

1 **16.3.2.10 Mixed Use - Neighborhood (MU-N) [FORMER BUSINESS PARK ZONE]**  
2

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.  
6

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. Liner buildings, as part of a mixed-use building;
- 28 19. Low intensity recreation;
- 29 20. Nursing care facility, long term;
- 30 21. Personal services;
- 31 22. Public open space or recreation;
- 32 23. Public utility facilities including substations, pumping stations, and treatment facilities;
- 33 24. Shop in pursuit of trades;
- 34 25. Selected commercial recreation, except shooting and archery ranges;
- 35 26. Research and development;
- 36 27. Repair service;
- 37 28. Restaurant;
- 38 29. Retail use, not to exceed thirty thousand (30,000) square feet in gross floor area unless part of a  
39 mixed-use building;
- 40 30. Theater;
- 41 31. Veterinary hospital;
- 42 32. Specialty food and/or beverage facility.

43  
44 **C. Special Exception Uses.**

- 45 1. Commercial kennel;
- 46 2. Commercial parking lot or garage
- 47 3. Construction services
- 48 4. Equipment sales and rentals (only on lots with frontage on Route 236)
- 49 5. Gas service station (only on lots with frontage on Route 236);

- 50 6. Industry, light (greater than twenty thousand (20,000) square feet in gross floor area);
- 51 7. Mass transit station;
- 52 8. Mechanical service;
- 53 9. New or used motor vehicle sales, (only on lots with frontage on Route 236);
- 54 10. Repair garage; (only on lots with frontage on Route 236)
- 55 11. Retail use, greater than thirty thousand (30,000) square feet in gross floor area and less than fifty
- 56 thousand (50,000) square feet in gross floor area;
- 57

58 **D. Other Uses.**

59 Additional commercial/business uses may be considered by the Planning Board if:

- 60 1. The use is not listed above and;
- 61 2. The use is not defined by 16.2.

62 Such uses will be considered special exceptions uses and must reviewed by the Board based on the

63 following criteria:

- 64 1. If the use is consistent with the Comprehensive Plan and zoning district purposes.
- 65 2. If the proposed use has substantially similar impacts as a listed use.
- 66 3. If the proposed use has substantially the same characteristics as a listed use.
- 67 4. If the use meets special exception criteria found in 16.6.4.4.
- 68

69 **E. Standards.**

- 70 1. All development and the use of land in the MU-N zone must meet the following standards. Kittery's
- 71 Design Handbook illustrates how these standards can be met. In addition, the design and
- 72 performance standards of Chapters 16.8 and 16.9 must be met unless noted otherwise below.
- 73

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

75 businesses must also be provided.

- 
- 76
  - 77 2. The following space standards apply:
  - 78

79 <u>Minimum land area per dwelling unit – mixed-use building:</u>	<u>4,000 square feet for first</u>
80	<u>residential unit plus 3,000</u>
81	<u>square feet for each additional</u>
82	<u>unit, no minimum land area for</u>
83	<u>business or commercial uses</u>
84	<u>when combined in a building</u>
85	<u>with residential uses except that</u>
86	<u>the total lot size must be at least</u>
87	<u>20,000 square feet.*</u>

88 **\*NOTE:**

- 89 1) ADA-compliant units may be located on the first floor
- 90 through a special exception permit by the Planning Board but only
- 91 50% of the first floor may be such ADA- compliant residential units.
- 92

93		
94	<u>Minimum land area per dwelling unit – multiunit residential:</u>	<u>4,000 square feet for first unit,</u>
95		<u>plus 2,500 square feet for each</u>
96		<u>additional unit up to 16 units per</u>
97		<u>acre of lot size. Total lot size</u>
98		<u>must be a minimum of 20,000</u>
99		<u>square feet.</u>
100		
101	<u>Mixed-use or multiunit residential buildings which encompass</u>	<u>Two additional residential units</u>
102	<u>all required parking within the building:</u>	<u>may be added to each story</u>
103		<u>above the parking with no</u>
104		<u>additional land area required.</u>
105		
106	<u>Mixed-use buildings which encompass all required parking within</u>	<u>One additional residential unit</u>
107	<u>the building and include a liner building for non-residential uses</u>	<u>may be added to each story</u>
108	<u>buffering parking from the street:</u>	<u>with no additional land area</u>
109		<u>required.</u>
110		
111	<u>Minimum land area per bed for long-term nursing care and</u>	
112	<u>Convalescent care facilities that are connected to public sewer</u>	<u>2,000 square feet</u>
113		
114	<u>Minimum land area per residential unit for eldercare facilities which</u>	
115	<u>are connected to public sewer</u>	<u>3,000 square feet</u>
116		
117	<u>Minimum lot size</u>	<u>20,000 square feet</u>
118	<u>Minimum street frontage</u>	<u>75 feet</u>
119	<u>Minimum front setback on Route 236</u>	<u>30 feet</u>
120	<u>Minimum front setback on Dennett Road</u>	<u>40 feet</u>
121	<u>Maximum front setback all other roads</u>	<u>20 feet</u>
122	<u>Spacing between buildings</u>	<u>15 feet*</u>
123	<u>Maximum rear and side setbacks</u>	<u>20 feet**</u>
124		
125	<b><u>NOTES:</u></b>	
126	<u>* Except as may be required by the buffer provisions</u>	
127	<u>of this Code, and where the side and/or rear yards of a</u>	
128	<u>proposed nonresidential use abut a residential zone or</u>	
129	<u>use, in which case a minimum of forty (40) feet is required.</u>	
130	<u>See Landscaping, Screening and Buffer requirements.</u>	
131	<u>** Or as required by the Fire Department or State Fire Marshall's office.</u>	
132		
133	<u>Maximum building height</u>	<u>50 feet*</u>
134		<u>(exclusive of solar apparatus)</u>
135		<u>*Buildings which encompass</u>
136		<u>parking may be 60 feet.</u>
137		
138		

139 Maximum impervious and outdoor stored material coverage 70%\*

140

141 **\*NOTE:**

142 1) With Best Management Practices (BMPs) and Low Impact Development  
143 Practices (LIDs) as defined in 16.2 and based on Maine DEP's Maine  
144 Stormwater Best Management Practices Manual, Volumes I - III,  
145 incorporated in site design only, otherwise 60%. Maximum on-site  
146 stormwater infiltration is the desired and measureable outcome.

147

148 Minimum setback from streams, water bodies and wetlands in accordance with  
149 Table 16.9\*

150 **\*NOTES:**

151 1) With Best Management Practices (BMPs) and Low Impact Development  
152 Practices (LIDs) as defined in 16.2 and based on Maine DEP's Maine  
153 Stormwater Best Management Practices Manual, Volumes I - III,  
154 incorporated in site design, then wetland setbacks pursuant only to Maine  
155 Department of Environmental Protection (MDEP) Rules Chapters 305 and  
156 310.

157

158 Without Best Management Practices (BMPs) and Low Impact Development  
159 Practices (LIDs) as defined in 16.2 and based on Maine DEP's Maine  
160 Stormwater Best Management Practices Manual, Volumes I - III,  
161 incorporated in site design, wetland setbacks pursuant to Kittery Town Code  
162 Title 16, Table 16.9.

163

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

175

176 Minimum open space:

177 Lot size less than 100,000 square feet 15 percent\*

178 Lot size greater than 100,000 square feet 25 percent\*

179

180 **\*NOTE:**

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

183

184 **3. Parking:**

185 Parking is encouraged within buildings. New or revised surface parking areas, garages, and  
186 entrances to parking within buildings shall be located to the rear of buildings. If a rear location isn't  
187 achievable, as determined by the Planning Board, parking, garages and entrances to parking shall be

188 located to the side of the building. Screening and/or fencing is required for surface parking areas  
189 along a street. See 8. Landscaping, Screening and Buffers. Parking requirements are based on ITE  
190 parking generation rates.

191  
192 Joint use agreements (between businesses and residences) for parking is encouraged. A plan  
193 describing how joint use parking needs will be met is required as part of any development that proposes  
194 such parking and must be reviewed and approved by the Planning Board.

195  
196 Parking requirements for non-residential uses may be met partially or in full by parking on the street  
197 except that no parking is allowed on Route 236 and Dennett Road. Such on-street parking plans must  
198 be reviewed by planning staff prior to submission and then reviewed and approved by the Planning  
199 Board.

200  
201 Electric car charging stations are allowed in parking lots but must not interfere with pedestrian  
202 movement on sidewalks.

203  
204 a. Parking for development that includes trails and low intensity recreation

205  
206 Development that includes the creation of public trails and low intensity recreational opportunities  
207 such as wildlife observation stations or boardwalks may apply the pertinent off-street parking  
208 standards below. All other off-street parking standards as found in 16.8.9.4 shall apply.

209

<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>

210

211

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

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

216

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

220

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

225

226 5. Site Design

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

230

231 6. Energy and Sustainability  
232 Energy efficiency is allowed and encouraged through the use of solar power, geothermal, and other  
233 alternative and sustainable power sources.  
234

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

- 239 a. A front door for pedestrian access
- 240 b. Windows

241  
242  
243 Flat roofs, proposed to locate heating, cooling, or other such mechanical or electrical apparatus off  
244 the ground, are acceptable provided that such apparatus are screened from view and the screening is  
245 designed as an integral part of the building to aid both aesthetics and noise attenuation. Flat roofs  
246 proposed for the purpose of solar array installations are also acceptable.  
247

248 8. Landscaping, Screening and Buffers:

249 A landscape plan prepared by a registered landscape architect is a submission requirement.  
250 However, a landscape plan done by other design professionals may be allowed at the Planning  
251 Board's discretion.  
252

253 Native trees, shrubs and herbaceous plantings are preferred and shall be drought and salt tolerant  
254 when used along streets. A diversity of tree species (3-5 species per every 12 trees) are required to  
255 provide greater resiliency to threats from introduced insect pests and diseases.  
256

257 Any required plantings approved by the Planning Board that do not survive shall be replaced within  
258 one year.  
259

260 a. Landscaping along the street frontage of each building shall consist of one of the following:  
261

- 262 i. Street Trees. A minimum of one street tree must be planted for each 20 feet of street  
263 frontage. Trees may be planted in groups or spaced along the frontage. However, trees must  
264 be planted to ensure survival, using silva cells, bioretention cells or tree wells. Trees shall be  
265 a minimum of 2.5" caliper and 12 feet high at the time of planting. Existing large healthy trees  
266 must be preserved if practical and will count towards this requirement.
- 267 ii. Pocket Park. The park must be at least 200 square feet. A minimum of three trees and a  
268 bench for sitting are required. Park must be vegetated with ground cover except for  
269 walkways.

270  
271 b. Surface parking areas that abut a street shall provide screening in one of the following ways:  
272

- 273 i. One tree per 25 feet of street frontage backed by a fence constructed of a material similar to  
274 surrounding buildings which shall screen the parking area from the street except for  
275 necessary vehicular and pedestrian access. Trees must be at least 2.5" caliper and 12 feet  
276 high at the time of planting  
277

- 278 ii. A combination of trees and shrubs including at least 50% evergreen species, all at least 6  
279 feet high at time of planting, in a planting bed at least 8 feet wide. Plantings must be  
280 sufficient, as determined by the Planning Board, to screen the parking area from the street  
281 except for necessary vehicular and pedestrian access. Planting beds may be mulched but no  
282 orange or red-dyed mulching material may be used.  
283  
284 c. A minimum of 10% of any surface parking area consisting of 10 or more parking spaces shall be  
285 landscaped with trees and vegetated islands. This requirement is in addition to the screening  
286 requirements in b. above if the parking area abuts a street. Bioretention cells and rain gardens  
287 can be utilized to meet the landscaping requirements and perform stormwater management.  
288  
289 d. Buffers required between non-residential uses and residential uses shall be forty feet wide and  
290 consist of one of the following as determined by the Planning Board:  
291  
292 a. Existing natural woodland and vegetation  
293 b. Existing natural woodland augmented by the planting of additional trees consisting of a  
294 variety of species at least 2.5" caliper and 12 feet high  
295 c. A fence at least six feet high, constructed of material similar to surrounding buildings, with  
296 plantings of trees and shrubs at least 6 feet tall on either side of the fence.  
297

298 9. Open Space

299 Open space must be provided as a percentage of the total parcel area including freshwater wetlands,  
300 water bodies, streams and setbacks. Required open space must be shown on the site plan with a  
301 note dedicating it as open space. The open space must be situated to protect significant natural  
302 features and resources, minimize environmental impacts and promote an aesthetically pleasing site.  
303

- 304 a. Wherever possible, large healthy trees and areas with mature tree cover shall be included in the  
305 open space.  
306 b. Location of open space shall promote the continuity of open space networks across adjacent  
307 parcels  
308 c. Where possible, open space and open space networks shall include public trails and low intensity  
309 recreational opportunities.  
310

311 10. Special Situations

312 Expansions or modifications of 1,000 square feet or less to existing uses are exempt from  
313 landscaping, screening and buffer requirements.  
314

315 11. Conditions for Approving Special Exception Uses in the Neighborhood Mixed Use Zone

316 All applications must include a narrative describing why the use proposed will promote the general  
317 welfare (specifics may be found in Chapter 2 Definitions for **special exception**) of the Town of  
318 Kittery, how the use proposed will meet the special exception criteria found in 16.6.4.4 and how the  
319 proposed development will adapt and relate to the natural environmental conditions found on the site.  
320

321 **16.2 Definitions**

322  
323 **Best Management Practice (BMP) means a structure or practice designed to minimize the flushing by**  
324 **stormwater and the discharge of pollutants to waterbodies by temporarily storing and treating urban**  
325 **runoff. BMPs shall be used to achieve four stormwater management objectives identified by Maine DEP:**  
326 **effective pollutant removal, cooling, channel protection and flood control.**

327  
328 Liner building means a very thin building that lines the edge of a street or other public space. Liner  
329 buildings are typically used to shield public space, like a street or sidewalk, from something less desirable  
330 to view, such as a parking garage. They can also be used to enclose a space such as protecting a  
331 courtyard from a busy street. Where allowed, a liner building may be a minimum of 8 feet deep and a  
332 maximum of 14 feet deep.

333  
334 **Low Impact Development (LID) means the site-based process of developing land while minimizing**  
335 **impacts on water resources and infrastructure. LID replicates the natural hydrology of a site.**

336  
337 **16.7.8.4 Exemptions to Net Residential Acreage Calculations**

- 338  
339 A. The maximum number of dwelling units for residential development not subject to subdivision is  
340 based on minimum land area per dwelling unit defined in Chapter 2 Definitions of this Title.  
341  
342 B. The creation of dwelling units subject to subdivision within existing buildings that are connected to  
343 town sewer and are located in the Mixed Use -Kittery Foreside; Mixed Use-Badgers Island;  
344 Residential Village; Business Local; or Business Local -1 zones are exempt from the net residential  
345 acreage calculations in 16.7.8.4. Total number of dwelling units permitted is determined by dividing  
346 the gross lot area by the minimum land area per dwelling unit allowed in the zone. The exemption is  
347 allowed in the above base zones when subject to the Shoreland Overlay Zone.  
348  
349 C. The Mixed-Use – Neighborhood Zone (MU-N) is exempt from Title 16.7.8.2 Net Residential Acreage  
350 Calculation but is subject to the **minimum land area per dwelling unit** as defined in Chapter 2  
351 Definitions except that 50% of all wetlands shall be subtracted, rather than 100%.

352  
353  
354