



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1329 Fax: (207) 439-6806

**WORKSHOP**  
**6:00 P.M.**

The Town Council will meet with the Town Manager and Planning Board to discuss the proposed amendment to the Mixed Use in the Foreside (Large Inn).

January 8, 2018

Council Chambers

Kittery Town Council  
Regular Meeting  
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes - 12/27/17
8. Interviews for the Board of Appeals and Planning
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.
10. PUBLIC HEARINGS
  - a. (010118-1) The Kittery Town Council moves to hold a public hearing and hereby ordains amendments to Title 2 Administration and Personnel – Town Clerk, of the Kittery Town Code.
  - b. (010118-2) The Kittery Town Council moves to hold a public hearing and hereby ordains amendments to Title 2 Administration and Personnel – 2.3 of the Kittery Town Code.
11. DISCUSSION
  - a. Discussion by members of the public (three minutes per person)
  - b. Response to public comment directed to a particular Councilor
  - c. Chairperson's response to public comments
12. UNFINISHED BUSINESS

13. NEW BUSINESS

a. Donations/gifts received for Council disposition.

b. (010118-3) The Kittery Town Council moves to approve the disbursement warrants.

c. (010118-4) The Kittery Town Council moves to set the 2018 Town Manager and Town Council goals.

d. (010118-5) The Kittery Town Council moves to appoint Niles Pinkham to the Port Authority pending his resignation from the Board of Appeals effective 1/9/18 until 1/1/23.

e. (010118-6) The Kittery Town Council moves to approve the proposed amendment to the KCC Board By-Laws to now state a meeting schedule during the year of January, March, May, August September, and November.

f. (010118-7) The Kittery Town Council moves to amend Council Rules as presented.

g. (010118-8) The Kittery Town Council move to schedule a public hearing to amend Title 2 Administration and Personnel – Lead Dispatcher, of the Kittery Town Code.

h. (010118-9) The Kittery Town Council moves to sign a Release Deed, releasing tax liens to Robert Mason, for property located at 34 Stevenson Road, Kittery, Maine, identified as Assessor's Tax Map 29, Lot 27.

i. (010118-10) The Kittery Town Council moves to create three library committees as recommended by the Town Manager.

14. COUNCILOR ISSUES OR COMMENTS

15. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson

b. Committee Reports

16. EXECUTIVE SESSION

17. ADJOURNMENT

Posted: January 4, 2018

# **WORKSHOP MATERIAL**



**TOWN OF KITTERY**  
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Telephone: 207-475-1329 Fax: 207-439-6806

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**REPORT TO TOWN COUNCIL**

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Meeting Date: January 8, 2018  
From: Kendra Amaral, Town Manager  
Subject: Proposed Mixed Use – Kittery Foreside Zoning Amendment (Inn)  
CC: Planning Board  
Councillor Sponsor: N/A

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**FOR YOUR INFORMATION**

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**BACKGROUND**

The attached is provided as background information for the Council/Planning Board workshop on the proposed Mixed Use – Kittery Foreside zoning amendment.

The Town Council voted to postpone the public hearing on this matter until:

- *Foreside Land Use, Parking, and Transportation Study* is received and accepted by the Council;
- All needed workshops are held with various boards and staff;
- Adoption of an action plan for the complete future of the Foreside.

Additionally, edits to the proposal are necessary to address inconsistencies and technical issues.

To date the Council has received a presentation of the final draft of the *Foreside Land Use, Parking and Transportation Study*. The study is being finalized and will be submitted to the Planning Board for review and recommendation to the Council for adoption. Additionally, staff will work to develop an action plan that responds to the recommendations.

To provide additional information on the proposed amendment attached are the following:

- Report to Council submitted by Vicechair Denault
- Relevant sections of existing Title 16 Ordinance including:
  - o Definitions: Hotel, Inn
  - o Mixed Use – Kittery Foreside Zone
  - o Shoreland Overlay Zone
- Minutes from Planning Board meetings in which they discussed the proposed amendment
  - o June 8, 2017
  - o June 22, 2017
  - o July 27, 2017
  - o August 24, 2017
  - o September 28, 2017
  - o November 9, 2017 (Unapproved)

- Planning Staff Notes
- Email feedback from Karen Kalmar
  - o Article referenced in email

# REPORT to the KITTERY TOWN COUNCIL – Amendment to the Town’s Land Use Code

1 **RESPONSIBLE INDIVIDUAL:** Councilor Charles Denault

2

3 **Date:** 11/21/2017

4

5 **Subject:** Amendment to the Kittery Town’s Land Use Code (See Attached and Below)

6

## 7 **Background**

8

9 The proposed amendment to the Town’s Land Use Code would allow for a Large Inn in the Kittery  
10 Foreside. Currently the code does not allow for a proposed 30-room inn. The Kittery Planning Board  
11 has been working with the applicant regarding this proposal for several months.

12

13 It has gone back and forth with many changes either recommended by the Planning Board or  
14 stipulated by the applicant. Recently the Planning Board voted on a motion to send it to the Town  
15 Council with a recommendation. Six members were present. The vote was three in the affirmative  
16 and three against. Since it was a tied vote, the motion to send it to the Council with an affirmative  
17 recommendation failed.

18

## 19 **Current Situation**

20

21 The Foreside area is a classic “mixed use” use zone. As stated by the applicant, “The availability of  
22 such an inn would dovetail perfectly both with what is actually happening in the Foreside area (i.e.,  
23 fabulous restaurants, retail, etc.) and the Town’s aspirational goals for that zone.”

24

25 Currently the Code states:

- 26 1. Dwelling units in single-family, duplex, and multifamily configurations and units in a mixed-use  
27 building up to twelve (12) dwelling units per lot, but excluding mobile homes;

28

## 29 **Proposed Solution / Recommendation**

30

31 See proposed changes to the Ordinance.

32 Ref: Part 1: Amending Section 16.2.2 – Definitions

33 Ref: Part 2: Amending Section 16.3.2.15.B – Mixed Use – Kittery Foreside, Permitted Uses, Ref: Part

34 3: Amending Section 16.3.2.15.C Mixed Use – Kittery Foreside, Special Exception Uses

35 Ref: Part 4: Amending Section 16.3.2.15.E. Mixed Use – Kittery Foreside, Special Parking Standards,

36 Ref: Part 5: Adding Section 16.3.2.15.F Mixed Use – Kittery Foreside, Special Exception Standards for  
37 Inns Containing at Least Twelve (12) But No More Than Thirty (30) Guest Rooms,

38

## 39 **Attachments:**

- 40 1. Proposed Amendments to Chapter 16 of the Code of the Town of Kittery

- 41 2. Memo from the Applicant

42

1 **Proposed Amendments to Chapter 16 of the Code of the Town of Kittery**

2 **Part 1: Amending Section 16.2.2 – Definitions**

3 ~~Inn means a commercial place of lodging which contains a dwelling unit occupied by an owner or resident~~  
4 ~~manager, which has twelve (12) or fewer guest rooms, and may include a restaurant which also serves~~  
5 ~~nonguests. Rentals to the same party for more than twelve (12) weeks in a calendar year are prohibited.~~  
6

7 Inn, (Small) means a commercial place of lodging with a manager on call 24 hours per day/7 days per  
8 week, which has twelve (12) or fewer guest rooms, and may include a restaurant which also serves  
9 nonguests. Rentals to the same party for more than twelve (12) weeks in a calendar year are prohibited.  
10

11 Inn, (Large) means a commercial place of lodging with a manager on call 24 hours per day/7 days per  
12 week, which has more than thirteen (13) but no more than thirty (30) guest rooms, and may include a  
13 restaurant which also serves nonguests. Rentals to the same party for more than twelve (12) weeks in a  
14 calendar year are prohibited.  
15

16 **Part 2: Amending Section 16.3.2.15.B – Mixed Use – Kittery Foreside, Permitted Uses**

17 **B. Permitted Uses.**

18 1. Dwelling units in single-family, duplex, and multifamily configurations and units in a mixed-use  
19 building up to twelve (12) dwelling units per lot, but excluding mobile homes;

20 2. Public open space recreational uses;

21 3. School (including nursery school), hospital, eldercare facility, long-term nursing care facility,  
22 convalescent care facility, municipal or state building or use, church; or any other institution of  
23 educational, religious, philanthropic, fraternal, political, or social nature.;

24 4. Accessory uses including home occupation and church rectory;

25 5. Retail business and service establishments excluding those where the principal activity  
26 entails outdoor sales and/or storage;

27 6. Business and professional offices, including financial institutions;

28 7. Shuttle service and ride sharing facilities;

29 8. Restaurant, coffee shop, bakery, cafes and similar food service operations but excluding  
30 drive-in facilities;

31 9. Art studio or gallery;

32 10. Grocery store, food store;

33 11. Personal and/or business service;

34 12. Inn (Large) containing thirteen (13) but no more than thirty (30) guest rooms or (Small)  
35 containing twelve (12) or fewer guest rooms;  
36

37 ~~13. Commercial or private parking lots;~~

38 13. Marinas;

39 ~~14. Commercial boating and fishing uses and facilities, provided only incidental cleaning and~~  
40 ~~cooking of seafood occur at the site;~~

41 15. Place of assembly, including theater;

42 16. Temporary, intra-family dwelling unit;

43 17. Accessory dwelling units; and

44 ~~49~~ 18. Specialty food and/or beverage facility.

45 **Part 3: Amending Section 16.3.2.15.C Mixed Use – Kittery Foreside, Special Exception**  
46 **Uses,**

47 **C. Special Exception Uses.**

48 1. Research and development;

49 2. Public utility facilities, including substations, pumping stations, and sewage treatment  
50 facilities;

51 3. Inn, (Large) containing thirteen (13) but no more than thirty (30) guest rooms;

52 4. Commercial or private parking lots.

53 **Part 4: Amending Section 16.3.2.15.E. Mixed Use – Kittery Foreside, Special Parking**  
54 **Standards**

55 **E. Special Parking Standards.**

56 The Kittery Foreside zone is already largely built up and many buildings either completely or  
57 almost completely cover the lot on which they are located. Therefore, it is not possible to comply  
58 with parking standards which would otherwise be required for open land. To encourage the  
59 reuse of existing structures as far as practical, the Town establishes special parking standards  
60 and conditions within the zone.

61 1. Revised Off-Street Parking Standards.

62 Insofar as practical, parking requirements are to be met on-site unless an existing building  
63 covers so much of the lot as to make the provision of parking impractical in whole or in part. If  
64 meeting the parking requirements is not practical, then the parking demand may be satisfied off-  
65 site or through joint use agreements as specified herein.

66 Notwithstanding the off-street parking requirements in Article IX of Chapter 16.8, minimum  
67 parking requirements for the uses below are modified as specified herein:

68 a. Dwelling units in buildings that existed as of April 1, 2005 including the replacement of units  
69 destroyed by accidental or natural causes regardless of how configured: one parking space per  
70 dwelling unit;

71 b. Dwelling units in new buildings including the replacement of existing buildings other than the  
72 replacement of units destroyed by accidental or natural causes: one and one-half parking  
73 spaces per dwelling unit;

74 c. Retail, business office, or bank facilities: one parking space for each four hundred (400)  
75 square feet of gross floor area;

76 d. Professional office: one parking space for each three hundred (300) square feet of gross floor  
77 area;

78 e. Inn: one parking space for each guest room;

79 f. Church: None required, if primary use occurs on weekends;

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

82 **NOTE:** For each use in the zone, the total parking demand is calculated using the standards



83 above or in Section 16.8.9.4 if not modified above. Then each nonresidential use is exempt from  
84 providing off-street parking for the first three required spaces. For uses requiring a demand of  
85 greater than three, then the off-street parking is to be provided on-site and/or in accordance with  
86 subsections (E)(2) and (3) of this Section.

87 **2. Maximum Parking on New Impervious Surface.**

88 Not more than one and one-half parking spaces per dwelling unit may be created on new  
89 impervious surface in conjunction with the construction of a new or replacement building. This  
90 restriction does not apply to parking spaces located within the same building with the dwelling  
91 units, to spaces located on pre-existing impervious surface, or to spaces located on a pervious  
92 surface such as parking pavers designed to allow infiltration of precipitation.

93 **3. Off-Site Parking.**

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

99 **4. Joint Use Parking.**

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

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

116 The Planning Board must make a final determination of the joint use and/or off-site parking  
117 spaces that constitute an acceptable combination of spaces to meet the required parking  
118 demand.

119 **5. Commercial and Private Parking Lots.**

120 The creation of a surface parking lot as a principal use is prohibited where an existing building is  
121 displaced on a property that fronts along the following streets: Walker, Government, and  
122 Wentworth. The prohibition includes accessory parking for use on another lot.

123 6. Parking Management Plan for Inns.

In order to allow flexibility in existing parking standards within the Kittery Foreside zone, each applicant of the proposed inn must submit a parking management plan, to be reviewed and approved by the reviewing authority in accordance with the following standards:

- 124 a. Each parking management plan shall demonstrate the applicant's ability to provide  
125 adequate parking for the needs of the proposed inn.
- 126 b. An applicant must propose a method(s) for providing adequate parking, including but not  
127 limited to the provision of on-site parking, off-site parking, joint-use parking, valet service, and/or  
128 shuttle service. The provision of off-site and joint-use parking shall be reviewed pursuant to  
129 Sections 16.3.2.15.E.3 and 16.3.2.15.E.4, respectively.
- 130 c. An applicant may request the Board of Appeals for a decrease in the required number of  
131 provided parking spaces, pursuant to Section 16.8.9.4.L and Section 16.6.4.3 Miscellaneous  
132 Variation Request.

133 **Part 5: Adding Section 16.3.2.15.F Mixed Use – Kittery Foreside, Special Exception**  
134 **Standards for Inns Containing at Least Twelve (12) But No More Than Thirty (30) Guest**  
135 **Rooms:**

136 **F. Special Exception Conditions for Inns containing no less than thirteen (13) and no**  
137 **more than Thirty (30) Guest Rooms.**

138 It is the intent of this Section to impose standards on inns containing at no less than thirteen  
139 (13) but no more than thirty (30) guest rooms within the Kittery Foreside Zone and to allow for  
140 the provision of additional accommodation options while preserving to the greatest extent  
141 possible the existing residential and cultural aspects of the Foreside (or Foreside  
142 neighborhoods) in which such inns may be placed.

143 1. Parking Plan Required.

144 Each applicant for a proposed inn containing no less than thirteen (13) but no more than thirty  
145 (30) guest rooms must submit a parking management plan to be reviewed and approved by the  
146 reviewing authority, pursuant to Section 16.3.2.15.E.6.

## MEMORANDUM

**To: Kittery Town Council**  
**From: Leah Rachin, Esq.**  
**Date: November 21, 2017**  
**Re: Proposed Amendment to Title 16, Land Use and Development Code**

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I represent 60-68 Wallingford Square, LLC ("Wallingford Square") in conjunction with the above-referenced matter. My client's property is the current site of Anneke Jans restaurant in the Mixed Use Kittery Foreside Zone ("MU – KF"). They wish to rehab this property into an inn, which would serve the Foreside zone and the Town in general. While "inns" as currently defined in Title 16 (allowing up to 12 guest rooms) are permitted in the MU – KF zone, my clients are seeking to construct an inn that is somewhat larger.

Wallingford Square is seeking an amendment to Title 16 to allow inns with no more than 30 guest rooms as a special exception in the Mixed Use – Kittery Foreside Zone. The way this amendment would be accomplished is as follows. The current definition of "inn" would be broken down in to two definitions. The first being a "small inn," which would trace the current definition that contemplates up to 12 guest rooms. The second definition would be new, i.e., "large inn," which would encompass inns with between 13 and no more than 30 guest rooms.

Given the fact that an "inn" is a permitted use or special exception in many zones throughout the Town, we have amended Title 16 accordingly. In zones in which "inns" are either a permitted or special exception use, we amended the land use table for that zone to say "small inns," (which traces the intent of the existing ordinance and results in no change). In districts in which "hotels and motels" are listed as either permitted or special exceptions in addition to "inns," we amended that language to allow *both* large and small inns. Once again, this reflects the drafter's intention to allow larger-scale transient accommodations in those zones. In sum, other than in the MU – KF zone, the proposed amendments do not change the land use landscape with respect to the size of transient accommodations that are allowed in any zone.

Because the motivation for the proposed amendments is to allow larger inns in the MU – KF zone, the remainder of this memo will focus on why such a use is not only entirely compatible with the Foreside Zone but would also greatly enhance it.

In preparing the proposed amendments, Wallingford Square reviewed: (a) the Town's website for Kittery Economic Development Opportunities; (2) the Town's existing Comprehensive Plan (passed in 2002); (3) the Comprehensive Plan Update that is currently making its way through the approval process; and (4) the Kittery Foreside Land Use, Parking, and Transportation Study Draft Recommendations dated October 25, 2017. What became abundantly clear from all four of these sources is that maintaining and promoting the economic vitality of the Kittery Foreside area is a key component in Kittery's vision for its future.

The Foreside area is a classic “mixed use” use zone. It benefits from a wonderful array of shops, restaurants, businesses, and residential uses. What is conspicuously lacking from this vibrant neighborhood is small-scale, tasteful, independently-owned (non-chain) inn of sufficient size to accommodate visitors who are eager to enjoy the many benefits that the Foreside zone (and all of Kittery) have to offer.

The availability of such an inn would dovetail perfectly both with what is *actually* happening in the Foreside area (i.e., fabulous restaurants, retail, etc.) and the Town’s *aspirational* goals for that zone. Maintaining and promoting the vitality of this zone is reiterated time and time again not only in the existing 2002 Comprehensive Plan, but also in the proposed Comprehensive Plan Update. An inn of the kind contemplated here will create a much-needed complimentary use to support existing businesses in the Foreside area and the entire Town.

### Existing Comprehensive Plan (2002)

As indicated above, the proposed amendments (to allow inns of up to 30 rooms in the Foreside zone) are entirely consistent with the Town’s current comprehensive plan for the following reasons:

- The Foreside zone is designated as a “growth area.” Having an inn of the size proposed in that zone is consistent with the “General Pattern of Development” of the Foreside area as identified in the 2002 Comp Plan, (i.e., where “restaurants, inns, professional offices, home based businesses, and personal services are mingled with residential uses...” (p. 107 of the 2002 plan).
- **“Reuse and development in the downtown area of Kittery Foreside”** is specifically encouraged. **“Within this area, the Town’s land use regulations should allow a wide range of uses including residential, retail, service, and community uses.”** The land use regulations should encourage an urban pattern of development with buildings located close to the street with a strong pedestrian orientation. Flexibility should be provided in the parking requirements to allow reasonable reuse and redevelopment.” (p. 138 of the 2002 plan) (emphasis added)
- “The benefits of effort and investment by the Town are evident at **Wallingford Square...[which] is the focal point of the traditional downtown, mixed use/retail area.**” (p. 121 of the 2002 plan). (emphasis added)
- “To facilitate this general pattern of development, **the Town should play an active role in encouraging and supporting the redevelopment, reuse, and revitalization of the builtup areas of the community. The Town should support efforts to revitalize the Foreside.** A healthy downtown can provide a positive image for the Town, as well as a focal point to encourage a sense of community.” (p. 126 of the 2002 plan) (emphasis added)
- The foregoing concept was reiterated, stating that **“the Town should support the Foreside Committee and encourage it to continue to be active and promote the use of Wallingford Square**

**and the surrounding neighborhood areas in a manner which creates a vital activity center and focal point for the community.** (p. 128 of the 2002 plan) (emphasis added)

Ultimately, the existing comprehensive plan provides abundant support for the conclusion that an inn of the size proposed would be a perfect complement to the mixed uses already permitted in the Foreside zone (such as retail, restaurants, professional services, art studios/galleries, specialty food facilities, etc.).

### **Proposed Comprehensive Plan Update**

As discussed above, the existing comprehensive plan supports the conclusion that inns of up to 30 guest rooms are appropriate uses for the Mixed Use – Kittery Foreside Zone. However, the updated plan (currently making its way through the approval process) makes it even clearer that such a use would be an ideal addition to the zone.

The following excerpts from the proposed update plan demonstrate that an inn is precisely the kind of use that is contemplated for this thriving neighborhood:

- Citing state law, the sole stated goal in Topic Area 3 (Economic Development) is to “[p]romote an economic climate that increases job opportunities and overall economic wellbeing.” See Growth Management Act, 30-A M.R.S.A. 4312. The proposed comp plan states as a specific objective **“to attract and retain business to sustain the vibrant center at foreside that provides residents and visitors with places to go and spaces to gather.”** (Topic Area 3 – Page 2) (emphasis added)
- The updated comp plan speaks in terms of promoting the “local small business culture [and] providing a counterpart to the larger-scale [businesses].” (Topic Area 3 – Page 2) Additionally, the updated comp plan advocates **“remain[ing] nimble and flexible in unique economic development areas like the Foreside or Gourmet Alley to ensure these locations remain eclectic and interesting.”** (Topic Area 3 – Page 4) (emphasis added)
- Increased (and innovative) development is specifically contemplated in the comp plan update. It states that the Town should **“consider expanding the Foreside if demand is there.”** Moreover, the Town is encouraged to **“evaluate parking requirements...to ensure redevelopment, or new development, is not hampered by onerous or outdated regulations. This may be particularly useful in areas like Foreside where historically small parcels may be hard to redevelop with new parking regulations.”** (Topic Area 3 – Page 5) (emphasis added)
- The Town’s recognition that the Foreside area is an economic driver, and that development in that area should be encouraged is forcefully demonstrated by the fact that the first listed “Key Recommendation” is to **“attract and retain businesses to sustain the vibrant center at Foreside that provides residents and visitors a place to go and spaces to gather.”** (Topic Area 3 – Page 5) (emphasis added)

- The importance of the Foreside zone to Kittery’s economic vitality is also the focus of Topic Area 8 (Land Use). One of the Town’s chief stated land use objectives is to **“sustain and build upon the vitality of the Foreside District.”** (Topic Area 8 – Page 1) (emphasis added) Moreover, throughout the comprehensive plan update process, many residents articulated **“a desire to continue to support the revitalization of the Foreside and possibly expand its boundaries should the economics support such a decision.”** (Topic Area 8 – Page 2) (emphasis added)

A review of the foregoing excerpts from both the existing comprehensive plan and the update make clear that the Foreside zone is a focus of future development and economic growth for the Town. This recognition is summarized in the Town’s clear direction to “attract and retain businesses to sustain the vibrant center a Foreside that provides residents and visitors a place to go and spaces to gather.” Allowing inns of up to 30 guest rooms in the Foreside zone would promote this objective and enhance the vitality and success of this zone.

Wallingford Square met with the Economic Development Committee (“EDC”) in early June 2017 to float its proposal. The EDC noted its enthusiastic support of the concept of having an inn of the size proposed (which at the time was 35 rather than 30 guest rooms).

The recent October 25, 2017 findings and draft recommendations of the Kittery Foreside Land Use, Parking and Traffic Circulation Study (the “Study”) also support the conclusion that an inn of the size proposed would be entirely appropriate and desirable in the Kittery Foreside zone. In particular, the following passages and suggestions from the Study are illuminating:

- “Allow for overlay zoning in Kittery Foreside for special projects – or to recognize that Wallingford Square is unique in scale, uses and intensity.”
- “Allow more flexibility in uses and design in more mixed use and commercial neighborhoods.”

Additionally, the Study proposes innovative low-cost strategies to alleviate parking issues in the Foreside thereby creating a substantial number of additional parking spaces. By doing so, concerns regarding any additional parking demands that might be caused by an inn would be assuaged. The Study encourages economic development at an appropriate scale and intensity. An inn limited to 30 guest rooms would do just that. It would be a great feeder for local restaurants and retail establishments while at the same time respecting the quaint character of the Foreside neighborhood.

The Town requires that before the Town Council can review proposed amendments to the Town’s Land Use Ordinance, they must be reviewed by the Planning Board. Wallingford Square first applied to the Planning Board to consider its proposed amendments in early May 2017. The applicants appeared before the Planning Board no fewer than six times -- on June 8<sup>th</sup>, June 22<sup>nd</sup>, July 27<sup>th</sup>, August 24<sup>th</sup>, September 28<sup>th</sup>, and November 9<sup>th</sup>. At each meeting, members of the Planning Board expressed various concerns regarding the number of guest rooms, traffic, and parking issues in the Foreside zone. In its good faith attempt to address the Planning Board’s concerns, Wallingford Square revised its original

proposal a number of times to: (a) reduce the amount of guest rooms; (b) change the proposed use from a “permitted” use to a “special exception” (which has more stringent review criteria); (c) impose additional parking requirements (over and above those that apply to all other uses in the zone); and (d) add restrictions regarding where inns could be located and how many there could be.<sup>1</sup> Ultimately, it was a tie vote with three members voting in favor of recommending the amendment and three against.

For the reasons stated above, Wallingford Square believes that the proposed amendments promote economic vitality, which is consistently reiterated as a critical goal in both the Town’s existing and proposed comprehensive plan as well as the Kittery Foreside Study. At the same time, the limited number of guest rooms, the strict criteria that apply to special exception uses, and heightened parking requirements for inns (which exceed those for any other use in the zone) strikes the right balance between supporting economic vitality and respecting the character of the neighborhood.

Thank you for your consideration and we look forward to addressing this issue in person.

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<sup>1</sup> While these restrictions were added at the request of certain Planning Board members, they were ultimately removed at the Planning Board’s request.

## RECODIFICATION - ORDAINMENT – 07/26/2010

(With amendments Ordained 9/26/11; 1/23/12; 5/30/12; 9/24/12; 3/25/13; 6/10/13; 1/27/14; 1/28/15; 9/28/15;10/14/15;10/26/15; 7/25/16; ; 5/22/17; 7/24/17)

**Hotel** means a building in which lodging, or boarding and lodging capabilities are provided for more than twenty(20) persons, and offered to the public for compensation, and in which ingress and egress to and from rooms are made primarily through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a rooming house or a motel, which are separately defined in this Section.

**Hydric soil** means a soil that in its undrained condition is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of wetland (hydrophytic) vegetation. Soils found in Kittery which may be considered hydric soils include but are not limited to: Biddeford, Brayton, Chocorua, Rumney, Scantic, Sebago, Vassalboro, Naumberg, Raynham, and Waskish. All hydric soils listed in the Natural Resources Conservation Service list entitled "National Hydric Soils List by State" are included for consideration in this title. (<http://soils.usda.gov/use/hydric/lists/state.html>)

**Hydrophytic vegetation** means plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. Hydrophytic vegetation includes plants classified as Obligate Wetland, Facultative Wetland, or Facultative in the U.S. Fish and Wildlife Service publication, National List of Plant Species That Occur in Wetlands: 1988—Maine, as amended or superseded. This publication is available at the municipal offices for inspection.

**Improvement plans** means maps, plans, profiles, studies, cross sections and other required details for the construction of all improvements.

**Illicit Discharge**, for the purposes of stormwater regulation, means any discharge to the small Municipal Separate Storm Sewer System (MS4) that does not consist entirely of stormwater or authorized non-stormwater discharges.

**Individual private campsite** means an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and no more than two recreational vehicles, and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

**Industrial** means the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Industrial Activity**, for the purposes of stormwater regulation, means activity or activities subject to National Pollutant Discharge Elimination System Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**Industry, Heavy** means a facility and/or site used in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

**Industry, Light** means a facility used in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, blending, packaging, inside an enclosed structure. Basic industrial processing such as paper manufacturing, petroleum processing, manufacture of explosives, production of chemicals or fertilizer are not light industrial uses.



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**Inn** means a commercial place of lodging which contains a dwelling unit occupied by an owner or resident manager, which has twelve (12) or fewer guest rooms, and may include a restaurant which also serves non-guests. Rentals to the same party for more than twelve (12) weeks in a calendar year are prohibited.

**Intermittent stream** means a channel of a stream, river, or brook that is without flowing surface water for at least one month of a year.

**Invasive non-native plant** means grasses, forbs, shrubs, or trees not native to the State of Maine, and which proliferate in and dominate vegetation to the exclusion or elimination of native plants.

**July 13, 1977** means that date upon which a complete revision of the first zoning ordinances was adopted by the Town and upon which certain existing nonconforming conditions are considered to be protected (grandfathered).

**Junkyard** means a lot or part thereof, exposed to the elements, which is used for the sale or for the storage, keeping or abandonment of junk or scrap materials, or the storage, dismantling, demolition, abandonment or sale of construction equipment or machinery, or parts thereof or of unregistered automobiles or other vehicles not in condition for use on the public highway.

**Landing** means a place for loading or discharging persons or goods, as from a vessel.

**Landscape planter strip** means a vegetated area (naturally vegetated and/or landscaped) located adjacent and parallel to a road or street and designed to visually and functionally separate the roadway from the abutting property upon which it is located.

**Large, healthy tree** means a tree with a diameter at breast height (dbh) of at least twelve (12) inches and which does not exhibit any indicators of stress, damage, disease, or decay that will limit its expected additional life to less than twenty (20) years.

**Legally non-conforming** means it was lawfully created, but became non-conforming due to a change in the Town Code.

**Legislative body** means Town Council.

**Light fixture height** means the vertical distance between the surface that will be illuminated by the fixture and the bottom of the light source (see cut-off fixture diagram).

**Locally established datum** means, for purposes of this article, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level is too far from a specific site to be practically used.

(Ordained 9/26/11; effective 10/27/11)

**Lot** means a parcel of land, legally created and recorded having frontage upon an approved public or private street; or, a tract of land legally created and recorded prior to July 13, 1977.

**16.3.2.15 Mixed Use - Kittery Foreside MU-KF.**

**A. Purpose.**

To provide business, service, and community functions within the Mixed Use - Kittery Foreside zone and to provide a mix of housing opportunities in the historic urbanized center of the community and to allow for use patterns which recognize the densely built-up character of the zone and the limitations for providing off-street parking. Design standards are used to facilitate the revitalization of downtown Kittery Foreside as a neighborhood center, while promoting economic development of service businesses and walk-in shopping as well as respecting the zone’s historic and residential character.

**B. Permitted Uses.**

1. Dwelling units in single-family, duplex, and multifamily configurations and units in a mixed-use building up to twelve (12) dwelling units per lot, but excluding mobile homes;
2. Public open space recreational uses;
3. School (including nursery school), hospital, eldercare facility, long-term nursing care facility, convalescent care facility, municipal or state building or use, church; or any other institution of educational, religious, philanthropic, fraternal, political, or social nature.;
4. Accessory uses including home occupation and church rectory;
5. Retail business and service establishments excluding those where the principal activity entails outdoor sales and/or storage;
6. Business and professional offices, including financial institutions;
7. Shuttle service and ride sharing facilities;
8. Restaurant, coffee shop, bakery, cafes and similar food service operations but excluding drive-in facilities;
9. Art studio or gallery;
10. Grocery store, food store;
11. Personal and/or business service;
12. Inn;
13. Commercial or private parking lots;
14. Marinas;
15. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;
16. Place of assembly, including theater;
17. Temporary, intra-family dwelling unit;
18. Accessory dwelling units; and
19. Specialty food and/or beverage facility.

**C. Special Exception Uses.**

1. Research and development;
2. Public utility facilities, including substations, pumping stations, and sewage treatment facilities.

**D. Standards.**

1. The design and performance standards of Chapters 16.8 and 16.9 must be met except where specifically altered in this subsection.

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### 2. Dimensional Standards. The following space standards apply:

Minimum land area per dwelling unit	5,000 square feet
Minimum lot size	5,000 square feet
Minimum street frontage	0 feet
Minimum front yard along:	
Government Street east of Jones Avenue including Lot 107 at the corner of Government and Walker Streets	0 feet
other streets	10 feet
Wallingford Square (Ordained 9/24/12; effective 10/25/12)	0 feet
Minimum rear and side yards	10 feet
Minimum separation distance between principal buildings on the same lot	10 feet
Maximum building height	40 feet*
*Except that for buildings located on lots that abut tidal waters, the highest point on the primary structure of the building including the roof, but excluding chimneys, towers, cupolas, and similar appurtenances that have no floor area, may be not more than thirty-five (35) feet above the average grade between the highest and lowest elevations of the original ground level adjacent to the building.	
Minimum setback from:	
water body and wetland water dependent uses	0 feet
all other uses (including buildings and parking)	75 feet unless modified, according to the terms of subsection (E) of this Section.
Maximum building coverage	60 percent
Minimum open space on the site	40 percent
Minimum land area per unit for eldercare facilities that are connected to the public sewerage system:	
dwelling unit with two or more bedrooms	3,000 square feet
dwelling unit with less than two bedrooms	2,500 square feet
residential care unit	2,000 square feet
Minimum land area per bed for nursing care and convalescent care facilities that are connected to the public sewerage system	1,500 square feet

### 3. Maximum Building Footprint.

The maximum area of the building footprint of any new building is one thousand five hundred (1,500) square feet unless the building is replacing a larger building that existed on the lot as of April 1, 2005.

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A. If the footprint of the pre-existing building was larger than one thousand five hundred (1,500) square feet, the maximum size of the footprint of the new building may be no larger than the footprint of the pre-existing building.

B. If the footprint of the new building is larger than one thousand five hundred (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 pre-existing building.

### 4. Design Standards.

Any new building, or additions or modifications to an existing building that:

(1) cumulatively increases the building footprint or building volume by more than thirty percent (30%) after April 1, 2005, or

(2) is subject to shoreland overlay zoning as set forth in Section 16.7.3.5.1 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 pre-existing building footprint and that does not increase the pre-existing building volume by more than thirty percent (30%).

#### a. Placement and Orientation of Buildings Within a Lot.

i. The placement of buildings on the lot must acknowledge the uniqueness of the site, the neighboring buildings, and the natural setting. Existing views and vistas must be preserved in the design of the site and buildings, and buildings must be placed to frame, rather than block, vistas.

ii. Buildings and the front elevation must be oriented facing the street on which the building is located. The siting of buildings on corner lots must consider the placement of buildings on both streets.

#### b. Overall Massing of Buildings.

The overall massing objective is to simulate a concentrated use of space in the Foreside zone while avoiding the use of large, multi-unit buildings. In the interest of this objective, building footprints must not exceed the maximums set forth within this subsection. Larger parcels may be developed but will require the use of multiple buildings with smaller footprints. The smaller scale of the buildings will allow new projects to fit in with the existing architectural styles of the Foreside zone.

#### c. Grouping of Smaller Buildings.

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

#### d. Building Details.

Buildings must include architectural details that reflect the historic style of the Foreside zone. Molding and trim must be used to decorate or finish the surface of buildings and doors. Eaves and overhangs should be incorporated into the design.

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e. Roof Slopes and Shapes.

- i. Allowable roof shapes include a simple gable, gambrel, saltbox, and hip. The minimum roof pitch must be 8:12 (rise over run) except in the case of a hip roof where a lesser pitch is acceptable.
- ii. The roof pitch of elements that link buildings or portions of buildings must be the same or greater than the pitch of the roofs on the buildings that are being linked.
- iii. Flat or nearly flat shed roofs are not allowed except for porches, dormers, or attachments distinct from the primary structure or where systems are concealed by standard roof forms.
- iv. The roof pitch of additions or wings must be similar to the pitch of the primary roof. Clusters of buildings must apply the same roof plan principles to pitch and link roofs.

f. Fencing and Walls.

- i. Fencing may be used to separate public and private spaces, mark property lines, and protect plantings.
- ii. Fences must harmonize with nearby structures and not unduly interfere with existing scenic views or vistas.
- iii. Picket and other medium height fences and low stone walls are permitted.
- iv. Modern concrete walls and similar structures are prohibited.
- v. Chain-link and stockade fences are not appropriate in front yards and may be used in side and rear yards only if compatible with the overall design of the site.
- vi. Waste receptacles, dumpsters, exterior systems, service entrances and similar areas must be screened with board fences, board and lattice fences, and/or landscaping.

g. Utilities.

All utilities serving a new building including electricity, telephone, cable, Internet, and alarm systems must be placed underground from the access pole.

h. Preservation of Trees.

Existing large, healthy trees must be preserved if practical.

5. Signage

Display of signboard and/or products for sale may be placed on a Town sidewalk only if:

- a. Products for sale displayed outside the building are limited to an area extending no greater than two feet from the front facade of the building;
- b. Signboards and/or products for sale must be removed from the sidewalk at the close of each business day;

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c. An annual permit must be obtained from the Code Enforcement Officer. Permits are issued for a calendar year or portion thereof, to expire December 31st of each year. Sign permit application fee, reference Appendix A.

### **E. Special Parking Standards.**

The Kittery Foreside zone is already largely built up and many buildings either completely or almost completely cover the lot on which they are located. Therefore, it is not possible to comply with parking standards which would otherwise be required for open land. To encourage the reuse of existing structures as far as practical, the Town establishes special parking standards and conditions within the zone.

#### **1. Revised Off-Street Parking Standards.**

Insofar as practical, parking requirements are to be met on-site unless an existing building covers so much of the lot as to make the provision of parking impractical in whole or in part. If meeting the parking requirements is not practical, then the parking demand may be satisfied off-site or through joint use agreements as specified herein.

Notwithstanding the off-street parking requirements in Article IX of Chapter 16.8, minimum parking requirements for the uses below are modified as specified herein:

- a. Dwelling units in buildings that existed as of April 1, 2005 including the replacement of units destroyed by accidental or natural causes regardless of how configured: one parking space per dwelling unit;
- b. Dwelling units in new buildings including the replacement of existing buildings other than the replacement of units destroyed by accidental or natural causes: one and one-half parking spaces per dwelling unit;
- c. Retail, business office, or bank facilities: one parking space for each four hundred (400) square feet of gross floor area;
- d. Professional office: one parking space for each three hundred (300) square feet of gross floor area;
- e. Inn: one parking space for each guest room;
- f. Church: None required, if primary use occurs on weekends;
- g. Restaurants: one parking space for each one hundred (100) square feet of gross floor area used by the public.

**NOTE:** For each use in the zone, the total parking demand is calculated using the standards above or in Section 16.8.9.4 if not modified above. Then each nonresidential use is exempt from providing off-street parking for the first three required spaces. For uses requiring a demand of greater than three, then the off-street parking is to be provided on-site and/or in accordance with subsections (E)(2) and (3) of this Section.

#### **2. Maximum Parking on New Impervious Surface.**

Not more than one and one-half parking spaces per dwelling unit may be created on new impervious surface in conjunction with the construction of a new or replacement building. This restriction does not apply to

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parking spaces located within the same building with the dwelling units, to spaces located on pre-existing impervious surface, or to spaces located on a pervious surface such as parking pavers designed to allow infiltration of precipitation.

### 3. Off-Site Parking.

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

### 4. Joint Use Parking.

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

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

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### 16.3.2.17 Shoreland Overlay Zone OZ-SL.

#### A. Purposes.

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

#### 1. Authority.

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

#### 2. Applicability and Boundaries.

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

a. Shoreland Overlay Zone – Water Body/Wetland Protection Area – 250' - OZ-SL-250' - land areas within 250 feet, horizontal distance, of the:

- i. normal high-water line of any river or saltwater body.
- ii. upland edge of a coastal wetland, including all areas affected by tidal action.
- iii. land edge of a fresh water wetland connecting to a protected stream as identified on the Zoning Map.

b. Shoreland Overlay Zone - Stream Protection Area - 75' - OZ-SL-75'

i. Land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland.

ii. However, where a stream and its associated Shoreland Overlay Zone area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area will be regulated under the provisions of the Shoreland Overlay Zone associated with that water body or wetland.

iii. Where uncertainty exists as to the exact location of the Shoreland Overlay Zone boundary, the Planning Board with expert consultation as may be required, is the final authority as to location.

#### B. Permitted and Special Exception Land Use.

The following uses in this Section are allowed in accordance with the land use standards established in the underlying base zone in Chapter 16.3, Zoning Regulations and land uses identified by the Mandatory Shoreland Zoning Act, 38 M.R.S. §435-449.

#### 1. Residential - Rural Zone (R-RL).



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### a. Permitted Uses.

- i. Public open space recreational uses;
- ii. Any agricultural building or use except a sawmill, piggery, or the raising of poultry for commercial purposes;
- iii. Accessory uses and buildings;
- iv. Individual private campsite.

### b. Special Exception Uses.

- i. Dwellings, or modular home, excluding mobile home, in a single-family or duplex configuration;
- ii. School, hospital, long-term nursing care facility, convalescent care facility, municipal building or use, church, or other institution of educational, religious, philanthropic, fraternal or social nature;
- iii. Home occupations;
- iv. Day care facility;
- v. Public utility facilities including substations, pumping stations and sewage treatment facilities;
- vi. Mineral extraction subject to Chapter 16.9.1.2;
- vii. Recreation activity buildings and grounds operated for profit exclusive of drive-in theaters.

## 2. Residential – Suburban Zone (R-S).

### a. Permitted Uses.

- i. Public open space recreational uses;
- ii. Day care facility;
- iii. Elderly day care facility;

### b. Special Exception Uses.

- i. Dwellings in a multi-unit residential configuration with not more than four units per building and mobile homes;
- ii. School or educational facility (including nursery schools), eldercare facility, hospital, long-term nursing care facility, convalescent care facility, municipal, county, or state building or use, church; or other institution of educational, religious, philanthropic, fraternal, political, or social nature. Any single listed use may not occupy more than five thousand (5,000) square feet of floor area;
- iii. Public utility facilities including substations, pumping stations and sewage treatment facilities;
- iv. Mineral extraction subject to Section 16.9.1.2;
- v. Home occupations.

## 3. Residential - Kittery Point Village (R-KPV)

### a. Permitted Uses.

- i. Any agricultural building or use except a sawmill, piggery, or the raising of poultry for commercial purposes;
- ii. Accessory uses and buildings;
- iii. Day care facility;

### b. Special Exception Uses.

- i. Dwellings, or modular home, excluding mobile homes, in a single-family or duplex configuration;

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ii. School or educational facility (including nursery schools), municipal, county, or state building or use, church; or other institution of educational, religious, philanthropic, fraternal, political, or social nature. Any single listed use may not occupy more than five thousand (5,000) square feet of floor area;

iii. Home occupations;

iv. Public utility facilities including substations, pumping stations and sewage treatment facilities.

### 4. Residential – Urban Zone (R-U).

#### a. Permitted Uses.

i. Public open space recreational uses;

ii. Day care facility;

ii. Accessory uses and buildings;

#### b. Special Exception Uses.

i. Dwellings, or manufactured housing, in a single-family or duplex configuration;

ii. School (including day nursery), hospital, long-term nursing care facility, convalescent care facility, municipal or state building or use, church, or any other institution of educational, religious, philanthropic, fraternal, political or social nature,;

iii. Home occupations;

iv. Recreational uses exclusive of drive-in theaters;

v. Public utility facilities including substations, pumping stations, and sewage treatment facilities;

vi. Inn;

### 5. Residential - Village Zone (R-V).

#### a. Permitted Uses.

i. Public recreation;

ii. Municipal, county, or state building or use;

iii. Accessory buildings and structures.

#### b. Special Exception Uses.

i. Dwellings, or modular home, excluding mobile home, in a single-family or duplex configuration;

ii. Home occupation;

ii. Public utility facilities, including substations, pumping stations, and sewage treatment facilities;

iii. Day care or nursery school facility for thirteen (13) or more persons in care, in conformance with the standards for a major home occupation (see Section 16.8.22.3);

### 6. Residential – Rural Conservation Zone (R-RLC).

#### a. Permitted Uses.

i. Any agricultural building or use except sawmill, piggery, or the raising of poultry for commercial purposes;

ii. Timber harvesting;

iii. Public recreation;

iv. Accessory uses and buildings;

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- b. Special Exception Uses.
  - i. Dwellings, or modular home, excluding mobile home, in a single-family or duplex configuration;
  - ii. Home occupation;
  - iii. School, municipal building or use; or any other institution of educational, religious, philanthropic, fraternal, or social nature;
  - iv. Public and private open space recreational uses exclusive of drive-in theaters;
  - v. Public utility facilities including substations, pumping stations, and sewage treatment facilities;
  - vi. Day care facility;
  
- c. Prohibited Uses. Prohibited use is any use not listed as a permitted or special exception use.
- 7. Conservation (CON).
  - a. Permitted Uses.
    - i. Existing land conservation uses.
    - ii. Public recreation.
    - iii. Accessory structure including restrooms.
  - b. Special Exception Uses.
    - i. Public facility
  
- 8. Business – Local Zone (B-L).
  - a. Permitted Uses.
    - i. Public open space recreational uses;
    - ii. Accessory uses and buildings;
  
  - b. Special Exception Uses.
    - i. Dwellings, or modular home, excluding mobile home, in a single-family or duplex configuration;
    - ii. School or educational facility (including nursery schools), day care facility, eldercare facility, hospital, long-term nursing care facility, convalescent care facility, municipal, county, or state building or use, church; or any other institution of educational, religious, philanthropic, fraternal, political or social nature;
    - iii. Home occupation;
    - iv. Retail business and service establishments, but excluding those of which the principal activity entails outdoor sales and/or storage and excluding those specifically mentioned under subsection C of this Section;
    - v. Business and professional offices;
    - vi. Mass transit station;
    - vii. Commercial parking lot or parking garage;
    - viii. Restaurant;
    - ix. Art studio or gallery;
    - x. Convenience store, food store, grocery store;
    - xi. Personal service;
    - xii. Business service;
    - xiii. Building materials, but excluding those of which the principal activity entails outdoor sales and/or storage;
    - xiv. Garden supply;
    - xv. Conference center;
    - xvi. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;

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- xvii. Motel, hotel, inn, or rooming house;
- xviii. Place of public assembly, including theater;
- xix. Public utility facilities including substation, pumping stations, and sewage treatment facilities;
- xx. Apartment building;
- xxi. Residential dwelling units as part of a mixed-use building;
- xxii. Specialty food and/or beverage facility.

### 9. Business – Local Zone (B-L1).

#### a. Permitted Uses.

- i. Public open space recreational uses;
- ii. Accessory uses and buildings;
- iii. Aquaculture;

#### b. Special Exception Uses.

- i. Dwellings, or modular home, excluding mobile home, in a single-family or duplex configuration;
- ii. Inn;
- iii. Home occupation;
- iv. Retail business and service establishments, but excluding those of which the principal activity entails outdoor sales and/or storage;
- v. Business and professional offices;
- vi. Mass transit station;
- vii. Commercial parking lot or parking garage;
- viii. Restaurant;
- ix. Art studio or gallery;
- x. Convenience store, food store, grocery store;
- xi. Personal service;
- xii. Business service;
- xiii. Building materials, but excluding those of which the principal activity entails outdoor sales and/or storage;
- xiv. Garden supply;
- xv. Conference center;
- xvi. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;
- xvii. Motel, hotel, inn, or rooming house;
- xviii. Funeral home;
- xix. Place of public assembly, including theater;
- xx. Public utility facilities including substation, pumping stations, and sewage treatment facilities;
- xxi. Farmer's market; and
- xxii. Specialty food and/or beverage facility.

### 10. Business - Park Zone (B-PK).

#### a. Permitted Uses.

- i. The following land uses are permitted for projects that are cluster mixed-use developments:
  - (a). Art studio/gallery;
  - (b). Mass transit station;

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- (c). Public open space recreational uses, recreational facilities, and selected commercial recreation;
- (d). Research and development;
- (e). Public utility facilities including substations, pumping stations, and sewage treatment facilities;
- ii. The following land uses are permitted for projects that are not cluster mixed-use developments:
  - (a). Accessory uses and buildings;

b. Special Exception Uses. The following uses are permitted in a cluster mixed use development as a special exception:

- i. Business and professional offices;
- ii. Business services;
- iii. Commercial parking lot or parking garage;
- iv. Conference center;
- v. Cluster residential development;
- vi. Grocery, food store, convenience store, including gas station;
- vii. Mechanical services, excluding junkyard;
- viii. Motel, hotel, rooming house, inn;
- ix. Personal service;
- x. Place of public assembly, including theater;
- xi. Repair services;
- xii. Restaurant;
- xiii. Retail uses and wholesale businesses excluding used car lots and junkyards;
- xiv. School (including day nursery), university, museum, hospital, municipal or state building or use, church, or any other institution of educational, religious, philanthropic, fraternal, political or social nature;
- xv. Shops in pursuit of trade;
- xvi. Veterinary hospital;
- xvii. Warehousing and storage; and
- xviii. Specialty food and/or beverage facility.

### 11. Commercial – 1 Zone (C-1).

a. Permitted Uses.

- i. Public open space recreational uses, recreational facilities, and selected commercial recreation;
- ii. School (including nursery school), hospital, long-term nursing care facility, convalescent care facility, municipal or state building or use, church; or any other institution of educational, religious, philanthropic, fraternal, political, or social nature;
- iii. Accessory uses and buildings including minor or major home occupations;
- iv. Public utility facilities including substations, pumping stations, and sewage treatment facilities;

b. Special Exception Uses.

- i. Day care facility;
- ii. Business and professional offices;
- iii. Mass transit station;
- iv. Commercial parking lot or parking garage;
- v. Retail uses and wholesale businesses excluding used car lots and junkyards;
- vi. Service establishments;
- vii. Restaurant;
- viii. Veterinary hospital;

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- ix. Motel, hotel, rooming house, inn;
- x. Art studio/gallery;
- xi. Grocery, food store, convenience store;
- xii. Business service;
- xiii. Personal service;
- xiv. Building materials and garden supply;
- xv. Conference center;
- xvi. Repair services;
- xvii. Place of assembly, including theater;
- xviii. Transportation terminal excluding truck stops;
- xix. Warehousing and storage;
- xx. Research and development;
- xxi. Mini storage;
- xxii. Aquaculture; and
- xxiii. Specialty food and/or beverage facility.

### 12. Commercial – 2 Zone (C-2).

#### a. Permitted Uses.

- i. Public open space recreational uses, recreational facilities, and selected commercial recreation;
- ii. School (including nursery school), hospital, long-term nursing care facility, convalescent care facility, municipal or state building or use, church; or any other institution of educational, religious, philanthropic, fraternal, political, or social nature;
- iii. Accessory uses and buildings including minor or major home occupations;
- iv. Public utility facilities including substations, pumping stations, and sewage treatment facilities;
- v. Aquaculture.

#### b. Special Exception Uses.

- i. Commercial parking lot or parking garage;
- ii. Retail uses and wholesale businesses excluding used car lots and junkyards;
- iii. Service establishments;
- iv. Restaurant;
- v. Business and professional offices;
- vi. Mass transit station
- vii. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;
- viii. Veterinary hospital;
- ix. Motel, hotel, rooming house, inn;
- x. Art studio/gallery;
- xi. Grocery, food store, convenience store;
- xii. Day care facility;
- xiii. Business service;
- xiv. Personal service;
- xv. Conference center;
- xvi. Repair services;
- xvii. Boat yard;
- xviii. Place of assembly, including theater;

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- xix. Transportation terminal excluding truck stops;
- xx. Warehousing and storage;
- xxi. Mini storage;
- xxii. Research and development;
- xxiii. Adult entertainment establishment not located within one thousand (1,000) feet of an existing private residence, school or place of worship;
- xxiv. Shops in pursuit of trade;
- xxv. Construction services; and
- xxvi. Specialty food and/or beverage facility.

### 13. Commercial – 3 Zone (C-3).

#### a. Permitted Uses.

- i. Public open space recreational uses, recreational facilities, and selected commercial recreation;
- ii. School (including nursery school), hospital, eldercare facility, long-term nursing care facility, convalescent care facility, municipal or state building or use, church; or any other institution of educational, religious, philanthropic, fraternal, political, or social nature;
- iii. Accessory uses and buildings including minor or major home occupations;
- iv. Aquaculture.
- v. Public utility facilities including substations, pumping stations, and sewage treatment facilities;

#### b. Special Exception Uses.

- i. Business and professional offices;
- ii. Mass transit station;
- iii. Commercial parking lot or parking garage;
- iv. Retail uses and wholesale businesses excluding used car lots and junkyards;
- v. Service establishments;
- vi. Restaurant;
- vii. Veterinary hospital;
- viii. Motel, hotel, rooming house, inn;
- ix. Art studio/gallery;
- x. Grocery, food store, convenience store;
- xi. Day care facility;
- xii. Business service;
- xiii. Personal service;
- xiv. Conference center;
- xv. Boat yard;
- xvi. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;
- xvii. Place of assembly, including theater;
- xviii. Transportation terminal excluding truck stops;
- xix. Warehousing and storage;
- xx. Mini storage;
- xxi. Research and development;
- xxii. Construction services.
- xxiii. Shops in pursuit of trade;

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xxiv. Adult entertainment establishment not located within one thousand (1,000) feet of an existing private residence, school or place of worship; and

xxv. Funeral home.

### 14. Industrial Zone (IND).

#### a. Permitted Uses.

- i. Research facilities;
- ii. Accessory uses and buildings including minor or major home occupations.

#### b. Special Exception Uses.

- i. Manufacturing, processing and treatment;
- ii. Municipal and governmental uses;
- iii. Public utility facilities including substations, pumping stations, and sewage treatment plants; and
- iv. Specialty food and/or beverage facility.

### 15. Mixed Use Zone (MU).

#### a. Permitted Uses.

- i. Agricultural uses and practices, except a piggery or the raising of poultry for commercial purposes;
  - ii. Art studio/gallery;
  - iii. Church or institution of religion;
  - iv. Research and development;
  - v. Public open space or recreation;
  - vi. Municipal or state building or use;
  - vii. Institution of philanthropic, fraternal, political, or social nature, which is not used for residential or overnight occupancy;
  - viii. Timber harvesting;
  - ix. Home occupations;
- (Ordained 9/26/11; effective 10/27/11)

#### b. Special Exception Uses.

- i. Dwellings, limited to the following:
  - (a) Single-family dwellings on lots of record as of April 1, 2004,
  - (b) Dwelling units on the upper floors of a mixed-use building that is served by public sewerage;
- ii. Business and professional offices;
- iii. Boat yard;
- iv. Grocery store, food store, convenience store or neighborhood grocery;
- v. Day care facility;
- vi. Commercial parking lot or garage;
- vii. Hospital;
- viii. Inn;
- ix. Institution of education, which is not used for residential or overnight occupancy;
- x. Mass transit station;
- xi. Restaurant;
- xii. Convalescent care facility, long-term nursing care facility;
- xiii. Personal services;
- xiv. Repair service;



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- xv. Selected commercial recreation;
- xvi. Theater;
- xvii. Veterinary hospital;
- xviii. Accessory buildings and uses;
- xix. Retail use, a single use not to exceed fifty thousand (50,000) square feet in gross floor area;
- xx. Eldercare facility;
- xxi. Housing for elderly as part of a mixed use project;
- xxii. Commercial kennel;
- xxiii. Motel or hotel;
- xxiv. Public utility facilities including substations, pumping stations, and sewage treatment facilities;
- xxv. Shop in pursuit of trades;
- xxvi. Transportation terminal;
- xxvii. Wholesale business;
- xxviii. Warehousing/storage;
- xxix. Construction services;
- xxx. Funeral home;
- xxxi. Research and development; and
- xxxii. Specialty food and/or beverage facility.  
(Ordained 9/26/11; effective 10/27/11)

### 16. Mixed Use - Badger's Island Zone (MU-BI).

- a. Permitted Uses.
  - i. Public open space and recreational uses;
  - ii. Shuttle service and ride sharing facilities
  - iii. Aquaculture;
  - iv. Research laboratories.
  
- b. Special Exception Uses.
  - i. Dwellings including modular homes in a single-family or duplex configuration, excluding mobile homes;
  - ii. School, municipal or state building or use, church, or any other institution of educational, religious, philanthropic, fraternal, political or social nature;
  - iii. Accessory buildings and uses;
  - iv. Home occupations;
  - v. Day care facility;
  - vi. Retail business and service establishments, but excluding those with any outdoor sales and/or storage;
  - vii. Business and professional offices;
  - viii. Restaurant with the hours of operation limited to five a.m. to eleven p.m. but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle;
  - ix. Art studio/gallery;
  - x. Grocery store, food store;
  - xi. Personal, business or service;
  - xii. Inn;
  - xiii. Boat yard;
  - xiv. Marina;
  - xv. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;

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- xvi. Commercial recreational use;
- xvii. Place of assembly;
- xviii. Theater;
- xix. Public utility facilities, including substations, pumping stations, and sewage treatment facilities; and
- xx. Specialty food and/or beverage facility.

### 17. Mixed Use- Kittery Foreside Zone (MU-KF).

#### a. Permitted Uses.

- i. Public open space recreational uses;
  
- b. Special Exception Uses.
  - i. Dwellings in a single-family or duplex configuration, excluding mobile homes;
  - ii. Retail business and service establishments excluding those where the principal activity entails outdoor sales and/or storage;
  - iii. Business and professional offices, including financial institutions;
  - iv. Shuttle service and ride sharing facilities;
  - v. Restaurant, coffee shop, bakery, cafes and similar food service operations but excluding drive-in facilities;
  - vi. Art studio or gallery;
  - vii. Grocery store, food store;
  - viii. Personal and/or business service;
  - ix. Inn;
  - x. Commercial or private parking lots;
  - xi. Marinas;
  - xii. Commercial boating and fishing uses and facilities, provided only incidental cleaning and cooking of seafood occur at the site;
  - xiii. Home occupations;
  - xiv. Place of assembly;
  - xv. Theater;
  - xvi. Research and development;
  - xvii. Public utility facilities, including substations, pumping stations, and sewage treatment facilities; and
  - xviii. Specialty food and/or beverage facility.

### 18. Transportation – Maine Turnpike (T-MT).

#### a. Permitted Uses.

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

#### b. Special Exception Uses. None

#### c. Special Exception Uses. (included in Section B, above)

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**D. Standards. (Effective 2/28/15)**

**1. Minimum lot standards**

**a. Minimum lot size by base zone, within the**

Residential–Village (R-V) zone	8,000 square feet
Residential–Urban (R-U) zone	20,000 square feet
Residential–Rural (R-RL), Residential–Suburban (R-S) and Residential–Kittery Point Village (R-KPV) zones	40,000 square feet
Commercial (C1), (C2), (C3), Industrial (IND), Business-Local (B-L) and Business-Local 1 (B-L1) zones	60,000 square feet
Residential-Rural Conservation (R-RLC) zone	80,000 square feet
Business-Park (B-PK) zone	120,000 square feet
Mixed-Use Badgers Island (MU-BI) zone	6,000 square feet
Mixed-Use Kittery Foreside (MU-KF) zone	10,000 square feet

**b. Minimum land area per dwelling unit by base zone, within the**

Residential–Village (R-V) zone	8,000 square feet
Business-Park (B-PK) zone	10,000 square feet
Residential–Urban (R-U), Business-Local (B-L) and Business-Local 1 (B-L1) zones	20,000 square feet
Mixed Use (M-U), Residential–Rural (R-RL), Residential–Suburban (R-S) and Residential–Kittery Point Village (R-KPV) zones	40,000 square feet.
Residential-Rural Conservation (R-RLC) zone	80,000 square feet.
Mixed-Use Badgers Island (MU-BI) zone	6,000 square feet
*3,000 square feet for the first two dwelling units	
Mixed-Use Kittery Foreside (MU-KF) zone	10,000 square feet

**c. Minimum Shore frontage by base zone per lot and dwelling unit**

Mixed Use-Badgers Island (MU-BI)	25 feet
Residential-Village (R-V), Residential Urban (R-U), and Mixed-Use Kittery Foreside (MU-KF) zones	50 feet
Mixed Use (M-U), Commercial (C1), (C2), (C3), Industrial (IND), Business-Park (B-PK), Business-Local (B-L) and Business-Local 1 (B-L1) zones (shore frontage per lot)	150 feet
(shore frontage per dwelling unit)	50 feet
Residential-Rural (R-RL), Residential-Suburban (R-S), and Residential-Kittery Point Village (R-KPV) zones (shore frontage per lot)	150 feet
(shore frontage per dwelling unit)	100 feet
Residential-Rural Conservation (R-RLC) zone (per lot and dwelling unit)	250 feet

The minimum shore frontage requirement for public and private recreational facilities is the same as that for residential development in the respective zone.

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d. The total footprint of devegetated area must not exceed twenty (20) percent of the lot area located within the Shoreland Overlay Zone, except in the following zones:

i. Mixed Use -Badgers Island (MU-BI) and Mixed Use Kittery Foreside (MU-KF) Zones, where the maximum devegetated area is sixty (60) percent. The Board of Appeals may approve a miscellaneous appeal application to increase allowable devegetated area in the Mixed Use -Badgers Island (MU-BI) zone to seventy (70) percent where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.

ii. Commercial (C1, C-2, C-3), Business – Local (B-L and B-L1), and Industrial (IND) Zones where the maximum devegetated area is seventy (70) percent.

iii. Residential – Urban (R-U) Zone where the lot is equal to or less than ten thousand (10,000) square feet, the maximum devegetated area is fifty (50) percent.

### 2. Principal and Accessory Structures – Setbacks and Development.

a. All new principal and accessory structures (except certain patios and decks per Section 16.3.2.17.D.2.b) must be set back at least one hundred (100) feet, horizontal distance, from the normal high water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland, with the following exceptions:

i. In the Mixed Use – Badgers Island and Kittery Foreside Zones, the setback requirement is seventy-five (75) feet, horizontal distance, from the normal high-water line of any water bodies, or the upland edge of a wetland unless modified according to the terms of Sections 16.3.2.14.D & E and 16.3.2.15.D.

ii. In the Resource Protection Overlay Zone the setback requirement is 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in the zone, in which case the setback requirements specified above apply.

iii. The water body, tributary stream, or wetland setbacks do not apply to structures that require direct access to the water body or wetland as an operational necessity, such as piers and retaining walls, nor does it apply to other functionally water-dependent uses, as defined in 16.2.2.

b. Accessory patios or decks no larger than five hundred (500) square feet in area must be set back at least seventy-five (75) feet from the normal high water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland. Other patios and decks must satisfy the normal setback required for principal structures in the Shoreland Overlay Zone.

c. If there is a bluff, setback measurements for principal structures, water and wetland must be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and Code Enforcement Officer are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant is responsible for the employment a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, or a Maine State Geologist qualified to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

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d. Public access to the waterfront must be discouraged through the use of visually compatible fencing and/or landscape barriers where parking lots, driveways or pedestrian routes abut the protective buffer. The planting or retention of thorny shrubs, such as wild rose or raspberry plants, or dense shrubbery along the perimeter of the protective buffer is encouraged as a landscape barrier. If hedges are used as an element of a landscape barrier, they must form a solid continuous visual screen of at least three feet in height immediately upon planting.

e. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed eighty (80) square feet in area nor eight (8) feet in height, and must be located as far from the shoreline or tributary stream as practical and meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case will the structure be allowed to be situated closer to the shoreline or tributary stream than the existing principal structure.

f. The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.

g. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided the:

- i. structure is limited to a maximum of four feet in width;
- ii. structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. §480-C); and
- iii. applicant demonstrates that no reasonable access alternative exists on the property.

h. If more than one dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel in the Shoreland Overlay zone, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

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Vote of 5 in favor 1 against 0 abstaining

Mr. Harris opposed

APPROVED BY THE KITTERY PLANNING BOARD ON June 8, 2017

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Ann Grinnell, Planning Board Chair

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

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**ITEM 3 – Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone**

Action: Accept or deny application. Schedule a public hearing. Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code, to define and allow Boutique Hotels in the Mixed-Use Kittery Foreside Zone.

Lea Rachin, representing the developers, stated they are requesting proposed amendments to allow a boutique hotel, with no more than 35 guest rooms, be permitted as a special exception in the shoreland overlay zone. Parking standard would be one parking space per guest room. Ms. Rachin stated a small upscale hotel is missing in this area and one would promote the neighborhood to regional visitors. She added it is part of a goal in the Comprehensive Plan. The applicants have met with the Economic Development Committee and sent a letter of support. The applicant is proposing one spot per guest room and discussed with the EDC to decrease this to half a spot in keeping with the goals under the Comprehensive Plan.

Chair Grinnell stated she would like to hear input from businesses and the public. Ms. Rachin added the developers have spoken to business partners and have letters of support. Vice Chair Kalmar pointed out changing the code would have a long-term impact.

Mr. Dunkelberger moved to extend the meeting to 10:15 p.m.  
Ms. Driscoll-Davis seconded the motion.

The motion carried 6-0-0.

- 155 4. The owner and/or developer, in an amount and form acceptable to the town manager, must file with the  
156 municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements  
157 and site erosion and stormwater stabilization, including inspection fees for same.
- 158 5. This approval by the Town Planning Board constitutes an agreement between the Town and the  
159 Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any  
160 Conditions of Approval.

The Planning Board authorizes the Planning Board Chair, or Vice Chair, to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

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Vote of 6 in favor 0 against 0 abstaining

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APPROVED BY THE KITTERY PLANNING BOARD ON June 22, 2017

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Ann Grinnell, Planning Board Chair

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Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

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## 172 BOARD MEMBER ITEMS

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### 174 a. **Town Code Amendment in Foreside**

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176 Discussion of the next step regarding the Town Code amendment in the Foreside ensued. Mr. Di  
177 Matteo recommended the applicant consider what was discussed at the workshop tonight and  
178 return to the Board for an action. The Board discussed obtaining opinions from residents in the  
179 foreside to help them make an informed decision. Mr. Di Matteo also recommended to the  
180 Board to treat the current application as other applications. A suggestion of looking at a smaller  
181 number of rooms and using the special-exception if necessary was made. The number of short-  
182 term rentals will be brought to the Board in August or September. Further discussion of a  
183 timeframe to work on consideration of the ordinance change ensued.

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229 other small items including boater items. The Ms. Ryan handed out a picture she received from  
230 Mr. Frisbee showing a store existed in the building in the past.

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232 **Mr. Dunkelberger moved to approve special exception request dated July 6, 2017 for**  
233 **owner, Chatham Street, LLC, and applicant, Ann Kendall, requests consideration of a**  
234 **special exception use to operate a small store and take-out ice cream restaurant located at**  
235 **88 Pepperrell Cove (Tax Map 27, Lot 49A) in the Business Local (B-I.) and Shoreland**  
236 **Overlay (OZ-SL-250) zone.**

237 **Mr. Alesse seconded the motion.**

238

239 Ms. Driscoll-Davis expressed her pleasure that they are in Kittery Point and on this project. The  
240 applicant has negotiated a long-term lease a parking lot less than a mile away and is considering  
241 bringing valet service. Septic has been looked at and has been approved for what they are  
242 planning. Trash will be located in a small shed.

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244 **The motion carried 7-0-0.**

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246 **Findings of Fact**

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251 **Item 7 – Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed use Kittery Foreside**  
252 **Zone, 16.3.2.17 Shoreland Overlay Zone.**

253 **Action: Discussion. Nor forma action. Applicant, Wallingford Square, LLC, requests consider**  
254 **of an amendment to Title 16, land use and Development Code to allow hotels in the Mixed-Use**  
255 **Kittery Foreside Zone.**

256

257 **Chair Grinnell stated the Board had a workshop on this item in June. The Applicant is asking to**  
258 **have the code changed to allow a 35-room hotel in the foreside zone.**

259

260 **Ms. Driscoll-Davis asked if there was a determination of how many B & B's and accessory**  
261 **dwelling in the foreside now. Mr. Di Matteo replied the applicant indicated they would be**  
262 **willing to provide the information. Vice Chair Kalmar stated her concern with the residential**  
263 **quality of the foreside and would like to know how they will mitigate the impact to the**  
264 **residential character of the area. Mr. Dunkelberger suggested first determining if they want**  
265 **hotels in the foreside.**

266

267 **Ms. Driscoll-Davis stated she has not heard any residents from the foreside in favor. She**  
268 **reviewed the current and upcoming accommodations in the area and questioned the need for**  
269 **hotels in the foreside. She has heard from residents they do not want Kittery to be a tourist town.**  
270 **Mr. Alesse is in favor of organic and slow growth. He would like to hear from the applicant**  
271 **what the minimum number of rooms could be.**

272

273 **Mr. Harris is not in favor and believes there would be traffic and parking issues.**

274



275 The Chair opened the public hearing.

276

277 Tom Emerson, Economic Development Committee and Comprehensive Plan Committee  
278 believes the Board needs to define hotel on the potential impact to the character and community.

279

280 Terry Lochhead, foreside resident, explained scale came up with the foreside planning meetings  
281 and she urged the Board to look at that. She believes 35 rooms would be too large.

282

283 Durward Parkinson, representing the applicant, asked when this item can be moved to a public  
284 hearing. Chair Grinnell stated the Board has not decided what to do and is not ready. Mr. Di  
285 Matteo explained the reason of this meeting is to solicit questions for the applicant who can  
286 return at the next meeting. Chair Grinnell stated she does not want this to be a timeframe item  
287 because it is a major item.

288

289 Chair Grinnell commented the Town has taken 20 years with ordinances that are well crafted and  
290 in place from public comment to preserve the character of the foreside. She hears from residents  
291 they don't want to be Portsmouth. She added Kittery invited tourists in 1980 for the malls and  
292 most buildings in the zone are filled with residents. She has spoken with businesses and they are  
293 thriving and growing.

294

295 Mr. Dunkelberger read a section from the 2002 Comprehensive Plan which is encouraged growth  
296 opportunities. Mr. Di Matteo reviewed the purpose of the zone for the foreside and stated the  
297 question should be how do hotels fit into the definition of the code.

298

299 Ms. Day would like the applicant to expand on what the demand analysis is for a 35-room hotel  
300 and a justification of the location. Chair Grinnell stated if they build it people will come. She  
301 added the applicant is welcome to develop in Kittery with a plan that is within the code.

302

303 **ADJOURNMENT**

304

305 **Mr. Alesse moved to adjourn the meeting.**

306 **Mr. Dunkelberger seconded the motion.**

307

308 **The motion carried 7-0-0.**

309

310 The Kittery Planning Board meeting of July 27, 2017 adjourned at 7:45 p.m.

311

312 Submitted by Mary Mancini, Minute Recorder, on August 3, 2017.

313

314 Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst  
315 every effort has been made to ensure the accuracy of the information, the minutes are not  
316 intended as a verbatim transcript of comments at the meeting, but a summary of the discussion  
317 and actions that took place. For complete details, please refer to the video of the meeting on the  
318 Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>

319

Ms. Driscoll-Davis requested wooden guardrails for the culvert. Mr. Clifford stated he does not like using wooden guardrails and would speak to the developer. Discussion of trimming the trees ensued.

Mr. Alesse moved to approve with conditions and preliminary subdivision plan dated June 22, 2017 from Owners Landmark Properties & Kingsbury and Veronica Bragdon, and applicant, Chinburg Builders, Inc., for a 20-lot cluster subdivision located on Betty Welch Road (Tax Map 66 Lots 2A, 8 & 8A in the Residential Rural and Shoreland Overlay Zones. Ms. Day seconded the motion.

Chair Grinnell commented she will vote in favor but has serious concerns about the home owner's association documents.

The motion moved 6-0-0.

## OLD BUSINESS

### ITEM 2 – Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone

**Action: Review Amendment, Schedule a public hearing.** Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code, to allow Hotels in the Mixed-Use Kittery Foreside (MU-KF) Zone.

Leah Rachin, Bergen & Parkinson, LLC, representing the applicant, gave an overview of the of the proposal of applicant Barrett Bilotta to allow a boutique hotel to be developed in the Foreside. She added the application was submitted in May and this is the fourth time they have been before the Board. The applicant has responded to questions from the Board which are included in the Board packet. The following is a summary:

- *How would hotels not impact the character, scale and residential community in the Foreside?*
  - The Foreside already has performance standards in place to address the scale and fitting in with the neighborhood. It is a mixed-use zone – not residential only. The past and current Comprehensive Plans spoke of Kittery Foreside being a lively, visitor-friendly zone.
- *How hotels would benefit the character of the Foreside?*
  - The Foreside is becoming increasingly vital and the applicant believes a small hotel would enhance the area. Data shows the shipyard employs 4,000 to 4,500 people and a hotel can serve as a destination for business trips for the shipyard along with serving tourists.
- *How is 35-room hotel sustained?*
  - The applicant calculated what would make the hotel successful and consideration of demand. They have had conversations from surrounding business owners and took

into consideration the number of employees at the shipyard. Residents could use the hotel as well for guests.

- *How does current traffic conditions support the hotel?*
  - Impact of traffic for a small hotel will be small compared to the shipyard, which a current study calculated to be 2,000 trips per day.
- *How many other land parcels within the Foreside could be utilized to construct a similar scale hotel?*
  - After looking at overlay design standards and other factors, the applicant found three parcels. One is owned by the State and two are wetlands.
- *How many rooms are being leased in the method of air B&B and accessory dwellings?*
  - The applicant stated there are 20- 25 units of which 85% are in dwelling units.
- *How does the addition of a hotel use relate to purpose of the zone as it is described in the Code?*
  - Ms. Rachin explained why the definition of the Kittery Zone Ordinance for the Foreside zone fits the purpose and is consistent with the historical use of the building. In the past, the building was used as a hotel and is consistent because there is an inn located in the area.
- *Are there ordinance-related strategies to mitigate impact of hotels?*
  - The hotel can be a special exception which would add more limitations and regulations. The Applicant is open to this idea and understand the concern for parking. It is an issue that all permitted use businesses have a problem meeting the criterial.

Ms. Rachin went over Mr. Di Matteo's suggestions. The applicant would like to hear from Board of what is a reasonable number for rooms would be. The applicant also expressed they are willing to work with the Board and would very much like the opportunity for a public hearing.

**Mr. Dunkelberger moved to schedule a public hearing for Town Code Amendment 16.2.2 Definitions 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone for September 28, 2017.**

**Ms. Day seconded the motion.**

**Board members comments:**

- Vice Chair Kalmar – supports an inn with a range of 15 to 20 rooms. She would like to honor the need for rooms and not encourage people to obtain many lots. She also requested omitting the residential manager, making it a special use exception, and have a parking plan.
- Mr. Dunkelberger - would add to special exception use parking requirements, height limitations and available land.

- Ms. Driscoll-Davis -likes what Vice Chair Kalmar said concerning displacing workforce housing. She is concerned with parking and does not like valet parking for this because people may not opt to have their car parked by the valet leaving them to find parking locations on the street. She would like limitations added as to how far apart another inn would be.
- Mr. Harris - still thinking about it.
- Mr. Alesse – likes having a limitation on the number of inns and questioned the concern for the number of rooms. He prefers to wait until the public hearing to hear what their concerns about parking are.
- Ms. Day – is more concerned with the standards of what will look like. Should look like it fits into the Foreside. She is also concerned with the impact to traffic and would like to know who will be using the hotel.
- Chair Grinnell – stated she appreciates what the applicant has said regarding wanting to work with the Town. She doesn't like the word hotel and has never heard the word mentioned during comprehension plan meetings. She believes an *inn* would fit better in the foreside than a *hotel* and explained why she couldn't support a hotel. She is also concerned for the parking.

Discussion ensued of the best way to bring the new concept forward to a public hearing. Mr. Di Matteo explained he needs time to post a public hearing notice of the amended application.

Ms. Rachin offered to prepare an amended application. Ms. Driscoll-Davis reminded the applicant of the Code's definition of a hotel is 20 or more rooms.

**Mr. Dunkelberger moved to remove his motion to schedule a public hearing for Town Code Amendment 16.2.2 Definitions 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone for September 28, 2017.**

**Ms. Day seconded the motion**

Mr. Harris added to consider the proximity to the shipyard.

Discussion of the possibility of combining apartment units and inn rooms and the benefits for the businesses ensued.

After further discussion, it was decided the applicant will amend their application for the September 28, 2017 meeting.

**Mr. Dunkelberger moved to schedule a public hearing for Town Code Amendment 16.2.2 Definitions 16.3.2.15 Mixed Use Kittery Foreside Zone, 16.3.2.17 Shoreland Overlay Zone for September 28, 2017.**

**Ms. Day seconded the motion**

**The motion carried 7-0-0.**

## BOARD MEMBER DISCUSSION

The Chair opened the public comment.

Earl Dean Wells, Conservation Commission, handed out a memorandum from the Commission regarding Huntington Run which is attached to these Minutes.

There being no further comment, the Chair closed the public comment section.

## OLD BUSINESS/PUBLIC HEARING

### **ITEM 1 - Town Code Amendment - 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone**

Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code to allow as a special exception Inns with greater than 12 and no more than 30 rooms in the Mixed-Use Kittery Foreside (MU-KF) Zone. Agent is Leah Rachin, Bergen & Parkinson, LLC.

Ms. Rachin gave a summary of their initial application and of their proposed amendment to expand the definition of an inn to the Land Use and Development Code. She added tonight's meeting is the fifth time they have been in front of the Board regarding this item.

Ms. Rachin explained the proposal will allow inns that are between 12 and 30 rooms be a special exception within the mixed-use Foreside Zone. The proposed amendment adds additional criteria and stringent rules for inns of this kind. They have listened to the Board's concerns. A requirement of a parking management plan, which is required to be approved prior to any inn of this kind, was added to the proposal. Ms. Rachin added there are permitted uses currently in the zone that would need more parking than their plan and they have included a 1,000-foot buffer to address the concern of too many of this kind of inn being allowed in the foreside. Ms. Rachin read from the current and proposed Comprehensive Plan and believes their plan will enhance the area and is compatible of the area.

The Chair opened the public hearing.

Deane Rykerson, resident of Kittery Point and State Representative of District 1, commented he has not have a problem with economic revitalization or hotels but they need to look at the effect for parking and affordable housing program. He recommended placing conditions and require this developer to initiate a shuttle for all people in the foreside for parking. Mr. Rykerson recommended adding affordable housing as a condition of the application.

Resident Roger Cole commented of a work group that Town is spending money and requested the Board to wait until the recommendations come from the group. He added there is nothing in the pending Comprehensive Plan that the Town should change the town use code to serve applicants. He stated the foreside has a very healthy economic growth. There are current short-term accommodations available in many in-home units. He believes the applicant bought the property knowing of the code and now wants to change it. There are forums stating to keep

mixed-use housing and work force housing integrated into the district. He requested the Board asked the applicant to withdraw and look at workforce housing.

Shannon Hill, former business owner in the foreside, mentioned the Comprehensive and the Foreside Study are going and she agrees to ask the Board to wait. She added Kittery does not owe these people only come into the town and done research and require them to change their zoning laws.

Susan Tavelon, 64 Government Street, only someone who is not for the foreside says hotel will revitalize the foreside. She referred to the Comprehensive Plan and the Kittery Foreside Committee along with the Rice Library referendum and requested to allow these projects to end before a decision is made regarding this item. She also stated her concerns with parking and the congestion of the delivery trucks.

Duncan McCallum, standing in for his wife who owns property on Stimson Street, stated he fought against the overgrowth in Portsmouth. Wife is renting the house now. Fought runaway projects in Portsmouth. They have run out of land in Portsmouth and are turning their attention to Kittery. He stated a large in does not belong here and will serve as a precedence for the future. He said it will destroy the character of Kittery.

Aaron Trainor, Government Street, asked if preserving the character of the Foreside includes a commitment to renovate instead of replacing the existing building. Chair Grinnell responded the code would not prevent developers from replacing a building.

Matt Brock Kittery Point, spoke of the lack of a plan in Kittery for affordable housing or workforce housing. He added people have lost their homes from the property being purchased and the applicant wants something, the Town should get something back. He doesn't believe the time is now for a decision and questioned why the proposal to change the ordinance came after the purchase. He asked the Board to consider more detail on project before going forward.

Lucinda Schlaffer, Kittery Point, spoke of her participation in the Foreside Group Study and listed other planning studies she has taken part in, which had a good number of citizens come out and express ideas. She is an architect and explained the first thing to look at is what is allowable in the zone before you purchase properties. The applicant is out of sequence. Workforce housing has been the number one issue that has come out of the studies and there was no mention of a larger inn in her recollection. She recommends allowing the current projects completed before deciding on the ordinance.

Kathy Wolfe, foreside resident, asked why an amendment instead of a request of a variance and if the Planning Board denies this, will it still go before Town Council. She also questioned if the owner will live at the inn as and owner lives at inn. She stated her concern of seeing Kittery changing as Portsmouth has and would prefer this be put on hold, have less rooms and add some workforce housing.

Chair Grinnell stated the application statute for variances cannot be changed so the plan if board denies plan because it is a recommendation it will go to the Town Council.

Terry Lochhead, 16 Old Armory Way, endorsed the previous comments from residents and this item be held off. She also endorses affordable housing.

Laney McCartney questioned why the applicant needs more than 12 rooms and following the code. She is not in support of this code amendment and is concerned with the scale. She added losing the demographic will price people out of the town.

Holly Zurr reminded the Board the Town is in the middle of a traffic study for the foreside.

Lynn Rosoff, 61 Tilton Street, agrees with the idea about scale and she feels it is too big and the area will be more congested with traffic. She likes the idea of 12 rooms.

Ms. Richen responded to the comments:

- The applicant stated the project would “enhance” the vitality of the area.
- The proposed changes to the amendment include a reduction of the number of rooms, a limitation on the number of inns like this within a 1,000-foot buffer. Ms. Richen added the buffer was at the suggestion of the Planning Board and they will strike this out if needed.
- Workforce housing - there is no requirement for workforce housing due to owner purchasing the property.
- The studies have been going on for a long time and there is a process the Town has established. They have gone through the process and request the process for amendments be followed.
- Parking - the ordinance requires a permitted use before applying. The parking plan is not developed now because it is not a permitted use. Current parking standards and those being suggested would need to be met. She listed the permitted uses in the zone including a grocery store, theaters and restaurants. Ms. Rachin added just because these are listed, does not mean it will be allowed because of regulations.
- Opening the flood gates - larger scale would not be consistent with the stated goals of the foreside and permitted uses.

Comments sent via email are attached to these Minutes.

There being no further comment, the Chair closed the public hearing.

#### Board Discussion

Chair Grinnell explained the 1,000-foot buffer was brought up at the last meeting with the applicant. Also, the applicant agreed to change the word “hotel” to “inn” with 12 to 20 rooms. Ms. Driscoll-Davis explained she suggested a 500-foot buffer to avoid having more of this kind of inn added in the Wallingford Square area. She now feels the statement would not be fair to the abutters. Mr. Alessi added changes were not to be anti-competitive it was for the town’s benefit not the applicants.

Mr. Dunkelberger stated there are current parking restrictions that limit growth and he would like the last paragraph of the proposed amendment be struck. Mr. Di Matteo explained a meeting has been scheduled to present to the public recommendations of the Foreside Study on October 25<sup>th</sup>.

Chair Grinnell realizes they have met with the applicant five times and explained government moves slowly.

Vice Chair Kalmar commented of her concern that the applicant is proposing over 20 rooms now and she would like to see fewer than 20. Another concern is the impact to parking and she proposed the following addition from 13.3.2.15(e) be the new number 5: Commercial and Private Parking Lots - *"The creation of a surface parking lot as a principal use is prohibited where an existing building is displaced on a property that fronts along the following streets: Walker, Government, Wallingford Square and Wentworth. The prohibition includes accessory parking for use on another lot.* Vice Chair Kalmar explained this will ensure buildings aren't destroyed to increase surface parking. The applicant agreed to add her proposal as part of their amendment. Mr. Dunkelberger expressed he would like to have stronger language for the parking management plan. Vice Chair Kalmar requested to see commercial added to the list of private lots if a lot was to be used as a parking outside of the area. The applicant agreed.

Chair Grinnell stated she does not have all the information to decide tonight because the studies for foreside have not been completed and she does not want to shortcut resident initiatives. Ms. Rachin stated they are asking for due process and a recommendation be made this evening. Discussion of the timeframe and the importance of being consistent ensued. Mr. Di Matteo explained the Board should use the same procedure as plan applications and a continuance of the plan is allowed for 90 days, if needed and a mutual agreement exists. Ms. Rachin stated the applicant is requesting a decision tonight.

The Board asked if it is possible to have an inn manager be within a reasonable driving distance instead of requiring an owner live at the inn. Ms. Rachin stated there would always be a manager available. The applicant stated less than 20 rooms is not feasible. The applicant agreed to remove the word "reasonably" on Line 125. Discussion of keeping the 1,000 foot buffer ensued.

Mr. Harris commented housing and parking is a problem in the foreside and the Comprehensive Plan hasn't been approved. He believes there is not enough room in the area for what they want. He hasn't heard any one tonight saying this is a good idea.

Mr. Dunkelberger commented he appreciates the work done between the Board and applicant but believes a 1,000-foot buffer is too much. He would like to see the Foreside Study before he can decide. Mr. Alessi agreed about seeing the Foreside Study first as well. Mr. Di Matteo stated the Board can itemize if they vote against this so Town Council has clarity. After further discussion, the applicant agreed to wait until after the Foreside Study meeting on October 25<sup>th</sup> with the condition that the Board gives their decision at the November 9<sup>th</sup> Board meeting. Mr. Di Matteo added he would like to have a workshop before the November 9<sup>th</sup> meeting to go over the recommendations from the Foreside Study meeting.



The following changes to the proposed document were agreed upon:

- Lines 147 - 151 will be taken out;
- Keep the number of guest rooms to 12 with no more than 30;
- Line 125 - take out "reasonably";
- Addition under number 5 prohibiting destroying a structure for parking lots in certain areas. agreement that the addition to a new number 5
- Line 129 - use and/or in place of "or".
- Line 678 - add would have a manager available 24/7.

**Mr. Dunkelberger moved to continue the adoption of the proposed amendments to Title 16 regarding Inns within sections: 16.2.2 Definitions and 16.3.215 Mixed Use Kittery Foreside Zone, to November 9, 2017 and make a final decision at that meeting.**

**Mr. Alessi seconded the motion.**

**The motion carried 5-1-0.**

## **Item 2- Wood Island Life Savings Station - Shoreland Development Plan - Sketch Plan Review**

Action: Accept or deny application: approve or deny concept plan. Owner, Town of Kittery, and Applicant, Wood Island Life Saving Station Association (WILSA), requests consideration of the reconstruction of the existing Historic building marine seawalls and railway to be used as a museum located on Wood Island, Tax Map 51, Lot 14, in the Residential - Rural Conservation (R-RC) and the Shoreland and Resource Protection Overlay (OZ-SL-250'/OZ-RP) zones. Agent is Sam Reid, WILSA and Tristan Donovan, Tighe & Bond.

Chair Grinnell explained in 2009 she worked to negotiate the agreement with WILSA and was on the Wood Island Advisory Committee. The group was disbanded and she feels she can review this item objectively. The Board agreed.

Sam Reid thanked the Town for helping with their application. He reported the Maine National Guard is planning to come this spring with 50 men and women to help with the project for 30 days. Mr. Reid introduced the team who included members of their Board of Directors, Butch Rickey, project manager, Jim White, videographer, Duncan Malore and Tristen Donovan from Tighe & Bond, Attorney Alan Shepherd and Captain Doan and Captain Howard of the National Guard.

Mr. Reid gave a history of the island and the creation of WILSA. He pointed out the concession agreements that are included in the board packet and gave an update on the project.

A waiver for the high intensity class A soil survey will be submitted because there is adequate information about the soil for the septic system. The subservice wastewater system will be explained in future documents.

The following staff comments were addressed:

- The Board decided the museum be designated as public recreation.

3. One (1) mylar copy of the final plan and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department for signing. Date of Planning Board approval shall be included on the final plan in the Signature Block. After the signed plan is recorded with the York County Registry of Deeds, a mylar copy of the signed original must be submitted to the Town Planning Department.
4. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating as elements the Development Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

## OLD BUSINESS

### ITEM 2 – Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone

Action: Review Amendment and make recommendation to Town Council. Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code, to allow as a special exception Inns with greater than 12 and no more than 30 rooms in the Mixed-Use Kittery Foreside (MU-KF) Zone. Agent Leah Rachin, Bergen & Parkinson, LLC

Ms. Rachin, representing the applicant, reviewed the concerns and input they received from the Board. She explained the amendment asks to allow between 12 and 30 rooms as a special exception in the mixed-use zone in the Foreside. She reviewed how this item has evolved. The applicant has reduced the number of rooms from their original request based on concerns raised. She reviewed their attempts to address concerns and added special exception requires a more stringent review. The applicant has agreed there will be an on-duty manager added which was a request from a previous Board meeting and a parking management plan will be required. She referred to the information heard at tonight's workshop meeting for the Foreside Study of the possibility of adding 100 and 150 new parking spaces. She also referred to the comprehensive plans and a letter submitted stating inns of a limited size would preserve the quaintness of the town.

Vice Chair Kalmar requested the applicant strike Item 13 and add the language to Number 4 under special exception. Ms. Rachin pointed out the minutes dated September 28, 2017 should read 12 to 30 rooms not 12 to 20 rooms.

Chair Grinnell commented her concerns have not been addressed because an inn of that size is not consistent with what exists in the Foreside. She added there are two comprehensive plans

and a foreside forum, and she did not hear from constituents they want a change. She feels her vote should reflect the documents and what she has heard at the public hearings.

Vice Chair Kalmar requested the definition proposed be changed to “Inn means a commercial place of lodging with a manager on call 24 hours, 7 days a week which has no more than 30 guest rooms”. The applicant agreed to revise the definition.

Ms. Driscoll-Davis commented of her appreciation of the efforts made by the applicant and explained her concern with the number of rooms at 30. She added the Board had recommended no more than 20. She also explained her concern of the parking issues in the Foreside and the people that were recently displaced from the property has affected her opinion of the project. She added most people that commented were not in favor.

Chair Grinnell asked why Line 138 was added stating an applicant may request a decrease in the number parking places to the Board of Appeals. The applicant believes it was from the cut and paste from previous provisions. Chair Grinnell commented it should not be in this special exception amendment.

Vice Chair Kalmar reiterated her concern about the guest room number limitation based on the current square footage footprint limit. She added she is also concerned of the buffer being removed even though it was requested by the Board. The applicants stated they are willing to add the buffer language back if that is what the Board would want.

**Mr. Dunkelberger moved to recommend to Town Council, with the agreement to the changes, the adoption of the proposed amendments to Title 16 regarding Inns within sections: 16.2.2 Definitions and 16.3.2.15 Mixed Use Kittery Foreside Zone, as presented at the November 9, 2017 Planning Board meeting.**

**Mr. Harris seconded the motion.**

Mr. Alesse pointed out he does not believe parking would be as bad as previously thought because the previous tenants had cars. He added the inn would not be fully booked all year long, so parking is not as bad as assumed. He will vote for the amendment.

Mr. Dunkelberger commented on the applicant’s good work and added it is an ordinance change and is not tied to any project.

Chair Grinnell added the importance of keeping the process of the Foreside Study going and it is not the time to make a major change. She cannot vote in favor.

**The motion did not carry 3-3-0.**

**Town of Kittery  
Planning Board Meeting  
November 9, 2017**

**Town Code Amendment – 16.2.2 Definitions, 16.3.2.15 Mixed Use Kittery Foreside Zone**

Action: Review Amendment and make recommendation to Town Council. Applicant, Wallingford Square, LLC, requests consideration of an amendment to Title 16, Land Use and Development Code, to allow as a special exception Inns with greater than 12 and no more than 30 rooms in the Mixed-Use Kittery Foreside (MU-KF) Zone. Agent Leah Rachin, Bergen & Parkinson, LLC

**PROJECT TRACKING**

REQ'D	ACTION	COMMENTS	STATUS
YES	Initial Planning Board Meeting	Scheduled for 6/8/2017	HELD
YES	Subsequent Planning Board Meetings	Workshop scheduled for 6/22/2017 Follow-up meeting scheduled for 7/27/17; continued to 8/24 meeting	HELD.
YES	Public Hearing (special notice requirements)	Scheduled for 9/28/2017; legal ad in Portsmouth Herald on 9/15 and 9/20	HELD
YES	Review/Approval/Recommendation to Town Council	Scheduled for 9/28, continued to 11/9/2017	PENDING

**Background**

The applicant has submitted a narrative requesting the Board to consider a code amendment to allow hotels as a permitted use in the Mixed Use Kittery Foreside Zone and a special exception use in the Shoreland Overlay and Mixed Use Kittery Foreside zones. Within this narrative, the applicant asserts a hotel would address the growing need for tourist accommodations within the Foreside, while maintaining the existing character of the zone. Further, the applicant states a small hotel is not dissimilar to an inn, currently a permitted use within the MU-KF zone.

Update 7/27: The Planning Board initially reviewed this application on 6/8/2017 and determined a workshop was warranted to seek input and discussion with interested parties. A joint workshop was held on 6/22/2017 and included: the Planning Board, the applicant and members of the Foreside Working Group, Economic Development Committee, Conservation Commission and the Comprehensive Plan Update Committee (minutes attached). During the workshop, the applicant provided supplemental material to support their application (attached) and public comment from residents and business owners of the Foreside neighborhood was permitted. The Planning Board and applicant agreed to meet again to discuss issues identified during the workshop and identify what additional information is required prior to a formal review of the application by the Planning Board.

The purpose of this review is for the Board to provide the applicant with a list of questions and/or request specific information that is needed for the board members to consider the zoning amendment.

Update 8/24:

The Board provided comments and feedback with regard to the proposed amendment at their 7/27 meeting and a list of questions was created for the applicant and finalized by staff. See attached email to applicant with finalized questions and the attached response to the questions by the applicant.

Update 9/28:

The applicant has revised the code amendment based on the feedback from the Planning Board and staff. Public notice was made per the state statute; legal advertisement in the Portsmouth Herald ran twice, once at least 12 days prior to tonight's meeting and a second time that was at least 7 days prior.

### **Update 11/9:**

The applicant has revised the attached proposed code amendment based on feedback from the 9/28 planning board meeting.

### **Staff Review**

*The following staff review is from the 6/8, 8/24 and 9/28/2017 Planning Board meetings. Some additional Staff comments have been provided at the end of this section.*

The MU-KF zone is defined as encompassing the area between Route 1 to Wallingford Square, Walker/Main Street to the Back Channel.

The Foreside neighborhood was zoned as Local Business Zone until the revitalization efforts that began with the 1997 Revitalization strategy for the Kittery Foreside District. Within the LB zone, a motel, rooming house or apartment building was permitted as a special exception use. Hotels were defined but not permitted, and an Inn was neither defined nor appeared to be referenced within the Code.

The 1997 Revitalization Strategy was formed to focused on, what was believed to be, declining growth in the downtown neighborhood, in favor of the larger, more accessible development along Route 1. The intent of the strategy was to rediscover the downtown neighborhood and enhance the character of the existing neighborhood through redevelopment rather than demolition.

The Kittery Foreside zone was established in 1997 with the following purpose:

1. To provide business, service and community functions within the Kittery Foreside district.
2. To provide a mix of housing opportunities in the historic urbanized center of the community.
3. To allow for use patterns which recognize the densely built-up character of the district and the limitations for providing off-street parking (LUDC, reprinted May 1998)

It was at the inception of the Kittery Foreside Zone that “Motel, rooming house or apartment building” was no longer a special exception use, and an “inn” became a defined permitted use and apartment buildings were no longer permitted, in favor of dwelling units in a single family, duplex and multi-family configuration. This appears to be an attempt to focus on the smaller scale, Town center character of the neighborhood, discouraging (or prohibiting) larger scale development.

**Boutique Hotel** *[Note, the applicant is no longer requesting the Planning Board consider the addition of “boutique hotels” to the MU-KF Zone. They are currently proposing to amend the permitted use Inn.]*

A boutique hotel is generally defined as a “small, luxury hotel offering premium services, often located in a fashionable location” (dictionary.com). While the term “boutique hotel” appears to be widely used in Maine in regards to real estate and rentals, it is difficult to find an example of a land use code that specifically defines a “boutique” or “luxury” hotel. This is possibly due to the vagueness of what classifies as a boutique hotel, as well as the potential to create confusion without modifying the definitions of other short-term accommodation facilities. For example, using the proposed definition provided by the applicant, there could be some crossover between a boutique hotel and hotel within the Town of Kittery (for example: a hotel offering 12 rooms would qualify as both a hotel and a boutique hotel).

The applicant states the proposed amendment will address the lack of short-term accommodation options within the growing Foreside neighborhood, and states the permitted inn is too restrictive in regards to the number of allowed rooms (per the definition in 16.2.2, an inn also requires a resident manager to reside onsite, see the definitions provided below). The 2015 draft comprehensive plan identifies as a primary area of economic development. However, without the presence of short-term accommodations, it may

become difficult to promote the neighborhood to regional visitors, which supports objectives 3.1 and 8.3 in the draft comprehensive plan.

A major obstacle to the proposed amendment is the availability of parking within the neighborhood. The applicant proposes a boutique hotel be subject to the same parking requirements as an inn: one space per each guest room, which is slightly less than the parking requirements for a hotel as outlined in 16.8.9.4. However, even with consideration of the reduced parking requirements, residents have expressed frustration regarding the shortage of parking within the Foreside neighborhood; therefore, it may be difficult to meet the one space per room requirement with a 35-room hotel.

In addition, the 2015 draft comprehensive plan recommends enhancing the Foreside district through the encouragement of mixed use, specifically promoting housing above retail. The Board should consider whether the inclusion of a small-scale hotel meets this objective.

If the Board determines a small, short-term accommodation facility is appropriate within the Foreside district, an alternative defining a new use would be to permit hotels, only up to a determined size. For example, the Board could discuss adding “hotels, not to exceed 15 rooms” as a permitted or special exception use within the Mixed Use – Kittery Foreside zone, similar to the restricted size of retail use as a permitted use in the Mixed Use zone (“Retail use, a single use not to exceed fifty thousand square feet in gross floor area”).

#### **Definitions of short-term accommodations in Title 16**

Currently the only use permitting short-term accommodations in the Mixed Use – Kittery Foreside zone is *Inns*. Following are the definitions of short-term accommodations that currently exist in Title 16.

- **Bed and Breakfast** means a home occupation in a single-family dwelling in which lodging or lodgings with meals served before noon are offered to the general public for compensation, offering nor more than six bedrooms for lodging purposes.
- **Hotel** means a building in which lodging, or boarding and lodging capabilities are provided for more than twenty persons, and offered to the public for compensation, and in which ingress and egress to and from rooms are made primarily through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a rooming house or a motel, which are separately defined in this section.
- **Inn** means a commercial place of lodging which contains a dwelling unit occupied by an owner or resident manager, which has twelve or fewer guest rooms, and may include a restaurant which also serves non-guests. Rentals to the same party for more than twelve weeks in a calendar year are prohibited.
- **Motel** means a building or group of detached or connected buildings designed, intended or used primarily to provide sleeping accommodations without cooking facilities for travelers for compensation and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge is deemed to be a motel.
- **Rooming house** means a residential use in which the owner or manager of the facility resides on the premises and in which more than three persons who are not part of the owner/manager’s family, are housed in rooms for compensation with or without meals. This includes fraternities and sororities.

**Update 8/24:**

The applicant has responded to the questions from the Board. Staff has the following additional comments.

It is clear from past discussions that the Board has apprehension in allowing the addition of a hotel use in the Mixed-Use Kittery Foreside (KF-MU) zone. Some of this comes from notion that most hotels are likely to be out-of-scale with the compact and village setting of the Foreside. Impacts to available parking and an increase of tourism from adding hotels have also been mentioned. Some Board members have stated the focus on the character of the Foreside is based it on being a residential neighborhood before a business center. The community in the late 1990's acknowledged in the *Revitalization Strategy for the Kittery Foreside* that both characteristics are not necessarily exclusive of one another and can successfully coexist, hence the recommendation from the study to create a new mixed-use zone.

Perhaps with rational and reasonable conditions on the hotel use as applied in the MU-KF zone, a cap or limitation of the associated impacts of hotels can be addressed. The following are some restrictions and limitations that can be considered if a hotel use were to be allowed in the Foreside:

1. **Special Exception Use.** Considering the hotel use has the potential to have greater impacts than other uses, it would be prudent to include the addition of a hotel use as a special exception rather than permitted use. Factors of Consideration in Title 16.6.6 would apply.
2. **Size.** 35 rooms is currently proposed by the applicant and the applicant describes how the number is derived, based on their understanding of the market conditions. This number is three times the size of the rooms an Inn is allowed to have under our land use code. Perhaps a twice the size, 25 rooms, would be more palatable for the Foreside.
3. **Parking.** In order to address the potential for the increase of parking, perhaps for hotels in the Foreside, valet parking is a requirement and a parking management plan is also required for approval by the Planning Board.
4. **Limit on location.** This type of restriction is aligned with the proposed use as a special exception and would address the potential incompatibility of a hotel located within the established residential areas within the Foreside. This could be implemented through specifying areas where in the zone hotels would be permitted or not permitted; i.e. allowed only on properties fronting Wallingford Square, Walker, Government and Wentworth streets. And/or limit the distance between hotels within the zone thereby reducing the potential for overcrowding and dispersing possible impacts, much like restrictions on gasoline stations; i.e. hotels in the MU-KF can be not be located within 500 feet of an existing hotel.
5. **Architectural Design Standards.** To ensure that redevelopment and new construction for hotels is executed in manner consistent with the character of the Foreside, perhaps specific design standards are required. Such standards can be targeted to ensure the scale, massing and architectural detailing is compatible to the adjacent buildings and appropriate to the overall character of the Foreside.

There may be other options available, however, the Board should not consider the proposed amendment as an all or nothing change to the zone and that there are options available to customize the use to fit the uniqueness of the Foreside. Currently, however, the applicant, though open to various options, has only provided the 35 room limitation on the current definition for hotel.

**Update 9/28/2017:**

The revised proposed amendment (attached) provides the following changes:

1. The definition for Inn is changed to remove the owner/manager residency requirement and increases guest rooms from 12 to 30. (lines 6-7)
2. The permitted use *Inn* is limited to fewer than 12 guest rooms (line 30)
3. The *Inn* is added to the special exception uses limited to 12 and no more than 30 guest rooms (line 46)
4. Under the special parking standards for the MU-KF zone, parking standards specific to Inns, including requiring a parking management plan is added (lines 120-133)
5. In the MU-KF zone specific requirements for Inns as a special exception are added which includes location requirements (lines 138-151)

If the Board is amenable to the proposed amendment, additional amendments to address the other zones that currently allow Inns may need to be prepared by staff. If the Board determines inns with greater than 12 guest rooms needs to be a special exception in these zones or not, this can be accomplished by simply replacing *Inn* with the *Inn - containing fewer than twelve (12) guest rooms*; in those particular zones. They include: as permitted; B-L1, B-P, C-1, C-2, C-3, MU, and MU-BI; and as a special exception; R-U, B-L, and OZ-SL. This can be accomplished in a separate proposed code amendment.

**Update 11/9/2017:**

The revised proposed amendment appears to include what the Board had discussed at the 9/28 meeting. The minutes for that meeting need to be revised, see attached email, and the Board may decide to address that during this item or during Board items.

The changes to the proposed amendment are as follows:

- 1) 24/7 on-call manager added to the definition of Inn (line 6)
- 2) Clarification of the number of guest rooms by adding “at least twelve...but no more than thirty...” (line 7)
- 3) Adding a new restriction on parking lots where the creation of surface parking is prohibited when it displaces existing buildings along identified streets in the Foreside, regardless if it is a principal or accessory use. (lines 121-124)
- 4) The word “reasonably” was removed in 6.a of the Parking Management Plan for Inns (line 131)
- 5) The word “and” was added to “or” in describing the methods of providing parking in section 6.b (line 135)
- 6) The removal of the proposed provision to restrict the location of inns with greater than 12 guest rooms based on distance from existing inns along identified streets. (lines 153-157)

In addition to reviewing the applicant’s proposed amendment, the Board may want to determine now if a separate code amendment needs to be made to address unintended consequences of the definition change of Inn in other zones in town. Staff commented on this for the 9/28 meeting (above). If this is the case, staff should be directed to prepare an amendment for the next meeting.



**Recommendation**

The Board was interested in the draft recommendations of the Foreside Study prior to a final deliberation on the proposed code amendment. The Board may want to discuss what pertinent information they heard at the workshop with the Working Group and the consultant.

If the Board is satisfied with the proposed amendment provided by the applicant or with changes the Board determines necessary, they may vote on a recommendation to the Town Council for adoption, suggested motion below.

The motion is a suggestion only, however, should remain in the affirmative even if a majority of the Board is not in favor the adoption of the amendment. The Board may want to identify reservations and/or specific issues with the proposed amendment so that the Town Council has a clear understanding of what the Board's determination is based on.

*<suggested motion>*

***Move to recommend to Town Council the adoption of the proposed amendments to Title 16 regarding Inns within sections: 16.2.2 Definitions and 16.3.2.15 Mixed Use Kittery Foreside Zone, as presented at the November 9, 2017 Planning Board meeting.***

## Kendra Amaral

---

**From:** Karen Kalmar <those7@comcast.net>  
**Sent:** Friday, December 29, 2017 3:54 PM  
**To:** Kendra Amaral  
**Cc:** Ann Grinnell; Kenneth Lemont-Personal; Kathy Connor; Maryann Place  
**Subject:** Re: Reminder: Planning Board Workshop with Council Jan 8th

Kendra — Ann's out of town until Tuesday.

Meanwhile, I wanted to point out a substantial error in the draft of the Foreside hotel proposal in the packet you provided us. On line 34 (the Permitted Use section) both large and small inns are listed as permitted uses. Then at line 51 (Special Exception Use section) large inn is listed again. No single use can be both.

Item 12 (line 34) should be limited to Inn (Small)... The applicant agreed to list large inn under special exception thus allowing either the BoA or PB to review large inn proposals. The rationale is that larger inns have the potential for greater impact on adjacent properties. Board review creates a public process during which input from the community is allowed. That is the same rationale for moving commercial or public parking to Special Exception Use.

I'd also like to suggest that Section F. (Special Exception Conditions for Inns) include, after line 146, another item (#2) that would reference section 16.6.6. It's where the other factors that must be considered for a special exception use approval are listed. (they're very hard to find without a hint)

I'll be happy to discuss my other concerns regarding the proposed draft at the Council workshop. And I will coordinate with Ann and Kathy on getting your information to the PB. If you have any further input on Council's expectations after speaking to Ken, please let us know. And finally, Debbie Driscoll shared an article from Strong Towns with you and the PB regarding building for tourism instead of livability. It might be an interesting read for the Council. ?

Thanks for the reminder. We'll do our best to be prepared. Happy New Year! Best — KK

On Dec 28, 2017, at 6:08 PM, Kendra Amaral <[KAmaral@kitteryme.org](mailto:KAmaral@kitteryme.org)> wrote:

Hi Ann and Karen,

This is just to provide a reminder that the Council/Planning Board quarterly workshop is scheduled for **Jan 8<sup>th</sup>, 6PM in Council Chambers**. The purpose is to discuss the proposed Foreside zoning amendment to allow large inns in the zone. Attached is the report the Council received in late November on the matter.

I have not had a chance to discuss with Ken yet, but off the cuff, my guess is the Council would like to hear from the Planning Board about:

- 1) What the PB saw as potential benefits and issues with the large inn proposal
- 2) What suggestions and requests for amendments were made to the applicant, and which were incorporated into the final amendment considered by the Planning Board and which were not
- 3) Understand what the PB members would want to see to improve the proposed amendment

I will be meeting with Ken on Wed and will ask for any further guidance on the workshop content. I suspect we will be able to provide the Council with Planning staff notes on the proposed amendment, so they can be familiar with the process you went through.

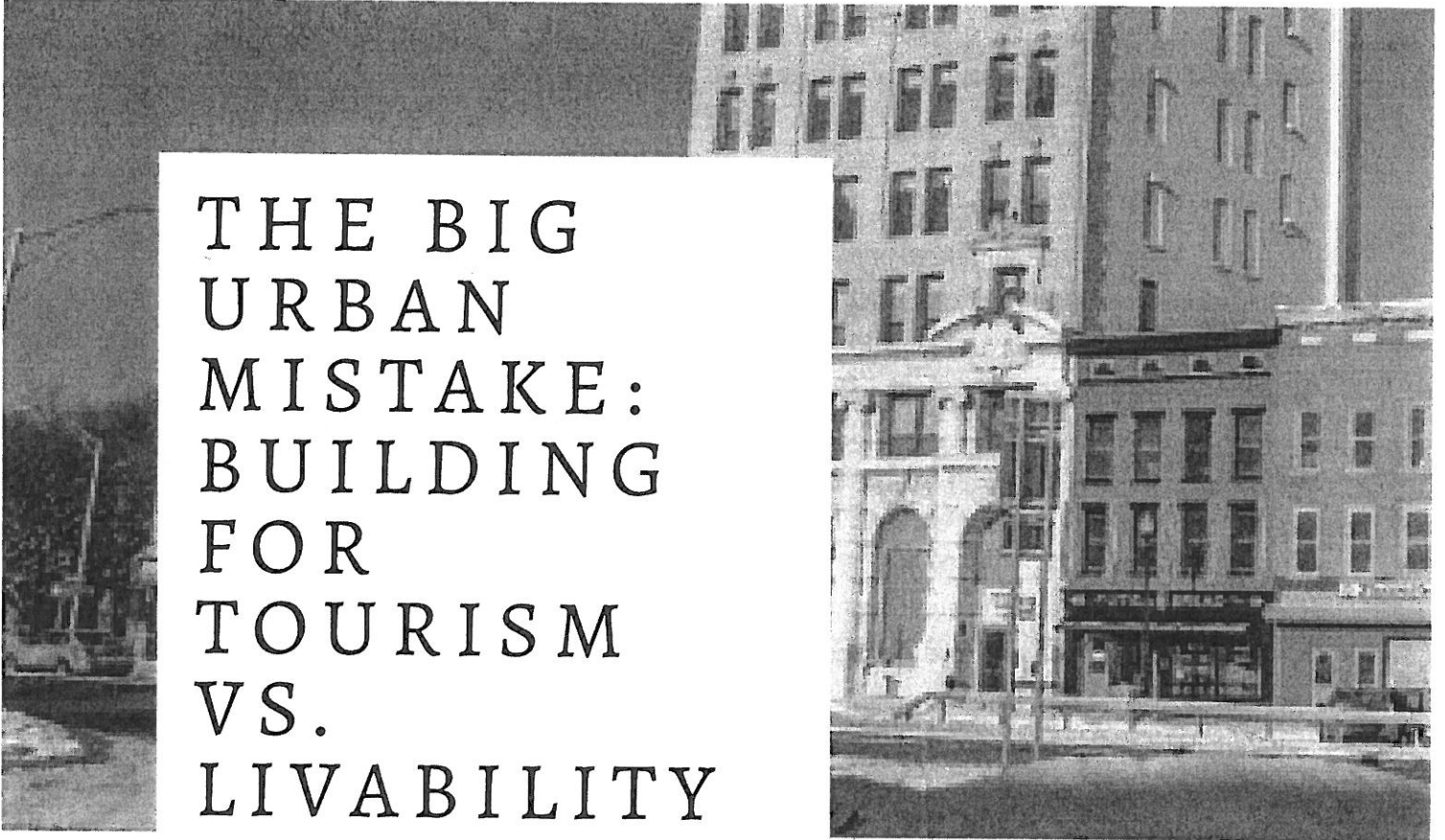
Let me know if there is anything else you think should be covered on the topic. Also, can you please share this information with the Planning Board. Jan 8<sup>th</sup> is coming up fast!

Thanks and Happy New Year,  
Kendra

<Foreside Zoning Amendment Lg Inn.pdf>

**STRONG  
TOWNS**

ABOUT EXPLORE EVENTS  
SHOP LOCAL  
JOIN THE MOVEMENT



THE BIG  
URBAN  
MISTAKE:  
BUILDING  
FOR  
TOURISM  
VS.  
LIVABILITY

DECEMBER 5, 2017

BY ARIAN HORBOVETZ

Every year, we publish a few essays that continue to be referred back to over and over again. They are cited in other articles, quoted in podcasts and referenced in conversations with Strong Towns

members. In 2017, this was one of those essays. And that's why I've included it in our annual round up of best articles from the year, which we republish each December. ([See them all here.](#))

Originally posted on Strong Towns member Arian Horbovetz's blog, [The Urban Phoenix](#), and republished on our site in May, I have heard many people talk about how this essay voiced what they'd been feeling about their own communities, or helped them look at their towns in a new light. Arian writes primarily about issues facing small to mid-sized cities in New York state, but the topics he addresses apply to so many Rust Belt communities and truly, to any town that's economically down on its luck but working towards a better future. - Rachel Quednau

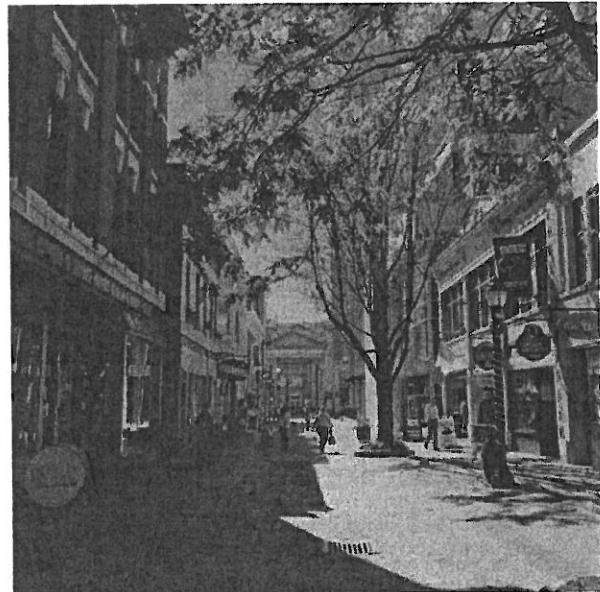
As our cities are slowly revitalized and droves of Americans make their way back to urban centers, decisions that local leaders and developers make about the future of our downtowns take on a new level of importance.

Proposals to create high-priced hotels, sports complexes, auditoriums and even casinos clash with calls for parks, affordable housing, walkability, practical transit and neighborhood amenities like small grocery stores.

Developers throw lavish plans on the table that will surely (temporarily) usher in the wallets of the wealthy, while residents new and old call for a more livable downtown for everyone to enjoy. This conflict is currently playing out in countless cities across the nation.

I'm painting with a bit of a broad brush, but essentially, what so many cities are currently experiencing is the dilemma of whether to invest in large urban draws that will bring outside money in, or to invest in a growing and changing downtown residential population. To put it simply, do cities invest in big projects that create an entertaining space that grows tourism, or do they invest in the people that have already taken a risk by moving back into their long-dormant downtowns?

Often, developers and city governments will say they can improve both by investing in large-scale, big ticket projects. But what if cities took the opposite approach and catered first to the real world



Schenectady's pedestrian-only Jay Street is filled with small businesses that cater to both downtown residents and visiting shoppers. A casino just opened less than a mile away. What impact will it have on an already thriving downtown?

needs of their new and existing downtown residents instead of simply counting them at the turnstile and moving on to these other projects?

Herb Kelleher, Southwest Airlines founder and former CEO, is credited with being one of the most forward thinking business minds of our time. His simple yet beautiful philosophy regarding business is exemplified in this quote:

*Your employees come first. And if you treat your employees right, guess what? Your customers come back, and that makes your shareholders happy. Start with employees and the rest follows from that.*

With this in mind, let's think of the people moving into all those beautiful new apartments in your downtown as the "employees." They are the face of your city, the sales force, the best representatives your city has.

Now think of the visitors that come into the city occasionally for events and attractions; those are your "customers." They can be suburbanites or even tourists, bringing important money from outside your city and spending it in your local economy.



Tower280, one of the most ambitious residential projects in the heart of downtown Rochester. Many residents recently vocalized their frustrations when the mayor chose to develop a new performing arts center instead of mixed-use public space in the land adjacent to this apartment building.

Finally, the "shareholders" are the movers and shakers — the developers, the investors, even local governments that spend taxpayer money. These are the people tasked with funding the ever-growing downtown revitalization. These financial and developmental resources are key to building a vibrant city for residents and visitors alike, but in a perfect world their influence should follow the needs of residents and tourists respectively.

Unfortunately, this is often not the case as the biggest wallets are typically the ones dictating the direction of our urban rebirth. I would never imply that these financial sources are "wrong" or paint them in a bad light, rather I believe they serve better (and ultimately are better served) when they respond to the needs of cities rather than direct them.

## **THE TYPICAL PATTERN OF DOWNTOWN REVIVAL**

Too often, our downtown revival follows this misguided pattern:

1. Small businesses, artists and investors breathe life into our long vacant urban centers.

2. People begin to “make the leap” and move back downtown as developers build more downtown apartments, unique restaurants, coffee shops, cocktail bars, breweries and occasionally local retail.
3. Local pride follows as the pioneers of the new city revitalization begin the movement of urban excitement once again. (I call this the “champagne phase.”)
4. Local government and developers see the writing on the wall and begin to collaborate on ways to continue bringing downtown back to its former prominence.
5. Developers put forth large-scale development project proposals with plenty of “ooo and ahhh” effect, promising to feed the needs of downtown.

*This is where it starts to go wrong...*

6. As downtowns begin to fill with people again, these pioneer residents begin to ask for the simple additions of basic amenities like parks, a grocery store, light retail, affordable housing, walkability and transit. Instead, these new residents are suddenly ignored, as “sexier” projects geared more toward tourism and bringing outside money in begin to take shape in the urban landscape.
7. Residents grow frustrated as large-scale projects and big money deals begin to eclipse their desire for a livable downtown. The local government promises that these projects will create jobs and make the city more attractive, meanwhile offering outside investors huge tax incentives, thus giving them an unfair advantage over local businesses. A rift begins to form, and residents receive the tap on the shoulder from above, a sort of “thanks for getting us to this point, but we’ll take it from here.”
8. Residents become bitter and will not stay, leaving downtown vacant yet again, causing everyone to look back at the progress we’ve made in our cities simply as a fad that never took hold.

## **A BETTER PLAN FOR DOWNTOWN REVIVAL**

When we think about residents first, we have the opportunity to turn a “fad” into a sustainable and lasting way to invigorate our urban centers once again. Here’s how the model *should* go:

1. Small businesses, artists and investors breathe life into our long vacant urban centers.
2. People begin to “make the leap” and move back downtown as developers build more



Utica’s Bagg’s Square, a long dormant urban canvas that has recently sprung to life with local business and residential development. Less than a half mile away, massive proposals for a downtown hospital and an entertainment district featuring a casino are in the works.

downtown apartments, unique restaurants, coffee shops, cocktail bars, breweries and occasionally local retail.

3. Local pride follows as the pioneers of the new city revitalization begin the movement of urban excitement once again. (I call this the "champagne phase")

4. Local government and developers see the writing on the wall and begin to collaborate on ways to continue bringing downtown back to its former prominence.

5. The powers that be begin first by listening to the new and existing downtown residents about what they want, building a development plan around the people who live there. This should be intermixed with a tremendous amount of research into what has worked for other successful urban revivals.

6. Local governments facilitate resident-driven projects, giving the tools and incentives to businesses and developers who live within the community instead of awarding tax incentives to out-of-town financial interests.

7. Residents who feel that their voices are heard and see that local leaders and developers share the vision that they pioneered remain downtown instead of moving away. This has the potential to build pride, and even create a multi-generational sense of ownership and self-direction.

8. Ready for the kicker? By creating a downtown where residents want to live now and continue to live long(er) term, we create a happier, healthier community with a sense of pride and ownership over their urban center. And when you have a place with happy people, they create cool things. And cool things — you guessed it — usher in tourism, as outsiders travel from outlying areas to see this authentic, thriving city. And when you have a healthy local economy where people live, work and play, as well as tourism based on happy, healthy communities with a unique local flavor, then developers, investors and local governments have a multitude of opportunities to see a return on their investments.

And what does this all-positive end create that is as important as anything? A successful, attractive place with happy, motivated residents where businesses want to expand and relocate, bringing jobs to your area.



I understand the complexities of urban dynamics, politics and financial pressure, and I know the above examples are not always so cut and dry. I also understand that often residents don't fully understand what actually creates a strong local economy and livable environment. The positive financial and community impact of narrow streets, traffic



Source: Johnny Sanphillippo

calming and cycling infrastructure instead of increased parking and highway access is often a foreign concept for the average voter.

Sometimes these decisions have to be made in the best interest of the city fabric based on a wealth of data and examples from other cities.

But for the most part, people moving downtown know what additives are needed to keep them living there, working there and playing there. We simply need to listen.

City leaders, this one's for you. You can either cater to your new residents by going into the downtown apartment buildings and listening to real people, or you can hop on the big ticket project train en route to a revolving door downtown. You can either build for livability or build for fleeting, often overrated promises of tourism revenue. You can facilitate local small business and community development, or you can create a short-lived wow-factor by opening the floodgates to developers and business interests who take money out of our communities. You can empower and invest in your new downtown residents and let *them* be the ambassadors for our growing urban paradises, or you can ignore them and build casinos and other flashy complexes that cater to the outsider and likely line the pockets of people outside the community. The choice is yours to make.

Choose to invest in your residents and local business owners. These are the people who invested first. Tourism, development and financial success will likely follow. Empower your people, honor the risk they took by taking one yourself, and, like happy employees of a strong company, they will take care of everything else.

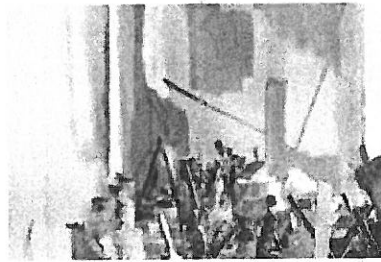
*(All photos by [Arian David Photography](#) unless otherwise noted.)*

## RELATED STORIES



### FINE-GRAINED VS. COARSE-GRAINED URBANISM

There's a big difference between these two types of development



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The key to building a sustainable local economy is to nurture a diverse set of



### HOW TO ENCOURAGE ENTREPRENEURSHIP IN YOUR TOWN

A strong town needs strong local businesses.



## TOWN OF KITTEERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

kamaral@kitteryme.org

### Town Manager's Report to the Town Council January 8, 2018

1. **Legalization of Marijuana** – The deadline for implementation of legalized retail sales of marijuana is in February 1. The Legislative Committee is continuing its work on developing regulations that addresses issues with the ballot approved law and provides guidance for implementation. The Committee conducted a hearing on January 5<sup>th</sup> for consideration of a legislation that pushes back the implementation of retail sales to December 31st.

Communities are bracing for the legal challenges anticipated with the missed and/or extended implementation deadline. On Kittery's part, I had Drummond Woodsum perform a "stress test" of the Town's current marijuana-related zoning ordinance to identify any gaps that could expose the town to legal challenges. Their test found the town's approach to regulating marijuana operations to be solid with little to no identifiable issues or areas for challenge.

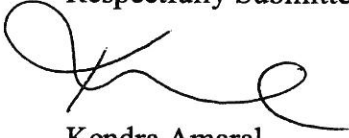
2. **Government Street Pier Reconstruction** – On June 12, 2017 the Council received an update on the Government Street Pier condition, and its need to be reconstructed. Since then the Council approved the funding of the KPA facility reserve at \$50,000 a year for the project.

KPA member Bruce Crawford has been working on an application to the Small Harbor Improvement Program (SHIP) for grant funding for the reconstruction of the pier. The application is expected to be submitted by June 30<sup>th</sup>. If approved, the town could be awarded up to 50% of the cost of the project. Based on current estimates the project cost is expected to be between \$300,000 and \$400,000.

3. **Abandoned Trailer** – Councilor Lemont and Councilor Denault requested the staff look into a condemned and abandoned mobile home trailer in town. As of mid-December, discussions have occurred with the property owner and potential buyers. The discussions have included identification of tax liens, and information on the demolition permit process. We are communicating with the responsible party that a permit must be pulled for demolition by the end of January, or the matter will be brought to the Council for further action.
4. **Get Involved** – We continue to promote opportunities for residents to get involved in the town, by volunteering to be on various boards, commissions and committees. We have added a button to our website home page that provides quick information about current volunteer positions available, and instructions on how to apply. We anticipate another Board of Appeals seat to be open following this meeting and are seeking applicants.

For more information, residents are encouraged to visit [kitteryme.gov](http://kitteryme.gov) and click on the “Get Involved” button.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Kendra Amaral', with a large loop at the beginning and a flourish at the end.

Kendra Amaral  
Town Manager

# UNAPPROVED MINUTES

## Kittery Town Council Regular Meeting – Council Chambers December 27, 2017

- 1
- 2
- 3
- 4
- 5
- 6
- 7 1. Call to Order: Chairperson Lemont called the meeting to order at 7:00 p.m.
- 8
- 9 2. Introductory: Chairperson Lemont read the introductory.
- 10
- 11 3. Pledge of Allegiance: Chairperson Lemont led all present in the Pledge of Allegiance.
- 12
- 13 4. Roll Call: Answering the roll were Councilors Jeffrey Pelletier, Gary Beers, Matthew Brock,
- 14 Charles Denault, Vice-Chairperson and Chairperson Kenneth Lemont. Councilors Frank
- 15 Dennett and Jeffrey Thomson were absent.
- 16
- 17 5. Agenda Amendment and Adoption: none
- 18
- 19 6. Town Manager's Report: Kendra Amaral reported that the "no dogs" sign on Love Lane is on
- 20 public property and is an unenforceable sign.
- 21

22 Town Manager Amaral said that she and Finance Director Patricia Moore met with the Rice  
23 Public Library Board of Directors, continuing the discussion on the Library becoming a  
24 department of the town. She said the financial analysis report is in the Council's packets.

25  
26 Town Manager Amaral said that they talked about three options, moving forward: a committee  
27 to negotiate the details of incorporating the Library into the town as a department; a design  
28 committee to take the next steps on advancing the building project; and a Taylor building  
29 committee to develop the disposition strategy for the parcel. She said she was informed on  
30 Dec.20<sup>th</sup> the Library Board voted unanimously to support the creation of the Negotiation  
31 Committee and the Design Committee.

32  
33 Town Manager Amaral said she will come to the January 8<sup>th</sup> meeting with a full report and  
34 recommendations that Council can act on. She asked if the Council had any questions or  
35 comments.

36  
37 Vice Chairperson Denault said, regarding the Love Lane Dog Sign, it is his understanding that  
38 the property is abandoned. He said if they (the former owners) came in to claim the sign, it  
39 should be looked at. Ms. Amaral replied that the sign ordinance covers private property, not  
40 public.

- 41
- 42 7. Acceptance of Previous Minutes: Chairperson Lemont declared the minutes of September 11,
- 43 2017 accepted as amended.
- 44
- 45 8. Interviews for the Board of Appeals and Planning Board: None
- 46
- 47 9. All items involving the town attorney, town engineers, town employees or other town consultants
- 48 or requested officials.
- 49

50 (120217-1) The Kittery Town Council moves to receive and accept the 2017 Audit Report.

## UNAPPROVED MINUTES

51 Ron Smith of RHR Smith & Co. said this is the second year that they have prepared the town audit.  
52 Mr. Smith reviewed the audit with his Power Point presentation. He said he likes to see 90 days of  
53 operating budget, with 30% sitting in reserve. He reported that the operating surplus went up this  
54 year, and combined with the school, it is at 120 days, or \$5.2 million dollars. He said that revenue  
55 collections were up, and that the property taxes and excise taxes allowed for the increase.  
56

57 Mr. Smith reported that the General Fund went down about \$1,000,000 because it was paying for  
58 the sewer construction until it was able to get reimbursed from the bond proceeds. He said there is  
59 a 3-year Sewer Fund.  
60

61 Mr. Smith said they met last year to discuss Sewer Department operations, which was struggling in  
62 2014, 2015 and 2016, which went from a minimum surplus to a deficit close to one million dollars.  
63 He said sewer fees do not appear to be enough to support the department, and it is time for the  
64 Town Council to take a look at that.  
65

66 Mr. Smith said he is concerned that if the Sewer Dept. does not have enough money to pay for its  
67 operations, such as maintenance and repairs, then they will be having the same conversation next  
68 year. He said the town has to look at sustainability. He said the town spent over \$1,000,000 to  
69 connect people to sewer and it is putting a strain on the cash flow. He said the cash flow in the  
70 Sewer Dept. needs to be addressed.  
71

72 Mr. Smith said that the town is financially sound, but the Town Council needs to do some  
73 housecleaning, especially with the Wastewater Treatment facility.  
74

75 Councilor Beers pointed out that the Sewer Operation rate has not changed in nine years and felt  
76 they were long overdue in adjusting that rate. He said the Sewer CIP was created in 2008, but  
77 removed in 2014 for another program and they lost sight of it.  
78

79 Councilor Pelletier asked Mr. Smith, based on his analysis of their finances, did he suspect it was  
80 an organizational issue that needs to be addressed to help with concerns of the unfunded liability  
81 and the operational aspects.  
82

83 Mr. Smith replied he did not think it is the staff, but that they went away from the details and the  
84 fees need to be looked at. He said it is more of an administrative function. He said they need to  
85 look at their house and get it in order. He said they need to look at the organization and their rates  
86 and they have outgrown their operations.  
87

88 Councilor Pelletier thought that Mr. Smith had made a good point about addressing long-term  
89 concerns.  
90

91 Mr. Smith said the Sewer Dept. has contractual obligations regarding benefits. He said the  
92 unfunded liability exceeded the in-State money for other benefits paid at retirement. He said the  
93 last actuarial report was three million dollars.  
94

95 Mr. Smith said the town has other priorities and needs, but it has been able to fulfill its obligations.  
96 He wanted to make them aware of it, but they should be looking at their immediate intra-structural  
97 needs such as roads, schools, and contract negotiations would be a priority. He said the town  
98 should have a mechanism in place.  
99

## UNAPPROVED MINUTES

100 Town Manager Amaral said that she and the Finance Director have looked at the documents for  
101 sewer expenses and the work done by the Councilors and understood that they need to address  
102 this issue. She said they have begun working on a plan to develop options to consider long-term.  
103

104 Councilor Brock said that Mr. Smith mentioned the Sewer Dept. several times and asked if part of  
105 his report, best practice, mentions how the town can move from where Kittery is now to a  
106 sustainable operation. Mr. Smith replied yes.  
107

108 Chairperson Smith thanked Mr. Smith and said he appreciated his time.  
109

110 10. Public Hearings: none  
111

112 11. Discussion:

113 a) By members of the public:

114 Vern Gardner, Kittery, spoke to the issue of how some Councilors should be recusing themselves  
115 from voting, and the perception of a conflict of interest by himself and other members of the  
116 community.  
117

118 Milton Hall said he owns a house in Eliot and noted that the sewer bill went up from \$65 to \$180  
119 and wanted to know if Kittery was getting more money from the Town of Eliot. He said he did not  
120 catch what was said about the sewer fees.  
121

122 Mr. Hall said that Mr. Ledgett was appointed to the Planning Board and asked if he still had a  
123 conflict of interest. He said he remembers a while back the Port Authority wrote a letter regarding  
124 Mr. Ledgett's appointment, but they never heard anything and at the last meeting, Mr. Ledgett was  
125 appointed.  
126

127 b) Response to public comment directed to a particular Councilor: none

128 c) Chairperson's response to public comments:

129 Chairperson Lemont said, in reply to Mr. Gardner's allegations, each Councilor can make up his  
130 mind whether or not to refrain from voting on a particular item. He said he does own property, and  
131 if it does come down to a vote and he felt it is a conflict, he will abstain from voting.  
132

133 Chairperson Lemont said, in response to Mr. Hall's question regarding the sewer fees, he would  
134 defer to Councilor Beers because he was on the Negotiations Committee between the Town of  
135 Kittery and the Town of Eliot regarding the sewer user fees.  
136

137 Councilor Beers said he was on the committee from 1993-2013 and basically Eliot had underpaid  
138 the Town of Kittery because of the contract that was in existence at that time. He said the Eliot  
139 users enjoyed a reduced rate. He said that in 2013 the rates were all the same for both sewer  
140 users in Kittery and Eliot.  
141

142 Chairperson Lemont said in reply to Mr. Hall's remark about Mr. Ledgett's appointment, at the time  
143 he did not feel that he had a conflict of interest when he was appointed to the Planning Board.  
144

145 12. Unfinished Business:  
146

## UNAPPROVED MINUTES

147 (120117-4) The Kittery Town Council moves to approve a renewal application from Loyal Order  
148 of Moose #444, 76 U.S. Route 1, Kittery for a Special Activity Amusement Permit for Loyal Order of  
149 Moose, #444, 76 U.S. Route 1.

150

151 Chairperson Lemont said there was some question about the functions outside of the building. He  
152 said Council has a new application, which states there will be no outside activities, just indoor  
153 activities.

154

155 Councilor Beers said point of order, the item was moved and seconded and postponed. He said  
156 the motion is returned to the floor for discussion.

157

158 Chairperson Lemont said that it is his understanding it was postponed and he is comfortable  
159 moving forward with this item.

160

161 Councilor Beers said whomever made the motion and seconded, it should be back on the floor.

162

163 **THE MOTION ON THE FLOOR WAS TO POSTPONE THIS ITEM UNTIL THE DECEMBER 27<sup>th</sup>**  
164 **MEETING, MOVED BY COUNCILOR DENNETT, SECONDED BY VICE-CHAIRPERSON**  
165 **DENAUPT.**

166

167 **COUNCILOR THOMSON MOVED TO APPROVE THE RENEWAL APPLICATION FROM LOYAL**  
168 **ORDER OF MOOSE #444, 76 U.S. ROUTE ONE, KITTERY FOR A SPECIAL ACTIVITY**  
169 **AMUSEMENT PERMIT FOR LOYAL ORDER OF MOOSE, #444, 76 U.S. ROUTE ONE, AND**  
170 **SECONDED BY VICE-CHAIRPERSON DENAUPT. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE**  
171 **IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

172

173 13. New Business:

174

175 a. Donations/gifts received for Council disposition:

176

177 (120217-2) The Kittery Town Council moves to accept a donation in the amount of \$120 from  
178 Donald and Nicole Kerr to be deposited in account #5007-67500 Thresher Memorial Fund.

179

180 **COUNCILOR BEERS MOVED TO ACCEPT THE DONATION IN THE AMOUNT OF \$120 FROM**  
181 **DONALD AND NICOLE KERR TO BE DEPOSITED IN ACCOUNT #5007-67500 THRESHER**  
182 **MEMORIAL FUND AND SECONDED BY VICE-CHAIRPERSON DENAUPT. ROLL CALL VOTE**  
183 **WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

184

185 b. (120217-3) The Kittery Town Council moves to approve the disbursement warrants.

186

187 **COUNCILOR PELLETIER MOVED TO APPROVE THE FOLLOWING DISBURSEMENT**  
188 **WARRANTS: General \$644,904.87; Sewer \$17,375.50; School \$104,308.67 and SECONDED**  
189 **BY COUNCILOR BEERS. ALL WERE IN FAVOR BY A VOICE VOTE, 5-0, AYE. MOTION**  
190 **CARRIES.**

191

192 c. (120217-4) The Kittery Town Council moves to receive a report on the 2017 Town Manager and  
193 Town Council goals.

194

195 Town Manager Amaral read the list of the 2017 Town Council and Town Manager goals, which had  
196 been included in their packets, and provided updates on #3 under Town Council:

197

- Charter 10-yr. review and amendments on the Personnel Board & Port Authority – complete

# UNAPPROVED MINUTES

- Ordinance revisions on the topics of Marijuana (on hold), Home Sharing, Title 2 (Ongoing), 6, 10 – complete, 13, 16 – ongoing, and the Personnel Classification Policy (ongoing)
- Council meeting protocols (in process) and PEG operations policy

4. Support the Town Manager to achieve greater economy and effectiveness in delivery of services – ongoing; 5., Adopt a budget that is progressive, responsible and visionary – moving the community forward – complete; 6., Conduct quarterly review of Council and Manager progress on annual goals, ongoing.

Town Manager Amaral said the town is currently implementing software for the permitting process; completed the web design; ordinance rules are being implemented by the vote in November; reviewing announcements put out to the public; Economic Development – she has reorganized the Planning Dept. She said they are working on the re-zone of the Business Park.

Town Manager Amaral said the 2016 goals have been completed. She said that Randy, the Channel 22 “guru” has done a lot of work to increase what is available to the community and there is live broadcasting in town for the cable license. She said the Foreside Study will begin in January and she has spoken with the Commissioner of Public Works regarding sharing resources of the Public Works facility; the Rice Public Library Board are looking forward to moving ahead; Emery Field will be done this spring and she has been meeting with Emergency Response services, Dispatch and Fire Chief and they are looking at upgrades to their systems.

Town Manager Amaral said she will put setting goals for 2018 on the January 8<sup>th</sup> Meeting agenda.

Councilor Beers said he is not a twit, he does not twitter and wanted to know what information is available to the public.

Town Manager Amaral replied everything that goes on tweets, goes on-line.

Councilor Beers wanted to know if it is broadcast to other folks.

Vice-Chairperson Denault said when he is posting information on the website, it goes out in one format, all the same, in a main core.

Councilor Beers said he understands but the folks in the audience may not.

- d. (120217-5) The Kittery Town Council moves to approve a renewal application from Weathervane Seafoods, Inc., 306 U.S. Route One, Kittery, Maine, for a Malt, Spirituous and Vinous Liquor License for Weathervane Seafoods, 306 U.S. Route 1.

**VICE-CHAIRPERSON DENAULT MOVED TO APPROVE THE RENEWAL APPLICATION FOR WEATHERVANE SEAFOODS, INC. 306 U.S. ROUTE ONE, KITTERY, MAINE, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR WEATHERVANE SEAFOODS, 306 U.S. ROUTE ONE, SECONDED BY COUNCILOR BEERS. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- e. (120217-6) The Kittery Town Council moves to approve a renewal application from Loco Coco's Tacos, Corp., 36 Walker Street, Kittery, Maine for a Malt, Spirituous and Vinous Liquor License for Loco Coco's Tacos, 36 Walker Street.

**COUNCILOR BEERS MOVED TO APPROVE THE RENEWAL APPLICATION FROM LOCO COCO'S TACOS CORP., 36 WALKER STREET, KITTERY, MAINE FOR A MALT, SPIRITUOUS**



## UNAPPROVED MINUTES

249 **AND VINOUS LIQUOR LICENSE FOR LOCO COCO'S TACOS, 36 WALKER STREET. VICE-**  
250 **CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0.**  
251 **FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- 252  
253 f. (120217-7) The Kittery Town Council moves to approve a renewal application from The Ares  
254 LLC, 68 Wallingford Square, Kittery, Maine for a Malt and Vinous Liquor License for AJ's Wood  
255 Grill Pizza, 68 Wallingford Square.

256 **COUNCILOR BEERS MOVED TO APPROVE THE RENEWAL APPLICATION FROM THE ARES**  
257 **LLC, 68 WALLINGFORD SQUARE, KITTERY, MAINE FOR A MALT AND VINOUS LIQUOR**  
258 **LICENSE FOR AJ'S WOOD GRILL PIZZA, 68 WALLINGFORD SQUARE. VICE-CHAIRPERSON**  
259 **DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR,**  
260 **NONE OPPOSED, MOTION CARRIES.**

- 261  
262  
263 g. (120217-8) The Kittery Town Council moves to approve a renewal application from Tasty Thai,  
264 Inc., 599 Lafayette Road, #6, Portsmouth, NH for a Malt, Spirituous and Vinous Liquor License  
265 for Tasty Thai, 182 State Road.

266 **VICE-CHAIRPERSON DENAULT MOVED TO APPROVE THE RENEWAL APPLICATION FROM**  
267 **TASTY THAI, INC., 599 LAFAYETTE ROAD, #6, PORTSMOUTH, NH FOR A MALT,**  
268 **SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR TASTY THAI, 182 STATE ROAD.**  
269 **COUNCILOR BEERS SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN – 5-0. FIVE**  
270 **IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- 271  
272  
273 h. (120217-9) The Kittery Town Council moves to schedule a public hearing on proposed  
274 amendments to Title 2, Administration and Personnel – Town Clerk, of the Kittery Town Code.

275 **COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON JANUARY 8, 2018 ON**  
276 **PROPOSED AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL, TOWN CLERK**  
277 **OF THE KITTERY TOWN CODE. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION.**  
278 **ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- 279  
280  
281 i. (120217-10) The Kittery Town Council moves to schedule a public hearing on proposed  
282 amendments to Title 2, Administration and Personnel – 2.3.4 and 2.3.6 of the Kittery Town  
283 Code.

284 **COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON JANUARY 8, 2018 ON**  
285 **PROPOSED AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL – 2.3.4 AND**  
286 **2.3.6 OF THE KITTERY TOWN CODE. VICE-CHAIRPERSON DENAULT SECONDED THE**  
287 **MOTION. ROLL CALL VOTE WAS TAKEN 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION**  
288 **CARRIES.**

- 289  
290 j. (120217-11) The Kittery Town Council moves to approve and sign a three-year labor contract  
291 from July 1, 2017 through June 30, 2020 for the Clerical Unit.

292 **COUNCILOR BEERS MOVED TO APPROVE AND SIGN A THREE-YEAR LABOR CONTRACT**  
293 **FROM JULY 1, 2017 THROUGH JUNE 30, 2020 FOR THE CLERICAL UNIT. VICE-**  
294 **CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN – 5-0.**  
295 **FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

296  
297  
298 14. Councilor Issues or Comments:  
299

## UNAPPROVED MINUTES

300 Councilor Beers distributed a copy of his proposed changes to Council Rules, Regular Meeting  
301 Times, and the notice in writing is to be considered at the meeting before. He said he would like  
302 this to be entertained at the meeting on January 8<sup>th</sup>. He said his issue with the current rules is that  
303 it specifies that public proceedings must begin at 7:00 p.m., which he thinks is archaic. He said with  
304 technology, there is no particular necessity to delay the meeting unless there is an Executive  
305 Session or a Workshop at 6 pm and he was asking for a consensus. Chairperson Lemont polled  
306 the Councilors and said there was a consensus.

307  
308 Councilor Brock said he believed there is a workshop with the Planning Board in advance of the  
309 January 8<sup>th</sup> meeting on proposed zoning changes in the Foreside to allow for a 30-room hotel in that  
310 zone. He requested, through the Chair, that if time permits, the public would be able to provide  
311 their comments at the meeting. Chairperson Lemont replied yes.

312  
313 Vice-Chairperson Denault wanted to follow up, through the Chair to the Town Manager concerning  
314 Aroma Joe's, prior to someone getting killed. He said there has been a number of accidents that  
315 have occurred, and most recently, a car hit the sign. He said he was wondering about the light at  
316 Bolt Hill Road and there was a fatality there. He said he has heard from residents about the line-up  
317 at the light and reminded people again to use caution when exiting the Transfer Station.

318  
319 Vice-Chairperson Denault said he wanted follow up with the trailer on Laurel Avenue and also  
320 would like to get follow-up on Martin Road and the complaint forwarded through me from the  
321 residents.

322  
323 Vice-Chairperson Denault said he would like to recognize the following people who recently passed  
324 away: Mary Marshall; Doris Blanchette; Susan Allen; Firefighter P.J. Johnson, and a Go fund has  
325 been set up and Lester Raynes, who was a long-time janitor at the Horace Mitchell Primary School.  
326 He said to their families, our hearts are with you for your loss.

327  
328 15. Committee and Other Reports: none

329  
330 16. Executive Session: none

331  
332 17. Adjournment:

333  
334 **COUNCILOR PELLETIER MOVED TO ADJOURN THE MEETING AT 8:00 p.m., SECONDED BY**  
335 **VICE-CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 5-0.**

336  
337 Respectfully submitted,

338  
339 Barbara Boggiano  
340 Recording Secretary

341  
342  
343  
344  
345  
346  
347



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

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**REPORT TO TOWN COUNCIL**

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Meeting Date: December 27, 2017  
From: Kendra Amaral, Town Manager  
Subject: Title 2 Amendment – Town Clerk/Registrar of Voters Position  
Councilor Sponsor: Chairperson Kenneth Lemont

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**EXECUTIVE SUMMARY**

Town Clerk Maryann Place has conducted a review of the position purpose and job responsibilities of the Town Clerk/Registrar of Voters in preparation for her upcoming retirement in March of 2018. In that review, it was identified that the purpose and responsibilities require updating to reflect the current expectations of the position.

**STATEMENT OF NEED**

The Town Clerk position will be vacant in the spring of 2018 due to the upcoming retirement of Maryann Place. In conjunction with posting the position, we want to ensure the position responsibilities, as defined by Title 2, are accurate and complete.

The proposed revisions properly acknowledge the Town Clerk/Registrar of Voters' role in managing vital and municipal records, processing collections for taxes and fees, and ensuring fair and proper elections. The revisions also remove responsibilities now handled by the Human Resources Generalist and Secretary to the Town Manager. Generally, the revisions better reflect the shift of the Town Clerk/Registrar of Voters from an administrative support role to a critical member of the administration's leadership team.

**PROPOSED SOLUTION/RECOMMENDATION**

Approve revisions as recommended.

1 **Chapter 2.4 PERSONNEL POSITIONS ESTABLISHED**

2 **Article I. Administration**

3 **2.4.1.1 Town Manager.**

4 The purpose of this position is to direct and manage all day-to-day activities in regard to the  
5 implementation and supervision of policies and procedures for the Town. This position reports to  
6 the Town Council. Duties include, but are not limited to: supervising staff; directing activities;  
7 appointing and prescribing duties; attending meetings; preparing and submitting budgets and  
8 reports; and performing additional tasks as assigned by the Town Council.

9 **2.4.1.2 Town Clerk/Registrar of Voters.**

10 The purpose of this position is to supervise ~~clerical staff and to provide administrative and~~  
11 ~~secretarial support to the Town Manager~~ the Town Hall service counter **personnel**, collection of  
12 taxes, fees and licenses, manage vital and municipal records, administer fair and proper elections,  
13 and provide administrative support to the Town Council. This position reports to the Town  
14 Manager. Duties include, but are not limited to: supervising staff; ~~directing and administrating~~  
15 ~~supervising collection~~ activities; maintaining records and files; managing, preserving and providing  
16 access to municipal records; preparing reports; notarizing documents; ~~preparing worker's~~  
17 ~~compensation and property and casualty insurance claims; approving invoices;~~ attending regular  
18 council meetings; processing voter registrations and administering elections; and performing  
19 additional tasks as assigned by the Town Manager, or as directed by statute.

20 **2.4.1.3 Deputy Town Clerk / General Assistance Administrator.**

21 The purpose of this position is to provide administrative support to the citizens of the Town. This  
22 position reports to the Town Clerk. Duties include, but are not limited to: providing assistance to  
23 the public; filling in for the Town Clerk as necessary, maintaining books; completing reports;  
24 performing administrative tasks; and performing additional tasks as assigned by the Town Clerk.

25 **2.4.1.4 Assistant Town Clerk.**

26 The purpose of this position is to greet and assist citizens of the Town in regard to official  
27 administrative functions. This position reports to the Town Clerk. Duties include, but are not limited  
28 to: preparing vehicle registrations; collecting taxes; preparing licenses; assisting the Town Clerk  
29 and Deputy Town Clerk at the counter; and performing additional tasks as assigned by the Town  
30 Clerk.

31 **2.4.1.5 Deputy Treasurer.**

32 The purpose of this position is to provide treasury services for the Town. Duties include, but are  
33 not limited to: supervising the position of accountant bookkeeper, and payroll clerk; assisting with  
34 budget preparation, preparing department expense reports, reconciling bank accounts, monitoring  
35 and transferring funds in the main operating account and reserve/dedicated accounts, monitoring  
36 bank cash flow balances, and performing additional tasks as assigned by the Town Manager/ and  
37 Business Manager.

**KITTERY TOWN CODE TITLE 2, PROPOSED AMENDMENT –  
UPDATE TITLE 2 TOWN CLERK**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers  
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town Clerk position purpose and responsibilities as listed in Title 2 requires  
11 updating to reflect the current responsibilities of the position;

12 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN  
13 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT OF TITLE 2,  
14 PERSONNEL and ADMINISTRATION, OF THE TOWN CODE, AS PRESENTED.

15 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
16 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
17 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
18 passed by a vote of \_\_\_\_\_.

19 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
20 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

21 **Attest:** {NAME}, \_\_\_\_\_Town Clerk

1 **1.2 Town clerk/registrar of voters.**

2 A. Purpose of Position. The purpose of this position is to supervise ~~clerical staff and to provide~~  
3 ~~administrative and secretarial support to the Kittery town manager~~ the Town Hall service  
4 counter **personnel**, and the collection of taxes, fees and licenses, manage vital and  
5 municipal records, administer fair and proper elections, and provide administrative support  
6 to the Town Council. This position reports to the town manager. Duties include, but are not  
7 limited to: supervising staff; ~~directing and~~ supervising collection activities; maintaining  
8 records and files; managing, preserving and providing access to municipal records;  
9 preparing reports; notarizing documents; ~~preparing worker's compensation and property and~~  
10 ~~casualty insurance claims; approving invoices;~~ attending regular council meetings,  
11 processing voter registrations, and administering elections, and performing additional tasks  
12 as assigned by the town manager, or as directed by statute.

13 B. Essential Duties and Responsibilities. The following duties are normal for this position.  
14 These are not to be construed as exclusive or all-inclusive. Other duties may be required  
15 and assigned.

- 16 1. Supervises and evaluates assigned staff; manages employee concerns; directs work  
17 assignments, and counsels/disciplines employees, when necessary; provides for employee  
18 training and development, as needed;  
19 ~~Supervises Deputy Town Clerk, Assistant Town Clerk and Administrative Clerks; front office~~  
20 ~~clerical staff; serves as office manager; arranges for the repair and maintenance of all office~~  
21 ~~equipment; monitors and purchases all forms, copier paper, and supplies; approves and~~  
22 ~~codes invoices for purchases and advertising;~~
- 23 2. Meets with the public and customers, ensures department activities result in fair, consistent,  
24 and predictable processes and treatment of all customers;
- 25 3. Manages and oversees the operation of direct customer payment and the computerized  
26 ~~motor vehicle and clerk program and on-line rapid renewal license, registration, and fine/fee~~  
27 payment programs, and administration of general assistance;
- 28 4. Assists town manager with various projects; assists the town manager during the absence  
29 of the manager's secretary; ~~assists with budget preparation and maintains the town website;~~
- 30 5. Prepares agendas and council packets; prepares legal notices for public hearings; prepares  
31 and assembles town report; prepares weekly vital statistic reports; prepares and maintains  
32 adopted and amended ordinances for town code;
- 33 6. Issues various business licenses; collects associated fees; notarizes documents for official  
34 town business; collects and records cemetery perpetual care fees; prepares annual  
35 unregistered dog ~~warrant~~ list; issues marriage licenses, burial permits, and other vital  
36 records;
- 37 7. Maintains records of terms of various boards; advertises vacancies in regard to same;  
38 administers oath of office to members of all boards and elected officials; prepares  
39 appointment forms for all board members; maintains town record books;
- 40 8. Serves as treasurer for the Mary Safford Wildes Trust and the George Smart Santa Claus  
41 Fund, ~~issuing distributes funds checks, preparing~~ prepares quarterly reports and maintaining  
42 maintains investments and checking accounts;  
43 ~~Approves vacation compensation time and sick leave for front office clerical staff; prepares~~  
44 ~~new hire paperwork, insurance changes, worker's compensation claims and maintains~~  
45 ~~personnel files for all town employees;~~

46 ~~Performs administrative tasks such as answering phones, taking and relaying messages,~~  
47 ~~making copies, scanning, faxing, and typing documents, maintaining files, and answering~~  
48 ~~written correspondence;~~

49 9. Computes and prepares payroll for the administration department, council and election  
50 workers;

51 ~~10. Supervises and coordinates elections; serves as the registrar of voters, supervising~~  
52 ~~deputies, maintaining all voter registration records, producing voter lists, generating reports~~  
53 ~~and assisting the public with registration inquiries;~~

54 ~~10.~~  
55 ~~Utilizes various office machines and equipment in the delivery of service, such as~~  
56 ~~computers, scanners, printers, telephone, facsimile machine, adding machine, copier,~~  
57 ~~typewriter, and postage meter;~~

58 ~~11. Reviews and receives various reports, documents, and forms, including billing invoices,~~  
59 ~~personal checks, attendance records, job applications, annual reports, workers~~  
60 ~~compensation records, insurance claims and vital statistics reports;~~

61 ~~11.~~  
62 ~~12. Attends meetings and seminars; s~~Serves as back-up for front counter personnel, and  
63 general assistance as needed;

64 13. Performs other related duties as ~~required~~ assigned by the Town Manager.

65 C. Essential Training and Experience Required to Perform Essential Functions.

66 1. High school diploma or GED required, with a minimum of three years' experience as a Town  
67 Clerk or Registrar of Voters~~an office manager, or administrative clerk,~~ or any equivalent  
68 combination of education, training, and experience which provides the requisite knowledge,  
69 skills, and abilities for this position.

70 2. Must possess a valid driver's license;

71 3. Ability to understand, interpret, and apply complex local and state laws and regulations;

72 4. Excellent verbal and writing skills, ability to communicate effectively and in an appropriate  
73 professional manner.

74 ~~3. Supervisory experience required.~~

75 ~~4. Must have typing skills and computer program knowledge and experience including~~  
76 ~~Windows, and Microsoft Office (Word, Excel and Access).~~

77 5. Must be and remain a notary public with the state State of Maine throughout employment.

78 ~~6. Must attend new motor vehicle registration and re-registration seminars.~~

79 D. Minimum Physical and Mental Abilities Required to Perform Essential Functions.

80 1. Physical Requirements.

81 a. Must be able to operate a computer, keyboard, printer, telephone, and other equipment  
82 necessary to perform the duties of this position;

83 b. Must be able to move or carry job-related objects or materials;

84 c. Must be able to sit and stand for long periods;

85 d. Must be able to communicate through human speech and in writing;

86 e. Must be physically capable of lifting 50 pounds.

87 2. Mental Abilities

88 a. Requires the ability to develop and maintain positive relationships with employees, vendors,  
89 and departments;

90 b. Requires the ability to exercise initiative and good judgement, to set priorities and complete  
91 efforts independently and as a member of a team;

- 92 c. Requires the ability to utilize mathematical formulas, and to understand a variety of
- 93 professional, technical and administrative documentation, directions, regulations,
- 94 instructions, methods and procedures;
- 95 d. Requires the ability to produce reports that are accurate and complete;
- 96 e. Requires the ability to communicate with people to convey or exchange professional
- 97 information;
- 98 f. Ability to cope with situations firmly, courteously, tactfully and with respect for the rights of
- 99 others;
- 100 g. Ability to analyze situations quickly and objectively and to determine proper course of action
- 101 ~~a. — Must be physically able to operate a variety of automated office machines and~~
- 102 ~~equipment, including, but not limited to: calculator, computer, typewriter, facsimile machine,~~
- 103 ~~copier, scanner, printer and telephone;~~
- 104 ~~b. — Must be able to move or carry job-related objects or materials;~~
- 105 ~~c. — Must be physically capable of reaching to obtain various books, printouts, file boxes,~~
- 106 ~~computer paper, etc.;~~
- 107 ~~d. — Physical demand requirements are at levels of those for sedentary or office environment~~
- 108 ~~work.~~
- 109 ~~2. — Numerical Aptitude.~~
- 110 ~~a. — Requires the ability to utilize mathematical formulas; add and subtract; multiply and~~
- 111 ~~divide totals; determine percentages; and interpret same as may be appropriate.~~
- 112 ~~3. — Language Ability.~~
- 113 ~~a. — Requires the ability to read a variety of professional, technical and administrative~~
- 114 ~~documentation, directions, regulations, instructions, methods and procedures;~~
- 115 ~~b. — May require the ability to produce reports with proper format, punctuation, spelling and~~
- 116 ~~grammar, using all parts of speech.~~
- 117 ~~4. — Interpersonal Communication.~~
- 118 ~~a. — Requires the ability to communicate with people to convey or exchange professional~~
- 119 ~~information.~~
- 120 ~~5. — Environmental Adaptability.~~
- 121
- 122 ~~a. — Requires the ability to interact with people (i.e., staff, general public and elected officials)~~
- 123 ~~beyond giving and/or receiving instructions;~~
- 124 ~~b. — Work is normally performed in an office environment. Headaches, eye strain, carpal~~
- 125 ~~tunnel syndrome, and related occupational hazards associated with computer work reflect most~~
- 126 ~~common potential for injury.~~
- 127





**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

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**REPORT TO TOWN COUNCIL**

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Meeting Date: December 27, 2017  
From: Kendra Amaral, Town Manager  
Subject: Title 2 Amendment: Process  
Councilor Sponsor: Chairperson Kenneth Lemont

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The Council included in my 2017 goals to propose and implement Charter, Ordinance, and Rule changes that improve efficiency and effectiveness of Town operations. Specifically, this year I have focused on simplifying the work flow for the personnel director, a role the Town Manager holds per charter.

In November, voters approved a change to the charter that vested the professional management responsibilities of the Town's personnel functions in the Town Manager and professional staff, and eliminated the volunteer Personnel Board. I will be proposing Title 2 amendments to reflect this. The proposed amendments also eliminate reference to the Human Resources Manager, which we abandoned as a position in early 2017.

The next phase in improving the process is seeking approval from the Council to allow the Town Manager to maintain job descriptions for existing positions without Council action. (2.3.6.B).

The proposed change will not impact the Council authority on the creation of positions or the establishment and amendment of position purposes, which are codified in Title 2. It will allow the Town Manager to manage the specific job descriptions which are contained in "policy".

**STATEMENT OF NEED**

Job descriptions serve many purposes. They establish the range of responsibilities for a position, identify minimum requirements, including physical and mental requirements. The job descriptions are also used in recruitment; they convey important information to job candidates and perspective employees. Having modern, accurate, and up-to-date job descriptions is critical to our operation.

By allowing the Town Manager to maintain the job descriptions as an administrative function, we will be able to modernize the descriptions and improve the format, which will benefit recruiting efforts. We will also be able to increase our ability to respond and react to changes in expectations and responsibilities of positions, and changes in labor law that impact job description requirements.

**PROPOSED SOLUTION/RECOMMENDATION**

Approve as proposed

1 **Title 2 ADMINISTRATION AND PERSONNEL**

2  
3 **Chapter 2.1 ADMINISTRATIVE PROVISIONS GENERALLY**

4  
5 **2.1.1 Office of Commissioner of Public Works an Appointive Office.**

6 The office of Commissioner of Public Works is an appointive position.

7  
8 **2.1.2 Enforcement Powers of the Chief of Police.**

9 The Chief of Police is authorized to represent the Town in District Court in the prosecution of  
10 alleged violations of those ordinances that the police department is empowered to enforce, if duly  
11 certified in accordance with 25 M.R.S. §2803-A (8) or successor statute. The Chief of Police may  
12 designate any officer under command, if so certified, to perform this prosecutorial function.

13  
14 **Chapter 2.2 FIRE DEPARTMENT**

15  
16 **2.2.1 Purpose.**

17 The purpose of this chapter is to recognize and establish the Kittery Fire Department as the  
18 municipal firefighting unit within the Town pursuant to 30-A M.R.S. §3151, and to vest the Fire  
19 Department with all the rights, responsibilities, and obligations of a municipal Fire Department as  
20 created under said statute.

21  
22 **2.2.2 Establishment.**

23 The Fire Department is established as the organized firefighting unit for the Town for the principal  
24 purpose of preventing and extinguishing fires and related activities as provided by 30-A M.R.S.  
25 §3151.

26  
27 **2.2.3 Fire Chief.**

28 The Fire Chief is the administrative head of the Fire Department and is responsible for the  
29 management of the department. The duties and scope of employment of the Fire Chief are as  
30 defined in the personnel code. The Fire Chief is appointed by and is directly accountable to the  
31 Town Manager. In addition, the Fire Chief is responsible for promulgating and enforcing rules,  
32 policies and regulations of the Fire Department. In addition to all other duties and responsibilities,  
33 the Fire Chief prepares the annual budget in a manner and form as the manager deems desirable  
34 or the council requires consistent with the Town charter.

35  
36 **2.2.4 Pending Matters.**

37 All rights, claims, actions, contracts, mutual aid agreements and other legal or administrative  
38 proceedings taken by or affecting the Fire Department in its said capacity and all Town  
39 ordinances, resolutions, orders and regulations adopted by the Town and the policies, rules and  
40 regulations of Fire Department remain in full force and effect and are adopted, ratified and become  
41 incorporated into and binding on the Fire Department as herein established as if the same were  
42 repeated and fully set forth and incorporated by reference herein. In addition, the Fire Department  
43 has all rights, obligations and legal authority consistent with the Town charter and state statutes.

44 **2.2.5 Election of Fire Department Officers.**

45 Each district of the Fire Department has subordinate officers consisting of a Deputy Chief, one or  
46 more Captains and one or more Lieutenants and they are to be elected or reelected for one-year  
47 terms in the following manner:

48  
49 A. A nominating committee from each district is to propose one or more candidates for each office  
50 from among those firefighters who have met the officer candidate qualifications established by  
51 each district.

52  
53 B. The list of candidates is to be submitted to the Town Manager via the Fire Chief. Within ten  
54 (10) days after the list is submitted to the Fire Chief, either the Fire Chief or the Town Manager  
55 may reject any candidate for cause relating to previous performance or other serious problems.  
56 Candidates who are rejected are to be given a reason in writing for the rejection and are entitled to  
57 request a hearing before a board consisting of the Town Manager, the Fire Chief and the  
58 nominating committee to be held within ten (10) days of rejection. The decision of the Town  
59 Manager after such a hearing is final.

60  
61 C. The election is held in the month of December on a date determined by the members of each  
62 district and the candidates with the most votes for each office are officially appointed to office by  
63 the Fire Chief.

64  
65 **Chapter 2.3 PERSONNEL SYSTEM GENERALLY**

66  
67 **2.3.1 Definition of Terms.**

68 As used in this chapter, unless the context otherwise indicates, the following terms have the  
69 meanings indicated in this section:

70  
71 **Domestic partner** means one of two unmarried adults who are domiciled together under long-  
72 term arrangements that evidence a commitment to remain responsible indefinitely for each other's  
73 welfare.

74  
75 **Registered domestic partners** means domestic partners who are registered in accordance with  
76 22 M.R.S. §2710, or any successor statute.

77  
78 **2.3.2 General Provisions.**

79 It is the declared policy of the Town that:

- 80  
81 A. Employment in the Town government is based on merit and fitness, free of personal and  
82 political considerations;  
83 B. Just and equitable incentives and conditions of employment are established and maintained to  
84 promote efficiency and economy in the operation of the Town government,  
85 C. Positions having similar duties and responsibilities are classified and compensated on a  
86 uniform basis;

87 D. Appointments, promotions and other actions requiring the application of merit are based on  
88 qualifications and performance. Seniority is considered when all other factors are deemed to be  
89 equal;

90 E. High morale is maintained by fair administration of this chapter and by every consideration of  
91 the rights and interests of employees consistent with the best interests of the public and the Town;  
92 and

93 F. Tenure of employees covered by this chapter is subject to good behavior, the satisfactory  
94 performance of work, necessity for the performance of work, and the availability of funds.

95  
96 **2.3.3 Scope and Coverage.**

97 A. The provisions of the personnel classification and compensation plan apply to all positions in  
98 the Town except as follows:

- 99  
100 1. All elected officials and members of boards and commissions;  
101 2. Employees under the control of the school committee;  
102 3. Volunteer personnel and personnel appointed to serve without pay/salary, including those  
103 personnel who are merely reimbursed for out-of-pocket expenses associated with the performance  
104 of their responsibilities. This exception does not apply to department heads and other employees  
105 with significant supervisory responsibility whose positions require significant independence in the  
106 completion of their work;  
107 4. Consultants and counsel rendering temporary professional services;  
108 5. Positions which involve seasonal or part-time employment. Seasonal employment is defined  
109 as employment that does not continue for at least one continuous calendar year (three hundred  
110 sixty-five (365) days), and part-time employment is defined as employment consisting of less than  
111 thirty (30) hours of work per week, regardless of the length of employment;  
112 6. Employees under separate union contracts, except that the provisions of this section apply to  
113 those areas not covered by union contract;  
114 7. Management employees with separate employment agreements.

115  
116 B. Nothing herein, however, prohibits reference to this plan for assistance in determining the  
117 compensation and benefits of Town employees not covered by the plan.

118  
119 **2.3.4 Administration.**

120 The personnel program established by this chapter is to be administered by the Town Manager.  
121 The Town Manager shall:

122  
123 ~~Attend meetings of the personnel board when requested;~~

124 A. Administer all the provisions of this chapter and of the personnel rules;

125 B. Prepare and recommend to the Town Council revisions and amendments to the personnel  
126 rules;

127 ~~C. Prepare such personnel reports and provide such personnel information as is directed by the~~  
128 ~~personnel board.~~

129 **2.3.5 Personnel Rules - Promulgation, Adoption, Force and Effect, Amendment.**

130 The Town Manager is to draft such rules as may be necessary to carry out the provisions of this  
131 chapter. These rules must be submitted for adoption by ordinance of the Town Council. These  
132 rules have the force and effect of law; except that it is clearly understood that these rules are  
133 subordinate to and may not conflict with the provisions of the Town Charter and state law.

134 Amendments of the rules are made in accordance with the same procedure.

135  
136 **2.3.6 Classification Plan - Maintenance.**

137 The Town Manager is responsible for the proper and continued maintenance of the classification  
138 plan so that it will always reflect the duties being performed by each employee in the Town service  
139 and the class to which each position is allocated. Revisions of class specifications and reallocation  
140 of positions within the approved classification plan are made as follows:

141  
142 A. The Town Manager, charged with the responsibility for maintaining the plan, shall study the  
143 duties and responsibilities of each new position. The manager may make a recommendation to the  
144 Town Council as to the desirability of creating ~~the a~~ new position, and, if the position is created,  
145 shall place the position in the appropriate class within the classification plan or if there is not an  
146 appropriate class, create a new one for the position.

147  
148 B. Department heads are to report changes in the duties and responsibilities of a position to the  
149 Town Manager. ~~After forwarding recommendation for approval or denial of such changes to the~~  
150 ~~Town Council, and, if the changes accepted are permanent and of such a nature as to require~~  
151 it, the Town Manager is to reallocate the position to the appropriate class.

152  
153 C. A department head, or an employee through the department head, may request the Town  
154 Manager to review the duties of any position.

155  
156 D. The Town Manager shall review the classification plan periodically, and, upon the basis of that  
157 review, may recommend that classes be combined or abolished or that new classes be  
158 established.

159  
160 E. The classification of positions within the Town service are governed by the provisions of the  
161 personnel position-classification plan as specified in Chapter 2.4.

162  
163 **2.3.7 Pay Plan - Maintenance.**

164 A. The Town Manager is responsible for the proper and continued maintenance of the pay plan  
165 and may review the pay plan or parts of it at any time but must review the overall pay plan at least  
166 once a year. The range for each class must be such as to reflect the differences in duties and  
167 responsibilities and must be related to compensation for comparable positions in other places of  
168 public and private employment.

169  
170 ~~The Town Manager shall submit the pay plan and the rules for its administration to the council for~~  
171 ~~adoption. Any amendments made by the council must apply uniformly to all positions within the~~  
172 ~~same class.~~

173 ~~Each department head must include in the proposed budget for the department a pay~~  
174 ~~adjustment section to provide funds for anticipated pay adjustments during the ensuing year,~~  
175 ~~expenditures to be made therefrom only in accordance with the pay plan.~~

176  
177 B. Procedures for the setting of rates of compensation within the Town service are governed by  
178 the provisions of the pay plan as specified in Chapter 2.5.

179  
180 **2.3.8 Appointments and Promotions.**

181 A. Appointments to the Town service may be provided for by rule as set forth under Section 2.3.5.

182  
183 B. Vacancies in positions above the entrance level are filled by promotion whenever, in the  
184 judgment of the Town Manager, it is in the best interests of the Town to do so. Promotions must  
185 give appropriate consideration to the applicant's qualifications, record of performance, and  
186 seniority (see Section 2.3.2 D).

187  
188 C. In the event an appointment or promotion is on an "acting" basis, it must not be for a period of  
189 more than ninety (90) days unless serious extenuating circumstances dictate otherwise, in which  
190 case the Town Manager may extend an "acting" promotion or appointment for additional periods  
191 up to ninety (90) days.

192  
193 **2.3.9 Probation.**

194 A. Employees subject to the provisions of the personnel position-classification and pay plan, at  
195 the time of their original appointment, are subject to a period of probation. The regular period of  
196 probation is six months for most employees, but is twelve (12) months for the following job  
197 classes: chief of police; commissioner of public works; Town Clerk; superintendent of sewer  
198 services; Fire Chief; and other employees under separate employment agreement or collective  
199 bargaining agreement where said agreements specify a twelve (12) month probationary period. No  
200 probationary period may extend beyond twelve (12) months.

201  
202 B. The work and conduct of probationary employees is subject to close scrutiny and evaluation,  
203 and if found to be below standards satisfactory to the appointing authority, the appointing authority  
204 may remove or demote the probationer at any time during the probationary period. Such removals  
205 or demotions are not subject to review or appeal.

206  
207 C. An employee may be retained beyond the end of the probationary period only if the Town  
208 Manager affirms by written evaluation of the employee that the services have been found to be  
209 satisfactory. The employee is to be given a copy of the evaluation.

210  
211 **2.3.10 Absences - Hours of Work.**

212 Rules are to be adopted prescribing hours of work and the conditions and lengths of time for which  
213 leaves of absence without pay may be granted. These rules cover, among others, vacations, sick  
214 leaves, longevity, overtime, paid holidays, bereavement pay and jury duty.

215 **2.3.11 Training.**

216 The Town Manager is to encourage the improvement of service by encouraging employees to  
217 attend training schools and sessions, which need not be limited to training for specific jobs but may  
218 include training for advancement and for general fitness for public service.

219  
220 **2.3.12 Separations.**

221 A. When in the judgment of the Town Manager an employee's work performance justifies  
222 disciplinary action short of dismissal, the employee may be suspended without pay. ~~A suspended~~  
223 ~~employee may not request a hearing before the personnel board unless the suspension is for~~  
224 ~~more than five working days, or unless the employee has already received a previous suspension~~  
225 ~~within the six months immediately prior thereto. The Human Resources Manager and the~~  
226 ~~personnel board must be notified of any actions under this section.~~

227  
228 B. A permanent employee may be dismissed or demoted whenever in the judgment of the Town  
229 Manager the employee's work or misconduct so warrants. The Town Manager, when taking such  
230 action, shall file with the employee ~~and the Human Resources Manager and the personnel board~~ a  
231 written notification containing a statement of the substantial reasons for the action. The employee  
232 must be notified no later than the effective date of the action. The notice must inform the employee  
233 that he or she is allowed five working days from the effective date of the action to file a written  
234 reply with the Town Manager ~~and the Human Resources Manager and the personnel board, and~~  
235 ~~to request in writing a hearing before the personnel board.~~

236  
237 ~~If the employee files a written reply and requests a hearing within the prescribed period, the~~  
238 ~~personnel board must meet within five working days to set a hearing date. The hearing may be~~  
239 ~~private or open to the public at the discretion of the employee.~~

240  
241 ~~The Human Resources Manager is the hearing official, but is not a member of the board. The~~  
242 ~~Chairperson will preside over the meeting. In conducting a hearing, the proceedings are informal~~  
243 ~~and it is assumed that the action complained of was taken in good faith, unless proved otherwise.~~

244  
245 ~~Upon completion of the hearing, the personnel board must issue its written advisory opinion to the~~  
246 ~~Town Manager and to the employee within thirty (30) days.~~

247  
248 C. An employee may resign by notification to the Town Manager.

249  
250 Note: An employee resigning in good standing may be reinstated within two years after the date of  
251 resignation.

252  
253 D. Grievance Procedure. The term "grievance" includes any dispute concerning the application or  
254 interpretation of any of the provisions of this chapter or Charter of the Town.

255  
256 1. An employee, believing a reason for grievance exists, must first reduce the problem to writing  
257 and discuss the matter with the department head within forty-eight (48) hours of noting the  
258 grievance. Within five working days the department head must render a written decision.

259 2. If the grievant is not satisfied with the decision, the grievant may request in writing a meeting  
260 with the Town Manager and present the claim in writing, with a statement that the grievance is or  
261 is not a result of discrimination. Alleged discrimination practices are not covered under this  
262 grievance procedure, but are processed in accordance with applicable laws of the State of Maine.

263  
264 3. The Town Manager shall, within two working days after the receipt of the written grievance,  
265 meet with the grievant, and the grievant's representative, if there is one, to discuss possible  
266 resolution. The Town Manager will render a decision in writing to the aggrieved employee with a  
267 copy to the representative within five working days after said meeting.

268  
269 ~~If the grievant is not satisfied with the decision, the grievant may within five working days forward~~  
270 ~~the grievance in writing to the Human Resources Manager who will then forward the request to the~~  
271 ~~personnel board. The personnel board shall within five working days after receipt of the written~~  
272 ~~grievance meet with the grievant and grievant's representative if there is one, the Town Manager,~~  
273 ~~the Human Resources Manager, the appropriate department head and/or supervisor, and others~~  
274 ~~as deemed appropriate. An advisory decision in writing to all parties will be given within ten (10)~~  
275 ~~days after said meeting.~~

276  
277 **Hearings.**

278 ~~A. During the course of any hearing, the Human Resources Manager and the personnel board~~  
279 ~~may request any employee of the Town to attend and give witness.~~

280  
281 ~~B. The Town must provide a secretary to record proceedings of an official hearing upon request.~~  
282 ~~A transcript of the hearing must be furnished to the Town Manager, the Human Resources~~  
283 ~~Manager and the members of the personnel board and to the employee concerned.~~

284  
285 ~~C. An employee requesting a hearing under Section 2.3.12-B must notify the Human Resources~~  
286 ~~Manager and the personnel board in writing of the employee's desire to have a representative in~~  
287 ~~attendance during the hearing.~~

288  
289 **2.3.13 Tenure and Reduction in Force.**

290 A. The tenure of every employee is conditioned on good behavior and the satisfactory  
291 performance of duties. Any employee may be temporarily separated by layoff or suspension; or  
292 permanently separated by resignation or dismissal.

293  
294 B. Whenever there is lack of work or lack of funds requiring reductions in the number of  
295 employees in a department or division of the Town government, the required reduction must be  
296 made in such job class or classes as the Town Manager and the department head may designate,  
297 provided, that employees must be laid off in the inverse order of their relative length of service.  
298 Within each affected job class, all temporary employees must be laid off before any permanent  
299 employees.

300  
301 **2.3.14 Records.**

302  
303 **2.3.14.1 Maintenance.**



304 The Town Manager shall maintain adequate records of ~~the proceedings of the personnel board,~~  
 305 ~~and of the Town Manager's own official acts,~~ the employment record of every employee, and  
 306 where appropriate, the examination record of every candidate for employment.

307

### 308 **2.3.14.2 Duty of Department Heads to Furnish Information.**

309 Department heads must furnish such information as may be requested for this purpose.

310

### 311 **2.3.14.3 Availability.**

312 Such records as relate to employee compensation and fringe benefits must be maintained by the  
 313 Town Manager ~~and be made available at the request of the Human Resources Manager and the~~  
 314 ~~personnel board for matters specifically relating to grievances, separation, demotion or~~  
 315 ~~suspensions. The Town Manager shall also bring to the attention of the Human Resources~~  
 316 ~~Manager and the personnel board any deviations in employee compensation, fringe benefits, and~~  
 317 ~~like matters as may be noted by the Town Manager.~~

318

### 319 **Human Resources Manager**

320 ~~The Human Resources Manager is defined as a shared position located within the School~~  
 321 ~~Department.~~

322

### 323 **2.3.16 General Prohibitions.**

324

#### 325 **2.3.16.1 Politics - Political Activity.**

326 Employees covered by the provisions of the position-classification and pay plan are selected  
 327 without regard to political considerations, may not be required to contribute to any political  
 328 purpose, and may not engage in improper political activity. The rules define the scope of improper  
 329 political activity.

330

#### 331 **2.3.16.2 Discrimination.**

332 There is no discrimination against any person seeking employment or employed under the  
 333 provisions of the position-classification and pay plan because of race, gender, marital status, age,  
 334 nationality, handicap, sexual orientation, political or religious opinions or affiliation.

335

#### 336 **2.3.16.3 Harassment.**

337 It is the policy of the Town that all employees should be able to work in an environment free from  
 338 all forms of harassment. Harassment, as defined by this policy, is prohibited. This policy refers not  
 339 only to supervisor-subordinate actions but also to actions between co-workers. Any complaints of  
 340 harassment will be investigated promptly. There will be no intimidation, discrimination or retaliation  
 341 against any employee who makes a report of harassment.

342

##### 343 **2.3.16.3.1 Sexual Harassment.**

344 A. Sexual harassment is the attempt to control, influence or affect the career, salary or job of an  
 345 individual in exchange for sexual favors. Sexual harassment can also be conduct which creates a  
 346 hostile or offensive work environment or unreasonably interferes with a person's ability to perform  
 347 their job. Sexual harassment is an extremely serious matter. It is prohibited in the workplace by  
 348 any person and in any form.

- 349 B. Specific conduct which is prohibited includes, but is not limited to:  
350  
351 1. Threats or insinuations, implicit or explicit, that any employee's refusal to submit to sexual  
352 advances will adversely affect the employee's retention, evaluation, wages, promotion, duties or  
353 any other condition of employment;  
354 2. Unwelcome sexual flirtations, advances or propositions;  
355 3. Verbal or written abuse of a sexual nature;  
356 4. Graphic verbal comments about an individual's body;  
357 5. Sexually degrading words used to describe an individual; and  
358 6. The display in the workplace of sexually suggestive objects or pictures.  
359  
360 C. Employees who believe that they have been the subject of sexual harassment should report  
361 the alleged act to their immediate supervisor or other appropriate management.  
362  
363 D. Any supervisor or employee who is found after appropriate investigation to have engaged in  
364 sexual harassment will be subject to discipline, including discharge.

365  
366 **2.3.16.3.2 Verbal Harassment.**

367 Derogatory or vulgar comments regarding a person's gender, religion, age, ethnic origins, physical  
368 appearance, or the distribution of written or graphic material having such an effect, are prohibited.  
369 Any employee who believes he or she has been the subject of such harassment should report the  
370 alleged conduct to the personnel director or other appropriate management. Any supervisor or  
371 employee who is found, after appropriate investigation, to have engaged in any harassment will be  
372 subject to discipline, including discharge.

373  
374 **2.3.17 Basic workweek-Fringe benefits.**

375  
376 **2.3.17.1 Basic Workweek.**

- 377 A. The basic workweek for all employees is no more than forty (40) hours.  
378 B. Employees covered by the Fair Labor Standards Act required to work in excess of forty (40)  
379 hours per week are compensated at one and one-half times the individual's rate of pay.  
380 C. All overtime work must be authorized by the Town Manager.  
381 D. Any employee called back to work is guaranteed at least two hours pay.

382  
383 **2.3.17.2 Vacation Plan.**

- 384 A. Vacation leave accrues as follows:  
385  
386 1. Employees who have completed six months of currently continuous service, but less than one  
387 year, receive five days of annual vacation leave.  
388 2. Employees who have completed one year of currently continuous service, but less than five  
389 years, receive ten (10) days of annual vacation leave.

390 3. Employees who have completed five years of currently continuous service, but less than ten  
391 (10) years, receive fifteen (15) days of annual vacation leave.

392 4. Employees who have completed ten (10) years of currently continuous service but less than  
393 twenty (20) years receive twenty (20) days of annual vacation leave.

394 5. Employees who have completed twenty (20) years or more of currently continuous service  
395 receive twenty-five (25) days of annual vacation leave.

396  
397 B. Town employees do not receive extra pay in lieu of utilizing vacation leave.

398 C. The vacation calendar for all Town employees is January 1st to December 31st. A maximum of  
399 five vacation days may be saved from one year to the next.

400 D. Time absent from the job will be charged to annual leave, sick leave if sick, or leave without  
401 pay.

402 E. In the event that an employee dies, accrued vacation credits, if any, are paid by the Town, in  
403 equivalent wages to the employee's estate.

404 F. In the event of the dismissal of an employee for cause, or if an employee voluntarily leaves, or  
405 retires from employment, the employee is entitled to vacation pay for all unused vacation earned.

406  
407 **2.3.17.3 Bereavement Leave.**

408 A. Five days with pay, per year, for a death within the immediate family. (Immediate family means  
409 spouse, domestic partner, children, parents, step-parents, step children, brother, sister, mother-in-  
410 law and father-in-law.)

411 B. For other relatives, up to three days may be allowed. This is not automatic, but is at the  
412 department head or Town Manager's discretion.

413 C. An employee wishing to utilize bereavement leave must notify the department head or the  
414 Town Manager in person, by writing, e-mail or phone call and said request must indicate the  
415 number of days requested and the reason for said request.

416  
417 **2.3.17.4 Sick Leave. (FMLA)**

418 A. Sick leave is accumulated at the rate of one day per month to a maximum of one hundred fifty  
419 (150) days; the accumulation may be applied to retirement, as permitted by the Maine State  
420 Retirement System. The remaining days will be given as early retirement. At the end of the  
421 calendar year (December 31st), all sick leave over one hundred fifty (150) days will be given back  
422 and the Town will pay fifty percent (50%) of the face value, at the employee's normal rate of pay  
423 for the days that were given back.

424 B. Employees who retire or resign from the Town (after a minimum of ten (10) years of  
425 continuous service) and who have accrued vacation and/or sick leave time to their credit at the  
426 time of such resignation or retirement will be paid the wages equivalent to the vacation and/or sick  
427 leave. Sick leave payment is made only when separation is in good standing.

428 C. Qualified employees are eligible for paid sick leave from, and to the extent of their unused,  
429 accumulated, paid sick leave credits in the following situations:

- 430  
431 1. When it is established to the Town's satisfaction that the employee is incapacitated and cannot  
432 safely perform the employee's duties due to sickness, pregnancy or injury;

- 433 2. When it is established that, due to exposure to a contagious disease, the health of others  
 434 would be affected by attendance at work. A physician's statement recommending absence from  
 435 work is required;
- 436 3. When it is established that an illness exists in the immediate family of the employee, and then  
 437 for such periods as the attendance of the employee is necessary. The term "immediate family" is  
 438 defined as including spouse, domestic partner, children, grandchildren, parents, mother-in-law,  
 439 father-in-law, domiciled with the employee. In addition, immediate family includes other relatives  
 440 domiciled with the employee;
- 441 4. Employees will be allowed to utilize up to forty (40) hours of sick time to care for their spouse,  
 442 parents or children who are not domiciled with the employee.
- 443
- 444 D. If an employee is absent for more than three consecutive days, the Town may require medical  
 445 proof for the sick leave, in which case the employee involved may be required to provide a written  
 446 statement from the employee's physician, or the attending physician of the immediate family  
 447 member, certifying the necessity for the absence, and the ability of the employee to return to work  
 448 and perform the required functions of the employee's duties. Should the Town require a medical  
 449 statement, the Town pays the portion of the cost for the visit which is not covered by medical  
 450 insurance.
- 451 E. An employee is considered to have earned six days sick leave at the completion of a six-month  
 452 work status.
- 453 F. The Town Manager may authorize advance sick leave, not to exceed twelve (12) days.
- 454 G. Any further advance of sick leave is granted only with Town Council approval.
- 455 H. In the event of death of an employee with more than ten (10) years of service, the Town is to  
 456 pay to the designated beneficiary one hundred percent (100%) of the employee's accumulated  
 457 sick leave.

#### 458 2.3.17.5 Legal Holidays.

- 459 A. Town employees are entitled to twelve (12) legal holidays. The twelve (12) holidays are New  
 460 Year's Day, Martin Luther King Day, **Washington's Birthday Presidents Day**, Patriot's Day,  
 461 Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day,  
 462 Christmas Day and Personal Day.
- 463 B. If an observed holiday occurs during the work week in which an employee is actually on a  
 464 scheduled vacation, the employee will not be charged with a vacation day for the observed  
 465 holiday; an extra day may be added for the vacation.
- 466 C. Any holiday falling on a Saturday will be observed on the preceding Friday, and any holiday  
 467 falling on a Sunday is observed on the following Monday.
- 468 ~~D. The personnel board does not concur with granting time off before a holiday without the use of~~  
 469 ~~annual leave, with the expectation of half a day before Christmas and New Year's. The Town~~  
 470 ~~Manager may grant a half day off before Christmas and New Year's Day.~~

#### 471 2.3.17.6 Longevity.

- 472
- 473 A. Longevity pay is computed at the schedule below agreed to by the employees and the Town:
- 474
- 475 1. Two percent (2%) after four (4) years of service;
- 476 2. Four percent (4%) after eight (8) years of service;
- 477

- 478 3. Six percent (6%) after twelve (12) years of service;
- 479 4. Eight percent (8%) after sixteen (16) years of service;
- 480 5. Ten percent (10%) after twenty (20) years of service;
- 481 6. Twelve percent (12%) after twenty-four (24) years of service; and
- 482 7. Fourteen percent (14%) after twenty-eight (28) years of service for non-union employees.

483  
484 B. After completing the required years of continuous service, an employee's longevity payment is  
485 computed annually on the employee's anniversary date, and the computation is based upon the  
486 annual base salary. If an employee receives a salary increase in base salary, longevity is  
487 computed using the new annual base salary.

488  
489 **2.3.17.7 Health Insurance.**

- 490 A. This benefit is optional.
- 491 B. The cost of this plan is shared.

492  
493 1. The Town contributes eighty percent (80%) of the total premium for family, two-person or single-  
494 person coverage per month. The employee contributes the remaining twenty percent (20%) each  
495 month through weekly payroll deductions.

496  
497 2. The Town will pay the monthly health and dental insurance premiums for the single person level  
498 of coverage for any unit member from the Town after having worked for the Town for a minimum of  
499 fifteen (15) years and having met the age and/or years of service requirement contained in the  
500 MSRS policy currently in effect for that particular employee (effective July 1, 2003). Should the  
501 retiree choose to elevate the health and dental insurance coverage level to a two-person coverage  
502 plan or family coverage plan, the retiree will be responsible for any additional premiums owed to  
503 the insurance provider. The additional payments are to be made to the Town on a monthly basis.

504  
505 3. The Town will forward all required payments to the insurance carrier on behalf of the retiree.  
506 Upon reaching the age of eligibility for Medicare, the employee's health insurance plan will be  
507 converted to the Maine Municipal Employees Health Trust Retiree Plan as structured as of  
508 November 14, 2007, also paid for by the Town.

509  
510 4. In the event that it becomes necessary to change insurance providers, the Town will ensure that  
511 there is no lapse of coverage for the retiree, and that the new coverage level will be comparable to  
512 the existing level of coverage. Any additional premiums required for spousal conversion to a  
513 companion plan are the responsibility of the retiree.

514  
515 **2.3.17.8 Dental Insurance.**

- 516 A. The Town provides Northeast Delta Dental Insurance, Plan IV with orthodontic rider, for each  
517 employee.
- 518 B. Inclusion of an employee's family members in this plan is optional based upon the decision of  
519 the employee.
- 520

521 C. The Town pays eighty percent (80%) of the monthly premium for this coverage and the  
522 employee pays twenty percent (20%) of the monthly premium.

523  
524 **2.3.17.9 Worker's Compensation.**

525 The Town provides worker's compensation coverage as required by state statute. The Town  
526 agrees to pay its share, plus the employee's share, of Maine State Retirement for as long as the  
527 disability lasts. Absences due to such injuries are not charged to accumulated sick leave. (FMLA)

528  
529 **2.3.17.10 Disability/Life/Accidental Death and Dismemberment Insurance.**

530 Disability, life and accidental death and dismemberment insurance is provided by the Town for full-  
531 time employees. The Town assumes the cost for all full-time employees. Primarily, the plan will  
532 provide for fifty-two (52) weeks of benefits commencing on the thirty-first (31st) day following an  
533 accident or sickness. The Maine Municipal Life insurance benefit equals the employee's annual  
534 salary rounded to the next highest one thousand dollars (\$1,000.00).

535  
536 **2.3.17.11 Section 125.**

537 The Town agrees to provide the employees with the opportunity to participate in a Section 125  
538 account for the employee-paid portion of the insurance programs.

539  
540 **2.3.17.12 Physicals.**

541 A physician's examination certificate may be required for new employees with the cost of  
542 examination to be paid by the Town.

543  
544 **2.3.17.13 Jury Pay.**

545 When an employee is called to jury duty, the employee receives regular pay, but must turn over  
546 jury duty fee to the Town, excluding travel pay.

547  
548 **2.3.17.14 Retirement.**

549 A. Employees are entitled to participate in the Maine State Retirement System in accordance with  
550 the requirements of the Maine State Retirement System.

551 B. Participation in the Maine State Retirement System is voluntary on the part of each eligible  
552 employee.

553 C. Employees currently participating in MSRS may on a voluntary basis participate in the ICMA-  
554 RC in accordance with the Administrative Sections 2.6.160(O)(1) and (2).

555  
556 **2.3.17.15 Deferred Compensation Plan.**

557 A. The Town is to provide for participation by employees in the International City Management  
558 Association's deferred compensation plan, and provide the vehicle by which employees can have  
559 deductions made from their wages on a regular basis and submitted for investment.

560 B. Employee's participation in this plan is voluntary. There is no employer match for voluntary  
561 participation in the ICMA plan.

562  
563 C. Effective July 1, 2001, the Town agrees to expand the coverage of the ICMA-RC 457 plan  
564 currently in effect. This plan will be available for current employees who are not enrolled in the  
565 Maine State Retirement System and any newly-hired employee who wishes to enroll in the ICMA

566 plan instead of the MSRS plan. The Town will match the employee's contribution into the 457 plan,  
567 up to a maximum Town contribution of six percent. The Town will make a contribution to either  
568 MSRS or the ICMA plan, but not both.

569

570 **2.3.17.16 Social Security.**

571 The Town agrees to pay its required Social Security premiums in accordance with provisions of  
572 the agreement between State Agency and Political Subdivision of the state of Maine for the  
573 purpose of extending Social Security benefits to the employee of such Political Subdivision and its  
574 subsequent amendments which agreement was entered into between the Maine State Retirement  
575 System and the Town in 1952.

576

577 **2.3.17.18 Mileage.**

578 The Town agrees to reimburse, with supervisory approval, employees furnishing their own  
579 vehicles for transportation directly related to their work at the current mileage reimbursement rate  
580 established by the IRS. To be eligible for such payments, employees must use their personal  
581 vehicle while on the job.

582

583 **2.3.17.19 Direct Deposit.**

584 The Town continues the current practice in effect July 1, 1997 regarding direct deposit to credit  
585 unions and other approved financial institutions.

586

587 **2.3.17.20 Use of Facilities.**

588 The Town is to provide employees with one free annual pass to Fort Foster.

**KITTERY TOWN CODE TITLE 2, PROPOSED AMENDMENT –  
UPDATE TITLE 2 TO REFLECT CHARTER REVISIONS**

1 **AN ORDINANCE** relating to the municipality’s authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers  
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town Council directed the Town Manager to propose and implement charter,  
11 ordinance, and rule changes that improve efficiency and effectiveness of town operations; and

12 **WHEREAS**, in November of 2017 the Kittery voters approved a change to the charter that  
13 vested the professional management responsibilities of the Town’s personnel functions in the  
14 Town Manager and professional staff, and in doing so eliminated the volunteer Personnel Board  
15 from the charter; and

16 **WHEREAS**, Title 2 requires amendment in order to align with the charter revisions approved by  
17 the voters; and

18 **WHEREAS**, The Town Council seeks to improve efficiency and effectiveness of town operations  
19 as they relate to the professional management of the town’s personnel functions by allowing the  
20 Town Manager to maintain and amend job descriptions for existing positions as an  
21 administrative function without Council action;

22 **NOW THEREFORE, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN**  
23 **CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT OF TITLE 2,**  
24 **PERSONNEL and ADMINISTRATION, OF THE TOWN CODE, AS PRESENTED.**

25 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
26 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
27 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
28 passed by a vote of \_\_\_\_\_.

29 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
30 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

31 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk





**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

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**REPORT TO TOWN COUNCIL**

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Meeting Date: January 8, 2018  
From: Kendra Amaral, Town Manager  
Subject: 2018 Town Council and Town Manager Goals  
Councilor Sponsor: Chairperson Kenneth Lemont

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**EXECUTIVE SUMMARY**

The Town Council needs to set the annual goals for itself and the Town Manager.

The annual evaluation of the Town Manager is informed by the annual goals and progress made towards their achievement. In the past year, the annual goals have informed the Council's deliberation on matters, and guided the workplan of the Council and Manager over the course of the year.

The Council receives a quarterly report on progress towards the annual goals.

**Town Council Goals**

Attached are the 2017 Town Council goals. The Council may want to carry forward some goals, and shift out others for new priorities or emerging issues.

**Town Manager Goals**

Attached are my proposed 2018 Goals. The proposed goals include continuation of multi-year efforts, along with specific items of anticipated priority for the coming year.

In an effort to streamline the goal setting process, included in the Town Manager's proposed 2018 goals is an overarching goal for the development of the FY2019 budget.

**PROPOSED SOLUTION/RECOMMENDATION**

Establish and adopt 2018 Town Council goals. Adopt 2018 proposed Town Manager Goals.

1 **PROPOSED**  
2 **TOWN MANAGER GOALS**  
3 **2018**

4 Support Long-Term Planning and Growth Management Objectives

- 5 • Enhance the Town’s economic development activities and work with local and regional  
6 organizations to attract, support, and sustain appropriate local economic investment
- 7 • Propose and implement zoning amendments that support desired growth in the targeted  
8 growth areas including the Business Park, Route 1, Route 1 Bypass.
- 9 • Develop and begin implementation of an action plan associated with the *Forside Land Use,*  
10 *Parking, and Transportation Study*
- 11 • Support town process to adopt the 2015 – 2025 Updated Comprehensive Plan

12 Enhance Financial Stability

- 13 • Produce a 2019 budget that seeks to maintain a stable tax rate, and that is adequately  
14 justifiable in comparison to appropriate economic indicators and comparable communities.
- 15 • Develop a policy to manage tax liens in a timely manner and address tax liens from prior  
16 years.
- 17 • Develop options to resolve the current Sewer Enterprise Fund challenges and implement as  
18 guided by Council.
- 19 • Develop a Facility Master Plan to inform the Capital Improvement planning.

21 Continue to Improve Organizational Efficiency

- 22 • Continue to propose and implement Charter, Ordinance, and Rule changes that improve  
23 efficiency and effectiveness of town operations.

25 Increase Public Awareness and Engagement

- 26 • Continue to improve town generated communications and ensure they are concise, accurate,  
27 and accessible for a variety of audiences
- 28 • Propose revisions to Title 4 that enhance public interest in volunteering to serve on boards,  
29 commissions and committees.

1 **TOWN COUNCIL GOALS**

2 **2017**

- 3 1. Work together respectfully toward consensus, capitalizing on our experiences and diversity.
- 4 2. Continue to work on sharing services with neighboring towns with an emphasis toward Regional  
5 Dispatch and Solid Waste - Resource Recovery operations.
- 6 3. Address Town Manager proposals for Charter, Ordinance, and policy changes for improving  
7 efficiency and effectiveness of Town operations, including:
- 8 • Charter 10-Year Review and amendments on the Personnel Board and Port Authority;
- 9 • Ordinance revisions on the topics of Marijuana, Home Sharing, Title 2, 6, 10, 13, 16, and the  
10 Personnel Classification policy; and
- 11 • Council meeting protocols and PEG operations policy
- 12 4. Support the Town Manager to achieve greater economy & effectiveness in the delivery of  
13 services.
- 14 5. Adopt a budget that is progressive, responsible, and visionary – moving the community forward.
- 15 6. Conduct quarterly review of Council and Manager progress on annual goals
- 16 7. Give attention to Councilor expressed items, including:
- 17 • Resolution of Port Authority issues
- 18 • Rice Public Library direction/strategy
- 19 • Comp Plan completion, or major progress to that end
- 20 • Improvement in collaboration with the Shipyard
- 21 • Improving management/coordination of Town-owned property and parks
- 22 • Work with any EDC recommendations

I hereby tender my resignation from the Board of Appeals effective upon my appointment to the Port Authority on January 8, 2017.

Niles Pinkham

*Niles R. Pinkham 1 3 18*

RECEIVED

JAN = 3 2018

BY: \_\_\_\_\_



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

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**REPORT TO TOWN COUNCIL**

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Meeting Date: January 8, 2018  
From: Councilor Thomson  
Subject: Amendment of KCC Board By-laws  
Councilor Sponsor: Thomson

---

**EXECUTIVE SUMMARY**

The KCC Board of Directors was established in the spring of 2012 as the policy-making entity for the Kittery Community Center at Frisbee Common that would commence operation in May 2012. By-Laws to explain and govern the actions of said Board were adopted by the Kittery Town Council. Said by-laws would state that any change to same would be subject to KTC action and approval. Included in those operating procedures would be the stipulation for monthly meetings of the KCC Board of Directors.

**STATEMENT OF NEED**

The above governing and decision making process for the KCC has been an overwhelming success in the facility's five years of operation.

**BACKGROUND**

As a result of five years of successful operation and staff's excellent management of the facility, the Board now feels that monthly meetings are no longer necessary.

**FACTS BEARING ON THE EQUATION**

Please reference above statements.

**CURRENT SITUATION**

At its November 2017 meeting, the KCC Board of Directors approved the following motion by unanimous vote: "The KCC Board moves to amend its By-Laws (subject to KTC approval) to establish a meeting schedule during the year of the months of January, March, May, August, September, and November."

**PROPOSED SOLUTION/RECOMMENDATION**

**ACTION ITEM AND MOTION UNDER NEW BUSINESS:**

The Kittery Town Council moves to approve the proposed amendment to the KCC Board By-Laws to now state a meeting schedule during the year of January, March, May, August, September, and November.

**RATIONALE FOR THE PROPOSED SOLUTION (INCLUDING COSTS)**

No costs. Simply moving to next phase in operation/management of the Kittery Community Center at Frisbee Common.



# ***Town of Kittery, Maine***

200 Rogers Road, Kittery, ME 03904

**Telephone: (207) 439-0459 Fax: (207) 439-6806**

***www.kittery.org***

## ***KITTERY COMMUNITY CENTER BOARD OF DIRECTORS BYLAWS***

The Kittery Community Center Board of Directors (hereafter referred to as “KCC Board”) of the Town of Kittery has been established under the Town Charter, Chapter 4.4 of the Town Code, adopted on September 12, 2011.

Section 1. The KCC Board consists of eleven (11) voting members. Nine (9) are Kittery residents who are registered voters, serving staggered terms of office of three years each, plus the Town Manager and a Council-appointed Town Councilor. The Recreation Director and Town Planner are ex officio members without voting rights. Resident appointments are to be comprised of individuals with demonstrable experience or association with recreation - four (4); arts and culture – three (3); economic or community development - one (1); plus a member-at-large - one (1). At least one arts and culture member must be a representative from the Board's Arts and Culture Committee. Resident members are appointed by the Town Council in accordance with the Town Charter. The Town Clerk will swear in all resident members. Municipal officers or officials, or a spouse thereof, may not serve as a resident member of the Board. Members serve until their successors are appointed and qualified. Vacancies are filled by Town Council appointment for the unexpired term.

Section 2. The initial appointments of one recreation member, one arts and culture member, and the economic or community development member are for three years. The second recreation and arts and culture initial appointments are for two years, with the remaining appointments for one year.

Section 3. A member of the Board may be dismissed for cause by the Town Council before the expiration of such member’s term after notice and hearing.

Section 4. Regular meetings of the KCC Board are held in the Community Center on the months of January, March, May, August, September, and November ~~monthly~~: the time and day shall be set by the Board annually and made available to the public. When a regularly scheduled KCC Board meeting falls on a holiday, the regular meeting for that

month will be set by the Board at its last regular meeting prior to the holiday. The date, time or location of any regular meeting may be changed by a vote of the Board at a previous meeting upon an affirmative vote of six (6) or more members of the Board.

Section 5. At the regularly scheduled meeting in December, the KCC Board shall elect a Chair, Vice-Chair, and Secretary from its regular members for the ensuing year.

Section 6. Special meetings may be called by the Chair and, in case of his/her absence, disability or refusal, may be called by the Vice-Chair or by six (6) members of the Board. Notice of said meeting to Board Members must be made at least 12 hours before the meeting. The notice shall set forth the matters to be voted on, and nothing else shall be considered at such a special meeting.

Section 7. A quorum consists of six (6) members. All decisions must be made by a minimum of six (6) like votes, except on procedural matters.

Section 8. The Chair, or in the absence of the Chair, the Vice-Chair, shall take the chair at the time appointed for the meeting, call the members to order, have the roll called, and on determining a quorum is present, proceed with the business of the meeting. Meetings will be conducted according to Robert's Rules of Order, 11<sup>th</sup> Edition. Conflicts must be resolved in favor of the Bylaws.

Section 9. Minutes of all meetings must be recorded. Said minutes shall be reviewed, corrected and approved by the KCC Board at the first meeting following transcription by the recorder. Copies of said approved minutes must be made available to the public and archived according to current practice.

Section 10. If a member has a conflict of interest, and is not allowed to vote on a matter, that member is not counted by the KCC Board in establishing the quorum for the matter in which he or she has a conflict. Public disclosure of such conflict must be made before discussion of the agenda item in question. To a limited extent, as determined by the Chair, members of the public may be allowed to comment on this matter at this time. A majority vote of the KCC Board members present (except the member being challenged) decides whether an alleged conflict in question is such that it: (a) may reasonably interfere with the affected member's ability to hear and act on the item impartially; and (b) whether it would give the appearance to the public of an inappropriate conflict of interest so as to undermine public confidence in the fairness of the meeting.

Section 11. Attendance of members is expected at all regular and special meetings. If a member is absent without valid excuse from more than three (3) consecutive regular

meetings, the KCC Board may then vote to recommend to the Town Council that the position be declared vacant.

Section 12. All meetings of the KCC Board are public. However, the KCC Board, upon majority vote, may recess for executive session, consistent with the Maine Right to Know Law (MRS Title 1, Sections 401-410), provided the motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business, and that final action not be taken by the KCC Board except in public session.

Section 13. The Board is to:

A. Prepare and recommend a Long Range (5-Year) Community Center Development Plan for Council adoption, updated annually, and monitor and report on Plan implementation progress;

B. Develop operational policies, and approve operating procedure protocols recommended by administration;

C. Review and endorse an annual operating budget proposal for operations and facilities maintenance developed by administration;

D. Develop and annually recommend a Capital Program to the Capital Improvement Program Committee; and

E. Report quarterly for the first year of operation, then annually or at such intervals as the Town Council may direct thereafter, on programs, use, growth, and new activity at the Center. Such report may include elements to satisfy the Plan implementation progress report.

Section 14. The Board may establish committees and appoint committee members to assist it in execution of its responsibilities.

Section 15. These Bylaws may be revised by submission of a proposed change in writing to the Board, and consideration in at least two meetings of the Board. If adopted by the Board, the change is effective upon approval by the Town Council.



## REPORT to the TOWN COUNCIL – Regular Meeting Times

1 **RESPONSIBLE INDIVIDUAL:** Beers

**Date:** 12/27/18

2 **Subject:** Council Rules Amendment Proposal – Regular Meeting Times – Request & Notice in  
3 Writing

### 4 **Background:**

5 Current Council Rules have set Regular meeting public proceedings commencement at 7:00pm  
6 for a great many years, presumably to accommodate attendance while offering predictability.

7 With technology advancements:

- 8 • Meetings are now broadcast live and on replay for several days afterward offering the  
9 public many opportunities to view/review.
- 10 • Maturation of the Town website and the timing of meeting public notice thereon, along  
11 with meeting agendas, Council packet materials, and approved meeting minutes offer  
12 ample opportunity for the public to attend, schedule viewing time, and review Council  
13 documents related to Town business.
- 14 • Notices are also made available on a wide variety of social media.

15 Consequently, a fixed time for public proceedings does not have the value it may once have had.

### 16 **Current Situation:**

17 Executive sessions conducted prior to a regular meeting are invariably set as a separate special  
18 meeting beginning at 6:00pm.

19 Workshops are routinely set for a 6:00pm start time, unless the material and attendance numbers  
20 warrant a separate date.

21 If no executive session or workshop needs be set prior to a regular, it appears that waiting an  
22 extra hour to begin is unwarranted.

23 Thusly, absent those, it is reasonable to conclude that such regular meetings may readily  
24 commence at 6:00pm

25 Aside from earlier completion of meetings, the added benefit is that staff required to attend  
26 would not have another hour added to their workday.

27 And finally, it should be recognized that the Chairperson, Town manager, and Town Clerk can  
28 arrange agendas to handle necessary business during heavy holiday times (i.e. July, August,  
29 December) making no more than one regular meeting in those months necessary.

30 **Recommendation:** Schedule agenda item for 01/08/18 to amend Council Rules as follows:

### 31 **SECTION ONE. REGULAR MEETINGS:**

32 The regular meetings of the Council are held in the Council Chambers of the Town Hall  
33 on either the second or fourth Monday of each calendar month, or both. Routinely, only  
34 one regular meeting will be scheduled in July, August and December, except if the  
35 Chairperson and Town Manager deem it necessary to hold a second. Public  
36 proceedings commence at ~~7~~6:00 p.m. ~~whether or not preceded by an executive~~  
37 ~~session~~except if the Chairperson schedules a workshop or executive session prior to  
38 the regular meeting.



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

---

**REPORT TO TOWN COUNCIL**

---

Meeting Date: January 8, 2018  
From: Kendra Amaral, Town Manager  
Subject: Title 2 Amendment – Lead Dispatcher Position  
Councilor Sponsor: Chairperson Kenneth Lemont

---

**EXECUTIVE SUMMARY**

Through negotiations with the Dispatchers Unit, and in accordance with the Collective Bargaining Agreement, approved on November 27 by the Town Council, I am seeking to establish the Lead Dispatcher position.

This position was sought by the administration and union, to address the need for a lead dispatcher to coordinate and implement required Quality Assurance programs. The position also retains the responsibilities of a shift dispatcher.

Currently this role is being informally performed by a member of the Dispatch team.

This position is expected to be filled internally and will not increase the number of full-time staff. The compensation was negotiated with the Dispatch Unit and is included in the CBA.

**STATEMENT OF NEED**

The requirements and regulations governing emergency dispatch operations are growing. Included in the certification requirements for an Emergency Medical Dispatch operation are quality assurance programs. In the coming years the Town must incorporate Emergency Police Dispatch (EPD) and Emergency Fire Dispatch (EFD) protocols and expand the quality assurance efforts to meet the requirements of these dispatch programs.

**PROPOSED SOLUTION/RECOMMENDATION**

Adopt as recommended.

1 **2.4.5.9 Animal Control Officer.**

2 The purpose of this position is to enforce all laws relating to dogs, cats, other pets, and nuisance  
3 wild animals for the police department. This position reports to the chief of police. Duties include,  
4 but are not limited to: planning programs; educating the general public; locating wild animals;  
5 maintaining rabies awareness; enforcing all animal-related laws; and performing additional tasks  
6 as assigned by the police chief.

7  
8 **2.4.5.10 Police Officer.**

9 The purpose of this position is to enforce all criminal, civil, and motor vehicle laws on behalf of the  
10 police department. This position reports to the assigned supervisor. Duties include, but are not  
11 limited to: patrolling assigned areas; dispersing unruly crowds; preparing paperwork; warning,  
12 citing, or arresting violators; and performing additional tasks as assigned.

13  
14 **2.4.5.11 Dispatcher.**

15 The purpose of this position is to receive, prioritize, and disperse information and calls for service  
16 in regard to police, fire, ambulance, or other emergency agencies. This position reports to the  
17 assigned supervisor. Duties include, but are not limited to: receiving calls; dispatching appropriate  
18 personnel; providing information; maintaining logs; issuing permits; and performing additional  
19 tasks as assigned.

20  
21 **2.4.5.12 Dispatcher / Secretary.**

22 The purpose of this position is to receive, prioritize, and disperse information and calls for service  
23 in regard to police, fire, ambulance, or other emergency agencies. Additionally, this position  
24 provides secret support to the detective division of the police department. This position reports to  
25 the assigned supervisor. Duties include, but are not limited to: receiving calls; dispatching  
26 appropriate personnel; providing information; maintaining logs; issuing permits; typing reports;  
27 preparing various documents; transcribing tapes; processing and maintaining files; and performing  
28 additional tasks as assigned.

29  
30 **2.4.5.13 Shellfish Conservation Warden.**

31 The purpose of this position is to patrol the clam flats as required to ensure compliance with  
32 Kittery's shellfish conservation ordinance, and all applicable marine resource laws and regulations.  
33 This position reports to the chief of police. Duties include, but are not limited to: patrolling the  
34 town's clam flats; educating the general public; maintaining a log of all activities, and submitting  
35 reports as required by state laws and regulations.

36  
37 **2.4.5.14 Lead Dispatcher**

38 The purpose of this position is to ensure proper performance of Dispatch operations. The Lead  
39 Dispatcher serves as the Terminal Agency Coordinator duties, oversees the Computer Aided  
40 Dispatch administrative functions, the National Academy of Emergency Dispatch quality assurance  
41 functions, and assists and instructs personnel in the proper discharge of their assigned duties.

42  
43  
44 **Article VI. Sewer Department**

45  
46 **2.4.6.1 Superintendent of Sewer Services.**

**Chapter 2.5      COMPENSATION**

1	2.4.5.8	Juvenile Officer	Union Contract
2	2.4.5.9	Animal Control Officer	Union Contract
3	2.4.5.10	Police Officer	Union Contract
4	2.4.5.11	Dispatcher	Union Contract
5	2.4.5.12	Dispatcher / Secretary	Union Contract
6	2.4.5.13	Shellfish Conservation Warden	Council
7	<u>2.4.5.14</u>	<u>Lead Dispatcher</u>	<u>Union Contract</u>
8	2.4.6.1	Superintendent of Sewer Services	Council
9	2.4.6.2	Utility Billing Bookkeeper / Assistant Tax Collector	Union Contract
10	2.4.6.3	Operator-Class I	Union Contract
11	2.4.6.4	Operator-Class II	Union Contract
12	2.4.6.5	Chief Plant Operator	Union Contract
13	2.4.6.6	Laboratory Technician Level I or II	Union Contract
14	2.4.6.7	Maintenance Worker	Union Contract
15	2.4.7.1	Commissioner	Council
16	2.4.7.2	Administrative Assistant	Council
17	2.4.7.3	Foreman	Union Contract
18	2.4.7.4	Driver / Laborer II	Union Contract
19	2.4.7.5	(Reserved)	
20	2.4.7.6	Mechanic/Operator	Union Contract
21	2.4.7.7	Equipment Operator	Union Contract
22	2.4.8.1	Fire Chief	Council
23	2.4.8.2	Assistant Chief	Council
24	2.4.8.3	Deputy Chief	Council
25	2.4.8.4	Captain	Council
26	2.4.8.5	Lieutenant	Council

**KITTERY TOWN CODE TITLE 2, PROPOSED AMENDMENT –  
LEAD DISPATCHER**

1 **AN ORDINANCE** relating to the municipality’s authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers  
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the personnel director is obligated to prepare personnel rules which the Council  
11 adopts by ordinance and said ordinance establishes the classification of all town positions,  
12 based on the duties, authority and responsibility of each position, with adequate provision for  
13 reclassification of any position whenever warranted by changed circumstances; and

14 **WHEREAS**, the Town seeks to better coordinate and implement the required emergency  
15 medical dispatch quality assurance programs and to coordinate training of other dispatchers;

16 **WHEREAS**, a Lead Dispatcher role will better serve the department and support a high-quality  
17 dispatch operation.

18 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN  
19 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS TITLE 2, PERSONNEL and  
20 ADMINISTRATION, OF THE TOWN CODE, AS PRESENTED.

21 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
22 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
23 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
24 passed by a vote of \_\_\_\_\_.

25 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
26 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

27 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk

1 **5.14 Lead Dispatcher**

- 2 A. Purpose of Position. The purpose of this position is to ensure proper performance of Dispatch  
3 operations. The Lead Dispatcher serves as the Terminal Agency Coordinator duties, and  
4 oversees the Computer Aided Dispatch administrative functions, the National Academy of  
5 Emergency Dispatch quality assurance functions, and assists and instructs personnel in the  
6 proper discharge of their assigned duties.
- 7 B. Essential Duties and Responsibilities. The following duties are normal for this position. These are  
8 not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.
- 9 1. Schedule, train and provide day-to-day oversight of Dispatch personnel;
  - 10 2. Serve as the Terminal Agency Coordinator and performs the Computer Aided Dispatch functions,  
11 and the National Academy of Emergency Dispatch quality assurance functions for the Town;
  - 12 3. Assure proper basic training of any new employee and prepare monthly evaluations until the new  
13 employee's probationary period is complete;
  - 14 4. Maintain the schedule of Dispatchers, approve or deny time off requests, and facilitate order-ins to  
15 work when necessary;
  - 16 5. Identify and make timely reports of equipment failures, deficiencies, and potential problems.
  - 17 6. Receives calls from the general public or other law enforcement agencies; sorts calls for service  
18 into priority and routine calls; provides general information and directions to caller, when  
19 appropriate; dispatches appropriate emergency agency; handles walk-in complaints and court  
20 ordered check-ins when appropriate;
  - 21 7. Maintains track of the status of units out on call; sends additional units, as necessary; distributes  
22 to patrol units, and duty supervisors, all information received; transmits, receives, and distributes  
23 information from NCK/NLETS, DMV computer to patrol units, as needed;
  - 24 8. Maintains files of property and people entered into the NCIC system; cancel entries, as  
25 appropriate;
  - 26 9. Performs data entry of reports into computer; retrieves data for patrol units; prepares and  
27 maintains associated files; updates manual; issues fire and inspection permits; issues yard sale  
28 permits;
  - 29 10. Processes summons, warnings, parking tickets, and other related documentation; records in  
30 associated log books; operates in-house computer; assigns case numbers; prepares and reviews  
31 logs for department files and the press;
  - 32 11. May assist in the processing of prisoners; monitors prisoners in and out of cells; records  
33 prisoners' behavior;
  - 34 12. Utilizes various machines and equipment in the delivery of service, such as in-house computer,  
35 copier, paper cutter, two-way radio, fax machine, TTY machine, 911 computers and telephone  
36 system;
  - 37 13. Reviews and receives various reports, documents, and forms, including, summons, warnings,  
38 parking tickets, accident reports, criminal record checks, various logs, NCIC documentation, and  
39 monthly validations'
  - 40 14. Perform other related duties as required.
- 41 C. Essential Training and Experience Required to Perform Essential Functions.
- 42 1. High school diploma or GED required with a minimum of three years' experience as a Public  
43 Safety Dispatcher;
  - 44 2. Have the required Dispatcher competencies including terminal operator, Emergency Medical  
45 Dispatch, CPR, and 911 certifications.

- 46 3. Have a thorough understanding of communications systems, including radio, teletype, computer  
47 aided dispatch systems, telephone/E-911, TDD, alarm notification systems for both the Police and  
48 Fire service, call check and logger recorders, CCTV, and video multiplex recorders.
- 49 4. Experience and ability to train others;
- 50 5. Excellent verbal and writing skills, ability to communicate effectively and in an appropriate  
51 professional manner.
- 52 6. Ability to be a calming influence during a crisis, through use of voice, personality and knowledge;
- 53 D. Minimum Physical and Mental Abilities Required to Perform Essential Functions.
- 54 1. Physical Requirements.
- 55 a. Must be able to operate a computer, keyboard, printer, telephone, and other equipment necessary  
56 to perform the duties of this position;
- 57 b. Must be able to move or carry job-related objects or materials;
- 58 c. Must be able to sit and stand for long periods;
- 59 d. Must be able to communicate through human speech and in writing;
- 60 e. Must be physically capable of lifting 50 pounds.
- 61 2. Mental Abilities
- 62 a. Requires the ability to develop and maintain positive relationships with employees, vendors, and  
63 departments;
- 64 b. Requires the ability to exercise initiative and good judgement, to set priorities and complete efforts  
65 independently and as a member of a team;
- 66 c. Requires the ability to utilize mathematical formulas, and to understand a variety of professional,  
67 technical and administrative documentation, directions, regulations, instructions, methods and  
68 procedures;
- 69 d. Requires the ability to produce reports that are accurate and complete;
- 70 e. Requires the ability to communicate with people to convey or exchange professional information;
- 71 f. Ability to cope with situations firmly, courteously, tactfully and with respect for the rights of others;
- 72 g. Ability to analyze situations quickly and objectively and to determine proper course of action.
- 73



# TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

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## REPORT TO TOWN COUNCIL

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Meeting Date: January 8, 2018  
From: Kendra Amaral, Town Manager  
Subject: Release Deed Map 29 Lot 27  
Councilor Sponsor: Chairperson Kenneth Lemont

---

### EXECUTIVE SUMMARY

The Town Council needs to execute a Release Deed for Map 29 Lot 27, 34 Stevenson Road in order to resolve outstanding lien issues and allow for the sale of the property to a new owner. A municipal release deed is required because payment is to be made after a period of 18 months had passed since the notice of liens.

### BACKGROUND

The property was owned by Merna Burgoyne who is now deceased. The property was purchased in 1984 by Robert Mason. It is now scheduled for sale to a new owner.

During a recent title search it was discovered the property has four liens dating back to 1972, 1977 and 1980. There is no record of lien discharges for these years.

Since Mr. Mason's purchase of the property in 1984, there have been no tax delinquencies. The property was part of the recent sewer expansion; the betterment assessment has been paid in full.

Total outstanding recorded liens on the property are:

Book/Page	Commitment Date	Principal	Interest	Fees	Total
2002/708	Oct 1972	\$529.23	\$21.16	\$4.53	\$554.92
2399/334	Oct 1977	\$610.65	\$44.97	\$8.40	\$664.02
2629/199	May 1979*	\$358.73	\$28.70	\$17.40	\$404.83
2718/206	Nov 1979*	\$764.64	\$58.57	\$17.40	\$840.61

\* The Town transitioned to a July 1 fiscal year in 1979 and approved an 18-month transitional budget, with two tax assessments.

The interest on the unpaid taxes has been computed as a simple interest at 9% annually. 9% represents the average maximum interest allowable by state law from 1991 to 2017.



<b>Lien Notice</b>	<b>Years</b>	<b>Owed</b>	<b>Interest/Year</b>	<b>Total Interest</b>	<b>Total Due</b>
1973	44	\$554.92	\$49.94	\$2,197.48	\$2,752.40
1978	39	\$664.02	\$59.76	\$2,330.71	\$2,994.73
1980	37	\$404.83	\$36.43	\$1,348.08	\$1,752.91
1980	37	\$840.61	\$75.65	\$2,799.23	\$3,639.84
<b>GRAND TOTAL</b>					<b>\$11,139.88</b>

Payment will be due prior to recording of the Release Deed.

#### **PROPOSED SOLUTION/RECOMMENDATION**

Approve the release deed as presented.

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## MUNICIPAL RELEASE DEED

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The TOWN OF KITTERY (the "Town"), a municipal corporation existing under the laws of the State of Maine and located in the County of York, State of Maine, releases to ROBERT MASON, with a mailing address of 161 Beech Ridge Road, Eliot, Maine 03909, any interest the Town may have in a certain lot or parcel of land with any improvements located thereon, located in the Town of Kittery, County of York and State of Maine, now or formerly owned by ROBERT MASON of Eliot, County of York and State of Maine, and recorded in the York County Registry of Deeds in Book 3390 at Page 168 and further shown as Map 29, Lot 27 on the Town of Kittery Assessor's Tax Maps, as may have been acquired by the Town by virtue of any of the following Tax Lien Certificates on record in said Registry of Deeds:

1. Tax Lien Certificate regarding real estate taxes recorded in the York County Registry of Deeds, Book 2002, Page 708.
2. Tax Lien Certificate regarding real estate taxes recorded in the York County Registry of Deeds, Book 2399, Page 334.
3. Tax Lien Certificate regarding real estate taxes recorded in the York County Registry of Deeds, Book 2629, Page 199.
4. Tax Lien Certificate regarding real estate taxes recorded in the York County Registry of Deeds, Book 2718, Page 206.

The sole purpose of this Municipal Release Deed is to release to the Grantee herein any interest which the Town may have acquired in the property described in the above-referenced parcel of land described in Book 3390, Page 168 of the York County Registry of Deeds by virtue of delinquent taxes through and including the current taxes due.

IN WITNESS WHEREOF, the TOWN OF KITTERY, acting through its municipal officers, Kenneth Lemont, Frank L. Dennett, Gary Beers, Jeffrey D. Thomson; Matthew Brock; Jeffrey Pelletier; and Charles H. Denault Jr., has caused this Municipal Release Deed to be signed this 8th day of January, 2018.

TOWN OF KITTERY

\_\_\_\_\_  
Witness

By

\_\_\_\_\_  
Kenneth Lemont

\_\_\_\_\_  
Frank L. Dennett

\_\_\_\_\_  
Gary Beers

\_\_\_\_\_  
Jeffrey D. Thomson

\_\_\_\_\_  
Matthew Brock

\_\_\_\_\_  
Jeffrey Pelletier

\_\_\_\_\_  
Charles H. Denault Jr.

STATE OF MAINE  
YORK, ss.

DATE: \_\_\_\_\_

Personally appeared the above-named KENNETH LEMONT FRANK L. DENNETT GARY BEERS, JEFFREY D. THOMSON, MATTHEW BROCK, JEFFREY PELLETIER, and CHARLES H. DENAULT, and acknowledged the foregoing instrument to be their free act and deed in said capacity and the free act and deed of the Town of Kittery, Maine,

Before me,

\_\_\_\_\_  
Print name: Maryann Place

Notary Public  
My commission expires April 11, 2022



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

---

**REPORT TO TOWN COUNCIL**

---

Meeting Date: January 8, 2018  
From: Kendra Amaral, Town Manager  
Subject: Library Update  
Councilor Sponsor: Chairperson Kenneth Lemont

---

**EXECUTIVE SUMMARY**

In order to maintain momentum on the two library-related issues that have been before the Council for a number of years, the administration is proposing utilizing working groups or committees to advance the three identified items needing action. Below is an overview and attached are proposed charges.

**BACKGROUND**

The Library Working Group successfully completed its objectives of identifying the community-preferred option for the library building project. The Council has received extensive reporting on the non-binding referendum results and the process that led to it.

While the Library Working Group was working on the library building project, staff resumed analysis of incorporating the Library into the town organization as a department. Finance Director Patricia Moore and I met with the Library Board of Directors on December 19<sup>th</sup> to present the analysis and discuss our proposed next steps.

**Library Becoming a Town Department**

The Council has received the financial analysis of the Library becoming a town department. It is estimated that the prospect is effectively cost neutral. We project minimal savings, based on current assumptions relative to staff wages and benefits.

In addition to the financial analysis, we discussed what would be a proposed structure for the Library Board of Directors, as folded into the Town organization. We identified areas where we would anticipate a change in how the library functions, and areas where there would be no change. Specifically, we are suggesting the Library Board will:

- Determine library/program policy informed by the Library Director;
- Establish the Library's multi-year strategic plan and oversee implementation of the plan;
- Participate in the hiring process for the Library Director, and recommend the candidate for appointment;
- Continue to participate in the interview and recommendation of new appointees to the Board; appointments will continue to be made by a vote of the Town Council;
- Oversee the utilization of "Other Funds" setup for the Library (trust and/or donations)

The administration will assume responsibility for finance and personnel operations, payroll and AP processing, and human resources functions.

There are a number of specific issues that need to be negotiated and resolved if the Library is to become a Town Department. Specifically:

- Transition of the staff; may include incorporation into collective bargaining unit, and transition/negotiation of wages and benefits for existing staff.
- Transfer of the Library Board's assets including the Rice Public Library and the Taylor Building.
- Disposition of cash assets including a \$100,000 restricted bequest, and other cash assets in the form of CDs and savings.

We are proposing the Town Council establish a working group to work with the Library Board and Town staff in negotiating the transition terms. The **Transition Working Group** is proposed as a group of five, with one representative from the Town Council, one representative from the Library Board, the Town Manager, the Finance Director, and the Library Director.

The Library Board has voted in support of taking the next step to negotiate a transition with the Town.

### **Library Building Project**

The Library building project has two conjoined issues, the design and implementation of the renovation and expansion of the Rice Public Library, and the disposition of the Taylor Building.

Now that we are able to focus on a single project, the work of determining the full scope, design and cost of that project must take place. Funding for design needs to be identified and secured. A contracted design team which includes an architect and various engineers will be needed to be engaged to assess the current structure, confirm the architectural program (how much of what kinds of spaces are needed), and develop the designs. Cost estimates will need to be developed throughout the process, and likely value engineering exercises will be necessary to manage the project to a budget.

The design team will need to be selected by a competitive proposal process and be engaged for concept design, design development and renderings, construction drawings and pre-construction services, and construction services. Based on a \$4M project cost, soft costs can be in the \$600,000 to \$800,000 range. A clerk of the works or owners' representative may also be necessary to manage the implementation of the construction project.

We are proposing the Town Council establish a Building Committee to engage in this effort and guide the project. The **Library Building Committee** is proposed as a group of 12, with three representatives from the Town Council, three representatives from the Library Board, three residents. The remaining three seats will be filled by the Town Manager, Finance Director, and Library Director. We further propose that the resident members are selected from a pool of candidates that specifically apply to be on this committee. Applications can be fashioned similar to other Building Committee applications asking for information on the candidate's relevant background, interest in the project, availability, and whether the applicant has visited the Library in the past year. The three Council and three Library Board representatives will recommend the three residents for appointment by the Council.

The Library Board has voted in support of establishing a Library Building Committee as proposed.

### **Taylor Building Disposition**

With a renovation and expansion project in the works, the Taylor building's need as a library facility will be phased out. The disposition of this property is of interest to the town as the proceeds can be used to offset funding needed for the Library project. It is also of keen interest, as the development of this key parcel can have an impact on the vitality and make-up of the Foreside into the future.

We are proposing that the sale of the Taylor Building should not be a simple arms-length sale; and rather should be sold through a competitive proposal process that allows the town an ability to shape development in the Foreside. It is recognized this approach may impact the price of the parcel, it has the potential to support a growth model for the Foreside that will ripple to other properties and overall valuation.

We are proposing the Town Council establish a Taylor Building Committee to guide the disposition of the property. The committee will be responsible to conduct research and outreach to identify what the opportunities and concerns are related to the sale of the property. It will develop a request for proposals and oversee the process including reviewing proposals and recommending the most advantageous proposal to the Council based on criteria it establishes through its process.

The **Taylor Building Committee** is proposed as a group of nine, with two representatives from the Town Council, two representatives from the Library Board, and two residents. The remaining three seats will be filled by the Town Manager, Finance Director, and Town Planner. We further propose that the resident members are selected from a pool of candidates that specifically apply to be on this committee. The Council and Library Board representatives will recommend the three residents for appointment by the Council.

The Library Board is still considering this proposal. They have expressed concern about the impact a conditioned sale of the Taylor will have on the sale price, and by extension funding for the Library Building project.

### **PROPOSED SOLUTION/RECOMMENDATION**

Establish three committees as proposed.

### **ATTACHMENTS**

Proposed Library Transition Working Group Charge  
Proposed Library Building Committee Charge  
Proposed Taylor Building Committee Charge

1 **PROPOSED**  
2 **LIBRARY TRANSITION WORKING GROUP**  
3 **CHARGE**

4  
5 *The KITTERY TOWN COUNCIL:*  
6

7 Hereby establishes the Library Transition Working Group as follows:

- 8 1. The Library Transition Working Group membership will consist of one Town Councilor  
9 appointed by the Town Council, one Library Board member appointed by the Library Board of  
10 Directors, the Town Manager, the Finance Director, and the Library Director.
- 11 2. The Council wishes the Working Group to engage and complete negotiations of terms for the  
12 transition of the Library to a town department. Terms will include the Library Board of  
13 Directors charge, employee wages and benefits for transiting staff, disposition of cash and real  
14 property assets, creation of any trusts or "other funds" accounts, and transition protocols.
- 15 3. The Council expects the Working Group to present the negotiated terms to the Town Council  
16 and the Library Board of Directors for consideration and adoption no later than June 30, 2018.
- 17 4. The Working Group will meet as often as it determines necessary to complete its task.
- 18 5. The Working Group reports to the Town Council as a whole. It has no authority with  
19 municipal departments and staff, except as it may be requested of, and directed by, the Town  
20 Manager.
- 21 6. The Council herewith dissolves the Working Group upon adoption of the negotiation terms by  
22 the Town Council and the Library Board of Directors.



1 **PROPOSED**  
2 **LIBRARY BUILDING COMMITTEE**  
3 **CHARGE**

4  
5 *The KITTERY TOWN COUNCIL:*  
6

7 Hereby establishes the Library Building Committee as follows:

- 8 1. The Library Building Committee membership will consist of three Town Councilors appointed  
9 by the Town Council, three Library Board members appointed by the Library Board of  
10 Directors, and three residents appointed by the Town Council. Ex officio support will be  
11 provided by the Town Manager, the Finance Director, and the Library Director.
- 12 2. The Council wishes to appoint the resident representatives recommended by the Council and  
13 Library Board member of the Committee. The recommended resident appointees will be  
14 selected from a pool of candidates who apply to be on the Library Building Committee, and who  
15 present a beneficial combination of background and experience, interest in the project, and  
16 availability to actively participate in the Committee's work.
- 17 3. The Council wishes the Committee to engage and complete the renovation and expansion of the  
18 Rice Public Library Building as a project. The Committee will recommend a professional design  
19 team to be engaged for the project, and work with the design team to develop a concept design,  
20 conduct design development, generate construction drawings, engage in permitting, develop cost  
21 estimates, bid for contractors, and oversee implementation of the design plans.
- 22 4. The Council expects the Committee to seek Council approval for a bond referendum for  
23 funding of the project, in accordance with professionally developed cost estimates and designs.
- 24 5. The Council expects the Committee to submit periodic progress and status reports no less often  
25 than quarterly through the project design phase, and monthly or more frequently through the  
26 construction phase. Project reports will include design highlights, renderings, cost estimates and  
27 project schedules as available.
- 28 6. The Committee will be expected to encourage input and participation from residents, businesses,  
29 applicable boards, commissions and committees, and experts in the execution of its tasks.
- 30 7. The Committee will elect a chair and vice chair and organize itself; and meet as often as it  
31 determines necessary to complete its tasks.
- 32 8. The Committee reports to the Town Council as a whole through its Chairs. It has no authority  
33 with municipal departments and staff, except as it may be requested of, and directed by, the  
34 Town Manager.
- 35 9. The Council herewith dissolves the Committee upon the completion of its tasks and beneficial  
36 occupancy of the facility, or four years after its creation, whichever occurs first.

1 **PROPOSED**  
2 **TAYLOR BUILDING COMMITTEE**  
3 **CHARGE**  
4

5 *The KITTERY TOWN COUNCIL:*  
6

7 Hereby establishes the Taylor Building Committee as follows:

- 8 1. The Taylor Building Committee membership will consist of two Town Councilors appointed by  
9 the Town Council, two Library Board members appointed by the Library Board of Directors,  
10 the Town Manager, the Finance Director, the Library Director, and two residents appointed by  
11 the Town Council.
- 12 2. The Council wishes to appoint the resident representatives from a pool of candidates who apply  
13 to be on the Taylor Building Committee, and who present a beneficial combination of  
14 background and experience, interest in the project, and availability to actively participate in the  
15 Committee's work.
- 16 3. The Council wishes the Committee to gather public input on the goals, concerns, and options  
17 for the development of the Taylor Building parcel, to develop a request for proposals for the  
18 sale and/or development of the parcel, to evaluate proposals based on criteria it establishes, and  
19 to recommend the most advantageous proposal to the Council for consideration and action.
- 20 4. The Council expects the Committee to provide progress reports to the Council, and to present  
21 recommendations for consideration and action by the Council at appropriate times.
- 22 5. The Committee will be expected to encourage input and participation from residents, businesses,  
23 applicable boards, commissions and committees, and experts in the execution of its tasks.
- 24 6. The Committee will meet as often as it determines necessary to complete its tasks.
- 25 7. The Committee reports to the Town Council as a whole. It has no authority with municipal  
26 departments and staff, except as it may be requested of, and directed by, the Town Manager.
- 27 8. The Council herewith dissolves the Committee upon the completion of a sale of the Taylor  
28 Building or within three years of its establishment, whichever occurs first.