

1 **16.4.1 Mixed-Use – Kittery Foreside (MU-KF)**

2 A. Purpose

3 (1). The purpose of the Mixed-Use – Kittery Foreside MU-KF Zone is to provide
4 business, service and community functions within the Mixed-Use – Kittery
5 Foreside Zone and to provide a mix of housing opportunities in the historic
6 urbanized center of the community. This zone will **and to** allow for use patterns
7 which recognize the densely built-up character of the **zone Foreside** and the
8 limitations for providing off-street parking **while promoting adaptive use of**
9 **existing buildings and encouraging context-sensitive new structures**. Design
10 standards are used to facilitate the revitalization of downtown Kittery Foreside
11 as a neighborhood center, while promoting economic development of service
12 businesses and walk-in shopping as well as respecting the zone's historic and
13 residential character. [Amended 7-25-2016 by Ord. No. 16-04]

14 B. Permitted uses

- 15 (1). The following uses are permitted in the MU-KF Zone:
- 16 (2). Accessory Dwelling Units
- 17 (3). **Dwelling, Attached Single-Family**
- 18 (4). **Dwellings, Cottage Cluster**
- 19 (5). Dwellings, Single-family
- 20 (6). Dwellings, Two-Family
- 21 (7). Dwellings, Multi-Family (up to 12 units per lot)
- 22 (8). Convalescent Care Facility
- 23 (9). Nursing Care Facility, Long-term
- 24 (10). Residential Care Facility
- 25 (11). Accessory Use & Building
- 26 (12). Home Occupation, Major
- 27 (13). Home Occupation, Minor
- 28 (14). Inn
- 29 (15). Hospital
- 30 (16). Nursery School
- 31 (17). Private Assembly
- 32 (18). Public Facility
- 33 (19). Public or Private School
- 34 (20). Religious Use
- 35 (21). Recreation, Public Open Space
- 36 (22). Commercial Fisheries/Maritime Activities, provided only incidental cleaning
37 and cooking of seafood occur at the site
- 38 (23). Commercial School

- 39 (24). Art Studio or Gallery
- 40 (25). Business & Professional Offices
- 41 (26). Business Service
- 42 (27). Personal Service
- 43 (28). Public Assembly Area
- 44 (29). Restaurant
- 45 (30). Retail Sales (excluding those where the principal activity entails outdoor sales
- 46 and/or storage)
- 47 (31). Specialty Food and/or Beverage Facility [Added 6-10-2013 by Ord. No. 13-02]
- 48 (32). Theater
- 49 (33). Marinas
- 50 (34). Mass Transit Station
- 51 (35). Parking Area

52 C. Special exception uses

- 53 (1). The following uses are permitted as special exception uses in the MU-KF
- 54 Zone:
- 55 (2). Public Utility Facility
- 56 (3). Research & Development
- 57 (4). Buildings over 4,500 square feet (see D.(3).b)

58 D. Standards.

59 [Amended 9-26-2011 by Ord. No. 11-15; 9-24-2012 by Ord. No. 12-

60 11; 7-25-2016 by Ord. No. 16-04]

- 61 (1). The design and performance standards of § 16.7 and 16.8 must be met, except
- 62 where specifically altered in this subsection.
- 63 (2). Dimensional standards. The following space standards apply:
 - 64 a. Minimum land area per single family or two-family dwelling unit:
 - 65 5,000 square feet.
 - 66 b. Minimum land area per multifamily dwelling unit when all floors
 - 67 are residential or for attached single-family dwelling units: 2,000
 - 68 square feet.
 - 69 c. When three or more dwelling units are proposed with, at minimum,
 - 70 one nonresidential use to be located on the first floor facing the
 - 71 street such that the use will be visible from the street: 1,500 square
 - 72 feet. Such a nonresidential use or uses need not occupy the entire
 - 73 first floor but must be an independent nonresidential use, e.g. not a
 - 74 home office marketed with a dwelling unit as a work/live unit.
 - 75 d. Minimum lot size: 5,000 square feet.
 - 76 e. Minimum street frontage: zero feet.
 - 77 f. Minimum front yard setbacks along:
 - 78 i. Government Street east of Jones Avenue including Lot 107

- 79 at the corner of Government and Walker Streets: zero feet.
- 80 ii. Wallingford Square: zero feet.
- 81 iii. Other streets: 40 **15** feet **maximum** setback.
- 82 g. Minimum rear and side yards: 10 feet.
- 83 h. Minimum separation distance between principal buildings on the
- 84 same lot: 10 feet.
- 85 i. Maximum building height: 40 feet. (NOTE: Except that for
- 86 buildings located on lots that abut tidal waters, the highest point on
- 87 the primary structure of the building including the roof, but
- 88 excluding chimneys, towers, cupolas and similar appurtenances
- 89 that have no floor area, may be not more than 35 feet above the
- 90 average grade between the highest and lowest elevations of the
- 91 original ground level adjacent to the building.)
- 92 j. Minimum setback from:
- 93 i. Water body and wetland water-dependent uses: zero feet.
- 94 **k. ~~Maximum building coverage: 60%~~ Recognizing that much of**
- 95 **Kittery Foreside is highly developed with water quality impacts to**
- 96 **the Piscataqua River, the maximum impervious surface allowable**
- 97 **is:70%.**
- 98 i. **For development other than single-family or two-family**
- 99 **dwelling units not located within the shoreland zone, the**
- 100 **Planning Board may, at its discretion, allow greater than**
- 101 **70% if one or more of the following conditions are met:**
- 102 1. **Additional landscaped or natural areas are proposed**
- 103 **or preserved beyond the open space requirement in**
- 104 **D.(2).I and such areas are integrated into the site**
- 105 **design in an environmentally conscious way.**
- 106 **Examples include climate-change resilient**
- 107 **Northeastern native trees for cooling and rain**
- 108 **gardens utilizing Northeastern/Maine native plants**
- 109 **for stormwater. When requesting such a concession,**
- 110 **a landscape plan done by a landscape architect or a**
- 111 **landscape design professional must be included with**
- 112 **the site plan application. When granting such a**
- 113 **concession, the Board must find that the proposed**
- 114 **additional landscaping and/or natural areas and the**
- 115 **site design provide enough benefit to outweigh the**
- 116 **impact of greater impervious surface; or**
- 117 2. **Affordable housing as defined by Title 16 will be**
- 118 **built, rather than a payment-in-lieu, is proposed; or**
- 119 3. **Proof that all stormwater will be managed on-site,**
- 120 **utilizing LID (Low Impact Development) and BMP**
- 121 **(Best Management Practice) systems based on**
- 122 **Maine DEP's Maine Stormwater Best Management**

- 123 Practices Manual, Volumes 1-III as amended from
124 time to time. The stormwater report and plan
125 demonstrating that this requirement is met must be
126 included with the application at the time of
127 submission.
- 128 ii. Beginning on [date of ordinance enactment], for existing
129 single or two-family dwelling units not located within the
130 shoreland zone which currently exceed the maximum of
131 70% impervious surfaces, an additional 10% of impervious
132 surface in the form of an accessory structure, an accessory
133 dwelling unit, an addition to a structure or site
134 improvements such as a patio is allowed if all other
135 requirements such as setbacks and open space are met. This
136 allowance is cumulative. It begins on the date of the first
137 improvement which expands impervious surface beyond
138 the existing baseline and is exhausted when the 10%
139 additional impervious surface above the baseline is
140 reached.
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- 142 l. Minimum open space on the site: 40%. 10% for lots 5,000 sf or
143 smaller and 15% for lots larger than 5,000 sf.
- 144 m. Minimum land area per unit for ~~elder-care facilities~~ residential care
145 facilities that are connected to the public sewerage system:
- 146 i. Dwelling unit with two or more bedrooms: 3,000 square
147 feet.
- 148 ii. Dwelling unit with less than two bedrooms: 2,500 square
149 feet.
- 150 iii. Residential care unit: 2,000 square feet.
- 151 1. Minimum land area per bed for nursing care and
152 convalescent care facilities that are connected to the
153 public sewerage system: 1,500 square feet.
- 154 (3). ~~Maximum bBuildings footprint. The maximum area of the building footprint of~~
155 ~~any new building is 1,500 square feet.~~
- 156 a. ~~unless~~ In cases where the building is replacing a larger building
157 that existed on the lot as of April 1, 2005 and the preexisting
158 building and/or lot does not meet the requirements for this zone
159 currently, the new development may be no larger than the footprint
160 of the preexisting building unless: the footprint of the preexisting
161 building was larger than 1,500 square feet, the maximum size of
162 the footprint of the new building may be no larger than the
163 footprint of the preexisting building.
- 164 i. The requirement not met is that for impervious surface, in
165 which case, a modification through site plan review per
166 subsection D.(2).k above may be allowed at the Planning

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Board’s discretion.

b. If the footprint of the new building is larger than 1,500 square feet, the width of the new building as measured parallel to the front lot line may not be greater than the width of the preexisting building. New principal buildings are limited to a 2,500-sf footprint. All additional requirements for the zone must also be met and any modification to impervious surface allowances cannot expand a building beyond this limit. However, a special exception permit may be sought for a proposed building with a footprint over 2,500 sf with inclusion of at least one of the additional requirements detailed below:

- i. public outdoor space at least 300 sf in size with seating;
- ii. affordable housing as defined by Title 16;
- iii. public access to the shore plus seating within an area of at least 200 sf in size enabling visitors to view the river.

The Planning Board has final authority over deciding if public benefit based on the requirements above outweighs the impact of a larger building.

(4). Design standards.

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

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

- a. Placement and orientation of buildings within a lot.
 - i. The placement of buildings on the lot must acknowledge the uniqueness of the site, the neighboring buildings, and the natural setting. Existing views and vistas must be preserved in the design of the site and buildings, and buildings must be placed to frame, rather than block, vistas.
 - ii. Buildings and the front elevation must be oriented facing the street on which the building is located. The siting of buildings on corner lots must consider the placement of buildings on both streets.
- b. Overall massing of buildings. The overall massing objective is to simulate allow a concentrated use of space in the Foreside Zone while avoiding the use of large, multiunit buildings conserving existing buildings and promoting context-sensitive new structures. In the interest of this objective, building footprints must not exceed

211 the maximums set forth within this subsection. Larger parcels may
212 be developed but will require the use of multiple buildings with
213 smaller footprints. New principal buildings are limited in size per
214 subsection D.(3).b unless a special exception permit with
215 associated additional requirements is sought. Alternatively will
216 require the use of multiple buildings with smaller footprints may
217 be proposed. The smaller limited scale of the buildings will allow
218 new projects to fit in with the existing architectural styles of the
219 Foreside Zone.

220 c. Grouping of smaller buildings. When smaller buildings that are
221 part of one project are placed adjacent to one another on the same
222 lot or adjacent lots, each building must have its own structure and
223 elevation treatment that is different from its neighbor. Small
224 decorative wings may be attached to larger structures if well
225 integrated into the overall arrangement of shapes.

226 d. Building details. Buildings must include architectural details that
227 reflect the historic style of the Foreside Zone. Molding and trim
228 must be used to decorate or finish the surface of buildings and
229 doors. Eaves and overhangs should be incorporated into the design.

230 e. Roof slopes and shapes.

231 i. Allowable roof shapes include a simple gable, gambrel,
232 saltbox and hip. The minimum roof pitch must be 8:12 (rise
233 over run), except in the case of a hip roof, where a lesser
234 pitch is acceptable.

235 ii. The roof pitch of elements that link buildings or portions of
236 buildings must be the same or greater than the pitch of the
237 roofs on the buildings that are being linked.

238 i. Flat or nearly flat shed roofs are ~~not allowed~~ proposed to
239 locate heating, cooling, or other such mechanical or
240 electrical apparatus off the ground, are acceptable provided
241 that such apparatus is screened from view and the screening
242 is designed as an integral part of the building to aid both
243 aesthetics and noise attenuation. Flat roofs proposed for the
244 purpose of solar array installations are also
245 acceptable. ~~except for~~ Porches, dormers or attachments
246 distinct from the primary structure may also have flat or
247 nearly flat shed roofs.

248 ii. The roof pitch of additions or wings must be similar to the
249 pitch of the primary roof. Clusters of buildings must apply
250 the same roof plan principles to pitch and link roofs.

251 f. Fencing and walls.

252 i. Fencing may be used to separate public and private spaces,
253 mark property lines, and protect plantings.

254 ii. Fences must harmonize with nearby structures and not

- 255 unduly interfere with existing scenic views or vistas.
- 256 iii. Picket and other medium height fences and low stone walls
257 are permitted.
- 258 iv. Modern concrete walls and similar structures are
259 prohibited.
- 260 v. Chain-link and stockade fences are not appropriate in front
261 yards and may be used in side and rear yards only if
262 compatible with the overall design of the site.
- 263 vi. Waste receptacles, dumpsters, exterior systems, service
264 entrances and similar areas must be screened with board
265 fences, board and lattice fences, and/or landscaping.
- 266 g. Utilities. All utilities serving a new building, including electricity,
267 ~~telephone, cable, Internet~~ **communication** and alarm systems must
268 be placed underground from the access pole.
- 269 h. Preservation of trees. Existing large, healthy trees must be
270 preserved if practical.
- 271 (5). Signage. Display of signboard and/or products for sale may be placed on a
272 Town sidewalk only if:
- 273 a. Products for sale displayed outside the building are limited to an
274 area extending no greater than two feet from the front facade of the
275 building;
- 276 b. Signboards and/or products for sale must be removed from the
277 sidewalk at the close of each business day;
- 278 c. An annual permit must be obtained from the Code Enforcement
279 Officer. Permits are issued for a calendar year or portion thereof, to
280 expire December 31 of each year. Sign permit application fee,
281 reference Appendix A.
- 282 (6). Special parking standards.
- 283 The Kittery Foreside Zone is already largely ~~built-up~~ **developed** and
284 many buildings either completely or almost completely cover the lot
285 on which they are located. Therefore, it is not possible to comply with
286 parking standards which would otherwise be required for open land.
287 To encourage the reuse of existing structures as far as practical, the
288 Town establishes special parking standards and conditions within the
289 zone.
- 290 (7). Revised off-street parking standards.
- 291 Insofar as practical, parking requirements are to be met on site unless
292 an existing building covers so much of the lot as to make the provision
293 of parking impractical in whole or in part. If meeting the parking
294 requirements is not practical, then the parking demand may be
295 satisfied off site or through joint-use agreements as specified herein.
296 Notwithstanding the off-street parking requirements in § 16.7.11.F(3),
297 minimum parking requirements for the uses below are modified as

- 298 specified herein:
- 299 a. Dwelling units in buildings that existed as of April 1, 2005, including
- 300 the replacement of units destroyed by accidental or natural causes
- 301 regardless of how configured: ~~one~~ 1/2 parking space per dwelling unit;
- 302 b. Dwelling units in new buildings, including the replacement of existing
- 303 buildings other than the replacement of units destroyed by accidental
- 304 or natural causes: 1 1/2 parking spaces per dwelling unit for two or
- 305 more bedrooms, 1/2 parking space for studio and one-bedroom units;
- 306 c. Retail, business office or bank facilities: one parking space for each
- 307 400 square feet of gross floor area;
- 308 d. Professional office: one parking space for each 300 square feet of
- 309 gross floor area;
- 310 e. Inn: one parking space for each guest room;
- 311 f. Church: none required, if primary use occurs on weekends;
- 312 g. Restaurants: one parking space for each 100 square feet of gross floor
- 313 area used by the public.
- 314 h. NOTE: For each use in the zone, the total parking demand is
- 315 calculated using the standards above or in §16.7.11.F(3), if not
- 316 modified above. Then each nonresidential use is exempt from
- 317 providing off-street parking for the first ~~three~~ five required spaces. For
- 318 uses requiring a demand of greater than ~~three~~ five, then the off-street
- 319 parking is to be provided on site and/or in accordance with Subsection
- 320 (9) and (10) of this section.
- 321 i. NOTE: Housing, consisting of units with two or more bedrooms,
- 322 except for single and two-family units, proposed within 1/4 mile of a
- 323 public transit stop, may have parking reduced to a minimum of 1/2
- 324 spaces per dwelling unit at the Planning Board's discretion.

325 (8). Maximum parking on new impervious surface

326 Not more than 1 1/2 parking spaces per dwelling unit may be created

327 on new impervious surface in conjunction with the construction of a

328 new or replacement building. This restriction does not apply to parking

329 spaces located within the same building with the dwelling units, or to

330 spaces located on preexisting impervious surface, or to spaces located

331 on a pervious surface such as parking pavers designed to allow

332 infiltration of precipitation.

333 (9). Off-site parking

334 Required off-street parking may be satisfied at off-site locations,

335 provided such parking is on other property owned by the applicant or

336 is under the terms of a contractual agreement that will ensure such

337 parking remains available for the uses served. Applicant must present

338 evidence of a parking location and a contractual agreement to the

339 Town Board or officer with jurisdiction to review and approve.

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341 (10). Joint-use parking

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

- 351 a. Such joint parking areas must be held under ownership of the
352 applicant or under terms of a contractual agreement that ensures
353 such parking remains available to all users of the shared parking
354 spaces;
- 355 b. Analysis is to be based on a most frequent basis not a "worst case"
356 scenario;
- 357 c. Joint use parking areas must be located within reasonable distance
358 to the use served, but do not need to be located on the same lot as
359 the uses served;
- 360 d. Ease and safety of pedestrian access to shared parking by the users
361 served, including any improvements or shuttle service necessary;
- 362 e. Such joint parking areas must not be located in residential zones of
363 the Town. The Planning Board must make a final determination of
364 the joint-use and/or off-site parking spaces that constitute an
365 acceptable combination of spaces to meet the required parking
366 demand

367 (11). Cottage cluster requirements:

- 368 a. Cottage cluster dwelling units must either face the required
369 common open space or the street. The required open space must be
370 held in common for use by all the cottage cluster residents and
371 must be immediately accessible to each dwelling unit, via either
372 the front or the back of each unit.
- 373 b. Each cottage cluster dwelling unit must be no greater than 1,200
374 square feet. Spacing between units must comply with the
375 requirements of the Fire Department and/or the State Fire
376 Marshall's office.
- 377 c. Shared parking areas must be connected to each dwelling unit via a
378 sidewalk.

379 (12). Affordable housing requirements:

- 380 a. All requirements in 16.12. Affordable Housing must be met.

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