

Kittery's accessory dwelling unit ordinance complies with LD-2003 except for parking. LD-2003 prohibits requiring additional parking beyond that for the primary residential structure. Some citations were changed as well. All amendments were made using this font in bold.

§ 16.5.3 Accessory dwelling units.

- A. Purpose. It is the intent of this article to provide standards that enable homeowners to create accessory dwelling units that are compatible with this title and to provide a means for residents, including seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and increase the housing stock of existing neighborhoods in a manner that is compatible with their size and scale, and allow more efficient use of existing housing stock and infrastructure, and provide a broader range of affordable housing options. The purpose of this article is not intended to create a new supply of short-term rental (STR) units, such as those commonly advertised to tourists.
- B. Applicability.
- (1) An accessory dwelling unit is allowed in all zoning districts where the use is permitted in Chapter **16.4**. The unit must be located:
 - (a) Within an existing structure, either principal or accessory on the property; or
 - (b) Attached to the existing principal structure, sharing a common wall; or
 - (c) Within a new accessory structure constructed for this purpose on the property.
 - (d) Outside of the shoreland overlay zone, as defined in Chapter 16.4.**
 - (2) Accessory dwelling units that have a valid certificate of occupancy or have vested rights in the permitting process with an active building permit as of April 28, 2020, are exempted from the use standard, § **16.5.3D(3)**.
- C. Application for accessory dwelling unit.
- (1) An application for an accessory dwelling unit must be made by the owner of the parcel on which the primary residential unit sits. The completed application and associated fees must be submitted to the Code Enforcement Officer for review.
 - (2) Applications for an accessory dwelling unit that meets the unit size standards and development standards contained in this article may be approved administratively and require approval by the Code Enforcement Officer.
 - (3) An accessory dwelling unit that fails to meet the standards provided in this article may not receive administrative approval; however, the accessory dwelling unit may still be permitted pursuant to § **16.5.3D(4)** below.
- D. Accessory dwelling unit standards.
- (1) Lot standards.
 - (a) Legal lot/residence. An accessory dwelling unit is allowed only on lots within the Town that contain one legal, single-family residence as the primary unit.
 - (b) Number of accessory dwelling units per lot. No more than one accessory dwelling unit is permitted on a lot.
 - (c) Zone lot size and unit density. The property on which an accessory dwelling unit is located must meet

the size required by the applicable zoning standards for the principal residence, except in the case of legally nonconforming lots. However, an accessory dwelling unit is exempt from the density requirements of the zone in which it is located.

- (d) Setbacks and coverage. Yard setbacks for the zone must be met. However, for legally nonconforming lots where a proposed accessory dwelling unit will be attached to a principal dwelling unit and cannot meet the zone's side and rear yard setbacks, the percentage by which a lot is smaller than the required lot size for the zone will dictate the required setback for that lot. For example, a 30,000 square foot legally nonconforming lot in a zone that requires 40,000 square feet would require side and rear yard setbacks that are 75% of the zone's side and rear yard setbacks. Building coverage requirements will remain as required by the zone.
- (e) Utility connections. Accessory dwelling units must be connected to adequate water and wastewater services.
 - [1] Public sewer.
 - [a] Service: written verification must be provided of adequate service to support the additional flow from the Superintendent of Wastewater Treatment Facilities.
 - [b] Fees. Payment of appropriate fees for connection to the municipal sewer system is required prior to obtaining the certificate of occupancy.
 - [2] Septic systems. Verification of adequate sewage disposal for subsurface waste disposal is required. The septic system, existing or proposed, must be verified as adequate or reconstructed as required, **pursuant to 30-A M.R.S. §4221.** Plans for subsurface waste disposal must be prepared by a Maine-licensed site evaluator in full compliance with the State of Maine Subsurface Wastewater Disposal Rules, 10-144 CMR Ch. 241.
 - [3] Public water. Verification, in writing, is required from the Kittery water district for volume and supply.
 - [4] Wells. Verification of the potable water supply for private wells is required. Tests of the existing well or proposed well, if applicable, must indicate that the water supply is potable and acceptable for domestic use and must conform to the recommendations included in **01-672 C.M.R. ch. 10, section 10.25(J), Land Use Districts and Standards.** the "Manual for Evaluating Public Drinking Water Supplies, Public Health Service No. 1180 (1969)."
- (f) ~~Parking. Each accessory dwelling unit must have one on-site parking space in addition to the parking for the primary dwelling unit. Tandem parking is permitted.~~ **Green additional parking space is required for the accessory dwelling unit but the primary dwelling unit must have on-site parking.**
- (g) Private road or right-of-way access. Where an applicant seeks to locate an accessory dwelling unit on a privately maintained road or right-of-way the following applies:
 - [1] Applicant must submit written consent from the road or homeowner's association or owner and parties responsible for street maintenance.
 - (2) Unit standards.
 - (a) Unit size. The size of an accessory dwelling unit must meet the minimum size for a dwelling unit as set by building code standards adopted and amended from time to time by ~~Maine's Bureau of Building Codes and Standards~~ **Technical Building code and Standards Board, pursuant to 10 M.R.S. § 9722,** and be no larger than 1,000 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory dwelling unit may be no greater than 80% of the size of the principal dwelling unit, as

measured in square feet. An accessory dwelling unit may have no more than two bedrooms.

(b) Unit location.

[1] An accessory dwelling unit must meet one or more of the following conditions:

- [a] Be fully constructed within the existing footprint of any legal residence or accessory building; or
- [b] Share a common wall with the principal residence, providing yard setbacks per § **16.5.3D(2)(a)**; or
- [c] Be constructed as a new accessory building containing an accessory dwelling unit, providing yard setbacks can be met for the zone.

[2] Accessory dwelling units will be allowed to be fully constructed within the principal residence even if the building does not meet yard setbacks.

[3] Accessory dwelling units will not be allowed in accessory buildings encroaching on yard setbacks.

(3) Use standards. The accessory dwelling unit may not be rented to the same person or party for less than a thirty-day period.

(4) Development standards. Should an accessory dwelling unit fail to meet the applicable unit standards listed in this article, the accessory dwelling unit may still be allowed if the applicant obtains approval from the Board of Appeals under the provisions of a miscellaneous variation request, as outlines in § **16.2.12**. The Board of Appeals shall review any appeal decision in conformance with § **16.2.12F**, Basis for decision.

(5) Violations. A violation of the use standard § **16.5.3D(3)** will lose the certificate of occupancy for the unit for no less than 30 days, and be assessed a penalty of \$500.

NOTE: This zone currently complies with LD-2003 (the affordable housing density component) except for the parking requirements in regards to majority affordable housing projects. It is in Kittery’s growth area according to the comprehensive plan, has public sewer and water and allows multifamily housing. Changes to the parking requirements are noted in this font. It also complies with LD-2003’s dwelling unit allowance by allowing up to four units per vacant lot and up to two additional units on a lot with one existing dwelling unit provided all regulations (setbacks, land area per dwelling unit) are met. The Town will want to decide how to address a lot that is vacated due to demolition.

**TITLE 16
AFFORDABLE HOUSING
BUSINESS LOCAL ZONE**

1. AMEND §16.4.17 Business – Local (B-L) to include affordable housing provisions as follows:

1 16.4.17 Business – Local Zone (B-L)

2 A. Purpose

3 The purpose of the Business – Local B-L Zone is to provide local ~~sales~~ retail, services, and business
4 space as well as a variety of housing types within a walkable context. Much of this zone serves a well-
5 traveled corridor through Kittery with many buildings, including residential structures, oriented ~~within~~
6 ~~the Town.~~ to Route 1. Other portions of the zone serve as business hubs for the neighborhoods they are
7 situated in.

8 B. Permitted uses

9 The following uses are permitted in the B-L Zone:

10 (1) Accessory Dwelling Unit

11 (2) Dwelling, Attached Single-Family

12 (3) Dwelling, Manufactured Housing

13 (4) Dwelling, Multi-Family

14 a. Development proposing three or four dwelling units are permitted through minor site plan
15 review;

16 ~~(4)~~b. Development proposing five or more dwelling units are permitted through major site plan
17 review;

18 (5) Dwelling, Single-Family

19 (6) Dwellings Two-Family

20 ~~(6)~~(7) Dwelling Units as part of a Mixed-Use Building

21 ~~(7)~~(8) Convalescent Care Facility

22 ~~(8)~~(9) Nursing Care Facility, Long-term

23 ~~(9)~~(10) Residential Care Facility

24 ~~(10)~~(11) Accessory Buildings, Structures, and Uses

25 ~~(11)~~(12) Home Occupation, Major

26 ~~(12)~~(13) Home Occupation, Minor

27 ~~(13)~~(14) Day Care Facility

28 ~~(14)~~(15) Hospital

29 ~~(15)~~(16) Nursery School

- 30 ~~(16)~~(17) Private Assembly
- 31 ~~(17)~~(18) Public Facility
- 32 ~~(18)~~(19) Public or Private School
- 33 ~~(19)~~(20) Religious Use
- 34 ~~(20)~~(21) Recreation, Public Open Space
- 35 ~~(21)~~(22) Aquaculture
- 36 ~~(22)~~(23) Commercial Fisheries/Maritime Activities (provided only incidental cleaning and
- 37 cooking of seafood occur at the site)
- 38 ~~(23)~~(24) Commercial School
- 39 ~~(24)~~(25) Art Studio or Gallery
- 40 ~~(25)~~(26) Business & Professional Offices
- 41 ~~(26)~~(27) Business Service
- 42 ~~(27)~~(28) Conference Center
- 43 ~~(28)~~(29) Personal Service
- 44 ~~(29)~~(30) Restaurant
- 45 ~~(30)~~(31) Retail Sales (excluding those of which the principal activity entails outdoor sales and/or
- 46 storage and excluding those specifically mentioned under Subsection C of this section)
- 47 ~~(31)~~(32) Retail Sales, Building Materials & Garden Supply (excluding those of which the
- 48 principal activity entails outdoor sales and/or storage)
- 49 ~~(32)~~(33) Retail Sales, Convenience
- 50 ~~(33)~~(34) Specialty Food and/or Beverage Facility
- 51 ~~(34)~~(35) Mass Transit Station
- 52 ~~(35)~~(36) Parking Area

53 C. Special exception uses

54 The following uses are permitted as special exception uses in the B-L Zone:

- 55 (1) Dwellings, cottage cluster
- 56 ~~(1)~~(2) Motel
- 57 ~~(2)~~(3) Hotel
- 58 ~~(3)~~(4) Inn
- 59 ~~(4)~~(5) Rooming House
- 60 ~~(5)~~(6) Funeral Home
- 61 ~~(6)~~(7) Gasoline Service Station
- 62 ~~(7)~~(8) Public Assembly Area
- 63 ~~(8)~~(9) Theater
- 64 ~~(9)~~(10) Public Utility Facility
- 65 ~~(10)~~(11) Mechanical Service
- 66 ~~(11) Residential Dwelling Units, as part of a mixed-use building~~

67 D. Standards.

68 All development and the use of land in the B-L Zone must meet the following standards. Kittery's
69 Design Handbook illustrates how these standards can be met. In addition, the design and performance

standards of Chapters §16.5, §16.7 and §16.8 must be met.

(1) The following space and dimensional standards apply:

(a) Minimum land area per dwelling unit:

[1] If served by on-site sewage disposal: 20,000 square feet;

[2] If served by the public sewerage system and:

[a] When no frontage on State Road or Route 1 Bypass exists: 3,000 square feet;

[b] When less than five dwelling units are proposed at minimum, one nonresidential use must be located on the first floor facing State Road or Route 1 Bypass such that the use will be visible from the street: 3,000 square feet. Such a nonresidential use or uses need not occupy the entire first floor but must be an independent nonresidential use, e.g., not a home office marketed with a dwelling unit as a work/live unit.

[c] When five or more dwelling units are proposed at minimum, one nonresidential use must be located on the first floor facing State Road or Route 1 Bypass such that the use will be visible from the street: 2,500 square feet. Such a nonresidential use or uses need not occupy the entire first floor but must be an independent nonresidential use, e.g. not a home office marketed with a dwelling unit as a work/live unit; or

[d] 25% or more of the dwelling units will be affordable housing units as defined by this code: 1,000 square feet. (NOTE: 43.56 units per acre for means of comparison)

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

~~(b) (1) Parking. One row of parking spaces and a related access drive may be located between the front property line and the front wall of the building extending the full width of the lot. All other parking must be located to the side and/or rear of the building. All new or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)~~ Parking requirements are to be met on site. If meeting the parking requirements is not possible, the parking demand may be satisfied off site or through joint-use agreements as specified herein. Notwithstanding the off-street parking requirements in § 16.7.11.F(4), minimum parking requirements for the uses below are modified as specified:

[1] Dwelling units: 1.5 parking space per dwelling unit; unless:

[a] Affordable housing as defined by this code is proposed in which case the parking requirements may be reduced to one parking space per dwelling unit at the Planning Board's discretion; and/or

[b] Some or all of the proposed dwelling units are one-bedroom or studio type units in which case parking requirements for these types of units may be reduced to one parking space for each unit so described.

[c] More than 50% of the dwelling units proposed will be affordable as defined by this code in which case parking is reduced to two spaces per three dwelling units.

[2] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of the parking may be designated for compact cars. See § 16.7.11.F.(4) Off-Street Parking

Standards.

[3] Electric car charging stations are allowed and encouraged in parking lots but must not interfere with pedestrian movement on sidewalks.

(c) 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 prior to final approval and file the same with Planning and Code office each time the contract is renewed. Any changes to the contractual agreement must be reviewed by the Code Enforcement Officer and if the location of the off-site parking changes, will require approval from the municipal permitting authority which originally approved the off-site parking.

(d) 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 nonconflicting and will reasonably provide adequate parking for the multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekends or seasonal variation in parking demand.

[1] 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. Applicant must present evidence of the parking location and a contractual agreement prior to final approval and file the same with the Planning and Code office each time the contract is renewed. Any changes to the contractual agreement must be reviewed by the Code Enforcement Officer and if the municipal permitting authority which originally approved the off-site parking.

[2] Determination of parking adequacy will be based on a most frequent basis, not a "worst case" scenario;

[3] Joint use parking areas must be located within 1,500 feet to the use served, but do not need to be located on the same lot as the uses served;

[4] Ease and safety of pedestrian access to shared parking by the users served must be demonstrated, including any proposed improvements or shuttle service that may be offered and its requisite loading/unloading areas;

[5] Such joint parking areas must not be located in residential zones of the Town.

(e) In making determinations on off-site or joint-use parking under a development plan review, the municipal permitting authority with jurisdiction to review and approve will make a final determination of the joint-use and/or off-site spaces that constitute an acceptable combination of spaces to meet the required parking demand.

(f) Special parking and access situations.

[1] In instances where one row of parking spaces and/or a related access drive is located between the front property line and the front wall of the building extending the full width of the lot and was utilized in accordance with previous permits or approvals, for parking, display, storage, building or necessary vehicle circulation, the Planning Board may allow such improvements to remain provided all other parking meets the location requirements and provided that a landscaping plan for the property frontage is reviewed and approved by the Planning Board.

(g) Minimum lot size: none.

NOTE: Except that all screening, open space, buffering and landscaping requirements must be met or in instances where the Planning Board may modify such requirements, such

157 modifications must be found satisfactory by the Board.

158 (h) Minimum street frontage: none.

159 NOTE: All lots must meet the requirements of § 16.5.13 Lots unless specifically modified
160 by this section (§ 16.4.17). Street frontage must provide sufficient vehicular and pedestrian
161 access for the uses proposed while meeting public health and safety requirements (e.g. Fire
162 Department, Department of Public Works). The applicant must demonstrate to the municipal
163 permitting authority that the street frontage and lot design meet these requirements to the
164 extent practicable.

165 (i) Maximum-front setback: 20 feet.

166 NOTE: Except when a multistory building comprising 1) three or more residential dwelling
167 units; 2) nonresidential uses or 3) a combination of residential and nonresidential uses is
168 proposed directly across the street from a residential district or single-family use; in which
169 case a minimum of 15 is required.

170 Note: The Planning Board may, at its discretion, allow a greater setback when public
171 amenities such as pocket parks, outdoor dining or seating areas are proposed within the front
172 setback. Pocket parks must be at least 200 square feet with a minimum of three trees and a
173 bench for sitting required. Park must be vegetated with ground cover except for walkways.
174 Outdoor dining areas must meet any additional requirements specific to that use. Parking is
175 prohibited in the front setback except as allowed in subsection (1).(f).[1] above.).

176 (j) Minimum rear and side: setbacks: 10 feet.

177 NOTE: Except as otherwise required by the buffer provisions of this title, and except where
178 the side and/or rear setbacks about a residential district or single-family use; in which case a
179 minimum of 15 feet or 50% of the building height is required, whichever is greater.

180 (k) Maximum building height: 40 feet. Solar apparatus is excluded from height determinations.

181 NOTE: Except that height standards for single- and two-family residential uses are the same
182 as for those of the Urban Residential District.

183 (l) Impervious surface: No maximum allowable, but all open space, landscaping, setbacks,
184 buffers, screening and street tree requirements apply. For development that is proposing 70%
185 or more impervious surface, the stormwater requirements in (m) below may not be modified.

186 (m) Stormwater: All new development must use LID (Low Impact Development) and BMP (Best
187 Management Practices), based on Maine DEP's Maine Stormwater Best Management
188 Practices Manual Volumes 1-III as amended from time to time, to manage 100% of the total
189 stormwater generated on-site. The stormwater report and plan demonstrating that this
190 requirement is met must be included with the application at the time of submission. A request
191 for a modification may be submitted to the Planning Board but it is incumbent on the
192 applicant to prove to the Planning Board's satisfaction that such a modification is necessary.
193 The Town reserves the right to submit such modification requests for independent
194 engineering review at the applicant's expense. The Board may also require additional
195 landscaping/plantings and/or LID-design features when granting such concessions.

196 (n) A minimum of fifteen percent of each lot must be designated as open space. See subsection
196 (4).(e).

197 (o) Minimum setback from functionally water dependent uses: zero feet.

198 (p) Minimum setback from streams, water bodies and wetlands: in accordance with § 16.5.30
199 and Appendix A, Fee Schedules.

200 (2) Parking design.

201 (a) Parking must be located to the side or rear of the building. If all parking cannot be located to
202 the rear or side, the Planning Board may allow limited parking in front of the building, but it

203 is incumbent upon the applicant to demonstrate why such a modification request should be
204 granted. In granting this concession, the Board may require more intensive landscape
205 plantings and/or LID-design features.

206 (b) Shared access between buildings and/or lots must be provided where feasible. Feasibility
207 criteria include:

208 [1] Fewer curb cuts required;

209 [2] Improved or new pedestrian access between buildings or lots;

210 [3] Improved internal circulation between buildings or lots; and

211 [4] Improved overall site design with shared access.

212 (c) Screening through the use of plantings and/or fencing is required for all new or revised
213 parking abutting public streets and/or single-family uses or residential zones. Such screening
214 does not require that the parking lot and vehicles within it be completely obscured from view,
215 rather the screening must provide visual interest and distraction from the parking area
216 beyond, as well as buffer vehicle headlight trespass.

217 [1] A landscape plan showing screening and other landscaping requirements prepared by a
218 registered landscape architect is a submission requirement. However, a landscape plan
219 done by other design professionals may be allowed at the Planning Board's discretion.

220 [2] Any required plantings that do not survive must be replaced within one year. This
221 requirement does not expire and runs with the land.

222 [3] Surface parking lots designed for five or more cars that will service multi-family or
223 mixed-use buildings with dwelling units and which abut a street, single-family use or
224 residential zone must provide screening in one of the following ways:

225 [a] Any combination of trees, shrubs, tall ornamental grasses or perennial plants in a
226 planting bed at least eight (8) feet wide. Climate-change tolerant Northeastern
227 native plants are preferred. Plantings must be sufficient, as determined by the
228 Planning Board, to screen the parking area from the street except for necessary
229 vehicular and pedestrian access. Planting beds may be mulched but no dyed
230 mulching material may be used. Drip irrigation is recommended.

231 [b] One tree per 25 feet of street frontage within a planting bed at least eight (8) feet
232 wide which will include other plantings such as perennials. Plantings must be
233 sufficient to screen the parking area from the street except for necessary vehicular
234 and pedestrian access. To ensure survival, trees must be planted using silva cells,
235 bioretention cells or tree wells. Trees must be at least 2.5-inch caliper and 12 feet
236 high at the time of planting. Existing large healthy trees must be preserved if
237 practical and will count towards this requirement. Trees proposed within the public
238 right-of-way must remain under 20 feet tall at maturity. Trees native to the
239 Northeast, selected for climate change tolerance, are preferred and must be drought
240 and salt tolerant when used along streets. A diversity of tree species (three to five
241 species per every 12 trees) is required to provide greater resiliency to threats from
242 introduced insect pests and diseases. Planting beds may be mulched but no dyed
243 mulching material may be used. Drip irrigation is recommended for plantings
244 proposed to accompany the trees.

245 [c] Fencing, no taller than six (6) feet, of a type that screens rather than blocks a view

246 and made of a material compatible with surrounding buildings. Chain link fences
247 are not allowed unless they have a PVC color coating to blend in with
248 surroundings. Stockade fences may only be allowed to buffer a parking lot along
249 the lot line that abuts a single-family use or residential zone. A planting bed at least
250 six (6) feet wide, including the fence, is required, with a combination of trees,
251 shrubs and perennials located on the proposed development's side of the fence.
252 Planting beds may be mulched but no dyed mulching material may be used. Drip
253 irrigation is recommended.

254 (d) A minimum of 10% of any surface parking area consisting of 10 or more spaces must be
255 landscaped with trees and vegetated islands. This requirement is in addition to other required
256 landscaping and street tree requirements.

257 (e) If 20% or more of the proposed development will be affordable dwelling units built rather
258 than using payment-in-lieu for required units, the Planning Board may, at its discretion,
259 modify surface parking lot screening and landscaping requirements under subsections (c) and
260 (d).

261 **A(3)** Building design standards. Kittery's characteristic buildings reflect its historic seacoast past. The
262 primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian,
263 Federal and Classical Revival. New buildings must be compatible with Kittery's characteristic
264 styles in form, scale, material and color. In general, buildings should be oriented with the front
265 of the building facing the street on which the building is located. The front or street facade must
266 be designed as the front of the building. The front elevation must contain one or more of the
267 following elements: 1) a "front door," although other provisions for access to the building may
268 be provided; 2) windows; or 3) display cases. (See Design Handbook for examples of acceptable
269 materials and designs.) Strict imitation is not required. Design techniques can be used to maintain
270 compatibility with characteristic styles and still leave enough flexibility for architectural variety.
271 To achieve this purpose, the following design standards apply to new and modified existing
272 building projects:

273 (a) Exterior building materials and details. Building materials and details strongly define a
274 project's architectural style and overall character. (See Design Handbook for examples of
275 acceptable materials, building scale and designs.) "One-sided" schemes are prohibited; similar
276 materials and details must be used on all sides of a building to achieve continuity and
277 completeness of design. Predominant exterior building materials must be of good quality and
278 characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood
279 shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

280 (b) Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated
281 to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are
282 gabled, gambrel, and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on"
283 mansards) are not acceptable as prominent roof forms except as provided above. Roof colors
284 must be muted. (See Design Handbook for examples.) The roof design must screen or
285 camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air-
286 handler units, exhaust vents, transformer boxes, and the like. (See Design Handbook for
287 examples of appropriate treatments.)

288 (c) Loading docks and overhead doors. Loading docks and overhead doors must be located on
289 the side or rear of the building and screened from view from adjacent properties in residential
290 use.

- 291 ~~(e)~~(d) Lighting plans, including outdoor lighting fixture designs and photometric plans, must be
 292 included at the time of application submission. All lighting fixtures must be cutoff (dark
 293 skycompliant).
- 293 (4) Landscaping and site design standards. A landscape plan prepared by a registered landscape
 294 architect is a submission requirement. However, a landscape plan done by other design
 295 professionals may be allowed at the Planning Board's discretion. To achieve attractive and
 296 environmentally sound site design ~~and appropriate screening of parking areas~~, in addition to the
 297 landscaping standards contained in ~~Chapters 16.7 and 16.8~~ 16.5, the following landscaping
 298 requirements apply to new and modified existing developments:
- 299 **B**
- 300 (a) Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of
 301 15 feet in depth adjacent to the right-of-way of all public roads or the sidewalk if it already
 302 exists. If a sidewalk does not yet exist on-site but sidewalks do exist on adjacent properties,
 303 the planting strip must be located so that it does not interfere with connectivity to existing
 304 sidewalks. Planting strips which demonstrate LID functionality to assist in stormwater capture
 305 are preferred. The Planning Board may reduce the required ~~depth~~ width of the landscape
 306 planter ~~ing~~ strip ~~if a sidewalk~~ is provided in front of the parcel and the area between the front
 307 property line and the front wall of the building will be designed and used as a pedestrian space,
 308 outdoor dining as defined by this title, or a seating area. The landscape planter ~~ing~~ strip must
 309 include the following landscape elements:
- 310 (a)
- 311 [1] ~~Ground-cover~~ Plantings. The entire landscape planter ~~ing~~ strip must be vegetated with a
 312 combination of shrubs, perennials, and ornamental grasses except for approved
 313 driveways, walkways, bikeways and screened utility equipment. Climate-change tolerant
 314 Northeastern native plants are preferred. Planting beds may be mulched but no dyed
 315 mulching material may be used. Street trees required below may be included in this
 316 planting strip. Drip irrigation is recommended.
- 317 (b)
- 318 [2] Street-side trees. A minimum of one tree must be planted for each 25 feet of street
 319 frontage. The trees may be spaced along the frontage or grouped or clustered to enhance
 320 the visual quality of the site. (See Design Handbook for examples.) The trees must be a
 321 minimum ~~two and one half inch~~ 2.5-inch caliper and be at least 12 feet high at the time
 322 of planting. Trees must be planted to ensure survival, using silva cells, bioretention cells
 323 or tree wells. The species must be selected from the A list of ~~approved~~ street-side trees
 324 can be found in the Design Handbook. Trees native to the Northeast, selected for climate
 325 change tolerance, are preferred and must be drought and salt tolerant when used along
 326 streets. A diversity of tree species (three to five species per every 12 trees) is required to
 327 provide greater resiliency to threats from introduced insect pests and diseases. Existing
 328 large healthy trees must be preserved if practical and will count toward this requirement.
 329 Trees located within the public right-of-way must not exceed 20 feet in height at maturity.
- 330 [3] Any required plantings that do not survive must be replaced within one year. This
 331 requirement does not expire and runs with the land.
- 332 (e)(b) Special situations.
- 333 ~~[H]~~[a]. Expansions of less than 1,000 square feet to existing uses including single-family
 334 or two-family dwellings are exempt from the landscaping standard of this
 335

336

subsection.

337 ~~{2}.[b].~~ Depth Width of landscape planter strip. In instances where the required minimum
 338 ~~depth width~~ of the landscape planter strip is legally utilized in accordance with
 339 previous permits or approvals, for parking, display, storage, building or necessary
 340 vehicle circulation, the ~~depth width~~ may be narrowed by the Planning Board to the
 341 minimum extent necessary to achieve the objective of the proposed project,
 342 provided that shrubs and perennials are planted along the street frontage to soften
 343 the appearance of the development from the public street.

344 ~~{3}.[c].~~ Additions and changes in use. For additions to existing buildings and changes of
 345 residential structures to a nonresidential use, one street-side tree (see list of street
 346 trees in Design Handbook) is required to be planted for every 1,000 square feet of
 347 additional gross floor area added or converted to nonresidential use. In instances
 348 where parking, display area, storage, building or necessary vehicle circulation
 349 exists ~~at the time of enactment of this section~~, the required trees may be clustered
 350 and/or relocated away from the road as is necessary to be practicable. The
 351 preservation of existing large trees is encouraged; therefore, the Planning Board
 352 may permit the preservation of existing healthy, large, mature trees within the
 353 landscape planter ~~ing~~ strip or other ~~developed landscaping~~ areas of the site to be
 354 substituted for the planting of new trees.

355 (c). Outdoor service and storage areas. Service and storage areas must be located to the side or rear
 356 of the building. ~~Facilities for waste storage such as dumpsters must be located within an~~
 357 ~~enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See~~
 358 ~~Design Handbook for examples of appropriate buffering.)~~ All service areas for dumpsters,
 359 compressors, generators and similar items must be screened by a fence at least six feet tall,
 360 constructed of a material similar to surrounding buildings, and must surround the service area
 361 except for the necessary ingress/egress.

362 ~~€(d)~~ Traffic and circulation standards. Sidewalks and roadways must be provided ~~within the site~~ to
 363 internally join abutting properties that are determined by the Planning Board using the criteria
 364 in subsection D.(2).(b). ~~to be compatible.~~ In addition, safe pedestrian route(s) must be provided
 365 to allow pedestrians to move within the site and between the principal customer entrance and
 366 the front lot line where a sidewalk exists or will be provided or where the Planning Board
 367 determines that such a route is needed for adequate pedestrian safety and movement. (See
 368 Design Handbook for appropriate examples.)

369 (e) Open space standards. A minimum of fifteen percent of the total area of a lot must be provided
 370 as oOpen space ~~must be provided as a percentage of the total area of the lot~~, including freshwater
 371 wetlands, water bodies, streams and setbacks. ~~Fifteen percent of each lot must be designated as~~
 372 ~~open space. Required open space must be shown on the plan with a note dedicating it as "open~~
 373 ~~space."~~ The open space must be located to create an attractive environment on the site, minimize
 374 environmental impacts, protect significant natural features or resources on the site and maintain
 375 wildlife habitat. Individual large, healthy trees and areas with mature tree cover should be
 376 included in the open space. Where possible, the open space must be located to allow the creation
 377 of continuous open space networks in conjunction with existing or potential open space on
 378 adjacent properties. The required amount of designated open space is reduced to 10% of each
 379 lot that is less than 40,000 square feet in size.

~~D [1] In cases where creating or preserving open space to meet the 15% requirement above is not practicable, the Planning Board may allow the required landscaping in 4.(a) above to count towards meeting the open space requirement provided the proposed landscaped planting strip is expanded beyond the required width and the Planning Board finds that all criteria for open space above has been met to the greatest extent possible.~~

~~E—The following space standards apply:~~

~~(a)—Minimum land area per dwelling unit when all floors are residential: 20,000 square feet if served by on-site sewage disposal; 8,000 square feet if served by the public sewerage system.~~

~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)~~

~~(b).—Minimum land area per dwelling unit when the entire first floor is used for nonresidential uses: 20,000 square feet if served by on-site sewage disposal; 4,000 square feet if served by the public sewerage system.~~

~~(c).—Minimum lot size: none.~~

~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)~~

~~(d).—Minimum street frontage: none.~~

~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)~~

~~(e).—Minimum front yard: 15 feet.~~

~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)~~

~~(f).—Maximum front setback of the principal building: 60 feet.~~

~~(g).—Minimum rear and side yards: 10 feet.~~

~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or 50% of the building height is required.)~~

~~(h).—Maximum building height: 40 feet.~~

~~(NOTE: Except that space standards for single and two family residential uses are the same as for those of the Urban Residential District.)~~

~~(i).—Maximum building and outdoor stored material coverage: none, except that side, rear and front yards must be maintained~~

~~(j).—Minimum water body setback for functionally water dependent uses: zero feet.~~

~~(k).—Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.~~

(5) Cottage cluster requirements:

(a) Cottage cluster dwelling units must either face the required common open space or the street. The required open space must be held in common for use by all the cottage cluster residents

423
424
425

and must be immediately accessible to each dwelling unit, via either the front or the back of each unit.

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

(c) Shared parking areas must be connected to each dwelling unit via a sidewalk. (6)

Affordable housing requirements:

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

(b) Density incentives outlined above in subsection D.(1).(a).[2].[d] may be applied to projects that create affordable housing units, as defined by this code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.

~~(4)~~(7) Gasoline Sales

(a). Gasoline Sales must not be located within 1,000 feet of an existing station; (b). not be located within 1,000 feet of any private residence; and ~~(a)-(c).~~ not be located within 150 feet of any existing structure.

E. Shoreland Overlay Zone OZ-SL – Business – Local Zone (B-L)

(1) Permitted uses.

(a) Accessory Buildings, Structures, and Uses

(b) Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland

[1] Dwelling, Attached Single-family

[2] Dwelling, Manufactured housing

[3] Dwelling, Multi-family

[4] Dwelling, Single-family

[5] Dwelling, Two-Family ~~(b)~~(c)

Recreation, Public Open Space

(2) Special exception uses. (a). Art

Studio or Gallery

(b). Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)

(c). Business Services

(d). Business & Professional Offices

(e). Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of seafood occur at the site)

(f). Parking Area

(g). Conference Center (h). Retail

Sales, Convenience (i). Home

Occupation, Major (j). Home

Occupation, Minor (k). Mass Transit

Station

- 426 (l). Motel
- 427 (m). Hotel
- 428 (n). Inn
- 429 (o). Rooming House
- 430 (p). Personal Services
- 431 (q). Public Assembly Area
- 432 (r). Theater
- 433 (s). Public Utility Facility
- 434 (t). Restaurant
- 435 (u). Retail Sales, but (excluding those of which the principal activity entails outdoor sales and/or
- 436 storage)
- 437 (v). Commercial School
- 438 (w). Public or Private School
- 439 (x). Nursery School
- 440 (y). Day Care Facility
- 441 (z). Elder Care Facility
- 442 (aa). Hospital
- 443 (bb). Nursing Care Facility, Long-term
- 444 (cc). Convalescent Care Facility
- 445 (dd). Public Facility
- 446 (ee). Religious Use
- 447 (ff). Private Assembly
- 448 (gg). Specialty Food and/or Beverage Facility

449 (3) See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL

450 E. Resource Protection Overlay Zone OZ-RP – Business – Local (B-L).

451 (1) Permitted Uses.

- 452 (a) Recreation, Public Open Space

453 (2) Special Exception Uses.

- 454 (a) Accessory Uses & Buildings
- 455 (b) Aquaculture
- 456 (c) Home Occupations, Major
- 457 (d) Home Occupations, Minor
- 458 (e) Public Utility Facilities,
- 459 (f) Dwelling, Single-Family

460 (3) See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone RP-SL

NOTE: This zone currently does not comply with LD-2003 (Affordable Housing Density) according to the density requirements and parking requirements for majority affordable housing projects at 2.5x base density. It is in Kittery's growth area according to the comprehensive plan, has public sewer and water and allows multifamily housing. Necessary amendments are noted in this font in bold. It does comply with LD-2003's dwelling unit allowance by allowing up to four units per vacant lot and up to two additional units on a lot with one existing dwelling unit provided all regulations (setbacks, land area per dwelling unit) are met.

TITLE 16
AFFORDABLE HOUSING
BUSINESS – LOCAL 1 ZONE

1. AMEND §16.4.18 Business – Local 1 (B-L1) to) to include affordable housing provisions as follows:

1 16.4.18 Business – Local 1 (B-L1)

2 A. Purpose

3 The purpose of the Business – Local 1 B-L1 Zone is to encourage a compact village ~~smart-growth/urban~~
4 design pattern that will serve as a focal point for the provision of local sales, urban residences, services
5 and business space. The goal of this section is to create an attractive, functional and vibrant pedestrian-
6 scaled neighborhood supporting a mix of commercial and residential uses. ~~This type of development~~
7 ~~reflects a traditional New England pattern of building, where commercial uses are located on the first~~
8 ~~floor and housing on the upper floors.~~

9 B. Permitted uses

10 The following uses are permitted in the B-L1 Zone:

11 (1) Accessory Dwelling Unit

12 (2) Dwelling, Attached Single-Family

13 (3) Dwelling, Manufactured Housing

14 (4) Dwelling, Multi-Family

15 (a) Development proposing three or four dwelling units are permitted through minor site plan
16 review;

17 (b) Development proposing five or more dwelling units are permitted through major site plan
18 review;

19 (5) Dwelling, Single-Family

20 (6) Dwelling, Two-Family

21 ~~(6)~~(7) Dwelling Units as part of a Mixed-Use Building

22 ~~(7)~~(8) Convalescent Care Facility

23 ~~(8)~~(9) Nursing Care Facility, Long-term

24 ~~(9)~~(10) Residential Care Facility

25 ~~(10)~~(11) Accessory Buildings, Structures, and Uses

26 ~~(11)~~(12) Home Occupation, Major

27 ~~(12)~~(13) Home Occupation, Minor

- 28 ~~(13)~~(14) Inn
- 29 ~~(14)~~(15) Day Care Facility
- 30 ~~(15)~~(16) Hospital
- 31 ~~(16)~~(17) Nursery School
- 32 ~~(17)~~(18) Private Assembly~~(18)~~(19) Public Facility
- 33 ~~(19)~~(20) Public or Private School
- 34 ~~(20)~~(21) Religious Use
- 35 ~~(21)~~(22) Recreation, Public Open Space
- 36 ~~(22)~~(23) Commercial School
- 37 ~~(23)~~(24) Art Studio or Gallery
- 38 ~~(24)~~(25) Business & Professional Offices
- 39 ~~(25)~~(26) Business Services
- 40 ~~(26)~~(27) Conference Center
- 41 ~~(27)~~(28) Personal Services
- 42 ~~(28)~~(29) Restaurant
- 43 ~~(29)~~(30) Retail Sales (excluding those of which the principal activity entails outdoor sales and/or storage and excluding those specifically mentioned under Subsection C of this section)
- 44
- 45 ~~(30)~~(31) Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)
- 46
- 47 ~~(31)~~(32) Retail Sales, Convenience
- 48 ~~(32)~~(33) Specialty Food and/or Beverage Facility
- 49 ~~(33)~~(34) Mass Transit Station
- 50 ~~(34)~~(35) Parking Area

51 C. Special exceptionuses

52 The following uses are permitted as special exception uses in the B-L1 Zone:

- 53 (1) Motel
- 54 (2) Hotel
- 55 (3) RoomingHouse
- 56 (4) FuneralHome
- 57 (5) Gasoline ServiceStation
- 58 (6) Public Assembly Area
- 59 (7) Theater
- 60 (8) Public Utility Facility
- 61 (9) FarmersMarket
- 62 (10) Mechanical service
- 63 (11) Dwellings, cottage cluster; and

64 D. Standards

65 All development and the use of land in the B-L1 Zone must meet the following standards. Kittery's
66 Design Handbook illustrates how these standards can be met. In addition, the design and performance

standards of Chapter § 16.5, 16.7 and 16.8 must be met.

(1) The following space and dimensional standards apply:

(a) Minimum land area per dwelling unit:

[1] When no frontage on State Road or Shapleigh Road: ~~When all floors are residential:~~ 8,000 2,500 square feet

[2] When less than five dwelling units are proposed with, at minimum, one nonresidential use must be located on the first floor facing State Road or Shapleigh Road such that the use will be visible from the street: 2,500 square feet. Such a nonresidential use or uses need not occupy the entire first floor but must be an independent nonresidential use, e.g., not a home office marketed with a dwelling unit as a work/live unit. ~~When the entire first floor is in nonresidential use: 3,500 square feet.~~

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

[2][4] When 25% or more of the dwelling units will be affordable housing units as defined by this code, the minimum land area per dwelling unit is: 1,500 1,000 square feet. [For comparison 29.4 units per acre is the current density while 43.6 units would be the new units per acre] OR

- When ~~25%~~ 50% or more of the dwelling units will be affordable housing units as defined by this code, the minimum land area per dwelling unit is: 1,500 1,000 square feet. [43.6 units per acre for comparison]

Parking: [This section was mistakenly struck out in the copy posted online.]

Parking requirements are to be met on-site. If meeting the parking requirements is not possible, the parking demand may be satisfied off-site or through joint-use agreements as specified in 16.4.17.D.(1).(c) - 16.4.17.D.(1).(e) under the B-L Zone. Notwithstanding the off-street parking requirements in 16.7.11.F.(4), minimum parking requirements for the uses below are modified as specified:

[1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:

[i] Affordable housing as defined by this code is proposed in which case the parking requirements may be reduced to a minimum of 1/2 spaces per dwelling unit at the Planning Board's discretion; and/or

[ii] Housing is proposed within ¼ mile of a public transit stop, in which case the parking requirements may be reduced to a minimum of 1/2 spaces per dwelling unit at the Planning Board's discretion; and/or

[iii] Some or all of the proposed dwelling units are one-bedroom or studio type units in which case parking requirements for these types of units are reduced to one parking space for each unit so described.

[iv] More than 50% of the dwelling units proposed will be affordable as defined by this code in which case parking is reduced to two spaces per three dwelling units.

[2] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of the parking may be designated for compact cars. See 16.7.11.F.(4) Off-Street Parking

Standards.

(b) ~~[3] Electric car charging stations are allowed and encouraged in parking lots but must not interfere with pedestrian movement on sidewalks. Minimum parking spaces per dwelling unit: 1.5.~~

~~(e)~~(b) Minimum lot size: ~~20,000 square feet~~ None. (NOTE: Except that all screening, open space, buffering and landscaping requirements must be met or in instances where the Planning Board may approve modifications to such requirements, such modifications must be found satisfactory by the Board.

~~(d)~~(c) Minimum street frontage per ~~building~~lot: 50 feet. ~~(e)~~(d) Maximum front ~~yard~~setback: ~~30~~ 20 feet.

(NOTE: This area must be designed to promote a pedestrian public space, which includes, but is not limited to, landscaping, sidewalks and sitting areas. The Planning Board may, at its discretion, allow a greater setback when public amenities such as pocket parks, outdoor dining or seating areas are proposed within the front setback. Pocket parks must be at least 200 square feet with a minimum of three trees and a bench for sitting required. Park must be vegetated with ground cover except for walkways. Outdoor dining areas must meet any additional requirements specific to that use. ~~Parking and outdoor~~ Outdoor storage ~~are~~ is prohibited anywhere in the front yard of the structure, except for seasonal sales items. Parking is also prohibited in the front setback except as allowed in subsection (2).(e) below .)

~~(f)~~(e) Minimum rear and side ~~yards~~setbacks: 10 feet.

(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the side and/or rear ~~yards~~ setbacks abut a residential zone or single-family use; in which case a minimum of 15 feet or 50% of the building height, whichever is greater, is required.)

~~(g)~~(f) Maximum building height: 40 feet. Solar apparatus is excluded from height determinations.

(g) ~~Maximum building and outdoor stored material coverage: 50%~~ The maximum impervious surface is:-

[1] 70%; or

[2] The Planning Board may, at its discretion, allow greater than 70% if:

(i) Additional landscaped or natural areas are proposed or preserved and such areas are integrated into the site design in an environmentally conscious way utilizing LID to provide stormwater filtration and/or water quality improvements. Such areas must exceed the requirement that 15% of the lot be landscaped or natural. See (4) Landscaping/Site Improvements. When granting such a concession, the Board must find that the proposed additional landscaping and/or natural areas and the site design provide enough benefit to outweigh the impact of greater impervious surface; or

(ii) Affordable housing to be built, rather than a payment-in-lieu, is proposed.

~~(h)~~ Note: If using either option above, the stormwater requirements in (i) below may not be modified.

(h) Stormwater: All new development must use LID (Low Impact Development) and BMP (Best Management Practices), based on Maine DEP's Maine Stormwater Best Management Practices Manual Volumes 1-III as amended from time to time, to manage 100% of the total stormwater generated on-site. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission. A request

150 for a modification may be submitted to the Planning Board but it is incumbent on the
151 applicant to prove to the Planning Board's satisfaction that such a modification is necessary.
152 The Town reserves the right to submit such modification requests for independent
153 engineering review at the applicant's expense. The Board may also require additional
154 landscaping/plantings and/or LID features when granting such concessions.

155 (i) Minimum area dedicated to landscaped or natural areas: 15%.

156 [1] For the purposes of this zone, a natural area is an area that is not regularly mowed, and
157 contains trees and/or shrubs which may not have been deliberately planted. Invasive plants, as
158 defined by the State of Maine, must be removed.

159 ~~(i)~~ [2] For multifamily dwellings, mixed-use buildings with dwelling units and attached
160 single-family dwellings, in cases where the property cannot meet the 15% requirement due to
161 existing development (including parking areas), and where redevelopment will remain at the
162 same or a lower percentage of the lot, the Planning Board may, at its discretion, allow a
163 smaller percentage of landscaped and/or natural area. In granting this concession, the Board
164 may require more intensive landscape plantings and/or LID-designed features.

165 (j) Hours of operation must be noted on the final site plan and are determined by the Planning
166 Board on a case-by-case basis. All lighting other than designated security lighting must be
167 extinguished outside of noted hours of operation.

168 (k) Minimum ~~water body~~ setback for functionally water-dependent uses: zero feet.

169 (l) Minimum setback from streams, water bodies and wetlands: in accordance with Table
170 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

171 ~~(m) Gasoline Sales must a) not be located within 1,000 feet of an existing station; (b) not be~~
172 ~~located within 1,000 feet of any private residence; and (c) not be located within 150 feet of~~
173 ~~any existing structure.~~

174 (2) Parking design.

175 (a) Parking must be ~~located on~~ located on to the side or ~~back~~ rear of the building ~~yard~~. If all parking cannot
176 be located to the rear or side, the Planning Board may allow limited parking in front of the
177 building but it is incumbent upon the applicant to demonstrate why such a modification
178 request should be granted. In granting this concession, the Board may require more intensive
179 landscape plantings and/or LID-designed features.

180 (b) Shared access between buildings and/or lots must be provided where feasible; ~~and~~.
181 Feasibility criteria include:

182 [1] Fewer curb cuts required;

183 [2] Improved or new pedestrian access between buildings or lots;

184 [3] Improved internal circulation between buildings or lots; and

185 ~~(b)~~ [4] Improved overall site design with shared access.

186 (c) Screening through the use of plantings and/or fencing is required for all new or revised
187 parking abutting public streets and/or single-family uses or residential zones. Such screening
188 does not require that the parking lot and vehicles within it be completely obscured from view,
189 rather the screening must provide visual interest and distraction from the parking area
190 beyond, as well as buffer vehicle headlight trespass. ~~New or revised parking must be~~
191 visually screened through the use of landscaping, earthen berms and/or fencing from adjacent
192 public streets or residential properties. (See the Design Handbook for appropriate examples.)

193 [1] A landscape plan showing screening and other landscaping requirements prepared by a

193 registered landscape architect is a submission requirement. However, a landscape plan done
194 by other design professionals may be allowed at the Planning Board's discretion.

195 [2] Any required plantings that do not survive must be replaced within one year. This
196 requirement does not expire and runs with the land.

197 [3] Surface parking areas designed for less than five cars must use solid fencing, berms
198 and/or stone walls along the parking lot where it abuts any single-family use or residential
199 zone must be used to prevent vehicle headlights trespass. from shining on any
200 abutting residential property. Incorporating flowering vines and other plantings such as trees
201 and
202 shrubs on next to fences and blank exterior walls is encouraged.

203 [4] Surface parking lots designed for five or more cars that will service multi-family or
204 mixed-use buildings with dwelling units and which abut a street, single-family use or
205 residential zone must provide screening in one of the following ways:

206 i. Any combination of trees, shrubs, tall ornamental grasses or perennial plants in a
207 planting bed at least eight (8) feet wide. Plantings must be sufficient, as determined by
208 the Planning Board, to screen the parking area from the street except for necessary
209 vehicular and pedestrian access. Climate-change tolerant Northeastern native plants are
210 preferred. Planting beds may be mulched but no dyed mulching material may be used.
211 Drip irrigation is recommended.

212 ii. One tree per 25 feet of street frontage within a planting bed at least eight (8) feet
213 wide which will include other plantings such as perennials. Plantings must be sufficient,
214 as determined by the Planning Board, to screen the parking area from the street except
215 for necessary vehicular and pedestrian access. To ensure survival, trees must be planted
216 using silva cells, bioretention cells or tree wells. Trees must be at least 2.5-inch caliper
217 and 12 feet high at the time of planting. Existing large healthy trees must be preserved if
218 practical and will count towards this requirement. Trees proposed within the public
219 right-of-way must remain under 20 feet tall at maturity. Trees native to the Northeast,
220 selected for climate change tolerance, are preferred and must be drought and salt tolerant
221 when used along streets. A diversity of tree species (three to five species per every 12
222 trees) is required to provide greater resiliency to threats from introduced insect pests and
223 diseases. Planting beds may be mulched but no dyed mulching material may be used.
224 Drip irrigation is recommended for plantings proposed to accompany the trees.

225 iii. Fencing, no taller than six (6) feet, of a type that screens rather than blocks a view
226 and made of a material compatible with surrounding buildings. Chain link fences are not
227 allowed unless they have a PVC color coating to blend in with surroundings. Stockade
228 fences may only be allowed to buffer a parking lot along the lot line that abuts a single-
229 family use or residential zone. A planting bed at least six (6) feet wide, including the
230 fence, is required, with a combination of trees, shrubs and perennials located on the
231 proposed development's side of the fence. Climate-change tolerant Northeastern native
232 plants are preferred. Planting beds may be mulched but no dyed mulching material may
233 be used. Drip irrigation is recommended.

234 (d) A minimum of 10% of any surface parking area consisting of 10 or more spaces must be
235 landscaped with trees and vegetated islands. This requirement is in addition to other required
236 landscaping and street tree requirements.

(e) In instances where one row of parking spaces and/or a related access drive is located
between the front property line and the front wall of the building extending the full width of the

237 lot and was utilized in accordance with previous permits or approvals, for parking, display,
 238 storage, building or necessary vehicle circulation, the Planning Board may allow such
 239 improvements to remain provided all other parking meets the location requirements and
 240 provided that a landscaping plan for the property frontage is reviewed and approved by the
 241 Planning Board.

242 (f) If 20% or more of the proposed development will be affordable dwelling units built rather
 243 than using payment-in-lieu for required units, the Planning Board may, at its discretion,
 244 modify surface parking lot screening and landscaping requirements under subsections (c) and (d).

244 (3) Building design standards

245 Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles
 246 are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical
 247 Revival. New buildings must be compatible with Kittery's characteristic styles in form, scale,
 248 material and color. In general, buildings should be oriented to the street with the front of the
 249 building facing the street from which the building derives its street frontage. Architectural design
 250 and structure location must reinforce the human scale and pedestrian nature of the neighborhood
 251 by using orientation and building massing, exterior building materials, and roofing as set forth
 252 below. The front or street facade must be designed as the front of the building. The front
 253 elevation must contain one or more of the following elements: 1) a "front door," although other
 254 provisions for access to the building may be provided; 2) windows; or 3) display cases. (See
 255 Design Handbook for examples of acceptable materials and designs.) Main entries should be
 256 clearly visible from the street and provide adequate cover from the weather. Strict imitation is
 257 not required. Design techniques can be used to maintain compatibility with characteristic styles
 258 and still leave enough flexibility for architectural variety. To achieve this purpose, the following
 259 design standards apply to new and modified existing building projects:

- 260 (a) Exterior building materials and details. Building materials and details strongly define a
 261 project's architectural style and overall character. (See Design Handbook for examples of
 262 acceptable materials, building scale, and designs.) "One-sided" schemes are prohibited;
 263 similar materials and details must be used on all sides of a building to achieve continuity and
 264 completeness of design. Predominant exterior building materials must be of good quality and
 265 characteristic of Kittery, such as horizontal wood boardsiding, vertical wood boards, wood
 266 shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.
- 267 (b) Roofs. ~~A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated~~
 268 ~~to the Planning Board's satisfaction that this is not practicable. Acceptable roof~~ Roof styles
 269 ~~are such as~~ gabled, gambrel and hipped roofs are preferred. ~~Flat roofs, shed~~ Shed roofs and
 270 roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms unless
 271 demonstrated to the Planning Board' satisfaction that another design is not practicable, except
 272 ~~as provided above~~. Roof colors must be muted. (See Design Handbook for examples.) Flat
 273 roofs proposed to locate heating, cooling, or other such mechanical or electrical apparatus off
 274 the ground, are acceptable provided that such apparatus are screened from view and the
 275 screening is designed as an integral part of the building to aid both aesthetics and noise
 276 attenuation. Flat roofs proposed for the purpose of solar array installations are also
 277 acceptable. The roof design must screen or camouflage rooftop protrusions to minimize the
 278 visual impact of air conditioning units, air handler units, exhaust vents, transformer boxes
 279 and the like. (See Design Handbook for examples of appropriate treatments.)
- 280 (c) Loading docks and overhead doors. Loading docks and overhead doors must be located on
 281 the side or rear of the building and must be screened from view from adjacent properties in

282 residential use.

283 (d) Lighting plans, including outdoor lighting fixture designs and photometric plans, must be
 284 included at the time of application submission. All lighting fixtures must be cutoff (dark sky
 285 compliant).

286 (4) Landscaping/site improvements.

287 A landscape plan prepared by a registered landscape architect is a submission requirement. However, a
 288 landscape plan done by other design professionals may be allowed at the Planning
 289 Board's discretion. Climate change-tolerant Northeastern native plants are preferred. To achieve
 290 attractive and environmentally sound site design ~~and appropriate screening of parking areas~~, in
 291 addition to the landscaping standards contained in § 16.7 ~~and § 16.8~~, the following landscaping
 292 requirements apply to new and modified existing developments:

292 (a) Fifteen percent of site area must be landscaped and/or in a natural state as described in
 293 D.(1).(j).[1], unless otherwise provided above;

294 (b) Outdoor spaces must be created to reinforce commercial and community activities and
 295 pedestrian-friendly access. Outdoor spaces are encouraged throughout the site ~~with special~~
 296 ~~attention along~~ especially in those areas to the front and sides of buildings when viewed from
 297 the sidewalk and street. Architectural features such as decorative pavers, planters and
 298 ~~benches~~ seating areas, as well as outdoor dining where applicable, are encouraged in the
 299 creation of these spaces;

300 (c) The ~~space setback~~ between the ~~roadway street~~ and any buildings must be attractively
 301 landscaped using trees, ~~flowers~~, shrubs, perennials, ornamental grasses, fencing or stone
 302 walls to reinforce the site's unique character and building design and complement the public
 303 use of the space;

304 (d) ~~A Required~~ buffer setbacks that function as buffers between commercial and residential
 305 zones/single-family uses must be ~~established and be~~ landscaped at minimum with a
 306 combination of trees and shrubs in a planting bed at least six (6) feet wide. Planting beds may
 307 be mulched but no dyed mulching material may be used; ~~visually pleasing mixed planting~~
 308 ~~type;~~

309 ~~(e) Solid fencing, berms and/or stone walls must be used to prevent headlights from shining on~~
 310 ~~abutting residential property. Incorporating flowering vines and other plantings on fences and~~
 311 ~~blank exterior walls is encouraged;~~

312 ~~(f)~~(e) Provide street trees in a pattern reflecting the existing streetscape. For new buildings, a
 313 minimum of one street tree must be planted for each 25 feet of street frontage. The trees may
 314 be spaced along the frontage or grouped or clustered to enhance the visual quality of the site.
 315 (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch
 316 caliper and be at least 12 feet high at the time of planting. ~~The species must be selected from~~
 317 ~~the~~ A list of approved street trees may be found in the Design Handbook. Trees native to the
 318 Northeast, selected for climate change tolerance, are preferred and must be drought and salt
 319 tolerant when used along streets. A diversity of tree species (three to five species per every
 320 12 trees) is required to provide greater resiliency to threats from introduced insect pests and
 321 diseases. Trees located within the public right-of-way must not exceed 20 feet at maturity.
 322 Existing large healthy trees must be preserved if practical and will count toward this
 323 requirement.

324 ~~(g)~~(f) For additions to existing buildings and changes of residential structures to a
 325 nonresidential use, one street-side tree (see list of street trees in Design Handbook) is

326 required to be planted for every 1,000 square feet of additional gross floor area added or
327 converted to nonresidential use. In instances where parking, display area, storage, building or
328 necessary vehicle circulation exists at the time of enactment of this section, the required trees
329 may be clustered and/or relocated away from the road as is necessary to be practicable. The
330 preservation of existing large trees is encouraged; therefore, the Planning Board may permit
331 the preservation of existing healthy, large, mature trees within developed areas of the site to
336 be substituted for the planting of new trees;

337 ~~(h)~~(g) Service and storage areas must be located to the rear of the building ~~and be shielded using~~
338 ~~plantings and/or fencing. Facilities for waste storage such as dumpsters must be located~~
339 ~~within an enclosure and be visually buffered by fencing, landscaping and/or other treatments~~
340 ~~(see Design Handbook for examples of appropriate buffering); . All service areas for~~
341 ~~dumpsters, compressors, generators and similar items must be screened by a fence at least six~~
342 ~~feet tall, constructed of a material similar to surrounding buildings, and must surround the~~
343 ~~service area except for the necessary ingress/egress.~~

344 ~~(h)~~(h) No storage may be in front of buildings except seasonal sales items;

345 ~~(i)~~(i) Lighting, including lighting fixture designs and photometric plans, and landscape plans
346 must be provided and approved as a part of final plan; and

347 (j) Lighting along the street must be of a pedestrian scale using a full cutoff fixture in an
348 architectural style fixture appropriate to the neighborhood.

349 (k) Any required plantings that do not survive must be replaced within one year. This
350 requirement does not expire and runs with the land.

351 ~~(k)~~ (l) If 15% or more of the proposed development will be affordable dwelling units,
352 the Planning Board may, at its discretion, modify landscaping requirements under [c], [d] and [e]
353 above.

354 (5) Traffic and circulation standards.

355 Sidewalks and roadways must be provided ~~within the site~~ to internally join abutting properties
356 ~~that are~~ determined by the Planning Board ~~using the criteria in subsection D.(2).(b).to be~~
357 ~~compatible~~. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move
358 within the site and between the principal customer entrance and the front lot line where a
359 sidewalk exists or will be provided or where the Planning Board determines that such a route is
360 needed for adequate pedestrian safety and movement. (See Design Handbook for appropriate
361 examples.)

362 (6) Cottage cluster requirements:

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

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

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

371 (7) Affordable housing requirements:

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

373 (b) Density incentives outlined above in subsection D.(1).(a).[4] may be applied to projects
374 that create affordable housing units, as defined by this code. No proportional payment-in-lieu is
375 required if the affordable dwelling unit requirements for the density incentives are met.

376 (8) Gasoline Sales must a) not be located within 1,000 feet of an existing station; (b) not be located
377 within 1,000 feet of any private residence; and (c) not be located within 150 feet of any existing
378 structure.

- 379 E. Shoreland Overlay Zone OZ-SL – Business Local Zone (B-L1)
- 380 (1) Permitted uses
- 381 (a) Accessory Uses & Building
- 382 (b) Aquaculture
- 383 (c) Recreation, Public Open Space
- 384 (2) Special exception uses
- 385 (a) Art Studio or Gallery
- 386 (b) Business & Professional Offices
- 387 (c) Business Services
- 388 (d) Retail Sales, Building Materials & Garden Supply (excluding those of which the principal
- 389 activity entails outdoor sales and/or storage)
- 390 (e) Conference Center
- 391 (f) Retail Sales, Convenience
- 392 (g) Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of
- 393 seafood occur at the site)
- 394 (h) Parking Area
- 395 (i) Dwelling, Manufactured Housing
- 396 (j) Dwelling, Single-Family
- 397 (k) Dwelling, Two-Family
- 398 (l) Farmers market
- 399 (m)Funeral Home
- 400 (n) Home Occupation, Major
- 401 (o) Home Occupation, Minor
- 402 (p) Inn
- 403 (q) Mass Transit Station
- 404 (r) Motel
- 405 (s) Hotel
- 406 (t) Inn
- 407 (u) Rooming House
- 408 (v) Personal Service
- 409 (w) Public Assembly Area
- 410 (x) Theater
- 411 (y) Public Utility Facility
- 412 (z) Restaurant
- 413 (aa) Retail Sales (excluding those of which the principal activity entails outdoor sales and/or
- 414 storage)
- 415 (bb) Specialty Food and/or Beverage Facility
- 416 (3) See § 16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL
- 417 F. Resource Protection Overlay Zone OZ-RP – Business – Local Zone (B-L1)
- 418 (1) Permitted Uses
- 419 (a) Recreation, Public Open Space
- 420 (2) Special Exception Uses
- 421 (a) Accessory Uses & Buildings

422

(b) Home Occupations, Major

423

(c) Home Occupations, Minor

424

(d) Public Utility Facility

425

(e) Dwelling, Single-Family, including modular homes

426

(3) See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

**TITLE 16
MIXED-USE NEIGHBORHOOD/BUSINESS PARK ZONE**

NOTE: This zone is in Kittery's growth area, has access to public utilities from the abutting streets but does not currently allow multifamily housing so does not fall under LD-2003's affordable housing density component. LD-2003's 4 units on a vacant lot requirements can be met with the existing code since only conservation subdivisions are allowed and there is no prohibition on having more than one dwelling unit per lot in a conservation subdivision (although it would be unusual). However, most conservation subdivisions have HOAs which may prevent more than one residence per lot. LD-2003 makes allowances for these, so no changes to this zone are required Besides the apartment and mixed-use buildings being built at 76 Dennett Road, there are currently no other residential buildings in existence in the zone

Repeal 16.4.26 Mixed-Use Neighborhood and replace with a Business Park Zone with corrections identified by Town attorney:

1 16.4.26 Business – Park – B-P

2 A. Purpose. To encourage investment that promotes development of a high-quality park-like setting
3 for both the business and residential communities. Cluster mixed-use development mut be used on
4 larger tracts of land where offices, retail sales, services, lodging, open space, housing and light
5 manufacturing space are blended with residential and moderate entertainment to foster general
6 business growth and a sense of community. The intent of the cluster mixed-use development is to
7 provide a more efficient use of land than might be obtained through segregated development
8 procedures. NOTE: Cluster mixed-use development is not currently defined in Title 16. The old
definition before it was removed follows:

A form of land use improvements and/or change, with residential and commercial elements in mixed-use or single-use buildings, in which the dimensional requirements are reduced below that normally required in the applicable zone district in which the land use improvements and/or change is located in return for a requirement providing traffic improvements, utility extensions, permanent open space, and other such improvements that the Planning Board may determine contribute to the enhancement of the project and/or surrounding environment.

9 B. Permitted Uses.

10 The following land uses are permitted for projects that are cluster mixed-use developments:

- 11 (1) Art studio/gallery.
- 12 (2) Building materials and garden supply.
- 13 (3) Business and professional offices.
- 14 (4) Business services.
- 15 (5) Parking area (public or private)
- 16 (6) Conference center.
- 17 (7) Conservation Subdivision.
- 18 (8) Light industry.
- 19 (9) Mass transit station.
- 20 (10) Mechanical services, excluding junkyard.
- 21 (11) Motel, hotel, rooming house, inn.
- 22 (12) Personal service.
- 23 (13) Public Assembly area, theater
- 24 (14) Public open space recreational uses, recreational facilities, and selected commercial recreation.
- 25 (15) Public utility facilities including substations, pumping stations, and sewerage treatment
26 facilities.
- 27 (16) Repair services.
- 28 (17) Research and development.
- 29 (18) Restaurant.
- 30 (19) Retail sales, and retail sales convenience store

31 (20) School (including day nursery), university, museum, hospital, municipal or state building or
32 use, church, or any other institution of educational, religious, philanthropic, fraternal, political or
33 social nature.

34 (21) Shops in pursuit of trade.

35 (22) Veterinary hospital.

36 (23) Warehousing and storage.

37 (24) Wholesale businesses excluding used car lots.

38 (25) Specialty food and/or beverage facility.

39 C. The following land uses are permitted for projects that are not cluster mixed-use developments.

40 (1) Business and professional offices.

41 (2) Accessory uses and buildings.

42 (3) Business services.

43 D. Special Exception Uses. None

44 E. Standards.

45 The following standards must be met unless modified per Section 16.10, Conservation Subdivision
46 development. Multiple-parcel development is subject to Chapter 16.6, Master Site Development
47 Plan.

48 (1) Design and performance standards in Chapters 16.5, 16.7, and 16.8. The Design Handbook
49 provides examples of appropriate design for nonresidential and multi-unit residential projects.

50 (2) Except for cluster mixed-use developments, the following space standards apply.

51 (a) Minimum land area per dwelling unit 10,000 square feet with sewer service.

52 (b) Minimum lot size 120,000 square feet.

53 (c) Minimum street frontage 150 feet.

54 (d) Minimum front yard 50 feet.

55 (e) Minimum rear and side yards 30 feet*.

56 * Except as may be required by the buffer provisions of this Code, and except where the side and/or
57 rear yards of the proposed non-residential-use abut a residential district or use, in which case a
58 minimum of forty (40) feet is required.

59 (3) Patios, sheds, parking lots and golf courses must have a minimum setback of 50 feet from
60 streams, water bodies, and wetlands.

61 (4) Conservation Subdivision. In a conservation subdivision, the above standards may
62 be modified in accordance with the special provisions of Section 16.10 Conservation Subdivision
63 , including there is no minimum lot size, and with the conditions that:

64 (a) Minimum Principal building separation as required by the Fire Chief, but not less than 10 feet.

65 (5) Other Standards

66 (a) Parking.

67 All new or revised parking must be visually screened through the use of landscaping, earthen berms,
68 stone retaining walls, and/or fencing from adjacent public streets and abutting properties (see Design
69 Handbook for appropriate examples).

70 (b) Building Design Standards.

71 Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles
72 are New England colonial (such as Cape Cod and Saltbox), Georgian, Federal, and Classical Revival.
73 New buildings must be compatible with Kittery's characteristic styles in form, scale, material, and
74 color. The front elevation must contain one or more of the following elements:
75 [1] windows, or

76

77 [2] display cases (see Design Handbook for examples of acceptable materials and designs).

78 Strict imitation is not required. Design techniques must be used to maintain compatibility with
79 characteristic styles and still leave enough flexibility for architectural variety. To achieve this
80 purpose, the following design standards apply to new and modified existing building projects:

81 [1] Exterior Building Materials and Details.

82 Building materials and details strongly define a project's architectural style and overall character (see
83 the Design Handbook for examples of acceptable materials, building scale, and designs). "One-
84 sided" schemes are prohibited; similar materials and details must be used on all sides of a building to
85 achieve continuity and completeness of design. Predominate exterior building materials must be of
86 good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood
boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

87 [2] Roofs.

88 A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the
89 Planning Board's satisfaction that this is not practicable. The Board reserves the right to evaluate
90 such on each and all specific proposals. Acceptable roof styles are gabled, gambrel, and hipped
91 roofs. Shed roofs, and roof facades (such as "stuck on" mansards) are not acceptable as prominent
92 roof forms except as provided above. Flat roofs may be considered in context where it can be
93 demonstrated to the Planning Board's satisfaction that the structure is not obtrusive and where visual
94 impact can be shown to be minimal. The roof design must screen or camouflage rooftop protrusions
95 to minimize the visual impact of air conditioning units, air handler units, exhaust vents, transformer
96 boxes, and the like (see the Design Handbook for examples of appropriate treatments).

97 [3] Loading Docks and Overhead Doors.

98 Loading docks and overhead doors must be located on the side or rear of the building and screened
99 from view from adjacent properties in residential use.

100 (c) Landscaping Standards.

101 To achieve attractive and environmentally sound site design, and appropriate screening of parking
102 areas, in addition to the landscaping standards contained in Chapters 16.4, 16.5, and 16.8, the
103 following landscaping requirements apply to new and modified existing developments:

104 [1] Landscape Planter Strip.

105 Landscape planter strips, interior and exterior to the project, are encouraged. A minimum of forty
106 (40) feet in depth of vegetated landscape buffer must be provided adjacent to all public right-of-way
107 lines that are common to parcel exterior boundary lines and include the following landscape
108 elements:

109 a. Ground Cover. The entire landscape planter strip must be vegetated except for approved
110 driveways, walkways, bikeways, and screened utility equipment.

111 b. Street Side Trees. In the event project development is to be approved based on a development
112 master plan, development standards are to be applied to the land as defined by its perimeter, rather
113 than by the individual lots, tracts, and parcels into which the land may be divided.

114 Development not based on a master development plan must, as a minimum, provide one street tree
115 for each twenty-five (25) feet of street frontage.

116 The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of
117 the site (see the Design Handbook for examples.) The trees must be a minimum 2.5 inch caliper, and
118 be at least twelve (12) feet high at the time of planting. The species should be selected from the list
119 of recommended street trees in the Design Handbook. Existing large healthy trees must be preserved
120 if practical and will count toward this requirement.

121 c. Planter Strip. Shrubs and flowering perennials must be planted at a minimum of fifteen (15) plants
122 per forty (40) linear feet of street frontage unless existing woodlands are being retained or such
123 planting is inconsistent with the retention of rural landscape features. The plant material should be
124 selected from a list of recommended materials in the Design Handbook. The plants must be
125 placed within the planter strip to enhance the visual character of the site and augment natural features
and
126 vegetation (see the Design Handbook for examples of appropriate treatments).

126 [2] Outdoor Service and Storage Areas.

127 Facilities for waste storage such as dumpsters must be located within an enclosure and be visually
128 buffered by fencing, landscaping, and/or other treatments (see Design Handbook for examples of
129 appropriate buffering).

130 (d) Traffic and Circulation Standards.

131 Sidewalks and roadways internal to the parcel must provide adequate pedestrian and traffic
132 circulation both internally and externally, and provide safe and sufficient connectivity to the
133 surrounding neighborhoods (see the Design Handbook for appropriate examples).

134 (e) Open Space Standards

135 Open space must be provided as a percentage of the total parcel area, including freshwater wetlands,
136 water bodies, streams, and setbacks. Twenty-five percent (25%) of each parcel, or individual lot if
137 applicable, must be designated as open space. Required open space must be shown on the plan with
138 a note dedicating it as “open space”. The open space must be situated to create an attractive
139 environment on the site, minimize environmental impacts, and protect significant natural features
140 and resources. Where possible:

141 [1] Individual large, healthy trees and areas with mature tree cover will be included in the open
142 space; and

143 [2] the open space will be located to allow the creation of continuous open space networks in
144 conjunction with existing or potential open space on adjacent properties.

145 ~~§ 16.4.26 Mixed-Use Neighborhood (MU-N).~~

146 ~~A. Purpose. To encourage higher density, mixed-use development that provides~~
147 ~~increased housing opportunities and a desirable setting for business while balancing such~~
148 ~~increased development with environmentally conscious and ecologically sensitive use of land.~~

149 ~~B. Permitted uses.~~

150 ~~(1) Dwelling, attached single-family.~~

151 ~~(2) Dwelling, multifamily.~~

152 ~~(3) Dwelling, multifamily (units on the upper floors of a mixed-use building that~~
~~is served by public sewer).~~

153 ~~(4) Convalescent care facility.~~

154 ~~(5) Nursing care facility, long-term.~~

155 ~~(6) Residential care facility (attached dwelling units only).~~

156 ~~(7) Accessory buildings, structures, and uses.~~

157 ~~(8) Home occupation, major.~~

158 ~~(9) Home occupation, minor.~~

159 ~~(10) Hotel.~~

162 ~~(11) Inn.~~

163 ~~(12) Day-care facility.~~

164 ~~(13) Elderly day-care facility.~~

165 ~~(14) Hospital.~~

166 ~~(15) Public utility facility.~~

167 ~~(16) Recreation, passive.~~

168 ~~(17) Recreation, public open space.~~

- 169 ~~(18) — Recreation, commercial indoor (except shooting and archery ranges).~~
- 170 ~~(19) — Recreation, commercial outdoor (except shooting and archery ranges).~~
- 171 ~~(20) — Veterinary hospital.~~
- 172 ~~(21) — Art studio or gallery.~~
- 173 ~~(22) — Business and professional offices.~~
- 174 ~~(23) — Business services.~~
- 175 ~~(24) — Conference center.~~
- 176 ~~(25) — Personal services.~~
- 177 ~~(26) — Repair service.~~
- 178 ~~(27) — Research and development.~~
- 179 ~~(28) — Restaurant.~~
- 180 ~~(29) — Retail sales (not to exceed 30,000 square feet in gross floor area unless part of a~~
- 181 ~~mixed-use building).~~
- 182 ~~(30) — Retail sales, convenience (excluding the sale of gasoline).~~
- 183 ~~(31) — Shops in pursuit of trade.~~
- 184 ~~(32) — Specialty food and/or beverage facility.~~
- 185 ~~(33) — Theater.~~
- 186 ~~(34) — Industry, light (less than or equal to 20,000 square feet in gross floor area).~~
- 187 ~~(35) — Liner buildings (as part of a mixed-use building).~~
- 188 ~~C. — Special exception uses.~~
- 189 ~~(1) — Commercial kennel.~~
- 190 ~~(2) — Parking area.~~
- 191 ~~(3) — Construction services.~~
- 192 ~~(4) — Equipment sales and rentals (only on lots with frontage on Route 236).~~
- 193 ~~(5) — Gas service station (only on lots with frontage on Route 236).~~
- 194 ~~(6) — Industry, light (greater than 20,000 square feet in gross floor area).~~
- 195 ~~(7) — Mass transit station.~~
- 196 ~~(8) — Mechanical services.~~
- 197 ~~(9) — New motor vehicle sales (only on lots with frontage on Route 236).~~
- 198 ~~(10) — Used car lot (only on lots with frontage on Route 236).~~
- 199 ~~(11) — Repair garage (only on lots with frontage on Route 236).~~
- 200 ~~(12) — Retail sales (greater than 30,000 square feet in gross floor area and less than 50,000~~
- 201 ~~square feet in gross floor area).~~
- 202 ~~(13) — Undefined use; additional commercial/business uses not defined by Chapter 16.3.~~
- 203 ~~(a) — Undefined uses: will be considered by the Planning Board based on the following~~

- 204 ~~criteria:~~
205 ~~[1] — If the use is consistent with the Comprehensive Plan and zoning district purposes;~~
206 ~~and~~
207 ~~[2] — If the use meets special exception criteria found in § 16.2.1C(14).~~
208 ~~(b) — In addition, the undefined use must meet one or both of the following criteria:~~
209 ~~[1] — If the proposed use has substantially similar impacts as a listed use.~~
210 ~~[2] — If the proposed use is compatible with existing uses within the zoning district for~~
211 ~~which it is proposed.~~
212 ~~D. — Standards. All development and the use of land in the MU-N Zone must meet the~~
213 ~~following standards. Kittery's Design Handbook illustrates how these standards can be met. In~~
214 ~~addition, the design and performance standards of Chapters 16.5, 16.7 and 16.8 must be met~~
215 ~~unless noted otherwise below.~~
216 ~~(1) — All submissions must include a lighting plan. Hours of operation and number of~~
217 ~~employees for businesses must also be provided.~~
218 ~~(2) — The following space standards apply:~~
219 ~~(a) — Minimum land area per dwelling unit, mixed-use building: 4,000 square feet for~~
220 ~~first residential unit plus 3,000 square feet for each additional unit, no minimum land area for~~
221 ~~business or commercial uses when combined in a building with residential uses except that the~~
222 ~~total lot size must be at least 20,000 square feet. (Note: ADA-compliant units may be located on~~
223 ~~the first floor through a special exception permit by the Planning Board but only 50% of the~~
224 ~~first floor may be such ADA-compliant residential units.)~~
225 ~~(b) — Minimum land area per dwelling unit, multiunit residential: 4,000 square feet for~~
226 ~~first unit, plus 2,500 square feet for each additional unit up to 16 units per acre of lot size.~~
227 ~~Total lot size must be a minimum of 20,000 square feet.~~
228 ~~(c) — Mixed-use or multiunit residential buildings which encompass at least 50% of~~
229 ~~required parking within the building; two additional residential units may be added to each~~
230 ~~story above the parking with no additional land area required.~~
231 ~~(d) — Mixed-use buildings which encompass at least 50% of required parking within the~~
232 ~~building and include a liner building for nonresidential uses buffering parking from the street;~~
233 ~~one additional residential unit may be added to each story with no additional land area~~
234 ~~required.~~
235 ~~(e) — Minimum land area per bed for long-term nursing care and convalescent care~~
236 ~~facilities that are connected to public sewer: 2,000 square feet.~~
237 ~~(f) — Minimum land area per residential unit for elder care facilities that are connected~~
238 ~~to public sewer: 3,000 square feet.~~
239 ~~(g) — Minimum lot size: 20,000 square feet.~~
240 ~~(h) — Minimum street frontage: 75 feet.~~
241 ~~(i) — Minimum front setback on Route 236: 30 feet.~~
242 ~~(j) — Minimum front setback on Dennett Road: 50 feet.~~
243 ~~(k) — Minimum front setback on Martin Road: 100 feet.~~
244 ~~(l) — Maximum front setback all other roads: 20 feet.~~
245 ~~(m) — Spacing between buildings: 15 feet.*~~
246 ~~(n) — Maximum rear and side setbacks: 20 feet.**~~
247 ~~NOTES:~~
248 ~~* Or as required by the Fire Department or State Fire Marshal's office.~~
249 ~~** Except as may be required by the buffer provisions of this Code. See~~
~~Landscaping, screening and buffers, § 16.4.26.~~
~~(o) — Maximum building height: 50 feet (exclusive of solar apparatus).~~
~~(p) — Maximum impervious and outdoor stored material coverage: 70%. (Note: With~~
~~best management practices (BMPs) and low-impact development practices (LIDs) as defined in~~

250 ~~Chapter 16.3 and based on Maine DEP's Maine Stormwater Best Management Practices~~
251 ~~Manual, Volumes I through III, as amended from time to time, incorporated in site design,~~
252 ~~otherwise 60%. Maximum on-site stormwater infiltration is the desired and measurable~~
253 ~~outcome.~~

254 ~~(g) ——— Minimum setback from streams, water bodies and wetlands in accordance with~~
255 ~~Table 16.5.30.~~

256 ~~{1} ——— With best management practices (BMPs) and low-impact development practices~~
257 ~~(LIDs) as defined in Chapter 16.3 and based on Maine DEP's Maine Stormwater Best~~
258 ~~Management Practices Manual, Volumes I through III, as amended from time to time,~~
259 ~~incorporated in site design, then wetland setbacks pursuant only to Maine Department of~~
260 ~~Environmental Protection (MDEP) Rules Chapters 305 and 310.~~

261 ~~{2} ——— Without best management practices (BMPs) and low-impact development practices~~
262 ~~(LIDs) as defined in Chapter 16.3 and based on Maine DEP's Maine Stormwater Best~~
263 ~~Management Practices Manual, Volumes I through III, as amended from time to time,~~
264 ~~incorporated in site design, wetland setbacks pursuant to Kittery Town Code Title 16, Table~~
265 ~~16.5.30.~~

266 ~~{3} ——— The Town shall retain expert consultation (qualified wetland scientist and/or~~
267 ~~Maine-certified soil scientist) to determine wetland delineations and classifications and to~~
268 ~~perform soil testing as needed, all of which shall be paid for by the applicant at the time of~~
269 ~~sketch plan. The qualified wetlands scientist and/or Maine-certified soil scientist shall~~
270 ~~determine through field investigation the presence, location and configuration of wetlands on~~
271 ~~the area proposed for use. Any wetland alterations proposed must also be reviewed by the~~
272 ~~Town's consultant(s) at the applicant's expense. These requirements are in addition to~~
273 ~~engineering, stormwater management/BMPs, traffic or other types of peer review that may~~
274 ~~also be required.~~

275 ~~(f) ——— Minimum open space:~~

276 ~~{1} ——— Lot size less than 100,000 square feet: 15%.~~

277 ~~{2} ——— Lot size greater than 100,000 square feet: 25%. (Note: This requirement may be~~
278 ~~met by a payment-in-lieu to the Wetland Mitigation Fund. These fees shall be set by Town~~
279 ~~Council. Landscaping, screening and buffer requirements must still be met.)~~

280 ~~(3) ——— Parking:~~

281 ~~(a) ——— Parking is encouraged within buildings. New or revised surface parking areas,~~
282 ~~garages, and entrances to parking within buildings must be located to the rear of buildings. If a~~
283 ~~rear location is not achievable, as determined by the Planning Board, parking, garages and~~
284 ~~entrances to parking must be located to the side of the building. Screening and/or fencing is~~
285 ~~required for surface parking areas along a street. See Subsection D(8), Landscaping, screening~~
286 ~~and buffers. Parking requirements are based on the Institute of Transportation Engineers~~
287 ~~(ITE) parking generation rates.~~

288 ~~(b) ——— Joint-use agreements (between businesses and residences) for parking are~~
289 ~~encouraged. A plan describing how joint-use parking needs will be met is required as part of~~
290 ~~any development that proposes such parking and must be reviewed and approved by the~~
291 ~~Planning Board.~~

292 ~~(c) ——— Parking requirements for nonresidential uses may be met partially or in full by~~
293 ~~parking on the street except that no parking is allowed on Route 236, Dennett Road, or Martin~~
294 ~~Road. Such on-street parking plans must be reviewed by planning staff prior to submission~~
295 ~~and then reviewed and approved by the Planning Board.~~

296 ~~(d) ——— Electric car charging stations are allowed in parking lots but must not interfere~~
297 ~~with pedestrian movement on sidewalks.~~

298 ~~{1} ——— Parking for development that includes trails and low intensity recreation.~~
299 ~~Development that includes the creation of public trails and low-intensity recreational~~

300 opportunities such as wildlife observation stations or boardwalks may apply the pertinent off-
301 street parking standards below. All other off-street parking standards as found in § 16.7.11F(3)
302 shall apply.

303 (e) ~~Multiunit residential buildings and mixed-use buildings that include residential.~~
304 [1] ~~One parking space for studio and one-bedroom dwelling units.~~
305 [2] ~~One and one-half parking spaces for two-bedroom dwelling units plus one guest~~
306 ~~parking space per every four dwelling units.~~
307 [3] ~~Parking spaces for more than two-bedroom dwelling units.~~
308 (4) ~~Loading docks, overhead doors, service areas and outdoor storage areas.~~
309 (a) ~~Loading docks and overhead doors must be located on the rear or side of the~~
310 ~~building. Loading docks must be screened from view by adjacent residential uses. This~~
311 ~~screening must consist of the following:~~
312 [1] ~~A fence, constructed of a material similar to surrounding buildings, of sufficient~~
313 ~~height as determined by the Planning Board to accomplish the screening. No fence may be less~~
314 ~~than six feet tall.~~
315 (b) ~~All service areas for dumpsters, compressors, generators and similar items as well~~
316 ~~as any outdoor storage areas must be screened by a fence at least six feet tall, constructed of a~~
317 ~~material similar to surrounding buildings, and must surround the service or storage area~~
318 ~~except for the necessary ingress/egress.~~
319 (5) ~~Site design. Site design and building placement must be attentive to the surrounding~~
320 ~~environment including sun, wind and shade patterns related to proposed and existing~~
321 ~~buildings. A sun/shade analysis may be required by the Planning Board.~~
322 (6) ~~Energy and sustainability. Energy efficiency is allowed and encouraged through the~~
323 ~~use of solar power, geothermal, and other alternative and sustainable power sources.~~
324 (7) ~~Building design standards.~~
325 (a) ~~New buildings must meet the general design principles set forth in the Design~~
326 ~~Handbook except as noted below. In general, buildings should be oriented to the street from~~
327 ~~which they derive frontage, with the front of the building facing the street. The front facade~~
328 ~~must contain the following:~~
329 [1] ~~A front door for pedestrian access.~~
330 [2] ~~Windows.~~
331 (b) ~~Flat roofs, proposed to locate heating, cooling, or other such mechanical or~~
332 ~~electrical apparatus off the ground, are acceptable provided that such apparatus are screened~~
333 ~~from view and the screening is designed as an integral part of the building to aid both~~
334 ~~aesthetics and noise attenuation. Flat roofs proposed for the purpose of solar array~~
335 ~~installations are also acceptable.~~
336 (8) ~~Landscaping, screening and buffers.~~
337 (a) ~~A landscape plan prepared by a registered landscape architect is a submission~~
338 ~~requirement. However, a landscape plan done by other design professionals may be allowed at~~
339 ~~the Planning Board's discretion.~~
340 (b) ~~Native trees, shrubs and herbaceous plantings are preferred and must be drought~~
341 ~~and salt tolerant when used along streets. A diversity of tree species (three to five species per~~
342 ~~every 12 trees) is required to provide greater resiliency to threats from introduced insect pests~~
343 ~~and diseases.~~
344 (c) ~~Any required plantings approved by the Planning Board that do not survive must~~
345 ~~be replaced within one year.~~
346 (d) ~~Landscaping along the street frontage of each building must consist of one of the~~
347 ~~following:~~
348 [1] ~~Street trees. A minimum of one street tree must be planted for each 20 feet of street~~
349 ~~frontage. Trees may be planted in groups or spaced along the frontage. However, trees must be~~

350 planted to ensure survival, using silva cells, bioretention cells or tree wells. Trees are to be a
351 minimum of 2.5-inch caliper and 12 feet high at the time of planting. Existing large healthy
352 trees must be preserved if practical and will count towards this requirement.

353 [2] ——— Pocket park. The park must be at least 200 square feet. A minimum of three trees
354 and a bench for sitting are required. Park must be vegetated with ground cover except for
355 walkways.

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

358 [1] ——— One tree per 25 feet of street frontage backed by a fence constructed of a material
359 similar to surrounding buildings which must screen the parking area from the street except for
360 necessary vehicular and pedestrian access. Trees must be at least 2.5-inch caliper and 12 feet
361 high at the time of planting.

362 [2] ——— A combination of trees and shrubs including at least 50% evergreen species, all at
363 least six feet high at time of planting, in a planting bed at least eight feet wide. Plantings must
364 be sufficient, as determined by the Planning Board, to screen the parking area from the street
365 except for necessary vehicular and pedestrian access. Planting beds may be mulched but no
366 orange or red-dyed mulching material may be used.

367 [3] ——— A minimum of 10% of any surface parking area consisting of 10 or more parking
368 spaces must be landscaped with trees and vegetated islands. This requirement is in addition to
369 the screening requirements in § 16.4.26D(8)(e)[1] and § 16.4.26D(8)(e)[2] if the parking area
370 abuts a street. Bioretention cells and rain gardens may be utilized to meet the landscaping
371 requirements and perform stormwater management.

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

375 [1] ——— Existing natural woodland and vegetation.

376 [2] ——— Existing natural woodland augmented by the planting of additional trees consisting
377 of a variety of species at least 2.5-inch caliper and 12 feet high.

378 [3] ——— A fence at least six feet high, constructed of material similar to surrounding
379 buildings, with plantings of trees and shrubs at least six feet tall on either side of the fence.

380 (9) ——— Open space. Open space must be provided as a percentage of the total parcel area
381 including freshwater wetlands, water bodies, streams and setbacks. Required open space must
382 be shown on the site plan with a note dedicating it as open space. The open space must be
383 situated to protect significant natural features and resources, minimize environmental impacts
384 and promote an aesthetically pleasing site.

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

387 (b) ——— Location of open space must promote the continuity of open-space networks across
388 adjacent parcels.

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

391 (10) ——— Special situations. Expansions or modifications of 1,000 square feet or less to
392 existing uses are exempt from landscaping, screening and buffer requirements.

393 (11) ——— Conditions for approving special exception uses in the Neighborhood Mixed-Use
394 Zone. All applications must include a narrative describing why the use proposed will promote
395 the general welfare (specifies may be found in Chapter 16.3, Definitions, for special exception)
396 of the Town of Kittery, how the use proposed will meet the special exception criteria found in
397 § 16.2.12F(3) and how the proposed development will adapt and relate to the natural
398 environmental conditions found on the site.

NOTE: These two zones do not currently comply with LD-2003 (affordable housing density) according to the density requirements and parking requirements for majority affordable housing projects at 2.5x base density. They are in Kittery's growth area according to the comprehensive plan, have public sewer and water and allow multifamily housing. Necessary amendments are noted in this font in bold. It does comply with LD-2003's dwelling unit allowance by allowing up to four units per vacant lot and up to two additional units on a lot with one existing dwelling unit provided all regulations (setbacks, land area per dwelling unit) are met.

§16.4.19 **Commercial 1, Route 1 Commercial Zone (C-1).**

A. Purpose.

- (1) The C-1 (Route 1 Commercial) Zone proposes to add a range of uses and building types, including residential, to a vehicle-dependent predominately retail-oriented shopping area with proximity to several small neighborhoods. The presence of significant existing infrastructure and the opportunity to redevelop under-utilized properties for a diversity of housing types, restaurants, services and shops with increased pedestrian access will allow the Town to advance Comprehensive Plan housing and economic development goals and meet the needs of residents into the future.
- (2) To reflect the differing character of various parts of the commercial areas, it is divided into three zones that are shown on the Zoning Map:

C-1 Route 1 Commercial Zone.

C-2 Route 236 Commercial Zone.

C-3 Bypass/Old Post Road Commercial Zone.

- (3) Where the standards or requirements for the zones vary, the provisions for the zone in which the parcel is located apply.

B. Permitted uses. The following uses are permitted in the C-1 Zone:

- (1) Accessory dwelling unit.
- (2) Convalescent care facility.
- (3) Dwelling, two-family.
- (4) Nursing care facility, long-term.
- (5) Accessory buildings, structures, and uses.
- (6) Home occupation, major.
- (7) Home occupation, minor.
- (8) Hotel.
- (9) Inn.
- (10) Motel.
- (11) Rooming house.

- (12) Day-care facility.
- (13) Hospital.
- (14) Nursery school.
- (15) Private assembly.
- (16) Public facility.
- (17) Public or private school.
- (18) Public utility facility.
- (19) Religious use.
- (20) Recreation, commercial indoor.
- (21) Recreation, commercial outdoor.
- (22) Recreation, public open space.
- (23) Recreation, public facility.
- (24) Commercial school.
- (25) Veterinary hospital.
- (26) Art studio or gallery.
- (27) Business and professional offices.
- (28) Business services.
- (29) Conference center.
- (30) Personal services.
- (31) Repair services.
- (32) Restaurant.
- (33) Retail sales.
- (34) Retail sales, building materials and garden supply.
- (35) Retail sales, convenience.
- (36) Specialty food and/or beverage facility.
- (37) Mass transit station.
- (38) Parking area.
- (39) Wholesale businesses.

C. Special exception uses. The following uses are permitted as special exception uses in the C-1 Zone:

- (1) Aquaculture.
- (2) Buildings and structures over 40 feet that conform to the provisions of Chapters **16.7** and **16.8**. Buildings and structures, other than multifamily dwelling units as part of a mixed-use building in the C-1 Zone, west of Route 1, which are taller as allowed in §**16.4.19E(2)(e)** higher than 40 actual feet from the lowest point of grade to the highest point of the building or structure must have side, rear and front yards of sufficient depth to adequately protect the health, safety and welfare of abutting properties and which may not be less than current standards or 50% of actual height, whichever is greater.
- (3) Cottage cluster.
- (4) Dwelling, attached single-family.
- (5) Dwelling, multifamily.
- (6) Dwelling units as part of a mixed-use building.
- (7) Funeral home.
- (8) Gasoline service station.
- (9) Industry, light.
- (10) Mechanical services.
- (11) Mini storage not located within 2,000 feet from an existing mini storage facility located in the same zoning district.
- (12) Public assembly area.
- (13) Theater.
- (14) Repair garage.
- (15) Research and development.
- (16) Transportation terminal.
- (17) Warehousing and storage.
- (18) Marijuana business, except a marijuana cultivation facility.

D. Undefined uses in C-1 and C-3 Zones.

- (1) Undefined uses will be considered by the Planning Board based on the following criteria:
 - (a) If the use is consistent with the Comprehensive Plan and zoning district purposed; and
 - (b) If the use meets special exception criteria found in § **16.4.19E**.
- (2) In addition, the undefined use must meet one or both of the following criteria:
 - (a) If the proposed use has substantially similar impacts as a listed use.

(b) If the proposed use is compatible with existing uses within the zoning district for which it is proposed.

E. Standards.

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

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

(a) Minimum lot size or density:

C-1 Zone

Cottage cluster	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, attached single-family	
Dwelling, multifamily	<u>40 units per acre when over 50% of the units are affordable housing units as defined by this Code*.</u>
Dwelling, two-family	
Dwelling units as part of a mixed-use building	
All other uses	40,000 square feet

NOTES:

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

(b) Minimum street frontage:

C-1 Zone

All uses	No minimum*
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NOTES:

* All lots must meet the requirements of §**16.5.14** unless specifically modified by this section (§**16.4.19**). Street frontage must provide sufficient vehicular and pedestrian access for the uses proposed while meeting public health and safety requirements (e.g., Fire Department, Department of Public Works). The applicant must demonstrate to the municipal permitting authority, that the street frontage and lot design meet these requirements to the extent practicable.

(c) Maximum front setback:

C-1 Zone

All uses	15 feet*
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C-1 Zone

NOTES:

* The Planning Board may, at its discretion, allow a greater setback when public amenities such as benches, pocket parks, outdoor dining or seating areas are proposed. Properties in the C-3 Zone with frontage on Old Post Road, including those lots which also have frontage on Route 1 Bypass, are required to have at least a fifteen-foot setback on Old Post Road.

(d) Minimum rear and side setbacks:

C-1 Zone

All uses	10 feet*
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NOTES:

* Except where side and/or rear setback of proposed new uses abut a single-family use and/or any properties located on the east side of Route 1 from the southernmost extent of the C-1 Zone north to properties abutting Ox Point Drive in which case a minimum of 40 feet is required. See §16.4.19E(4)e for buffer requirements.

(e) Maximum building height:

C-1 Zone

Dwelling, multifamily; Dwelling units as part of a mixed-use building	50 feet on the west side of Route 1, not including solar apparatus* and 40 feet on the east side of Route 1, not including solar apparatus*
All other uses	40 feet

NOTES:

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

(f) Impervious surface:

[1] For lots in the C-1 and C-3 Zones which are currently developed and for which new multifamily, attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of mixed-use building are proposed, either with or without existing or new commercial uses on the same lot, the maximum impervious surface, including but not limited to driveways, buildings, sidewalks and parking areas:

[a] Is 70%; or

[b] The Planning Board may, at its discretion, allow greater than 70% if proof that all stormwater will be managed on-site, utilizing LID (low-impact development) and BMP (best management practice) systems based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I

through III as amended from time to time. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission.

- [2] For lots in the C-3 Zone which are currently vacant (no existing structure) and for which new multifamily, attached single-family, or two-family dwellings, cottage clusters, or dwelling units as part of mixed-use building are proposed, the maximum impervious surface, including driveways, buildings, sidewalks and parking areas:
 - [a] Is 60%; or
 - [b] The Planning Board may, at its discretion, allow greater than 60% if proof that all stormwater will be managed on-site utilizing LID (low-impact development) and BMP (best management practice) systems based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I through III as amended from time to time. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission.
- [3] For lots in the C-1 or C-3 Zones which are currently developed and for which redevelopment is proposed with new nonresidential structures, the maximum impervious surface, including but not limited to driveways, buildings, sidewalks and parking areas:
 - [a] Is 70%; and all stormwater must be managed on-site, utilizing LID (low-impact development) and BMP (best management practice) systems based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I through III as amended from time to time. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission.
- [4] For all uses in the C-2 Zone, building and outdoor material coverage must not exceed 40%.
- (g) Minimum water body setback for functionally water-dependent uses: zero feet.
- (h) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, §16.4.28 and Appendix A, Fee Schedules.
- (i) Gasoline sales i) not located within 1,000 feet of an existing station or private residence; and ii) not located within 150 feet of an existing structure.
- (j) Repair garages must not be located within 150 feet of a private dwelling or existing structure.
- (k) Affordable housing requirements:
 - [1] All requirements in §16.5.4, Affordable housing, must be met.
 - [2] Density incentives outlined above in Subsection E(2)(a) may be applied to projects that create affordable housing units, as defined by this Code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.
- (l) Mixed-use buildings must have nonresidential uses comprising at least 50% of the street-facing first floor.
- (m) Underground utilities are required. The Planning Board may allow an alternative but it is incumbent upon the applicant to demonstrate why such a modification request should be granted.
- (n) Cottage cluster requirements:
 - [1] Cottage cluster dwelling units must either face the required common open space or the street. The

required open space must be held in common for use by all the cottage cluster residents and must be immediately accessible to each dwelling unit, via either the front or the back of each unit.

[2] Each cottage cluster dwelling unit must be no greater than 1,200 square feet. Spacing between units must comply with the requirements of the Fire Department and/or the State Fire Marshal's office.

[3] Shared parking areas must be connected to each dwelling unit via a sidewalk

(3) C-1 Zone standards. All development and the use of land except for new multifamily, attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of a mixed-use building within the C-1 Zone must meet the following standards:

(a) Parking.

[1] All new or revised parking must be visually screened by landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)

[2] Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year-round.

(b) Building design standards. Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical Revival. New buildings must be compatible with Kittery's characteristic styles in form, scale, material and color. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements: 1) a "front door," although other provisions for access to the building may be provided; 2) windows; or 3) display cases. (See Design Handbook for examples of acceptable materials and designs.) Strict imitation is not required. Design techniques can be used to maintain compatibility with characteristic styles and still leave enough flexibility for architectural variety. To achieve this purpose, the following design standards apply to new and modified existing building projects:

[1] Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character. (See Design Handbook for examples of acceptable materials, building scale, and designs.) "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.

[2] Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air handler units, exhaust vents, transformer boxes, and the like. (See Design Handbook for examples of appropriate treatments.)

[3] Loading docks and overhead doors. Loading docks and overhead doors must be located on the side

or rear of the building and screened from view from adjacent properties in residential use.

- (c) Landscaping site improvements. To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter **16.8** the following landscaping requirements apply to new and modified existing developments:
- [1] Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 30 feet in depth adjacent to the right-of-way of all public roads and include the following landscape elements:
 - [2] Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.
 - [3] Street-side trees. A minimum of one street tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species should be selected from the list of recommended street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
 - [4] Planter strip. Shrubs and flowering perennials must be planted at a minimum of 10 plants per 40 linear feet of street frontage unless existing woodlands are being retained or such planting is inconsistent with the retention of rural landscape features. The plant material should be selected from the list of recommended materials in the Design Handbook. The plants must be placed within the planter strip to enhance the visual character of the site and augment natural features and vegetation. (See Design Handbook for examples of appropriate treatments.)
- [5] Special situations.
- [a] Expansions of less than 2,000 square feet to existing uses are exempt from the landscaping standard of this subsection.
 - [b] Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized, in accordance with previous permits or approvals, for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street. If providing the required landscape planter strip together with other required landscaping and required vegetated areas in and around wetlands would cause the project to exceed the required open space standards, the depth of the landscape planter strip and the front yard may be reduced by the Planning Board so the open space standards are not exceeded, but in no case to less than 20 feet for this reason.
 - [c] Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (see list of recommended street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.
 - [d] Residences. Residential additions to existing single- and two-family dwellings and proposed single- and

duplex-family dwellings are exempt from the landscaping standards of this subsection.

- [6] Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)
- (d) Traffic and circulation standards.
 - [1] Sidewalks and roadways must be provided within the site to internally join abutting properties that are determined by the Planning Board to be compatible. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move within the site and between the principal customer entrance and the front lot line where a sidewalk exists or will be provided or where the Planning Board determines that such a route is needed for adequate pedestrian safety and movement. (See Design Handbook for appropriate examples.)
- (e) Open space standards.
 - [1] Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams and setbacks. Twenty-five percent of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as "open space." The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site, and maintain wildlife habitat. Individual large, healthy trees and areas with mature tree cover should be included in the open space. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties. The required amount of designated open space is reduced to 15% of each lot that is less than 100,000 square feet in size.
 - [2] Minimum land area per unit for elder-care facilities that are connected to the public sewerage system:
 - [a] Dwelling unit with two or more bedrooms: 3,000 square feet.
 - [b] Dwelling unit with less than two bedrooms: 2,000 square feet.
 - [c] Residential care unit: 1,500 square feet.
 - [d] Minimum land area per bed for nursing care and convalescent care facilities that are connected to the public sewerage system: 1,200 square feet.
 - (4) C-1 and C-3 Zone standards for attached single-family dwellings, multifamily dwellings, two-family dwellings where more than one two-family dwelling is proposed for a single lot, cottage clusters, and dwelling units as part of a mixed-use building:
 - (a) Design standards. See Kittery's Design Handbook for further information on how these standards can be met.
 - [1] Sidewalks must be installed within the right-of-way to meet minimum requirements as specified in §16.5.27, subject to review and approval by the Department of Public Works and MaineDOT if required.
 - [2] Connectivity between new housing development and adjacent existing or new commercial areas is required. This connectivity must, at minimum, include sidewalks or walkways. In the C-1 Zone, connectivity may also include vehicular access coupled with sidewalks or walkways between residential and commercial areas. Connectivity must be pedestrian-friendly with appropriately

scaled improvements such as eight-foot-wide sidewalks and human-scaled lighting.

- [3] On-street parking is encouraged on new or existing private roads off Route 1, and may be considered as a part of a joint use parking plan when such on-street parking is proposed as part of a development or redevelopment plan.
- [4] All service areas for dumpsters, compressors, generators and similar items must be screened by a fence at least six feet tall, constructed of a material similar to surrounding buildings, and must surround the service area except for the necessary ingress/egress.
- [5] Parking must be located behind multifamily dwellings and mixed-use buildings with residential dwelling units when viewed from the street. The Planning Board may allow parking to the side or front of such residential or mixed-use buildings at its discretion, but it is incumbent upon the applicant to demonstrate why rear parking is not feasible.
- [6] Lighting plans, including lighting fixture designs and photometric plans must be included at the time of application submission. All fixtures must be cut off to prevent light trespass and meet all requirements of §16.7.11.H.
- [7] A single new two-family dwelling proposed for a lot, the addition of another dwelling unit to an existing single-family residence to create a two-family dwelling and the addition of an ADU (accessory dwelling unit) to a single-family residence is exempt from these design standards.

(b) Open space standards.

- [1] Open space must be provided as a percentage of the total area of the lot, and may include wetlands, water bodies, streams, and setbacks. Fifteen percent of each lot must be designated as open space.
- [2] For multifamily dwellings, mixed-use buildings with residential dwelling units and attached single-family dwellings, in cases where the property does not meet the 15% requirement due to existing development, and where redevelopment will remain at the same or comprise a lower percentage of the lot, the Planning Board may, at its discretion, allow a smaller percentage of open space. In granting this concession, the Board may require more intensive landscape plantings.

(c) Parking standards. The following minimum off-street parking requirements must be provided and maintained in case of new construction, alterations, and changes of use:

- [1] Parking requirements must 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 §16.7.11F, minimum parking requirements for the uses below are modified as specified:

[a] Dwelling units: one parking space per dwelling unit.

[b] For multifamily dwellings, if more than 10 parking spaces are required, up to 20% of the parking may be designated for compact cars. See §16.7.11F, Off-street parking standards.

[c] When more than 50% of the dwelling units proposed are affordable as defined by this Code, two parking spaces for every three dwelling units.

- [2] 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.

- [3] 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 nonconflicting and will reasonably provide adequate parking for the multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekends or seasonal variation in parking demand.
- [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] Determination of parking adequacy will be based on a most frequent basis, not a "worst case" scenario;
 - [c] Joint-use parking areas must be located within 1,500 feet of the uses 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 must be demonstrated to the municipal permitting authority's satisfaction, including any proposed improvements, such as crosswalks or shuttle service that may be offered and its requisite loading/unloading areas;
 - [e] Such joint parking areas must not be located in residential zones of the Town.
- [4] In making determinations on off-site or joint-use parking under a development plan review, the municipal permitting authority with jurisdiction to review and approve will make a final determination of the joint-use and/or off-site spaces that constitute an acceptable combination of spaces to meet the required parking demand.
- [5] Electric car charging stations are allowed in parking lots but must not interfere with pedestrian movement on sidewalks.

(d) Landscaping and screening.

- [1] For new multifamily, attached single-family, or dwelling units as part of a mixed-use building or any new residential use that will create more than three dwelling units on a site, the following standards apply:
- [a] A landscape plan prepared by a registered landscape architect is a submission requirement. However, a landscape plan done by other design professionals may be allowed at the Planning Board's discretion.
 - [b] A minimum of one street tree must be planted for each 25 feet of street frontage. Trees may be planted in groups or spaced along the frontage. However, trees must be planted to ensure survival, using silva cells, bioretention cells or tree wells. Trees are to be a minimum of 2.5-inch caliper and 12 feet high at the time of planting. Existing large healthy trees must be preserved if practical and will count towards this requirement. Trees proposed within the right-of-way must remain under 20 feet tall at maturity.
 - [c] Surface parking lots designed for five or more cars that will service multifamily or mixed-use buildings with dwelling units and which abut a street, an existing single-family use, or a residential zone, must provide screening in one of the following ways:
 - [i] One tree per 25 feet of street frontage backed by a fence constructed of a material similar to surrounding buildings which must screen the parking area from the street except for necessary vehicular and pedestrian access. To ensure survival, trees must be planted using silva cells, bioretention cells or tree wells. Trees must be at least 2.5-inch caliper and 12 feet high at the time of planting. Existing large

healthy trees must be preserved if practical and will count towards this requirement. Trees proposed within the right-of-way must remain under 20 feet tall at maturity.

- [ii] A combination of trees and shrubs including at least 50% evergreen species, all at least six feet high at time of planting, in a planting bed at least eight feet wide. Plantings must be sufficient, as determined by the Planning Board, to screen the parking area from the street except for necessary vehicular and pedestrian access. Planting beds may be mulched but no dyed mulching material may be used
 - [d] A minimum of 10% of any surface parking area consisting of 10 or more spaces must be landscaped with trees and vegetated islands. This requirement is in addition to the aforementioned screening and street tree requirements.
 - [e] Native trees are preferred and must be drought and salt tolerant when used along streets. A diversity of tree species (three to five species per every 12 trees) is required to provide greater resiliency to threats from introduced insect pests and diseases.
 - [f] Any required plantings that do not survive must be replaced within one year. This requirement does not expire and runs with the land.
 - [g] If 25% of the proposed development will be affordable dwelling units, the Planning Board may, at its discretion, modify surface parking lot landscaping and screening requirements under Subsection E(4)(d)[1][c] and [d] above.
- (e) Buffers.
- [1] Buffers are required between new residential uses and existing nonresidential uses and must be at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape plan as described in Subsection E(4)[d][1] above and consist of:
 - [a] A fence at least six feet high, constructed of material similar to surrounding buildings, with plantings of trees at least six feet tall at time of planting and shrubs on the new residential side of the fence.
 - [b] Ground cover plantings such as perennials or ornamental grasses must be used where appropriate.
 - [c] Plantings must be provided with irrigation to enhance survival unless they are part of a bioretention cell, rain garden or tree well.
 - [d] Any required plantings that do not survive must be replaced within one year. This requirement does not expire and runs with the land.
 - [e] If 25% of the proposed development will be affordable housing dwelling units, the Planning Board may, at its discretion, modify buffer requirements under Subsection E(4)(e)[1][a] and [c].
 - [2] Buffers are required between new residential uses and existing single-family uses and must be at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape plan as described in Subsection E(4)[d][1] above and consist of:
 - [a] A fence at least six feet high, constructed of material similar to surrounding buildings, with plantings of trees and shrubs at least six feet tall on the new residential side of the fence; or
 - [b] Plantings of trees at least six feet tall and shrubs, including at least 50% evergreen species. Such plantings must ensure adequate buffering and screening is achieved as determined by the Planning Board.
 - [c] Ground cover plantings, such as perennials or ornamental grasses must be used where appropriate.

- [d] Plantings must be provided with irrigation to enhance survival unless they are part of a bioretention cell, rain garden or tree well.
- [e] Any required plantings that do not survive must be replaced within one year. This requirement does not expire and runs with the land.
- [f] If 25% of the proposed development will be affordable housing dwelling units, the Planning Board may, at its discretion, modify buffer requirements under Subsection E(4)(e)[2][a], [b] and [c].

F. Shoreland Overlay Zone OZ-SL — Commercial — 1 Zone (C-1).

- (1) Permitted uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Home occupation, major.
 - (c) Home occupation, minor.
 - (d) Recreation, public facility.
 - (e) Recreation, public open space.
 - (f) Recreation, selected commercial.
 - (g) Public utility facility.
 - (h) Commercial school.
 - (i) Public or private school.
 - (j) Nursery school.
 - (k) Hospital.
 - (l) Nursing care facility, long-term.
 - (m) Convalescent care facility.
 - (n) Public facility.
 - (o) Religious use.
 - (p) Private assembly.
- (2) Special exception uses.
 - (a) Aquaculture.
 - (b) Art studio or gallery.
 - (c) Retail sales, building materials and garden supply.
 - (d) Business and professional offices.
 - (e) Business services.

- (f) Parking area.
 - (g) Conference center.
 - (h) Day-care facility.
 - (i) Retail sales.
 - (j) Retail sales, convenience.
 - (k) Mass transit station.
 - (l) Mini storage.
 - (m) Motel.
 - (n) Hotel.
 - (o) Rooming house.
 - (p) Inn.
 - (q) Personal services.
 - (r) Repair services.
 - (s) Public assembly area.
 - (t) Theater.
 - (u) Research and development.
 - (v) Restaurant.
 - (w) Retail sales.
 - (x) Wholesale businesses.
 - (y) Specialty food and/or beverage facility.
 - (z) Transportation terminal.
 - (aa) Veterinary hospital.
 - (bb) Warehousing and storage.
 - (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.
- G. Resource Protection Overlay Zone OZ-RP - Commercial - 1 Zone (C-1).
- (1) Permitted uses.
 - (a) Recreation, public open space.
 - (2) Special exception uses.

- (a) Accessory uses and buildings.
- (b) Aquaculture.
- (c) Home occupations, major.
- (d) Home occupations, minor.
- (e) Public utility facilities.
- (f) Research and development.
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

§ 16.4.21 **Commercial 3, Bypass/Old Post Road Commercial Zone (C-3).**

A. Purpose.

- (1) The C-3 (Bypass/Old Post Road Commercial) Zone proposed to introduce a mix of housing, businesses and services to an area that serves as one of the gateways to and through Kittery. Existing infrastructure, proximity to residential neighborhoods, and direct access to I-95 give this zone opportunities for housing and commercial uses, as well as advancing pedestrian access, serving residents and the region.
- (2) To reflect the differing character of various parts of the commercial areas, it is divided into three zones that are shown on the Zoning Map:
 - (a) C-1 Route 1 Commercial Zone.
 - (b) C-2 Route 236 Commercial Zone.
 - (c) C-3 Bypass/Old Post Road Commercial Zone.
- (3) Where the standards or requirements for the zones vary, the provisions for the zone in which the parcel is located apply.

B. Permitted uses. The following uses are permitted in the C-3 Zone:

- (1) Accessory dwelling unit.
- (2) Convalescent care facility.
- (3) Dwelling, two-family.
- (4) Nursing care facility, long-term.
- (5) Residential care facility.
- (6) Accessory buildings, structures, and uses.
- (7) Home occupation major.
- (8) Home occupation, minor.
- (9) Hotel.
- (10) Inn.

- (11) Motel.
- (12) Rooming house.
- (13) Day-care facility.
- (14) Hospital.
- (15) Nursery school.
- (16) Private assembly.
- (17) Public facility.
- (18) Public or private school.
- (19) Public utility facility.
- (20) Religious use.
- (21) Recreation, commercial indoor.
- (22) Recreation, commercial outdoor.
- (23) Recreation, public open space.
- (24) Recreation, public facility.
- (25) Aquaculture.
- (26) Commercial fisheries/maritime activities (provided only incidental cleaning and cooking of seafood occur at the site).
- (27) Commercial school.
- (28) Veterinary hospital.
- (29) Art studio or gallery.
- (30) Business and professional offices.
- (31) Business services.
- (32) Conference center.
- (33) Personal services.
- (34) Repair service.
- (35) Restaurant.
- (36) Retail sales.
- (37) Retail sales, building materials and garden supply.
- (38) Retail sales, convenience.

(39) Specialty food and/or beverage facility.

(40) Boatyard.

(41) Mass transit station.

(42) Mechanical services.

(43) Parking area.

(44) Wholesale business.

C. Special exception uses. The following uses are permitted by special exception uses in the C-3 Zone:

- (1) Buildings and structures over 40 feet that conform to the provisions of Chapters **16.7** and **16.8**. Buildings and structures, other than multifamily dwellings and dwelling units as part of a mixed-use building in the C-3 Zone, west of Route 1, which are taller as allowed in § **16.4.21B(41)** higher than 40 actual feet from the lowest point of grade to the highest point of the building or structure must have side, rear and front yards of sufficient depth to adequately protect the health, safety and welfare of abutting properties, and which may not be less than current standards or 50% of actual height, whichever is greater.
- (2) Commercial greenhouses.
- (3) Construction services.
- (4) Cottage cluster.
- (5) Dwelling, attached single-family.
- (6) Dwelling, multifamily.
- (7) Dwellings as part of a mixed-use building.
- (8) Funeral home.
- (9) Gasoline service station.
- (10) Industry, light.
- (11) Mini storage not located within 2,000 feet from an existing mini storage facility located in the same zoning district.
- (12) Public assembly area.
- (13) Theater.
- (14) Repair garage.
- (15) Research and development.
- (16) Shops in pursuit of trade.
- (17) Transportation terminal (excluding truck stops).
- (18) Warehousing and storage.

(19) Marijuana business.

D. Undefined uses in C-1 and C-3 Zones.

(1) Undefined uses will be considered by the Planning Board based on the following criteria:

- (a) If the use is consistent with the Comprehensive Plan and zoning district purposed; and
- (b) If the use meets special exception criteria found in § 16.4.21C.

(2) In addition, the undefined use must meet one or both of the following criteria:

- (a) If the proposed use has substantially similar impacts as a listed use.
- (b) If the proposed use is compatible with existing uses within the zoning district for which it is proposed.

E. Standards.

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

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

(a) Minimum lot size or density:

C-1 and C-3 Zones

Cottage cluster	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, attached single-family	
Dwelling, multifamily	<u>40 units per acre when over 50% of the units are affordable housing units as defined by this Code*</u>
Dwelling, two-family	
Dwelling units as part of a mixed-use building	
All other uses	40,000 square feet

NOTES:

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

(b) Minimum street frontage:

C-1 and C-3 Zones

All uses	No minimum*
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NOTES:

C-1 and C-3 Zones

* All lots must meet the requirements of §16.5.14, Lots, unless specifically modified by this section (§16.4.21). Street frontage must provide sufficient vehicular and pedestrian access for the uses proposed while meeting public health and safety requirements (e.g., Fire Department, Department of Public Works). The applicant must demonstrate to the municipal permitting authority, that the street frontage and lot design meet these requirements to the extent practicable.

(c) Maximum front setback:

C-1 and C-3 Zones

All uses	15 feet*
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NOTES:

* The Planning Board may, at its discretion, allow a greater setback when public amenities such as benches, pocket parks, outdoor dining or seating areas are proposed. Properties in the C-3 Zone with frontage on Old Post Road, including those lots which also have frontage on Route 1 Bypass, are required to have at least a fifteen-foot setback on Old Post Road.

(d) Minimum rear and side setbacks:

C-3 Zone

All uses	10 feet***
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NOTES:

*** Except where side and/or rear setbacks of proposed new uses abut a single-family use in which case a minimum of 15 feet is required.

(e) Maximum building height:

C-3 Zone

Dwelling, multifamily	40 feet*
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Dwelling units as part of a mixed-use building

All other uses	40 feet
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NOTES:

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

** For properties in the C-3 Zone with frontage on Old Post Road, including those lots which also have frontage on Route 1 Bypass, the setback on Old Post Road must be 15 feet or greater as provided by

C-3 Zone

Subsection **E(2)(c)** above and building heights must not exceed 25 feet for the first 15 feet beyond the minimum fifteen-foot setback.

(f) Impervious surface:

[1] For lots in the C-1 and C-3 Zones which are currently developed and for which new multifamily, attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of mixed-use building are proposed, either with or without existing or new commercial uses on the same lot, the maximum impervious surface, including but not limited to driveways, buildings, sidewalks and parking areas:

[a] Is 70%; or

[b] The Planning Board may at its discretion, allow greater than 70% if proof that all stormwater will be managed on-site, utilizing LID (low-impact development) and BMP (best management practice) systems based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I through III as amended from time to time. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission.

[2] For lots in the C-3 Zone which are currently vacant (no existing structure) and for which new multifamily, attached single-family, or two-family dwellings, cottage clusters, or dwelling units as part of mixed-use building are proposed, the maximum impervious surface, including driveways, buildings, sidewalks and parking areas:

[a] Is 60%; or

[b] The Planning Board may, at its discretion, allow greater than 60% if proof that all stormwater will be managed on-site utilizing LID (low-impact development) and BMP (best management practice) systems based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I through III as amended from time to time. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission.

[3] For lots in the C-1 or C-3 Zones which are currently developed and for which redevelopment is proposed with new nonresidential structures, the maximum impervious surface, including but not limited to driveways, buildings, sidewalks and parking areas:

[a] Is 70%; and all stormwater must be managed on-site, utilizing LID (low-impact development) and BMP (best management practice) systems based on Maine DEP's Maine Stormwater Best Management Practices Manual, Volumes I through III as amended from time to time. The stormwater report and plan demonstrating that this requirement is met must be included with the application at the time of submission.

[4] For all uses in the C-2 Zone, building and outdoor material coverage must not exceed 40%.

(g) Minimum water body setback for functionally water-dependent uses: zero feet.

(h) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee Schedules.

(i) Gasoline sales i) not located within 1,000 feet of an existing station or private residence; and ii) not located within 150 feet of an existing structure.

- (j) Repair garages must not be located within 150 feet of a private dwelling or existing structure.
- (k) Affordable housing requirements:
 - [1] All requirements in § **16.5.4**, Affordable housing, must be met.
 - [2] Density incentives outlined above in Subsection **E(2)(a)** may be applied to projects that create affordable housing units, as defined by this Code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.
- (l) Mixed-use buildings must have nonresidential uses comprising at least 50% of the street-facing first floor.
- (m) Underground utilities are required. The Planning Board may allow an alternative but it is incumbent upon the applicant to demonstrate why such a modification request should be granted.
- (n) Cottage cluster requirements:
 - [1] Cottage cluster dwelling units must either face the required common open space or the street. The required open space must be held in common for use by all the cottage cluster residents and must be immediately accessible to each dwelling unit, via either the front or the back of each unit.
 - [2] Each cottage cluster dwelling unit must be no greater than 1,200 square feet. Spacing between units must comply with the requirements of the Fire Department and/or the State Fire Marshal's office.
 - [3] Shared parking areas must be connected to each dwelling unit via a sidewalk
- (3) C-3 Zone standards. All development and the use of land except for new multifamily, attached single-family or two-family dwellings, cottage clusters, or dwelling units as part of a mixed-use building within the C-3 Zone must meet the following standards:
 - (a) Parking.
 - [1] All new or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)
 - [2] Each parking space is to contain a rectangular area at least 19 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. This is exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets, and usable for the storage or parking of passenger vehicles. Parking spaces or access thereto must be constructed as to be usable year-round.
 - (b) Building design.
 - [1] Kittery's characteristic buildings reflect its historical seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal and Classical Revival. New buildings must be compatible with Kittery's characteristic styles in form, scale, material and color. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements: 1) a "front door," although other provisions for access to the building may be provided; 2) windows; or 3) display cases. (See Design Handbook for examples of acceptable materials and designs.) Strict imitation is not required. Design techniques can be used to maintain compatibility with characteristic styles and still leave enough flexibility for architectural variety. To

achieve this purpose, the following design standards apply to new and remodeled building projects:

- [2] Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character. (See Design Handbook for examples of acceptable materials, building scale and designs.) "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard.
 - [3] Roofs. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air-conditioning units, air handler units, exhaust vents, transformer boxes and the like. (See Design Handbook for examples of appropriate treatments.)
 - [4] Loading docks and overhead doors. Loading docks and overhead doors must be located on the side or rear of the building and screened from view from adjacent properties in residential use.
- (c) Landscaping site improvements.
- [1] To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter **16.7** the following landscaping requirements apply to new and modified existing developments:
 - [2] Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 15 feet in depth adjacent to the right-of-way of all public roads and include the following landscape elements:
 - [a] Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.
 - [b] Street-side trees. A minimum of one tree must be planted for each 50 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species should be selected from the list of recommended street trees in the Town Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
 - [3] Special situations.
 - [a] Expansions of less than 1,000 square feet to existing uses are exempt from the landscaping standard of this subsection.
 - [b] Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized, in accordance with previous permits or approvals, for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street.
 - [c] Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one tree (see list of recommended street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential

use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.

- [4] Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)
- (d) Traffic and circulation standards.
 - [1] Sidewalks and roadways must be provided within the site to internally join abutting properties that are determined by the Planning Board to be compatible. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move within the site and between the principal customer entrance and the front lot line where a sidewalk exists or will be provided or where the Planning Board determines that such a route is needed for adequate pedestrian safety and movement. (See Design Handbook for appropriate examples.)
- (e) Open space standards.
 - [1] Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams and setbacks. 20% of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as "open space." The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site, and maintain wildlife habitat. Individual large, healthy trees and areas with mature tree cover should be included in the open space. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties. The required amount of designated open space is reduced to 10% of each lot that is less than 40,000 square feet in size.
 - (4) C-1 and C-3 Zone standards for attached single-family dwellings, multifamily dwellings, two-family dwellings where more than one two-family dwelling is proposed for a single lot, cottage clusters, and dwelling units as part of a mixed-use building:
 - (a) Design standards. See Kittery's Design Handbook for further information on how these standards can be met.
 - [1] Sidewalks must be installed within the right-of-way to meet minimum requirements as specified in § 16.5.27, subject to review and approval by the Department of Public Works and MaineDOT if required.
 - [2] Connectivity between new housing development and adjacent existing or new commercial areas is required. This connectivity must, at minimum, include sidewalks or walkways. In the C-1 Zone, connectivity may also include vehicular access coupled with sidewalks or walkways between residential and commercial areas. Connectivity must be pedestrian-friendly with appropriately scaled improvements such as eight-foot wide sidewalks and human-scaled lighting.
 - [3] On-street parking is encouraged on new or existing private roads off Route 1, and may be considered as a part of a joint use parking plan when such on-street parking is proposed as part of a development or redevelopment plan.
 - [4] All service areas for dumpsters, compressors, generators and similar items must be screened by a fence

at least six feet tall, constructed of a material similar to surrounding buildings, and must surround the service area except for the necessary ingress/egress.

- [5] Parking must be located behind multifamily dwellings and mixed-use buildings with residential dwelling units when viewed from the street. The Planning Board may allow parking to the side or front of such residential or mixed-use buildings at its discretion, but it is incumbent upon the applicant to demonstrate why rear parking is not feasible.
 - [6] Lighting plans, including lighting fixture designs and photometric plans must be included at the time of application submission. All fixtures must be cut off to prevent light trespass and meet all requirements of § 16.7.11H.
 - [7] A single new two-family dwelling proposed for a lot, the addition of another dwelling unit to an existing single-family residence to create a two-family dwelling and the addition of an ADU (accessory dwelling unit) to a single-family residence is exempt from these design standards.
- (b) Open space standards.
- [1] Open space must be provided as a percentage of the total area of the lot, and may include wetlands, water bodies, streams, and setbacks. Fifteen percent of each lot must be designated as open space.
 - [2] For multifamily dwellings, mixed-use buildings with residential dwelling units and attached single-family dwellings, in cases where the property does not meet the 15% requirement due to existing development, and where redevelopment will remain at the same or comprise a lower percentage of the lot, the Planning Board may, at its discretion, allow a smaller percentage of open space. In granting this concession, the Board may require more intensive landscape plantings.
- (c) Parking standards. The following minimum off-street parking requirements must be provided and maintained in case of new construction, alterations, and changes of use:
- [1] Parking requirements must 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:
 - [a] Dwelling units: one parking space per dwelling unit.
 - [b] For multifamily dwellings, if more than 10 parking spaces are required, up to 20% of the parking may be designated for compact cars. See §16.7.11.F, Off-street parking standards.
 - [c] When more than 50% of the dwelling units proposed are affordable as defined by this Code, two parking spaces for every three dwelling units.**
 - [2] 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;
 - [3] 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 nonconflicting and will reasonably provide adequate parking for the multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekends or seasonal variation in parking demand.

- [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] Determination of parking adequacy will be based on a most frequent basis, not a "worst case" scenario;
 - [c] Joint use parking areas must be located within 1,500 feet of the uses 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 must be demonstrated to the municipal permitting authority's satisfaction, including any proposed improvements, such as crosswalks or shuttle service that may be offered and its requisite loading/unloading areas;
 - [e] Such joint parking areas must not be located in residential zones of the Town.
- [4] In making determinations on off-site or joint-use parking under a development plan review, the municipal permitting authority with jurisdiction to review and approve will make a final determination of the joint-use and/or off-site spaces that constitute an acceptable combination of spaces to meet the required parking demand.
- [5] Electric car charging stations are allowed in parking lots but must not interfere with pedestrian movement on sidewalks.
- (d) Landscaping and screening.
- [1] For new multifamily, attached single-family, or dwelling units as part of a mixed-use building or any new residential use that will create more than three dwelling units on a site, the following standards apply:
- [a] A landscape plan prepared by a registered landscape architect is a submission requirement. However, a landscape plan done by other design professionals may be allowed at the Planning Board's discretion.
 - [b] A minimum of one street tree must be planted for each 25 feet of street frontage. Trees may be planted in groups or spaced along the frontage. However, trees must be planted to ensure survival, using silva cells, bioretention cells or tree wells. Trees are to be a minimum of 2.5-inch caliper and 12 feet high at the time of planting. Existing large healthy trees must be preserved if practical and will count towards this requirement. Trees proposed within the right-of-way must remain under 20 feet tall at maturity.
 - [c] Surface parking lots designed for five or more cars that will service multifamily or mixed-use buildings with dwelling units and which abut a street, an existing single-family use, or a residential zone, must provide screening in one of the following ways:
 - [1] One tree per 25 feet of street frontage backed by a fence constructed of a material similar to surrounding buildings which must screen the parking area from the street except for necessary vehicular and pedestrian access. To ensure survival, trees must be planted using silva cells, bioretention cells or tree wells. Trees must be at least 2.5-inch caliper and 12 feet high at the time of planting. Existing large healthy trees must be preserved if practical and will count towards this requirement. Trees proposed within the right-of-way must remain under 20 feet tall at maturity.
 - [2] A combination of trees and shrubs including at least 50% evergreen species, all at least six feet high at time of planting, in a planting bed at least eight feet wide. Plantings must be sufficient, as determined by the Planning Board, to screen the parking area from the street except for necessary vehicular and pedestrian access. Planting beds may be mulched but no dyed-mulching material may be used.
 - [d] A minimum of 10% of any surface parking area consisting of 10 or more spaces must be landscaped with trees and vegetated islands. This requirement is in addition to the aforementioned screening and

street tree requirements.

- [e] Native trees are preferred and must be drought- and salt-tolerant when used along streets. A diversity of tree species (three to five species per every 12 trees) is required to provide greater resiliency to threats from introduced insect pests and diseases.
 - [f] Any required plantings that do not survive must be replaced within one year. This requirement does not expire and runs with the land.
 - [g] If 25% of the proposed development will be affordable dwelling units, the Planning Board may, at its discretion, modify surface parking lot landscaping and screening requirements under Subsection E(4)(d)[1][c] and [d].
- (e) Buffers.
- [1] Buffers are required between new residential uses and existing nonresidential uses and must be at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape plan as described in Subsection E(4)(d)[1][a] above and consist of:
 - [a] A fence at least six feet high, constructed of material similar to surrounding buildings, with plantings of trees at least six feet tall at time of planting and shrubs on the new residential side of the fence.
 - [b] Ground cover plantings such as perennials or ornamental grasses must be used where appropriate.
 - [c] Plantings must be provided with irrigation to enhance survival unless they are part of a bioretention cell, rain garden or tree well.
 - [d] Any required plantings that do not survive must be replaced within one year. This requirement does not expire and runs with the land.
 - [e] If 25% of the proposed development will be affordable housing dwelling units, the Planning Board may, at its discretion, modify buffer requirements under Subsection E(4)(e)[1][a] and [b].
 - [2] Buffers are required between new residential uses and existing single-family uses and must be at least 10 feet wide. A buffer plan must be prepared in conjunction with the landscape plan as described in Subsection E(4)(d)[1][a] above and consist of:
 - [a] A fence at least six feet high, constructed of material similar to surrounding buildings, with plantings of trees and shrubs at least six feet tall on the new residential side of the fence; or
 - [b] Plantings of trees at least six feet tall and shrubs, including at least 50% evergreen species. Such plantings must ensure adequate buffering and screening is achieved as determined by the Planning Board.
 - [c] Ground cover plantings, such as perennials or ornamental grasses must be used where appropriate.
 - [d] Plantings must be provided with irrigation to enhance survival unless they are part of a bioretention cell, rain garden or tree well.
 - [e] Any required plantings that do not survive must be replaced within one year. This requirement does not expire and runs with the land.
 - [f] If 25% of the proposed development will be affordable housing dwelling units, the Planning Board may, at its discretion, modify buffer requirements under Subsection E(4)(e)[2][a], [b] and [c].

F. Shoreland Overlay Zone OZ-SL — Commercial — 3 Zone (C-3).

- (1) Permitted uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Home occupation, major.
 - (c) Home occupation, minor.
 - (d) Aquaculture.
 - (e) Recreation, public facility.
 - (f) Recreation, public open space.
 - (g) Recreation, selected commercial.
 - (h) Public utility facility.
 - (i) Commercial school.
 - (j) Public or private school.
 - (k) Nursery school.
 - (l) Hospital.
 - (m) Elder care facility.
 - (n) Nursing care facility, long-term.
 - (o) Convalescent care facility.
 - (p) Public facility.
 - (q) Religious use.
 - (r) Private assembly.
- (2) Special exception uses.
 - (a) Adult entertainment establishment, not located within 1,000 feet of an existing private residence, school or place of worship.
 - (b) Art studio or gallery.
 - (c) Boatyard.
 - (d) Business and professional offices.
 - (e) Business services.
 - (f) Commercial fisheries/maritime activities, provided only incidental cleaning and cooking of seafood occur at the site.

- (g) Parking area.
 - (h) Conference center.
 - (i) Construction services.
 - (j) Day-care facility.
 - (k) Funeral home.
 - (l) Retail sales, convenience.
 - (m) Mass transit station.
 - (n) Motel.
 - (o) Hotel.
 - (p) Rooming house.
 - (q) Inn.
 - (r) Mini storage.
 - (s) Personal service.
 - (t) Public assembly area.
 - (u) Theater.
 - (v) Research and development.
 - (w) Restaurant.
 - (x) Retail sales.
 - (y) Wholesale business.
 - (z) Shops in pursuit of trade.
 - (aa) Transportation terminal (excluding truck stops).
 - (bb) Veterinary hospital.
 - (cc) Warehousing and storage.
 - (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.
- G. Resource Protection Overlay Zone OZ-RP — Commercial — 3 Zone (C-3).
- (1) Permitted uses.
 - (a) Recreation, public open space.
 - (2) Special exception uses.

- (a) Accessory uses and buildings.
 - (b) Aquaculture.
 - (c) Home occupations, major.
 - (d) Home occupations, minor.
 - (e) Public utility facility.
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: This zone is in Kittery's growth area, has access to public utilities and allows multifamily housing so falls under LD-2003's affordable housing density component. LD-2003's dwelling unit allowance of 4 units on a vacant lot requirements and two additional units on a lot with an existing residence can be met with a few additions to the existing code. Changes to the code are in this font in bold.

§16.4.23 **Mixed-Use (MU).**

A. Purpose.

- (1) To provide opportunities for a mix of office, service, and limited residential and retail uses, to alter the pattern of commercial activity on Route 1, to serve Kittery's needs, and to minimize traffic congestion. A mix of uses on a site is desired and, in some cases, required; a continuation of strip development is not encouraged in this zone. The Mixed-Use Zone is intended to accommodate growth.
- (2) The purpose of large lot sizes, open space standards, and frontage requirements is to limit the number of access points along U.S. Route 1, to encourage the development of service roads which may serve several developments, and to create development that will retain the predominant rural character of the zone. Other objectives are to encourage an orderly and safe traffic flow along U.S. Route 1, pedestrian safety, and an attractive site design enhanced by landscaping, open space, and restrictions on the locations of parking. These development goals are supported by the principles and objectives identified in the Town's Design Handbook, Kittery Maine.

B. Permitted uses.

- (1) Accessory dwelling units.
- (2) Dwelling, single-family (limited to lots of record as of April 1, 2004).
- (3) Dwelling , multifamily ~~(limited to the upper floors of mixed-use building that is served by public sewerage).~~
- (4) Dwelling units as part of a mixed-use building (served by public sewer).
- (5) Dwelling, attached single-family (served by public sewer).
- (5) Convalescent care facility.
- (6) Nursing care facility, long-term.
- (7) Residential care facility.
- (8) Accessory buildings, structures, and uses.
- (9) Home occupations, major.
- (10) Home occupations, minor.
- (11) Inn.
- (12) Day-care facility.
- (13) Hospital.
- (14) Private assembly (which is not used for residential or overnight occupancy).

- (15) Public facility.
- (16) Public or private school (which is not used for residential or overnight occupancy).
- (17) Recreation, commercial indoor.
- (18) Recreation, commercial outdoor.
- (19) Recreation, public open space.
- (20) Agriculture.
- (21) Commercial school (which is not used for residential or overnight occupancy).
- (22) Timber harvesting.
- (23) Veterinary hospital.
- (24) Art studio or gallery.
- (25) Business and professional offices.
- (26) Funeral home.
- (27) Personal services.
- (28) Repair service.
- (29) Research and development.
- (30) Restaurant.
- (31) Retail sales (a single use not to exceed 50,000 square feet in gross floor area).
- (32) Retail sales, building materials and garden supply.
- (33) Retail sales, convenience.
- (34) Specialty food and/or beverage facility.
- (35) Theater.
- (36) Boatyard.
- (37) Mass transit station.
- (38) Industry, light (less than or equal to 20,000 square feet in gross floor area).
- (39) Parking area.

C. Special exception uses.

- (1) Aged-restricted housing.
- (2) Campground.

- (3) Recreational vehicle park.
- (4) Construction services.
- (5) Commercial kennel.
- (6) Commercial greenhouses.
- (7) Theater, drive-in.
- (8) Gas service station.
- (9) Industry, light (greater than 20,000 square feet in gross floor area).
- (10) Mechanical services.
- (11) Motel.
- (12) Hotel.
- (13) New motor vehicle sales.
- (14) Public utility facilities.
- (15) Repair garage.
- (16) Retail sales (a single use greater than 50,000 square feet in gross floor area and less than 150,000 square feet in gross floor area).
- (17) Shop in pursuit of trade.
- (18) Transportation terminal.
- (19) Warehousing and storage.
- (20) Wholesale business.

D. Standards.

- (1) All development and the use of land in the MU Zone must meet the following standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the design and performance standards of Chapters **16.5**, **16.7** and **16.8** must be met.
- (2) Minimum dimensional standards. The following apply:
 - (a) Minimum lot size:
 - [1] Lots with frontage on Route 1: 200,000 square feet.
 - [2] Lots without frontage on Route 1: 80,000 square feet.
 - (b) Minimum street frontage on road with access along U.S. Route 1, Haley Road, Lewis Road, or Cutts Road: 250 feet.
 - [1] Other streets or approved ways: 150 feet.

- (c) Minimum front yard: 30 feet.
- (d) Minimum rear and side yards: 30 feet.
- (e) Maximum building height: 40 feet.
- (f) Maximum height above grade of building-mounted signs: 40 feet.
- (g) Minimum setback from water body and wetland water-dependent uses: zero feet.
- (h) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, §16.4.28 and Appendix A, Fee Schedules.
- (i) Minimum land area per unit for elder care facilities that are connected to the public sewerage system:
 - [1] Dwelling unit with two or more bedrooms: 5,000 square feet.
 - [2] Dwelling unit with less than two bedrooms: 4,000 square feet.
 - [3] Residential care unit: 2,500 square feet.
- (j) Minimum land area per bed for nursing care and convalescent care facilities that are connected to the public sewerage system: 2,000 square feet.
- (k) Buffer to I-95 right-of-way: 40 feet.
- (l) Buffer to neighboring lot with an existing residence within 100 feet of the lot line: 40 feet.
- (m) Vegetated buffer to be maintained between the MU and R-RL Zones: 40 feet.

Note 1: For single-family dwellings, **and vacant lots of record**, one dwelling unit is allowed for each 200,000 square feet of land area. A lot of record having a land area of more than 200,000 square feet that was improved with a single-family dwelling as of April 1, 2004, may:

- a. Be divided into two lots **with a single-family dwelling on each lot** provided that each of the lots contains at least 40,000 square feet of land area and meets the other dimensional standards of the zone. Section **16.4.10D(1)** and **(2)** as set forth in the Residential - Rural Zone apply and no further subdivision is allowed.

Note 2: For dwelling units that are part of a mixed-use building **or a multifamily building** and are connected to the public sewerage system, one dwelling unit is allowed for each 10,000 square feet of buildable land area. **Where over 50% of such dwelling units described above will be affordable as defined by this code: 4,000 square feet of buildable land area.** [NOTE: multifamily dwellings are not allowed in either Resource Protection or Shoreland Overlay Zones] ~~Within the Resource Protection and Shoreland Overlay Zones, one dwelling unit is allowed for each 40,000 square feet of land area within these zones.~~ If the parking for the residential units is encompassed within the building, the minimum required buildable land area per dwelling unit is reduced to 7,500 square feet. **Where over 50% of the dwelling units will be affordable as defined by this code and parking is encompassed within the building: 3,000 square feet of buildable land area.** ~~except in the Resource Protection and Shoreland Overlay Zones where the area per dwelling unit remains 40,000 square feet.~~ **In addition, for those developments where more than 50% of the dwelling units will be affordable, parking requirements are reduced to two parking spaces per three dwelling units.**

Note 3: For aged-restricted dwelling units that are connected to the public sewerage system, one dwelling unit is allowed for each 15,000 square feet of buildable land area. Within the Resource Protection and Shoreland Overlay Zones, one dwelling unit is allowed for each 40,000 square feet of land within these zones. If the parking for the aged-restricted units is encompassed within the building, the minimum required buildable land area per dwelling unit is reduced to 10,000 square feet, except in the Resource Protection and Shoreland Overlay Zones where the area per dwelling unit remains 40,000 square feet.

- (3) Retail use limitation. Retail use, including parking areas and other supporting unvegetated areas for retail use, is limited to not more than 30% of the developable area of any lot or portion of a lot within the Mixed-Use Zone.
 - (4) Mixed-use requirement. The Mixed-Use Zone is intended for the creation of an area in the Town that has a mix of uses and in which no single type of use predominates. To this end, larger scale projects must incorporate a mix of principal uses into the development. Any new development that creates more than 20,000 square feet of gross floor area must include at least two principal uses as set forth in the list of permitted uses and special exceptions. To fulfill this requirement, the smaller use or combination of smaller uses must contain at least 10% of the gross floor area. The combination of retail uses that are permitted uses and one larger retail use allowed as a special exception does not fulfill this requirement. This provision does not apply to the development of a single lot of record as of April 1, 2004, that has a lot area of less than 200,000 square feet.
 - (5) Location and screening of parking areas. All new parking areas must be located at the side of, and/or to the rear of, principal buildings. Where unique circumstances exist and it is demonstrated to the Planning Board that prohibition of parking in front of the principal building is not practicable, with the Board's approval, 10 or fewer parking spaces may be located closer to the front lot line than a principal building. All new or altered parking must be visually screened from U.S. Route 1, Lewis Road, Cutts Road, and Haley Road by extensive landscaping, earthen berms, and/or fencing (see Design Handbook for examples of acceptable screening).
 - (6) Building design standards. Kittery's characteristic buildings reflect its historic seacoast past. The primary architectural styles are New England Colonial (such as Cape Cod and saltbox), Georgian, Federal, and Classical Revival. New buildings should be compatible with Kittery's characteristic styles in form, scale, material, and color. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements: 1) a front door, although other provisions for access to the building may be provided, 2) windows, or 3) display cases (see Design Handbook for examples of acceptable materials and designs). Though strict imitation is not required, design techniques can be used to maintain compatibility with characteristic styles and still leave enough flexibility for architectural variety. To achieve this purpose, the following design standards apply to new and remodeled building projects:
 - (a) Exterior building materials and details. Building materials and details strongly define a project's architectural style and overall character (see Design Handbook for examples of acceptable materials, building scale, and designs). "One-sided" schemes are prohibited; similar materials and details must be used on all sides of a building to achieve continuity and completeness of design.
- [1] Predominant exterior building materials. Predominant exterior building materials must be of good quality and characteristic of Kittery, such as horizontal wood board siding, vertical wood boards, wood shakes, brick, stone or simulated stone, glass and vinyl, or metal clapboard. Stucco, adobe, sheet metal, standard concrete block, tilt-up concrete panels, plywood or particle board are prohibited as the primary materials.
 - [2] Blank walls. A wall may not extend for a length of more than 50 linear feet without an architectural feature such as a dormer, pilaster, cornice, corner, window, porch, or visually compatible door to break

up the large mass of a featureless wall (see Design Handbook for examples of the appropriate treatment of walls). As an exception, walls with a clapboard facade may extend for a length of up to 100 feet without such an architectural feature.

- [3] Light industrial and boatyard uses. Such uses must comply with the above standards only along the front face and extending back 100 feet along the side walls.
- (b) Roofs. Roofs must meet the following standards:
 - [1] Form. A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel, and hipped roofs. Flat roofs, shed roofs, and roof facades (such as "stuck on" mansards) are not acceptable as primary roof forms.
 - [2] Color. Roof colors must be muted (see Design Handbook for examples).
 - [3] Rooftop mechanical and electrical equipment. Rooftops must be free of clutter. The roof design must screen or camouflage rooftop protrusions to minimize the visual impact of air conditioning units, air handler units, exhaust vents, transformer boxes, and the like (see Design Handbook for examples of appropriate treatments). Interior-mounted equipment is encouraged. Whenever possible, utility equipment areas must be placed in an obscure location and screened from view.
 - [4] Loading docks and overhead doors. Loading docks and overhead doors must be located on the side or rear of the building and be screened from view from public streets.
- (7) Landscaping standards. To achieve attractive and environmentally sound site design, and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapters **16.7** and **16.8**, the following landscaping requirements apply to new and modified existing developments:
 - (a) Landscape planter strip. A vegetated landscape planter strip 30 feet in depth (as measured from the edge of the property line) must be provided along the length of all developed portions of a parcel that are adjacent to a street right-of-way. The planter strip must include the following landscape elements:
 - [1] Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways, and screened utility equipment.
 - [2] Street-side trees. A minimum of one street tree must be planted for each 25 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site (see Design Handbook for examples). The trees must be a minimum 2.5-inch caliper, and be at least 12 feet high at the time of planting. The species should be selected from the list of approved street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.
 - [3] Planter strip. Shrubs and flowering perennials must be planted at a minimum of 10 plants per 40 linear feet of street frontage unless existing woodlands are being retained or such planting is inconsistent with the retention of rural landscape features. The plant material should be selected from the list of approved materials in the Design Handbook. The plants must be placed within the planter strip to enhance the visual character of the site and augment natural features and vegetation (see Design Handbook for examples of appropriate treatments).
 - [4] Special situations.
 - [a] Expansions of less than 500 square feet to existing uses are exempt from the landscaping standard of this subsection.

- [b] Depth of landscape planter strip. In instances where the required average depth of the landscape planter strip is legally utilized, in accordance with previous permits or approval, for parking, display, storage, building, or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street. If providing the required landscape planter strip along with other required landscaping and required vegetated areas in and around wetlands would cause the project to exceed the required open space standards, the depth of the landscape planter strip and the front yard may be reduced by the Planning Board so that the open space standards are not exceeded, but in no case to less than 20 feet for this reason.
- [c] Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one streetside tree (see list of recommended street trees in Design Handbook) is required for every 500 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.
- [d] Residences. Residential additions to existing single- and two-family dwellings and proposed single- and duplex-family dwellings are exempt from the landscaping standards of this subsection.
- (b) Buffer area. Where buffering is required, it must provide a year-round visual screen to minimize adverse impacts and screen new development (see Design Guidelines for examples of appropriate buffers for various situations), and may consist of fencing, evergreens, retention of existing vegetation, berms, rocks, boulders, mounds or combinations thereof. Within three growing seasons, the buffer must provide a year-round screen at least eight feet in height or such lower height as determined by the Planning Board to be appropriate for the situation. Buffer areas must be maintained and kept free of all outdoor storage, debris, and rubbish. The width of the buffer area may be reduced by the Planning Board if the function of the buffer is still fulfilled.
- (c) Rural landscape features. Rural landscape features such as stonewalls, berms, and other agricultural structures, and tree lines or fields must be retained to the maximum extent practicable.
- (d) Lighting. Outdoor lighting must provide the minimum illumination needed for the safe use of the site while enhancing the nighttime visual character of the site. Lighting must conform to the standards for outdoor lighting in § **16.7.11H**.
- (e) Outdoor service and storage areas. Service and storage areas must be located to the side or rear of the building. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping, and/or other treatments (see Design Handbook for examples of appropriate buffering).
- (8) Traffic and circulation standards. Sidewalks and roadways must be provided within the site to internally join abutting properties that are determined by the Planning Board to be compatible. In addition, safe pedestrian route(s) must be provided to allow pedestrians to move within the site and between the principal customer entrance and the front lot line where a sidewalk exists or will be provided or where the Planning Board determines that such a route is needed for adequate pedestrian safety and movement.
- (9) Open space standards. Open space must be provided as a percentage of the total area of the lot, including freshwater wetlands, water bodies, streams, and setbacks. Thirty-five percent of each lot must be designated as open space. Required open space must be shown on the plan with a note dedicating it as "open space."

- (a) An objective of the open space standard is to encourage the integration of open space throughout the entire development and with the open space on adjoining properties in order to alter the pattern of commercial activity along Route 1. To this end, a minimum of 25% of the required open space must be located in the front 50% of the lot area closest to U.S. Route 1, or if not fronting Route 1, closest to the public street used to enter the lot. The Planning Board may modify this requirement when it is demonstrated to the Board's satisfaction that the objective is met to the greatest practicable extent.
- (b) The open space must be located to create an attractive environment on the site, minimize environmental impacts, protect significant natural features or resources on the site, and maintain wildlife habitat. Where possible, the open space must be located to allow the creation of continuous open space networks in conjunction with existing or potential open space on adjacent properties.

(10) Affordable housing requirements: [Added 10-24-2022]

(a) All requirements in §16.5.4, Affordable housing, must be met.

(b) Density incentives detailed in 16.4.23.D Note 2 may be applied to projects that create affordable housing units, as defined by this code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.

(c) Special situations.

- [1] Cases where integrating open space would require exceeding the open space standards. In cases where the topography, wetlands, and existing development on the lot dictates that more than 75% of the required open space be located outside the front portion of the lot, a percentage of the open space normally required in the front portion of the lot may be shifted to the rear portion of the lot in order to achieve the required amount of vegetated open space and not reduce the allowable developable area on the lot, provided minimum landscaping standards are satisfied.
- [2] Small lots. The required amount of designated open space is reduced to 20% of each lot that is less than 100,000 square feet in size.

(10) Conditions for approving special exception uses in the Mixed-Use Zone.

- (a) All special exception uses in the Mixed-Use Zone must be visually harmonious with the neighborhood and natural landscape by the use of adequate screening and/or architectural design as follows:
 - [1] Screening. Must be screened and buffered through landscaping, fencing, planted berms, existing vegetation, and separations of spaces to shield neighbors from any adverse external effects of the facility and to integrate the facility into the landscape. Plantings must be of sufficient maturity to achieve the desired screening effect within three years.
 - [2] Architectural compatibility. Must be in architectural harmony with the area in which it is located to the maximum extent practicable through the appropriate use of facade materials, roof style, scale, bulk, and architectural style and details.
 - [3] Location. Facilities located aboveground must be sited so as to eliminate adverse impacts associated with the facility to the maximum extent practicable while still fulfilling the basic purpose of the facility.
- (b) Retail sales, a single retail use greater than 50,000 square feet in gross floor area and less than 150,000 square feet in gross floor area:
 - [1] Timing. No more than one retail use with a gross floor area greater than 50,000 square feet and less than 150,000 square feet may be approved in any three-year period.

- [2] Size. A single retail use with a gross floor area greater than 150,000 square feet is not permitted.
- (c) Gasoline service stations.
 - [1] Visual screening. A year-round buffer area must be provided between the gasoline service station and neighboring uses in accordance with the landscaping standards of the Mixed-Use Zone regulations.
 - [2] Separation distance. A gasoline service station may not be located within 2,000 feet of another service station.
 - [3] Minimum distance, pump to existing structures. A fuel pump may not be located closer than 150 feet to an existing occupied structure located off the site of the gasoline service station.
- (d) Theater, drive-in.
 - [1] To protect the tranquility and quality of life of existing residential uses in the vicinity of the proposed drive-in theater, the hours of operation must be limited to the degree necessary and/or adequate visual and sound buffers must be established.
- (e) Campground/recreational vehicle park.
 - [1] The standards in § **16.5.17** must be satisfied.
 - [2] Occupation of any site by single user for a period exceeding 96 hours is prohibited.
 - [3] Quiet hours must be enforced between 10:00 p.m. and 7:00 a.m.
- (f) Motel or hotel.
 - [1] Multiple-story structures are encouraged.
 - [2] Wherever practicable, building orientation should not be parallel to U.S. Route 1, but must take maximum advantage of the depth of the Mixed-Use Zone.
 - [3] More than three separate motels and/or hotels may not be permitted in the Mixed-Use Zone.
- (g) Public utility facility.
 - [1] Public health and safety. Must not endanger the public health or safety.
 - [2] Protect property values. Must not unreasonably reduce the value of abutting property without just compensation.
 - [3] Prevent nuisances. Must prevent the emission of nuisances, such as but not limited to noise, odors, dust, gas, fumes, smoke, light, vibrations, and electrical interference, beyond the boundaries of the site to the maximum extent practicable.
- (h) Age-restricted housing.
 - [1] Location suitability. The location of the site must allow it to be developed so that the residents of the project will be able to function as part of the community and have pedestrian access to services and facilities within the area.
 - [2] Mixed use. If an aged-restricted housing component is proposed as part of the project, it must be an essential element of the mixed-use project and be designed to be an integrated part of the overall development.

(i) Commercial greenhouses.

- [1] The greenhouses and any related outdoor storage or service areas or structures must be visually buffered from Route 1 and adjacent properties.
- [2] If the greenhouses will be internally lit between 9:00 p.m. and 6:00 a.m., the internal lighting may not be visible from adjacent properties including public streets.
- [3] The noise resulting from the operation of the facility as measured at the property line must be comparable with other uses in the MU Zone during the period between 9:00 p.m. and 6:00 a.m.
- [4] The greenhouses and related storage and service areas may not be located within 200 feet of any legally existing residential use, inn, motel or hotel, hospital, or nursing home/convalescent center on another lot.

(j) Industry, light (greater than 20,000 square feet in gross floor area), transportation terminal, warehousing and storage, or wholesale business.

- [1] The building and any related outdoor storage or service areas or structures must be visually buffered from Route 1 and adjacent properties by other uses allowed in the zone and/or by a landscaped buffer strip.
- [2] If the area between this use and Route 1 is not developed for another permitted use or special exception, it must be maintained as a naturally vegetated buffer in addition to the provision of a landscape planter strip.
- [3] The noise resulting from the operation of the facility as measured at the property line must be comparable with other uses in the MU Zone during the period between 9:00 p.m. and 6:00 a.m.
- [4] The use and related storage and service areas may not be located within 200 feet for any legally existing residential use, inn, motel or hotel, hospital, or nursing home/convalescent center on another lot.

E. Shoreland Overlay Zone OZ-SL — Mixed-Use Zone (MU).

(1) Permitted uses.

(a) Agriculture.

(b) Art studio or gallery.

(c) Dwellings, limited to the following:

- [1] Dwellings on lots of record as of April 1, 2004, if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland.
- [2] ~~Dwelling units on the upper floors of a mixed use building is served by public sewerage if located farther than 100 feet from the normal high water line of any water bodies, or the upland edge of a wetland.~~ Neither multifamily nor commercial buildings are allowed within a Shoreland Zone per DEP Chapter 1000.

(d) Religious use.

(e) Home occupation, major.

(f) Home occupation, minor.

- (g) Private assembly (which is not used for residential or overnight occupancy).
- (h) Public facility.
- (i) Recreation, public open space.
- (j) Research and development.
- (k) Timber harvesting.
- (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Boatyard.
 - (c) Business and professional offices.
 - (d) Commercial kennel.
 - (e) Parking area.
 - (f) Construction services.
 - (g) Convalescent care facility.
 - (h) Nursing care facility, long-term.
 - (i) Day-care facility.
 - (j) Residential care facility.
 - (k) Funeral home.
 - (l) Retail sales, convenience.
 - (m) Retail sales (a single use not to exceed 50,000 square feet in gross floor area).
 - (n) Hospital.
 - (o) Inn.
 - (p) Commercial school (which is not used for residential or overnight occupancy).
 - (q) Public or private school (which is not used for residential or overnight occupancy).
 - (r) Mass transit station.
 - (s) Motel.
 - (t) Hotel.
 - (u) Personal services.
 - (v) Public utility facility.

- (w) Repair services.
- (x) Research and development.
- (y) Restaurant.
- (z) Recreation, selected commercial.
- (aa) Shop in pursuit of trade.
- (bb) Specialty food and/or beverage facility.
- (cc) Theater.
- (dd) Transportation terminal.
- (ee) Veterinary hospital.
- (ff) Warehousing and storage.
- (gg) Wholesale business.
- (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.

F. Resource Protection Overlay Zone OZ-RP — Mixed-Use Zone (MU).

- (1) Permitted uses.
 - (a) Recreation, public open space.
 - (b) Timber harvesting.
- (2) Special exception uses.
 - (a) Accessory uses and buildings.
 - (b) Agriculture.
 - (c) Home occupations, major.
 - (d) Home occupations, minor.
 - (e) Public utility facility.
 - (f) Dwelling, single-family (on lots of record as of April 1, 2004).
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: This zone does not currently comply with LD-2003. It is in Kittery's growth area, has public utilities and does allow multifamily housing so falls under LD-2003's affordable housing density component. It also must address the dwelling unit allowance portion of LD-2003. Up to four dwelling units must be allowed on vacant lots (which there are likely few to none). The Town will need to decide how to manage vacant lots that occur as a result of demolition. For the dwelling unit allowance portion of LD-2003, up to two additional dwelling units must be allowed on properties that currently have one unit. In both cases all dimensional requirements must be met which cannot differ according to the number of dwelling units. This zone does have differing requirements for the first two units and any additional units. Amendments are shown in this font in bold.

§ 16.4.24 **Mixed-Use — Badger Island (MU-BI).**

A. Purpose.

- (1) The purpose of the Mixed-Use - Badgers Island MU-BI Zone is to provide opportunities for a wide variety of uses, including marine-related activities, offices, restaurants, shops, residences and services, to take advantage of a unique island setting located within walking distance to both downtown Portsmouth and downtown Kittery, in which water and sewer services are available to support development.
- (2) This zone is further intended to develop standards appropriate for existing small lot sizes and street frontages to encourage investment in buildings that will contribute to the revitalization of the greater Kittery Foreside area while balancing business and residential interests to keep property values up and maintain an urban residential quality of life in the zone.

B. Permitted uses. The following uses are permitted in the MU-BI Zone:

- (1) Accessory dwelling units.
- (2) Dwellings, attached single-family.
- (3) Dwellings, manufactured housing.
- (4) Dwelling, multifamily.
- (5) Dwellings, single-family.
- (6) Accessory buildings, structures, and uses.
- (7) Home occupations, major.
- (8) Home occupations, minor.
- (9) Inn.
- (10) Day-care facility.
- (11) Private assembly.
- (12) Public facility.
- (13) Public or private school.
- (14) Religious use.

- (15) Recreation, public open space.
 - (16) Aquaculture.
 - (17) Commercial fisheries/maritime activities (provided only incidental cleaning and cooking of seafood occur at the site).
 - (18) Commercial school.
 - (19) Art studio or gallery.
 - (20) Business and professional offices.
 - (21) Conference center.
 - (22) Personal service.
 - (23) Restaurant (with the hours of operation limited to 5:00 a.m. to 11:00 p.m., but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle).
 - (24) Retail sales (excluding those with any outdoor sales and/or storage).
 - (25) Specialty food and/or beverage facility.
 - (26) Boatyard.
 - (27) Marina.
 - (28) Mass transit station.
 - (29) Mechanical services.
 - (30) Energy storage system, commercial. **[Added 4-11-2022]**
 - (31) Energy storage system, residential. **[Added 4-11-2022]**
 - (32) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**
 - (33) Solar energy system, ground-mounted small-scale. **[Added 4-11-2022]**
- C. Special exception uses. The following uses are permitted as special exception uses in the MU-BI Zone:
- (1) Recreation, commercial indoor.
 - (2) Recreation, commercial outdoor.
 - (3) Public assembly area.
 - (4) Theater.
 - (5) Public utility facility.
 - (6) Solar energy system, ground-mounted medium- and large-scale (under 20,000 square feet). **[Added 4-11-2022]**

D. Standards.

- (1) The following space standards apply:
 - (a) Minimum land area per dwelling unit: 3,000 square feet.
 - [1] ~~For each of the first two dwelling units and thereafter: 6,000 square feet.~~ **If more than 50% of the dwelling units will be affordable housing units as defined by this code: 1,200 square feet.**
 - (b) Minimum lot size: 6,000 square feet.
 - (c) Minimum street frontage: 50 feet.
 - (d) Minimum front yard: five feet.
 - (e) Minimum rear and side yards: 10 feet.
 - (f) Maximum building height: 40 feet.
 - (g) Minimum setback from:
 - [1] Water body and wetland water-dependent uses: zero feet.
 - [2] All other uses (including buildings and parking): 75 feet unless modified, according to the terms of Subsection **E** of this section.
 - (h) Minimum open space on the site: 40%. (Note: The Planning Board may reduce the required open space to 30% where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.)
- (2) The design and performance standards of Chapters **16.5**, **16.7** and **16.8** must be met, except where specifically altered in this subsection.
- (3) Appropriate waterfront activity incentives. To encourage objectives of the Comprehensive Plan to: 1) provide public access to the waterfront; 2) retain and expand commercial water-dependent uses; and 3) take extraordinary steps to preserve the environmental quality of the shoreline and tidal waters, the required setback from water bodies and wetlands may be reduced to 25 feet where the Planning Board finds a development plan significantly contributes to accomplishment of the above objectives by satisfactorily achieving one or more of the following:
 - (a) Public access. Grants an easement to the Town, or other acceptable party, providing public access to the waterfront at no charge to the general public via a developed accessible pedestrian route with appropriate signage or includes an outdoor deck or patio for customer seating at a restaurant open to the general public; or
 - (b) Retain/expand commercial water-dependent uses. Provides for inclusion of commercial water-dependent use(s) on the property for the duration of the portion of the project that encroaches closer than the normal minimum setback from water bodies and wetlands. Provision of fewer than six boat slips for leisure/recreational boating do not constitute a commercial water-dependent use for the purposes of this section; or
 - (c) Preserve the environmental quality of coastal resources. Protect existing wildlife habitat, conserve shore cover and ensure the quality of stormwater runoff by satisfying all of the following standards:
 - [1] Retain and protect existing significant wildlife habitat that provides food, cover and/or nesting for migratory song birds and wading birds;

- [2] In order to conserve shore cover, contiguous areas of shrubberies of varying height, such as dwarf species of barberry, serviceberry, holly, crabapple, dogwood, cotoneaster, euonymus, firethorn and/or rosa rugosa, as well as erosion-resistant ground cover plantings must be retained and planted, and existing trees retained, wherever practicable in the setback;
- [3] Implementation of a stormwater management plan endorsed by the York County Soil and Water Conservation District (SCS), or the Town's engineering peer review consultant, that treats stormwater with appropriate BMPs and removes pollutants in accordance with the most-current edition of the Maine Department of Environmental Protection BMP Manual, Stormwater Management for Maine. Pollutants sought to be removed include suspended solids, nitrates, hydrocarbons and heavy metals. Such special treatment of the first flush of runoff may include detention, infiltration, filtering and trapping of pollutants.
- (4) Special parking standards.
 - (a) Revised off-street parking standards. Off-street parking must be provided in accordance with § **16.7.11F** unless modified below for the following uses:
 - [1] Dwellings: 1 1/2 parking space for each dwelling unit;
 - [2] Retail stores: one parking space for each 400 square feet of gross floor area;
 - [3] Drive-in restaurants, snack bars and fast-food outlets, but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle: one parking space for every three seats, but in no case less than four spaces;
 - [4] Conference centers: one parking space for every 60 square feet in the largest assembly or meeting room.
 - (b) Joint-use parking. Required off-street parking may be satisfied by the joint use of parking spaces by two or more uses if the applicant can show that parking demand is nonconflicting and will reasonably provide adequate parking for multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekend hours of operation or seasonal variation in parking demand. In making this determination under development plan review, the Planning Board must consider the following factors:
 - [1] Such joint parking areas must be held under ownership or under terms of a contractual agreement that ensures such parking remains available to all users of the shared parking spaces;
 - [2] Analysis is based on a most frequent basis not a "worst case" scenario;
 - [3] Joint-use parking areas must be located within reasonable distance to the uses served, but do not need to be located on the same parcel as the uses served;
 - [4] Ease and safety of pedestrian access to shared parking by the users served, including any improvements or shuttle service necessary; and
 - [5] Such joint parking areas may not be located in residential zoning districts.
 - (c) Off-site parking. Required off-street parking for employee use may be satisfied at off-site locations located within 1,000 feet measured along lines of public access from the lot to be served, provided such parking area is on other property owned by the applicant or under terms of a contractual agreement that will ensure such parking remains available to the use served.
 - (d) Employee parking. Required off-street parking for employee use may be satisfied at off-site locations greater than 1,000 feet from the lot served upon a finding by the Planning Board that such parking is

practicable and will reasonably prevent overflow parking from occurring on Badgers Island in undesignated locations. In making this determination under development review, the Planning Board must consider the following factors:

- [1] Such parking must be located within a reasonable distance to the users.
 - [2] Such parking area must be on other property of the applicant or under terms of a contractual agreement that will ensure such parking remains available to the use served.
 - [3] Safe and convenient means of transporting users to and from the off-site parking must be demonstrated by the applicant.
 - [4] Such off-site parking area must not be located in residential zones of the Town. Off-site parking for use by employees may deviate from the dimensional standards contained in § **16.7.11F**, Table 2, Parking Space Design, if the applicant can demonstrate that the proposal practicably accommodates the number of parking spaces proposed.
- (e) Parking demand management (PDM) strategies.
- [1] Parking demand strategies are measures geared toward affecting the demand side of the parking equation rather than the supply side. They attempt to change people's behavior away from traveling to work as a single occupant in an automobile to be parked near the work site. To be successful, they must rely on incentives or disincentives to make these shifts in behavior attractive to the traveler.
 - [2] A portion of required off-street parking may be satisfied by an owner incorporating PDM strategies to effectively reduce demand for parking stalls as determined by the Planning Board. In making this determination the Planning Board, under development plan review, must consider the following factors:
 - [a] The written commitment of the employer to maintain and enforce parking policies to reduce demand for parking stalls;
 - [b] The likelihood that specific incentives and policies adopted by the applicant will reduce parking demand on a regular basis throughout the year;
 - [c] Written commitments by employees to participate in PDM strategies; and
 - [d] The results of any studies demonstrating the effectiveness of strategies adopted by the applicant to reduce parking demand.
- (f) PDM strategies include, but are not limited to, the following:
- [1] Increase the number of persons per parked vehicle. Potential incentives:
 - [a] Preferential parking locations for car pools and van pools;
 - [b] Guaranteed ride home programs/taxi subsidies;
 - [c] Employer provision of vans for van pools; and
 - [d] Financial incentives to participants in car pools and van pools.
 - [2] Increase the number of persons using an alternative mode of travel to the automobile, such as walking, bicycling, motorcycle, moped, bus and shuttle service. Potential incentives:
 - [a] Preferential parking locations for alternative modes of travel;

- [b] Provision of changing rooms, lockers and showers;
- [c] Early work release for employees using alternative modes of travel;
- [d] Financial subsidies toward the purchase of alternative modes of travel to be used for commuting;
- [e] Guaranteed ride home programs in inclement weather;
- [f] Preferential work station locations; and
- [g] Free use of a business vehicle for errands, lunch and off-site appointments.

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

- [a] Reward employees who telecommute from their home or other remote location;
- [b] Offer an optional four-day, forty-hour workweek as an alternative to a five-day workweek;
- [c] Allow nonoverlapping early and late work shifts; and
- [d] Flextime.

E. Shoreland Overlay Zone OZ-SL Mixed-Use — Badger's Island Zone (MU-BI).

(1) Permitted uses.

(a) Aquaculture.

(b) Dwellings if located 75 feet or farther from the normal high-water line of any water bodies, or the upland edge of a wetland.

[1] Dwellings, attached single-family.

[2] Dwellings, manufactured housing.

[3] Dwelling, multifamily.

[4] Dwellings, single-family.

(c) Recreation, public open space.

(d) Research and development.

(e) Mass transit station.

(f) Energy storage system, residential. **[Added 4-11-2022]**

(g) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**

(h) Solar energy system, ground-mounted small-scale. **[Added 4-11-2022]**

(2) Special exception uses.

(a) Accessory buildings, structures, and uses.

(b) Art studio or gallery.

- (c) Boatyard.
 - (d) Business and professional offices.
 - (e) Commercial fisheries/maritime activities (provided only incidental cleaning and cooking of seafood occur at the site).
 - (f) Recreation, commercial indoor.
 - (g) Recreation, commercial outdoor.
 - (h) Day-care facility.
 - (i) Retail sales (excluding those with any outdoor sales and/or storage).
 - (j) Home occupation, major.
 - (k) Home occupation, minor.
 - (l) Inn.
 - (m) Marina.
 - (n) Personal services.
 - (o) Business services.
 - (p) Public assembly area.
 - (q) Public utility facility.
 - (r) Restaurant (with the hours of operation limited to 5:00 a.m. to 11:00 p.m., but excluding restaurants where ordering and/or pickup of food may take place from a motorized vehicle).
 - (s) Commercial school.
 - (t) Public or private school.
 - (u) Public facility.
 - (v) Religious use.
 - (w) Private assembly.
 - (x) Specialty food and/or beverage facility.
 - (y) Theater.
 - (z) Solar energy system, ground-mounted medium- and large-scale (under 20,000 square feet.) [**Added 4-11-2022**]
 - (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.
- F. Resource Protection Overlay Zone OZ-RP — Mixed-Use - Badger's Island Zone (MU-BI).
- (1) Permitted uses.

- (a) Aquaculture.
- (b) Recreation, public open space.
- (c) Energy storage system, residential. **[Added 4-11-2022]**
- (d) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**
- (2) Special exception uses.
 - (a) Accessory uses and buildings.
 - (b) Home occupations, major.
 - (c) Home occupations, minor.
 - (d) Public utility facility.
 - (e) Dwelling, single-family.
 - (f) Solar energy system, ground-mounted small-, medium- and large-scale (under 20,000 square feet). **[Added 4-11-2022]**
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: This zone currently does not comply with LD-2003. It is not in Kittery's growth area but the zone has public utilities. No restrictions on allowing up to 2 units on a lot that has one building currently. Likely no undeveloped lots in the zone but there aren't any additional requirements for 4 dwelling units that differ from a single-family dwelling unit. The Town would want to decide how to manage vacant lots occurring as a result of demolition.

§16.4.25 Mixed-Use — Kittery Foreside (MU-KF).

- A. Purpose. The purpose of the Mixed-Use — Kittery Foreside MU-KF Zone is 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. The following uses are permitted in the MU-KF Zone:
- (1) Accessory dwelling units.
 - (2) Dwelling, attached single-family.
 - (3) Dwellings, single-family.
 - (4) Dwellings, two-family.
 - (5) Dwellings, multifamily (~~up to 12 units per lot~~).
 - (6) Convalescent care facility.
 - (7) Nursing care facility, long-term.
 - (8) Residential care facility.
 - (9) Accessory buildings, structures, and uses.
 - (10) Home occupation, major.
 - (11) Home occupation, minor.
 - (12) Inn.
 - (13) Hospital.
 - (14) Nursery school.
 - (15) Private assembly.
 - (16) Public facility.
 - (17) Public or private school.
 - (18) Religious use.
 - (19) Recreation, public open space.

- (20) Commercial fisheries/maritime activities, provided only incidental cleaning and cooking of seafood occur at the site.
- (21) Commercial school.
- (22) Art studio or gallery.
- (23) Business and professional offices.
- (24) Business service.
- (25) Personal service.
- (26) Public assembly area.
- (27) Restaurant.
- (28) Retail sales (excluding those where the principal activity entails outdoor sales and/or storage).
- (29) Specialty food and/or beverage facility.
- (30) Theater.
- (31) Marinas.
- (32) Mass transit station.
- (33) Parking area.

C. Special exception uses. The following uses are permitted as special exception uses in the MU-KF Zone:

- (1) Public utility facility.
- (2) Research and development.

D. Standards.

- (1) The design and performance standards of Chapters **16.7** and **16.8** must be met, except where specifically altered in this subsection.
- (2) Dimensional standards. The following space standards apply:
 - (a) Minimum land area per dwelling unit: 5,000 square feet.

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

- (b) Minimum lot size: 5,000 square feet.
- (c) Minimum street frontage: zero feet.
- (d) Minimum front yard along:

- [1] Government Street east of Jones Avenue including Lot 107 at the corner of Government and Walker Streets: zero feet.

- [2] Wallingford square: zero feet.
- [3] Other streets: 10 feet.
- (e) Minimum rear and side yards: 10 feet.
- (f) Minimum separation distance between principal buildings on the same lot: 10 feet.
- (g) Maximum building height: 40 feet. (Note: 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 35 feet above the average grade between the highest and lowest elevations of the original ground level adjacent to the building.)
- (h) Minimum setback from:
 - [1] Water body and wetland water-dependent uses: zero feet.
 - [2] All other uses (including buildings and parking): 75 feet unless modified, according to the terms of § 16.4.25D(7) through § 16.4.25D(10).
- (i) Maximum building coverage: 60%.
- (j) Minimum open space on the site: 40%.
- (k) Minimum land area per unit for elder-care facilities that are connected to the public sewerage system:
 - [1] Dwelling unit with two or more bedrooms: 3,000 square feet.
 - [2] Dwelling unit with less than two bedrooms: 2,500 square feet.
 - [3] Residential care unit: 2,000 square feet.
- [a] 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 1,500 square feet unless the building is replacing a larger building that existed on the lot as of April 1, 2005.
 - (a) If the footprint of the preexisting building was larger than 1,500 square feet, the maximum size of the footprint of the new building may be no larger than the footprint of the preexisting building.
 - (b) If the footprint of the new building is larger than 1,500 square feet, the width of the new building as measured parallel to the front lot line may not be greater than the width of the preexisting building.
- (4) Design standards. Any new building or additions or modifications to an existing building that cumulatively increases the building footprint or building volume by more than 30% after April 1, 2005, or is subject to shoreland overlay zoning as set forth in § 16.4.28 must conform to the following standards (note: this requirement does not apply to the replacement of a building destroyed by accidental or natural causes after April 1, 2005, that is rebuilt within the preexisting building footprint and that does not increase the preexisting building volume by more than 30%):
 - (a) Placement and orientation of buildings within a lot.
 - [1] 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.

- [2] 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, multiunit 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.
- (e) Roof slopes and shapes.
 - [1] 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.
 - [2] 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.
 - [3] 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.
 - [4] 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.
 - [1] Fencing may be used to separate public and private spaces, mark property lines, and protect plantings.
 - [2] Fences must harmonize with nearby structures and not unduly interfere with existing scenic views or vistas.
 - [3] Picket and other medium height fences and low stone walls are permitted.
 - [4] Modern concrete walls and similar structures are prohibited.
 - [5] 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.
 - [6] 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;
 - (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 31 of each year. Sign permit application fee, reference Appendix A.
- (6) 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.
- (7) 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 § **16.7.11F(3)**, 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: 1 1/2 parking spaces per dwelling unit;
 - (c) Dwelling units in buildings where more than 50% of the dwelling units proposed will be affordable as defined by this code in which case parking is reduced to two spaces per three dwelling units.**
- (c) Retail, business office or bank facilities: one parking space for each 400 square feet of gross floor area;
- (d) Professional office: one parking space for each 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 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 § **16.7.11F(3)**, 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 Subsection **D(9)** and **(10)** of this section.]
- (8) Maximum parking on new impervious surface. Not more than 1 1/2 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 parking spaces located within the same building with the dwelling units, to spaces located on preexisting impervious surface, or to spaces located on a pervious

surface such as parking pavers designed to allow infiltration of precipitation.

- (9) 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.
- (10) 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 nonconflicting and will reasonably provide adequate parking for the multiple uses without parking overflowing into undesignated areas. Nonconflicting periods may consist of daytime 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.

E. Shoreland Overlay Zone OZ-SL — Mixed-Use — Kittery Foreside Zone (MU-KF).

- (1) Permitted uses.
 - (a) Dwellings if located farther than 75 feet or farther from the normal high-water line of any water bodies, or the upland edge of a wetland.
 - [1] Dwelling, attached single-family.
 - [2] Dwellings, single-family.
 - [3] Dwellings, two-family.
 - [4] Dwellings, multifamily (up to 12 units per lot).
 - (b) Recreation, public open space.
- (2) Special exception uses.
 - (a) Art studio or gallery.
 - (b) Business and professional offices.
 - (c) Commercial fisheries/maritime activities, provided only incidental cleaning and cooking of seafood occur at the site.

- (d) Parking area.
- (e) Home occupation, major.
- (f) Home occupation, minor.
- (g) Inn.
- (h) Marinas.
- (i) Personal services.
- (j) Business services.
- (k) Public assembly area.
- (l) Public utility facility.
- (m) Research and development;
- (n) Restaurant, coffee shop, bakery, cafes and similar food service operations, but excluding drive-in facilities.
- (o) Retail sales, excluding those where the principal activity entails outdoor sales and/or storage.
- (p) Mass transit station.
- (q) Specialty food and/or beverage facility.
- (r) Theater.
- (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.

F. Resource Protection Overlay Zone OZ-RP — Mized Use — Kittery Foreside Zone (MU-KF).

- (1) Permitted uses.
 - (a) Recreation, public open space.
- (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Home occupation, major.
 - (c) Home occupation, minor.
 - (d) Public utility facility.
 - (e) Dwelling, single-family.
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: This zone does not currently comply with LD-2003. While it is not in Kittery’s growth area and doesn’t allow multifamily housing, so doesn’t fall under the LD-2003’s affordable housing density component, it does need to address the dwelling unit allowance portion of LD-2003. Because this zone has no sewer, this means allowing up to 2 more units on a lot that has one residence currently or 2 dwelling units total on a lot that is currently undeveloped. In both cases all dimensional requirements must be met which do not differ according to the number of dwelling units. Amendments are shown in this font.

§16.4.15 **Residential — Rural Conservation (R-RC).**

A. Purpose. The purpose of the Residential - Rural Conservation R-RC Zone is to conserve and protect land areas of the Town which by their location and character require special measures to ensure low-density development. To this end, the following apply:

B. Permitted use. The following uses are permitted in the R-RC Zone:

- (1) Accessory dwelling units.
- (2) Conservation subdivision.
- (3) Dwelling, manufactured housing.
- (4) Dwellings, ~~single family~~. Residential:

	<u>Total maximum # of units allowed on lot (attached or detached)</u>	
<u># of Existing Units</u>	<u>Public Sewer and Water Available</u>	<u>Public sewer and water not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

- (6) Accessory buildings, structures, and uses.
- (7) Home occupations, minor.
- (8) Recreation, public facility.
- (9) Recreation, public open space.
- (10) Agriculture.
- (11) Timber harvesting.

C. Special exception uses. The following uses are permitted as special exception uses in the R-RC Zone:

- (1) Home occupations, major.
- (2) Day-care facility.
- (3) Private assembly.

- (4) Public facility.
- (5) Public or private school.
- (6) Public utility facility.
- (7) Religious use.
- (8) Recreation, commercial indoor.
- (9) Recreation, commercial outdoor.
- (10) Commercial school.
- (11) Cemetery.
- (12) Major or minor subdivision.

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

- (1) The design and performance standards of Chapters **16.5**, **16.7** and **16.8** must be met.
- (2) The following dimensional standards apply:
 - (a) Minimum land area per dwelling unit: 80,000 square feet. (Note: As per Chapter **16.3** definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012.)
 - (b) Minimum lot size: 80,000 square feet.
 - (c) Minimum street frontage: 200 feet.
 - (d) Minimum front yard: 40 feet.
 - (e) Maximum building coverage: 6%.
 - (f) Minimum rear and side yards: 20 feet.

(Note: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of building height.)

- (g) Maximum building height: 35 feet.

(Note: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)

- (h) Minimum water body setback for functionally water-dependent uses: zero feet.
- (i) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee Schedules.

- (3) Subdivision types and standards. Subject to net residential acreage and net residential density per § **16.2.2**.

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

[1] Minimum principal building separation as required by the Fire Chief, but not less than 20 feet.

(b) Subdivision development (special exception uses, § 16.4.15C). In a subdivision development, standards in § 16.4.15D(1) and (2) apply and include:

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

E. Shoreland Overlay Zone — Residential Conservation Zone (R-RC).

(1) Permitted uses.

(a) Accessory buildings, structures, and uses.

(b) Agriculture.

(c) Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland.

[1] Dwelling, manufactured housing.

[2] Dwelling, single-family.

(d) Recreation, public facility.

(e) Recreation, public open space.

(f) Timber harvesting.

(2) Special exception uses.

(a) Day-care facility.

(b) Home occupation, major.

(c) Home occupation, minor.

(d) Recreation, selected commercial.

(e) Public utility facility.

(f) Commercial school.

(g) Public or private school.

(h) Public facility.

(i) Religious use.

(j) Private assembly.

(3) See §16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL.

- F. Resource Protection Overlay Zone OZ-RP — Residential — Rural Conservation Zone (R-RC).
- (1) Permitted uses.
 - (a) Recreation, public facility.
 - (b) Recreation, public open space.
 - (c) Timber harvesting.
 - (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Agriculture.
 - (c) Home occupations, major.
 - (d) Home occupations, minor.
 - (e) Recreation, commercial indoor.
 - (f) Recreation, commercial outdoor (exclusive of golf courses).
 - (g) Public utility facility.
 - (h) Dwelling, single-family.
 - (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: This zone currently complies with LD-2003. It is not in Kittery's growth area, does not have public sewer and land area required per dwelling unit is the same no matter what type of housing – apartment or single-family. There are no restrictions on allowing up to 2 units on a lot that has one building currently if dimensional requirements are met – those requirements currently do not differ according to the number of dwelling units. Likewise, for undeveloped lots, there are no additional dimensional or land area requirements for 2 dwelling units that differ from a single-family dwelling unit.

§16.4.12 **Residential — Kittery Point Village (R-KPV).**

A. Purpose. The purpose of the Residential — Kittery Point Village R-KPV Zone is to preserve the established character and development pattern of the Kittery Point neighborhood while assuring that any new development is consistent with this historical development pattern and is environmentally suitable. To this end, the following apply:

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

- (1) Accessory dwelling units.
- (2) Conservation subdivision.
- (3) Dwelling, attached single-family.
- (4) Dwelling, multifamily (not more than four units per building).
- (5) Dwelling, single-family.
- (6) Dwelling, two-family.
- (7) Accessory buildings, structures, and uses.
- (8) Home occupations, minor.
- (9) Day-care facility.
- (10) Nursery school (must not occupy more than 5,000 square feet of floor area).
- (11) Private assembly (must not occupy more than 5,000 square feet of floor area).
- (12) Public facility (must not occupy more than 5,000 square feet of floor area).
- (13) Public or private school (must not occupy more than 5,000 square feet of floor area).
- (14) Religious use (must not occupy more than 5,000 square feet of floor area).
- (15) Recreation, public open space.
- (16) Agriculture.
- (17) Commercial school (must not occupy more than 5,000 square feet of floor area).

C. Special exception uses. The following uses are permitted as special exception uses in the R-KPV Zone:

- (1) Rooming house.
- (2) Any use listed in Subsection **B(11)** through **(15)** of this section (permitted uses) that occupies more than 5,000 square feet of floor area.

- (3) Public utility facility.
- (4) Cemetery.
- (5) Retail sales, convenience (excluding sale of gasoline).
- (6) Home occupation, major.
- (7) The reuse of a designated historic building, in nonresidential use as of the effective date of this provision, as an art studio/gallery, museum, or business and professional office subject to standards for a minor home occupation as set forth in § **16.5.12**.
- (8) Major or minor subdivision.

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

- (1) Design and performance standards in Chapters **16.5**, **16.7** and **16.8**. The Design Handbook provides examples of appropriate design for nonresidential and multiunit residential projects.
- (2) Dimensional standards.
 - (a) Minimum land area per dwelling unit: 40,000 square feet. (Note: As per Chapter **16.3** definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012).
 - (b) Minimum lot size: 40,000 square feet.
 - (c) Minimum street frontage: 150 feet unless reduced in accordance with Note A.

Note A:

The required minimum street frontage for a new lot may be less than 150 feet if the established pattern of street frontage in the immediate area of the lot as determined below is less than 150 feet per lot.

The required minimum street frontage in this case is the average of the street frontage of existing developed residential lots that are located on the same street and within 500 feet of the parcel, but in no case less than 100 feet.

- (d) Minimum front yard: 40 feet.
- (e) Maximum building coverage: 20%.
- (f) Minimum rear and side yards: 15 feet. (Note: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of the building height.)
- (g) Maximum building height: 35 feet. (Note: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)
- (h) Minimum water body setback for functionally water-dependent uses: zero feet.
- (i) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee Schedules. Subdivision types and standards.

- (3) Subject to net residential acreage and net residential density per Chapter **16.3**.
- (a) Conservation subdivision. In a conservation subdivision, the above standards may be modified in accordance with special provisions of § **16.8.10**, including that there is no minimum lot size, and with the conditions that:
 - [1] Minimum principal building separation as required by the Fire Chief, but not less than 15 feet.
- (b) Subdivision development (per special exception uses, § **16.4.12C**). In a subdivision development, standards in § **16.4.12D(1)** and **(2)** apply and include:
 - [1] Minimum percentage of common open space: 15%.
- E. Shoreland Overlay Zone OZ-SL — Residential — Kittery Point Village (R-KPV).
 - (1) Permitted uses.
 - (a) Agriculture.
 - (b) Accessory buildings, structures, and uses.
 - (c) Day-care facility.
 - (d) Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland.
 - [1] Dwelling, attached single-family.
 - [2] Dwelling, multifamily (not more than four units per building).
 - [3] Dwelling, single-family.
 - [4] Dwelling, two-family.
 - (2) Special exception uses.
 - (a) Home occupation, major.
 - (b) Home occupation, minor.
 - (c) Public utility facility.
 - (d) Commercial school (must not occupy more than 5,000 square feet of floor area).
 - (e) Public or private school (must not occupy more than 5,000 square feet of floor area).
 - (f) Nursery school (must not occupy more than 5,000 square feet of floor area).
 - (g) Public facility (must not occupy more than 5,000 square feet of floor area).
 - (h) Religious use (must not occupy more than 5,000 square feet of floor area).
 - (i) Private assembly (must not occupy more than 5,000 square feet of floor area).
- (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.

F. Resource Protection Overlay Zone OZ-RP - Residential - Kittery Point Village Zone (R-KPV).

(1) Permitted uses.

(a) Recreation, public open space.

(2) Special exception uses.

(a) Accessory buildings, structures, and uses.

(b) Agriculture.

(c) Home occupations, major.

(d) Home occupations, minor.

(e) Public utility facility.

(f) Dwelling, single-family.

(3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: This zone does not currently fully comply with LD-2003. It is not in Kittery’s growth area (except for one small portion between Rt 236 and Wilson Road) and doesn’t allow multifamily housing currently, so doesn’t fall under the LD-2003’s affordable housing density component. It does need to address the dwelling unit allowance portion of LD-2003. Because this zone has no sewer and in large portions of the zone, no public water, this means allowing up to 2 more units on a lot that has one residence currently or 2 dwelling units total on a lot that is currently undeveloped. In both cases all dimensional requirements must be met and cannot differ according to the number of dwelling units. The Town will need to decide how to address the demolition of any existing residence in this zone. Amendments are shown in this font in bold.

§ 16.4.10 **Residential — Rural (R-RL).**

A. Purpose. The purpose of the Residential - Rural R-RL Zone is to protect the prevailing rural character of the Town and its natural rural quality from development sprawl by prescribing the most appropriate uses and standards.

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

- (1) Accessory dwelling unit.
- (2) Conservation subdivision. **[Amended 10-24-2022]**
- (3) Dwelling, manufactured housing.
- (4) Dwellings, ~~single family~~. Residential:

	<u>Total maximum # of units allowed on lot (attached or detached)</u>	
<u># of Existing Units</u>	<u>Public Sewer and Water Available</u>	<u>Public sewer and water not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

- (8) Convalescent care facility.
- (9) Nursing care facility, long-term.
- (10) Accessory buildings, structures, and uses.
- (11) Home occupation, minor.
- (12) Individual private campsite.
- (13) Day-care facility.
- (14) Hospital.
- (15) Private assembly.
- (16) Public facility.

- (17) Public or private school.
- (18) Religious use.
- (19) Recreation, public open space.
- (20) Agriculture.
- (21) Commercial school.
- (22) Energy storage system, residential. **[Added 4-11-2022]**
- (23) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**
- (24) Solar energy system, ground-mounted small-, medium- and large-scale (under 20,000 square feet). **[Added 4-11-2022]**

C. Special exception uses. The following uses are permitted as special exception uses in the R-RL Zone:

- (1) Mobile home park, subject to § **16.5.17D**.
- (2) Home occupation, major.
- (3) Campgrounds.
- (4) Rooming house.
- (5) Public utility facility.
- (6) Recreation, commercial indoor.
- (7) Recreation, commercial outdoor.
- (8) Agriculture, piggery.
- (9) Commercial kennel.
- (10) Sawmill, permanent.
- (11) Sawmill, temporary.
- (12) Veterinary hospital.
- (13) Cemetery.
- (14) Shops in pursuit of trade.
- (15) Junkyard.
- (16) Mineral extraction, subject to § **16.5.16**.
- (17) Major or minor subdivision.
- (18) Solar energy system, ground-mounted large-scale (above 20,000 square feet). **[Added 4-11-2022]**

D. Standards. The following standards must be met unless modified per Chapter 16.10, Conservation

Subdivision: [**Amended 10-24-2022**]

- (1) Design and performance standards in Chapters **16.5**, **16.7** and **16.8**.
- (2) Dimensional standards:
 - (a) Minimum land area per dwelling unit: 40,000 square feet. (Note: As per Chapter **16.3** definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012.
 - (b) Minimum lot size: 40,000 square feet.
 - (c) Minimum street frontage: 150 feet.
 - (d) Minimum front yard: 40 feet.
 - (e) Maximum building coverage: 15%.
 - (f) Minimum rear and side yards: 20 feet.

(NOTE: Buildings higher than 40 actual feet are to have side and rear yards not less than 50% of building height.)

- (g) Maximum building height: 35 feet.

(NOTE: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)

- (h) Minimum water body setback for functionally water-dependent uses: zero feet.
 - (i) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § **16.4.28** and Appendix A, Fee Schedules.
- (3) Subdivision types and standards. Subject to net residential acreage and net residential density per Chapter **16.3**.
 - (a) In a conservation subdivision, the above standards may be modified in accordance with special provisions of Chapter **16.10**, including that there is no minimum lot size, and with the conditions that:
 - [1] Minimum principal building separation as required by the Fire Chief, but not less than 20 feet.
 - (b) Subdivision development (per special exception uses, § **16.4.10C**). In a subdivision development, standards in § **16.4.10D(2)(a)** and **(i)** apply and include:
 - [1] Minimum percentage of common open space: 15%.
 - (4) Junkyards. In the case of junkyards, the following special standards apply, which are in addition to the standards and provisions prescribed in Maine State Statutes, 30-A M.R.S.A. §§ 3751 to 3760, and any changes thereto:
 - (a) Minimum land area: 400,000 square feet.
 - (b) Minimum street frontage: 600 feet.

- (c) Minimum distance from street or highway to junk concentration area: 200 feet.
- (d) Other standards as prescribed in § **16.5.13**.
- (5) Mobile home parks. In the case of mobile home parks, sites must be at least 10 acres, subject to the special provisions of § **16.5.17**.
- (6) Affordable housing requirements: [**Added 10-24-2022**]
 - (a) All requirements in § **16.5.4**, Affordable housing, must be met.
 - (b) Density incentives detailed in Chapter **16.10** may be applied to projects that create affordable housing units, as defined by this code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.
- E. Shoreland Overlay Zone OZ-SL — Residential — Rural Zone (R-RL).
 - (1) Permitted uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Agriculture.
 - (c) Dwellings, if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland individual private campsite.
 - [1] Dwelling, single-family.
 - (d) Recreation, public open space.
 - (e) Energy storage system, residential. [**Added 4-11-2022**]
 - (f) Solar energy system, building-integrated and roof-mounted. [**Added 4-11-2022**]
 - (g) Solar energy system, ground-mounted small-, medium- and large-scale (under 20,000 square feet). [**Added 4-11-2022**]
 - (2) Special exception uses.
 - (a) Day-care facility.
 - (b) Home occupation, major.
 - (c) Home occupation, minor.
 - (d) Mineral extraction subject to § **16.5.16**.
 - (e) Public utility facility.
 - (f) Recreation, commercial indoor.
 - (g) Recreation, commercial outdoor.
 - (h) Commercial school.
 - (i) Public or private school.

- (j) Hospital.
- (k) Nursing care facility, long-term.
- (l) Convalescent care facility.
- (m) Public facility.
- (n) Religious use.
- (o) Private assembly.
- (p) Solar energy system, ground-mounted large-scale (above 20,000 square feet). **[Added 4-11-2022]**
- (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.

F. Resource Protection Overlay Zone OZ-RP — Residential — Rural Zone (R-RL).

- (1) Permitted uses.
 - (a) Individual private campsite.
 - (b) Recreation, public open space.
 - (c) Energy storage system, residential. **[Added 4-11-2022]**
 - (d) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**
- (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Agriculture.
 - (c) Home occupation, major.
 - (d) Home occupation, minor.
 - (e) Dwelling, single-family.
 - (f) Commercial school.
 - (g) Public or private school.
 - (h) Religious use.
 - (i) Private assembly.
 - (j) Public utility facility.
 - (k) Solar energy system, ground-mounted small-, medium- and large-scale (under 20,000 square feet). **[Added 4-11-2022]**
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

NOTE: These zones – R-S and R-U currently do not comply with LD-2003 (Affordable Housing Density) according to the density requirements and parking requirements for majority affordable housing projects at 2.5x base density. They are in Kittery’s growth area according to the comprehensive plan, have public sewer and water in many cases (R-U especially) and allow multifamily housing. Necessary amendments are noted in this font in bold. They do comply with LD-2003’s dwelling unit allowance by allowing up to four units per vacant lot and up to two additional units on a lot with one existing dwelling unit provided all regulations (setbacks, land area per dwelling unit) are met.

§16.4.11 Residential — Suburban (R-S).

- A. Purpose. The purpose of the Residential — Suburban R-S Zone is to provide areas adjacent to the developed urban areas for future residential growth consistent with the availability of public utilities. To this end, the following apply:
- B. Permitted uses. The following uses are permitted in the R-S Zone:
- (1) Accessory dwelling unit.
 - (2) Conservation Subdivision.
 - (3) Dwelling, attached single-family.
 - (4) Dwelling, multifamily (not more than four units per building).
 - (5) Dwelling, single-family.
 - (6) Dwelling, two-family.
 - (7) Convalescent care facility (may not occupy more than 5,000 square feet of floor area).
 - (8) Nursing care facility, long-term (may not occupy more than 5,000 square feet of floor area).
 - (9) Residential care facility (may not occupy more than 5,000 square feet of floor area).
 - (10) Accessory buildings, structures, and uses.
 - (11) Home occupation, minor.
 - (12) Day-care facility.
 - (13) Elderly day-care facility.
 - (14) Hospital (may not occupy more than 5,000 square feet of floor area).
 - (15) Nursery school (may not occupy more than 5,000 square feet of floor area).
 - (16) Private assembly (may not occupy more than 5,000 square feet of floor area).
 - (17) Public facility (may not occupy more than 5,000 square feet of floor area).
 - (18) Public or private school (may not occupy more than 5,000 square feet of floor area).
 - (19) Religious use (may not occupy more than 5,000 square feet of floor area).
 - (20) Recreation, public open space.
 - (21) Agriculture.

(22) Commercial school (may not occupy more than 5,000 square feet of floor area).

C. Special exception uses. The following uses are permitted as special exception uses in the R-S Zone:

(1) Dwelling, multifamily (five to 12 units per building).

(2) Home occupations, major.

(3) Rooming house.

(4) Public utility facility.

(5) Cemetery.

(6) Retail sales, convenience (excluding the sale of gasoline).

(7) Any use listed in Subsection **B(12)** through **(20)** (permitted uses) of this section that occupies more than 5,000 square feet of floor area.

(8) Mineral extraction, subject to § **16.5.16**.

(9) Major or minor subdivision.

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

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

(2) Dimensional standards.

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

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

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

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

(b) Minimum lot size:

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

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

(c) Minimum street frontage: 150 feet unless reduced in accordance with Note A.

(d) Minimum front yard: 40 feet.

(e) Maximum building coverage: 20%.

(f) Minimum rear and side yards: 15 feet.

(Note: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of the building height.)

(g) Maximum building height: 35 feet.

(Note: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)

(h) Minimum water body setback for functionally water-dependent uses: zero feet.

(i) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

Note A:

The required minimum land area per dwelling unit and/or minimum lot size for residential uses that are served by public sewage disposal and that are located outside of areas subject to shoreland zoning may be less than 30,000 square feet per lot/unit if the established average density of development in the immediate area of the use as determined below is less than 30,000 square feet.

If the average of the lot sizes and/or land area per dwelling unit of the developed residential lots that are located on the same street and within 500 feet of the parcel is less than 30,000 square feet, the required minimum lot size or required minimum land area per dwelling unit is the calculated average lot size or average land area per dwelling unit but not less than 20,000 square feet.

If the required minimum lot size is reduced, the required minimum street frontage for new residential uses served by public sewerage may also be reduced to the average of the lot frontage of existing developed residential lots that are located on the same street and within 500 feet of the parcel but in no case to less than 100 feet.

(3) Subdivision types and standards. Subject to net residential acreage and net residential density per Chapter 16.3.

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

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

(b) Subdivision development (per special exception uses, §16.4.11C). In a subdivision development, standards in §16.4.11D(1) and (2) apply and include:

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

(4) Mobile homes. Mobile homes must meet the standards of §16.5.17.

(5) Parking. When more than 50% of the dwelling units provided while be affordable as defined by this code: two parking spaces per three dwelling units.

(6) Affordable housing requirements:

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

(b) Density incentives outlined above in subsection D.(2).(a).[3] may be applied to projects that create affordable housing units, as defined by this code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.

E. Shoreland Overlay Zone OZ-SL — Residential — Suburban Zone (R-S).

(1) Permitted uses.

(a) Day-care facility.

(b) Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland.

[1] ~~Dwelling, attached single family.~~ **NOTE: while not part of the LD-2003, multifamily is not allowed in the Shoreland or Resource Protection Zones per DEP's Chapter 1000.**

[2] ~~Dwelling, multifamily (not more than four units per building).~~ **NOTE: while not part of the LD-2003, multifamily is not allowed in the Shoreland or Resource Protection Zones per DEP's Chapter 1000.**

[3] Dwelling, single-family.

[4] Dwelling, two-family.

(c) Elderly day-care facility.

(d) Recreation, public open space.

(2) Special exception uses.

(a) Home occupation, major.

(b) Home occupation, minor.

(c) Mineral extraction subject to § 16.5.16.

(d) Public utility facility.

(e) Commercial school (must not occupy more than 5,000 square feet of floor area).

(f) Public or private school (must not occupy more than 5,000 square feet of floor area).

(g) Residential care facility (must not occupy more than 5,000 square feet of floor area).

(h) Hospital (must not occupy more than 5,000 square feet of floor area).

(i) Nursing care facility, long-term (must not occupy more than 5,000 square feet of floor area).

(j) Public facility (must not occupy more than 5,000 square feet of floor area).

(k) Religious use (must not occupy more than 5,000 square feet of floor area).

- (l) Private assembly (must not occupy more than 5,000 square feet of floor area).
- (3) See §16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL.
- F. Resource Protection Overlay Zone OZ-RP — Residential Suburban Zone (R-S).
 - (1) Permitted uses.
 - (a) Recreation, public open space.
 - (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Agriculture.
 - (c) Home occupation, major.
 - (d) Home occupation, minor.
 - (e) Public utility facility.
 - (f) Dwelling, single-family.
 - (3) See §16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP.

§16.4.13 **Residential — Urban (R-U).**

- A. Purpose. The purpose of the Residential — Urban R-U Zone is to preserve the physical, aesthetic and social quality of Kittery's urban area and, consistent with this goal, to provide therein for the location of a variety of residential uses in accordance with the standards of this title. To this end, the following apply:
- B. Permitted uses. The following uses are permitted in the R-U Zone:
 - (1) Accessory dwelling units.
 - (2) Conservation subdivision.
 - (3) Dwelling, attached single-family.
 - (4) Dwelling, manufactured housing.
 - (5) Dwelling, multifamily.
 - (6) Dwelling, single-family.
 - (7) Dwelling, two-family.
 - (8) Convalescent care facility.
 - (9) Nursing care facility, long-term.
 - (10) Accessory buildings, structures, and uses.
 - (11) Home occupations, minor.

- (12) Day-care facility.
- (13) Hospital.
- (14) Nursery school.
- (15) Private assembly.
- (16) Public facility.
- (17) Public or private school.
- (18) Religious use.
- (19) Recreation, public open space.
- (20) Commercial school.
- (21) Conference center.

C. Special exception uses. The following uses are permitted as special exception uses in the R-U Zone:

- (1) Rooming house.
- (2) Business and professional offices.
- (3) Funeral home.
- (4) Art studio or gallery.
- (5) Recreation, public facility.
- (6) Recreation, commercial indoor.
- (7) Recreation, commercial outdoor.
- (8) Public utility facility.
- (9) Inn.
- (10) Home occupations, major.
- (11) Age-restricted housing.
- (12) Major or minor subdivision.

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

- (1) The design and performance standards in Chapters **16.5**, **16.7** and **16.8**.
- (2) Dimensional standards:
 - (a) Minimum land area per dwelling unit: 20,000 square feet. (Note: As per Chapter **16.3** definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was

conforming prior to October 25, 2012.)

When more than 50% of the dwelling units proposed will be affordable as defined by this code:

i. With public sewer: 8,000 square feet

- (b) Minimum lot size: 20,000 square feet.
- (c) Minimum street frontage: 100 feet.
- (d) Minimum front yard, all buildings: 30 feet.
- (e) Minimum rear and side yards, all buildings: 15 feet.

(Note: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of building height.)

- (f) Maximum building height: 35 feet.

(Note: Minimum distance between principal buildings on the same lot is the height equivalent to the taller building.)

- (g) Maximum building coverage: 20%.
- (h) Minimum water body setback for functionally water-dependent uses: zero feet.
- (i) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30 § **16.4.28** and Appendix A, Fee Schedules.

(3) Subdivision types and standards. Subject to net residential acreage and net residential density per Chapter **16.3**.

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

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

- (b) Subdivision development (special exception uses, §**16.4.13C**). In a subdivision development, standards in §**16.4.13D(1)** and **(2)** apply and include:

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

(4) Age-restricted housing. In the case of age-restricted housing, the above standards may be modified in accordance with the special provisions of §**16.5.15** and with the condition that:

- (a) Municipal sewerage and water must be provided.
- (b) A minimum land area of three acres must be provided.
- (c) The maximum net density may not exceed four dwelling units per net residential acre. In no event may the Planning Board authorize a departure which increases the total number of dwelling units greater than that specified under the applicable zoning ordinance.

(d) A single-bedroom unit may not be less than 550 square feet and a two-bedroom unit not less than 650 square feet.

(5) Manufactured housing. Manufactured housing must meet standards of §16.5.15.

(6) Parking. When more than 50% of the dwelling units provided while be affordable as defined by this code: two parking spaces per three dwelling units.

(7) Affordable housing requirements:

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

(b) Density incentives outlined above in subsection D.(2).(a).[3] may be applied to projects that create affordable housing units, as defined by this code. No proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.

E. Shoreland Overlay Zone OZ-SL — Residential — Urban Zone (R-U).

(1) Permitted uses.

(a) Accessory buildings, structures, and uses.

(b) Day-care facility.

(c) Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland.

[1] ~~Dwelling, attached single-family.~~ **NOTE: while not part of the LD-2003, multifamily is not allowed in the Shoreland or Resource Protection Zones per DEP's Chapter 1000.**

[2] Dwelling, manufactured housing.

[3] ~~Dwelling, multifamily.~~ **NOTE: while not part of the LD-2003, multifamily is not allowed in the Shoreland or Resource Protection Zones per DEP's Chapter 1000.**

[4] Dwelling, single-family.

[5] Dwelling, two-family.

(d) Recreation, public open space.

(2) Special exception uses.

(a) Home occupation, major.

(b) Home occupation, minor.

(c) Inn.

(d) Public utility facility.

(e) Recreation, commercial indoor.

(f) Recreation, commercial outdoor.

- (g) Commercial school.
 - (h) Public or private school.
 - (i) Nursery school.
 - (j) Hospital.
 - (k) Nursing care facility, long-term.
 - (l) Convalescent care facility.
 - (m) Public facility.
 - (n) Religious use.
 - (o) Private assembly.
- (3) See §16.4.28 for purpose and standards in the Shoreland Overlay Zone OZ-SL.
- F. Resource Protection Overlay Zone OZ-RP — Residential — Urban Zone (R-U).
- (1) Permitted uses.
 - (a) Recreation, public open space.
 - (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Home occupation, major.
 - (c) Home occupation, minor.
 - (d) Public utility facility.
 - (e) Dwelling, single-family.
 - (3) See §16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ- RP.

NOTE: This zone does not currently comply with LD-2003. While it is not in Kittery’s growth area and doesn’t allow multifamily housing currently so doesn’t fall under the LD-2003’s affordable housing density component, it does need to address the dwelling unit allowance portion of LD-2003. This zone has public utilities and must allow up to 2 more units on a lot that has one residence currently or 4 dwelling units total on a lot that is currently undeveloped (likely a very few or none in this area). In both cases all dimensional requirements must be met which do not differ according to the number of dwelling units. The Town would want to consider how to manage lots that become vacant as a result of demolition. Amendments are shown in this font in bold.

§16.4.14 **Residential — Village (R-V).**

A. Purpose. The purpose of the Residential — Village R-V Zone is to recognize the special nature of the Admiralty Village neighborhood as a densely developed residential zone composed primarily of affordable housing on small lots serviced by sewer and water and to encourage reinvestment in maintaining and upgrading the neighborhood. Consistent with this goal, the zone provides for uses that reinforce the residential character and establish building standards that allow improvements on typical lots to enhance the residential quality of life in the neighborhood. To this end, the following will apply:

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

- (1) Accessory dwelling unit.
- ~~(2) Dwelling, attached single family.~~
- (3) Dwelling, manufactured housing.
- (4) Dwellings, ~~single family.~~ residential

	<u>Maximum total # of units allowed on lot (attached or detached)</u>	
<u># of Existing Units</u>	<u>Public Sewer and Water Available</u>	<u>Public sewer and water not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

- (7) Accessory buildings, structures, and uses.
- (8) Home occupation, minor.
- (9) Day-care facility (limited to 12 or fewer persons in care, in conformance with the standards for a home occupation, minor. See § **16.5.12**).
- (10) Nursery school (limited to 12 or fewer persons in care, in conformance with the standards for a home occupation, minor. See § **16.5.12**).
- (11) Public facility.
- (12) Recreation, public facility.
- (13) Recreation, public open space.
- (14) Energy storage system, residential. **[Added 4-11-2022]**
- (15) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**

(16) Solar energy system, ground-mounted small-scale. [Added 4-11-2022]

C. Special exception uses. The following uses are permitted as special exception uses in the R-V Zone:

- (1) Public utility facility.
- (2) Home occupations, major.
- (3) Day-care facility (for 13 or more persons in care, in conformance with the standards for a home occupation, major. See § 16.5.12).
- (4) Nursery school (for 13 or more persons in care, in conformance with the standards for a home occupation, major. See § 16.5.12).
- (5) Solar energy system, ground-mounted medium- and large-scale (under 20,000 square feet). [Added 4-11-2022]

D. Standards. All development and the use of land in the R-V Zone must meet the following standards. In addition, the design and performance standards of Chapters 16.5, 16.7 and 16.8 must be met. The Design Handbook provides examples of appropriate design for nonresidential and multiunit residential projects.

(1) The following space standards apply:

- (a) Minimum land area per dwelling unit: 4,000 square feet. (Note: As per Chapter 16.3 definition of "minimum land area per dwelling unit," except to exempt properties which are unable to meet the square feet required for a single-family dwelling unit, provided the lot was conforming prior to October 25, 2012.)
- (b) Minimum lot size: 6,000 square feet.
- (c) Minimum street frontage: 50 feet.
- (d) Minimum front yard: 15 feet.
- (e) Minimum rear yard, dwellings/structures: 15 feet.
- (f) Minimum side yard, dwellings/structures: 10 feet.
- (g) Minimum rear and side yards for accessory buildings/structures that are accessory to a residential use and located at least four feet behind the predominant rear line of the principal building: three feet.
- (h) Maximum structure coverage: 40%.
- (i) Maximum height of principal dwellings/structures: 35 feet.
- (j) Maximum height of accessory buildings/structures located closer than 10 feet to a lot line: 15 feet.
- (k) Maximum building coverage: 20%.
- (l) Minimum water body setback for functionally water-dependent uses: zero feet.
- (m) Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

E. Shoreland Overlay Zone OZ-SL — Residential — Village Zone (R-V).

- (1) Permitted uses.
 - (a) Accessory buildings, structures, and uses.
 - (b) Dwellings if located farther than 100 feet from the normal high-water line of any water bodies, or the upland edge of a wetland Public Facility.
 - [1] Dwelling, attached single-family.
 - [2] Dwelling, manufactured housing.
 - [3] Dwelling, single-family.
 - [4] Dwelling, two-family.
 - (c) Recreation, public facility.
 - (d) Recreation, public open space.
 - (e) Energy storage system, residential. **[Added 4-11-2022]**
 - (f) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**
 - (g) Solar energy systems, ground-mounted small-scale. **[Added 4-11-2022]**
 - (2) Special exception uses.
 - (a) Day-care facility (for 13 or more persons in care, in conformance with the standards for a major home occupation; see § **16.5.12**).
 - (b) Nursery school (for 13 or more persons in care, in conformance with the standards for a major home occupation; see § **16.5.12**).
 - (c) Home occupation, major.
 - (d) Home occupation, minor.
 - (e) Public utility facility.
 - (f) Solar energy system, ground-mounted medium- and large-scale (under 20,000 square feet). **[Added 4-11-2022]**
 - (3) See § **16.4.28** for purpose and standards in the Shoreland Overlay Zone OZ-SL.
- F. Resource Protection Overlay Zone OZ-RP — Residential — Village Zone (R-V).
- (1) Permitted uses.
 - (a) Energy storage system, residential. **[Added 4-11-2022]**
 - (b) Solar energy system, building-integrated and roof-mounted. **[Added 4-11-2022]**
 - (2) Special exception uses.
 - (a) Accessory buildings, structures, and uses.

- (b) Home occupations, major.
 - (c) Home occupations, minor.
 - (d) Public utility facility.
 - (e) Dwelling, single-family.
 - (f) Solar energy system, ground-mounted small-, medium- and large-scale (under 20,000 square feet).
[Added 4-11-2022]
- (3) See § **16.4.29** for purpose and standards in the Resource Protection Overlay Zone OZ-RP.