

16.4 Land Use Zones – amendments to the MU-N Zone related to housing - DRAFT

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16.4.26 Mixed-Use - Neighborhood MU-N

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 located 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 Buildings, Structures, and Uses
- (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

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- 37 (28) Restaurant
- 38 (29) Retail Sales (not to exceed 30,000 square feet in gross floor area unless part of a mixed-
- 39 use building)
- 40 (30) Retail Sales, Convenience (excluding the sale of gasoline)
- 41 (31) Shops in Pursuit of Trade
- 42 (32) Specialty Food and/or Beverage Facility
- 43 (33) Theater
- 44 (34) Industry, light (less than or equal to 20,000 square feet in gross floor area)
- 45 (35) Liner Buildings (as part of a mixed-use building)
- 46

47 C. Special exception uses

- 48 (1) Dwellings, Cottage Cluster
- 49 (2) Commercial Kennel
- 50 (3) Parking Area
- 51 (4) Construction Services
- 52 (5) Equipment sales and rentals (only on lots with frontage on Route 236)
- 53 (6) Gas service station (only on lots with frontage on Route 236)
- 54 (7) Industry, light (greater than 20,000 square feet in gross floor area)
- 55 (8) Mass Transit Station
- 56 (9) Mechanical Services
- 57 (10) New Motor Vehicle Sales (only on lots with frontage on Route 236)
- 58 (11) Used Car Lot (only on lots with frontage on Route 236)
- 59 (12) Repair Garage (only on lots with frontage on Route 236)
- 60 (13) Retail Sales (greater than 30,000 square feet in gross floor area and less than 50,000
- 61 square feet in gross floor area)
- 62 (14) Undefined use; additional commercial/business uses not defined by § 16.3.
 - 63 (a) Undefined uses: will be considered by the Planning Board based on the following
 - 64 criteria:
 - 65 [1]. If the use is consistent with the Comprehensive Plan and zoning district purposes;
 - 66 and
 - 67 [2]. If the use meets special exception criteria found in § 16.3.2.1.C(14)
 - 68 (b) In addition, the undefined use must meet one or both of the following criteria:
 - 69 [1] If the proposed use has substantially similar impacts as a listed use.
 - 70 [2] If the proposed use is compatible with existing uses within the zoning district for
 - 71 which it is proposed.
 - 72

73 D. Standards.

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74 All development and the use of land in the MU-N Zone must meet the following standards.
75 Kittery's Design Handbook illustrates how these standards can be met. In addition, the design
76 and performance standards of § 16.5, 16.7 and 16.8 must be met unless noted otherwise below.

77 (1) All submissions must include a lighting plan. Hours of operation and number of
78 employees for businesses must also be provided.

79

80 (2) The following space standards apply:

81 (a) Minimum land area per dwelling unit - mixed-use building: 4,000 square feet for first
82 residential unit plus 3,000 square feet for each additional unit, no minimum land area
83 for business or commercial uses when combined in a building with residential uses
84 except that the total lot size must be at least 20,000 square feet.

85 [1] NOTE: ADA-compliant units may be located on the first floor through a special
86 exception permit by the Planning Board but only 50% of the first floor may be
87 such ADA-compliant residential units.

88

89 (b). Minimum land area per dwelling unit - multiunit residential: 4,000 square feet for
90 first unit, plus 2,500 square feet for each additional unit up to 16 units per acre of lot
91 size. Total lot size must be a minimum of 20,000 square feet.

92

93 (c). Mixed-use or multiunit residential buildings which encompass at least 50% of
94 required parking within the building: Two additional residential units may be added
95 to each story above the parking with no additional land area required.

96

97 (d). Mixed-use buildings which encompass at least 50% of required parking within the
98 building and include a liner building for nonresidential uses buffering parking from
99 the street: One additional residential unit may be added to each story with no
100 additional land area required.

101

102 (e). Minimum land area per bed for long-term nursing care and convalescent care
103 facilities that are connected to public sewer: 2,000 square feet.

104

105 (f). Minimum land area per residential unit for residential care facilities that are
106 connected to public sewer: 3,000 square feet.

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108 (g). Minimum lot size: 20,000 square feet.

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110 (h). Minimum street frontage: 75 feet.

111

112 (i). Minimum front setback on Route 236: 30 feet.

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114 (j). Minimum front setback on Dennett Road: 50 feet.

115

116 (k). Minimum front setback on Martin Road: 100 feet.

117

118 (l). Maximum front setback all other roads: 20 feet.

119

120 (m). Spacing between buildings: 15 feet.*

121

122 (n). Maximum rear and side setbacks: 20 feet.**

123 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)

124 (o). Maximum building height: 50 feet (exclusive of solar apparatus).

125

126 (p). Maximum impervious and outdoor stored material coverage: 70%.

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

132

133 (q). Minimum setback from streams, water bodies and wetlands in accordance with Table
134 16.5.30.

135 [1] With Best Management Practices (BMPs) and Low Impact Development
136 Practices (LIDs) as defined in § 16.3 and based on Maine DEP's Maine
137 Stormwater Best Management Practices Manual, Volumes I - III, as amended
138 from time to time, incorporated in site design, then wetland setbacks pursuant
139 only to Maine Department of Environmental Protection (MDEP) Rules Chapters
140 305 and 310.

141 [2] Without Best Management Practices (BMPs) and Low Impact Development
142 Practices (LIDs) as defined in § 16.3 and based on Maine DEP's Maine
143 Stormwater Best Management Practices Manual, Volumes I - III, as amended
144 from time to time, incorporated in site design, wetland setbacks pursuant to
145 Kittery Town Code Title 16, Table 16.5.30.

146 [3] The Town shall retain expert consultation (qualified wetland scientist and/or
147 Maine-certified soil scientist) to determine wetland delineations and
148 classifications and to perform soil testing as needed, all of which shall be paid for
149 by the applicant at the time of sketch plan. The qualified wetlands scientist and/or

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150 Maine-certified soil scientist shall determine through field investigation the
151 presence, location and configuration of wetlands on the area proposed for use.
152 Any wetland alterations proposed must also be reviewed by the Town's
153 consultant(s) at the applicant's expense. These requirements are in addition to
154 engineering, stormwater management/BMPs, traffic or other types of peer review
155 that may also be required.
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- (r). Minimum open space:
 - [1] Lot size less than 100,000 square feet: 15%.
 - [2] 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 unless the development proposed is a cottage cluster as defined by Title 16. 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 (8), 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 encouraged and allowed in parking lots but must not interfere with pedestrian movement on sidewalks.
 - [1] 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 § 16.7.11F(3) shall apply.
 - (e) Multi-family residential buildings and mixed-use buildings that include residential.
 - [1] One parking space for studio and one-bedroom dwelling units.
 - [2] One and one-half parking spaces for two-bedroom dwelling units plus one guest parking space per every four dwelling units.
 - [3] Two 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.

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198 Loading docks must be screened from view by adjacent residential uses. This
199 screening must consist of the following:

200 [1] A fence, constructed of a material similar to surrounding buildings, of sufficient
201 height as determined by the Planning Board to accomplish the screening. No
202 fence may be less than six feet tall.

203

204 (b). All service areas for dumpsters, compressors, generators and similar items as well as
205 any outdoor storage areas must be screened by a fence at least six feet tall,
206 constructed of a material similar to surrounding buildings, and must surround the
207 service or storage area except for the necessary ingress/egress.

208

209 (5) Site design

210 Site design and building placement must be attentive to the surrounding environment
211 including sun, wind and shade patterns related to proposed and existing buildings. A
212 sun/shade analysis may be required by the Planning Board.

213

214 (6) Energy and sustainability

215 Energy efficiency is allowed and encouraged through the use of solar power, geothermal,
216 and other alternative and sustainable power sources.

217

218 (7) Building design standards.

219 (a) New buildings must meet the general design principles set forth in the Design
220 Handbook except as noted below. In general, buildings should be oriented to the
221 street from which they derive frontage, with the front of the building facing the street.
222 The front facade must contain the following:

223 [1] A front door for pedestrian access.

224 [2] Windows.

225

226 (b). Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical
227 apparatus off the ground, are acceptable provided that such apparatus are screened
228 from view and the screening is designed as an integral part of the building to aid both
229 aesthetics and noise attenuation. Flat roofs proposed for the purpose of solar array
230 installations are also acceptable.

231

232 (8) Landscaping, screening and buffers.

233 (a) A landscape plan prepared by a registered landscape architect is a submission
234 requirement. However, a landscape plan done by other design professionals may be
235 allowed at the Planning Board's discretion.

236

237 (b). Northeastern Nnative trees, shrubs and herbaceous plantings, selected for climate

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238 change tolerance, are preferred and must be drought and salt tolerant when used along
239 streets. A diversity of tree species (three to five species per every 12 trees) is required
240 to provide greater resiliency to threats from introduced insect pests and diseases.

241

242 (c). Any required plantings approved by the Planning Board that do not survive must be
243 replaced within one year. This requirement does not expire and runs with the land.

244

245 (d) Landscaping along the street frontage of each building must consist of one of the
246 following:

247 [1] Street trees. A minimum of one street tree must be planted for each 20 feet of
248 street frontage. Trees may be planted in groups or spaced along the frontage.
249 However, trees must be planted to ensure survival, using silva cells, bioretention
250 cells or tree wells. Trees are to be a minimum of 2.5-inch caliper and 12 feet high
251 at the time of planting. Existing large healthy trees must be preserved if practical
252 and will count towards this requirement.

253 [2] Pocket Park. The park must be at least 200 square feet. A minimum of three trees
254 and a bench for sitting are required. Park must be vegetated with ground cover
255 except for walkways.

256

257 (e) Surface parking areas that abut a street must provide screening in one of the following
258 ways:

259 [1] One tree per 25 feet of street frontage backed by a fence constructed of a material
260 similar to surrounding buildings which must screen the parking area from the
261 street except for necessary vehicular and pedestrian access. Trees must be at least
262 2.5-inch caliper and 12 feet high at the time of planting.

263 [2] A combination of trees and shrubs including at least 50% evergreen species, all at
264 least six feet high at time of planting, in a planting bed at least eight feet wide.
265 Plantings must be sufficient, as determined by the Planning Board, to screen the
266 parking area from the street except for necessary vehicular and pedestrian access.
267 Planting beds may be mulched but no orange- or red-dyed mulching material may
268 be used.

269 [3] A minimum of 10% of any surface parking area consisting of 10 or more parking
270 spaces must be landscaped with trees and vegetated islands. This requirement is in
271 addition to the screening requirements in Subsection §16.4.26.D(8)(e)(i) and
272 §16.4.26.D(8)(e)(ii) if the parking area abuts a street. Bioretention cells and rain
273 gardens may be utilized to meet the landscaping requirements and perform
274 stormwater management.

275

276 (f) Buffers required between residential uses and mixed use or nonresidential uses, and
277 between adjacent residential zones and this zone must be 50 feet wide and consist of
278 one of the following as determined by the Planning Board:

279 [1]. Existing natural woodland and vegetation.

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- 280 [2]. Existing natural woodland augmented by the planting of additional trees
281 consisting of a variety of species at least 2.5-inch caliper and 12 feet high.
282 [3]. A fence at least six feet high, constructed of material similar to surrounding
283 buildings, with plantings of trees and shrubs at least six feet tall on either side of
284 the fence.

285

286 (9) Open space

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

292 (a) Wherever possible, large healthy trees and areas with mature tree cover must be
293 included in the open space.

294 (b). Location of open space must promote the continuity of open-space networks across
295 adjacent parcels.

296 (c). Where possible, open space and open-space networks must include public trails and
297 low-intensity recreational opportunities.

298

299 (10) Special situations

300 Expansions or modifications of 1,000 square feet or less to existing uses are exempt
301 from landscaping, screening and buffer requirements.

302

303 (11) Conditions for approving special exception uses in the Neighborhood Mixed-Use Zone.

304 All applications must include a narrative describing why the use proposed will promote
305 the general welfare (specifics may be found in § 16.3 Definitions for special exception)
306 of the Town of Kittery, how the use proposed will meet the special exception criteria
307 found in § 16.2.12.F.(3) and how the proposed development will adapt and relate to the
308 natural environmental conditions found on the site.

309

310 (12) Cottage cluster requirements:

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

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

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

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319 (d) A minimum of 10% of the property must be open space.

320

321 (13) Affordable housing requirements:

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