



TOWN OF KITTERY

Office of Planning & Development

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To: Planning Board

From: Jason Garnham, Director of Planning and Development

Date: March 28, 2024 meeting

Re: **Housekeeping Amendments – Planning Board Workshop**

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

Draft amendments are numbered by code section in the attached document and specified in **orange-brown** text. Explanations of each section of amendments are provided in *italics* throughout the draft.

Staff will summarize these amendments as a Planning Board workshop item during the March 28 meeting. The purpose of a Planning Board workshop is to provide the board members an opportunity to review, comment, and ask questions about the amendments to make sure they understand the content before a public hearing and vote for recommendation. This is not intended to be a public workshop: no public discussion is planned for this workshop. A public hearing for discussion of these amendments is tentatively scheduled to be held during the April 11 Planning Board meeting.

**TITLE 16
HOUSEKEEPING AMENDMENTS**

Note: Housekeeping amendments in orange-brown

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

1 (6) Nonconforming lots.

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

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

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

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

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

25 §16.3.1 Purpose.

26 Except where specifically defined in this chapter, all words used in this
27 title carry their customary dictionary meanings. Words used in the
28 present tense include the future, and the plural includes the singular;
29 the word "lot" includes the word "plot"; the word "building" includes the
30 word "structure"; the words "shall" or "must" are always mandatory;
31 "occupied" or "used" are considered as though followed by the words

32 "or intended, arranged or designed to be used or occupied"; and
33 gender-specific words (e.g., she, he, his, hers) include the opposite-sex
34 equivalent **of all sexes and genders**

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

37 §16.3.2 Definitions

38 **DWELLING, COTTAGE CLUSTER**

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

41

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

44

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

46 D. Standards

47 (2) Dimensional standards:

48 (a) Minimum net residential acreage per dwelling unit: 40,000
49 square feet. (~~Note: As per Chapter 16.3 definition of "minimum~~
50 ~~land area per dwelling unit," except to exempt properties which~~
51 ~~are unable to meet the square feet required for a single family~~
52 ~~dwelling unit, provided the lot was conforming prior to October~~
53 ~~25, 2012).~~

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

55

56

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

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

59 (1) Accessory dwelling unit.

60 (2) Conservation Subdivision.

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

62 (4) Dwelling, single-family.

63 (5) Dwelling, multifamily 2-4 Limited

64 ***Explanation: this amendment corrects a mistake made by staff***
65 ***during LD 2003 amendments. Multifamily developments were***
66 ***allowed in R-S, R-KPV, and R-U zones previously. "Dwelling,***

67 **multifamily 2-4 Limited” does not supercede provisions which allow**
68 **multifamily development.**

69
70 D. Standards. The following standards must be met unless modified per
71 §16.8.10, Conservation Subdivision:

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

76 (2) Dimensional standards.

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

82 ~~[1] Without public sewage disposal: 40,000 square feet.~~

83 ~~[2] With public sewage disposal: 30,000 square feet unless~~
84 ~~reduced in accordance with Note A.~~

85 ~~**[3] When more than 50% of the dwelling units proposed will**~~
86 ~~**be affordable as defined by this Code and have public**~~
87 ~~**sewer: 12,000 square feet**~~

88 (a) Unit density:

89 ~~[1] For developments served by public water and sewer facilities:~~
90 ~~Minimum lot area per dwelling unit: 30,000 square feet~~
91 ~~unless reduced in accordance with Note A~~

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

96 ~~[3] For developments that are not served by public water and~~
97 ~~sewer facilities: Minimum net residential acreage per~~
98 ~~dwelling unit: 40,000 square feet~~

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

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

107

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

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

- 111 (1) Accessory dwelling units.
- 112 (2) Conservation subdivision.
- 113 (3) Dwelling, multifamily-(not more than four units per building).
- 114 (4) Dwelling, single-family.
- 115 (5) Dwelling, multifamily 2-4 Limited

116

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

122

123 D. Standards. The following standards must be met unless modified per
124 § 16.8.10, Conservation subdivision.

- 125 (1) Design and performance standards in Chapters 16.5, 16.7 and 16.8.
126 The Design Handbook provides examples of appropriate design for
127 nonresidential and multiunit residential projects.
- 128 (2) Dimensional standards.
 - 129 (a) Minimum net residential acreage per dwelling unit: 40,000
130 square feet. (~~Note: As per Chapter 16.3 definition of "minimum~~
131 ~~land area per dwelling unit,"~~ except to exempt properties which
132 are unable to meet the square feet required for a single-family
133 dwelling unit, provided the lot was conforming prior to October
134 25, 2012).
 - 135 (b) Minimum lot size: 40,000 square feet.
 - 136 (c) Minimum street frontage: 150 feet unless reduced in
137 accordance with Note A.
 - 138 (d) Minimum front yard: 40 feet.
 - 139 (e) Maximum building coverage: 20%.
 - 140 (f) Minimum rear and side yards: 15 feet. (Note: Buildings higher
141 than 40 actual feet must have side and rear yards not less than
142 50% of the building height.)
 - 143 (g) Maximum building height: 35 feet. (Note: Minimum distance
144 between principal buildings on the same lot is the height

- 145 equivalent to the taller building.)
146 (h) Minimum water body setback for functionally water-
147 dependent uses: zero feet.
148 (i) Minimum setback from streams, water bodies and wetlands: in
149 accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee
150 Schedules. Subdivision types and standards.

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

- 153 (a) In a conservation subdivision, the above standards may be
154 modified in accordance with special provisions of Chapter 16.10,
155 including that there is no minimum lot size, and with the
156 conditions that:

157 [1] Minimum principal building separation as required by the
158 Fire Chief, but not less than 15 feet.

- 159 (b) Subdivision development (per special exception uses, § 16.4.12C).
160 In a subdivision development, standards in § 16.4.12D(1) and (2)
161 apply and include:

162 [1] Minimum percentage of common open space: 15%
163 .

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

167
168 **6. Amend § 16.4.13 Residential — Urban (R-U) zoning as follows:**

- 169
170 D. Standards. The following standards must be met unless modified per
171 §**16.8.10** Conservation Subdivision:

- 172 (1) The design and performance standards in Chapters **16.5**, **16.7** and
173 **16.8**.
174 (2) Dimensional standards:

- 175 (a) ~~Minimum land lot area per dwelling unit: 20,000 square feet.~~
176 ~~(Note: As per Chapter **16.3** definition of "minimum land area~~
177 ~~per dwelling unit," except to exempt properties which are~~
178 ~~unable to meet the square feet required for a single family~~
179 ~~dwelling unit, provided the lot was conforming prior to~~
180 ~~October 25, 2012.)~~

181 Unit density:

182 [1] For developments served by public water and sewer
183 facilities: Minimum lot area per dwelling unit: 20,000 square

184 feet unless reduced in accordance with Note A
185 [2] For developments served by public water and sewer
186 facilities when more than 50% of the dwelling units
187 proposed will be affordable as defined by this code:
188 Minimum lot area: 8,000 square feet
189 [3] For developments that are not served by public water and
190 sewer facilities: Minimum net residential acreage per
191 dwelling unit: 20,000 square feet
192 [4] For developments that are not served by public water and
193 sewer facilities when more than 50% of the dwelling units
194 proposed will be affordable as defined by this code:
195 Minimum net residential acreage per dwelling unit: 20,000
196 square feet

197
198 **(b) When more than 50% of the dwelling units proposed will**
199 **be affordable as defined by this code and have public sewer:**
200 **8,000 square feet**

- 201 (b) Minimum lot size: 20,000 square feet.
202 (c) Minimum street frontage: 100 feet.
203 (d) Minimum front yard, all buildings: 30 feet.
204 (e) Minimum rear and side yards, all buildings: 15 feet.
205 (Note: Buildings higher than 40 actual feet must have side
206 and rear yards not less than 50% of building height.)
207 (f) Maximum building height: 35 feet.
208 (Note: Minimum distance between principal buildings on the
209 same lot is the height equivalent to the taller building.)
210 (g) Maximum building coverage: 20%.
211 (h) Minimum water body setback for functionally water-
212 dependent uses: zero feet.
213 (i) Minimum setback from streams, water bodies and wetlands:
214 in accordance with Table 16.5.30 § **16.4.28** and Appendix A,
215 Fee Schedules.

216 (3) Subdivision types and standards.

- 217 (a) Conservation Subdivision. In a subdivision, the above
218 standards may be modified in accordance with special
219 provisions of §**16.8.10**, including that there is no minimum lot
220 size, and with the conditions that:

221 [1] Minimum principal building separation as required by
222 the Fire Chief, but not less than 15 feet.

- 223 (b) Subdivision development (special exception uses, §**16.4.13C**).
224 In a subdivision development, standards in §**16.4.13D(1)** and

- 225 (2) apply and include:
226 [1] Minimum percentage of common open space: 15%.
- 227 (4) Age-restricted housing. In the case of age-restricted housing, the
228 above standards may be modified in accordance with the special
229 provisions of §16.5.15 and with the condition that:
- 230 (a) Municipal **Public** sewerage and water must be provided.
231 (b) A minimum ~~land~~ **lot** area of three acres must be provided.
232 (c) The maximum ~~net~~ density may not exceed four dwelling
233 units per ~~net residential acre~~ **lot area**. In no event may the
234 Planning Board authorize a departure which increases the
235 total number of dwelling units greater than that specified
236 under the applicable zoning ordinance.
- 237 (d) A single-bedroom unit may not be less than 550 square feet
238 and a two-bedroom unit not less than 650 square feet.

239
240 ***Explanation: these amendments replace note with revision of 16.1.8,***
241 ***Lines 14-19, above, and clarify which density formula applies to a***
242 ***development in the zone (based on utilities).***

243
244
245 **7. Amend § 16.4.14 Residential — Village (R-V) zoning as follows:**

- 246 D. Standards. All development and the use of land in the R-V Zone must
247 meet the following standards. In addition, the design and
248 performance standards of Chapters **16.5**, **16.7** and **16.8** must be met.
249 The Design Handbook provides examples of appropriate design for
250 nonresidential and multiunit residential projects.
- 251 (1) The following space standards apply:
- 252 (a) Minimum net residential acreage per dwelling unit: 4,000
253 square feet. ~~(Note: As per Chapter 16.3 definition of "minimum~~
254 ~~land area per dwelling unit," except to exempt properties~~
255 ~~which are unable to meet the square feet required for a single-~~
256 ~~family dwelling unit, provided the lot was conforming prior to~~
257 ~~October 25, 2012.)~~

258
259 ***Explanation: note replaced by revision of 16.1.8, Lines 14-19, above.***
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265 **8. Amend §16.4.15 Residential — Rural Conservation (R-RC) zoning as**
266 **follows:**

267 D. Standards. The following standards must be met unless modified per
268 §16.8.10, Conservation Subdivision:

269 (1) The design and performance standards of Chapters 16.5, 16.7 and
270 16.8 must be met.

271 (2) The following dimensional standards apply:

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

278

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

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281

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

283

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

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

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

290 ~~¶¶] If served by on-site sewage disposal: minimum net residential
291 acreage per dwelling unit: 20,000 square feet;~~

292 ~~¶2] (2) If served by the public sewerage system and:~~

293 [a] When no frontage on State Road or Route 1 Bypass exists:

294 minimum lot area per dwelling unit: 3,000 square feet;

295 [b] When less than five dwelling units are proposed at minimum,
296 one nonresidential use must be located on the first floor facing
297 State Road or Route 1 Bypass such that the use will be visible
298 from the street: minimum lot area per dwelling unit: 3,000

299 square feet. Such a nonresidential use or uses need not occupy
300 the entire first floor but must be an independent nonresidential
301 use, e.g., not a home office marketed with a dwelling unit as a
302 work/live unit;

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

307 Such a nonresidential use or uses need not occupy the entire first
308 floor but must be an independent nonresidential use, e.g., not a
309 home office marketed with a dwelling unit as a work/live unit; or
310 [d] 25% or more of the dwelling units will be affordable housing
311 units as defined by this code: **minimum lot area per dwelling**
312 **unit:** 1,000 square feet.

313 Note: Except as otherwise required by the buffer provisions of this title.
314

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

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

320 D. Standards. All development and the use of land in the B-L1 Zone must
321 meet the following standards. Kittery's Design Handbook illustrates
322 how these standards can be met. In addition, the design and
323 performance standards of Chapter **16.5** must be met. **[Amended 9-12-**
324 **2022]**

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

326 (a) Minimum lot area per dwelling unit:

327 [1] When no frontage on State Road or Shapleigh Road: 2,500
328 square feet.

329 [2] When less than five dwelling units are proposed with, at
330 minimum, one nonresidential use must be located on the
331 first floor facing State Road or Shapleigh Road such that
332 the use will be visible from the street: 2,500 square feet.
333 Such a nonresidential use or uses need not occupy the
334 entire first floor but must be an independent nonresidential
335 use, e.g., not a home office marketed with a dwelling unit as
336 a work/live unit.

337 [3] When five or more dwelling units are proposed with, at
338 minimum, one nonresidential use must be located on the
339 first floor facing State Road or Shapleigh Road such that
340 the use will be visible from the street: 2,000 square feet.
341 Such a nonresidential use or uses need not occupy the
342 entire first floor but must be an independent nonresidential
343 use, e.g., not a home office marketed with a dwelling unit as
344 a work/live unit.

345 [4] When 25% or more of the dwelling units will be affordable
346 housing units as defined by this code, the minimum **land**

347 lot area per dwelling unit is 1,500 square feet.
348 [5] When 50% or more of the dwelling units will be affordable
349 housing units as defined by this code, the minimum land
350 lot area per dwelling unit is 1,000 square feet.

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

353
354

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

356 E.Standards.

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

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

363 (a) Minimum lot size or density:

C-1 Zone

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

NOTES:

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

364

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

367

368 **11. Amend §16.4.21 Commercial 3, Bypass/ Old Post Road Commercial Zone**
369 **(C-3) as follows:**

370 E.Standards.

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

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

377 (a) Minimum lot size or density:

C-1 and C-3 Zone

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

All other uses 40,000 square feet

NOTES:

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

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

380

381 **12. Amend §16.4.23 Mixed Use Zone (MU) as follows:**

382 D. Standards.

383 (1) All development and the use of land in the MU Zone must meet the
384 following standards. Kittery's Design Handbook illustrates how
385 these standards can be met. In addition, the design and
386 performance standards of Chapters **16.5**, **16.7** and **16.8** must be met.

387 (2) Minimum dimensional standards. The following apply:

- 388 (a) Minimum lot size:
389 [1] Lots with frontage on Route 1: 200,000 square feet.
390 [2] Lots without frontage on Route 1: 80,000 square feet.
391 (b) Minimum street frontage on road with access along U.S. Route
392 1, Haley Road, Lewis Road, or Cutts Road: 250 feet.
393 [1] Other streets or approved ways: 150 feet.
394 (c) Minimum front yard: 30 feet.
395 (d) Minimum rear and side yards: 30 feet.
396 (e) Maximum building height: 40 feet.
397 (f) Maximum height above grade of building-mounted signs: 40
398 feet.
399 (g) Minimum setback from water body and wetland water-
400 dependent uses: zero feet.
401 (h) Minimum setback from streams, water bodies and wetlands: in
402 accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee
403 Schedules.
404 (i) Minimum ~~land~~ lot area per unit for elder care facilities that are
405 connected to the public sewerage system:
406 [1] Dwelling unit with two or more bedrooms: 5,000 square
407 feet.
408 [2] Dwelling unit with less than two bedrooms: 4,000 square
409 feet.
410 [3] Residential care unit: 2,500 square feet.
411 (j) Minimum ~~land~~ lot area per bed for nursing care and
412 convalescent care facilities that are connected to the public
413 sewerage system: 2,000 square feet.
414 (k) Buffer to I-95 right-of-way: 40 feet.
415 (l) Buffer to neighboring lot with an existing residence within 100
416 feet of the lot line: 40 feet.
417 (m) Vegetated buffer to be maintained between the MU and R-RL
418 Zones: 40 feet.

419
420 Note 1: For single-family dwellings, and vacant lots of record, one
421 dwelling unit is allowed for each 200,000 square feet of ~~land~~ lot area.
422 A lot of record having a ~~land~~ lot area of more than 200,000 square
423 feet that was improved with a single-family dwelling as of April 1,
424 2004, may be divided into two lots provided that each of the lots
425 contains at least 40,000 square feet of ~~land~~ lot area and meets the
426 other dimensional standards of the zone. Section **16.4.10D(1)** and **(2)**
427 as set forth in the Residential - Rural Zone apply and no further
428 subdivision is allowed.

429 Note 2: For dwelling units that are part of a mixed-use building or a
430 multifamily building and are connected to the public sewerage
431 system, one dwelling unit is allowed for each 10,000 square feet of
432 lot area. Where over 50% of such dwelling units described above will
433 be affordable as defined by this code: 4,000 square feet of **buildable**
434 **land lot** area. [NOTE: multifamily dwellings are not allowed in either
435 Resource Protection or Shoreland Overlay Zones] If the parking for
436 the residential units is encompassed within the building, the
437 minimum required buildable **land lot** area per dwelling unit is
438 reduced to 7,500 square feet. Where over 50% of the dwelling units
439 will be affordable as defined by this code and parking is
440 encompassed within the building: 3,000 square feet of buildable
441 **land lot** area. In addition, for those developments where more than
442 50% of the dwelling units will be affordable, parking requirements
443 are reduced to two parking spaces per three dwelling units.

444 ***Explanation: these amendments clarify which density formula***
445 ***applies to a development (based on utilities).***
446

447
448 **13. Amend §16.4.24 Mixed-Use — Badger Island (MU-BI) as follows:**

449 D. Standards.

450 (1) The following space standards apply:

451 (a) Minimum **land lot** area per dwelling unit: 3,000 square feet.

452 [1] If more than 50% of the dwelling units will be affordable
453 housing units as defined by this code: 1,200 square feet.

454

455 (4) Special parking standards.

456 (e) Parking demand management (PDM) strategies.

457 [1] Parking demand strategies are measures geared toward
458 affecting the demand side of the parking equation rather
459 than the supply side. They attempt to change people's
460 behavior away from traveling to work as a single occupant
461 in an automobile to be parked near the work site. To be
462 successful, they must rely on incentives or disincentives to
463 make these shifts in behavior attractive to the traveler.

464 [2] A portion of required off-street parking may be satisfied by an
465 owner incorporating PDM strategies to effectively reduce
466 demand for parking stalls as determined by the Planning

467 Board. In making this determination the Planning Board,
468 under development plan review, must consider the
469 following factors:

- 470 [a] The written commitment of the employer to maintain
471 and enforce parking policies to reduce demand for
472 parking stalls;
- 473 [b] The likelihood that specific incentives and policies
474 adopted by the applicant will reduce parking demand on
475 a regular basis throughout the year;
- 476 [c] Written commitments by employees to participate in
477 PDM strategies; and
- 478 [d] The results of any studies demonstrating the
479 effectiveness of strategies adopted by the applicant to
480 reduce parking demand.

481 **[f3]** PDM strategies include, but are not limited to, the following:

482 **[1a]** Increase the number of persons per parked vehicle. Potential
483 incentives:

- 484 **[ai]** Preferential parking locations for car pools and van
485 pools;
- 486 **[bij]** Guaranteed ride home programs/taxi subsidies;
- 487 **[eiii]** Employer provision of vans for van pools; and
- 488 **[div]** Financial incentives to participants in car pools and
489 van pools.

490 **[2b]** Increase the number of persons using an alternative
491 mode of travel to the automobile, such as walking,
492 bicycling, motorcycle, moped, bus and shuttle service.
493 Potential incentives:

- 494 **[ai]** Preferential parking locations for alternative modes of
495 travel;
- 496 **[bij]** Provision of changing rooms, lockers and showers;
- 497 **[eiii]** Early work release for employees using alternative
498 modes of travel;
- 499 **[div]** Financial subsidies toward the purchase of
500 alternative modes of travel to be used for
501 commuting;
- 502 **[ev]** Guaranteed ride home programs in inclement
503 weather;
- 504 **[fvi]** Preferential work station locations; and

505 [gvii] Free use of a business vehicle for errands, lunch and
506 off-site appointments.

507 [3c] Influencing the time of, or need to, travel to work. Potential
508 incentives:

509 [ai] Reward employees who telecommute from their
510 home or other remote location;

511 [bii] Offer an optional four-day, forty-hour workweek as
512 an alternative to a five-day workweek;

513 [eiii] Allow nonoverlapping early and late work shifts; and

514 [div] Flextime.

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

518

519

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

521 D. Standards.

522 (2) Dimensional standards. The following space standards apply:

523 (a) Minimum **land lot** area per dwelling unit: 5,000 square feet.

524 (a) – 1. If more than 50% of the dwelling units will be affordable
525 housing units as defined by this code: 2,000 square feet.

526

527 (k) Minimum **land lot** area per unit for elder-care facilities that are
528 connected to the public sewerage system:

529 [1] Dwelling unit with two or more bedrooms: 3,000 square feet.

530 [2] Dwelling unit with less than two bedrooms: 2,500 square
531 feet.

532 [3] Residential care unit: 2,000 square feet.

533 [a] Minimum **land lot** area per bed for nursing care and
534 convalescent care facilities that are connected to the public
535 sewerage system: 1,500 square feet.

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

538 (7) Revised off-street parking standards. Insofar as practical, parking
539 requirements are to be met on site unless an existing building
540 covers so much of the lot as to make the provision of parking

541 impractical in whole or in part. If meeting the parking requirements
542 is not practical, then the parking demand may be satisfied off site or
543 through joint-use agreements as specified herein. Notwithstanding
544 the off-street parking requirements in §16.7.11F(3), minimum parking
545 requirements for the uses below are modified as specified herein:
546 (a)-(f) omitted for brevity NO CHANGES PROPOSED
547 (g) Restaurants: one parking space for each 100 square feet of gross
548 floor area used by the public. space

549
550 [Note: For each use in the zone, the total parking demand is calculated
551 using the standards above or in §16.7.11F(3), if not modified above. Then
552 each nonresidential use is exempt from providing off-street parking for
553 the first three required spaces. For uses requiring a demand of greater
554 than three, then the off-street parking is to be provided on site and/or
555 in accordance with Subsection D(9) and (10) of this section.]

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

558
559

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

561

562 A. Purpose. To encourage investment that promotes development of a
563 high-quality parklike setting for both the business and residential
564 communities. ~~Cluster~~ **Mmixed**-use development must be used on
565 larger tracts of land where offices, retail sales, services, lodging, open
566 space, housing and light manufacturing space are blended with
567 residential and moderate entertainment to foster general business
568 growth and a sense of community. The intent of ~~the cluster~~ mixed-use
569 development is to provide a more efficient use of land than might be
570 obtained through segregated development procedures.

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

573 (7) ~~Cluster residential development.~~ **Conservation subdivision**

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

- 576 (1) Business and professional offices.
577 (2) Accessory uses and buildings.

- 578 (3) Business services.
- 579
- 580 E. Standards. The following standards must be met unless modified per §
- 581 **16.108.10H, Conservation Subdivision. Cluster residential**
- 582 **development.** Multiple-parcel development is subject to Chapter **16.6,**
- 583 Master Site Development Plan.
- 584 (1) Design and performance standards in Chapters **16.5, 16.7,** and **16.8.**
- 585 The Design Handbook provides examples of appropriate design for
- 586 nonresidential and multi-unit residential projects.
- 587 (2) Except for ~~cluster~~ mixed-use developments, the following space
- 588 standards apply:
- 589 (3) Patios, sheds, parking lots and golf courses must have a minimum
- 590 setback of 50 feet from streams, water bodies, and wetlands.
- 591 (4) **Cluster residential development Conservation subdivision.** In a
- 592 ~~cluster residential development~~ conservation subdivision, the
- 593 above standards may be modified in accordance with the special
- 594 provisions of § **16.108.10H, Cluster residential development**
- 595 **Conservation Subdivision,** including there is no minimum lot size,
- 596 and with the conditions that:
- 597

598 ***Explanation: these amendments replace “cluster residential***

599 ***development”, which no longer exists, with “conservation***

600 ***subdivision” or “mixed-use development” to remain consistent with***

601 ***current definitions and uses in code.***

602

603 **16. Amend §16.5.18 Net residential acreage as follows:**

- 604 A. Purpose. **To protect public health, safety, and welfare by prioritizing**
- 605 **preservation of environmentally sensitive areas and land for public**
- 606 **or quasi-public facilities during development of parcels in Kittery’s**
- 607 **limited growth zones by excluding those areas from development**
- 608 **density calculations.** Net residential acreage is used to determine the
- 609 maximum number of dwelling units allowed on a parcel that is subject
- 610 to subdivision **located in a limited growth area identified in the**
- 611 **Comprehensive Plan.** The total number of dwelling units allowed is
- 612 equal to the net residential acreage divided by the minimum land area
- 613 per dwelling unit for a given land use zone.
- 614 B. Applicability. Applies to development of land located in limited growth
- 615 areas as designated in the Comprehensive Plan **and to residential**
- 616 **development that will not be served by public water and sewer**

617 **facilities.** Development of parcels located in targeted growth areas
618 served by public sewer and water is subject to provisions for lot area as
619 defined in Chapter 16.3 for calculating lot area, lot coverage, or unit
620 density.

621 B. **C.** Net residential acreage calculation. **The total number of dwelling**
622 **units allowed is equal to the net residential acreage divided by the**
623 **minimum land area per dwelling unit for a given land use zone.** To
624 calculate net residential acreage, the land area listed below must be
625 subtracted from a parcel's gross area. Where land areas to be
626 subtracted overlap, the area therein is subtracted once. **Land area**
627 **within conservation easements does not need to be subtracted**
628 **from a parcel's gross area except where it also contains any of the**
629 **land areas listed below.**

- 630 (1) All land located below the highest annual tide elevation as
631 published in the Maine DEP Highest Annual Tide (HAT) levels for
632 the most-current year.
- 633 (2) All land located within the floodplain as defined in the definition of
634 "flood, 100-year" in Chapter **16.3**.
- 635 (3) All wetlands as defined in the definition of "wetland" in Chapter
636 **16.3**, as well as vernal pools, ponds, lakes, streams and other water
637 bodies, including 50% of the associated setbacks described in other
638 buildings and structures, Table 16.5.30, Chapter **16.5** of this title.
- 639 (4) All land located on filled tidal lands, per the definition of "tidal land,
640 filled" in Chapter **16.3**.
- 641 (5) All land located within existing rights-of-way and other existing
642 easements **for access or utilities** wherein dwelling units cannot be
643 built.
- 644 (6) All land located within proposed rights-of-way, including parking
645 and travel ways. Driveways are excluded.
- 646 (7) All land isolated from the principal location for development on the
647 parcel by a road/street, existing land uses, or any physical feature,
648 natural or man-made, such that it creates a barrier to the central
649 development of the site and no means of access is proposed nor
650 likely to be provided in the future. However, to demonstrate that
651 identified isolated land may be considered developable for the
652 purpose of this calculation, the applicant must submit a plan and
653 supporting documentation for the Board's consideration.
- 654 (9) All land one acre or more of contiguous area with sustained slopes
655 of 20% or greater.
- 656 (10) All land identified as exposed bedrock, and soils with a drainage
657 class of "poorly drained" and/or "very poorly drained" as defined in
658 the definition of "soils" in Chapter **16.3**.

- 659 (11) Fifty percent of all land characterized as drainage class of
660 "somewhat poorly drained," unless public sewer is used, in which
661 case no land area is subtracted.
- 662 (12) All land area within a cemetery and burying ground as defined in
663 Chapter **16.3**, including associated setback per 13 M.R.S.A. § 1371-A,
664 Limitations on construction and excavation near burial sites.
- 665 (13) All land within a Commercial Fisheries/Maritime Uses Overlay Zone
666 or Resource Protection Overlay Zone not included in Subsection
667 **B(12)** above.

668 ***Explanation: these amendments clarify the purpose and***
669 ***applicability of net residential acreage for calculating development***
670 ***density.***

671

672

673 **17. Amend “Chapter 16.7 General Development Requirements” as follows:**

674

675 Chapter 16.7 General Development Requirements **Site Plan Review**

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

678

679 **18. Amend § 16.7.2 Applicability as follows:**

- 680 A. A person who has right, title, or interest in a parcel of land shall
681 obtain site plan approval prior to commencing any of the following
682 activities on the parcel, including contracting or offering for the
683 conveyance regulated activity permit for any structure within the
684 development is **issues issued**, or undertaking work on any
685 improvements, including installation of roads or utilities or land
686 clearing.

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

688

689 **19. Amend § 16.7.10 Review process and submission requirements as**
690 **follows:**

- 691 B. Sketch plan review.

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- (1) Major site plan applicants may choose to submit a development sketch plan with design concept, at their discretion. The purpose of sketch plan review with the Planning Board is a chance for the applicant to ask questions and get feedback and guidance from the Board before proceeding with an advance site plan design, and for the Board to provide guidance on submission requirements. **Project proposals and feedback provided during sketch plan review are non-binding on both parties.** Any person requiring site plan review must submit an application on forms prescribed by the Planning Board. No more than one application/plan for a piece of property may be under review before the Planning Board.
 - (a) A completed application must be submitted to the Town Planner no later than 21 days prior to the meeting date for the item to be included on the agenda.
 - [1] Refer to current Planning Department application checklist for required number of paper copies.
 - [2] One electronic submission in PDF format of the complete submission including all forms, plans, and documentation.
- (2) Planning Board review. The Planning Board must, within 65 days of sketch plan submission, act upon the sketch plan as follows:
 - (a) ~~The Planning Board must determine~~ **advise** whether the sketch plan proposal complies with the standards contained herein.
 - (b) Where it deems necessary, make specific suggestions, in writing, to be incorporated by the applicant in subsequent submissions.
 - (c) ~~The Planning Board should determine~~ **advise** as to whether or not an on-site walk will be required.
 - (d) advise the applicant of additional information, studies, revisions, or conditions which may be necessary for project review or approval.**
 - ~~(de)~~ The applicant should provide an indication as to whether or not waivers from the submission requirements or performance standards will be part of the next phase of review.
 - ~~(e) Any plan may be continued for a total period not to exceed 90 calendar days for good and sufficient reason (i.e., for revisions to be made, studies completed, or additional information submitted) and acceptable to both the applicant and the Planning Board. Such plan is automatically~~

734 scheduled for the agenda of the next regular Planning Board
735 meeting after the 90th day and action completed in
736 accordance with the requirements and timing contained in
737 this title, whether the applicant has accomplished the
738 purposes for which continued or not.

739 ~~[1]—The action to table by the Planning Board must be an action~~
740 ~~to temporarily suspend action and not to suppress a vote on~~
741 ~~the plan.~~

742 (3) **Sketch Plan Submission** requirements.

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

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

750 ~~(c)—The sketch may be a freehand penciled sketch and must~~
751 ~~include the data listed below.~~

752 ~~(4)—~~Written submission requirements:

753 ~~(a)—Any person requiring development review must submit an~~
754 ~~application on forms prescribed by the Planning Board,~~
755 ~~together with a development plan and such submission~~
756 ~~contents as may be required in § 16.7.10C. A complete~~
757 ~~application consists of all the required elements. No more~~
758 ~~than one application/plan for a piece of property may be~~
759 ~~under review at a time. No more than one approved final plan~~
760 ~~for a piece of property may exist.~~

761 (b) ~~General~~ project information **must be provided in plan or**
762 **narrative form** to describe or outline the existing conditions
763 of the site, including:

764 ~~[1]—~~Covenants **or easements;**

765 ~~[2]—~~Available community facilities **streams, wetlands, or**
766 **other natural features;** and

767 ~~[3]—~~Utilities **and drainage features.**

768 (c) Proposed development **details must be provided in plan or**
769 **narrative form, including,** such as:

770 [1] Number of residential or business lots and/or dwelling
771 units;

772 [2] Typical lot width and depth;

773 [3] ~~Price range~~ **Vehicle parking and driveway areas;**

774 [4] Business areas;

- 775 [5] Playgrounds, park areas and other public areas;
- 776 [6] Protective covenants;
- 777 [7] Utilities; ~~and~~
- 778 [8] Street improvements; **and**
- 779 **[9] Drainage features and potential on-site or off-site**
- 780 **points of compliance for stormwater regulations.**

781 ***Explanation: these amendments clarify the advisory nature of***
782 ***sketch plan review and update the submission requirements to***
783 ***reflect current plan review practices.***

784

785 C. Preliminary plan review.

786 (1) General process.

787 (a) Within six months after Planning Board acceptance of a
788 sketch plan, if applicable, the applicant must submit an
789 application for preliminary site plan approval in the form
790 prescribed herein **and in accordance with current**
791 **Department procedures.**

792 (b) Preliminary plan application filing and completeness review.
793 A determination as to whether the Town Planner validates an
794 application is based on a review of the application in
795 accordance with the submission contents checklist filed with
796 the plan, which indicates all elements required under
797 § **16.7.10C** and **D** have been received, or written request for
798 any waivers of submission requirements or performance
799 standards is included. The application must be accompanied
800 by a plan and the required fee, together with a certification
801 the applicant has notified abutters by mail of the filing of the
802 plan application for approval.

803 (c) Receipt and scheduling review. Upon validation, the Town
804 Planner must place the application on the Planning Board's
805 agenda for Planning Board completeness review and vote to
806 find the preliminary plan application complete and, upon
807 Planning Board approval, issue a dated notice to the
808 applicant, which is thereafter the official time of submission.

809 (d) Site inspection. In the course of the review of the plan, the
810 Planner must, and the Planning Board may at its discretion,
811 make a physical inspection and may make photographic
812 record of the existing conditions on the site.

813 (e) Advisory opinions. At any time during review, the Planner
814 may request an advisory opinion from the Planning Board,

815 Conservation Commission or Port Authority on issues related
816 to the application. Where applications are for land within
817 wetland setbacks or the Resource Protection Overlay Zone,
818 the Conservation Commission must be invited to review and
819 offer recommendations from an environmental protection
820 perspective. The Planner also must make recommendation
821 on the necessity for independent review.

822 (f) Planner analysis. The Planner must analyze the application
823 and forward comments and recommendations to the
824 applicant and the Planning Board.

825 (g) A completed application must be submitted to the Town
826 Planner no later than ~~21~~**28** days prior to the meeting date for
827 the item to be included on the agenda. The submission must
828 include on the plan or attached thereto, the requirements of
829 Subsection **C(4)**, Plan requirements, and Subsection **C(5)**,
830 Additional requirements, unless upon the applicant's written
831 request, the Planning Board, by formal action, waives or
832 defers any requirement(s) for submission.

833 (4) Plan requirements.

834 (a) Plan sheets drawn on a reproducible medium and must
835 measure no less than 11 inches by 17 inches and no larger than
836 24 inches by 36 inches;

837 (b) With scale of the drawings no greater than one inch equals 30
838 feet for developments less than 10 acres, and one inch equals
839 50 feet for all others;

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

842 [1] Name(s) and address(es) of the applicant and owner;

843 [2] Name of the project;

844 [3] Name and address of the preparer of the plan, with
845 professional seal, if applicable;

846 [4] Date of plan preparation/revision, and a unique ID number
847 for the plan and any revisions;

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

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

854 (f) Locus map showing the property in relation to surrounding
855 roads, within 2,000 feet of any property line of the
856 development;

- 857 (g) Vicinity map and aerial photograph showing the property in
858 relation to surrounding properties, roads, geographic, natural
859 resource (wetland, etc.), historic sites, applicable
860 comprehensive plan features such as proposed park locations,
861 land uses, zones, and other features within 500 feet from any
862 boundary of the proposed development;
- 863 (h) Surveyed acreage of the total parcel, of rights-of-way, wetlands,
864 and area to be disturbed and amount of street frontage;
- 865 (i) Names and addresses of all owners of record of property
866 abutting the development, including those across a street;
- 867 (j) Existing development area conditions, including but not
868 limited to:
- 869 [1] Location and description of all structures, including signs,
870 existing on the site, together with accesses located within
871 100 feet of the property line;
- 872 [2] Essential physical features such as watercourses, wetlands,
873 floodplains, wildlife habitat areas, forest cover, and
874 outcroppings;
- 875 [3] Utilities existing, including power, water, sewer, holding
876 tanks, bridges, culverts and drainageways;
- 877 (k) Proposed development area conditions including, but not
878 limited to:
- 879 [1] Structures: their location and description, including signs,
880 to be placed on the site, floor plans and elevations of
881 principal structures as well as detail of all structures,
882 showing building materials and colors, and accesses
883 located within 100 feet of the property line;
- 884 [2] Utilities proposed including power, water, sewer, holding
885 tanks, bridges, culverts and drainageways;
- 886 [3] Sewage facilities type and placement. Test pit locations, at
887 least two of which must meet the State of Maine Plumbing
888 Code requirements, must be shown;
- 889 [4] Domestic water source;
- 890 [5] Parks, open space, or conservation easement locations;
- 891 [6] Lot lines, interior and exterior, right-of-way, and street
892 alignments;
- 893 [7] Road and other paved ways plans, profiles and typical
894 sections including all relevant data **and adjacent snow**
895 **storage areas**;
- 896 [8] Setbacks existing and proposed;
- 897 [9] Machinery permanently installed locations likely to cause
898 appreciable noise at the lot lines;

- 899 [10] Raw, finished or waste materials to be stored outside the
900 buildings, and any stored material of a toxic or hazardous
901 nature;
- 902 [11] Topographic contours of existing contours and finished
903 grade elevations within the development;
- 904 [12] Pedestrian ways/sidewalks, curbs, driveways, fences,
905 retaining walls and other artificial features locations and
906 dimensions proposed;
- 907 [13] Temporary marker locations adequate to enable the
908 Planning Board to readily locate and appraise the layout of
909 the development;
- 910 [14] Land proposed to be dedicated to public use and the
911 conditions of such dedication;
- 912 (l) Natural features or site elements to be preserved. Written
913 submission requirements legal interest documents showing
914 legal interest of the applicant in the property to be developed.
915 Such documents must contain the description upon which the
916 survey was based;
- 917 (m) Property encumbrances currently affecting the property, as
918 well as any proposed encumbrances;
- 919 (n) Water district approval letter, if public water is used, indicating
920 there is adequate supply and pressure to be provided to the
921 development;
- 922 (o) Erosion and sedimentation control plan prepared by a qualified
923 erosion and sedimentation control professional in accordance
924 with the requirements of § **16.7.11C; [Amended 5-8-2023]**
- 925 (p) Stormwater management preliminary plan for stormwater and
926 other surface water drainage prepared **and stamped** by a
927 registered professional engineer including **an analysis of**
928 **existing and proposed drainage conditions on the site and in**
929 **adjacent areas,** ~~the general location of stormwater and other~~
930 ~~surface water drainage areas.~~
- 931 (q) Soil survey for York County covering the development. Where
932 the soil survey shows soils with severe restrictions for
933 development, a high intensity Class "A" soil survey must be
934 provided;
- 935 (r) Vehicular traffic report estimating the amount and type of
936 vehicular traffic that will be generated by the development on a
937 daily basis and for peak hours;
- 938 (s) Traffic impact analysis in accordance with § **16.5.27E** for
939 developments involving 40 or more parking spaces or which
940 are projected to generate more than 400 vehicle trips per day;

- 941 (t) Test pit(s) analysis prepared by a licensed site evaluator when
942 sewage disposal is to be accomplished by subsurface disposal,
943 pits, prepared by a licensed site evaluator;
- 944 (u) Town Sewage Department or community system authority
945 letter, when sewage disposal is to be through a public or
946 community system, approving the connection and its location;
- 947 (v) **Letters-of Written or verbal** evaluation of the development by
948 the Chief of Police, Fire Chief, Commissioner of Public Works,
949 and, for residential applications, the superintendent of schools,
950 must be collected and provided by the Town Planner;
- 951 (w) Additional submissions as may be required by other sections of
952 this title such as for clustered development, mobile home
953 parks, or junkyards must be provided.
954

955 ***Explanation: these amendments reflect current preliminary site plan***
956 ***review practice(s) which include Town Planner solicitation of staff***
957 ***input instead of receipt of written letters, additional time needed for***
958 ***sufficient plan review by peer review engineer and board members***
959 ***prior to meeting, planning board review of snow storage areas, and***
960 ***evolving importance and sophistication of stormwater regulations for***
961 ***development.***

962

963 **20. Amend §16.7.11 Performance Standards and approval criteria as follows:**

- 964 F. Parking and loading.
- 965 (4) Off-street parking standards.
- 966 (a) Off-street parking, in addition to being a permitted use, is
967 considered as an accessory use when required or provided to
968 serve conforming uses located in any district.
- 969 (b) The following minimum off-street parking and loading
970 requirements must be provided and maintained in case of
971 new construction, alterations and changes of use. Such
972 parking may be provided in the open air in design-
973 dependent spaces dimensioned as may be required to suit
974 the particular use as indicated in Table 2 of this chapter, set
975 out at the end of § **16.7.11F**, Parking loading and traffic, or in
976 garages.
- 977 (c) All spaces must be accessible from lanes of adequate size and
978 location as per Table 2 of this chapter, set out at the end of
979 § **16.7.11F**, Parking loading and traffic. In cases not specifically

980 covered, the Town ~~Board~~ **board** or officer with jurisdiction to
 981 approve the application is authorized to determine the
 982 parking requirements and projected development use
 983 intensity. Existing parking standards are to be used as a guide
 984 where applicable to ensure that a sufficient number of
 985 parking spaces are provided to accommodate the number
 986 and type of vehicles attracted to the development during
 987 peak parking demand times.

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

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

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

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

- 992 (e) A parking area is allowed in the Resource Protection Overlay
993 Zone only where no reasonable alternative route or location is
994 available outside the Resource Protection Overlay Zone, in
995 which case a permit or site plan or subdivision plan approval
996 is required by the Planning Board.
- 997 (f) A parking area must meet the wetland and water body
998 setback requirements for structures for the district in which
999 such areas are located, per Table 16.5.30, Minimum Setback
1000 from Wetlands and Water Bodies; except, in the Commercial
1001 Fisheries/Maritime Uses Overlay Zone, parking area must be
1002 set back at least 25 feet from the normal high-water line or
1003 the upland edge of a wetland. The setback requirement for a
1004 parking area serving public boat-launching facilities, in zones
1005 other than the Commercial, Business-Local, Residential-
1006 Urban Zones, and the Commercial Fisheries/Maritime Uses
1007 Overlay Zone, may be reduced to no less than 50 feet from
1008 the normal high-water line or upland edge of a wetland if the
1009 Planning Board finds no other reasonable alternative exists.
- 1010 (g) Parking landscaping is required for parking areas containing
1011 10 or more parking spaces and must have at least one tree
1012 per eight spaces. Such trees are to be located either within
1013 the lot or within five feet of it. Such trees are to be at least 1 1/2
1014 inches in diameter, with no less than 25 square feet of
1015 unpaved soil or permeable surface area per tree. At least 10%
1016 of the interior of any parking area having 25 or more spaces is

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

- (h) Required off-street parking in all residential districts is to be located on the same lot as the principal building or use, except that where it cannot reasonably be provided on the same lot, the Board of Appeals may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses served, as measured along lines of public access. Such parking areas must be held under the same ownership or lease as the residential uses served, and evidence of such control or lease is required. Leases obtained for this purpose must be reviewed by the Town Attorney at the developer's expense and include requirement for notice to the Town upon termination of lease. Approval for uses dependent on such lease is terminated upon termination of the lease.
- (i) If parking spaces are provided for employees, customers or visitors, then accessible parking spaces must be included in each such parking area in conformance with the following table:

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

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- [1] Each accessible parking space must contain a rectangular area at least 19 feet long and eight feet wide with access to a designated and marked five-foot-wide aisle. All required accessible parking spaces are to be identified by a vertical sign displaying the international symbol of accessibility; pavement marking alone is not adequate to identify accessible parking spaces.
- [2] The total number of accessible parking spaces is to be distributed to serve the various accessible entrances as well as possible.

1047 [3] At least one accessible route is to connect from each
1048 accessible parking space to the accessible building
1049 entrance.

1050 (j) Required off-street parking in all commercial, business and
1051 industrial zones must be located on the same lot with the
1052 principal building or use, or within 100 feet measured along
1053 lines of public access; except that, where off-street parking
1054 cannot be provided within these limits, the Board of Appeals
1055 may permit such off-street parking to be located a
1056 reasonable distance from the principal building or use,
1057 measured along lines of public access. Such parking areas
1058 must be held under the same ownership or lease, and
1059 evidence of such control or lease is required. Such lots must
1060 be located within business or industrial districts.

1061 **(k) Where off-street parking for more than six vehicles is**
1062 **required or provided, the following construction**
1063 **requirements apply:**

1064 **[1] Appropriate driveways from streets or alleys, as well as**
1065 **maneuvering areas, must be provided. Location and width**
1066 **of approaches over public sidewalk are to be approved by**
1067 **the Commissioner of Public Works. When access to**
1068 **parking areas is available from more than one street, the**
1069 **location of points of ingress and egress are to have the**
1070 **approval of the Planning Board.**

1071 **[2] The surface of driveways, maneuvering areas and**
1072 **parking areas must be uniformly graded with a subgrade**
1073 **consisting of gravel or equivalent materials at least six**
1074 **inches in depth, well-compacted and with a wearing**
1075 **surface equivalent in qualities of compaction and**
1076 **durability to fine gravel.**

1077 **[3] A system of surface drainage must be provided in such**
1078 **a way that the water runoff does not run over or across**
1079 **any public sidewalk or street or adjacent property. Where**
1080 **catch basins are required, oil traps are to be provided.**

1081 **[4] Where artificial lighting is provided, it must be shaded**
1082 **or screened so that no light source is visible from outside**
1083 **the area and its access driveways**

1084 **[5] Where surface water drainage utilizes a municipal**
1085 **drainage system, the parking or driveway area may be**
1086 **required to have a bituminous asphalt surface or other**
1087 **approved equivalent.**

1088 **(kl)** The Planning Board or Board of Appeals may, in specific
1089 cases of hardship, reduce the requirements for off-street

1090 parking where it is clearly demonstrated that such reduction
 1091 will not detract from neighborhood values, inconvenience the
 1092 public or increase congestion in the streets.

1093 **(lm)** The Planning Board or Board of Appeals may approve the
 1094 joint use of a parking facility by two or more principal
 1095 buildings or uses where it is clearly demonstrated that said
 1096 parking facility will substantially meet the intent of the
 1097 requirements by reasons of variation in the probable time of
 1098 maximum use by patrons or employees among such
 1099 establishments.

1100 **(mn)** Compact-size parking spaces, unless restricted for use by
 1101 and located adjacent to a dwelling unit, must be located in
 1102 one or more continuous areas and cannot be intermixed with
 1103 spaces designed for full size vehicles.

1104 **(no)** Compact-size parking spaces shall be clearly designated by
 1105 pavement marking and by direction sign in conformance
 1106 with Table 2.

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

| Table 2-A Compact Car Parking Space Design (minimum dimensions) (dimensions in feet unless otherwise indicated.) | | | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|--------------------|--|
| | A | B | C | D | E | F (Aisle Width) | |

| To Curb | Angle (degrees) | Stall Width | Stall Depth | Stall to Curb | Skew Width | One-Way Traffic | Two-Way Traffic |
|-------------------------|------------------|-------------|-------------|---------------|------------|-----------------|-----------------|
| Parallel | 0 | 8 | 16 | 8.0 | 16.0 | 12 | 19 |
| Diagonal | 45 | 8 | 16 | 17.0 | 5.7 | 13 | 20 |
| Diagonal | 60 | 8 | 16 | 17.8 | 6.9 | 18 | 20 |
| Perpendicular | 90 | 8 | 16 | 16.0 | 8.0 | 22 | 22 |
| [Image] | | | | | | | |

1107 ***Explanation: this amendment corrects an omission error that***
1108 ***occurred during recodification.***

1109

1110 **21. Amend 16.7.12 Post-approval as follows:**

- 1111 A. Approved plan expiration.
- 1112 (1) A site plan approval will expire if work has not commenced
- 1113 within one year from the date of Planning Board or Director of
- 1114 Planning and Development approval. Where work has
- 1115 commenced within one year of such approval, the approval will
- 1116 expire if work is not complete within two years of the original
- 1117 date of approval.
- 1118 (2) Prior to expiration, the approval authority may, on a case-by-
- 1119 case basis, grant extensions to an approved plan expiration
- 1120 date upon written request by the developer for an inclusive
- 1121 period from the original approval date, not to exceed three
- 1122 years.
- 1123 (3) When a plan's approval expires, the applicant may reapply
- 1124 subject to the Town Code current at the time of reapplication.

1125 **B. Performance Guarantee: Prior to the preconstruction meeting**

1126 **described in C.1, the applicant shall provide a performance**

1127 **guarantee to the Town in the form of an irrevocable letter of**

1128 **credit from a financial institution, or similar instrument,**

1129 **approved by the Town Manager. The purpose of the**

1130 **performance guarantee is to incentivize timely completion of**

1131 **project elements or enable the Town to complete project**

1132 **elements necessary to maintain public health, safety, and**

1133 **welfare and protect public facilities in the event that work**

1134 performed by the owner or developer is inadequate or
1135 incomplete.

1136 **1. The performance guarantee shall:**

1137 a contain an amount of funds based on Town-approved
1138 itemized construction costs for completing all project
1139 elements located in public rights-of-way, completing or
1140 securing on-site utilities, installing and maintaining erosion
1141 and sedimentation control measures and drainage
1142 systems, completing on-site grading and soil stabilization
1143 measures, securing the site to maintain public safety, and
1144 including an additional 10% contingency;

1145 b establish the Town as the beneficiary and contain clear
1146 provisions for the Town to draw funds; and,

1147 c contain provisions for reducing or releasing the funds
1148 which enable the Town to renew the guarantee or draw
1149 funds prior to reduction or release.

1150 **2. Release of guarantee. Prior to the release of any part of the**
1151 **performance guarantee, the Town Manager shall determine to**
1152 **his/her satisfaction, in part based upon the report of the**
1153 **Town's Engineer or other qualified individual retained by the**
1154 **municipality and any other agencies and departments who**
1155 **may be involved, that the proposed improvements meet or**
1156 **exceed the design and construction requirements for that**
1157 **portion of phase of the subdivision for which the release is**
1158 **requested.**

1159 **(a) Performance guarantees may be reduced periodically,**
1160 **but in no event more than one time per month. In no**
1161 **case shall the performance guarantee be reduced by**
1162 **less than \$10,000 at one time or in any line item where**
1163 **improvements remain to be completed.**

1164 **(b) No performance guarantee shall be reduced to less than**
1165 **the 10% contingency until all work is complete.**

1166 **(c) The Town shall retain the 10% performance guarantee**
1167 **contingency for a period of one year from the date of**
1168 **final paving for any street to be offered for public**
1169 **acceptance. The guarantee shall ensure the**
1170 **workmanship and the durability of all materials used in**
1171 **the construction of public improvements within the**
1172 **right-of-way that may become defective within that one**
1173 **year period, as determined by the Director of Public**
1174 **Works.**

1175 **3. Default. If upon investigation, the Town's consulting engineer**
1176 **or other qualified individual retained by the Town finds that**

1177 any of the required improvements have not been
1178 constructed in general conformance with the plans and
1179 specifications filed as part of the application, he or she shall
1180 so report in writing to the Code Enforcement Officer, the
1181 Town Manager, the Planner and the applicant or builder. The
1182 Town Manager, or his or her designee, shall take any steps
1183 necessary to preserve the municipality's rights.

1184 *Explanation: this amendment restores the performance guarantee*
1185 *to site plan projects, correcting an omission error that occurred*
1186 *during re-codification.*

1187

1188 **22. Amend §16.8.10 (Subdivision) Performance standards and approval**
1189 **criteria as follows:**

1190 **B.** Basic subdivision layout.

1191 (1) Calculation of density: See "Net Residential Acreage" in
1192 Chapter 16.5, General Performance Standards. Subdivisions located
1193 in targeted growth areas as designated in the Comprehensive Plan
1194 or served by public water and sewer facilities are subject to the lot
1195 area per dwelling unit standards of the underlying zoning district.
1196 Subdivisions located in limited growth areas as designated in the
1197 Comprehensive Plan and that are not served by public water or
1198 sewer facilities are subject to net residential acreage per unit
1199 provisions of Chapter 16.5.18.

1200

1201 *Explanation: this amendment clarifies which density formula applies*
1202 *to a subdivision (based on utilities), per amendments adopted last*
1203 *year.*

1204

1205 **23. Amend §16.10.7 Open space requirements (Conservation Subdivision)**
1206 **as follows:**

1207

1208 A. The amount of open space required varies with the zoning district in
1209 which the conservation subdivision is located. The requirements are
1210 as follows:

1211 (1) In the R-C Zone, the designated open space must be a minimum
1212 of 70% of the total land area, with a minimum of 50% of that
1213 consisting of net residential acreage as defined by this title.

1214 (2) In the R-RL Zone, the designated open space must be a

1215 minimum of 60% of the total land area, with a minimum of 40%
1216 of that consisting of net residential acreage as defined by this
1217 title.

1218 (3) In the KP-V Zone, the designated open space must be a
1219 minimum of 50% of the total land area, with a minimum of 30%
1220 of that consisting of net residential acreage as defined by this
1221 title.

1222 (4) In the R-S and R-U Zones:

1223 (a) For properties of 10 acres or more, the designated open space
1224 must be at least 50% of the total land area, with a minimum of
1225 30% of that consisting of net residential acreage as defined by
1226 this title.

1227 (b) For properties of less than 10 acres with public sewer or
1228 common private septic, the designated open space must be at
1229 least 25% of the total land area, with a minimum of 5% of that
1230 consisting of net residential acreage.

1231 (c) For properties of less than 10 acres with private septic, the
1232 designated open space must be at least 25% of the total land
1233 area, with no minimum net residential acreage requirement.

1234 **(5) The following is an example of the open space calculation**
1235 **referenced in (1)-(4) above: With a lot of 1,000,000 sq ft,**
1236 **using an open space requirement of 60% of the lot, at least**
1237 **600,000 sq ft (60%) must be open space. Of that 600,000 sq**
1238 **ft, 240,000 (40% of total open space, or 24% of total lot)**
1239 **must be land that would be considered buildable as**
1240 **described in the definition of net residential acreage found**
1241 **in §16.3.2.**

1242 ***Explanation: this amendment provides an example for calculating***
1243 ***open space which includes upland requirements.***

1244