



TOWN OF KITTERY

Office of Planning & Development

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To: Planning Board

From: Jason Garnham, Director of Planning and Development

Date: April 11, 2024 meeting

Re: **Housekeeping Amendments – Planning Board Public Hearing**

Summary

Staff compile and maintain a list of sections of Kittery’s zoning code which contain errors or improper citations, lack clarity or efficiency, or require updating to maintain consistency with other amendments or changes in practice which have occurred over time. Some of these errors or omissions are related to the re-codification project of 2022 and to amendments recently adopted in response to State law “LD 2003”. The purpose of this Housekeeping Amendment is to correct some of those errors or omissions, improve the clarity of certain regulations, and update Kittery’s Zoning Code to reflect current development review practices before staff and committees begin work on other planned zoning and planning projects.

Draft amendments are numbered by code section in the attached document and specified in **“teal”** text. Explanations of each section of amendments are provided in ***italics*** throughout the draft.

Process

These housekeeping amendments were reviewed by the Land Issues Committee during the March 4, 2024 meeting and by the Planning Board during the March 28 2024 meeting. Corrections and revisions have been made by staff in accordance with feedback received during those meetings.

The Planning Board voted 5-0 to hold an April 11 **public hearing** on these amendments during their March 28 meeting. The public hearing was advertised in the Weekly Sentinel on March 29 and April 5 and posted on Town bulletins as required. The Planning Board should open a public hearing, hear comments from interested persons, and close the hearing during this meeting. Staff recommend voting on these amendments during the April 11 meeting after closing the public hearing.

Suggested motion: “I move to recommend adoption of the Housekeeping Amendments dated April 11, 2024 by Town Council.”

The Planning Board may also vote on revisions to the proposed zoning amendments or continue review to a future meeting.

After voting on a motion to recommend adoption of these amendments (or otherwise), the proposed zoning amendments will be reviewed by **Town Council** for final decision(s). A **second public hearing** is required to be held by the Town Council prior to a final decision.

Note on formatting:

The attached draft amendments are formatted for Board and Council review consistent with standard templates, which use ~~strikethrough~~ and underline to show the changes to the current code that are being proposed. Code sections which no longer exist but are relevant to the proposed amendments were discussed during review of these amendments.

Staff attached Article VII, 16.10.7 from the 2018 version of Town code to this meeting packet to provide reference for the **performance guarantee requirements** that were in effect prior to the re-codification effort which was completed in 2022. (Compare to proposed amendments to 16.7.12, lines 1074-1129). Former 16.10 was divided into 5 separate chapters (16.6, 16.7, 16.8, 16.9, and 16.10) as part of the re-codification effort. In summary, the performance guarantee of former section 16.10.7-O applied to all development application types but was not carried over to the separate chapters during re-codification. It was only carried over to Chapter 16.8 Subdivision Review, where it was amended to be more detailed and prescriptive similar to the amendments proposed in the current draft for review.

**TITLE 16
HOUSEKEEPING AMENDMENTS**

1. Amend § 16.1.8 – C. Nonconformance as follows:

1 (6) Nonconforming lots.

2 **(a)** Nonconforming lots of record.

3 **[1]** Nonconforming lots. In any district, notwithstanding limitations
4 imposed by other sections of this title, single noncontiguous lots legally
5 created when recorded may be built upon consistent with the uses in
6 the particular zone. These provisions apply even though such lots fail to
7 meet the minimum requirements for area or width, or both, which are
8 applicable in the zone, provided that yard dimensions and other
9 requirements, not involving area or width, or both, of the lot conform to
10 the regulation for the zone in which such lot is located. Relaxation of
11 yard and other requirements not involving area or width may be
12 obtained only through miscellaneous variation request to the Board of
13 Appeals.

14 **[2] Residential zones exception: in Residential zoning districts and**
15 **outside of Shoreland overlay zones, lots that do not conform with**
16 **the applicable minimum lot area or minimum net residential**
17 **acreage required to construct a single-family dwelling are exempt**
18 **from those standards and may construct a single-family dwelling,**
19 **provided the lot was conforming prior to October 25, 2012.**

20 ***Explanation: this amendment replaces the multiple notes for***
21 ***legally nonconforming properties found in (brackets), various***
22 ***sections below.***

23 **2. Amend 16.3 Definitions as follows:**

24 §16.3.1 Purpose.

25 Except where specifically defined in this chapter, all words used in this
26 title carry their customary dictionary meanings. Words used in the
27 present tense include the future, and the plural includes the singular;
28 the word "lot" includes the word "plot"; the word "building" includes the
29 word "structure"; the words "shall" or "must" are always mandatory;
30 "occupied" or "used" are considered as though followed by the words
31 "or intended, arranged or designed to be used or occupied"; and
32 gender-specific words (~~e.g., she, he, his, hers~~) include the ~~opposite sex~~
33 equivalent **of all sexes and genders.**

34 **Explanation: this amendment makes this paragraph inclusive of all**
35 **gender identities.**

36 §16.3.2 Definitions

37 **DWELLING, COTTAGE CLUSTER**

38 A **group of** dwelling units that shares a common lot as well as common
39 open space and may share a parking area and/or accessory structures.

41 **Explanation: this amendment makes the definition consistent with**
42 **the actual use as shown in applicable zones.**

43 **3. Amend § 16.4.10 Residential — Rural (R-RL) zoning as follows:**

44 D. Standards

45 (2) Dimensional standards:

46 (a) Minimum net residential acreage per dwelling unit: 40,000
47 square feet. ~~(Note: As per Chapter 16.3 definition of "minimum~~
48 ~~land area per dwelling unit," except to exempt properties which~~
49 ~~are unable to meet the square feet required for a single-family~~
50 ~~dwelling unit, provided the lot was conforming prior to October~~
51 ~~25, 2012).~~

52 **Explanation: note replaced by revision of 16.1.8, Lines 14-19, above.**

53 **4. Amend § 16.4.11 Residential — Suburban (R-RS) zoning as follows:**

54 B. Permitted uses. The following uses are permitted in the R-S Zone:

55 (1) Accessory dwelling unit.

56 (2) Conservation Subdivision.

57 (3) Dwelling, multifamily **(not more than four units per building)**

58 (4) Dwelling, single-family.

59 **(5) Dwelling, multifamily 2-4 Limited**

61 **Explanation: this amendment corrects a mistake made by staff**
62 **during LD 2003 amendments. Multifamily developments were**
63 **allowed in R-S, R-KPV, and R-U zones previously. "Dwelling,**
64 **multifamily 2-4 Limited" does not supersede provisions which allow**
65 **multifamily development.**

66 D. Standards. The following standards must be met unless modified per
67

68 §16.8.10, Conservation Subdivision:

69 (1) Design and performance standards. The design and performance
70 standards of Chapters 16.5, 16.7 and 16.8 must be met. The Design
71 Handbook provides examples of appropriate design for
72 nonresidential and multiunit residential projects.

73 (2) Dimensional standards.

74 ~~(a) Minimum land **Lot** area per dwelling unit (note: as per Chapter~~
75 ~~16.3 definition of "minimum land area per dwelling unit," except~~
76 ~~to exempt properties which are unable to meet the square feet~~
77 ~~required for a single family dwelling unit, provided the lot was~~
78 ~~conforming prior to October 25, 2012):~~

79 ~~[1] Without public sewage disposal: 40,000 square feet.~~

80 ~~[2] With public sewage disposal: 30,000 square feet unless~~
81 ~~reduced in accordance with Note A.~~

82 ~~[3] When more than 50% of the dwelling units proposed will~~
83 ~~be affordable as defined by this Code and have public~~
84 ~~sewer: 12,000 square feet~~

85 (a) Unit density:

86 ~~[1] For developments served by public water and sewer facilities:~~
87 ~~Minimum lot area per dwelling unit: 30,000 square feet~~
88 ~~unless reduced in accordance with Note A~~

89 ~~[2] For developments served by public water and sewer facilities~~
90 ~~when more than 50% of the dwelling units proposed will be~~
91 ~~affordable as defined by this code: Minimum lot area: 12,000~~
92 ~~square feet~~

93 ~~[3] For developments that are not served by public water and~~
94 ~~sewer facilities: Minimum net residential acreage per~~
95 ~~dwelling unit: 40,000 square feet~~

96 ~~[4] For developments that are not served by public water and~~
97 ~~sewer facilities when more than 50% of the dwelling units~~
98 ~~proposed will be affordable as defined by this code: Minimum~~
99 ~~net residential acreage per dwelling unit: 16,000 square feet.~~
100 ~~On-site septic facilities must be designed and installed in~~
101 ~~accordance with Maine DEP requirements.~~

102 ***Explanation: this amendment clarifies which density formula***
103 ***applies to a development (based on utilities).***

104 **5. Amend § 16.4.12 Residential — Kittery Point Village (R-KPV) zoning as**
105 **follows:**

106 B. Permitted uses. The following uses are permitted in the R-KPV Zone:

- 107 (1) Accessory dwelling units.
- 108 (2) Conservation subdivision.
- 109 (3) Dwelling, multifamily (not more than four units per building).
- 110 (4) Dwelling, single-family.
- 111 (5) Dwelling, multifamily 2-4 Limited

Explanation: this amendment corrects a mistake made by staff during LD 2003 amendments. Multifamily developments were allowed in R-S, R-KPV, and R-U zones previously. “Dwelling, multifamily 2-4 Limited” does not supersede provisions which allow multifamily development.

D. Standards. The following standards must be met unless modified per § 16.8.10, Conservation subdivision.

- (1) Design and performance standards in Chapters 16.5, 16.7 and 16.8. The Design Handbook provides examples of appropriate design for nonresidential and multiunit residential projects.
- (2) Dimensional standards.
 - (a) Minimum net residential acreage per dwelling unit: 40,000 square feet: ~~(Note: 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).
 - (b) Minimum lot size: 40,000 square feet.
 - (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 water body setback for functionally water-dependent uses: zero feet.
 - (i) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules. Subdivision types and standards.

~~(3) Subject to net residential acreage and net residential density per Chapter 16.3. Subdivisions in KPV zone:~~

- 147 (a) In a conservation subdivision, the above standards may be
 148 modified in accordance with special provisions of Chapter 16.10,
 149 including that there is no minimum lot size, and with the
 150 conditions that:
 151 [1] Minimum principal building separation as required by the
 152 Fire Chief, but not less than 15 feet.
 153 (b) Subdivision development (per special exception uses, § 16.4.12C).
 154 In a subdivision development, standards in § 16.4.12D(1) and (2)
 155 apply and include:
 156 [1] Minimum percentage of common open space: 15%

157 ***Explanation: these amendments replace note with revision of 16.1.8,***
 158 ***Lines 14-19, above, and clarify purpose of section 3 which specifies***
 159 ***which subdivision types and standards apply in zone.***

160
 161 **6. Amend § 16.4.13 Residential — Urban (R-U) zoning as follows:**

- 162
 163 D. Standards. The following standards must be met unless modified per
 164 §16.8.10 Conservation Subdivision:
 165 (1) The design and performance standards in Chapters **16.5**, **16.7** and
 166 **16.8**.
 167 (2) Dimensional standards:
 168 (a) ~~Minimum land lot area per dwelling unit: 20,000 square feet.~~
 169 ~~(Note: As per Chapter 16.3 definition of "minimum land area~~
 170 ~~per dwelling unit," except to exempt properties which are~~
 171 ~~unable to meet the square feet required for a single family~~
 172 ~~dwelling unit, provided the lot was conforming prior to~~
 173 ~~October 25, 2012.)~~
 174 Unit density:
 175 [1] For developments served by public water and sewer
 176 facilities: Minimum lot area per dwelling unit: 20,000 square
 177 feet unless reduced in accordance with Note A
 178 [2] For developments served by public water and sewer
 179 facilities when more than 50% of the dwelling units
 180 proposed will be affordable as defined by this code:
 181 Minimum lot area: 8,000 square feet
 182 [3] For developments that are not served by public water and
 183 sewer facilities: Minimum net residential acreage per
 184 dwelling unit: 20,000 square feet
 185 [4] For developments that are not served by public water and

186 sewer facilities when more than 50% of the dwelling units
187 proposed will be affordable as defined by this code:
188 Minimum net residential acreage per dwelling unit: 8,000
189 square feet

190 ~~(b) When more than 50% of the dwelling units proposed will be~~
191 ~~affordable as defined by this code and have public sewer: 8,000~~
192 ~~square feet~~

193 (b) Minimum lot size: 20,000 square feet.

194 (c) Minimum street frontage: 100 feet.

195 (d) Minimum front yard, all buildings: 30 feet.

196 (e) Minimum rear and side yards, all buildings: 15 feet.

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

199 (f) Maximum building height: 35 feet.

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

202 (g) Maximum building coverage: 20%.

203 (h) Minimum water body setback for functionally water-
204 dependent uses: zero feet.

205 (i) Minimum setback from streams, water bodies and wetlands:
206 in accordance with Table 16.5.30 § **16.4.28** and Appendix A,
207 Fee Schedules.

208 (3) Subdivision types and standards.

209 (a) Conservation Subdivision. In a subdivision, the above
210 standards may be modified in accordance with special
211 provisions of §**16.8.10**, including that there is no minimum lot
212 size, and with the conditions that:

213 [1] Minimum principal building separation as required by
214 the Fire Chief, but not less than 15 feet.

215 (b) Subdivision development (special exception uses, §**16.4.13C**).
216 In a subdivision development, standards in §**16.4.13D(1)** and
217 **(2)** apply and include:

218 [1] Minimum percentage of common open space: 15%.

219 (4) Age-restricted housing. In the case of age-restricted housing, the
220 above standards may be modified in accordance with the special
221 provisions of §**16.5.15** and with the condition that:

222 (a) ~~Municipal Public~~ sewerage and water must be provided.

223 (b) A minimum ~~land lot~~ area of three acres must be provided.

224 (c) The maximum ~~net~~ density may not exceed four dwelling
225 units per ~~net residential acre~~ lot area. In no event may the
226 Planning Board authorize a departure which increases the

227 total number of dwelling units greater than that specified
228 under the applicable zoning ordinance.
229 (d) A single-bedroom unit may not be less than 550 square feet
230 and a two-bedroom unit not less than 650 square feet.

231
232 ***Explanation: these amendments replace note with revision of 16.1.8,***
233 ***Lines 14-19, above, and clarify which density formula applies to a***
234 ***development in the zone (based on utilities).***

235 **7. Amend § 16.4.14 Residential — Village (R-V) zoning as follows:**

236 D. Standards. All development and the use of land in the R-V Zone must
237 meet the following standards. In addition, the design and
238 performance standards of Chapters **16.5**, **16.7** and **16.8** must be met.
239 The Design Handbook provides examples of appropriate design for
240 nonresidential and multiunit residential projects.

241 (1) The following space standards apply:

242 (a) Minimum net residential acreage per dwelling unit: 4,000
243 square feet. ~~(Note: As per Chapter 16.3 definition of "minimum~~
244 ~~land area per dwelling unit," except to exempt properties~~
245 ~~which are unable to meet the square feet required for a single-~~
246 ~~family dwelling unit, provided the lot was conforming prior to~~
247 ~~October 25, 2012.)~~

248 ***Explanation: note replaced by revision of 16.1.8, Lines 14-19, above.***

249 **8. Amend §16.4.15 Residential — Rural Conservation (R-RC) zoning as**
250 **follows:**

251 D. Standards. The following standards must be met unless modified per
252 §**16.8.10**, Conservation Subdivision:

253 (1) The design and performance standards of Chapters **16.5**, **16.7** and
254 **16.8** must be met.

255 (2) The following dimensional standards apply:

256 (a) Minimum net residential acreage per dwelling unit: 80,000
257 square feet. ~~(Note: As per Chapter 16.3 definition of~~
258 ~~"minimum land area per dwelling unit," except to exempt~~
259 ~~properties which are unable to meet the square feet required~~
260 ~~for a single family dwelling unit, provided the lot was~~
261 ~~conforming prior to October 25, 2012.)~~

262 ***Explanation: note replaced by revision of 16.1.8, Lines 14-19, above.***

263 **9. Amend §16.4.17 Business — Local (B-L) zoning as follows:**

264
265 D. Standards. All development and the use of land in the B-L Zone must
266 meet the following standards. Kittery's Design Handbook illustrates how
267 these standards can be met. In addition, the design and performance
268 standards of Chapters 16.5, 16.7 and 16.8 must be met. [Amended 9-12-2022]

269 (1) ~~The following space and dimensional standards apply:~~

270 ~~(a) Minimum land lot area per dwelling unit:~~

271 ~~[(1)]~~ If served by on-site sewage disposal: minimum net residential
272 acreage per dwelling unit: 20,000 square feet;

273 ~~[(2)]~~ (2) If served by the public sewerage system and:

274 [a] When no frontage on State Road or Route 1 Bypass exists:
275 minimum lot area per dwelling unit: 3,000 square feet;

276 [b] When less than five dwelling units are proposed at minimum,
277 one nonresidential use must be located on the first floor facing
278 State Road or Route 1 Bypass such that the use will be visible
279 from the street: minimum lot area per dwelling unit: 3,000 square
280 feet. Such a nonresidential use or uses need not occupy the
281 entire first floor but must be an independent nonresidential use,
282 e.g., not a home office marketed with a dwelling unit as a
283 work/live unit;

284 [c] When five or more dwelling units are proposed at minimum, one
285 nonresidential use must be located on the first floor facing State
286 Road or Route 1 Bypass such that the use will be visible from the
287 street: minimum lot area per dwelling unit: 2,500 square feet.

288 Such a nonresidential use or uses need not occupy the entire first
289 floor but must be an independent nonresidential use, e.g., not a
290 home office marketed with a dwelling unit as a work/live unit; or

291 [d] 25% or more of the dwelling units will be affordable housing
292 units as defined by this code: minimum lot area per dwelling unit:
293 1,000 square feet.

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

295 ***Explanation: this amendment specifies which density formula***
296 ***applies to a development (based on utilities).***

297 **10. Amend §16.4.18 Business — Local 1 (B-L1) zoning as follows:**

298 D. Standards. All development and the use of land in the B-L1 Zone must
299 meet the following standards. Kittery's Design Handbook illustrates
300 how these standards can be met. In addition, the design and
301 performance standards of Chapter **16.5** must be met.

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

303 (a) Minimum lot area per dwelling unit:

304 [1] When no frontage on State Road or Shapleigh Road: 2,500

- 305 square feet.
- 306 [2] When less than five dwelling units are proposed with, at
307 minimum, one nonresidential use must be located on the
308 first floor facing State Road or Shapleigh Road such that
309 the use will be visible from the street: 2,500 square feet.
310 Such a nonresidential use or uses need not occupy the
311 entire first floor but must be an independent nonresidential
312 use, e.g., not a home office marketed with a dwelling unit as
313 a work/live unit.
- 314 [3] When five or more dwelling units are proposed with, at
315 minimum, one nonresidential use must be located on the
316 first floor facing State Road or Shapleigh Road such that
317 the use will be visible from the street: 2,000 square feet.
318 Such a nonresidential use or uses need not occupy the
319 entire first floor but must be an independent nonresidential
320 use, e.g., not a home office marketed with a dwelling unit as
321 a work/live unit.
- 322 [4] When 25% or more of the dwelling units will be affordable
323 housing units as defined by this code, the minimum ~~land~~
324 lot area per dwelling unit is 1,500 square feet.
- 325 [5] When 50% or more of the dwelling units will be affordable
326 housing units as defined by this code, the minimum ~~land~~
327 lot area per dwelling unit is 1,000 square feet.

328 ***Explanation: Several BL-zoned properties are not served by public***
329 ***sewer. This amendment clarifies which density formula applies to a***
330 ***development (based on utilities).***

331 **11. Amend §16.4.19 Commercial 1, Route 1 Commercial Zone (C-1) as follows:**

332 E.Standards.

333 (1) C Zone standards. All development and the use of land in the C Zone
334 must meet the following standards. Kittery's Design Handbook
335 illustrates how these standards can be met. In addition, the design and
336 performance standards of Chapters **16.5**, **16.7** and **16.8** must be met
337 unless noted otherwise below.

338 (2) The following space standards apply in the C-1 Zones:

339 (a) Minimum lot size or density:

C-1 Zone

Cottage cluster	16 units per acre unless 25% of
Dwelling, attached single-family	units are affordable housing units
Dwelling, multifamily	as defined by this Code, in which
Dwelling, two-family	case 20 units per acres allowed*
Dwelling units as part of a	40 units per acre when over 50% of
mixed-use building	the units are affordable housing
	units as defined by this Code*.
All other uses	40,000 square feet

NOTES:

* These uses are exempt from net residential acreage calculations but are subject to minimum land lot area per dwelling unit requirement as described in §16.5.18D, Exemptions to net residential acreage calculations.

340 ***Explanation: this amendment clarifies which density formula***
341 ***applies to a development (based on utilities).***

342 **12. Amend §16.4.21 Commercial 3, Bypass/ Old Post Road Commercial Zone**
343 **(C-3) as follows:**

344 E.Standards.

345 (1) C Zone standards. All development and the use of land in the C Zone
346 must meet the following standards. Kittery's Design Handbook
347 illustrates how these standards can be met. In addition, the design and
348 performance standards of Chapters 16.5, 16.7 and 16.8 must be met
349 unless noted otherwise below.

350 (2) The following space standards apply in the C-3 Zones:

351 (a) Minimum lot size or density:

C-1 and C-3 Zone

Cottage cluster	16 units per acre unless 25% of
Dwelling, attached single-family	units are affordable housing units
Dwelling, multifamily	as defined by this Code, in which
Dwelling, two-family	case 20 units per acres allowed*
Dwelling units as part of a	40 units per acre when over 50% of
mixed-use building	the units are affordable housing
	units as defined by this Code*.
All other uses	40,000 square feet

C-1 and C-3 Zone

NOTES:

* These uses are exempt from net residential acreage calculations but are subject to minimum [land lot](#) area per dwelling unit requirement as described in §16.5.18D, Exemptions to net residential acreage calculations.

Explanation: this amendment clarifies which density formula applies to a development (based on utilities).

13. Amend §16.4.23 Mixed Use Zone (MU) as follows:

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 Chapters **16.5**, **16.7** and **16.8** must be met.
- (2) Minimum dimensional standards. The following apply:
 - (a) Minimum lot size:
 - [1] Lots with frontage on Route 1: 200,000 square feet.
 - [2] 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.
 - [1] 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 16.5.30, § **16.4.28** and Appendix A, Fee Schedules.
 - (i) Minimum [land lot](#) area per unit for elder care facilities that are connected to the public sewerage system:
 - [1] Dwelling unit with two or more bedrooms: 5,000 square feet.
 - [2] Dwelling unit with less than two bedrooms: 4,000 square feet.

- 383 [3] Residential care unit: 2,500 square feet.
384 (j) Minimum ~~land-lot~~ area per bed for nursing care and
385 convalescent care facilities that are connected to the public
386 sewerage system: 2,000 square feet.
387 (k) Buffer to I-95 right-of-way: 40 feet.
388 (l) Buffer to neighboring lot with an existing residence within 100
389 feet of the lot line: 40 feet.
390 (m) Vegetated buffer to be maintained between the MU and R-RL
391 Zones: 40 feet.

392
393 Note 1: For single-family dwellings, and vacant lots of record, one
394 dwelling unit is allowed for each 200,000 square feet of ~~land-lot~~ area.
395 A lot of record having a ~~land-lot~~ area of more than 200,000 square
396 feet that was improved with a single-family dwelling as of April 1,
397 2004, may be divided into two lots provided that each of the lots
398 contains at least 40,000 square feet of ~~land-lot~~ area and meets the
399 other dimensional standards of the zone. Section **16.4.10D(1)** and **(2)**
400 as set forth in the Residential - Rural Zone apply and no further
401 subdivision is allowed.

402 Note 2: For dwelling units that are part of a mixed-use building or a
403 multifamily building and are connected to the public sewerage
404 system, one dwelling unit is allowed for each 10,000 square feet of
405 lot area. Where over 50% of such dwelling units described above will
406 be affordable as defined by this code: 4,000 square feet of **buildable**
407 ~~land-lot~~ area. [NOTE: multifamily dwellings are not allowed in either
408 Resource Protection or Shoreland Overlay Zones] If the parking for
409 the residential units is encompassed within the building, the
410 minimum required buildable ~~land-lot~~ area per dwelling unit is
411 reduced to 7,500 square feet. Where over 50% of the dwelling units
412 will be affordable as defined by this code and parking is
413 encompassed within the building: 3,000 square feet of buildable
414 ~~land-lot~~ area. In addition, for those developments where more than
415 50% of the dwelling units will be affordable, parking requirements
416 are reduced to two parking spaces per three dwelling units.

417 ***Explanation: these amendments clarify which density formula***
418 ***applies to a development (based on utilities).***

419 **14. Amend §16.4.24 Mixed-Use — Badger Island (MU-BI) as follows:**

- 420 D. Standards.
421 (1) The following space standards apply:

- 422 (a) Minimum ~~land-lot~~ area per dwelling unit: 3,000 square feet.
423 [1] If more than 50% of the dwelling units will be affordable
424 housing units as defined by this code: 1,200 square feet.
425
- 426 (4) Special parking standards.
427 (e) Parking demand management (PDM) strategies.
428 [1] Parking demand strategies are measures geared toward
429 affecting the demand side of the parking equation rather
430 than the supply side. They attempt to change people's
431 behavior away from traveling to work as a single occupant
432 in an automobile to be parked near the work site. To be
433 successful, they must rely on incentives or disincentives to
434 make these shifts in behavior attractive to the traveler.
435 [2] A portion of required off-street parking may be satisfied by an
436 owner incorporating PDM strategies to effectively reduce
437 demand for parking stalls as determined by the Planning
438 Board. In making this determination the Planning Board,
439 under development plan review, must consider the
440 following factors:
441 [a] The written commitment of the employer to maintain
442 and enforce parking policies to reduce demand for
443 parking stalls;
444 [b] The likelihood that specific incentives and policies
445 adopted by the applicant will reduce parking demand on
446 a regular basis throughout the year;
447 [c] Written commitments by employees to participate in
448 PDM strategies; and
449 [d] The results of any studies demonstrating the
450 effectiveness of strategies adopted by the applicant to
451 reduce parking demand.
- 452 ~~(f)~~(3) PDM strategies include, but are not limited to, the following:
453 ~~(i)~~[a] Increase the number of persons per parked vehicle.
454 Potential incentives:
455 [a] Preferential parking locations for car pools and van
456 pools;
457 [b] Guaranteed ride home programs/taxi subsidies;
458 [c] Employer provision of vans for van pools; and

- 459 [div] Financial incentives to participants in car pools and
460 van pools.
- 461 [2b] Increase the number of persons using an alternative
462 mode of travel to the automobile, such as walking,
463 bicycling, motorcycle, moped, bus and shuttle service.
464 Potential incentives:
- 465 [ai] Preferential parking locations for alternative modes of
466 travel;
- 467 [bii] Provision of changing rooms, lockers and showers;
- 468 [eiii] Early work release for employees using alternative
469 modes of travel;
- 470 [div] Financial subsidies toward the purchase of
471 alternative modes of travel to be used for commuting;
- 472 [ev] Guaranteed ride home programs in inclement
473 weather;
- 474 [fvi] Preferential work station locations; and
- 475 [gvii] Free use of a business vehicle for errands, lunch and
476 off-site appointments.
- 477 [3c] Influencing the time of, or need to, travel to work. Potential
478 incentives:
- 479 [ai] Reward employees who telecommute from their
480 home or other remote location;
- 481 [bii] Offer an optional four-day, forty-hour workweek as an
482 alternative to a five-day workweek;
- 483 [eiii] Allow nonoverlapping early and late work shifts; and
- 484 [div] Flextime.

485 ***Explanation: these amendments clarifies which density formula***
486 ***applies to a development (based on utilities) and corrects the***
487 ***formatting for subsection 4e.***

488 **15. Amend §16.4.25 Mixed-Use – Kittery Foreside Zone (MU-KF) as follows:**

489 D. Standards.

- 490 (2) Dimensional standards. The following space standards apply:
- 491 (a) Minimum ~~land-lot~~ area per dwelling unit: 5,000 square feet.
- 492 (a) – 1. If more than 50% of the dwelling units will be affordable
493 housing units as defined by this code: 2,000 square feet.
- 494 (k) Minimum ~~land-lot~~ area per unit for elder-care facilities that are

495 connected to the public sewerage system:
496 [1] Dwelling unit with two or more bedrooms: 3,000 square feet.
497 [2] Dwelling unit with less than two bedrooms: 2,500 square
498 feet.
499 [3] Residential care unit: 2,000 square feet.
500 [a] Minimum ~~land lot~~ area per bed for nursing care and
501 convalescent care facilities that are connected to the public
502 sewerage system: 1,500 square feet.

503 ***Explanation: these amendments clarify which density formula***
504 ***applies to a development in the zone (based on utilities).***

505 (7) Revised off-street parking standards. Insofar as practical, parking
506 requirements are to be met on site unless an existing building
507 covers so much of the lot as to make the provision of parking
508 impractical in whole or in part. If meeting the parking requirements
509 is not practical, then the parking demand may be satisfied off site or
510 through joint-use agreements as specified herein. Notwithstanding
511 the off-street parking requirements in §16.7.11F(3), minimum parking
512 requirements for the uses below are modified as specified herein:

513 (a)-(f) omitted for brevity NO CHANGES PROPOSED

514 (g) Restaurants: one parking space for each 100 square feet of gross
515 floor area used by the public.

516 [Note: For each use in the zone, the total parking demand is
517 calculated using the standards [a through g](#) above or in
518 §16.7.11F(3), if not modified above. Then each nonresidential use
519 is exempt from providing off-street parking for the first three
520 required spaces. For uses requiring a demand of greater than
521 three, then the off-street parking is to be provided on site
522 and/or in accordance with Subsection D(9) and (10) of this
523 section.]

524 ***Explanation: this amendment separates the [Note] from 7.g so it***
525 ***applies more generally as intended, fixing a recodification error.***

526 **16. Amend §16.4.26 Business — Park (B-P) as follows:**

527 A. Purpose. To encourage investment that promotes development of a
528 high-quality parklike setting for both the business and residential
529 communities. ~~Cluster-m~~Mixed-use development must be used on
530 larger tracts of land where offices, retail sales, services, lodging, open
531 space, housing and light manufacturing space are blended with

532 residential and moderate entertainment to foster general business
533 growth and a sense of community. The intent of ~~the cluster~~ mixed-use
534 development is to provide a more efficient use of land than might be
535 obtained through segregated development procedures.

536 B. Permitted uses. The following land uses are permitted for projects that
537 are cluster mixed-use developments:

538 (7) ~~Cluster residential development~~ Conservation subdivision

539 C. The following land uses are permitted for projects that are not ~~cluster~~
540 mixed-use developments:

541 (1) Business and professional offices.

542 (2) Accessory uses and buildings.

543 (3) Business services.

544
545 E. Standards. The following standards must be met unless modified per §
546 ~~16.8.10H10~~, Conservation Subdivision. ~~Cluster residential~~
547 ~~development~~. Multiple-parcel development is subject to Chapter **16.6**,
548 Master Site Development Plan.

549 (1) Design and performance standards in Chapters **16.5**, **16.7**, and **16.8**.
550 The Design Handbook provides examples of appropriate design for
551 nonresidential and multi-unit residential projects.

552 (2) Except for ~~cluster~~ mixed-use developments, the following space
553 standards apply:

554 (3) Patios, sheds, parking lots and golf courses must have a minimum
555 setback of 50 feet from streams, water bodies, and wetlands.

556 (4) ~~Cluster residential development~~ Conservation subdivision. In a
557 ~~cluster residential development~~ conservation subdivision, the
558 above standards may be modified in accordance with the special
559 provisions of § ~~16.8.10H10~~, Cluster residential
560 ~~development~~ Conservation subdivision, including there is no
561 minimum lot size, and with the conditions that:

562 ***Explanation: these amendments replace “cluster residential***
563 ***development”, which no longer exists, with “conservation***
564 ***subdivision” or “mixed-use development” to remain consistent with***
565 ***current definitions and uses in code.***

566 **17. Amend §16.5.18 Net residential acreage as follows:**

567 A. Purpose. To protect public health, safety, and welfare by prioritizing
568 preservation of environmentally sensitive areas and land for public or

569 quasi-public facilities during development of parcels in Kittery's
570 limited growth zones by excluding those areas from development
571 density calculations. Net residential acreage is used to determine the
572 maximum number of dwelling units allowed on a parcel that is subject
573 to subdivision located in a limited growth area identified in the
574 Comprehensive Plan. The total number of dwelling units allowed is
575 equal to the net residential acreage divided by the minimum land area
576 per dwelling unit for a given land use zone.

577 B. Applicability. Applies to development of land located in limited growth
578 areas as designated in the Comprehensive Plan and to residential
579 development that will not be served by public water and sewer
580 facilities. Development of parcels located in targeted growth areas
581 served by public sewer and water is subject to provisions for lot area as
582 defined in Chapter 16.3 for calculating lot area, lot coverage, or unit
583 density.

584 C. Net residential acreage calculation. The total number of dwelling units
585 allowed is equal to the net residential acreage divided by the
586 minimum land area per dwelling unit for a given land use zone. To
587 calculate net residential acreage, the land area listed below must be
588 subtracted from a parcel's gross area. Where land areas to be
589 subtracted overlap, the area therein is subtracted once.

- 590 (1) All land located below the highest annual tide elevation as
591 published in the Maine DEP Highest Annual Tide (HAT) levels for
592 the most-current year.
- 593 (2) All land located within the floodplain as defined in the definition of
594 "flood, 100-year" in Chapter **16.3**.
- 595 (3) All wetlands as defined in the definition of "wetland" in Chapter
596 **16.3**, as well as vernal pools, ponds, lakes, streams and other water
597 bodies, including 50% of the associated setbacks described in other
598 buildings and structures, Table 16.5.30, Chapter **16.5** of this title.
- 599 (4) All land located on filled tidal lands, per the definition of "tidal land,
600 filled" in Chapter **16.3**.
- 601 (5) All land located within existing rights-of-way and other existing
602 easements wherein dwelling units cannot be built.
- 603 (6) All land located within proposed rights-of-way, including parking
604 and travel ways. Driveways are excluded.
- 605 (7) All land isolated from the principal location for development on the
606 parcel by a road/street, existing land uses, or any physical feature,
607 natural or man-made, such that it creates a barrier to the central
608 development of the site and no means of access is proposed nor
609 likely to be provided in the future. However, to demonstrate that
610 identified isolated land may be considered developable for the
611 purpose of this calculation, the applicant must submit a plan and

- 612 supporting documentation for the Board's consideration.
- 613 (9) All land one acre or more of contiguous area with sustained slopes
614 of 20% or greater.
- 615 (10) All land identified as exposed bedrock, and soils with a drainage
616 class of "poorly drained" and/or "very poorly drained" as defined in
617 the definition of "soils" in Chapter **16.3**.
- 618 (11) Fifty percent of all land characterized as drainage class of
619 "somewhat poorly drained," unless public sewer is used, in which
620 case no land area is subtracted.
- 621 (12) All land area within a cemetery and burying ground as defined in
622 Chapter **16.3**, including associated setback per 13 M.R.S.A. § 1371-A,
623 Limitations on construction and excavation near burial sites.
- 624 (13) All land within a Commercial Fisheries/Maritime Uses Overlay Zone
625 or Resource Protection Overlay Zone not included in Subsection
626 **B(12)** above.

627 ***Explanation: these amendments clarify the purpose and***
628 ***applicability of net residential acreage for calculating development***
629 ***density.***

630 **18. Amend “Chapter 16.7 General Development Requirements” as follows:**

631
632 Chapter 16.7 ~~General Development Requirements~~ [Site Plan Review](#)

633 ***Explanation: this amendment changes the name of 16.7 to “Site***
634 ***Plan Review” to reflect the actual purpose of the chapter.***

635 **19. Amend § 16.7.2 Applicability as follows:**

- 636 A. A person who has right, title, or interest in a parcel of land shall
637 obtain site plan approval prior to commencing any of the following
638 activities on the parcel, including contracting or offering for the
639 conveyance regulated activity permit for any structure within the
640 development is ~~issues issued~~, or undertaking work on any
641 improvements, including installation of roads or utilities or land
642 clearing.

643 ***Explanation: this amendment corrects a grammatical error.***

644 **20. Amend § 16.7.10 Review process and submission requirements as**
645 **follows:**

- 646 B. Sketch plan review.

- 647 (1) Major site plan applicants may choose to submit a development
648 sketch plan with design concept, at their discretion. The purpose
649 of sketch plan review with the Planning Board is a chance for the
650 applicant to ask questions and get feedback and guidance from
651 the Board before proceeding with an advance site plan design,
652 and for the Board to provide guidance on submission
653 requirements. [Project proposals and feedback provided during](#)
654 [sketch plan review are non-binding on both parties.](#) Any person
655 requiring site plan review must submit an application on forms
656 prescribed by the Planning Board. No more than one
657 application/plan for a piece of property may be under review
658 before the Planning Board.
- 659 (a) A completed application must be submitted to the Town
660 Planner no later than 21 days prior to the meeting date for the
661 item to be included on the agenda.
- 662 [1] Refer to current Planning Department application
663 checklist for required number of paper copies.
- 664 [2] One electronic submission in PDF format of the complete
665 submission including all forms, plans, and
666 documentation.
- 667 (2) Planning Board review. The Planning Board must, within 65 days
668 of sketch plan submission, act upon the sketch plan as follows:
- 669 (a) [The Planning Board must determine advise](#) whether the
670 sketch plan proposal complies with the standards contained
671 herein.
- 672 (b) Where it deems necessary, make specific suggestions, in
673 writing, to be incorporated by the applicant in subsequent
674 submissions.
- 675 (c) [The Planning Board should determine advise as](#) to whether
676 or not an on-site walk will be required.
- 677 (d) [Project proposals and feedback provided during sketch plan](#)
678 [review are non-binding on both parties.](#)
- 679 (de) The applicant should provide an indication as to whether or
680 not waives from the submission requirements or
681 performance standards will be part of the next phase of
682 review.
- 683 (e) Any plan may be continued for a total period not to exceed
684 90 calendar days for good and sufficient reason (i.e., for
685 revisions to be made, studies completed, or additional
686 information submitted) and acceptable to both the applicant
687 and the Planning Board. Such plan is automatically
688 scheduled for the agenda of the next regular Planning Board

689 meeting after the 90th day and action completed in
690 accordance with the requirements and timing contained in
691 this title, whether the applicant has accomplished the
692 purposes for which continued or not.

693 [1] The action to table by the Planning Board must be an action
694 to temporarily suspend action and not to suppress a vote on
695 the plan.

696 (3) Sketch Plan Submission requirements.

697 (a) ~~The sketch plan must be submitted to the Planning Board at~~
698 ~~the time of, or prior to, the on-site inspection.~~

699 ~~(b)~~ The sketch plan must show in simple form on a topographic
700 map the proposed site, subdivision, landscape architectural
701 or architectural design concept, including streets, lots,
702 structures and other features, in relation to existing
703 conditions and municipal land use zone(s) regulations.

704 ~~(c) The sketch may be a freehand penciled sketch and must~~
705 ~~include the data listed below.~~

706 ~~(4) Written submission requirements:~~

707 ~~(a) Any person requiring development review must submit an~~
708 ~~application on forms prescribed by the Planning Board,~~
709 ~~together with a development plan and such submission~~
710 ~~contents as may be required in § 16.7.10C. A complete~~
711 ~~application consists of all the required elements. No more~~
712 ~~than one application/plan for a piece of property may be~~
713 ~~under review at a time. No more than one approved final plan~~
714 ~~for a piece of property may exist.~~

715 (b) ~~General p~~Project information must be provided in plan or
716 narrative form to describe or outline the existing conditions of
717 the site, including:

718 ~~[1] Covenants or easements, streams, wetlands or other natural~~
719 ~~features, and drainage features;~~

720 ~~[2] Available community facilities; and~~

721 ~~[3] Utilities.~~

722 (c) Proposed development details provided in plan or narrative
723 form, such as:

724 [1] Number of residential or business lots and/or dwelling
725 units;

726 [2] Typical lot width and depth;

727 ~~[3] Price range~~Vehicle parking and driveway areas;

728 [4] Business areas;

729 [5] Playgrounds, park areas and other public areas;

- 730 [6] Protective covenants;
- 731 [7] Utilities; ~~and~~
- 732 [8] Street improvements; and
- 733 [9] Drainage features and potential on-site or off-site points
- 734 of analysis for stormwater regulation compliance.

735 ***Explanation: these amendments clarify the advisory nature of***
736 ***sketch plan review and update the submission requirements to***
737 ***reflect current plan review practices.***

738 C. Preliminary plan review.

- 739 (1) General process.
 - 740 (a) Within six months after Planning Board acceptance of a
 - 741 sketch plan, if applicable, the applicant must submit an
 - 742 application for preliminary site plan approval in the form
 - 743 prescribed herein and in accordance with current
 - 744 Department procedures.
 - 745 (b) Preliminary plan application filing and completeness review.
 - 746 A determination as to whether the Town Planner validates an
 - 747 application is based on a review of the application in
 - 748 accordance with the submission contents checklist filed with
 - 749 the plan, which indicates all elements required under
 - 750 **§ 16.7.10C** and **D** have been received, or written request for
 - 751 any waivers of submission requirements or performance
 - 752 standards is included. The application must be accompanied
 - 753 by a plan and the required fee, together with a certification
 - 754 the applicant has notified abutters by mail of the filing of the
 - 755 plan application for approval.
 - 756 (c) Receipt and scheduling review. Upon validation, the Town
 - 757 Planner must place the application on the Planning Board's
 - 758 agenda for Planning Board completeness review and vote to
 - 759 find the preliminary plan application complete and, upon
 - 760 Planning Board approval, issue a dated notice to the
 - 761 applicant, which is thereafter the official time of submission.
 - 762 (d) Site inspection. In the course of the review of the plan, the
 - 763 Planner must, and the Planning Board may at its discretion,
 - 764 make a physical inspection and may make photographic
 - 765 record of the existing conditions on the site.
 - 766 (e) Advisory opinions. At any time during review, the Planner
 - 767 may request an advisory opinion from the Planning Board,
 - 768 Conservation Commission or Port Authority on issues related
 - 769 to the application. Where applications are for land within
 - 770 wetland setbacks or the Resource Protection Overlay Zone,

771 the Conservation Commission must be invited to review and
772 offer recommendations from an environmental protection
773 perspective. The Planner also must make recommendation
774 on the necessity for independent review.

775 (f) Planner analysis. The Planner must analyze the application
776 and forward comments and recommendations to the
777 applicant and the Planning Board.

778 (g) A completed application must be submitted to the Town
779 Planner no later than ~~21~~28 days prior to the meeting date for
780 the item to be included on the agenda. The submission must
781 include on the plan or attached thereto, the requirements of
782 Subsection **C(4)**, Plan requirements, and Subsection **C(5)**,
783 Additional requirements, unless upon the applicant's written
784 request, the Planning Board, by formal action, waives or
785 defers any requirement(s) for submission.

786 (4) Plan requirements.

787 (a) Plan sheets drawn on a reproducible medium and must
788 measure no less than 11 inches by 17 inches and no larger than
789 24 inches by 36 inches;

790 (b) With scale of the drawings no greater than one inch equals 30
791 feet for developments less than 10 acres, and one inch equals
792 50 feet for all others;

793 (c) Code block in the lower right-hand corner. The block must
794 contain:

795 [1] Name(s) and address(es) of the applicant and owner;

796 [2] Name of the project;

797 [3] Name and address of the preparer of the plan, with
798 professional seal, if applicable;

799 [4] Date of plan preparation/revision, and a unique ID number
800 for the plan and any revisions;

801 (d) Standard boundary survey conducted by a surveyor licensed in
802 the State of Maine, in the manner recommended by the State
803 Board of Registration for Land Surveyors;

804 (e) An arrow showing true North and the magnetic declination, a
805 graphic scale, and signature blocks for the owner(s) and
806 members of the Planning Board;

807 (f) Locus map showing the property in relation to surrounding
808 roads, within 2,000 feet of any property line of the
809 development;

810 (g) Vicinity map and aerial photograph showing the property in
811 relation to surrounding properties, roads, geographic, natural
812 resource (wetland, etc.), historic sites, applicable

- 813 comprehensive plan features such as proposed park locations,
814 land uses, zones, and other features within 500 feet from any
815 boundary of the proposed development;
- 816 (h) Surveyed acreage of the total parcel, of rights-of-way, wetlands,
817 and area to be disturbed and amount of street frontage;
- 818 (i) Names and addresses of all owners of record of property
819 abutting the development, including those across a street;
- 820 (j) Existing development area conditions, including but not
821 limited to:
- 822 [1] Location and description of all structures, including signs,
823 existing on the site, together with accesses located within
824 100 feet of the property line;
- 825 [2] Essential physical features such as watercourses, wetlands,
826 floodplains, wildlife habitat areas, forest cover, and
827 outcroppings;
- 828 [3] Utilities existing, including power, water, sewer, holding
829 tanks, bridges, culverts and drainageways;
- 830 (k) Proposed development area conditions including, but not
831 limited to:
- 832 [1] Structures: their location and description, including signs,
833 to be placed on the site, floor plans and elevations of
834 principal structures as well as detail of all structures,
835 showing building materials and colors, and accesses
836 located within 100 feet of the property line;
- 837 [2] Utilities proposed including power, water, sewer, holding
838 tanks, bridges, culverts and drainageways;
- 839 [3] Sewage facilities type and placement. Test pit locations, at
840 least two of which must meet the State of Maine Plumbing
841 Code requirements, must be shown;
- 842 [4] Domestic water source;
- 843 [5] Parks, open space, or conservation easement locations;
- 844 [6] Lot lines, interior and exterior, right-of-way, and street
845 alignments;
- 846 [7] Road and other paved ways plans, profiles and typical
§47 sections including all relevant data [and adjacent snow](#)
§48 [storage areas](#);
- 849 [8] Setbacks existing and proposed;
- 850 [9] Machinery permanently installed locations likely to cause
851 appreciable noise at the lot lines;

- 852 [10] Raw, finished or waste materials to be stored outside the
853 buildings, and any stored material of a toxic or hazardous
854 nature;
- 855 [11] Topographic contours of existing contours and finished
856 grade elevations within the development;
- 857 [12] Pedestrian ways/sidewalks, curbs, driveways, fences,
858 retaining walls and other artificial features locations and
859 dimensions proposed;
- 860 [13] Temporary marker locations adequate to enable the
861 Planning Board to readily locate and appraise the layout of
862 the development;
- 863 [14] Land proposed to be dedicated to public use and the
864 conditions of such dedication;
- 865 (l) Natural features or site elements to be preserved. Written
866 submission requirements legal interest documents showing
867 legal interest of the applicant in the property to be developed.
868 Such documents must contain the description upon which the
869 survey was based;
- 870 (m) Property encumbrances currently affecting the property, as
871 well as any proposed encumbrances;
- 872 (n) Water district approval letter, if public water is used, indicating
873 there is adequate supply and pressure to be provided to the
874 development;
- 875 (o) Erosion and sedimentation control plan prepared by a qualified
876 erosion and sedimentation control professional in accordance
877 with the requirements of § **16.7.11C**;
- 878 (p) Stormwater management preliminary plan for stormwater and
879 other surface water drainage prepared and stamped by a
880 registered professional engineer including the general location
881 of stormwater and other surface water drainage areas
882 an analysis of existing and proposed drainage conditions on the
883 site and in adjacent areas.
- 884 (q) Soil survey for York County covering the development. Where
885 the soil survey shows soils with severe restrictions for
886 development, a high intensity Class "A" soil survey must be
887 provided;
- 888 (r) Vehicular traffic report estimating the amount and type of
889 vehicular traffic that will be generated by the development on a
890 daily basis and for peak hours;
- 891 (s) Traffic impact analysis in accordance with § **16.5.27E** for
892 developments involving 40 or more parking spaces or which
893 are projected to generate more than 400 vehicle trips per day;

- 894 (t) Test pit(s) analysis prepared by a licensed site evaluator when
895 sewage disposal is to be accomplished by subsurface disposal,
896 pits, prepared by a licensed site evaluator;
- 897 (u) Town Sewage Department or community system authority
898 letter, when sewage disposal is to be through a public or
899 community system, approving the connection and its location;
- 900 (v) ~~Letters of~~ Written or verbal evaluation of the development by
901 the Chief of Police, Fire Chief, Commissioner of Public Works,
902 and, for residential applications, the superintendent of schools,
903 must be collected and provided by the Town Planner;
- 904 (w) Additional submissions as may be required by other sections of
905 this title such as for clustered development, mobile home
906 parks, or junkyards must be provided.

907 ***Explanation: these amendments reflect current preliminary site plan***
908 ***review practice(s) which include Town Planner solicitation of staff***
909 ***input instead of receipt of written letters, additional time needed for***
910 ***sufficient plan review by peer review engineer and board members***
911 ***prior to meeting, planning board review of snow storage areas, and***
912 ***evolving importance and sophistication of stormwater regulations for***
913 ***development.***

914 **21. Amend §16.7.11 Performance Standards and approval criteria as follows:**

- 915 F. Parking and loading.
- 916 (4) Off-street parking standards.
- 917 (a) Off-street parking, in addition to being a permitted use, is
918 considered as an accessory use when required or provided to
919 serve conforming uses located in any district.
- 920 (b) The following minimum off-street parking and loading
921 requirements must be provided and maintained in case of
922 new construction, alterations and changes of use. Such
923 parking may be provided in the open air in design-
924 dependent spaces dimensioned as may be required to suit
925 the particular use as indicated in Table 2 of this chapter, set
926 out at the end of § **16.7.11F**, Parking loading and traffic, or in
927 garages.
- 928 (c) All spaces must be accessible from lanes of adequate size and
929 location as per Table 2 of this chapter, set out at the end of
930 § **16.7.11F**, Parking loading and traffic. In cases not specifically
931 covered, the Town Board-board or officer with jurisdiction to
932 approve the application is authorized to determine the
933 parking requirements and projected development use

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intensity. Existing parking standards are to be used as a guide where applicable to ensure that a sufficient number of parking spaces are provided to accommodate the number and type of vehicles attracted to the development during peak parking demand times.

- (d) When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction of 1/2 or less may be disregarded, while a fraction in excess of 1/2 is counted as one parking space.

Use	Number of Parking Spaces
Automobile, truck and tractor repair and filling station	1 parking space for each regular employee plus 1 space for each 200 square feet of floor area used for service work
Dwellings	2 vehicle spaces per each dwelling unit
Age-restricted housing	1.5 parking spaces for each dwelling unit with 2 or fewer bedrooms
	2 parking spaces for each dwelling unit with more than 2 bedrooms
Residential care facilities	1 parking space per dwelling unit 0.65 parking space per residential care unit
Motels, hotels, tourist homes, rooming houses, or other rooming spaces associated with a permitted use	1 parking space for each rental unit plus 1 space for each 100 square feet of meeting room
Schools	
Nursery school and day-care facilities	1 space for every 100 square feet of gross floor area used as school area
Elementary and junior high schools	1 parking space for each adult employee, plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment
Senior high schools	1 parking space for each adult employee, plus 20 parking spaces for each 100 students or major fraction thereof of total enrollment
Marinas and other water-oriented recreational facilities	
With launching facilities	3 parking spaces for every 2 slips or moorings, arranged for trailers

Without launching facilities	1 parking space for each slip or mooring
Hospitals	1 parking space per each 3 beds
Long-term nursing care facilities and convalescent care facilities	1 parking space for each 4 beds
Theaters, auditoriums, churches and arenas	1 parking space for each 4 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats
Mortuary chapels	5 parking spaces for each chapel
Retail stores and financial institutions	1 parking space for each 175 square feet of gross floor area
Bowling alley	4 parking spaces for each bowling lane
Drive-in restaurants, snack bars and fast-food outlets	Minimum 15 parking spaces, plus 1 space for each 3 seats; seating is calculated by dividing the total floor area with customer access by 15
Restaurant	1 parking space for each 3 seats; seating is calculated by dividing the total floor area with customer access by 15
Offices, professional and public buildings	2 parking spaces for each office unit plus 1 space for each 250 square feet of gross floor area
Convenience stores or neighborhood grocery facilities	6 spaces in the rural residential zone; all other zones, 10 parking spaces
Mobile home	2 vehicle spaces per each mobile home
Transportation terminals	In addition to meeting all applicable standards as enumerated above, transportation terminals must meet the following: 1 parking space for each employee; 1 parking space for each three seats of the terminal's major carrier vehicle; and 1 parking space for each rented vehicle to be based on site
Warehouse and storage	1 parking space for each 500 square feet of gross floor area except that portion of such facility which is used for retail sales and display or office area, which adds additional parking in

	accordance with the standards for those uses
Industry, manufacturing and business	1 parking space for each 500 square feet of floor area, or major fraction thereof, or 1.1 spaces per employee on the maximum shift, for that part of every business, manufacturing and industrial building not catering to retail trade
Bus parking	For each 25,000 square feet of gross floor area, retail business must provide one bus parking area. Said area(s) are to be 12 feet by 50 feet in dimension, marked on the parking lot surface and labeled as such. Bus parking must be located in the parking area as far from the store entrance(s) as possible

- 943 (e) A parking area is allowed in the Resource Protection Overlay
944 Zone only where no reasonable alternative route or location is
945 available outside the Resource Protection Overlay Zone, in
946 which case a permit or site plan or subdivision plan approval
947 is required by the Planning Board.
- 948 (f) A parking area must meet the wetland and water body
949 setback requirements for structures for the district in which
950 such areas are located, per Table 16.5.30, Minimum Setback
951 from Wetlands and Water Bodies; except, in the Commercial
952 Fisheries/Maritime Uses Overlay Zone, parking area must be
953 set back at least 25 feet from the normal high-water line or
954 the upland edge of a wetland. The setback requirement for a
955 parking area serving public boat-launching facilities, in zones
956 other than the Commercial, Business-Local, Residential-
957 Urban Zones, and the Commercial Fisheries/Maritime Uses
958 Overlay Zone, may be reduced to no less than 50 feet from
959 the normal high-water line or upland edge of a wetland if the
960 Planning Board finds no other reasonable alternative exists.
- 961 (g) Parking landscaping is required for parking areas containing
962 10 or more parking spaces and must have at least one tree
963 per eight spaces. Such trees are to be located either within
964 the lot or within five feet of it. Such trees are to be at least 1 1/2
965 inches in diameter, with no less than 25 square feet of
966 unpaved soil or permeable surface area per tree. At least 10%
967 of the interior of any parking area having 25 or more spaces is

968 to be maintained with landscaping, including trees, in plots of
969 at least five feet in width.

970 (h) Required off-street parking in all residential districts is to be
971 located on the same lot as the principal building or use,
972 except that where it cannot reasonably be provided on the
973 same lot, the Board of Appeals may authorize residential off-
974 street parking to be located on another lot within 300 feet of
975 the residential uses served, as measured along lines of public
976 access. Such parking areas must be held under the same
977 ownership or lease as the residential uses served, and
978 evidence of such control or lease is required. Leases obtained
979 for this purpose must be reviewed by the Town Attorney at
980 the developer's expense and include requirement for notice
981 to the Town upon termination of lease. Approval for uses
982 dependent on such lease is terminated upon termination of
983 the lease.

984 (i) If parking spaces are provided for employees, customers or
985 visitors, then accessible parking spaces must be included in
986 each such parking area in conformance with the following
987 table:

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

988 [1] Each accessible parking space must contain a
989 rectangular area at least 19 feet long and eight feet wide
990 with access to a designated and marked five-foot-wide
991 aisle. All required accessible parking spaces are to be
992 identified by a vertical sign displaying the international
993 symbol of accessibility; pavement marking alone is not
994 adequate to identify accessible parking spaces.

995 [2] The total number of accessible parking spaces is to be
996 distributed to serve the various accessible entrances as
997 well as possible.

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[3] At least one accessible route is to connect from each accessible parking space to the accessible building entrance.

(j) Required off-street parking in all commercial, business and industrial zones must be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access; except that, where off-street parking cannot be provided within these limits, the Board of Appeals may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access. Such parking areas must be held under the same ownership or lease, and evidence of such control or lease is required. Such lots must be located within business or industrial districts.

(k) Where off-street parking for more than six vehicles is required or provided, the following construction requirements apply:

[1] Appropriate driveways from streets or alleys, as well as maneuvering areas, must be provided. Location and width of approaches over public sidewalk are to be approved by the Commissioner of Public Works. When access to parking areas is available from more than one street, the location of points of ingress and egress are to have the approval of the Planning Board.

[2] The surface of driveways, maneuvering areas and parking areas must be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well-compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.

[3] A system of surface drainage must be provided in such a way that the water runoff does not run over or across any public sidewalk or street or adjacent property. Where catch basins are required, oil traps are to be provided.

[4] Where artificial lighting is provided, it must be shaded or screened so that no light source is visible from outside the area and its access driveways

[5] Where surface water drainage utilizes a municipal drainage system, the parking or driveway area may be required to have a bituminous asphalt surface or other approved equivalent.

(k!) The Planning Board or Board of Appeals may, in specific cases of hardship, reduce the requirements for off-street parking where it is clearly demonstrated that such reduction

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will not detract from neighborhood values, inconvenience the public or increase congestion in the streets.

- (tm) The Planning Board or Board of Appeals may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.
- (mn) Compact-size parking spaces, unless restricted for use by and located adjacent to a dwelling unit, must be located in one or more continuous areas and cannot be intermixed with spaces designed for full size vehicles.
- (no) Compact-size parking spaces shall be clearly designated by pavement marking and by direction sign in conformance with Table 2.

Table 2 Parking Space Design (minimum dimensions) (dimensions in feet unless otherwise indicated.)							
	A	B	C	D	E	F (Aisle Width)	
To Curb	Angle (degrees)	Stall Widt h	Stall Dept h	Stall to Curb b	Skew Widt h	One- Way Traffi c	Two- Way Traffi c
Parallel	0	9	22	9.0	22.0	13	19
Diagonal	30	9	19	17.3	18.0	11	20
Diagonal	45	9	19	19.8	12.9	13	21
Diagonal	60	9	19	21.0	10.5	18	23
Perpendicular	90	9	19	19.0	9.0	24	24

Table 2-A Compact Car Parking Space Design (minimum dimensions) (dimensions in feet unless otherwise indicated.)							
	A	B	C	D	E	F (Aisle Width)	
To Curb	Angle (degrees)	Stall Widt h	Stall Dept h	Stall to	Skew Widt h	One- Way	Two- Way

				Cur b		Traffi c	Traffi c
Parallel	0	8	16	8.0	16.0	12	19
Diagonal	45	8	16	17.0	5.7	13	20
Diagonal	60	8	16	17.8	6.9	18	20
Perpendicula r	90	8	16	16.0	8.0	22	22
[Image]							

1057 **Explanation: this amendment corrects an omission error that**
1058 **occurred during recodification.**

1059 **22.Amend 16.7.12 Post-approval as follows:**

- 1060 A. Approved plan expiration.
- 1061 (1) A site plan approval will expire if work has not commenced
- 1062 within one year from the date of Planning Board or Director of
- 1063 Planning and Development approval. Where work has
- 1064 commenced within one year of such approval, the approval will
- 1065 expire if work is not complete within two years of the original
- 1066 date of approval.
- 1067 (2) Prior to expiration, the approval authority may, on a case-by-
- 1068 case basis, grant extensions to an approved plan expiration
- 1069 date upon written request by the developer for an inclusive
- 1070 period from the original approval date, not to exceed three
- 1071 years.
- 1072 (3) When a plan's approval expires, the applicant may reapply
- 1073 subject to the Town Code current at the time of reapplication.

1074 B. Performance Guarantee: Prior to the preconstruction meeting

1075 described in C.1, the applicant shall provide a performance

1076 guarantee to the Town in the form of an irrevocable letter of credit

1077 from a financial institution, or similar instrument, approved by the

1078 Town Manager. The purpose of the performance guarantee is to

1079 incentivize timely completion of project elements or enable the

1080 Town to complete project elements necessary to maintain public

1081 health, safety, and welfare and protect public facilities in the event

1082 that work performed by the owner or developer is inadequate or

1083 incomplete.

- 1084 1. The performance guarantee shall:
- 1085 a contain an amount of funds based on Town-approved
- 1086 itemized construction costs for completing all project

1087 elements located in public rights-of-way, completing or
1088 securing on-site utilities, installing and maintaining erosion
1089 and sedimentation control measures and drainage systems,
1090 completing on-site grading and soil stabilization measures,
1091 securing the site to maintain public safety, and including an
1092 additional 10% contingency;

1093 b establish the Town as the beneficiary and contain clear
1094 provisions for the Town to draw funds; and,

1095 c contain provisions for reducing or releasing the funds which
1096 enable the Town to renew the guarantee or draw funds prior
1097 to reduction or release.

1098 2. Release of guarantee. Prior to the release of any part of the
1099 performance guarantee, the Town Manager shall determine to
1100 his/her satisfaction, in part based upon the report of the Town's
1101 Engineer or other qualified individual retained by the
1102 municipality and any other agencies and departments who may
1103 be involved, that the proposed improvements meet or exceed
1104 the design and construction requirements for that portion of
1105 phase of the subdivision for which the release is requested.

1106 (a) Performance guarantees may be reduced periodically, but in
1107 no event more than one time per month. In no case shall
1108 the performance guarantee be reduced by less than
1109 \$10,000 at one time or in any line item where
1110 improvements remain to be completed.

1111 (b) No performance guarantee shall be reduced to less than the
1112 10% contingency until all work is complete.

1113 (c) The Town shall retain the 10% performance guarantee
1114 contingency for a period of one year from the date of final
1115 paving for any street to be offered for public acceptance.
1116 The guarantee shall ensure the workmanship and the
1117 durability of all materials used in the construction of public
1118 improvements within the right-of-way that may become
1119 defective within that one year period, as determined by the
1120 Director of Public Works.

1121 3. Default. If upon investigation, the Town's consulting engineer or
1122 other qualified individual retained by the Town finds that any of
1123 the required improvements have not been constructed in
1124 general conformance with the plans and specifications filed as
1125 part of the application, he or she shall so report in writing to the
1126 Code Enforcement Officer, the Town Manager, the Planner and
1127 the applicant or builder. The Town Manager, or his or her
1128 designee, shall take any steps necessary to preserve the
1129 municipality's rights.

1130 ***Explanation: this amendment restores the performance guarantee***
1131 ***to site plan projects, correcting an omission error that occurred***
1132 ***during re-codification.***

1133 **23. Amend §16.8.10 (Subdivision) Performance standards and approval**
1134 **criteria as follows:**

- 1135 **B.** Basic subdivision layout.
1136 (1) Calculation of density: [See "Net Residential Acreage" in Chapter 16.5,](#)
1137 [General Performance Standards. Subdivisions located in targeted](#)
1138 [growth areas as designated in the Comprehensive Plan and served by](#)
1139 [public water and sewer facilities are subject to the lot area per dwelling](#)
1140 [unit standards of the underlying zoning district. Subdivisions located in](#)
1141 [limited growth areas as designated in the Comprehensive Plan or that](#)
1142 [are not served by public water or sewer facilities are subject to net](#)
1143 [residential acreage per unit provisions of Chapter 16.5.18.](#)

1144 ***Explanation: this amendment clarifies which density formula applies***
1145 ***to a subdivision (based on utilities), per amendments adopted last***
1146 ***year.***

1147 **24. Amend §16.10.7 Open space requirements (Conservation Subdivision)**
1148 **as follows:**

- 1150 **A.** The amount of open space required varies with the zoning district in
1151 which the conservation subdivision is located. The requirements are
1152 as follows:
- 1153 (1) In the R-C Zone, the designated open space must be a minimum
1154 of 70% of the total [land parcel](#) area, with a minimum of 50% of
1155 that consisting of net residential acreage as defined by this title.
 - 1156 (2) In the R-RL Zone, the designated open space must be a
1157 minimum of 60% of the total [land parcel](#) area, with a minimum of
1158 40% of that consisting of net residential acreage as defined by
1159 this title.
 - 1160 (3) In the KP-V Zone, the designated open space must be a
1161 minimum of 50% of the total [land parcel](#) area, with a minimum
1162 of 30% of that consisting of net residential acreage as defined by
1163 this title.
 - 1164 (4) In the R-S and R-U Zones:
 - 1165 (a) For properties of 10 acres or more, the designated open space
1166 must be at least 50% of the total [land parcel](#) area, with a
1167 minimum of 30% of that consisting of net residential acreage
1168 as defined by this title.

- 1169 (b) For properties of less than 10 acres with public sewer or
1170 common private septic, the designated open space must be at
1171 least 25% of the total land parcel area, with a minimum of 5%
1172 of that consisting of net residential acreage.
- 1173 (c) For properties of less than 10 acres with private septic, the
1174 designated open space must be at least 25% of the total land
1175 parcel area, with no minimum net residential acreage
1176 requirement.
- 1177 (5) The following is an example of the open space calculation
1178 referenced in (1)-(4) above: With a lot of 1,000,000 sq ft, using
1179 an open space requirement of 60% of the lot, at least 600,000
1180 sq ft (60%) must be open space. Of that 600,000 sq ft, 240,000
1181 (40% of total open space, or 24% of total lot) must be land that
1182 would be considered buildable as described in the definition of
1183 net residential acreage found in §16.3.2.

1184 ***Explanation: this amendment provides an example for calculating***
1185 ***open space which includes upland requirements.***

the character and extent of such waivers which may have been requested are such that they may be waived without jeopardy to the public health, safety and general welfare.

- F. The decision of the Planning Board plus any conditions imposed must be noted on three copies of the preliminary plan. One copy must be returned to the applicant, one retained by the Planning Board and one forwarded to the municipal officials.
- G. If the final plan is not submitted to the Planning Board within six months after classification of the sketch plan, the Planning Board may refuse to act on the subdivision preliminary plan or final site plan and require resubmission of the sketch plan. All such plans resubmitted must comply with all normal application requirements.

§ 16.10.6.2. (Reserved) ²

**ARTICLE VII
Final Plan Review and Decision**

§ 16.10.7.1. Final plan.

- A. Final plan application. The applicant must, within six months after approval of a preliminary plan, file with the Planning Board an application for approval of the final plan in the form prescribed herein.
- B. Failure to submit final plan application. If the final plan is not submitted to the Planning Board within six months after the approval of the preliminary plan, the Planning Board may refuse to act on the final plan and require resubmission of the preliminary plan. Any plan resubmitted must comply with all application requirements, including payment of fees.
- C. Application/plan review expiration.
 - (1) Uncounted time. When an approved plan is required to be reviewed/approved by another agency (e.g., DEP, BOA, KPA), any period the plan is at such an agency or that a plan is continued by the Planning Board in accordance with § 16.10.5.4A(3) from time of submission to time of decision inclusive, verifiable by recorded documentation, is not counted as part of the cumulative time periods described in this section.
 - (2) Requests for extension. The Planning Board may grant extensions to expiration dates upon written request by the developer, on a case-by-case basis.

§ 16.10.7.2. Final plan application submittal content.

A complete final plan application must fulfill all the requirements of a preliminary plan as indicated in § 16.10.5.2 of this section and must show the following items, unless the Planning Board, by formal action, upon the applicant's written request, waives or defers any

2. Editor's Note: Former § 16.10.6.2, Approved preliminary plan signing, was repealed 9-26-2011 by Ord. No. 11-15.

requirement(s) for submission. If no changes occurred to the preliminary plan, it also may be considered to be the final plan.

- A. Preliminary plan information, including vicinity map and any amendments thereto suggested or required by the Planning Board or other required reviewing agency.
- B. Street names and lines, pedestrianways, lots, easements and areas to be reserved for or dedicated to public use.
- C. Street length of all straight lines, the deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings.
- D. Lots and blocks within a subdivision, numbered in accordance with local practice.
- E. Markers/permanent reference monuments: Their location, source references and, where required, constructed in accordance with specifications herein.
- F. Structures: their location and description, including signs, to be placed on the site, floor plans and elevations of principal structures as well as detail of all structures, showing building materials and colors, and accesses located within 100 feet of the property line.
- G. Outdoor lighting and signage plan if the application involves the construction of more than 5,000 square feet of nonresidential floor area; or the creation of more than 20,000 square feet of impervious area; or the creation of three or more dwelling units in a building — prepared by a qualified lighting professional, showing at least the following at the same scale as the site plan:
 - (1) All buildings, parking areas, driveways, service areas, pedestrian areas, landscaping and proposed exterior lighting fixtures;
 - (2) All proposed lighting fixture specifications and illustrations, including photometric data, designation as "cutoff" fixtures, color rendering index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures;
 - (3) Mounting height of all exterior lighting fixtures;
 - (4) Lighting analyses and luminance level diagrams or photometric point-by-point diagrams on a twenty-foot grid, showing that the proposed installation conforms to the lighting level standards of the ordinance codified in this section together with statistical summaries documenting the average luminance, maximum luminance, minimum luminance, average-to-minimum uniformity ratio, and maximum-to-minimum uniformity ratio for each parking area, drive, canopy and sales or storage area;
 - (5) Drawings of all relevant building elevations, showing the fixtures, the portions of the walls to be illuminated, the luminance levels of the walls, and the aiming points for any remote light fixtures; and
 - (6) A narrative that describes the hierarchy of site lighting and how the lighting will be used to provides safety, security and aesthetic effects.

- H. Machinery in permanently installed locations likely to cause appreciable noise at the lot lines.
- I. Materials (raw, finished or waste) storage areas, their types and location, and any stored toxic or hazardous materials, their types and locations.
- J. Fences, retaining walls and other artificial features locations and dimensions proposed.
- K. Landscaping plan, including location, size and type of plant material.
- L. Municipal impact analysis of the relationship of the revenues to the Town from the development and the costs of additional publicly funded resources, including:
 - (1) Review for impacts. A list of the construction items that will be completed by the developer prior to the sale of lots.
 - (2) Municipal construction and maintenance items. A list of construction and maintenance items that must be borne by the municipality, which must include, but not be limited to:
 - (a) Schools, including busing;
 - (b) Road maintenance and snow removal;
 - (c) Police and fire protection;
 - (d) Solid waste disposal;
 - (e) Recreation facilities;
 - (f) Runoff water disposal drainageways and/or storm sewer enlargement with sediment traps.
 - (3) Municipal costs and revenues. Cost estimates to the Town for the above services and the expected tax revenue of the development.
- M. Open space land cession offers. Written offers of cession to the municipality of all public open space shown on the plan, and copies of agreements or other documents showing the manner in which space(s), title to which is reserved by the subdivider, are to be maintained.
- N. Open space land cession offers acknowledgement by Town. Written evidence that the municipal officers are satisfied with the legal sufficiency of the documents referred to in § 16.10.7.2M. Such written evidence does not constitute an acceptance by the municipality of any public open space referred to in § 16.10.7.2M.
- O. Performance guaranty and Town acceptance to secure completion of all improvements required by the Planning Board, and written evidence the Town Manager is satisfied with the sufficiency of such guaranty.
 - (1) Where improvements for the common use of lessees or the general public have been approved, the Planning Board must require a performance guaranty of amount sufficient to pay for said improvements as a part of the agreement.

- (2) Process. Prior to the issue of a building permit, the applicant must, in an amount and form acceptable to the Town Manager, file with the Municipal Treasurer an instrument to cover the full cost of the required improvements. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) is the guaranty time within which required improvements must be completed. The performance guaranty must include an amount required for recreation land or improvements, as specified.
- P. Maintenance plan and agreement defining maintenance responsibilities, responsible parties, shared costs and schedule. Where applicable, a maintenance agreement must be included in the document of covenants, homeowners' documents and/or as riders to the individual deed.
- Q. Stormwater management plan for stormwater and other surface water drainage prepared by a registered professional engineer, including the location of stormwater and other surface water drainage area; a post-construction stormwater management plan that defines maintenance responsibilities, responsible parties, shared costs, and schedule for maintenance; a draft maintenance agreement for stormwater management facilities; and, where applicable, draft documents creating a homeowners' association referencing the maintenance responsibilities. Where applicable, the maintenance agreement must be included in the document of covenants, homeowners' documents and/or as riders to the individual deed and recorded with the York County Registry of Deeds. [Added 9-26-2011 by Ord. No. 11-15;³ 7-25-2016 by Ord. No. 16-06]
- R. Phasing plan. Upon applicant's request, the Planning Board may permit phasing of the plans, where it can be demonstrated to the Planning Board's satisfaction that such phasing would result in a safe and orderly development of the plan.
- (1) The applicant may file a section of the approved plan with the municipal officials and the York County Registry of Deeds if said section constitutes at least 25% of the total number of lots, or for plans including buildings, 25% of the gross area, contained in the approved plan. In all circumstances, plan approval of the remaining sections of the plan will remain in effect for three years unless the applicant requests and the Planning Board grants extensions of time equivalent to the requirements for approved plans in § 16.10.9.1E.
 - (2) Phasing is subject to any conditions deemed necessary to assure a reasonable mixture of uses is completed within each separate phase of the plan.
 - (3) Where projects are to be constructed in phases, phasing of stormwater management, water mains and streets are part of the review process.
 - (4) Portions of both the developed and undeveloped site impacted by interim infrastructure conditions such as unlooped water systems, stormwater runoff from unfinished areas onto finished areas and vice versa, dead-end streets, etc., must be clearly defined and shown on the plans.

3. Editor's Note: This ordinance also provided for the renumbering of former Subsections Q and R as Subsections R and S.

- (5) The Planning Board may permit construction of phases out of order only when the storm drainage plan and the water plan, etc., have been reviewed, and it has been demonstrated that the impact on both the developed and undeveloped sections is negligible.

S. Right-of-way plan.

- (1) A completed application for a Planning Board approved right-of-way must include the requirements of § 16.10.5.2 with the following modifications:
 - (a) The following submission requirements are not necessary for right-of-way review: § 16.10.5.2B(10)(e), (i) through (k), (n) and (p) and § 16.10.5.2C(5) through (12).
 - (b) Section 16.10.7.2F modified so floor plans and elevations of principal structures are not required.
 - (c) Include the size of the parcel minus the area in the right-of-way and the street frontage excluding the right-of-way.
 - (d) Only need to show and locate on the plan the names and addresses of all owners of record of contiguous property, including those across a street.
 - (e) Include required front yards from the right-of-way on the plan.

ARTICLE VIII
Planning Board Final Plan Action

§ 16.10.8.1. Actions and decision.

- A. Actions and timing. The Planning Board must act to approve, approve with conditions, disapprove, postpone action or continue a plan, other than a sketch plan, within 30 days of the date of Planning Board acceptance of a subdivision plan application, and within 35 days for other development plans. Failure of the Planning Board to act upon the application within such period constitutes disapproval. The applicant may request a continuation for the purpose of introducing additional materials.
- B. Continued plans. Any plan may be continued for a total period not to exceed 90 calendar days for good and sufficient reason (i.e., for revisions to be made, studies completed, or additional information submitted) and acceptable to both the applicant and the Planning Board. Such plan is automatically scheduled for the agenda of the next regular Planning Board meeting after the 90th day and action completed in accordance with the requirements and timing contained in this title, whether the applicant has accomplished the purposes for which continued or not.
- C. Plans tabled. The action to table by the Planning Board must be an action to temporarily suspend action and not to suppress a vote on the plan.