, Lewis Road, Cutts Road, and Haley Road by extensive landscaping, earthen berms, and/or fencing (see Design Handbook for examples of acceptable screening).

(6). Building design standards

Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal, and Classical Revival. New buildings should be compatible with Kittery's characteristic styles in form, scale, material, and color. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements: (1) a front door although other provisions for access to the building may be provided, (2) windows, or (3) display cases (see Design Handbook for examples of acceptable materials and designs). Though strict imitation is not required, design techniques can be used to maintain compatibility with characteristic styles and still leave enough flexibility for architectural variety. To achieve this purpose, the following design standards apply to new and remodeled building projects:

- a. Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character (see Design Handbook for examples of acceptable materials, building scale, and designs). "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design.
 - i. Predominant exterior building materials. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard. Stucco, adobe, sheet metal, standard concrete block, tilt-up concrete panels, plywood or particle board are prohibited as the primary materials.
 - ii. Blank walls. A wall may not extend for a length of more than 50

linear feet without an architectural feature such as a dormer, pilaster, cornice, corner, window, porch, or visually compatible door to break up the large mass of a featureless wall (see Design Handbook for examples of the appropriate treatment of walls). As an exception, walls with a clapboard facade may extend for a length of up to 100 feet without such an architectural feature.

iii. Light industrial and boatyard uses. Such uses must comply with the above standards only along the front face and extending back 100 feet along the side walls.

b. Roofs. Roofs must meet the following standards:

i. Form. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel, and hipped roofs. Flat roofs, shed roofs, and roof facades (such as "stuck on" mansards) are not acceptable as primary roof forms.

ii. Color. Roof colors must be muted (see Design Handbook for examples).

iii. Rooftop mechanical and electrical equipment. Rooftops must be free of clutter. The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air conditioning units, air handler units, exhaust vents, transformer boxes, and the like (see Design Handbook for examples of appropriate treatments). Interior-mounted equipment is encouraged. Whenever possible, utility equipment areas must be placed in an obscure location and screened from view.

iv. Loading docks and overhead doors. Loading docks and overhead doors must be located on the side or rear of the building and be screened from view from public streets.

(7). Landscaping standards

To achieve attractive and environmentally sound site design, and appropriate screening of parking areas, in addition to the landscaping standards contained in § 16.7 and 16.8, the following landscaping requirements apply to new and modified existing developments:

a. Landscape planter strip. A vegetated landscape planter strip 30 feet in depth (as measured from the edge of the property line) must be provided along the length of all developed portions of a parcel that are adjacent to a street right-of-way. The planter strip must include the following landscape elements:

i. Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways, and screened utility equipment.

ii. Streetside trees. A minimum of one street tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site (see Design Handbook for examples). The trees must be a minimum 2.5 inch caliper, and be at least 12 feet high at the time of planting. The species should be selected from the list of approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.

iii. Planter strip. Shrubs and flowering perennials must be planted at a

minimum of 10 plants per 40 linear feet of street frontage unless existing woodlands are being retained or such planting is inconsistent with the retention of rural landscape features. The plant material should be selected from the list of approved materials in the Design Handbook. The plants must be placed within the planter strip to enhance the visual character of the site and augment natural features and vegetation (see Design Handbook for examples of appropriate treatments).

- iv. Special situations.
 1. Expansions of less than 500 square feet to existing uses are exempt from the landscaping standard of this subsection.
 2. Depth of landscape planter strip. In instances where the required average depth of the landscape planter strip is legally utilized, in accordance with previous permits or approval, for parking, display, storage, building, or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street. If providing the required landscape planter strip along with other required landscaping and required vegetated areas in and around wetlands would cause the project to exceed the required open space standards, the depth of the landscape planter strip and the front yard may be reduced by the Planning Board so that the open space standards are not exceeded, but in no case to less than 20 feet for this reason.
 3. Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one streetside tree (see list of recommended street trees in Design Handbook) is required for every 500 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.
 4. Residences. Residential additions to existing single- and two-family dwellings and proposed single- and duplex-family dwellings are exempt from the landscaping standards of this subsection.
- b. Buffer area. Where buffering is required, it must provide a year-round visual screen to minimize adverse impacts and screen new development (see Design Guidelines for examples of appropriate buffers for various situations), and may consist of fencing, evergreens, retention of existing vegetation, berms, rocks, boulders, mounds or combinations thereof. Within three growing seasons, the buffer must provide a year-round screen at least

eight feet in height or such lower height as determined by the Planning Board to be appropriate for the situation. Buffer areas must be maintained and kept free of all outdoor storage, debris, and rubbish. The width of the buffer area may be reduced by the Planning Board if the function of the buffer is still fulfilled.

- c. Rural landscape features. Rural landscape features such as stone walls, berms, and other agricultural structures, and tree lines or fields must be retained to the maximum extent practicable.
 - d. Lighting. Outdoor lighting must provide the minimum illumination needed for the safe use of the site while enhancing the nighttime visual character of the site. Lighting must conform to the standards for outdoor lighting in § 16.7.
 - e. Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping, and/or other treatments (see Design Handbook for examples of appropriate buffering).
- (8). Traffic and circulation standards

Sidewalks and roadways must be provided within the site to internally join abutting properties that are determined by the Planning Board to be compatible. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move within the site and between the principal customer entrance and the front lot line where a sidewalk exists or will be provided or where the Planning Board determines that such a route is needed for adequate pedestrian safety and movement.

(9). Open space standards

Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams, and setbacks. Thirty-five percent of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as "open space."

- a. An objective of the open space standard is to encourage the integration of open space throughout the entire development and with the open space on adjoining properties in order to alter the pattern of commercial activity along Route 1. To this end, a minimum of 25% of the required open space must be located in the front 50% of the lot area closest to U.S. Route 1, or if not fronting Route 1, closest to the public street used to enter the lot. The Planning Board may modify this requirement when it is demonstrated to the Board's satisfaction that the objective is met to the greatest practicable extent.
- b. The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site, and maintain wildlife habitat. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties.
- c. Special situations.
 - i. Cases where integrating open space would require exceeding the open space standards. In cases where the topography, wetlands, and existing development on the lot dictates that more than 75% of the required open space be located outside the front portion of the lot, a percentage of the open space normally required in the front portion

of the lot may be shifted to the rear portion of the lot in order to achieve the required amount of vegetated open space and not reduce the allowable developable area on the lot, provided minimum landscaping standards are satisfied.

- ii. Small lots. The required amount of designated open space is reduced to 20% of each lot that is less than 100,000 square feet in size.

(10). Conditions for approving special exception uses in the Mixed-Use Zone.

- a. All special exception uses in the Mixed-Use Zone must be visually harmonious with the neighborhood and natural landscape by the use of adequate screening and/or architectural design as follows:
 - i. Screening. Must be screened and buffered through landscaping, fencing, planted berms, existing vegetation, and separations of spaces to shield neighbors from any adverse external effects of the facility and to integrate the facility into the landscape. Plantings must be of sufficient maturity to achieve the desired screening effect within three years.
 - ii. Architectural compatibility. Must be in architectural harmony with the area in which it is located to the maximum extent practicable through the appropriate use of facade materials, roof style, scale, bulk, and architectural style and details.
 - iii. Location. Facilities located above ground must be sited so as to eliminate adverse impacts associated with the facility to the maximum extent practicable while still fulfilling the basic purpose of the facility.
- b. Retail Sales, a single retail use greater than 50,000 square feet in gross floor area and less than 150,000 square feet in gross floor area:
 - i. Timing. No more than one retail use with a gross floor area greater than 50,000 square feet and less than 150,000 square feet may be approved in any three-year period.
 - ii. Size. A single retail use with a gross floor area greater than 150,000 square feet is not permitted.
- c. Gasoline Service Stations.
 - i. Visual screening. A year-round buffer area must be provided between the gasoline service station and neighboring uses in accordance with the landscaping standards of the mixed-use zone regulations.
 - ii. Separation distance. A gasoline service station may not be located within 2,000 feet of another service station.
 - iii. Minimum distance, pump to existing structures. A fuel pump may not be located closer than 150 feet to an existing occupied structure located off the site of the gasoline service station.
- d. Theater, Drive-in.
 - i. To protect the tranquility and quality of life of existing residential uses in the vicinity of the proposed drive-in theater, the hours of operation must be limited to the degree necessary and/or adequate visual and sound buffers must be established.
- e. Campground/Recreational Vehicle Park.
 - i. The standards in § 16.5.16 must be satisfied.
 - ii. Occupation of any site by single user for a period exceeding 96 hours is prohibited.

- iii. Quiet hours must be enforced between 10:00 p.m. and 7:00 a.m.
- f. Motel or Hotel.
 - i. Multiple-story structures are encouraged.
 - ii. Wherever practicable, building orientation should not be parallel to U.S. Route 1, but must take maximum advantage of the depth of the mixed-use zone.
 - iii. More than three separate motels and/or hotels may not be permitted in the mixed-use zone.
- g. Public Utility Facility.
 - i. Public health and safety. Must not endanger the public health or safety.
 - ii. Protect property values. Must not unreasonably reduce the value of abutting property without just compensation.
 - iii. Prevent nuisances. Must prevent the emission of nuisances, such as but not limited to noise, odors, dust, gas, fumes, smoke, light, vibrations, and electrical interference, beyond the boundaries of the site to the maximum extent practicable.
- h. Age-Restricted Housing.
 - i. Location suitability. The location of the site must allow it to be developed so that the residents of the project will be able to function as part of the community and have pedestrian access to services and facilities within the area.
 - ii. Mixed use. If an elderly housing component is proposed as part of the project, it must be an essential element of the mixed-use project and be designed to be an integrated part of the overall development.
- i. Commercial Greenhouses
 - i. The greenhouses and any related outdoor storage or service areas or structures must be visually buffered from Route 1 and adjacent properties.
 - ii. If the greenhouses will be internally lit between 9:00 p.m. and 6:00 a.m., the internal lighting may not be visible from adjacent properties including public streets.
 - iii. The noise resulting from the operation of the facility as measured at the property line must be comparable with other uses in the MU Zone during the period between 9:00 p.m. and 6:00 a.m.
 - iv. The greenhouses and related storage and service areas may not be located within 200 feet of any legally existing residential use, inn, motel or hotel, hospital, or nursing home/convalescent center on another lot.
- j. Manufacturing Operations, Light (greater than 20,000 square feet in gross floor area), Transportation Terminal, Warehousing & Storage, or Wholesale Business.
 - i. The building and any related outdoor storage or service areas or structures must be visually buffered from Route 1 and adjacent properties by other uses allowed in the zone and/or by a landscaped buffer strip.
 - ii. If the area between this use and Route 1 is not developed for another permitted use or special exception, it must be maintained as a naturally vegetated buffer in addition to the provision of a landscape planter strip.

- iii. The noise resulting from the operation of the facility as measured at the property line must be comparable with other uses in the MU Zone during the period between 9:00 p.m. and 6:00 a.m.
- iv. The use and related storage and service areas may not be located within 200 feet for any legally existing residential use, inn, motel or hotel, hospital, or nursing home/convalescent center on another lot.

E. Shoreland Overlay Zone OZ-SL – Mixed-Use Zone (MU)

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

(1). Permitted uses

- a. Agriculture
- b. Art Studio or Gallery
- c. Religious Use
- d. Home Occupation, Major
- e. Home Occupation, Minor
- f. Private Assembly (which is not used for residential or overnight occupancy)
- g. Public Facility
- h. Recreation, Public Open Space
- i. Research & Development
- j. Timber Harvesting

(2). Special exception uses

- a. Dwellings, limited to the following:
 - i. Dwelling, Single-Family (lots of record as of April 1, 2004)
 - ii. Dwelling, Multi-Family (on the upper floors of a mixed-use building that is served by public sewerage)
 - iii. Age-Restricted Housing (as part of a mixed-use project)
- b. Accessory Use & Building
- c. Boatyard
- d. Business & Professional Offices
- e. Commercial Kennel
- f. Parking Area
- g. Construction Services
- h. Convalescent Care Facility
- i. Nursing Care Facility, long-term
- j. Day Care Facility
- k. Residential Care Facility
- l. Funeral Home
- m. Retail Sales, Convenience
- n. Retail Sales (a single use not to exceed 50,000 square feet in gross floor area)
- o. Hospital
- p. Inn
- q. Commercial School (which is not used for residential or overnight occupancy)
- r. Public or Private School (which is not used for residential or overnight occupancy)

- s. Mass Transit Station
- t. Motel
- u. Hotel
- v. Personal Services
- w. Public Utility Facility
- x. Repair Services
- y. Research & Development
- z. Restaurant
- aa. Recreation, Selected Commercial
- bb. Shop in Pursuit of Trade
- cc. Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- dd. Theater
- ee. Transportation Terminal
- ff. Veterinary Hospital
- gg. Warehousing & Storage
- hh. Wholesale Business

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

F. Resource Protection Overlay Zone OZ-RP – Mixed-Use Zone (MU).

(1). Permitted Uses

- a. Recreation, Public Open Space
- b. Timber Harvesting

(2). Special Exception Uses

- a. Accessory Uses & Buildings
- b. Agriculture
- c. Home Occupations, Major
- d. Home Occupations, Minor
- e. Public Utility Facility
- f. Dwelling, Single-Family (on lots of record as of April 1, 2004)

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

16.4.24 Mixed-Use – Badger Island (MU-BI)

A. Purpose

The purpose of the Mixed-Use – Badgers Island MU-BI Zone is to provide opportunities for a wide variety of uses, including marine-related activities, offices, restaurants, shops, residences and services, to take advantage of a unique island setting located within walking distance to both downtown Portsmouth and downtown Kittery, in which water and sewer services are available to support development.

This zone is further intended to develop standards appropriate for existing small lot sizes and street frontages to encourage investment in buildings that will contribute to the revitalization of the greater Kittery Foreside area while balancing business and residential interests to keep property values up and maintain an urban residential quality of life in the zone.

B. Permitted uses.

The following uses are permitted in the MU-BI Zone:

- (1). Accessory Dwelling Units
- (2). Dwellings, Attached Single-Family
- (3). Dwellings, Manufactured Housing
- (4). Dwelling, Multi-Family
- (5). Dwellings, Single-Family
- (6). Accessory Use & Building
- (7). Home Occupations, Major
- (8). Home Occupations, Minor
- (9). Inn
- (10). Day Care Facility
- (11). Private Assembly
- (12). Public Facility
- (13). Public or Private School
- (14). Religious Use
- (15). Recreation, Public Open Space
- (16). Aquaculture
- (17). Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- (18). Commercial School
- (19). Art Studio or Gallery
- (20). Business & Professional Offices
- (21). Conference Center
- (22). Personal Service
- (23). Restaurant (with the hours of operation limited to 5:00 a.m. to 11:00 p.m., but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle)
- (24). Retail Sales (excluding those with any outdoor sales and/or storage)
- (25). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- (26). Boat Yard
- (27). Marina

- (28). Mass Transit Station
- (29). Mechanical Services

C. Special exception uses.

The following uses are permitted as special exception uses in the MU-BI Zone:

- (1). Recreation, Commercial Indoor
- (2). Recreation, Commercial Outdoor
- (3). Public Assembly Area
- (4). Theater
- (5). Public Utility Facility

D. Standards

- (1). The following space standards apply
 - a. Minimum land area per dwelling unit: 3,000 square feet.
 - i. For each of the first two dwelling units and thereafter: 6,000 square feet.
 - b. Minimum lot size: 6,000 square feet.
 - c. Minimum street frontage: 50 feet.
 - d. Minimum front yard: five feet.
 - e. Minimum rear and side yards: 10 feet.
 - f. Maximum building height: 40 feet.
 - g. Minimum setback from:
 - i. Water body and wetland water-dependent uses: zero feet.
 - ii. All other uses (including buildings and parking): 75 feet unless modified, according to the terms of Subsection E of this section.
 - h. Minimum open space on the site: 40%. (NOTE: The Planning Board may reduce the required open space to 30% where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.)
- (2). The design and performance standards of § 16.7 and 16.8 must be met, except where specifically altered in this subsection.
- (3). Appropriate waterfront activity incentives

To encourage objectives of the Comprehensive Plan to: 1) provide public access to the waterfront; 2) retain and expand commercial water-dependent uses; and 3) take extraordinary steps to preserve the environmental quality of the shoreline and tidal waters, the required setback from water bodies and wetlands may be reduced to 25 feet where the Planning Board finds a development plan significantly contributes to accomplishment of the above objectives by satisfactorily achieving one or more of the following:
- (4). Public access

Grants an easement to the Town, or other acceptable party, providing public access to the waterfront at no charge to the general public via a developed accessible pedestrian route with appropriate signage or includes an outdoor deck or patio for customer seating at a restaurant open to the general public; or
- (5). Retain/expand commercial water-dependent uses

Provides for inclusion of commercial water-dependent use(s) on the property for the duration of the portion of the project that encroaches closer than the normal minimum setback from water bodies and wetlands. Provision of fewer than six boat slips for leisure/recreational boating do not constitute a commercial water-dependent use for the purposes of this section; or

- (6). Preserve the environmental quality of coastal resources. Protect existing wildlife habitat, conserve shore cover and ensure the quality of stormwater runoff by satisfying all of the following standards:
 - a. Retain and protect existing significant wildlife habitat that provides food, cover and/or nesting for migratory song birds and wading birds;
 - b. In order to conserve shore cover, contiguous areas of shrubberies of varying height, such as dwarf species of barberry, serviceberry, holly, crabapple, dogwood, cotoneaster, euonymus, firethorn and/or rosa rugosa, as well as erosion-resistant ground cover plantings must be retained and planted, and existing trees retained, wherever practicable in the setback;
 - c. Implementation of a stormwater management plan endorsed by the York County Soil and Water Conservation District (SCS), or the Town's engineering peer review consultant, that treats stormwater with appropriate BMPs and removes pollutants in accordance with the most-current edition of the Maine Department of Environmental Protection BMP Manual, Stormwater Management for Maine. Pollutants sought to be removed include suspended solids, nitrates, hydrocarbons and heavy metals. Such special treatment of the first flush of runoff may include detention, infiltration, filtering and trapping of pollutants. [Amended 9-26-2011 by Ord. No. 11-15]
- (7). Special parking standards
 - a. Revised off-street parking standards

Off-street parking must be provided in accordance with § 16.7.11.G(3) unless modified below for the following uses:

 - i. Dwellings: 1 1/2 parking space for each dwelling unit;
 - ii. Retail stores: one parking space for each 400 square feet of gross floor area;
 - iii. Drive-in restaurants, snack bars and fast-food outlets, but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle: one parking space for every three seats, but in no case less than four spaces;
 - iv. Conference centers: one parking space for every 60 square feet in the largest assembly or meeting room.
 - b. Joint-use parking

Required off-street parking may be satisfied by the joint use of parking spaces by two or more uses if the applicant can show that parking demand is nonconflicting and will reasonably provide adequate parking for multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekend hours of operation or seasonal variation in parking demand. In making this determination under development plan review, the Planning Board must consider the following factors:

 - i. Such joint parking areas must be held under ownership or under terms of a contractual agreement that ensures such parking remains available to all users of the shared parking spaces;
 - ii. Analysis is based on a most frequent basis not a "worst case" scenario;
 - iii. Joint-use parking areas must be located within reasonable distance to the uses served, but do not need to be located on the same parcel as the uses served;

- iv. Ease and safety of pedestrian access to shared parking by the users served, including any improvements or shuttle service necessary; and
 - v. Such joint parking areas may not be located in residential zoning districts.
- c. Off-site parking
- Required off-street parking for employee use may be satisfied at off-site locations located within 1,000 feet measured along lines of public access from the lot to be served, provided such parking area is on other property owned by the applicant or under terms of a contractual agreement that will ensure such parking remains available to the use served.
- d. Employee parking
- Required off-street parking for employee use may be satisfied at off-site locations greater than 1,000 feet from the lot served upon a finding by the Planning Board that such parking is practicable and will reasonably prevent overflow parking from occurring on Badgers Island in undesignated locations. In making this determination under development review, the Planning Board must consider the following factors:
- i. Such parking must be located within a reasonable distance to the users.
 - ii. Such parking area must be on other property of the applicant or under terms of a contractual agreement that will ensure such parking remains available to the use served.
 - iii. Safe and convenient means of transporting users to and from the off-site parking must be demonstrated by the applicant.
 - iv. Such off-site parking area must not be located in residential zones of the Town. Off-site parking for use by employees may deviate from the dimensional standards contained in § 16.7.11.G, Table 2, Parking Space Design, if the applicant can demonstrate that the proposal practicably accommodates the number of parking spaces proposed.
- e. Parking demand management (PDM) strategies
- i. Parking demand strategies are measures geared toward affecting the demand side of the parking equation rather than the supply side. They attempt to change people's behavior away from traveling to work as a single occupant in an automobile to be parked near the work site. To be successful, they must rely on incentives or disincentives to make these shifts in behavior attractive to the traveler.
 - ii. A portion of required off-street parking may be satisfied by an owner incorporating PDM strategies to effectively reduce demand for parking stalls as determined by the Planning Board. In making this determination the Planning Board, under development plan review, must consider the following factors:
 1. The written commitment of the employer to maintain and enforce parking policies to reduce demand for parking stalls;
 2. The likelihood that specific incentives and policies adopted by the applicant will reduce parking demand on a regular basis throughout the year;
 3. Written commitments by employees to participate in PDM strategies; and

4.The results of any studies demonstrating the effectiveness of strategies adopted by the applicant to reduce parking demand.

f. PDM strategies include, but are not limited to, the following:

i. Increase the number of persons per parked vehicle. Potential incentives:

- 1.Preferential parking locations for car pools and van pools;
- 2.Guaranteed ride home programs/taxi subsidies;
- 3.Employer provision of vans for van pools; and
- 4.Financial incentives to participants in car pools and van pools.

ii. Increase the number of persons using an alternative mode of travel to the automobile, such as walking, bicycling, motorcycle, moped, bus and shuttle service. Potential incentives:

- 1.Preferential parking locations for alternative modes of travel;
- 2.Provision of changing rooms, lockers and showers;
- 3.Early work release for employees using alternative modes of travel;
- 4.Financial subsidies toward the purchase of alternative modes of travel to be used for commuting;
- 5.Guaranteed ride home programs in inclement weather;
- 6.Preferential work station locations; and
- 7.Free use of a business vehicle for errands, lunch and off-site appointments.

iii. Influencing the time of, or need to, travel to work. Potential incentives:

- 1.Reward employees who telecommute from their home or other remote location;
- 2.Offer an optional four-day, forty-hour workweek as an alternative to a five-day workweek;
- 3.Allow nonoverlapping early and late work shifts; and
- 4.Flextime.

E. Shoreland Overlay Zone OZ-SL Mixed-Use – Badger’s Island Zone (MU-BI)

(1). Permitted uses

- a. Aquaculture
- b. Recreation, Public Open Space
- c. Research & Development
- d. Mass Transit Station

(2). Special exception uses

- a. Accessory Use & Building
- b. Art Studio or Gallery
- c. Boatyard
- d. Business & Professional Offices
- e. Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)
- f. Recreation, Commercial Indoor

- g. Recreation, Commercial Outdoor
- h. Day Care Facility
- i. Dwelling, Manufactured Housing
- j. Dwelling, Single-Family
- k. Dwelling, Two-Family
- l. Retail Sales (excluding those with any outdoor sales and/or storage)
- m. Home occupation, Major
- n. Home Occupation, Minor
- o. Inn
- p. Marina
- q. Personal Services
- r. Business Services
- s. Public Assembly Area
- t. Public Utility Facility
- u. Restaurant (with the hours of operation limited to 5:00 a.m. to 11:00 p.m., but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle)
- v. Commercial School
- w. Public or Private School
- x. Public Facility
- y. Religious Use
- z. Private Assembly
- aa. Specialty Food and/or Beverage Facility; [Added 6-10-2013 by Ord. No. 13-02]
- bb. Theater

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

F. Resource Protection Overlay Zone OZ-RP – Mixed-Use – Badger’s Island Zone (MU-BI)

- (1). Permitted Uses
 - a. Aquaculture
 - b. Recreation, Public Open Space
- (2). Special Exception Uses
 - a. Accessory Uses & Buildings
 - b. Home Occupations, Major
 - c. Home Occupations, Minor
 - d. Public Utility Facility
 - e. Dwelling, Single-Family

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

16.4.25 Mixed-Use – Kittery Foreside (MU-KF)

A. Purpose

The purpose of the Mixed-Use – Kittery Foreside MU-KF Zone is to provide business, service and community functions within the Mixed-Use – Kittery Foreside Zone and to provide a mix of housing opportunities in the historic urbanized center of the community and to allow for use patterns which recognize the densely built-up character of the zone and the limitations for providing off-street parking. Design standards are used to facilitate the revitalization of downtown Kittery Foreside as a neighborhood center, while promoting economic development of service businesses and walk-in shopping as well as respecting the zone's historic and residential character. [Amended 7-25-2016 by Ord. No. 16-04]

B. Permitted uses

The following uses are permitted in the MU-KF Zone:

- (1). Accessory Dwelling Units
- (2). Dwelling, Attached Single-Family
- (3). Dwellings, Single-family
- (4). Dwellings, Two-Family
- (5). Dwellings, Multi-Family (up to 12 units per lot)
- (6). Convalescent Care Facility
- (7). Nursing Care Facility, Long-term
- (8). Residential Care Facility
- (9). Accessory Use & Building
- (10). Home Occupation, Major
- (11). Home Occupation, Minor
- (12). Inn
- (13). Hospital
- (14). Nursery School
- (15). Private Assembly
- (16). Public Facility
- (17). Public or Private School
- (18). Religious Use
- (19). Recreation, Public Open Space
- (20). Commercial Fisheries/Maritime Activities, provided only incidental cleaning and cooking of seafood occur at the site
- (21). Commercial School
- (22). Art Studio or Gallery
- (23). Business & Professional Offices
- (24). Business Service
- (25). Personal Service
- (26). Public Assembly Area
- (27). Restaurant
- (28). Retail Sales (excluding those where the principle activity entails outdoor sales and/or storage)
- (29). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]

- (30). Theater
- (31). Marinas
- (32). Mass Transit Station
- (33). Parking Area

C. Special exception uses

The following uses are permitted as special exception uses in the MU-KF Zone:

- (1). Public Utility Facility
- (2). Research & Development

D. Standards.

[Amended 9-26-2011 by Ord. No. 11-15; 9-24-2012 by Ord. No. 12-11; 7-25-2016 by Ord. No. 16-04]

- (1). The design and performance standards of § 16.7 and 16.8 must be met, except where specifically altered in this subsection.
- (2). Dimensional standards. The following space standards apply:
 - a. Minimum land area per dwelling unit: 5,000 square feet.
 - b. Minimum lot size: 5,000 square feet.
 - c. Minimum street frontage: zero feet.
 - d. Minimum front yard along:
 - i. Government Street east of Jones Avenue including Lot 107 at the corner of Government and Walker Streets: zero feet.
 - ii. Wallingford Square: zero feet.
 - iii. Other streets: 10 feet.
 - e. Minimum rear and side yards: 10 feet.
 - f. Minimum separation distance between principal buildings on the same lot: 10 feet.
 - g. Maximum building height: 40 feet. (NOTE: Except that for buildings located on lots that abut tidal waters, the highest point on the primary structure of the building including the roof, but excluding chimneys, towers, cupolas and similar appurtenances that have no floor area, may be not more than 35 feet above the average grade between the highest and lowest elevations of the original ground level adjacent to the building.)
 - h. Minimum setback from:
 - i. Water body and wetland water-dependent uses: zero feet.
 - ii. All other uses (including buildings and parking): 75 feet unless modified, according to the terms of Subsection E of this section.
 - i. Maximum building coverage: 60%.
 - j. Minimum open space on the site: 40%.
 - k. Minimum land area per unit for elder-care facilities that are connected to the public sewerage system:
 - i. Dwelling unit with two or more bedrooms: 3,000 square feet.
 - ii. Dwelling unit with less than two bedrooms: 2,500 square feet.
 - iii. Residential care unit: 2,000 square feet.
 - 1. Minimum land area per bed for nursing care and convalescent care facilities that are connected to the public sewerage system: 1,500 square feet.
- (3). Maximum building footprint. The maximum area of the building footprint of any

new building is 1,500 square feet unless the building is replacing a larger building that existed on the lot as of April 1, 2005.

- a. If the footprint of the preexisting building was larger than 1,500 square feet, the maximum size of the footprint of the new building may be no larger than the footprint of the preexisting building.
 - b. If the footprint of the new building is larger than 1,500 square feet, the width of the new building as measured parallel to the front lot line may not be greater than the width of the preexisting building.
- (4). Design standards.

Any new building or additions or modifications to an existing building that cumulatively increases the building footprint or building volume by more than 30% after April 1, 2005, or is subject to shoreland overlay zoning as set forth in § 16.4.28 must conform to the following standards:

NOTE: This requirement does not apply to the replacement of a building destroyed by accidental or natural causes after April 1, 2005 that is rebuilt within the preexisting building footprint and that does not increase the preexisting building volume by more than 30%.

- a. Placement and orientation of buildings within a lot.
 - i. The placement of buildings on the lot must acknowledge the uniqueness of the site, the neighboring buildings, and the natural setting. Existing views and vistas must be preserved in the design of the site and buildings, and buildings must be placed to frame, rather than block, vistas.
 - ii. Buildings and the front elevation must be oriented facing the street on which the building is located. The siting of buildings on corner lots must consider the placement of buildings on both streets.
- b. Overall massing of buildings. The overall massing objective is to simulate a concentrated use of space in the Foreside Zone while avoiding the use of large, multiunit buildings. In the interest of this objective, building footprints must not exceed the maximums set forth within this subsection. Larger parcels may be developed but will require the use of multiple buildings with smaller footprints. The smaller scale of the buildings will allow new projects to fit in with the existing architectural styles of the Foreside Zone.
- c. Grouping of smaller buildings. When smaller buildings that are part of one project are placed adjacent to one another on the same lot or adjacent lots, each building must have its own structure and elevation treatment that is different from its neighbor. Small decorative wings may be attached to larger structures if well integrated into the overall arrangement of shapes.
- d. Building details. Buildings must include architectural details that reflect the historic style of the Foreside Zone. Molding and trim must be used to decorate or finish the surface of buildings and doors. Eaves and overhangs should be incorporated into the design.
- e. Roof slopes and shapes.
 - i. Allowable roof shapes include a simple gable, gambrel, saltbox and hip. The minimum roof pitch must be 8:12 (rise over run), except in the case of a hip roof, where a lesser pitch is acceptable.
 - ii. The roof pitch of elements that link buildings or portions of buildings must be the same or greater than the pitch of the roofs on the buildings that are being linked.
 - iii. Flat or nearly flat shed roofs are not allowed except for porches,

dormers or attachments distinct from the primary structure or where systems are concealed by standard roof forms.

- iv. The roof pitch of additions or wings must be similar to the pitch of the primary roof. Clusters of buildings must apply the same roof plan principles to pitch and link roofs.
 - f. Fencing and walls.
 - i. Fencing may be used to separate public and private spaces, mark property lines, and protect plantings.
 - ii. Fences must harmonize with nearby structures and not unduly interfere with existing scenic views or vistas.
 - iii. Picket and other medium height fences and low stone walls are permitted.
 - iv. Modern concrete walls and similar structures are prohibited.
 - v. Chain-link and stockade fences are not appropriate in front yards and may be used in side and rear yards only if compatible with the overall design of the site.
 - vi. Waste receptacles, dumpsters, exterior systems, service entrances and similar areas must be screened with board fences, board and lattice fences, and/or landscaping.
 - g. Utilities. All utilities serving a new building, including electricity, telephone, cable, Internet and alarm systems must be placed underground from the access pole.
 - h. Preservation of trees. Existing large, healthy trees must be preserved if practical.
- (5). Signage. Display of signboard and/or products for sale may be placed on a Town sidewalk only if:
- a. Products for sale displayed outside the building are limited to an area extending no greater than two feet from the front facade of the building;
 - b. Signboards and/or products for sale must be removed from the sidewalk at the close of each business day;
 - c. An annual permit must be obtained from the Code Enforcement Officer. Permits are issued for a calendar year or portion thereof, to expire December 31 of each year. Sign permit application fee, reference Appendix A.
- (6). Special parking standards.
- The Kittery Foreside Zone is already largely built up and many buildings either completely or almost completely cover the lot on which they are located. Therefore, it is not possible to comply with parking standards which would otherwise be required for open land. To encourage the reuse of existing structures as far as practical, the Town establishes special parking standards and conditions within the zone.
- (7). Revised off-street parking standards.
- Insofar as practical, parking requirements are to be met on site unless an existing building covers so much of the lot as to make the provision of parking impractical in whole or in part. If meeting the parking requirements is not practical, then the parking demand may be satisfied off site or through joint-use agreements as specified herein. Notwithstanding the off-street parking requirements in § 16.7.11.G(3), minimum parking requirements for the uses below are modified as specified herein:
- a. Dwelling units in buildings that existed as of April 1, 2005, including the

replacement of units destroyed by accidental or natural causes regardless of how configured: one parking space per dwelling unit;

- b. Dwelling units in new buildings, including the replacement of existing buildings other than the replacement of units destroyed by accidental or natural causes: 1 1/2 parking spaces per dwelling unit;
- c. Retail, business office or bank facilities: one parking space for each 400 square feet of gross floor area;
- d. Professional office: one parking space for each 300 square feet of gross floor area;
- e. Inn: one parking space for each guest room;
- f. Church: none required, if primary use occurs on weekends;
- g. Restaurants: one parking space for each 100 square feet of gross floor area used by the public.

NOTE: For each use in the zone, the total parking demand is calculated using the standards above or in § 16.7.11.G(3), if not modified above. Then each nonresidential use is exempt from providing off-street parking for the first three required spaces. For uses requiring a demand of greater than three, then the off-street parking is to be provided on site and/or in accordance with Subsection (12) and (13) of this section.

(8). Maximum parking on new impervious surface

Not more than 1 1/2 parking spaces per dwelling unit may be created on new impervious surface in conjunction with the construction of a new or replacement building. This restriction does not apply to parking spaces located within the same building with the dwelling units, to spaces located on preexisting impervious surface, or to spaces located on a pervious surface such as parking pavers designed to allow infiltration of precipitation.

(9). Off-site parking

Required off-street parking may be satisfied at off-site locations, provided such parking is on other property owned by the applicant or is under the terms of a contractual agreement that will ensure such parking remains available for the uses served. Applicant must present evidence of a parking location and a contractual agreement to the Town Board or officer with jurisdiction to review and approve.

(10). Joint-use parking

Required off-street parking may also be satisfied by the joint use of parking space by two or more uses if the applicant can show that parking demand is nonconflicting and will reasonably provide adequate parking for the multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekends or seasonal variation in parking demand. In making this determination under development plan review, the Planning Board is to consider the following factors:

- a. Such joint parking areas must be held under ownership of the applicant or under terms of a contractual agreement that ensures such parking remains available to all users of the shared parking spaces;
- b. Analysis is to be based on a most frequent basis not a "worst case" scenario;
- c. Joint use parking areas must be located within reasonable distance to the use served, but do not need to be located on the same lot as the uses served;
- d. Ease and safety of pedestrian access to shared parking by the users served, including any improvements or shuttle service necessary;

- e. Such joint parking areas must not be located in residential zones of the Town. The Planning Board must make a final determination of the joint-use and/or off-site parking spaces that constitute an acceptable combination of spaces to meet the required parking demand
- E. Shoreland Overlay Zone OZ-SL – Mixed-Use – Kittery Foreside Zone (MU-KF)
- (1). Permitted uses
 - a. Recreation, Public Open Space
 - (2). Special exception uses
 - a. Art Studio or Gallery
 - b. Business & Professional Offices
 - c. Commercial Fisheries/Maritime Activities, provided only incidental cleaning and cooking of seafood occur at the site
 - d. Parking Area
 - e. Dwelling, Single-Family
 - f. Dwelling, Two-Family
 - g. Home Occupation, Major
 - h. Home Occupation, Minor
 - i. Inn
 - j. Marinas
 - k. Personal Services
 - l. Business Services
 - m. Public Assembly Area
 - n. Public Utility Facility
 - o. Research & Development;
 - p. Restaurant, coffee shop, bakery, cafes and similar food service operations, but excluding drive-in facilities;
 - q. Retail Sales, excluding those where the principal activity entails outdoor sales and/or storage
 - r. Mass Transit Station
 - s. Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
 - t. Theater
 - (3). See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- F. Resource Protection Overlay Zone OZ-RP – Mized Use – Kittery Foreside Zone (MU-KF) [Amended 9-26-2011 by Ord. No. 11-15]
- (1). Permitted Uses
 - a. Recreation, Public Open Space
 - (2). Special Exception Uses
 - a. Accessory Use & Buildings
 - b. Home Occupation, Major
 - c. Home Occupation, Minor
 - d. Public Utility Facility
 - e. Dwelling, Single-Family
 - (3). See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

16.4.26 Mixed-Use-Neighborhood MU-N

[Amended 9-26-2011 by Ord. No. 11-15; 9-24-2012 by Ord. No. 12-10; 6-10-2013 by Ord. No. 13-02; 9-28-2015 by Ord. No. 15-05; 11-26-2018 by Ord. No. 10-18]

A. Purpose

To encourage higher density, mixed-use development that provides increased housing opportunities and a desirable setting for business while balancing such increased development with environmentally conscious and ecologically sensitive use of land.

B. Permitted Uses

- (1). Dwelling, Attached Single-Family
- (2). Dwelling, Multi-Family
- (3). Dwelling, Multi-Family (units on the upper floors of a mixed-use building that is served by public sewer)
- (4). Convalescent Care Facility
- (5). Nursing Care Facility, Long-term
- (6). Residential Care Facility (attached dwelling units only)
- (7). Accessory Use & Building
- (8). Home Occupation, Major
- (9). Home Occupation, Minor
- (10). Hotel
- (11). Inn
- (12). Day Care Facility
- (13). Elderly Day Care Facility
- (14). Hospital
- (15). Public Utility Facility
- (16). Recreation, Passive
- (17). Recreation, Public Open Space
- (18). Recreation, Commercial Indoor (except shooting and archery ranges)
- (19). Recreation, Commercial Outdoor (except shooting and archery ranges)
- (20). Veterinary Hospital
- (21). Art Studio or Gallery
- (22). Business & Professional Offices
- (23). Business Services
- (24). Conference Center
- (25). Personal Services
- (26). Repair Service
- (27). Research & Development
- (28). Restaurant
- (29). Retail Sales (not to exceed 30,000 square feet in gross floor area unless part of a mixed-use building)
- (30). Retail Sales, Convenience (excluding the sale of gasoline)
- (31). Shops in Pursuit of Trade
- (32). Specialty Food and/or Beverage Facility

- (33). Theater
- (34). Manufacturing Operations, Light (less than or equal to 20,000 square feet in gross floor area)
- (35). Liner Buildings (as part of a mixed-use building)

C. Special exception uses

- (1). Commercial Kennel
- (2). Parking Area
- (3). Construction Services
- (4). Equipment sales and rentals (only on lots with frontage on Route 236)
- (5). Gas service station (only on lots with frontage on Route 236)
- (6). Manufacturing Operations, Light (greater than 20,000 square feet in gross floor area)
- (7). Mass Transit Station
- (8). Mechanical Services
- (9). New Motor Vehicle Sales (only on lots with frontage on Route 236)
- (10). Used Car Lot (only on lots with frontage on Route 236)
- (11). Repair Garage (only on lots with frontage on Route 236)
- (12). Retail Sales (greater than 30,000 square feet in gross floor area and less than 50,000 square feet in gross floor area)
- (13). Undefined use; additional commercial/business uses not defined by § 16.3.
 - a. Undefined uses: will be considered by the Planning Board based on the following criteria:
 - i. If the use is consistent with the Comprehensive Plan and zoning district purposes; and
 - ii. If the use meets special exception criteria found in § 16.2.12.D.(2)d
 - b. In addition, the undefined use must meet one or both of the following criteria:
 - i. If the proposed use has substantially similar impacts as a listed use.
 - ii. If the proposed use is compatible with existing uses within the zoning district for which it is proposed.

D. Standards.

All development and the use of land in the MU-N Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of § 16.7 and 16.8 must be met unless noted otherwise below.

- (1). All submissions must include a lighting plan. Hours of operation and number of employees for businesses must also be provided.
- (2). The following space standards apply:
 - a. Minimum land area per dwelling unit - mixed-use building: 4,000 square feet for first residential unit plus 3,000 square feet for each additional unit, no minimum land area for business or commercial uses when combined in a building with residential uses except that the total lot size must be at least 20,000 square feet.
 - [1] NOTE: ADA-compliant units may be located on the first floor through a special exception permit by the Planning Board but only 50% of the first floor may be such ADA-compliant residential units.
 - b. Minimum land area per dwelling unit - multiunit residential: 4,000 square

feet for first unit, plus 2,500 square feet for each additional unit up to 16 units per acre of lot size. Total lot size must be a minimum of 20,000 square feet.

- c. Mixed-use or multiunit residential buildings which encompass at least 50% of required parking within the building: Two additional residential units may be added to each story above the parking with no additional land area required.
- d. Mixed-use buildings which encompass at least 50% of required parking within the building and include a liner building for nonresidential uses buffering parking from the street: One additional residential unit may be added to each story with no additional land area required.
- e. Minimum land area per bed for long-term nursing care and convalescent care facilities that are connected to public sewer: 2,000 square feet.
- f. Minimum land area per residential unit for eldercare facilities that are connected to public sewer: 3,000 square feet.
- g. Minimum lot size: 20,000 square feet.
- h. Minimum street frontage: 75 feet.
- i. Minimum front setback on Route 236: 30 feet.
- j. Minimum front setback on Dennett Road: 50 feet.
- k. Minimum front setback on Martin Road: 100 feet.
- l. Maximum front setback all other roads: 20 feet.
- m. Spacing between buildings: 15 feet.*
- n. Maximum rear and side setbacks: 20 feet.**

[1] NOTES:

* Or as required by the Fire Department or State Fire Marshal's office.

** Except as may be required by the buffer provisions of Code. See Landscaping, Screening and Buffers § 16.4.26.(8)

- o. Maximum building height: 50 feet (exclusive of solar apparatus).
- p. Maximum impervious and outdoor stored material coverage: 70%.

[1] NOTE: With Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) as defined in § 16.3 and based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I - III, as amended from time to time, incorporated in site design, otherwise 60%. Maximum on-site stormwater infiltration is the desired and measurable outcome.

- q. Minimum setback from streams, water bodies and wetlands in accordance with Table 16.5.28.

[1] NOTES:

- i. With Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) as defined in § 16.3 and based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I - III, as amended from time to time, incorporated in site design, then wetland setbacks pursuant only to Maine Department of Environmental Protection (MDEP) Rules Chapters 305 and 310.
- ii. Without Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) as defined in § 16.3 and based on

Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I - III, as amended from time to time, incorporated in site design, wetland setbacks pursuant to Kittery Town Code Title 16, Table 16.5.28.

iii. The Town shall retain expert consultation (qualified wetland scientist and/or Maine-certified soil scientist) to determine wetland delineations and classifications and to perform soil testing as needed, all of which shall be paid for by the applicant at the time of sketch plan. The qualified wetlands scientist and/or Maine-certified soil scientist shall determine through field investigation the presence, location and configuration of wetlands on the area proposed for use. Any wetland alterations proposed must also be reviewed by the Town's consultant(s) at the applicant's expense. These requirements are in addition to engineering, stormwater management/BMPs, traffic or other types of peer review that may also be required.

r. Minimum open space:

i. Lot size less than 100,000 square feet: 15%.

ii. Lot size greater than 100,000 square feet: 25%.

NOTE: This requirement may be met by a payment-in-lieu to the Wetland Mitigation Fund. These fees shall be set by Town Council. Landscaping, screening and buffer requirements must still be met.

(3). Parking:

- a. Parking is encouraged within buildings. New or revised surface parking areas, garages, and entrances to parking within buildings must be located to the rear of buildings. If a rear location is not achievable, as determined by the Planning Board, parking, garages and entrances to parking must be located to the side of the building. Screening and/or fencing is required for surface parking areas along a street. See Subsection WW(12), Landscaping, Screening and Buffers. Parking requirements are based on the Institute of Transportation Engineers (ITE) parking generation rates.
- b. Joint-use agreements (between businesses and residences) for parking are encouraged. A plan describing how joint-use parking needs will be met is required as part of any development that proposes such parking and must be reviewed and approved by the Planning Board.
- c. Parking requirements for nonresidential uses may be met partially or in full by parking on the street except that no parking is allowed on Route 236, Dennett Road, or Martin Road. Such on-street parking plans must be reviewed by planning staff prior to submission and then reviewed and approved by the Planning Board.
- d. Electric car charging stations are allowed in parking lots but must not interfere with pedestrian movement on sidewalks.
 - i. Parking for development that includes trails and low intensity recreation: Development that includes the creation of public trails and low intensity recreational opportunities such as wildlife observation stations or boardwalks may apply the pertinent off-street parking standards below. All other off-street parking standards as found in § 16.7.11G(3) shall apply.
- e. Multiunit residential buildings and mixed-use buildings that include residential.
 - i. One parking space for studio and one-bedroom dwelling units.

- ii. One and one-half parking spaces for two-bedroom dwelling units plus one guest parking space per every four dwelling units.
 - iii. Parking spaces for more-than-two-bedroom dwelling units.
 - (4). Loading docks, overhead doors, service areas and outdoor storage areas.
 - a. Loading docks and overhead doors must be located on the rear or side of the building. Loading docks must be screened from view by adjacent residential uses. This screening must consist of the following:
 - i. A fence, constructed of a material similar to surrounding buildings, of sufficient height as determined by the Planning Board to accomplish the screening. No fence may be less than six feet tall.
 - b. All service areas for dumpsters, compressors, generators and similar items as well as any outdoor storage areas must be screened by a fence at least six feet tall, constructed of a material similar to surrounding buildings, and must surround the service or storage area except for the necessary ingress/egress.
 - (5). Site design

Site design and building placement must be attentive to the surrounding environment including sun, wind and shade patterns related to proposed and existing buildings. A sun/shade analysis may be required by the Planning Board.
 - (6). Energy and sustainability

Energy efficiency is allowed and encouraged through the use of solar power, geothermal, and other alternative and sustainable power sources.
 - (7). Building design standards.
 - a. New buildings must meet the general design principles set forth in the Design Handbook except as noted below. In general, buildings should be oriented to the street from which they derive frontage, with the front of the building facing the street. The front facade must contain the following:
 - i. A front door for pedestrian access.
 - ii. Windows.
 - b. Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical apparatus off the ground, are acceptable provided that such apparatus are screened from view and the screening is designed as an integral part of the building to aid both aesthetics and noise attenuation. Flat roofs proposed for the purpose of solar array installations are also acceptable.
 - (8). Landscaping, screening and buffers.
 - a. A landscape plan prepared by a registered landscape architect is a submission requirement. However, a landscape plan done by other design professionals may be allowed at the Planning Board's discretion.
 - b. Native trees, shrubs and herbaceous plantings are preferred and must be drought and salt tolerant when used along streets. A diversity of tree species (three to five species per every 12 trees) is required to provide greater resiliency to threats from introduced insect pests and diseases.
 - c. Any required plantings approved by the Planning Board that do not survive must be replaced within one year.
 - d. Landscaping along the street frontage of each building must consist of one of the following:
 - i. Street trees. A minimum of one street tree must be planted for each 20 feet of street frontage. Trees may be planted in groups or spaced

along the frontage. However, trees must be planted to ensure survival, using silva cells, bioretention cells or tree wells. Trees are to be a minimum of 2.5-inch caliper and 12 feet high at the time of planting. Existing large healthy trees must be preserved if practical and will count towards this requirement.

- ii. Pocket park. The park must be at least 200 square feet. A minimum of three trees and a bench for sitting are required. Park must be vegetated with ground cover except for walkways.
- e. Surface parking areas that abut a street must provide screening in one of the following ways:
 - i. One tree per 25 feet of street frontage backed by a fence constructed of a material similar to surrounding buildings which must screen the parking area from the street except for necessary vehicular and pedestrian access. Trees must be at least 2.5-inch caliper and 12 feet high at the time of planting.
 - ii. A combination of trees and shrubs including at least 50% evergreen species, all at least six feet high at time of planting, in a planting bed at least eight feet wide. Plantings must be sufficient, as determined by the Planning Board, to screen the parking area from the street except for necessary vehicular and pedestrian access. Planting beds may be mulched but no orange- or red-dyed mulching material may be used.
 - 1. A minimum of 10% of any surface parking area consisting of 10 or more parking spaces must be landscaped with trees and vegetated islands. This requirement is in addition to the screening requirements in Subsection WW(12)(c)[2] if the parking area abuts a street. Bioretention cells and rain gardens may be utilized to meet the landscaping requirements and perform stormwater management.
 - 2. Buffers required between residential uses and mixed use or nonresidential uses, and between adjacent residential zones and this zone must be 50 feet wide and consist of one of the following as determined by the Planning Board:
 - iii. Existing natural woodland and vegetation.
 - iv. Existing natural woodland augmented by the planting of additional trees consisting of a variety of species at least 2.5-inch caliper and 12 feet high.
 - v. A fence at least six feet high, constructed of material similar to surrounding buildings, with plantings of trees and shrubs at least six feet tall on either side of the fence.

(9). Open space

Open space must be provided as a percentage of the total parcel area including freshwater wetlands, water bodies, streams and setbacks. Required open space must be shown on the site plan with a note dedicating it as open space. The open space must be situated to protect significant natural features and resources, minimize environmental impacts and promote an aesthetically pleasing site.

- a. Wherever possible, large healthy trees and areas with mature tree cover must be included in the open space.
- b. Location of open space must promote the continuity of open-space networks across adjacent parcels.

- c. Where possible, open space and open-space networks must include public trails and low-intensity recreational opportunities.
- (10). Special situations
 - Expansions or modifications of 1,000 square feet or less to existing uses are exempt from landscaping, screening and buffer requirements.
- (11). Conditions for approving special exception uses in the Neighborhood Mixed-Use Zone.
 - All applications must include a narrative describing why the use proposed will promote the general welfare (specifics may be found in § 6.3 Definitions for special exception) of the Town of Kittery, how the use proposed will meet the special exception criteria found in § 16.2.12.D and how the proposed development will adapt and relate to the natural environmental conditions found on the site.

16.4.27 Transportation – Maine Turnpike T-MT

A. Purpose

The purpose of the Transportation – Maine Turnpike Zone (T-MT) is to provide for the safe, effective, efficient and environmentally compatible use of the right-of-way owned and operated by the Maine Department of Transportation and the Maine Turnpike Authority as authorized by the state, as well as for safe and environmentally compatible buffering for the adjacent land uses along the right-of-way.

B. Permitted uses: Permitted and special exception land uses include the highway, information center and other uses as authorized by the state.

C. Special exception uses: none.

D. Standards.

(1). The design and performance standards of § 16.7 and 16.8 and the Shoreland and Resource Protection Overlay Zones, where applicable.

(2). Dimensional standards.

a. Minimum land area per dwelling unit: not applicable.

b. Minimum lot size: not applicable.

c. Minimum street frontage: not applicable.

d. Minimum front yard: not applicable.

e. Maximum building coverage: not applicable.

f. Minimum rear and side yards: not applicable.

g. Maximum building height: 35 feet.

h. Minimum distance between principal buildings on the same lot: not applicable.

i. Minimum setback from water bodies and wetlands: not applicable.

E. Shoreland Overlay Zone OZ-SL – Transportation – Maine Turnpike (T-MT)

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

(1). Permitted uses: Permitted and special exception land uses include the highway, information center and other uses as authorized by the state.

(2). Special Exceptions: None.

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

F. Resource Protection Overlay Zone OZ-RP – Transportation – Maine Turnpike (T-MT)

(1). Permitted Uses.

a. Permitted and special exception land uses include the highway, information center and other uses as authorized by the state.

b. Special Exception uses: none.

16.4.28 Shoreland Overlay Zone OZ-SL

A. Purposes

The purpose of the Shoreland Overlay Zone OZ-SL is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources, to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

B. Authority

These provisions have been prepared in accordance with the provisions of 38 M.R.S. §§ 435 to 449.

C. Applicability and boundaries

The provisions of this section apply to all uses, lots and structures within the following:

- (1). Shoreland Overlay Zone – Water Body/Wetland Protection Area 250 feet (OZ-SL-250 feet): Land areas within 250 feet, horizontal distance, of the:
 - a. Normal high-water line of any river or saltwater body.
 - b. Upland edge of a coastal wetland, including all areas affected by tidal action.
 - c. Land edge of a fresh water wetland connecting to a protected stream as identified on the Zoning Map.
- (2). Shoreland Overlay Zone – Stream Protection Area 75 feet (OZ-SL-75 feet): Land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within 250 feet horizontal distance of the normal high-water line of a river or within 250 feet horizontal distance of the upland edge of a freshwater or coastal wetland. [Amended 9-26-2011 by Ord. No. 11-15]
 - a. However, where a stream and its associated Shoreland Overlay Zone area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area will be regulated under the provisions of the Shoreland Overlay Zone associated with that water body or wetland.
 - b. Where uncertainty exists as to the exact location of the Shoreland Overlay Zone boundary, the Planning Board, with expert consultation as may be required, is the final authority as to location.

D. Permitted and special exception land use

The permitted and special exception uses in the Shoreland Overlay Zone section are allowed in accordance with the land use standards established in the underlying base zone in this chapter and land uses identified by the Mandatory Shoreland Zoning Act, 38 M.R.S. §§ 435 to 449.

E. Standards

[Amended 1-28-2015 by Ord. No. 15-01; 7-25-2016 by Ord. No. 16-03]

- (1). Minimum lot standards
 - a. Minimum lot size by base zone, within the:
 - i. Residential-Village (R-V) Zone: 8,000 square feet.

- ii. Residential-Urban (R-U) Zone: 20,000 square feet.
 - iii. Residential-Rural (R-RL), Residential-Suburban (R-S) and Residential-Kittery Point Village (R-KPV) Zones: 40,000 square feet.
 - iv. Commercial (C1), (C2), (C3), Industrial (IND), Business-Local (B-L) and Business-Local 1 (B-L1) Zones: 60,000 square feet.
 - v. Residential-Rural Conservation (R-RLC) Zone: 80,000 square feet.
 - vi. Business-Park (B-PK) Zone: 120,000 square feet.
 - vii. Mixed-Use Badgers Island (MU-BI) Zone: 6,000 square feet.
 - viii. Mixed-Use Kittery Foreside (MU-KF) Zone: 10,000 square feet.
- b. Minimum land area per dwelling unit by base zone, within the:
- i. Residential-Village (R-V) Zone: 8,000 square feet.
 - ii. Business-Park (B-PK) Zone: 10,000 square feet.
 - iii. Residential-Urban (R-U), Business-Local (B-L) and Business-Local 1 (B-L1) Zones: 20,000 square feet.
 - iv. Mixed-Use (M-U), Residential-Rural (R-RL), Residential-Suburban (R-S) and Residential-Kittery Point Village (R-KPV) Zones: 40,000 square feet.
 - v. Residential-Rural Conservation (R-RLC) Zone: 80,000 square feet.
 - vi. Mixed-Use Badgers Island (MU-BI) Zone: 6,000 square feet.
[NOTE: 3,000 square feet for the first two dwelling units.]
 - vii. Mixed-Use Kittery Foreside (MU-KF) Zone: 10,000 square feet.
- c. Minimum shore frontage by base zone per lot and dwelling unit.
- i. Mixed Use-Badgers Island (MU-BI): 25 feet.
 - ii. Residential-Village (R-V), Residential Urban (R-U), and Mixed-Use Kittery Foreside (MU-KF) Zones: 50 feet.
 - iii. Mixed-Use (M-U), Commercial (C1), (C2), (C3), Industrial (IND), Business-Park (B-PK), Business-Local (B-L) and Business-Local 1 (B-L1) Zones:
 - 1. Shore frontage per lot: 150 feet.
 - 2. Shore frontage per dwelling unit: 50 feet.
 - iv. Residential-Rural (R-RL), Residential-Suburban (R-S), and Residential-Kittery Point Village (R-KPV) Zones:
 - 1. Shore frontage per lot: 150 feet.
 - 2. Shore frontage per dwelling unit: 100 feet.
 - v. Residential-Rural Conservation (R-RLC) Zone (per lot and dwelling unit): 250 feet.
 - vi. The minimum shore frontage requirement for public and private recreational facilities is the same as that for residential development in the respective zone.
- (2). The total footprint of devegetated area must not exceed 20% of the lot area located within the Shoreland Overlay Zone, except in the following zones:
- a. Mixed-Use – Badgers Island (MU-BI) and Mixed-Use – Kittery Foreside (MU-KF) Zones, where the maximum devegetated area is 60%. The Board of Appeals may approve a miscellaneous appeal application to increase allowable devegetated area in the Mixed-Use – Badgers Island (MU-B1) Zone to 70% where it is clearly demonstrated that no practicable alternative

exists to accommodate a water-dependent use.

- b. Commercial (C1, C-2, C-3), Business – Local (B-L and B-L1) and Industrial (IND) Zones where the maximum devegetated area is 70%.
 - c. Residential – Urban (R-U) Zone where the lot is equal to or less than 10,000 square feet, the maximum devegetated area is 50%.
- (3). Principal and accessory structures — setbacks and development
- a. All new principal and accessory structures [except certain patios and decks per § 16.4.28(5)b.ii)] must be set back at least 100 feet, horizontal distance, from the normal high-water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland, with the following exceptions:
 - i. In the Mixed Use – Badgers Island and Kittery Foreside Zones, the setback requirement is 75 feet, horizontal distance, from the normal high-water line of any water bodies, or the upland edge of a wetland, unless modified according to the terms of §§ 16.4.10.QQ.(4) through (7) and 16.4.10.TT.(4).
 - ii. In the Resource Protection Overlay Zone, the setback requirement is 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in the zone, in which case the setback requirements specified above apply.
 - iii. The water body, tributary stream, or wetland setbacks do not apply to structures that require direct access to the water body or wetland as an operational necessity, such as piers and retaining walls, nor do they apply to other functionally water-dependent uses, as defined in § 16.3.
 - b. Accessory patios or decks no larger than 500 square feet in area must be set back at least 75 feet from the normal high-water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone.
 - c. If there is a bluff, setback measurements for principal structures, water and wetland must be taken from the top of a coastal bluff that has been identified on coastal bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff Map. If the applicant and Code Enforcement Officer are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant is responsible for the employment of a Maine-registered professional engineer, a Maine-certified soil scientist, or a Maine state geologist qualified to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.
 - d. Public access to the waterfront must be discouraged through the use of visually compatible fencing and/or landscape barriers where parking lots, driveways or pedestrian routes abut the protective buffer. The planting or retention of thorny shrubs, such as wild rose or raspberry plants, or dense shrubbery along the perimeter of the protective buffer is encouraged as a landscape barrier. If hedges are used as an element of a landscape barrier, they must form a solid continuous visual screen of at least three feet in height immediately upon planting.
 - e. On a nonconforming lot of record on which only a residential structure

exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed 80 square feet in area nor eight feet in height and must be located as far from the shoreline or tributary stream as practical and meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case will the structure be allowed to be situated closer to the shoreline or tributary stream than the existing principal structure.

- f. The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils.
- g. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils, provided the:
 - i. Structure is limited to a maximum of four feet in width;
 - 1. Structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and
 - ii. Applicant demonstrates that no reasonable access alternative exists on the property.
- h. If more than one dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel in the Shoreland Overlay Zone, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

16.4.29 Resource Protection Overlay Zone OZ-RP

A. Purpose

The purposes of this zone are to further the maintenance of safe and healthful conditions; prevent and control potential water pollution sources; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; and conserve shore cover, visual as well as actual point of access to inland and coastal waters, and natural beauty.

B. Authority

These provisions have been prepared in accordance with the provisions of 38 M.R.S. §§ 435 to 449.

C. Applicability and boundaries

The provisions of this section apply to all uses, lots and structures within areas where the existing conservation and accessory development is consistent with the allowed uses for this zone. The Resource Protection Overlay Zone includes areas where development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This includes the following areas when they also occur within the limits of the Shoreland Overlay Zone, exclusive of a stream protection area, except currently developed areas and areas that meet the criteria for commercial fisheries/maritime uses:

- (1). Waterfowl and wading bird habitat/water body related wetland areas. Land areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with rivers which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas as identified as of December 31, 2008, and salt marshes and salt meadows as identified as of January 1, 1973, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). For the purposes of this section "wetlands associated with rivers" means: areas characterized by nonforested wetland vegetation and hydric soils that are contiguous with a river and have a surface elevation at or below the water level of the river during the period of normal high water. "Wetlands associated with rivers" are considered to be part of that river.
- (2). Steep slope areas.
 - a. Land areas that have two or more contiguous acres of land where the slopes are 20% or greater; and
 - b. Land areas along rivers subject to severe bank erosion, undercutting or riverbed movement; and
 - c. Land adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- (3). Independent wetland areas. Land areas of two or more contiguous acres supporting wetland vegetation and hydric soils which are not part of a freshwater or coastal wetland as defined and which are not surficially connected to a water body during the period of normal high water.
- (4). Floodplain areas. This includes areas along rivers, areas adjacent to tidal waters, and other areas susceptible to flooding as defined as being located within the one-hundred-year floodplain as designated on the FEMA Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record or, in the absence of these, by soil types identified as recent floodplain soils.

D. Standards

- (1). The design and performance standards of § 16.7 and 16.8 and Shoreland Overlay

Zone provisions of § 16.4.28 apply, where applicable, in addition to the following standards, whichever is the most restrictive.

- (2). Dimensional standards such as front, side and rear yards, building coverage, height and the like are the same as those in the underlying zone.
- (3). Road construction and parking facilities are 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.
- (4). Clearing or removal of vegetation for uses, other than timber harvesting as limited per § 16.5.27, in a Resource Protection Overlay Zone, is prohibited within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere in a Resource Protection Overlay Zone, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in the Resource Protection Overlay Zone.

16.4.30 Commercial Fisheries/Maritime Activities Overlay Zone OZ-CFMU

A. Purpose

The purpose of the Commercial Fisheries/Maritime Uses Overlay Zone is to provide for the development and expansion of water-dependent commercial fisheries/maritime activities. Commercial fisheries/maritime activities and other areas suitable for functionally water-dependent uses, considers:

- (1). Shelter from prevailing winds and waves;
- (2). Slope of the land within 250 feet, horizontal distance, of the normal high-water line;
- (3). Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4). Available support facilities, including utilities and transportation facilities; and
- (5). Compatibility with adjacent upland uses.

B. Authority

These provisions have been prepared in accordance with the provisions of 38 M.R.S. §§ 435 to 449.

C. Applicability and boundaries

The provisions of this section apply to all uses, lots and structures within areas where the existing predominant pattern of development is consistent with the allowed uses for this overlay zone, where consistent with dimensional requirements of the underlying base zone, and where the active use of lands, buildings, wharves, piers, floats or landings with the principal intent of such activity is the production of income by an individual or legal business entity through the operation of a vessel(s) as shown on the Zoning Map. The activity may be either a principal or accessory use, as defined in this title.

- D. Permitted uses: Functionally water-dependent Commercial Fisheries/Marine Activities.
- E. Special exception uses: none
- F. Standards. Dimensional standards of the underlying base and overlay zone(s).
- G. Prohibited uses. All permitted uses in the base zones, including R-KPV, R-U, R-S, IND and MU-KF, except as permitted herein.