

AMEND Title 16 -Article 2 Definitions as follows:

ACCESSORY DWELLING UNIT (ADU)

~~An apartment which is part of an existing structure on the property where the owner of the property occupies one of the units. The accessory dwelling unit may be rented so that the owner occupant may benefit from the additional income. The owner may also elect to occupy the accessory dwelling unit and rent the principal dwelling unit.~~ A secondary dwelling unit with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities for one or more persons, whether attached to the principal dwelling unit, detached from it or contained within it.

AMEND Title 16.8 - Article 25 - Accessory Dwelling Units as follows:

§ 16.8.25.1 Purpose.

It is the intent of this article to ~~impose~~ provide standards that enable homeowners to create accessory dwelling units that are compatible with this title and ~~do not negatively impact the character of the existing neighborhood or overburden the existing infrastructure.~~ to (1) provide a means for residents – including seniors, single parents, and families with grown children – to remain in their homes and neighborhoods, and (2) increase the housing stock of existing neighborhoods in a manner that is compatible with their size and scale, and (3) allow more efficient use of existing housing stock and infrastructure, and (4) provide a broader range of affordable housing options. The purpose of this article is not intended to create a new supply of short-term rental (STR) units, such as those commonly advertised to tourists.

§ 16.8.25.2 Applicability.

A. An accessory dwelling unit is allowed in all zoning districts where the use is permitted in Chapter 16.3. The unit must be located: ~~in an existing structure, with a certificate of occupancy issued more than five years prior to the date of the ADU application, on the property where the owner of the property occupies one of the units. The accessory dwelling unit may be attached to, or detached from, the primary dwelling unit. No expansion of a building's footprint is allowed to accommodate an accessory dwelling unit.~~

(1) within an existing structure, either principal or accessory on the property; or

(2) attached to the existing principal structure, sharing a common wall; or

(3) within a new accessory structure constructed for this purpose on the property.

B. Accessory dwelling units that have a valid certificate of occupancy or have vested rights in the permitting process with an active building permit as of April 28, 2020.

§ 16.8.25.3 Application for accessory dwelling unit.

A. An application for an accessory dwelling unit must be made by the owner of the parcel on which the primary residential unit sits. The completed application and associated fees must be submitted to the ~~Town Planner and~~ Code Enforcement Officer for review.

B. Applications for an accessory dwelling unit that meets the unit size standards and development standards contained in this article may be approved administratively and require approval by ~~both~~ the ~~Town Planner and~~ Code Enforcement Officer.

C. An accessory dwelling unit that fails to meet the ~~unit size~~ standards ~~and/or the development~~

~~standards~~ provided in this article may not receive administrative approval; however, the accessory dwelling unit may still be allowed. See § 16.8.25.4 ~~D and B~~ below.

~~D. The Town limits the number of new accessory dwelling unit permits to no more than 22 in the remainder of the calendar year of implementation and no more than 10 per calendar year on a first-come first-served basis.~~

~~E. One of the units on the property, either primary or secondary, must be occupied by the property owner at all times during the period of permitting. Prior to the issuance of a certificate of occupancy, the property owner must submit a recorded copy of deed restrictions to the Town Planner, outlining the owner occupancy requirement.~~

§ 16.8.25.4 Accessory dwelling unit standards.

A. Lot standards.

(1) Legal lot/residence. An accessory dwelling unit is allowed only on lots within the Town that contain ~~a~~ one legal, single-family residence as the primary unit.

(2) Number of accessory dwelling units per lot. No more than one accessory dwelling unit is permitted on a lot.

(3) Zone lot size and unit density. The property on which an accessory dwelling unit is located must meet the size required by the applicable a-zone's zoning standards for the principal residence except in the case of legally, non-conforming lots. However, an accessory dwelling unit is exempt from the density requirements of ~~such~~ the zone in which they are located.

(4) Setbacks and coverage. Yard setbacks for the zone must be met. However, for legally non-conforming lots where a proposed accessory dwelling unit will be attached to a principal dwelling unit and cannot meet the zone's side and rear yard setbacks, the percentage by which a lot is smaller than the required lot size for the zone will dictate the required setback for that lot. For example, a 30,000 square foot legally non-conforming lot in a zone that requires 40,000 square feet would require side and rear yard setbacks that are 75% of the zone's side and rear yard setbacks. Building coverage requirements will remain as required by the zone.

~~(4)~~ (5) Utility connections. Accessory dwelling units must be connected to adequate water and ~~sewer~~ wastewater services.

(a) Public sewer.

[1] Service: verification, in writing, of adequate service to support the additional flow from the Superintendent of Wastewater Treatment Facilities.

[2] Fees: Payment of appropriate fees for connection to the municipal sewer system is required prior to obtaining the certificate of occupancy.

(b) Septic systems. Verification of adequate sewage disposal for subsurface waste disposal is required. The septic system, existing or proposed, must be verified as adequate or reconstructed as required. Plans for subsurface waste disposal must be prepared by a Maine-licensed site evaluator in full compliance with the State of Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. 241.

- (c) Public water. Verification in writing is required from the Kittery Water District for volume and supply.
- (d) Wells. Verification of the potable water supply for private wells is required. Tests of the existing well or proposed well, if applicable, must indicate that the water supply is potable and acceptable for domestic use and must conform to the recommendations included in the "Manual for Evaluating Public Drinking Water Supplies, Public Health Service No. 1180 (1969)."
- (6) Parking. Each accessory dwelling unit must have one on-site parking space in addition to the parking for the primary dwelling unit. Tandem parking is permitted.
- (57) Private road or right-of-way access. Where an applicant seeks to locate an accessory dwelling unit on a privately maintained road or right-of-way the following applies:
- (a) Applicant must ~~provide~~submit written consent from the road or home owner's association or owner and parties responsible for street maintenance.~~;~~ ~~and~~
- ~~(b) Road construction standards must support the additional trips generated.~~
- B. Unit standards.
- (1) Unit size. ~~The habitable floor space of an accessory dwelling unit must be a minimum of 400 square feet and no larger than 800 square feet.~~ The size of an accessory dwelling unit must meet the minimum size for a dwelling unit as set by building code standards adopted and amended from time to time by Maine's Bureau of Building Codes and Standards, and be no larger than 1,000 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory dwelling unit may be no greater than 80% of the size of the principal dwelling unit, as measured in square feet. An accessory dwelling unit may have no more than two bedrooms.
- (2) Unit location. ~~An accessory dwelling unit:~~
- (a) An accessory dwelling unit must meet on or more of the following conditions:
- ~~Must b~~ [1] Be fully constructed within the existing footprint of any legal primary residence or accessory building; or
- [2] Share a common wall with the principal residence, providing yard setbacks per 16.8.25.4.B.1; or
- [3] Be constructed as a new accessory building containing an accessory dwelling unit, providing yard setbacks can be met for the zone.
- (b) Accessory dwelling units ~~W~~will be allowed to be fully constructed within ~~inside of the primary residence building~~ principal residence even if the building does not meet yard setbacks. ~~where the building has nonconforming yard setbacks.~~
- (c) Accessory dwelling units ~~W~~will not be allowed in accessory ~~or detached~~ buildings encroaching on yard setbacks.
- ~~(3) Building code compliance. An accessory dwelling unit must satisfy the requirements contained in the building code and fire code as currently adopted by the Town. See § 16.5.3E, Conformance to~~

111 ~~standards.~~

112 C. Use standards. The accessory dwelling unit may not be rented to the same person or party for less
113 than a 30-day period.

114 ~~C~~D. Development standards. Should an accessory dwelling unit fail to meet the applicable unit
115 ~~development~~ standards listed in this article, the accessory dwelling unit may still be allowed if the
116 applicant obtains approval from the Board of Appeals under the provisions of a miscellaneous
117 variation request, as outlined in §16.6.4.C. The Board of Appeals shall review any appeal decision
118 in conformance with §16.6.6. "Basis for decision".

119 § 16.8.25.5 Violations.

120 A. A violation of the Use Standard 16.8.25.4.C will lose the certificate of occupancy for the unit for no
121 less than 30 days, and be assessed a penalty of \$500.