

1 **16.3.2.10 Mixed Use - Neighborhood (MU-N) [FORMER BUSINESS PARK ZONE]**

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

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7 **B. Permitted Uses.**

- 8 1. Accessory buildings and uses including minor or major home occupations;
- 9 2. Art studio/gallery;
- 10 3. Business and professional offices;
- 11 4. Business Services;
- 12 5. Conference Center;
- 13 6. Convalescent care facility,
- 14 7. Convenience Store, neighborhood grocery facilities excluding the sale of gasoline;
- 15 8. Day care facility;
- 16 9. Dwellings, limited to the following:
 - 17 i. Multiunit residential;
 - 18 ii. Dwelling units on the upper floors of a mixed-use building that is served by public sewer;
- 19 10. Eldercare facility, attached dwelling units only
- 20 11. Elderly daycare facility;
- 21 12. Food Store;
- 22 13. Grocery store;
- 23 14. Hospital;
- 24 15. Hotel;
- 25 16. Industry, light (less than or equal to twenty thousand (20,000) square feet in gross floor area);
- 26 17. Inn;
- 27 18. Low intensity recreation;
- 28 19. Nursing care facility, long term;
- 29 20. Personal services;
- 30 21. Public open space or recreation;
- 31 22. Public utility facilities including substations, pumping stations, and treatment facilities;
- 32 23. Shop in pursuit of trades;
- 33 24. Selected commercial recreation, except shooting and archery ranges;
- 34 25. Research and development;
- 35 26. Repair service;
- 36 27. Restaurant;
- 37 28. Retail use, not to exceed thirty thousand (30,000) square feet in gross floor area unless part of a
38 mixed-use building;
- 39 29. Theater;
- 40 30. Veterinary hospital;
- 41 31. Specialty food and/or beverage facility.

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43 **C. Special Exception Uses.**

- 44 1. Commercial kennel;
- 45 2. Commercial parking lot or garage
- 46 3. Construction services
- 47 4. Equipment sales and rentals (only on lots with frontage on Route 236)
- 48 5. Gas service station (only on lots with frontage on Route 236);
- 49 6. Industry, light (greater than twenty thousand (20,000) square feet in gross floor area);

- 50 7. Mass transit station;
- 51 8. Mechanical service;
- 52 9. New or used motor vehicle sales, (only on lots with frontage on Route 236);
- 53 10. Repair garage; (only on lots with frontage on Route 236)
- 54 11. Retail use, greater than thirty thousand (30,000) square feet in gross floor area and less than fifty
- 55 thousand (50,000) square feet in gross floor area;

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57 **D. Other Uses.**

58 Commercial/business uses similar to those listed above may also be considered by the Planning Board.

59 Such uses must reviewed by planning staff prior to submission to determine whether the use is similar.

60 Planning staff determination of whether a use is similar is based on the following criteria:

- 61 1. If the use is consistent with the Comprehensive Plan and zoning district purposes.
- 62 2. The proposed use has substantially similar impacts as a listed use.
- 63 3. The proposed use has substantially the same characteristics as a listed use.

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65 **E. Standards.**

- 66 1. All development and the use of land in the MU-N zone must meet the following standards. Kittery's
- 67 Design Handbook illustrates how these standards can be met. In addition, the design and
- 68 performance standards of Chapters 16.8 and 16.9 must be met unless noted otherwise below.

69 All submissions must include a lighting plan. Hours of operation and number of employees for

70 businesses must also be provided.

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- 72
- 73 2. The following space standards apply:
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75 Minimum land area per dwelling unit – mixed-use building: 4,000 square feet for first

76 residential unit plus 3,000

77 square feet for each additional

78 unit, no minimum land area for

79 business or commercial uses

80 when combined in a building

81 with residential uses except that

82 the total lot size must be at least

83 20,000 square feet.*

84 ***NOTE:**

- 85 1) ADA-compliant units may be located on the first floor
- 86 through a special exception permit by the Planning Board but only
- 87 50% of the first floor may be such ADA- compliant residential units.

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89 Minimum land area per dwelling unit – multiunit residential: 4,000 square feet for first unit,

90 plus 2,500 square feet for each

91 additional unit up to 16 units per

92 acre of lot size. Total lot size

93 must be a minimum of 20,000

94 square feet.

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97	<u>Mixed-use or multiunit residential buildings which encompass</u>	<u>Two additional residential units</u>
98	<u>parking within the building:</u>	<u>may be added to each story</u>
99		<u>above the parking with no</u>
100		<u>additional land area required.</u>
101		
102	<u>Mixed-use buildings which encompass parking within the building</u>	<u>One additional residential unit</u>
103	<u>and include a liner building for non-residential uses buffering the</u>	<u>may be added to each story</u>
104	<u>parking from the street:</u>	<u>with no additional land area</u>
105		<u>required.</u>
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107	<u>Minimum land area per bed for long-term nursing care and</u>	
108	<u>Convalescent care facilities that are connected to public sewer</u>	<u>2,000 square feet</u>
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110	<u>Minimum land area per residential unit for eldercare facilities which</u>	
111	<u>are connected to public sewer</u>	<u>3,000 square feet</u>
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113	<u>Minimum lot size</u>	<u>20,000 square feet</u>
114	<u>Minimum street frontage</u>	<u>75 feet</u>
115	<u>Minimum front setback on Route 236</u>	<u>30 feet</u>
116	<u>Minimum front setback on Dennett Road</u>	<u>40 feet</u>
117	<u>Maximum front setback all other roads</u>	<u>20 feet</u>
118	<u>Spacing between buildings</u>	<u>15 feet*</u>
119	<u>Maximum rear and side setbacks</u>	<u>20 feet**</u>

NOTES:

* Except as may be required by the buffer provisions
of this Code, and where the side and/or rear yards of a
proposed nonresidential use abut a residential zone or
use, in which case a minimum of forty (40) feet is required.
See Landscaping, Screening and Buffer requirements.

** Or as required by the Fire Department or State Fire Marshall's office.

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129	<u>Maximum building height</u>	<u>50 feet*</u>
130		<u>(exclusive of solar apparatus)</u>
131		<u>*Buildings which encompass</u>
132		<u>parking may be 60 feet.</u>
133		
134	<u>Maximum impervious and outdoor stored material coverage</u>	<u>70%*</u>

***NOTE:**

1) With MDEP Best Management Practices (BMPs) and Low Impact
Development Practices (LIDs) incorporated in site design only, otherwise,
60%. Maximum on-site stormwater infiltration is the desired and
measurable outcome.

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Minimum setback from streams, water bodies and wetlands _____ in accordance with
Table 16.9*

***NOTES:**

1) With MDEP Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) incorporated in site design then wetland setbacks pursuant only to Maine Department of Environmental Protection (MDEP) Rules Chapters 305 and 310.

Without MDEP Best Management Practices (BMPs) and Low Impact Development Practices (LIDs) incorporated in site design wetland setbacks pursuant to Kittery Town Code Title 16, Table 16.9.

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

Minimum open space:

<u>Lot size less than 100,000 square feet</u>	<u>15 percent*</u>
<u>Lot size greater than 100,000 square feet</u>	<u>25 percent*</u>

***NOTE:**

1) This requirement may be met by a payment-in-lieu to the Wetland Mitigation Fund. These fees shall be set by Town Council. Landscaping, screening and buffer requirements must still be met.

3. Parking:

Parking is encouraged within buildings. New or revised surface parking areas, garages, and entrances to parking within buildings shall be located to the rear of buildings. If a rear location isn't achievable, as determined by the Planning Board, parking, garages and entrances to parking shall be located to the side of the building. Screening and/or fencing is required for surface parking areas along a street. See 8. Landscaping, Screening and Buffers. Parking requirements are based on ITE parking generation rates.

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

Parking requirements for non-residential uses may be met partially or in full by parking on the street except that no parking is allowed on Route 236 and Dennett Road. Such on-street parking plans must be reviewed by planning staff prior to submission and then reviewed and approved by the Planning Board.

192 Electric car charging stations are allowed in parking lots but must not interfere with pedestrian
193 movement on sidewalks.

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195 a. Parking for development that includes trails and low intensity recreation

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197 Development that includes the creation of public trails and low intensity recreational opportunities
198 such as wildlife observation stations or boardwalks may apply the pertinent off-street parking
199 standards below. All other off-street parking standards as found in 16.8.9.4 shall apply.

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<u>Multiunit residential buildings and mixed-use buildings that include residential</u>	<u>1 parking space for studio and one bedroom dwelling units</u>
	<u>1.5 parking spaces for two bedroom dwelling units plus 1 guest parking space per every 4 dwelling units.</u>
	<u>2 parking spaces for more than two bedroom dwelling units</u>

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203 4. Loading Docks, Overhead Doors, Service Areas and Outdoor Storage Areas:

204 Loading docks and overhead doors shall be located on the rear or side of the building. Loading docks
205 must be screened from view by adjacent residential uses. This screening shall consist of the
206 following:

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- 208 a. A fence, constructed of a material similar to surrounding buildings, of sufficient height as
209 determined by the Planning Board to accomplish the screening. No fence shall be less than
210 six feet tall.

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212 All service areas for dumpsters, compressors, generators and similar items as well as any outdoor
213 storage areas shall be screened by a fence at least six feet tall, constructed of a material similar to
214 surrounding buildings, and must surround the service or storage area except for the necessary
215 ingress/egress.

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217 5. Site Design

218 Site design and building placement shall be attentive to the surrounding environment including sun,
219 wind and shade patterns related to proposed and existing buildings. A sun/shade analysis may be
220 required by the Planning Board.

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222 6. Energy and Sustainability

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

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226 7. Building Design Standards

227 New buildings shall meet the general design principles set forth in the Design Handbook except as
228 noted below. In general, buildings should be oriented to the street from which they derive frontage,
229 with the front of the building facing the street. The front façade must contain the following:

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- 231 a. A front door for pedestrian access

- 232 b. Windows

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

240 A landscape plan prepared by a registered landscape architect is a submission requirement.
241 However, a landscape plan done by other design professionals may be allowed at the Planning
242 Board's discretion.
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244 Native trees, shrubs and herbaceous plantings are preferred and shall be drought and salt tolerant
245 when used along streets. A diversity of tree species are required to provide greater resiliency to
246 threats from introduced insect pests and diseases.
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248 Any required plantings approved by the Planning Board that do not survive shall be replaced within
249 one year.
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251 a. Landscaping along the street frontage of each building shall consist of one of the following:
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- 253 i. Street Trees. A minimum of one street tree must be planted for each 20 feet of street
254 frontage. Trees may be planted in groups or spaced along the frontage. However, trees must
255 be planted to ensure survival, using silva cells, bioretention cells or tree wells. Trees shall be
256 a minimum of 2.5" caliper and 12 feet high at the time of planting. Existing large healthy trees
257 must be preserved if practical and will count towards this requirement.
258 ii. Pocket Park. The park must be at least 200 square feet. A minimum of three trees and a
259 bench for sitting are required. Park must be vegetated with ground cover except for
260 walkways.
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262 b. Surface parking areas that abut a street shall provide screening in one of the following ways:
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- 264 i. One tree per 25 feet of street frontage backed by a fence constructed of a material similar to
265 surrounding buildings which shall screen the parking area from the street except for
266 necessary vehicular and pedestrian access. Trees must be at least 2.5" caliper and 12 feet
267 high at the time of planting
268 ii. A combination of trees and shrubs including at least 50% evergreen species, all at least 6
269 feet high at time of planting, in a planting bed at least 8 feet wide. Plantings must be
270 sufficient, as determined by the Planning Board, to screen the parking area from the street
271 except for necessary vehicular and pedestrian access. Planting beds may be mulched but no
272 orange or red-dyed mulching material may be used.
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274 c. A minimum of 10% of any surface parking area consisting of 10 or more parking spaces shall be
275 landscaped with trees and vegetated islands. This requirement is in addition to the screening
276 requirements in b. above if the parking area abuts a street. Bioretention cells and rain gardens
277 can be utilized to meet the landscaping requirements and perform stormwater management.
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279 d. Buffers required between non-residential uses and residential uses shall be forty feet wide and
280 consist of one of the following as determined by the Planning Board:
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- 283 a. Existing natural woodland and vegetation
284 b. Existing natural woodland augmented by the planting of additional trees consisting of a
285 variety of species at least 2.5" caliper and 12 feet high
286 c. A fence at least six feet high, constructed of material similar to surrounding buildings, with
287 plantings of trees and shrubs at least 6 feet tall on either side of the fence.
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289 9. Open Space

290 Open space must be provided as a percentage of the total parcel area including freshwater wetlands,
291 water bodies, streams and setbacks. Required open space must be shown on the site plan with a
292 note dedicating it as open space. The open space must be situated to protect significant natural
293 features and resources, minimize environmental impacts and promote an aesthetically pleasing site.
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- 295 a. Wherever possible, large healthy trees and areas with mature tree cover shall be included in the
296 open space.
297 b. Location of open space shall promote the continuity of open space networks across adjacent
298 parcels
299 c. Where possible, open space and open space networks shall include public trails and low intensity
300 recreational opportunities.
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302 10. Special Situations

303 Expansions or modifications of 1,000 square feet or less to existing uses are exempt from
304 landscaping, screening and buffer requirements.
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306 11. Conditions for Approving Special Exception Uses in the Neighborhood Mixed Use Zone

307 All applications must include a narrative describing why the use proposed will promote the general
308 welfare (specifics may be found in Chapter 2 Definitions for **special exception**) of the Town of
309 Kittery, how the use proposed will meet the special exception criteria found in 16.6.4.4 and how the
310 proposed development will adapt and relate to the natural environmental conditions found on the site.
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312 **16.2 Definitions**
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- 314 12. Liner building means a very thin building that lines the edge of a street or other public space. Liner
315 buildings are typically used to shield public space, like a street or sidewalk, from something less
316 desirable to view, such as a parking garage. They can also be used to enclose a space such as
317 protecting a courtyard from a busy street. Where allowed, a liner building may be a minimum of 8 feet
318 deep and a maximum of 14 feet deep.
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320 **16.7.8.4 Exemptions to Net Residential Acreage Calculations**
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- 322 A. The maximum number of dwelling units for residential development not subject to subdivision is
323 based on minimum land area per dwelling unit defined in Chapter 2 Definitions of this Title.
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325 B. The creation of dwelling units subject to subdivision within existing buildings that are connected to
326 town sewer and are located in the Mixed Use -Kittery Foreside; Mixed Use-Badgers Island;
327 Residential Village; Business Local; or Business Local -1 zones are exempt from the net residential
328 acreage calculations in 16.7.8.1. Total number of dwelling units permitted is determined by dividing
329 the gross lot area by the minimum land area per dwelling unit allowed in the zone. The exemption is
330 allowed in the above base zones when subject to the Shoreland Overlay Zone.
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332 C. The Mixed-Use – Neighborhood Zone (MU-N) is exempt from Title 16.7.8.2 Net Residential Acreage
333 Calculation but is subject to the **minimum land area per dwelling unit** as defined in Chapter 2
334 Definitions except that 50% of all wetlands shall be subtracted, rather than 100%.

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