



**TOWN OF KITTERY**  
**Planning and Development Department**  
**200 Rogers Road, Kittery, ME 03904**  
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**TO:** Planning Board  
**FROM:** Kathy Connor, Project Planner  
**SUBJECT:** Neighborhood Mixed Use Zone (MU-N) amendments  
**DATE:** April 21, 2022

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The ordinance changes to the Neighborhood Mixed-Use Zone are proposed to increase the number of affordable housing units in the Town by requiring residential development in this zone to comply with the Town's affordable housing policy. The changes will bolster affordable housing opportunities in two ways:

1. The affordable housing policy requires that any development proposing five or more residential units must make 10% of the total number of units proposed affordable as defined by the Town.
2. The policy also allows a developer to make a payment-in-lieu (amount set by Town Council) to the Housing Fund rather than construct an affordable unit for use in future projects.

In addition to the housing-related amendments, there are a few amendments pertaining to landscaping and the addition of a housing type called a cottage cluster which will be permitted in this zone. Cottage clusters are currently defined in Title 16 and permitted in a couple other zones.

1 **16.4.26 Mixed-Use - Neighborhood MU-N**

2 A. Purpose

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

7 B. Permitted Uses

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

- 39 (30) Retail Sales, Convenience (excluding the sale of gasoline)
- 40 (31) Shops in Pursuit of Trade
- 41 (32) Specialty Food and/or Beverage Facility
- 42 (33) Theater
- 43 (34) Industry, light (less than or equal to 20,000 square feet in gross floor area)
- 44 (35) Liner Buildings (as part of a mixed-use building)

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46 C. Special exception uses

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

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72 D. Standards.

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

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

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- (2) The following space standards apply:
  - (a) Minimum land area per dwelling unit - mixed-use building: 4,000 square feet for first residential unit plus 3,000 square feet for each additional unit, no minimum land area for business or commercial uses when combined in a building with residential uses except that the total lot size must be at least 20,000 square feet.  
 [1] NOTE: ADA-compliant units may be located on the first floor through a special exception permit by the Planning Board but only 50% of the first floor may be such ADA-compliant residential units.
  - (b). Minimum land area per dwelling unit - multiunit residential: 4,000 square feet for first unit, plus 2,500 square feet for each additional unit up to 16 units per acre of lot size. Total lot size must be a minimum of 20,000 square feet.
  - (c). Mixed-use or multiunit residential buildings which encompass at least 50% of required parking within the building: Two additional residential units may be added to each story above the parking with no additional land area required.
  - (d). Mixed-use buildings which encompass at least 50% of required parking within the building and include a liner building for nonresidential uses buffering parking from the street: One additional residential unit may be added to each story with no additional land area required.
  - (e). Minimum land area per bed for long-term nursing care and convalescent care facilities that are connected to public sewer: 2,000 square feet.
  - (f). Minimum land area per residential unit for residential care facilities that are connected to public sewer: 3,000 square feet.
  - (g). Minimum lot size: 20,000 square feet.
  - (h). Minimum street frontage: 75 feet.
  - (i). Minimum front setback on Route 236: 30 feet.
  - (j). Minimum front setback on Dennett Road: 50 feet.
  - (k). Minimum front setback on Martin Road: 100 feet.
  - (l). Maximum front setback all other roads: 20 feet.

119 (m). Spacing between buildings: 15 feet.\*

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

122 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)

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

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

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

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

134 [1] With Best Management Practices (BMPs) and Low Impact Development  
135 Practices (LIDs) as defined in § 16.3 and based on Maine DEP's Maine  
136 Stormwater Best Management Practices Manual, Volumes I - III, as amended  
137 from time to time, incorporated in site design, then wetland setbacks pursuant  
138 only to Maine Department of Environmental Protection (MDEP) Rules Chapters  
139 305 and 310.

140 [2] Without Best Management Practices (BMPs) and Low Impact Development  
141 Practices (LIDs) as defined in § 16.3 and based on Maine DEP's Maine  
142 Stormwater Best Management Practices Manual, Volumes I - III, as amended  
143 from time to time, incorporated in site design, wetland setbacks pursuant to  
144 Kittery Town Code Title 16, Table 16.5.30.

145 [3] The Town shall retain expert consultation (qualified wetland scientist and/or  
146 Maine-certified soil scientist) to determine wetland delineations and  
147 classifications and to perform soil testing as needed, all of which shall be paid for  
148 by the applicant at the time of sketch plan. The qualified wetlands scientist and/or  
149 Maine-certified soil scientist shall determine through field investigation the  
150 presence, location and configuration of wetlands on the area proposed for use.  
151 Any wetland alterations proposed must also be reviewed by the Town's  
152 consultant(s) at the applicant's expense. These requirements are in addition to  
153 engineering, stormwater management/BMPs, traffic or other types of peer review  
154 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. Loading docks must be screened from view by adjacent residential uses. This

198 screening must consist of the following:

199 [1] A fence, constructed of a material similar to surrounding buildings, of sufficient  
200 height as determined by the Planning Board to accomplish the screening. No  
201 fence may be less than six feet tall.

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

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208 (5) Site design

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

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213 (6) Energy and sustainability

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

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217 (7) Building design standards.

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

- 222 [1] A front door for pedestrian access.  
223 [2] Windows.

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

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231 (8) Landscaping, screening and buffers.

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

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236 (b). Northeastern Nnative trees, shrubs and herbaceous plantings, selected for climate  
237 change tolerance, are preferred and must be drought and salt tolerant when used along  
238 streets. A diversity of tree species (three to five species per every 12 trees) is required  
239 to provide greater resiliency to threats from introduced insect pests and diseases.

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- 241 (c). Any required plantings approved by the Planning Board that do not survive must be
- 242 replaced within one year. This requirement does not expire and runs with the land.
- 243
- 244 (d) Landscaping along the street frontage of each building must consist of one of the
- 245 following:
- 246 [1] Street trees. A minimum of one street tree must be planted for each 20 feet of
- 247 street frontage. Trees may be planted in groups or spaced along the frontage.
- 248 However, trees must be planted to ensure survival, using silva cells, bioretention
- 249 cells or tree wells. Trees are to be a minimum of 2.5-inch caliper and 12 feet high
- 250 at the time of planting. Existing large healthy trees must be preserved if practical
- 251 and will count towards this requirement.
- 252 [2] Pocket Park. The park must be at least 200 square feet. A minimum of three trees
- 253 and a bench for sitting are required. Park must be vegetated with ground cover
- 254 except for walkways.
- 255
- 256 (e) Surface parking areas that abut a street must provide screening in one of the following
- 257 ways:
- 258 [1] One tree per 25 feet of street frontage backed by a fence constructed of a material
- 259 similar to surrounding buildings which must screen the parking area from the
- 260 street except for necessary vehicular and pedestrian access. Trees must be at least
- 261 2.5-inch caliper and 12 feet high at the time of planting.
- 262 [2] A combination of trees and shrubs including at least 50% evergreen species, all at
- 263 least six feet high at time of planting, in a planting bed at least eight feet wide.
- 264 Plantings must be sufficient, as determined by the Planning Board, to screen the
- 265 parking area from the street except for necessary vehicular and pedestrian access.
- 266 Planting beds may be mulched but no orange- or red-dyed mulching material may
- 267 be used.
- 268 [3] A minimum of 10% of any surface parking area consisting of 10 or more parking
- 269 spaces must be landscaped with trees and vegetated islands. This requirement is in
- 270 addition to the screening requirements in Subsection §16.4.26.D(8)(e)(i) and
- 271 §16.4.26.D(8)(e)(ii) if the parking area abuts a street. Bioretention cells and rain
- 272 gardens may be utilized to meet the landscaping requirements and perform
- 273 stormwater management.
- 274
- 275 (f) Buffers required between residential uses and mixed use or nonresidential uses, and
- 276 between adjacent residential zones and this zone must be 50 feet wide and consist of
- 277 one of the following as determined by the Planning Board:
- 278 [1]. Existing natural woodland and vegetation.
- 279 [2]. Existing natural woodland augmented by the planting of additional trees
- 280 consisting of a variety of species at least 2.5-inch caliper and 12 feet high.
- 281 [3]. A fence at least six feet high, constructed of material similar to surrounding
- 282 buildings, with plantings of trees and shrubs at least six feet tall on either side of



283 the fence.

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285 (9) Open space

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

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

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

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

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298 (10) Special situations

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

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

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

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309 (12) Cottage cluster requirements:

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

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

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

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

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320 (13) Affordable housing requirements:

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