

**TITLE 16  
AMENDMENTS TO CONFORM WITH LD 2003:  
AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMISSION  
TO INCREASE HOUSING OPPORTUNITIES IN MAINE**

**Note: Maine Law required amendments in green**

**1. AMEND § 16.3.2 Definitions as follows:**

~~**DWELLING, ATTACHED SINGLE FAMILY**~~

~~A dwelling unit, located on its own lot that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25% of the length of the side of the dwelling.~~

**DWELLING, MULTIFAMILY**

A structure that contains ~~three~~ **five** or more dwelling units that share common walls or floors/ceilings with one or more units. The land underneath the structure is not divided into separate lots.

**DWELLINGS, MULTIFAMILY 2-4 (“Limited”)**

**A residential development comprised of 2, 3, or 4 primary units on the same lot that are attached within the same structure or detached in separate structures in any combination.**

**LOT AREA**

The area of land enclosed within the boundary lines of a lot, minus:

- A. Land below the normal high-water line of a water body or upland edge of a coastal wetland;
- B. Areas beneath Planning-Board-approved right-of-way; and
- C. Land within public street rights-of-way.

**LOT AREA PER DWELLING UNIT**

**The number of dwelling units in a development per lot area as defined in this code. Calculations which result in a fraction of .5 or greater shall be rounded up to the nearest whole number. Calculations which result in a fraction less than 0.5 shall be rounded down.**

~~**MINIMUM LAND AREA PER DWELLING UNIT**~~

~~The gross area of a parcel not subject to subdivision regulations minus the land area listed below. Where land areas to be subtracted overlap, the area therein shall be subtracted once. For land area subject to subdivision, see "net residential acreage."~~

- ~~A. All land located below the highest annual tide elevation as published in the Maine DEP Highest Annual Tide (HAT) levels for the most current year.~~
- ~~B. All wetlands as defined in the definition of "wetland," as well as vernal pools, ponds, streams and other water bodies.~~
- ~~C. All land located on filled tidal lands, per the definition of "tidal land, filled."~~

34 ~~D.—All land located within existing rights-of-way and other existing easements wherein~~  
35 ~~dwelling units cannot be built.~~

36

37 **NET RESIDENTIAL ACREAGE**

38 The total area of the parcel(s) of record subject to development ~~land area subject to~~  
39 ~~subdivision that is identified for regulatory purposes as developable and is the gross~~  
40 ~~available acreage~~ minus land area identified in § 16.5.18, Net residential acreage, unless  
41 otherwise exempt in § 16.5.18D, Exemptions to net residential acreage calculations.

42 **NET RESIDENTIAL DENSITY**

43 The number of dwelling units in a ~~subdivision~~ development per net residential acre.  
44 This is calculated by dividing the net residential acreage by the square feet specified as  
45 minimum land area per dwelling unit in the dimensional standards in § 16.4 for the  
46 relevant base zone or overlay zone(s) where applicable. Net residential density  
47 calculations which result in a fraction shall be rounded down to the nearest whole  
48 number.

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

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

- 51 (1) Accessory dwelling unit.
- 52 (2) Conservation subdivision.
- 53 (3) Dwelling, manufactured housing.
- 54 (4) Dwelling, single-family.

55 **(5) Dwelling, multifamily 2-4 “Limited”, as follows:**

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

56

57 D. Standards

58 (2) Dimensional standards:

- 59 (a) Minimum ~~land area~~ net residential acreage per dwelling unit: 40,000 square  
60 feet. (Note: As per Chapter 16.3 definition of "minimum land area per dwelling  
61 unit," except to exempt properties which are unable to meet the square feet

62 required for a single-family dwelling unit, provided the lot was conforming prior  
63 to October 25, 2012).

64  
65 E. Shoreland Overlay Zone OZ-SL — Residential — Rural Zone (R-RL).

66 (1) Permitted uses.

67 (a) Accessory buildings, structures, and uses.

68 (b) Agriculture.

69 (c) Dwelling, single family, if located farther than 100 feet from the normal high-  
70 water line of any water bodies, or the upland edge of a wetland individual private  
71 campsite.

72 [~~1~~] ~~Dwelling, single family.~~

73  
74 **3. Amend § 16.4.11 Residential — Suburban (R-RS) zoning as follows:**

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

76 (1) Accessory dwelling unit.

77 (2) Conservation Subdivision.

78 (~~3~~) ~~Dwelling, attached single family.~~

79 (4) Dwelling, multifamily (~~not more than four units per building~~) 2-4 “Limited”

80 (5) Dwelling, single-family.

81 (~~6~~) ~~Dwelling, two family.~~

82  
83 D. Standards. The following standards must be met unless modified per §16.8.10,  
84 Conservation Subdivision:

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

88 (2) Dimensional standards.

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

93 [1] Without public sewage disposal: 40,000 square feet.

94 [2] With public sewage disposal: 30,000 square feet unless reduced in  
95 accordance with Note A.

96 [3] When more than 50% of the dwelling units proposed will be  
97 affordable as defined by this Code and have public sewer: 12,000  
98 square feet

99 (b) Minimum lot size:

100 [1] Without public sewage disposal: 40,000 square feet.

101 [2] With public sewage disposal: 30,000 square feet unless reduced in  
102 accordance with Note A.

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

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

Note A:

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

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

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

- 115  
116 (3) Subdivision types and standards. ~~Subject to net residential acreage and net~~  
117 ~~residential density per Chapter 16.3.~~  
118 (a) Conservation Subdivision. In a conservation subdivision, the above standards  
119 may be modified in accordance with special provisions of §16.8.10, including  
120 that there is no minimum lot size, and with the conditions that:  
121 [1] Minimum principal building separation as required by the Fire Chief, but  
122 not less than 15 feet.  
123 (b) Subdivision development (per special exception uses, §16.4.11C). In a  
124 subdivision development, standards in §16.4.11D(1) and (2) apply and include:  
125 [1] Minimum percentage of common open space: 15%.  
126 (4) Mobile homes. Mobile homes must meet the standards of §16.5.17.  
127 **(5) Parking. When more than 50% of the dwelling units provided while be**  
128 **affordable as defined by this code: two parking spaces per three dwelling units.**  
129 **(6) Affordable housing requirements:**  
130 (a) **All requirements in §16.5.4 Affordable Housing must be met.**  
131 (b) **Density incentives outlined above in subsection D.(2).(a).[3] may be applied**  
132 **to projects that create affordable housing units, as defined by this code. No**

proportional payment-in-lieu is required if the affordable dwelling unit requirements for the density incentives are met.

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

(1) Permitted uses.

(a) Day-care facility.

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

[1] ~~Dwelling, attached single-family.~~

[2] Dwelling, multifamily (not more than four units per building).

[3] Dwelling, single-family.

[4] Dwelling, two-family.

4. Amend § 16.4.12 Residential — Kittery Point Village (R-KPV) zoning as follows:

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

(1) Accessory dwelling units.

(2) Conservation subdivision.

~~(3) Dwelling, attached single-family.~~

(4) Dwelling, multifamily ~~(not more than four units per building).~~ 2-4 “Limited”

(5) Dwelling, single-family.

~~(6) Dwelling, two-family.~~

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

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

(2) Dimensional standards.

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

(b) Minimum lot size: 40,000 square feet.

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

(d) Minimum front yard: 40 feet.

(e) Maximum building coverage: 20%.

(f) Minimum rear and side yards: 15 feet. (Note: Buildings higher than 40 actual feet must have side and rear yards not less than 50% of the building height.)

(g) Maximum building height: 35 feet. (Note: Minimum distance between principal

- 173 buildings on the same lot is the height equivalent to the taller building.)
- 174 (h) Minimum water body setback for functionally water-dependent uses: zero feet.
- 175 (i) Minimum setback from streams, water bodies and wetlands: in accordance with
- 176 Table 16.5.30, § 16.4.28 and Appendix A, Fee Schedules. Subdivision types
- 177 and standards.
- 178 ~~(3) Subject to net residential acreage and net residential density per Chapter 16.3.~~

179  
180

181 **5. Amend § 16.4.13 Residential — Urban (R-U) zoning as follows:**

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

- 183 (1) Accessory dwelling units.
- 184 (2) Conservation subdivision.
- 185 ~~(3) Dwelling, attached single-family.~~
- 186 (4) Dwelling, manufactured housing.
- 187 (5) Dwelling, multifamily.
- 188 (6) Dwelling, single-family.
- 189 (7) Dwelling, ~~two-family.~~ **multifamily 2-4 “Limited”**

190

191 D. Standards. The following standards must be met unless modified per §16.8.10

192 Conservation Subdivision:

- 193 (1) The design and performance standards in Chapters 16.5, 16.7 and 16.8.
- 194 (2) Dimensional standards:
- 195 (a) Minimum ~~land lot~~ **land lot** area per dwelling unit: 20,000 square feet. ~~(Note: As per~~
- 196 ~~Chapter 16.3 definition of "minimum land area per dwelling unit," except to~~
- 197 ~~exempt properties which are unable to meet the square feet required for a~~
- 198 ~~single-family dwelling unit, provided the lot was conforming prior to~~
- 199 ~~October 25, 2012.)~~
- 200 **(b) When more than 50% of the dwelling units proposed will be affordable**
- 201 **as defined by this code and have public sewer: 8,000 square feet**
- 202 (b) Minimum lot size: 20,000 square feet.
- 203 (c) Minimum street frontage: 100 feet.
- 204 (d) Minimum front yard, all buildings: 30 feet.
- 205 (e) Minimum rear and side yards, all buildings: 15 feet.
- 206 (Note: Buildings higher than 40 actual feet must have side and rear yards not
- 207 less than 50% of building height.)
- 208 (f) Maximum building height: 35 feet.
- 209 (Note: Minimum distance between principal buildings on the same lot is the
- 210 height equivalent to the taller building.)
- 211 (g) Maximum building coverage: 20%.
- 212 (h) Minimum water body setback for functionally water-dependent uses: zero
- 213 feet.
- 214 (i) Minimum setback from streams, water bodies and wetlands: in accordance

- 215 with Table 16.5.30 § 16.4.28 and Appendix A, Fee Schedules.
- 216 (3) Subdivision types and standards. ~~Subject to net residential acreage and net~~  
 217 ~~residential density per Chapter 16.3.~~
- 218 (a) Conservation Subdivision. In a subdivision, the above standards may be  
 219 modified in accordance with special provisions of §16.8.10, including that  
 220 there is no minimum lot size, and with the conditions that:
- 221 [1] Minimum principal building separation as required by the Fire Chief,  
 222 but not less than 15 feet.
- 223 (b) Subdivision development (special exception uses, §16.4.13C). In a  
 224 subdivision development, standards in §16.4.13D(1) and (2) apply and  
 225 include:
- 226 [1] Minimum percentage of common open space: 15%.
- 227 (4) Age-restricted housing. In the case of age-restricted housing, the above standards  
 228 may be modified in accordance with the special provisions of §16.5.15 and with  
 229 the condition that:
- 230 (a) Municipal sewerage and water must be provided.
- 231 (b) A minimum land area of three acres must be provided.
- 232 (c) The maximum net density may not exceed four dwelling units per net  
 233 residential acre. In no event may the Planning Board authorize a departure  
 234 which increases the total number of dwelling units greater than that specified  
 235 under the applicable zoning ordinance.
- 236 (d) A single-bedroom unit may not be less than 550 square feet and a two-  
 237 bedroom unit not less than 650 square feet.
- 238 (5) Manufactured housing. Manufactured housing must meet standards of §16.5.15.
- 239 **(6) Parking. When more than 50% of the dwelling units provided while be**  
 240 **affordable as defined by this code: two parking spaces per three dwelling units.**
- 241 **(7) Affordable housing requirements:**
- 242 **(a) All requirements in §16.5.4 Affordable Housing must be met.**
- 243 **(b) Density incentives outlined above in subsection D.(2).(a).[3] may be**  
 244 **applied to projects that create affordable housing units, as defined by this**  
 245 **code. No proportional payment-in-lieu is required if the affordable**  
 246 **dwelling unit requirements for the density incentives are met.**

247

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

- 249 (1) Permitted uses.
- 250 (a) Accessory buildings, structures, and uses.
- 251 (b) Day-care facility.
- 252 (c) Dwellings if located farther than 100 feet from the normal high-water line  
 253 of any water bodies, or the upland edge of a wetland.
- 254 [1] ~~Dwelling, attached single-family.~~
- 255 [2] Dwelling, manufactured housing.
- 256 [3] Dwelling, multifamily.
- 257 [4] Dwelling, single-family.



258 [5] Dwelling, two-family.

259

260 6. Amend § 16.4.14 Residential — Village (R-V) zoning as follows:

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

- 262 (1) Accessory dwelling unit.
- 263 (2) Dwelling, ~~attached single-family~~. multifamily 2-4 “Limited”
- 264 (3) Dwelling, manufactured housing.
- 265 (4) Dwelling, single-family.
- 266 ~~(5) Dwelling, two-family.~~

267

268 D. Standards. All development and the use of land in the R-V Zone must meet the  
269 following standards. In addition, the design and performance standards of Chapters  
270 16.5, 16.7 and 16.8 must be met. The Design Handbook provides examples of  
271 appropriate design for nonresidential and multiunit residential projects.

- 272 (1) The following space standards apply:
  - 273 (a) Minimum ~~land area~~ net residential acreage per dwelling unit: 4,000 square  
274 feet. (Note: ~~As per Chapter 16.3 definition of "minimum land area per~~  
275 ~~dwelling unit,~~ except to exempt properties which are unable to meet the  
276 square feet required for a single-family dwelling unit, provided the lot was  
277 conforming prior to October 25, 2012.)

278

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

- 280 (1) Permitted uses.
  - 281 (a) Accessory buildings, structures, and uses.
  - 282 (b) Dwellings if located farther than 100 feet from the normal high-water line of  
283 any water bodies, or the upland edge of a wetland Public Facility.
    - 284 ~~[1] Dwelling, attached single-family.~~
    - 285 [2] Dwelling, manufactured housing.
    - 286 [3] Dwelling, single-family.
    - 287 [4] Dwelling, two-family.

288

289 7. Amend §16.4.15 Residential — Rural Conservation (R-RC) zoning as follows:

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

- 291 (1) Accessory dwelling units.
- 292 (2) Conservation subdivision.
- 293 (3) Dwelling, manufactured housing.
- 294 (4) Dwelling, single-family.

295 (5) Dwelling, multifamily 2-4 “Limited” as follows

	<u>Total maximum # of units allowed on lot (attached or detached)</u>
--	---



<u># of Existing Units</u>	<u>Public Sewer and Water Available</u>	<u>Public sewer and water not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

296

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

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

301 (2) The following dimensional standards apply:

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

307

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

309 B. Permitted uses. The following uses are permitted in the B-L Zone:

310 (1) Accessory dwelling unit.

311 (2) Dwelling, ~~attached single family.~~ multifamily 2-4

312 (3) Dwelling, manufactured housing.

313 (4) Dwelling, multifamily.

314 (a) Development proposing three or four dwelling units is permitted through  
 315 minor site plan review;

316 (b) Development proposing five or more dwelling units is permitted through  
 317 major site plan review;

318 (5) Dwelling, single-family.

319 (6) ~~Dwellings, two-family.~~

320 (7) Dwelling units as part of a mixed-use building.

321

322 D. Standards. All development and the use of land in the B-L Zone must meet the following  
 323 standards. Kittery's Design Handbook illustrates how these standards can be met. In addition, the  
 324 design and performance standards of Chapters 16.5, 16.7 and 16.8 must be met. [Amended 9-12-  
 325 2022]

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

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

328 [1] If served by on-site sewage disposal: 20,000 square feet;

- 329 [2] If served by the public sewerage system and:  
330 [a] When no frontage on State Road or Route 1 Bypass exists: 3,000 square  
331 feet;  
332 [b] When less than five dwelling units are proposed at minimum, one  
333 nonresidential use must be located on the first floor facing State Road or  
334 Route 1 Bypass such that the use will be visible from the street: 3,000  
335 square feet. Such a nonresidential use or uses need not occupy the entire  
336 first floor but must be an independent nonresidential use, e.g., not a  
337 home office marketed with a dwelling unit as a work/live unit;  
338 [c] When five or more dwelling units are proposed at minimum, one  
339 nonresidential use must be located on the first floor facing State Road or  
340 Route 1 Bypass such that the use will be visible from the street: 2,500  
341 square feet. Such a nonresidential use or uses need not occupy the entire  
342 first floor but must be an independent nonresidential use, e.g., not a  
343 home office marketed with a dwelling unit as a work/live unit; or  
344 [d] 25% or more of the dwelling units will be affordable housing units as  
345 defined by this code: 1,000 square feet.  
346 Note: Except as otherwise required by the buffer provisions of this title.

- 347 (b) Parking. Parking requirements are to be met on site. If meeting the parking  
348 requirements is not possible, the parking demand may be satisfied off site or  
349 through joint-use agreements as specified herein. Notwithstanding the off-street  
350 parking requirements in § 16.7.11F(4), minimum parking requirements for the  
351 uses below are modified as specified:

- 352 [1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:  
353 [a] Affordable housing as defined by this code is proposed, in which case  
354 the parking requirements may be reduced to one parking space per  
355 dwelling unit at the Planning Board's discretion; and/or  
356 [b] Some or all of the proposed dwelling units are one-bedroom or  
357 studio-type units, in which case parking requirements for these types  
358 of units may be reduced to one parking space for each unit so  
359 described.  
360 **[c] More than 50% of the dwelling units proposed will be affordable**  
361 **as defined by this code in which case parking is reduced to two**  
362 **spaces per three dwelling units.**

363  
364 E. Shoreland Overlay Zone OZ-SL — Business — Local Zone (B-L).

- 365 (1) Permitted uses.  
366 (a) Accessory buildings, structures, and uses.  
367 (b) Dwellings if located farther than 100 feet from the normal high-water line of  
368 any water bodies, or the upland edge of a wetland.  
369 ~~[1] Dwelling, attached single-family.~~  
370 [2] Dwelling, manufactured housing.  
371 [3] Dwelling, multifamily.  
372 [4] Dwelling, single-family.

[5] Dwellings two-family.

373  
374  
375

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

376 B. Permitted uses. The following uses are permitted in the B-L1 Zone:

- 377 (1) Accessory dwelling unit.  
378 (2) Dwelling, ~~attached single-family.~~ multifamily 2-4 “Limited”  
379 (3) Dwelling, manufactured housing.  
380 (4) Dwelling, multifamily. **[Amended 9-12-2022]**  
381 (a) Development proposing three or four dwelling units is permitted through  
382 minor site plan review;  
383 (b) Development proposing five or more dwelling units is permitted through  
384 major site plan review;  
385 (5) Dwelling, single-family.  
386 ~~(6) Dwelling, two-family.~~

387

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

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

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

394 [1] When no frontage on State Road or Shapleigh Road: 2,500 square feet.

395 [2] When less than five dwelling units are proposed with, at minimum, one  
396 nonresidential use must be located on the first floor facing State Road or  
397 Shapleigh Road such that the use will be visible from the street: 2,500  
398 square feet. Such a nonresidential use or uses need not occupy the entire  
399 first floor but must be an independent nonresidential use, e.g., not a home  
400 office marketed with a dwelling unit as a work/live unit.

401 [3] When five or more dwelling units are proposed with, at minimum, one  
402 nonresidential use must be located on the first floor facing State Road or  
403 Shapleigh Road such that the use will be visible from the street: 2,000  
404 square feet. Such a nonresidential use or uses need not occupy the entire  
405 first floor but must be an independent nonresidential use, e.g., not a home  
406 office marketed with a dwelling unit as a work/live unit.

407 [4] When 25% or more of the dwelling units will be affordable housing units  
408 as defined by this code, the minimum land area per dwelling unit is 1,500  
409 square feet.

410 **[5] When 50% or more of the dwelling units will be affordable housing**  
411 **units as defined by this code, the minimum land area per dwelling**  
412 **unit is 1,000 square feet.**

413 (b) Minimum lot size: none.

414 (Note: Except that all screening, open space, buffering and landscaping  
415 requirements must be met; or in instances where the Planning Board may

416 approve modifications to such requirements, such modifications must be  
417 found satisfactory by the Board.

418 (c) Minimum street frontage per lot: 50 feet.

419 (d) Maximum front setback: 20 feet.

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

431 (e) Minimum rear and side setbacks: 10 feet.

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

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

438 (g) The maximum impervious surface is:

439 [1] Seventy percent; or

440 [2] The Planning Board may, at its discretion, allow greater than 70% if:

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

451 [ii] Affordable housing to be built, rather than a payment-in-lieu, is  
452 proposed.

453 Note: If using either option above, the stormwater requirements in  
454 Subsection **D(1)(i)** below may not be modified.

455 (h) Stormwater. All new development must use LID (low-impact development)  
456 and BMP (best management practices), based on Maine DEP's Maine  
457 Stormwater Best Management Practices Manual Volumes I through III, as  
458 amended from time to time, to manage 100% of the total stormwater  
459 generated on-site. The stormwater report and plan demonstrating that this  
460 requirement is met must be included with the application at the time of

461 submission. A request for a modification may be submitted to the Planning  
462 Board, but it is incumbent on the applicant to prove to the Planning Board's  
463 satisfaction that such a modification is necessary. The Town reserves the  
464 right to submit such modification requests for independent engineering  
465 review at the applicant's expense. The Board may also require additional  
466 landscaping/plannings and/or LID features when granting such concessions.

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

468 [1] For the purposes of this zone, a natural area is an area that is not  
469 regularly mowed, and contains trees and/or shrubs which may not have  
470 been deliberately planted. Invasive plants, as defined by the State of  
471 Maine, must be removed.

472 [2] For multifamily dwelling, mixed-use buildings with dwelling units and  
473 attached single-family dwellings, in cases where the property cannot  
474 meet the 15% requirement due to existing development (including  
475 parking areas), and where redevelopment will remain at the same or a  
476 lower percentage of the lot, the Planning Board may, at its discretion,  
477 allow a smaller percentage of landscaped and/or natural area. In  
478 granting this concession, the Board may require more intensive  
479 landscape plantings and/or LID-designed features.

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

484 (k) Minimum setback for functionally water-dependent uses: zero feet.

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

487 (2) Parking design:

488 Parking requirements are to be met on-site. If meeting the parking  
489 requirements is not possible, the parking demand may be satisfied off-site or  
490 through joint-use agreements as specified in 16.4.17.D.(1).(c) -  
491 16.4.17.D.(1).(e) under the B-L Zone. Notwithstanding the off-street parking  
492 requirements in 16.7.11.F.(4), minimum parking requirements for the uses  
493 below are modified as specified:

494 [1] Dwelling units: 1.5 parking spaces per dwelling unit; unless:

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

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

501 [iii] Some or all of the proposed dwelling units are one-bedroom or

502 studio type units in which case parking requirements for these types of units  
503 are reduced to one parking space for each unit so described.

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

507 [2] For multifamily dwellings, if more than ten parking spaces are  
508 required, up to 20% of the parking may be designated for compact cars. See  
509 16.7.11.F.(4) Off-Street Parking Standards.

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

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

513 E. Standards.

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

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

519 (a) Minimum lot size or density:

**C-1 Zone**

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

All other uses 40,000 square feet

NOTES:

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

520

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

524 [1] Parking requirements must be met on site unless an existing building covers so

525 much of the lot as to make the provision of parking impractical in whole or in  
526 part. If meeting the parking requirements is not practical, then the parking demand  
527 may be satisfied off site or through joint-use agreements as specified herein.

528 Notwithstanding the off-street parking requirements in §16.7.11F, minimum  
529 parking requirements for the uses below are modified as specified:

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

531 [b] For multifamily dwellings, if more than 10 parking spaces are required, up to  
532 20% of the parking may be designated for compact cars. See §16.7.11F, Off-  
533 street parking standards.

534 [c] When more than 50% of the dwelling units proposed are affordable as  
535 defined by this Code, two parking spaces for every three dwelling units.  
536

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

539 E. Standards.

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

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

545 (a) Minimum lot size or density:

**C-1 Zone**

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

All other uses 40,000 square feet

NOTES:

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

546

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

549 [1] Parking requirements must be met on site unless an existing building covers so much  
550 of the lot as to make the provision of parking impractical in whole or in part. If



551 meeting the parking requirements is not practical, then the parking demand may be  
552 satisfied off site or through joint-use agreements as specified herein. Notwithstanding  
553 the off-street parking requirements in Article IX of Chapter 16.8, minimum parking  
554 requirements for the uses below are modified as specified:

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

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

559 [c] When more than 50% of the dwelling units proposed are affordable as  
560 defined by this Code, two parking spaces for every three dwelling units.  
561

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

563 B. Permitted uses.

564 (1) Accessory dwelling units.

565 (2) Dwelling, single-family (limited to lots of record as of April 1, 2004).

566 (3) Dwellings, multifamily (limited to the upper floors of mixed-use building that is  
567 served by public sewerage).

568 (4) Dwelling multifamily 2-4 “Limited”  
569

570 D. Standards.

571 (2)

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

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

580 Note 2: For dwelling units that are part of a mixed-use building or a multifamily  
581 building and are connected to the public sewerage system, one dwelling unit is  
582 allowed for each 10,000 square feet of ~~buildable land lot~~ area. Where over 50% of  
583 such dwelling units described above will be affordable as defined by this code;  
584 4,000 square feet of buildable land area. [NOTE: multifamily dwellings are not  
585 allowed in either Resource Protection or Shoreland Overlay Zones] Within the  
586 Resource Protection and Shoreland Overlay Zones, one dwelling unit is allowed  
587 for each 40,000 square feet of land area within these zones. If the parking for the  
588 residential units is encompassed within the building, the minimum required buildable  
589 land area per dwelling unit is reduced to 7,500 square feet. Where over 50% of the  
590 dwelling units will be affordable as defined by this code and parking is

591 encompassed within the building: 3,000 square feet of buildable land area, except  
592 in the Resource Protection and Shoreland Overlay Zones where the area per dwelling  
593 unit remains 40,000 square feet. **In addition, for those developments where more**  
594 **than 50% of the dwelling units will be affordable, parking requirements are**  
595 **reduced to two parking spaces per three dwelling units.**

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

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

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

602

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

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

- 605 (1) Accessory dwelling units.  
606 (2) Dwellings, ~~attached single-family.~~ **multifamily 2-4 “Limited”**  
607 (3) Dwellings, manufactured housing.  
608 (4) Dwelling, multifamily.  
609 (5) Dwellings, single-family.

610

611 D. Standards.

612 (1) The following space standards apply:

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

614 [1] ~~For each of the first two dwelling units and thereafter: 6,000 square feet. **If**~~  
615 **more than 50% of the dwelling units will be affordable housing units as**  
616 **defined by this code: 1,200 square feet.**

617 (4) Special parking standards.

618 (a) Revised off-street parking standards. Off-street parking must be provided in  
619 accordance with § **16.7.11F** unless modified below for the following uses:

620 [1] Dwellings: 1 1/2 parking space for each dwelling unit;

621 **Except for residential developments where more than 50% of the**  
622 **dwelling units will be affordable as defined by this code, parking**  
623 **requirements are reduced to two parking spaces per three dwelling**  
624 **units.**

625

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

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

- 628 (1) Accessory dwelling units.  
629 (2) Dwelling, ~~attached single-family.~~ **multifamily 2-4 “Limited”**  
630 (3) Dwellings, single-family.

- 631 (4) Dwellings, two-family.
- 632 (5) Dwellings, multifamily ~~(up to 12 units per lot).~~

633  
634 D. Standards.

- 635 (1) The design and performance standards of Chapters 16.7 and 16.8 must be met,  
636 except where specifically altered in this subsection.
- 637 (2) Dimensional standards. The following space standards apply:  
638 (a) Minimum land area per dwelling unit: 5,000 square feet.  
639 (a) – 1. If more than 50% of the dwelling units will be affordable housing  
640 units as defined by this code: 2,000 square feet.
- 641 (7) Revised off-street parking standards. Insofar as practical, parking requirements are  
642 to be met on site unless an existing building covers so much of the lot as to make the  
643 provision of parking impractical in whole or in part. If meeting the parking  
644 requirements is not practical, then the parking demand may be satisfied off site or  
645 through joint-use agreements as specified herein. Notwithstanding the off-street  
646 parking requirements in § 16.7.11F(3), minimum parking requirements for the uses  
647 below are modified as specified herein:  
648 (a) Dwelling units in buildings that existed as of April 1, 2005, including the  
649 replacement of units destroyed by accidental or natural causes regardless of  
650 how configured: one parking space per dwelling unit;  
651 (b) Dwelling units in new buildings, including the replacement of existing  
652 buildings other than the replacement of units destroyed by accidental or natural  
653 causes: 1 1/2 parking spaces per dwelling unit;  
654 (c) Dwelling units in buildings where more than 50% of the dwelling units  
655 proposed will be affordable as defined by this code: two spaces per three  
656 dwelling units.  
657

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

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

- 661 (1) Art studio/gallery.
- 662 (2) Building materials and garden supply.
- 663 (3) Business and professional offices.
- 664 (4) Business services.
- 665 (5) Parking area (public or private).
- 666 (6) Conference center.
- 667 (7) Cluster residential development.

668 **(8) Dwelling, Multifamily 2-4 “Limited” as follows:**

	<b><u>Total maximum # of units allowed on lot</u></b> <b><u>(attached or detached)</u></b>	
<b><u># of Existing</u></b>	<b><u>Public Sewer and</u></b>	<b><u>Public Sewer and Water</u></b>

<u>Units</u>	<u>Water Available</u>	<u>not available</u>
<u>0</u>	<u>4</u>	<u>2</u>
<u>1</u>	<u>3</u>	<u>3</u>
<u>2</u>	<u>2</u>	<u>2</u>

**(9) Accessory dwelling units**

669  
670

671 **16. Amend §16.4.28 Shoreland Overlay Zone (OZ-SL) as follows:**

672 E. Standards.

673 (1) Minimum lot standards.

674 (a) Minimum lot size by base zone, within the:

- 675 [1] Residential-Village (R-V) Zone: 8,000 square feet.
- 676 [2] Residential-Urban (R-U) Zone: 20,000 square feet.
- 677 [3] Residential-Rural (R-RL), Residential-Suburban (R-S) and
- 678 Residential-Kittery Point Village (R-KPV) Zones: 40,000 square feet.
- 679 [4] Commercial (C1), (C2), (C3), Industrial (IND), Business-Local (B-
- 680 L) and Business-Local 1 (B-L1) Zones: 60,000 square feet.
- 681 [5] Residential-Rural Conservation (R-RLC) Zone: 80,000 square feet.
- 682 [6] Business-Park (B-PK) Zone: 120,000 square feet.
- 683 [7] Mixed-Use Badgers Island (MU-BI) Zone: 6,000 square feet.
- 684 [8] Mixed-Use Kittery Foreside (MU-KF) Zone: 10,000 square feet.

685 (b) Minimum ~~land area per dwelling unit~~ **net residential acreage per unit** by  
686 base zone, within the:

- 687 [1] Residential-Village (R-V) Zone: 8,000 square feet.
- 688 [2] Business-Park (B-PK) Zone: 10,000 square feet.
- 689 [3] Residential-Urban (R-U), Business-Local (B-L) and Business-
- 690 Local 1 (B-L1) Zones: 20,000 square feet.
- 691 [4] Mixed-Use (M-U), Residential-Rural (R-RL), Residential-
- 692 Suburban (R-S) and Residential-Kittery Point Village (R-KPV) Zones:
- 693 40,000 square feet.
- 694 [5] Residential-Rural Conservation (R-RLC) Zone: 80,000 square feet.
- 695 [6] Mixed-Use Badgers Island (MU-BI) Zone: 6,000 square feet.
- 696 [NOTE: 3,000 square feet for the first two dwelling units.]
- 697 [7] Mixed-Use Kittery Foreside (MU-KF) Zone: 10,000 square feet.

698

699 **17. Amend §16.5.3 Accessory dwelling units as follows:**

700 B. Applicability.

- 701 (1) An accessory dwelling unit is allowed in all zoning districts where the use is  
702 permitted in Chapter 16.4. The unit must be located:
- 703 (a) Within an existing structure, either principal or accessory on the property;
  - 704 or
  - 705 (b) Attached to the existing principal structure, sharing a common wall; or
  - 706 (c) Within a new accessory structure constructed for this purpose on the
  - 707 property.
  - 708 **(d) Outside of the shoreland overlay zone, as defined in Chapter 16.4.**
- 709 (2) Accessory dwelling units that have a valid certificate of occupancy or have vested  
710 rights in the permitting process with an active building permit as of April 28, 2020, are  
711 exempted from the use standard, § 16.5.3D(3).

712  
713 D. Accessory dwelling unit standards.

714 (1) Lot standards.

- 715 (a) ~~Legal lot/residence. An accessory dwelling unit is allowed only on lots within the~~  
716 ~~Town that contain one legal single family residence as the primary unit.~~
- 717 (b) Number of accessory dwelling units per lot. No more than one accessory dwelling  
718 unit is permitted on a lot **that is located in a limited growth area as depicted in**  
719 **Kittery's Comprehensive Plan. Up to two accessory dwelling units are**  
720 **permitted on a lot that is located in a targeted growth area.**
- 721 (c) Zone lot size and unit density. The property on which an accessory dwelling unit is  
722 located must meet the size required by the applicable zoning standards for the  
723 principal residence, except in the case of legally nonconforming lots. However, an  
724 accessory dwelling unit is exempt from the density requirements of the zone in  
725 which it is located.
- 726 (d) Setbacks and coverage. Yard setbacks for the zone must be met. However, for  
727 legally nonconforming lots where ~~an proposed~~ accessory dwelling unit ~~will be~~  
728 ~~attached to a principal dwelling unit and~~ cannot meet the zone's side and rear yard  
729 setbacks, the percentage by which a lot is smaller than the required lot size for the  
730 zone will dictate the required setback for that lot. For example, a 30,000 square foot  
731 legally nonconforming lot in a zone that requires 40,000 square feet would require  
732 side and rear yard setbacks that are 75% of the zone's side and rear yard setbacks.  
733 Building coverage requirements will remain as required by the zone.
- 734 (e) Utility connections. Accessory dwelling units must be connected to adequate water  
735 and wastewater services.
  - 736 [1] Public sewer.
    - 737 [a] Service: written verification must be provided of adequate service to support the  
738 additional flow from the Superintendent of Wastewater Treatment Facilities.
    - 739 [b] Fees. Payment of appropriate fees for connection to the municipal sewer system is  
740 required prior to obtaining the certificate of occupancy.
    - 741 [2] Septic systems. Verification of adequate sewage disposal for subsurface waste  
742 disposal is required. The septic system, existing or proposed, must be verified as  
743 adequate or reconstructed as required, **pursuant to 30-A M.R.S. §4221.** Plans for  
744 subsurface waste disposal must be prepared by a Maine-licensed site evaluator in

745 full compliance with the State of Maine Subsurface Wastewater Disposal Rules, 10-  
746 144 CMR Ch. 241.

747 [3] Public water. Verification, in writing, is required from the Kittery water district for  
748 volume and supply.

749 [4] Wells. Verification of the potable water supply for private wells is required. Tests of  
750 the existing well or proposed well, if applicable, must indicate that the water supply  
751 is potable and acceptable for domestic use and must conform to the  
752 recommendations included in 01-672 C.M.R. ch. 10, section 10.25(J), Land Use  
753 Districts and Standards, the "Manual for Evaluating Public Drinking Water  
754 Supplies, Public Health Service No. 1180 (1969)."

755 (f) Parking. ~~Each accessory dwelling unit must have one on-site parking space in~~  
756 ~~addition to the parking for the primary dwelling unit. Tandem parking is permitted.~~  
757 No additional parking space is required for the accessory dwelling unit but the  
758 primary dwelling unit must have on-site parking.

759 (g) Private road or right-of-way access. Where an applicant seeks to locate an accessory  
760 dwelling unit on a privately maintained road or right-of-way the following applies:

761 [1] Applicant must submit written consent from the road or homeowner's association or  
762 owner and parties responsible for street maintenance.

763 (2) Unit standards.

764 (a) Unit size. The size of an accessory dwelling unit must meet the minimum size for a  
765 dwelling unit as set by building code standards adopted and amended from time to  
766 time by ~~Maine's Bureau of Building Codes and Standards~~ Technical Building code  
767 and Standards Board, pursuant to 10 M.R.S. § 9722, and be no larger than 1,000  
768 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory  
769 dwelling unit may be no greater than 80% of the size of the principal dwelling unit,  
770 as measured in square feet. An accessory dwelling unit may have no more than two  
771 bedrooms.

772 (b) Unit location.

773 [1] An accessory dwelling unit must meet one or more of the following conditions:

774 [a] Be fully constructed within the existing footprint of any legal residence or accessory  
775 building; or

776 [b] Share a common wall with the principal residence, providing yard setbacks per  
777 § 16.5.3D(2)(a); or

778 [c] Be constructed as a new accessory building containing an accessory dwelling unit,  
779 providing yard setbacks can be met for the zone.

780 [2] Accessory dwelling units will be allowed to be fully constructed within the principal  
781 residence even if the building does not meet yard setbacks.

782 [3] Accessory dwelling units will not be allowed in accessory buildings encroaching on  
783 yard setbacks.

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

786 (4) Development standards. Should an accessory dwelling unit fail to meet the  
787 applicable unit standards listed in this article, the accessory dwelling unit may still  
788 be allowed if the applicant obtains approval from the Board of Appeals under the



789 provisions of a miscellaneous variation request, as outlines in § 16.2.12. The Board  
790 of Appeals shall review any appeal decision in conformance with § 16.2.12F, Basis  
791 for decision.

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

794  
795

**18. Amend §16.5.18 Net residential acreage as follows:**

796 A. Purpose. Net residential acreage is used to determine the maximum number of dwelling  
797 units allowed on a parcel that is ~~subject to subdivision~~ **located in a limited growth area**  
798 **identified in the Comprehensive Plan**. The total number of dwelling units allowed is  
799 equal to the net residential acreage divided by the minimum land area per dwelling unit  
800 for a given land use zone.

801 **B. Applicability. Applies to development of land located in limited growth areas as**  
802 **designated in the Comprehensive Plan. Development of parcels located in targeted**  
803 **growth areas served by public sewer and water is subject to provisions for lot area**  
804 **as defined in Chapter 16.3 for calculating lot area, lot coverage, or unit density.**

805 ~~B. C.~~ Net residential acreage calculation. To calculate net residential acreage, the land  
806 area listed below must be subtracted from a parcel's gross area. Where land areas to be  
807 subtracted overlap, the area therein is subtracted once.

808 (1) All land located below the highest annual tide elevation as published in the Maine DEP  
809 Highest Annual Tide (HAT) levels for the most-current year.

810 (2) All land located within the floodplain as defined in the definition of "flood, 100-year" in  
811 Chapter 16.3.

812 (3) All wetlands as defined in the definition of "wetland" in Chapter 16.3, as well as vernal  
813 pools, ponds, lakes, streams and other water bodies, including 50% of the associated  
814 setbacks described in other buildings and structures, Table 16.5.30, Chapter 16.5 of this  
815 title.

816 (4) All land located on filled tidal lands, per the definition of "tidal land, filled" in Chapter  
817 16.3.

818 (5) All land located within existing rights-of-way and other existing easements wherein  
819 dwelling units cannot be built.

820 (6) All land located within proposed rights-of-way, including parking and travel ways.  
821 Driveways are excluded.

822 (7) All land isolated from the principal location for development on the parcel by a  
823 road/street, existing land uses, or any physical feature, natural or man-made, such that it  
824 creates a barrier to the central development of the site and no means of access is  
825 proposed nor likely to be provided in the future. However, to demonstrate that identified  
826 isolated land may be considered developable for the purpose of this calculation, the  
827 applicant must submit a plan and supporting documentation for the Board's  
828 consideration.

829 ~~(8) All land zoned commercial (C-1, C-2, or C-3).~~

830 (9) All land one acre or more of contiguous area with sustained slopes of 20% or greater.

831 (10) All land identified as exposed bedrock, and soils with a drainage class of "poorly



832 drained" and/or "very poorly drained" as defined in the definition of "soils" in Chapter  
833 **16.3.**

834 (11) Fifty percent of all land characterized as drainage class of "somewhat poorly drained,"  
835 unless public sewer is used, in which case no land area is subtracted.

836 (12) All land area within a cemetery and burying ground as defined in Chapter **16.3**,  
837 including associated setback per 13 M.R.S.A. § 1371-A, Limitations on construction  
838 and excavation near burial sites.

839 (13) All land within a Commercial Fisheries/Maritime Uses Overlay Zone or Resource  
840 Protection Overlay Zone not included in Subsection **B(12)** above.

841 C. Documentation. The net residential acreage calculation must be supported by verifiable  
842 information and accurate data and be shown on the subdivision plan or other plan when  
843 applicable.

844 ~~D. Exemptions to net residential acreage calculations.~~

845 ~~(1) The maximum number of dwelling units for residential development not subject to~~  
846 ~~subdivision is based on minimum land area per dwelling unit defined in Chapter **16.3**,~~  
847 ~~Definitions, of this title.~~

848 ~~(2) The creation of dwelling units subject to subdivision within existing buildings that are~~  
849 ~~connected to Town sewer and are located in the Mixed Use Kittery Foreside, Mixed~~  
850 ~~Use Badgers Island, Residential Village, Business Local, or Business Local 1 Zones~~  
851 ~~are exempt from the net residential acreage calculations in § **16.5.18A**. The total number~~  
852 ~~of dwelling units permitted is determined by dividing the gross lot area by the minimum~~  
853 ~~land area per dwelling unit allowed in the zone. The exemption is allowed in the above~~  
854 ~~base zones when subject to the Shoreland Overlay Zone.~~

855 ~~(3) The Mixed Use Neighborhood Zone (MU-N) and certain residential uses in the C-1 and~~  
856 ~~C-3 Zones as noted in §§ **16.4.19** and **16.4.21** are exempt from § **16.5.18**, Net residential~~  
857 ~~acreage calculation, but are subject to the minimum land area per dwelling unit as~~  
858 ~~defined in Chapter **16.3**, Definitions, except that 50% of all wetlands may be subtracted,~~  
859 ~~rather than 100%.~~