



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
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REPORT TO TOWN COUNCIL

Date: March 14, 2022
Update: April 11, 2022, May 23, 2022
From: Kendra Amaral, Town Manager
CC: Dutch Dunkelberger, Planning Board Chair, Matt Brock, Housing Committee Chair
Subject: Title 16 – Affordable Housing BL & BL-1 Zones
Councilor Sponsor: Chairperson Judy Spiller

SUMMARY

Please see the attached report from Adam Causey, Director of Planning and Development.

UPDATE

The Council held a workshop with the Planning Board and Housing Committee. The discussion focused on the payment in lieu, the front-yard setbacks, density, and affordability requirement. At the conclusion of the workshop the Council requested the following be prepared:

- Written responses to the workshop questions
- Increased payment in lieu recommendation
- Draft of revision that required all units to be affordable (100% affordable) to qualify for density bonuses
- Bring forward the affordable housing amendment for the Mixed Use-Neighborhood that was just recommended by the Planning Board (separate agenda item for the 5/23/22 meeting)

PROPOSED SOLUTION/RECOMMENDATION

Adopt amendment to Title 16 as proposed.

ATTACHMENTS

- Staff Memo summarizing the changes and process
- Draft Title 16 – Affordable Housing Business Local (BL) Zone
- Draft Title 16 – Affordable Housing Business – Local 1 (BL-1) Zone
- Draft Title 16 – Affordable Housing Enactment
- Written Responses to Workshop Questions
- 100% AFFORDABLE OPTION: Revised Drafts of BL and BL-1 Zone amendments



TOWN OF KITTERY
Planning and Development Department
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TO: KENDRA AMARAL, TOWN MANAGER
FROM: ADAM CAUSEY, DIRECTOR OF PLANNING & DEVELOPMENT
SUBJECT: BUSINESS-LOCAL AND BUSINESS LOCAL-1 ZONES
DATE: MARCH 3, 2022

This memo outlines the changes being proposed to the B-L and B-L1 zoning districts. For details on these zone locations, please consult the Town's zoning map, available through the Town's on-line GIS here: <https://www.axisgis.com/KitteryME/>. Click "agree" and select Layers on the left and then click the Zoning checkbox.

The intent of these amendments is to encourage and incentivize a variety of housing types, including modestly priced housing for sale or rent, within these zones. The zones currently allow multi-family and/or mixed-use structures, along with various types of commercial uses, but setbacks and density requirements make it difficult to develop housing projects in reality. With these amendments, the Town's affordable housing policy becomes a requirement in these zones, such that any development that includes five or more dwelling units will be required to provide affordable housing or a payment-in-lieu. It is important to note that these changes make a distinction between those areas that are on Town sewer. Areas within these zones that are not connected to public sewer will not be able to take advantage of increased density standards.

Highlights include:

- Multi-family dwellings of 3-4 dwelling units are permitted by minor site plan review
- Density incentive for a mixed-use building that proposes 5 or more units of housing and at least one commercial use on the first floor
- Density incentive for affordable housing
- Setback adjustments
- Reduced parking for studio and one-bedroom dwelling units or affordable units
- Reduced parking if within ¼ mile of public transit stop in the B-L1 zone
- Impervious surface limits replace building coverage limits
- Stormwater standards strengthened
- Landscaping requirements clarified

These amendments have been reviewed by the Housing Committee, the Economic Development Committee, and the Kittery Land Use Issues Committee within the last 18 months with subsequent

suggestions incorporated. The Planning Board reviewed these proposed changes at their February 24, 2022 meeting and voted unanimously to recommend it for adoption by Town Council.

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

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

72 (a) Minimum land area per dwelling unit:

73 [1] If served by on-site sewage disposal: 20,000 square feet;

74 [2] If served by the public sewerage system and:

75 [a] All floors are residential: 3,000 square feet; or

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

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

88 [d] 25% or more of the dwelling units will be affordable housing units as defined by
89 this code: 2,000 square feet.

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

91 ~~(b)(4) Parking. One row of parking spaces and a related access drive may be located between the~~
92 ~~front property line and the front wall of the building extending the full width of the lot. All~~
93 ~~other parking must be located to the side and/or rear of the building. All new or revised~~
94 ~~parking must be visually screened through the use of landscaping, earthen berms and/or~~
95 ~~fencing from adjacent public streets or residential properties. (See the Design Handbook for~~
96 ~~appropriate examples.)~~ Parking requirements are to be met on site. If meeting the parking
97 requirements is not possible, the parking demand may be satisfied off site or through joint-
98 use agreements as specified herein. Notwithstanding the off-street parking requirements in §
99 16.7.11.F(4), minimum parking requirements for the uses below are modified as specified:

100 [1] Dwelling units: 1.5 parking space per dwelling unit; unless:

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

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

107 [2] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of
108 the parking may be designated for compact cars. See § 16.7.11.F(4) Off-Street Parking
109 Standards.

110 [3] Electric car charging stations are allowed and encouraged in parking lots but must not
111 interfere with pedestrian movement on sidewalks.

112 (c) Off-site parking. Required off-street parking may be satisfied at off-site locations, provided
113 such parking is on other property owned by the applicant or is under the terms of a contractual
114 agreement that will ensure such parking remains available for the uses served. Applicant
115 must present evidence of a parking location and a contractual agreement prior to final

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

120 (d) Joint-use parking. Required off-street parking may also be satisfied by the joint use of parking
121 space by two or more uses if the applicant can show that parking demand is nonconflicting
122 and will reasonably provide adequate parking for the multiple uses without parking
123 overflowing into undesignated areas. Nonconflicting periods may consist of daytime as
124 opposed to evening hours of operation or weekday as opposed to weekends or seasonal
125 variation in parking demand.

126 [1] Such joint parking areas must be held under ownership of the applicant or under terms
127 of a contractual agreement that ensures such parking remains available to all users of
128 the shared parking spaces. Applicant must present evidence of the parking location and
129 a contractual agreement prior to final approval and file the same with the Planning and
130 Code office each time the contract is renewed. Any changes to the contractual agreement
131 must be reviewed by the Code Enforcement Officer and if the municipal permitting
132 authority which originally approved the off-site parking.

133 [2] Determination of parking adequacy will be based on a most frequent basis, not a "worst
134 case" scenario;

135 [3] Joint use parking areas must be located within 1,500 feet to the use served, but do not
136 need to be located on the same lot as the uses served;

137 [4] Ease and safety of pedestrian access to shared parking by the users served must be
138 demonstrated, including any proposed improvements or shuttle service that may be
139 offered and its requisite loading/unloading areas;

140 [5] Such joint parking areas must not be located in residential zones of the Town.

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

145 (f) Special parking and access situations.

146 [1] In instances where one row of parking spaces and/or a related access drive is located
147 between the front property line and the front wall of the building extending the full width
148 of the lot and was utilized in accordance with previous permits or approvals, for parking,
149 display, storage, building or necessary vehicle circulation, the Planning Board may
150 allow such improvements to remain provided all other parking meets the location
151 requirements and provided that a landscaping plan for the property frontage is reviewed
152 and approved by the Planning Board.

153 (g) Minimum lot size: none.

154 NOTE: Except that all screening, open space, buffering and landscaping requirements must
155 be met or in instances where the Planning Board may modify such requirements, such
156 modifications must be found satisfactory by the Board.

157 (h) Minimum street frontage: none.

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

162 permitting authority that the street frontage and lot design meet these requirements to the
163 extent practicable.

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

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

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

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

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

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

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

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

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

195 (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 sky

293 compliant).

294 (4) Landscaping and site design standards. A landscape plan prepared by a registered landscape
295 architect is a submission requirement. However, a landscape plan done by other design
296 professionals may be allowed at the Planning Board’s discretion. To achieve attractive and
297 environmentally sound site design ~~and appropriate screening of parking areas~~, in addition to the
298 landscaping standards contained in ~~Chapters 16.7 and 16.8~~ 16.5, the following landscaping
299 requirements apply to new and modified existing developments:

300 ~~B~~

301 (a) Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of
302 15 feet in depth adjacent to the right-of-way of all public roads or the sidewalk if it already
303 exists. If a sidewalk does not yet exist on-site but sidewalks do exist on adjacent properties,
304 the planting strip must be located so that it does not interfere with connectivity to existing
305 sidewalks. Planting strips which demonstrate LID functionality to assist in stormwater capture
306 are preferred.. The Planning Board may reduce the required ~~depth~~ width of the landscape
307 planter ~~ing~~ strip ~~if a sidewalk~~ is provided in front of the parcel and the area between the front
308 property line and the front wall of the building will be designed and used as a pedestrian space,
309 outdoor dining as defined by this title, or a seating area.. The landscape planter ~~ing~~ strip must
310 include the following landscape elements:

311 (a)

312 [1] ~~Ground cover~~ Plantings. The entire landscape planter ~~ing~~ strip must be vegetated with a
313 combination of shrubs, perennials, and ornamental grasses except for approved
314 driveways, walkways, bikeways and screened utility equipment. Climate-change tolerant
315 Northeastern native plants are preferred. Planting beds may be mulched but no dyed
316 mulching material may be used. Street trees required below may be included in this
317 planting strip. Drip irrigation is recommended.

318 (b)

319 [2] Street-side trees. A minimum of one tree must be planted for each 25 feet of street
320 frontage. The trees may be spaced along the frontage or grouped or clustered to enhance
321 the visual quality of the site. (See Design Handbook for examples.) The trees must be a
322 minimum ~~two and one half inch~~ 2.5-inch caliper and be at least 12 feet high at the time
323 of planting. Trees must be planted to ensure survival, using silva cells, bioretention cells
324 or tree wells. The species must be selected from the ~~A~~ list of ~~approved~~ street-side trees
325 can be found in the Design Handbook. Trees native to the Northeast, selected for climate
326 change tolerance, are preferred and must be drought and salt tolerant when used along
327 streets. A diversity of tree species (three to five species per every 12 trees) is required to
328 provide greater resiliency to threats from introduced insect pests and diseases. Existing
329 large healthy trees must be preserved if practical and will count toward this requirement.
330 Trees located within the public right-of-way must not exceed 20 feet in height at maturity.

331 [3] Any required plantings that do not survive must be replaced within one year. This
332 requirement does not expire and runs with the land.

333 (e)(b) Special situations.

334 [1]. [a]. Expansions of less than 1,000 square feet to existing uses including single-family
335 or two-family dwellings are exempt from the landscaping standard of this
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 ering 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 o ~~Open 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.

380 ~~D—[1]~~ In cases where creating or preserving open space to meet the 15% requirement above
 381 is not practicable, the Planning Board may allow the required landscaping in 4.(a) above

382 to count towards meeting the open space requirement provided the proposed landscaped
383 planting strip is expanded beyond the required width and the Planning Board finds that
384 all criteria for open space above has been met to the greatest extent possible.

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

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

388 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~
389 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~
390 ~~50% of the building height is required.)~~

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

394 ~~(c).—Minimum lot size: none.~~

395 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~
396 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~
397 ~~50% of the building height is required.)~~

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

399 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~
400 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~
401 ~~50% of the building height is required.)~~

402 ~~(e).—Minimum front yard: 15 feet.~~

403 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~
404 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~
405 ~~50% of the building height is required.)~~

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

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

408 ~~(NOTE: Except as otherwise required by the buffer provisions of this title, and except where the~~
409 ~~side and/or rear yards abut a residential district or use; in which case a minimum of 15 feet or~~
410 ~~50% of the building height is required.)~~

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

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

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

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

417 ~~(k).—Minimum setback from streams, water bodies and wetlands: in accordance with Table~~
418 ~~16.5.30, § 16.4.28 and Appendix A, Fee Schedules.~~

419 (5) Cottage cluster requirements:

420 (a) Cottage cluster dwelling units must either face the required common open space or the street.

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

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

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

428 (6) Affordable housing requirements:

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

430

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

434 ~~(4)~~(7) Gasoline Sales

435 (a). Gasoline Sales must not be located within 1,000 feet of an existing station;

436 (b). not be located within 1,000 feet of any private residence; and

437 ~~(a)~~(c). not be located within 150 feet of any existing structure.

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

439 (1) Permitted uses.

440 (a) Accessory Buildings, Structures, and Uses

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

443 [1] Dwelling, Attached Single-family

444 [2] Dwelling, Manufactured housing

445 [3] Dwelling, Multi-family

446 [4] Dwelling, Single-family

447 [5] Dwelling, Two-Family

448 ~~(b)~~(c) Recreation, Public Open Space

449 (2) Special exception uses.

450 (a). Art Studio or Gallery

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

453 (c). Business Services

454 (d). Business & Professional Offices

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

457 (f). Parking Area

458 (g). Conference Center

459 (h). Retail Sales, Convenience

460 (i). Home Occupation, Major

461 (j). Home Occupation, Minor

462 (k). Mass Transit Station

- 463 (l). Motel
- 464 (m). Hotel
- 465 (n). Inn
- 466 (o). Rooming House
- 467 (p). Personal Services
- 468 (q). Public Assembly Area
- 469 (r). Theater
- 470 (s). Public Utility Facility
- 471 (t). Restaurant
- 472 (u). Retail Sales, but (excluding those of which the principal activity entails outdoor sales and/or
- 473 storage)
- 474 (v). Commercial School
- 475 (w). Public or Private School
- 476 (x). Nursery School
- 477 (y). Day Care Facility
- 478 (z). Elder Care Facility
- 479 (aa). Hospital
- 480 (bb). Nursing Care Facility, Long-term
- 481 (cc). Convalescent Care Facility
- 482 (dd). Public Facility
- 483 (ee). Religious Use
- 484 (ff). Private Assembly
- 485 (gg). Specialty Food and/or Beverage Facility

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

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

488 (1) Permitted Uses.

489 (a) Recreation, Public Open Space

490 (2) Special Exception Uses.

491 (a) Accessory Uses & Buildings

492 (b) Aquaculture

493 (c) Home Occupations, Major

494 (d) Home Occupations, Minor

495 (e) Public Utility Facilities,

496 (f) Dwelling, Single-Family

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

**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

- 33 ~~(18)~~(19) Public Facility
- 34 ~~(19)~~(20) Public or Private School
- 35 ~~(20)~~(21) Religious Use
- 36 ~~(21)~~(22) Recreation, Public Open Space
- 37 ~~(22)~~(23) Commercial School
- 38 ~~(23)~~(24) Art Studio or Gallery
- 39 ~~(24)~~(25) Business & Professional Offices
- 40 ~~(25)~~(26) Business Services
- 41 ~~(26)~~(27) Conference Center
- 42 ~~(27)~~(28) Personal Services
- 43 ~~(28)~~(29) Restaurant
- 44 ~~(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)
- 45
- 46 ~~(30)~~(31) Retail Sales, Building Materials & Garden Supply (excluding those of which the principal activity entails outdoor sales and/or storage)
- 47
- 48 ~~(31)~~(32) Retail Sales, Convenience
- 49 ~~(32)~~(33) Specialty Food and/or Beverage Facility
- 50 ~~(33)~~(34) Mass Transit Station
- 51 ~~(34)~~(35) Parking Area

52 C. Special exception uses

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

- 54 (1) Motel
- 55 (2) Hotel
- 56 (3) Rooming House
- 57 (4) Funeral Home
- 58 (5) Gasoline Service Station
- 59 (6) Public Assembly Area
- 60 (7) Theater
- 61 (8) Public Utility Facility
- 62 (9) Farmers Market
- 63 (10) Mechanical service
- 64 (11) Dwellings, cottage cluster; and
- 65 ~~(10)~~(12) Buildings and structures over 40 feet that conform to the provisions of Title 16.

66 D. Standards

67 All development and the use of land in the B-L1 Zone must meet the following standards. Kittery's
68 Design Handbook illustrates how these standards can be met. In addition, the design and performance
69 standards of Chapter § 16.5, 16.7 and 16.8 must be met.

70

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

72 (a) Minimum land area per dwelling unit:

73 [1] When all floors are residential: ~~8,000~~2,500 square feet

74 [2] When less than five dwelling units are proposed with, at minimum, one nonresidential
75 use to be located on the first floor facing State Road or Shapleigh Road such that the use
76 will be visible from the street: 2,500 square feet. Such a nonresidential use or uses need
77 not occupy the entire first floor but must be an independent nonresidential use, e.g., not a
78 home office marketed with a dwelling unit as a work/live unit. ~~When the entire first floor~~
79 ~~is in nonresidential use: 3,500 square feet.~~

80 [3] When five or more dwelling units are proposed with, at minimum, one nonresidential use
81 to be located on the first floor facing State Road or Shapleigh Road such that the use will
82 be visible from the street: 2,000 square feet. Such a nonresidential use or uses need not
83 occupy the entire first floor but must be an independent nonresidential use, e.g., not a
84 home office marketed with a dwelling unit as a work/live unit.

85 ~~[2]~~[4] When 25% or more of the dwelling units will be affordable housing units as
86 defined by this code, the minimum land area per dwelling unit is: 1,500 square feet.

87 (b) Parking:

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

93 [1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:

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

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

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

103 [2] For multifamily dwellings, if more than ten parking spaces are required, up to 20% of
104 the parking may be designated for compact cars. See 16.7.11.F.(4) Off-Street Parking
105 Standards.

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

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

113 (d) Minimum street frontage per ~~building~~lot: 50 feet.

- 114 (e) Maximum front ~~yard~~setback: ~~30~~20 feet.
- 115 (NOTE: This area must be designed to promote a pedestrian public space, which includes,
- 116 but is not limited to, landscaping, sidewalks and sitting areas. The Planning Board may, at its
- 117 discretion, allow a greater setback when public amenities such as pocket parks, outdoor
- 118 dining or seating areas are proposed within the front setback. Pocket parks must be at least
- 119 200 square feet with a minimum of three trees and a bench for sitting required. Park must be
- 120 vegetated with ground cover except for walkways. Outdoor dining areas must meet any
- 121 additional requirements specific to that use. ~~Parking and outdoor~~Outdoor storage ~~are~~is
- 122 prohibited anywhere in the front yard of the structure, except for seasonal sales items.
- 123 Parking is also prohibited in the front setback except as allowed in subsection (2).(e)
- 124 below).)
- 125 (f) Minimum rear and side ~~yards~~setbacks: 10 feet.
- 126 (NOTE: Except as otherwise required by the buffer provisions of this title, and except where
- 127 the side and/or rear ~~yards~~setbacks abut a residential zone or single-family use; in which case
- 128 a minimum of 15 feet or 50% of the building height, whichever is greater, is required.)
- 129 (g) Maximum building height: 40 feet. Solar apparatus is excluded from height determinations.
- 130 Buildings and structures higher than 40 actual feet from the lowest point of grade to the
- 131 highest point of the building or structure (see Height of Building in 16.3), permitted as a
- 132 special exception, must have side, rear and front setbacks of sufficient depth to adequately
- 133 protect the health, safety and welfare of abutting properties, which may not be less than 50%
- 134 of the actual height of the proposed building.
- 135 ~~(h) Maximum building and outdoor stored material coverage: 50%~~ The maximum impervious
- 136 surface is:-
- 137 [1] 70%; or
- 138 [2] The Planning Board may, at its discretion, allow greater than 70% if:
- 139 (i) Additional landscaped or natural areas are proposed or preserved and such areas are
- 140 integrated into the site design in an environmentally conscious way utilizing LID to
- 141 provide stormwater filtration and/or water quality improvements. Such areas must exceed
- 142 the requirement that 15% of the lot be landscaped or natural. See (4) Landscaping/Site
- 143 Improvements. When granting such a concession, the Board must find that the proposed
- 144 additional landscaping and/or natural areas and the site design provide enough benefit to
- 145 outweigh the impact of greater impervious surface; or
- 146 (ii) Affordable housing to be built, rather than a payment-in-lieu, is proposed.
- 147 ~~(h)~~ Note: If using either option above, the stormwater requirements in (i) below may not
- 148 be modified.
- 149 (i) Stormwater: All new development must use LID (Low Impact Development) and BMP (Best
- 150 Management Practices), based on Maine DEP’s Maine Stormwater Best Management
- 151 Practices Manual Volumes I-III as amended from time to time, to manage 100% of the total
- 152 stormwater generated on-site. The stormwater report and plan demonstrating that this
- 153 requirement is met must be included with the application at the time of submission. A request
- 154 for a modification may be submitted to the Planning Board but it is incumbent on the
- 155 applicant to prove to the Planning Board’s satisfaction that such a modification is necessary.
- 156 The Town reserves the right to submit such modification requests for independent
- 157 engineering review at the applicant’s expense. The Board may also require additional

158 landscaping/plantings and/or LID features when granting such concessions.

159 (j) Minimum area dedicated to landscaped or natural areas: 15%.

160 [1] For the purposes of this zone, a natural area is an area that is not regularly mowed, and
161 contains trees and/or shrubs which may not have been deliberately planted. Invasive plants,
162 as defined by the State of Maine, must be removed.

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

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

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

173 (m) Minimum setback from streams, water bodies and wetlands: in accordance with Table
174 16.5.30, § 16.4.28 and Appendix A, Fee Schedules.

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

178 (2) Parking design.

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

184 (b) Shared access between buildings and/or lots must be provided where feasible; and
185 Feasibility criteria include:

186 [1] Fewer curb cuts required;

187 [2] Improved or new pedestrian access between buildings or lots;

188 [3] Improved internal circulation between buildings or lots; and

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

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

197 [1] A landscape plan showing screening and other landscaping requirements prepared by a
198 registered landscape architect is a submission requirement. However, a landscape plan done
199 by other design professionals may be allowed at the Planning Board's discretion.

200 [2] Any required plantings that do not survive must be replaced within one year. This

201 requirement does not expire and runs with the land.

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

207 [4] Surface parking lots designed for five or more cars that will service multi-family or
208 mixed-use buildings with dwelling units and which abut a street, single-family use or
209 residential zone must provide screening in one of the following ways:

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

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

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

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

241 (e) In instances where one row of parking spaces and/or a related access drive is located
242 between the front property line and the front wall of the building extending the full width of the
243 lot and was utilized in accordance with previous permits or approvals, for parking, display,
244 storage, building or necessary vehicle circulation, the Planning Board may allow such
245 improvements to remain provided all other parking meets the location requirements and

246 provided that a landscaping plan for the property frontage is reviewed and approved by the
 247 Planning Board.

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

251 (3) Building design standards

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

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

274 (b) Roofs. ~~A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated~~
 275 ~~to the Planning Board's satisfaction that this is not practicable. Acceptable roof~~ Roof styles
 276 ~~are such as~~ gabled, gambrel and hipped roofs are preferred. ~~Flat roofs, shed~~ Shed roofs and
 277 roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms unless
 278 demonstrated to the Planning Board' satisfaction that another design is not practicable, except
 279 ~~as provided above~~. Roof colors must be muted. (See Design Handbook for examples.) Flat
 280 roofs proposed to locate heating, cooling, or other such mechanical or electrical apparatus off
 281 the ground, are acceptable provided that such apparatus are screened from view and the
 282 screening is designed as an integral part of the building to aid both aesthetics and noise
 283 attenuation. Flat roofs proposed for the purpose of solar array installations are also
 284 acceptable. The roof design must screen or camouflage rooftop protrusions to minimize the
 285 visual impact of air conditioning units, air handler units, exhaust vents, transformer boxes
 286 and the like. (See Design Handbook for examples of appropriate treatments.)

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

290 (d) Lighting plans, including outdoor lighting fixture designs and photometric plans, must be

291 included at the time of application submission. All lighting fixtures must be cutoff (dark sky
 292 compliant).

293 (4) Landscaping/site improvements.

294 A landscape plan prepared by a registered landscape architect is a submission requirement.

295 However, a landscape plan done by other design professionals may be allowed at the Planning
 296 Board’s discretion. Climate change-tolerant Northeastern native plants are preferred. To achieve
 297 attractive and environmentally sound site design ~~and appropriate screening of parking areas~~, in
 298 addition to the landscaping standards contained in § 16.7-5 ~~and § 16.8~~, the following landscaping
 299 requirements apply to new and modified existing developments:

- 300 (a) Fifteen percent of site area must be landscaped and/or in a natural state as described in
 301 D.(1).(j).[1], unless otherwise provided above;
- 302 (b) Outdoor spaces must be created to reinforce commercial and community activities and
 303 pedestrian-friendly access. Outdoor spaces are encouraged throughout the site ~~with special~~
 304 ~~attention along~~ especially in those areas to the front and sides of buildings when viewed from
 305 the sidewalk and street. Architectural features such as decorative pavers, planters and
 306 ~~benches~~ seating areas, as well as outdoor dining where applicable, are encouraged in the
 307 creation of these spaces;
- 308 (c) The ~~space~~ setback between the ~~roadway~~ street and any buildings must be attractively
 309 landscaped using trees, ~~flowers~~, shrubs, perennials, ornamental grasses, fencing or stone
 310 walls to reinforce the site's unique character and building design and complement the public
 311 use of the space;
- 312 (d) ~~A-Required~~ buffer setbacks that function as buffers between commercial and residential
 313 zones/single-family uses must be ~~established and be~~ landscaped at minimum with a
 314 combination of trees and shrubs in a planting bed at least six (6) feet wide. Planting beds may
 315 be mulched but no dyed mulching material may be used; ~~visually pleasing mixed planting~~
 316 ~~type;~~
- 317 (e) ~~Solid fencing, berms and/or stone walls must be used to prevent headlights from shining on~~
 318 ~~abutting residential property. Incorporating flowering vines and other plantings on fences and~~
 319 ~~blank exterior walls is encouraged;~~
- 320 (f)(e) Provide street trees in a pattern reflecting the existing streetscape. For new buildings, a
 321 minimum of one street tree must be planted for each 25 feet of street frontage. The trees may
 322 be spaced along the frontage or grouped or clustered to enhance the visual quality of the site.
 323 (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch
 324 caliper and be at least 12 feet high at the time of planting. ~~The species must be selected from~~
 325 the A list of approved street trees may be found in the Design Handbook. Trees native to the
 326 Northeast, selected for climate change tolerance, are preferred and must be drought and salt
 327 tolerant when used along streets. A diversity of tree species (three to five species per every
 328 12 trees) is required to provide greater resiliency to threats from introduced insect pests and
 329 diseases. Trees located within the public right-of-way must not exceed 20 feet at maturity.
 330 Existing large healthy trees must be preserved if practical and will count toward this
 331 requirement.
- 332 (g)(f) For additions to existing buildings and changes of residential structures to a
 333 nonresidential use, one street-side tree (see list of street trees in Design Handbook) is
 334 required to be planted for every 1,000 square feet of additional gross floor area added or
 335 converted to nonresidential use. In instances where parking, display area, storage, building or

336 necessary vehicle circulation exists at the time of enactment of this section, the required trees
337 may be clustered and/or relocated away from the road as is necessary to be practicable. The
338 preservation of existing large trees is encouraged; therefore, the Planning Board may permit
339 the preservation of existing healthy, large, mature trees within developed areas of the site to
340 be substituted for the planting of new trees;

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

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

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

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

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

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

358 (5) Traffic and circulation standards.

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

366 (6) Cottage cluster requirements:

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

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

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

375 (7) Affordable housing requirements:

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

377 (b) Density incentives outlined above in subsection D.(1).(a).[4] may be applied to projects
378 that create affordable housing units, as defined by this code. No proportional payment-in-lieu is

379 required if the affordable dwelling unit requirements for the density incentives are met.

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

383 E. Shoreland Overlay Zone OZ-SL – Business Local Zone (B-L1)

384 (1) Permitted uses

- 385 (a) Accessory Uses & Building
- 386 (b) Aquaculture
- 387 (c) Recreation, Public Open Space

388 (2) Special exception uses

- 389 (a) Art Studio or Gallery
- 390 (b) Business & Professional Offices
- 391 (c) Business Services
- 392 (d) Retail Sales, Building Materials & Garden Supply (excluding those of which the principal
- 393 activity entails outdoor sales and/or storage)
- 394 (e) Conference Center
- 395 (f) Retail Sales, Convenience
- 396 (g) Commercial Fisheries/Maritime Activities (provided only incidental cleaning and cooking of
- 397 seafood occur at the site)
- 398 (h) Parking Area
- 399 (i) Dwelling, Manufactured Housing
- 400 (j) Dwelling, Single-Family
- 401 (k) Dwelling, Two-Family
- 402 (l) Farmers market
- 403 (m) Funeral Home
- 404 (n) Home Occupation, Major
- 405 (o) Home Occupation, Minor
- 406 (p) Inn
- 407 (q) Mass Transit Station
- 408 (r) Motel
- 409 (s) Hotel
- 410 (t) Inn
- 411 (u) Rooming House
- 412 (v) Personal Service
- 413 (w) Public Assembly Area
- 414 (x) Theater
- 415 (y) Public Utility Facility
- 416 (z) Restaurant
- 417 (aa) Retail Sales (excluding those of which the principal activity entails outdoor sales and/or
- 418 storage)
- 419 (bb) Specialty Food and/or Beverage Facility

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

421 F. Resource Protection Overlay Zone OZ-RP – Business – Local Zone (B-L1)

- 422 (1) Permitted Uses
- 423 (a) Recreation, Public Open Space
- 424 (2) Special Exception Uses
- 425 (a) Accessory Uses & Buildings
- 426 (b) Home Occupations, Major
- 427 (c) Home Occupations, Minor
- 428 (d) Public Utility Facility
- 429 (e) Dwelling, Single-Family, including modular homes
- 430 (3) See § 16.4.29 for purpose and standards in the Resource Protection Overlay Zone OZ-RP

**KITTERY TOWN CODE –
TITLE 16
AFFORDABLE HOUSING**

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

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

10 **WHEREAS**, the Town of Kittery desires to promote and retain a diverse community of residents
11 who provide essential services to the Town, cultural enrichment, a variety of ages and
12 backgrounds, or who currently live in Kittery on modest means; and

13 **WHEREAS**, the Town of Kittery recognizes that municipal support provided through a
14 combination of policy, ordinances, and funds is needed for the creation, rehabilitation, and
15 retention of affordable housing units in Kittery; and

16 **WHEREAS**, the Town of Kittery seeks to remove barriers and incentivize the creation,
17 rehabilitation, and retention of affordable housing units through its zoning code;

18 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN
19 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENTS TO TOWN
20 CODE, TITLE 16, LAND USE and DEVELOPMENT CODE, BUSINESS LOCAL AND
21 BUSINESS LOCAL-1 ZONES, AS PRESENTED.

22 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
23 20____, by:_____ {NAME} Motion to approve by Councilor
24 _____ {NAME}, as seconded by Councilor _____ {NAME} and
25 passed by a vote of _____.

26 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
27 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

28 **Attest:** {NAME}, _____ Town Clerk

Affordable Housing BL, BL-1 Zone - Workshop Questions

1. Are the primary goals of these amendments to create affordable housing?

- Yes, the amendments are developed to create affordable housing.
- Housing prices, whether they be purchase price or rental are skyrocketing due to high demand and low supply.
- Affordable housing means both income-restricted (aka: “big A Affordable”) and affordable as a result of natural market conditions such as sufficient supply, variety of unit sizes (studio, 1/2/3 bedrooms), and variety of types (rental, condo, multi-family, single family).
- “Big A Affordable” is defined in Title 16 as up to 80% of area median income, which is currently in the mid-\$80,000 per year for a family of four. The area median income is updated annually.
- The proposed amendments reduce the barriers to creating more housing in these zones which will add supply, and also require big “A” Affordable housing via income-restricted units or payment in lieu.

2. Can we increase the payment in lieu fee?

- Yes. The Housing Committee recommended that rate, knowing it may be low. The concern was setting it too high deterring housing projects that add both supply and affordable units.
- The payment in lieu fee was made an “Appendix A” component specifically to ensure Council could amend it relatively quickly as needed or desired.

OPTION A: Increase the Payment in Lieu fee to \$75,000 per unit; and/or

OPTION B: Allow no more than 50% of the units to be achieved through Payment in Lieu

3. If both zones were developed to their greatest density, how many units would result?

- Determining how many units is not possible within the scope of the staff resources. As part of the JLUS grant, the Town conducted a build-out exercise of a parcel along the Route 1 – Mall corridor and at the Water District. The Town also conducted a build-out exercise of the Walker Street Fire Station, through a Workforce Housing Coalition of Greater Seacoast charrette. These were done by consultants and volunteers in the architectural/developer/construction/financing industries, not staff. See Workforce Housing Coalition of Greater Seacoast report, and Urban Land Institute Technical Assistance Panel report.
- Each parcel has constraints specific to its own shape, topography, and site conditions. These constraints always reduce the developable acreage and therefore the size of the structure that can be placed on the parcel.
- To understand what **net density** will be on a particular site take the gross acreage and then subtract out:
 - Front, side, rear setbacks
 - Wetland setbacks
 - Buffering, landscape and parking requirements
 - Road access location and traffic egress routes

- Lot coverage limitations (aka: impervious surface limitations)
 - Required site improvements
-

4. How can we be sure that the residential wouldn't out compete and so exclude commercial as has happened in parts of Portsmouth?

- We cannot guarantee exactly what a property owner will chose to do with their private property; planning is a guiding mechanism that describes what can happen and what is desired to happen.
- Housing of all types are already allowed in the BL and BL-1 zones; yet only one project with housing has occurred in the past 8 years.
- The existing zoning density for housing, if served by public sewer is:
 - BL: 8,000 sqft, 4,000 sqft if entire first floor is non-residential
 - BL-1: 8,000 sqft, 3,500 sqft if entire first floor is non-residential.
- The proposed zoning makes housing more viable by increasing the density allowed, incentivizing mixed use, and further incentivizing affordable unit generation beyond the required 10%.
- The proposed zoning density for housing, if served by public sewer is:
 - BL: 3,000 sqft; 2,500 sqft if 5+ units and minimum of one nonresidential use on the first floor facing State Road or Route 1 Bypass, 2,000 sqft if 25% of units are affordable
 - BL-1: 2,500 sqft; 2,000 sqft if 5+ units and minimum of one nonresidential use on the first floor facing Shapleigh Road, State Road or Route 1, 1,500 sqft if 25% of units are affordable
- The Housing Committee spent a great deal of time discussing the impacts of commercial space requirements on affordable housing projects. Requiring commercial space as part of an affordable housing project adds barriers to the project including:
 - Commercial portion is ineligible for certain types of financing, and tax credits used in affordable housing developments.
 - If the entire first floor was required to be commercial, then an elevator could be required to meet ADA standards for affordable housing financing, which drives up the costs which in turn makes a project less financially viable for affordable housing.

OPTION: Require a portion of the first floor be commercial on State Road and Route 1 Bypass

5. What would State and Post Roads look like with 40' buildings with minimal setbacks on both sides of the road?

- See attached images.
-

6. Review what is proposed for Mixed Use Building that proposes 5 or more units of housing and at least one commercial unit on first floor.

- Proposed for BL, if served by public sewer: 2,500 sqft per unit with 10% of units restricted affordable or payment in lieu; ~ 17 units per **gross acre**.
- Proposed for BL-1, if served by public sewer: 2,000 sqft unit if 25% of units are restricted affordable or payment in lieu; ~ 22 units per **gross acre**

- See Q3 for an understanding of how gross acreage is reduced to actual developable land by parcel (net acreage).
-

7. How would it look if both sides of the road had forty-foot structures? Is there a way to require top level to be tiered to create more open-air space or require a ten-foot setback for the forty-foot structures?

- See attached images.
- Existing code: Minimum 15 ft front yard setback.
- Proposed code: Maximum 20 ft front yard setback.
- Both the tiered top floor and a minimum setback are possible, both would produce different outcomes.
- Requiring the top level to be tiered would impact space efficiency of building layout, may not feel “open air” as desired for the pedestrian on the street level, and reduces opportunities for roof mounted solar.
- The purpose for little to no front yard setback is to obtain that street activation that notably enjoyed in areas like the Foreside.

OPTION A: Amend front yard setback to have a minimum 15 feet; and/or

OPTION B: Increase the maximum setback to 40 feet

8. The “new” building on the corner of Love Lane and State Road has a scale and design that works with the setting. Something two or three times larger with greatly reduced setback seems like it would be out of scale for Kittery?

- There appears to be confusion between density and lot coverage. Density says how much you can put into the structure, lot coverage says how big of a structure, given all other constraints being met (setbacks, parking, landscaping, etc.) can be built. They are not synonymous.
 - Existing code and proposed amendments do not change height limitations. Maximum is 40 feet excluding solar panels.
 - Using the building noted above as an example, the building size would not change. However, rather than five luxury oversized condos it could have more than five units, modestly sized, thereby adding to the supply of housing, and the variability of housing types.
-

9. Why not create a new zone for the Kittery Point BL-1? Without sewer it cannot take advantage of the increased density. Even if it were sewered would we want that density there? Would creating a new zone BL-KP better protect the areas combination of working waterfront and residential?

- The Pepperrell Cove and Lewis Square areas of Kittery Point are designated BL, presumably, because it resembles the other areas of Town included in BL in terms of mix and characteristics of existing buildings and uses.
- The densities proposed in the BL amendment would not apply to Kittery Point due to a lack of sewer. Sewer would be very expensive for a private developer to achieve due to underground conditions, shoreland regulations, and water crossing requirements. The Town does not have plans to extend sewer to Kittery Point.

- The Planning Board has set a goal of limiting the number of unique zones in Kittery; this would add a new unique zone.
 - Adding a new unique zone is certainly possible, but a significantly larger scope of work than planned for with implementation of the Affordable Housing effort. It would likely take two years to complete the neighborhood planning effort involved in this.
-

10. Please address the build out scenario raised for the parcel on State Road?

- The example provided in the letter sent to the Council and included in public comment is a thought experiment that ignores any site or zoning code constraints.
 - When these constraints are incorporated into the letter writer's imagined redevelopment of that site, the acreage subject to the density calculation shrinks to approximately 48,000 square feet due to the presence of wetlands.
 - The site will also be limited by building height restrictions, open space and landscaping, and driveways and parking spaces that would constrain the size of any new building and thus reduce the net density further.
 - Please see Q3 for more information about gross acreage vs. net.
-

11. How will the market likely respond to these changes and what will it mean for the character of the area and our community?

- To date the market has not enthusiastically responded to current zoning.
 - One new project has occurred on State Road, and one is in the permitting stage and includes no residential. No projects are in the permitting stage for the Route 1 Bypass.
 - The Town conducted a Foreside Land Use, Parking and Transportation Study. In that study (completed December 2017) the study concluded that the pedestrian scale of the Foreside is desired up the length of Gourmet Alley.
 - If the zoning as currently in place is not producing the results desired, given the strong economy of the past eight years, it can be considered a signal that the requirements are not conducive to achieving the desired results; change in the zoning is needed.
 - The zoning was designed to accomplish the Foreside feel along State Road (aka: Gourmet Alley)
-

12. How do the amendments link to our Comprehensive Plan?

- The proposed amendments link to the following:
 - Comprehensive Plan:
 1. Housing: create housing that is affordable to younger, single-person, and family households; create housing that is affordable to seniors and accessible to amenities;
 2. Primary Economic Development Areas: Route 1 Bypass, Gourmet Alley
 - Foreside Land Use, Parking, and Transportation Study: extend the pedestrian scale of the Foreside up Gourmet Alley
 - Joint Land Use Study: Provide more housing for area workers to reduce traffic congestion and reliance on single occupancy vehicles (SOVs) to the PNSY.

13. The bulk, if not all, of the increased housing stock allowed by the ordinance will not be capital “A” affordable. Can staff make the case, given the relatively small payment in lieu fee, that there will be a significant amount of “Affordable” housing created? I’d suggest renaming this ordinance if not

- The Town cannot expect to address the challenge a housing shortage creates relative to affordability without addressing both the supply of housing and the requirement for income restricted housing (aka: “big A affordable”).
- Supply, and more importantly supply that is not all large single-family homes on large lots, is a necessary component of making housing generally more affordable in Kittery.

14. If the money from the payment in lieu fund is to be used, will Kittery need to buy land for Affordable housing? And will the Town be the entity that hires contractors to build it? Or as suggested a the last PB meeting, might the money go to other projects that may help existing homeowners but not directly increase Affordable housing?

- There are a lot of factors that go into generating big “A” Affordable housing. They include acquisition costs, construction costs, zoning and density, tax-incentivized financing and tax credits, site constraints, etc.
- The State of Maine has \$20M in tax credits for Affordable housing each year, and typically only funds 4 or 5 projects state wide.
- Payment in lieu funds can be used to add supply and assist those struggling to stay in their homes through:
 - Grants or revolving low/no interest loans to Affordable housing developers; funds can be used to offset acquisition costs, projects costs, and add valuable points to the Maine Housing tax credit scoring sheet.
 - Fund smaller rehabs and renovations that help those who would qualify for big A affordable, are currently housed, but are struggling to stay in their homes.
 - Fund Accessory Dwelling Units development, which is being piloted this summer using ARPA seed funding.

15. How was the scale of the density increase arrived at by the Housing Committee and Staff?

- The Housing Committee began as an ad hoc effort. It started with a presentation by housing experts at the KCC, then launched into the Workforce Housing Coalition of Greater Seacoast charrette effort.
- Following that, the Housing Committee gathered information from:
 - Maine Housing
 - Community Housing of Maine (a non-profit affordable housing developer)
 - Other communities and state agencies in New England with affordable housing initiatives
 - Local banks who fund housing projects
 - AVESTA Housing (a non-profit affordable housing developer)
- Conversations with affordable housing developers indicated a minimum density of 16 units per acre to achieve economically viable projects, or about 2,700 sqft per unit in Kittery’s code language.
- Staff and the committee tweaked that figure to arrive at more tailored standards for Kittery.

- In addition to the research, the Housing Committee includes broad representation from those in the housing and affordable housing space including representatives from a local housing advocacy group, an architect, a former housing developer, Planning Board members (past and current), and Councilors (past and current)
 - All of this information and expertise was synthesized, discussed at length, and used to develop the Affordable Housing zoning ordinance adopted in 2020.
 - The proposed amendments for the BL and BL-1 zones were developed in the Housing Committee, then reviewed and amended by the Kittery Land Issues Committee (with representation from the Planning Board, Council, Conservation Commission, Parks Commission, Economic Development Committee, Kittery Land Trust, and citizens)
-

16. Would you explain why we need so much more housing in our business zones?

- Kittery generally needs more housing to ebb the tide of gentrification, keep up with the demand, to ensure socio-economic diversity, to support local businesses employee and customer needs, to be a place where multiple generations can live.
 - The zones being focused on for increased housing offer the following:
 - Already built out, does not require new lots be developed
 - Already have infrastructure such as roads and utilities to support them
 - Access to hubs of services and amenities and employment
 - Support of and access to multi-modal transportation options (reducing GHG from single-occupancy car use)
-

17. Neither the Land Use Committee nor the Planning Board has been given an example of how many units of housing a particular lot or group of lots might yield. There are many lots that appear that they could support a large number of units. Example: J&J Villas (2 lots/5ac+ in total) is adjacent to the Lions Club (2 ac). Both appear to have no impediments to development. If both were purchased, how many units could be created under the currently proposed rules? How many units could the 15-acre Water District land yield?

- Please see Q3.
 - The Water District site is 7 acres and adjacent to wetlands that require a 100-foot setback. The net density allowed would yield fewer units than simply applying the density to the entire parcel's area.
-

18. How will this ordinance affect the value of properties in the Business zones? Do you anticipate an increase to the property tax in the zones, given the opportunity to create far more units of housing than currently allowed?

- The property value generally will not change unless the property has a site plan approval from the Planning Board or is under construction.
- Municipal finance is such that increases in property values do not generate "more taxes". Property values determine how much of the municipal and school budgets each property is responsible for. More value drives down the mil rate.

- Development along these roads would result in one time revenue from permit fees, and may increase sewer revenue with additional units.

19. Given Shipyard traffic in the area, was traffic increase a consideration when deciding the appropriate level of density?

- The Joint Land Use Study and Implementation Report concluded that a significant amount of the PNSY traffic is due to employees not having affordable housing options in the immediate area. This causes them to have to drive in from Rochester, Sanford, etc.
- An increase in local housing that has a mix of types and price ranges, and located in a manner that makes the PNSY accessible through non-SOV (single occupancy vehicles) or transit (e.g., COAST bus or shuttle bus), or active transit (walking, biking) would actually **reduce peak shipyard traffic** and GHG emissions in Kittery.

20. What if we made 100% of units required to be affordable?

- That is possible, though it will likely prove an insurmountable barrier to all but two possible project types:
 - Town funded
 - Projects with significant grant funds to offset the high costs of acquisition and construction.

OPTION A: Allow higher density only if 100% of units are affordable (see 100% Affordable Option)

Please visit www.kitteryme.gov/affordable-housing-reports for quick access to the source materials for this effort including:

- 10 Year Comprehensive Plan 2015 – 2025 – Executive Summary
- Foreside Land Use, Parking and Transportation Study
- Workforce Housing Coalition of Greater Seacoast - Workforce Housing Charrette Walker Street Fire Station
- Joint Land Use Study – Executive Summary
- Joint Land Use Implementation Report
- Urban Land Institute – Technical Assistance Panel Report - Kittery and Berwick
- Kittery Inclusionary/Workforce Housing Initiative







Figure 46 – Proposed Conditions Meeting Code: Route 1 Opportunity Site Across from York Hospital Site



Figure 49 – Proposed Infill Development on Government Street Not Meeting Zoning by Exceeding 1,500 SF (4,000 SF shown)



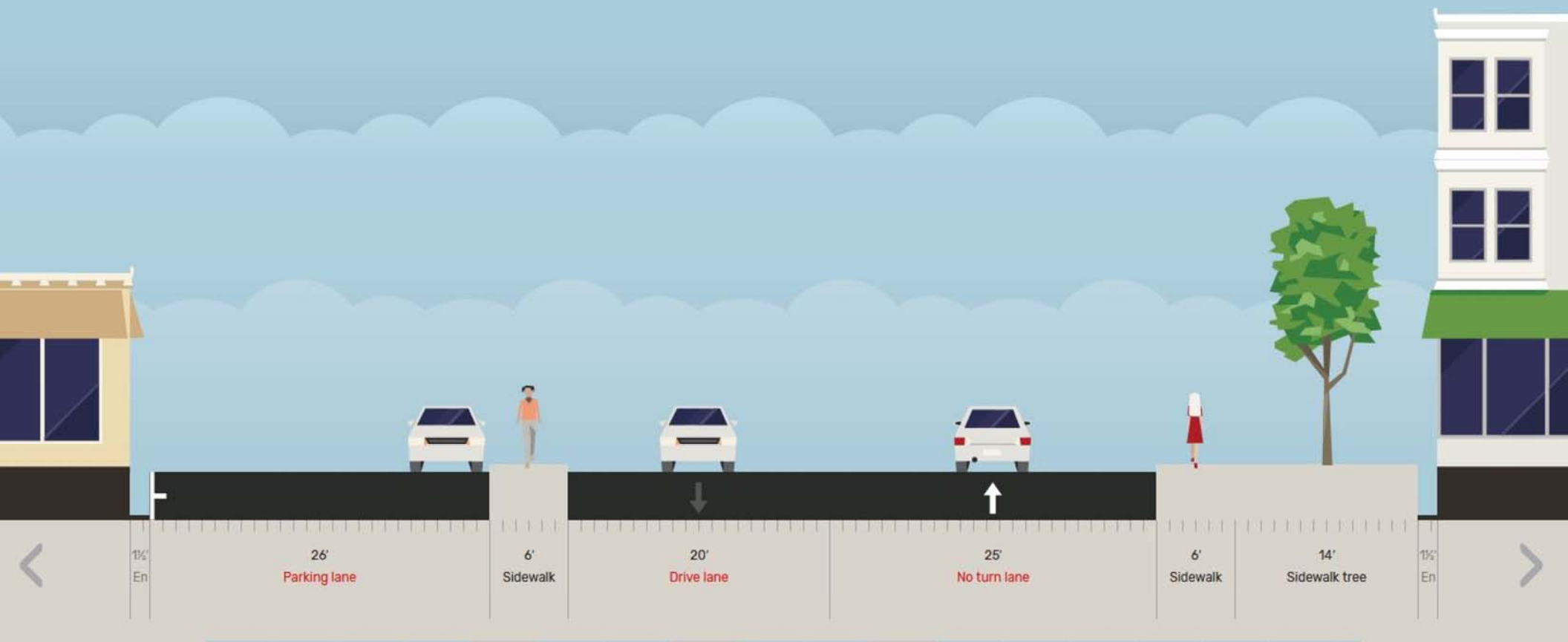
People-Oriented Street
vs.
Auto-Oriented Street



www.strongtowns.org/slowthecars

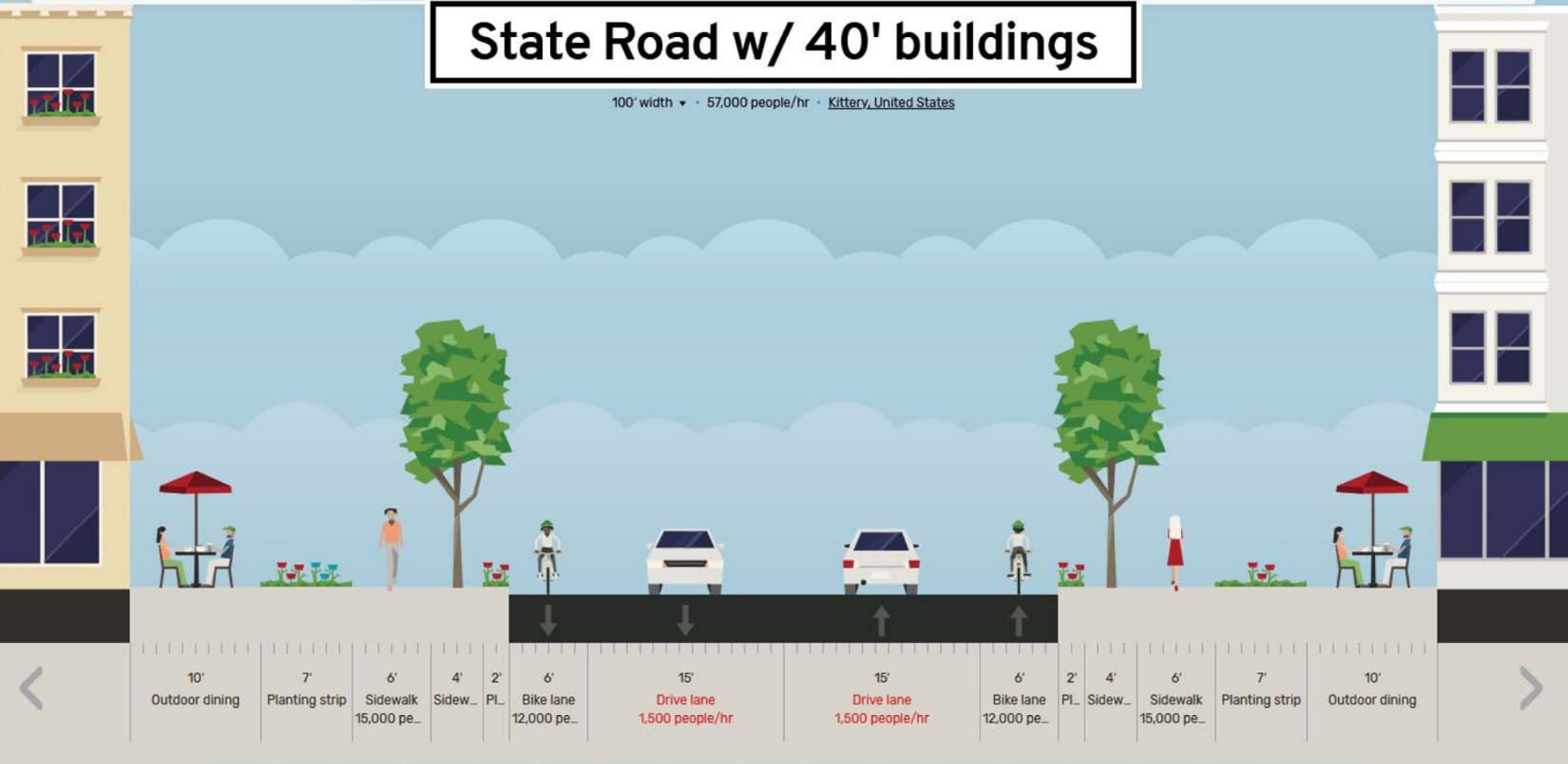
State Road

100' width (3' room) ▾ · [Kittery, United States](#)



State Road w/ 40' buildings

100' width · 57,000 people/hr · Kittery, United States





No setbacks
Less than 40' heights



Dexter, Maine. Main Street showing Garry Block.

TITLE 16
AFFORDABLE HOUSING
100% AFFORDABLE ONLY OPTION
BL & BL-1 ZONES

1. Business Local (B-L) replace lines 67 through 90:

A. Standards.

All development and the use of land in the B-L 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.

(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] All floors are residential: 8,000 3,000 square feet; or

[b] The entire first floor is a nonresidential use or uses: 4,000 square feet; or

[c] 100% of the dwelling units will be affordable housing units as defined by this code: 2,000 square feet.

[d] ~~When less than five dwelling units are proposed with, at minimum, one nonresidential use to 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.~~

[e] ~~When five or more dwelling units are proposed with, at minimum, one nonresidential use to 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~~

[f] ~~25% or more of the dwelling units will be affordable housing units as defined by this code: 2,000 square feet.~~

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

2. Business Local 1 (B-L1) replace lines 71 through 86:

B. Standards

All development and the use of land in the B-L1 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 [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 all floors are residential: ~~8,000~~2,500 ~~8,000~~ square feet; or

[2] When the entire first floor is in nonresidential use: 3,500 square feet; or

~~[2]~~[3] When 100% of the dwelling units will be affordable housing units as defined by this code, the minimum land area per dwelling unit is: 1,500 square feet.

~~[4] When less than five dwelling units are proposed with, at minimum, one nonresidential use to 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.~~

~~[5] When five or more dwelling units are proposed with, at minimum, one nonresidential use to 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.~~

~~[3]~~[6] 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 square feet.