

1 **16.X.X.X Affordable Housing**

2  
3 A. Purpose

4  
5 Recognizing that the market alone will not provide the range and diversity of housing types needed  
6 for a vibrant community, the Town of Kittery desires to encourage affordable housing for  
7 households of modest means and for all ages. The purpose of this ordinance is to offer incentives  
8 to developers to include affordable housing, either for rent or sale, particularly in those zones that  
9 offer utilities and/or services, and to mitigate the impacts of market-rate housing development on  
10 the limited supply of land available for suitable housing. The Town looks to its comprehensive  
11 plan and finds that this ordinance will assist in meeting housing goals and in promoting the public  
12 health, safety and welfare of its residents.

13 B. Applicability

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15 Affordable housing regulations are applicable to the following:

- 16 1) All development in the C-1, C-3, B-L, and B-L1 zones involving three or more new  
17 dwelling units except those to be created via subdivision and for which one single-family  
18 dwelling is proposed for each lot. Single-family attached dwelling units, even if proposed  
19 as a subdivision, are not exempt. The proposed dwelling units may be new construction,  
20 created through a change of use or created through a renovation, rehabilitation or remodel.  
21 Projects may not be phased or segmented to avoid compliance with these requirements.
- 22  
23 2) All major subdivisions, including those planned in phases, in all zones that create 5 or more  
24 lots. Minor subdivisions are exempt.
- 25  
26 3) All developments as described in 1) and 2) above whether the dwelling units proposed are  
27 intended for sale or for rent.

28  
29 Affordable housing regulations do not apply to hotels, motels, rooming houses, inns, bed and  
30 breakfasts, residential care facilities or elder care facilities.

31  
32 C. Requirements

- 33  
34 1) For projects proposing ten (10) or more dwelling units, at least 10% of the units, rounded  
35 down to the nearest whole number, must be affordable housing units, as defined by this  
36 code. Any fractional unit obligation left after the rounding results in a proportional  
37 payment-in-lieu (see 3) below). For example, if 15 units are proposed, then one affordable  
38 unit is required plus 50% of a payment-in-lieu. If an additional affordable unit is offered  
39 for the fractional unit obligation, no payment-in-lieu is required.
- 40  
41 2) The affordable housing units must remain affordable (via deed restriction or other legal  
42 instrument, a copy of which must be submitted to the Town prior to issuance of any

43 building permits) for the longest term permitted under federal, state and local laws and  
44 ordinances, or 30 years, whichever is greater.

45  
46 3) As an alternative to providing workforce housing units, projects may pay a fee in lieu of  
47 some or all of the units. In-lieu fees shall be paid into the Kittery Housing Reserve Fund,  
48 as ordained by Kittery Town Council. The fee for affordable units not provided shall be  
49 annually established by the Kittery Town Council in the schedule of fees.

50  
51 4) If the developer prefers to provide a payment-in-lieu instead of the required affordable  
52 housing units, that proportional payment will be calculated based on the number of  
53 affordable housing units that are required plus any fractional unit obligation. Using the  
54 example above, if 15 units are proposed, the developer would provide 1.5 times the current  
55 rate set by the Town.

56  
57 D. Location

58  
59 1) Required affordable housing may be located either on-site with any market rate dwelling  
60 units or off-site within areas appropriately zoned for residential use. For development  
61 proposed in the C-1, C-3, B-L and B-L1 zones, any off-site affordable housing must be  
62 located within one of those zones.

63  
64 2) Off-site affordable housing may be new construction, a rehabilitation, remodel or  
65 renovation of an existing structure, or a change of use from non-residential to residential.

66  
67 E. Incentives

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69 1) Zoning districts C-1, C-3, B-L and B-L1 each have density incentives which can be  
70 reviewed under the pertinent zone in 16.3.

71  
72 2) The Town will reduce the permitting costs for developments including affordable housing  
73 as follows:

74  
75 a. For developments comprised of 10% – 15% affordable housing units: 10% off total  
76 permitting costs except for sewer connections.

77  
78 b. For developments comprised of 16% – 24% affordable housing units: 15% off total  
79 permitting costs except for sewer connections.

80  
81 c. For developments comprised of 25% and over affordable housing units: 20% off total  
82 permitting costs except for sewer connections.

83  
84 F. Standards

85

- 86 1) Affordable housing units must be built in reasonable accordance with any market-rate units  
87 such that at minimum, for every 10 market rate units built, one affordable unit must be  
88 completed. All affordable housing units in a development must have received a certificate  
89 of occupancy before the final market rate unit receives such. If a development is proposed  
90 for ten dwelling units including one affordable unit, that affordable unit must be completed  
91 before the last market rate unit receives its certificate of occupancy.  
92
- 93 2) When affordable housing units are part of a development which also includes market rate  
94 housing units, the outside appearance of affordable units must be similar to the market rate  
95 units and any affordable units must be integrated into the development as a whole.  
96 Affordable units cannot be confined to one building of a multiple building development  
97 except in the cases of cottage clusters, accessory dwelling units or two-family residences.  
98
- 99 3) Affordable housing units need not be the same size as market rate housing units but the  
100 number of bedrooms in each such dwelling unit may not be less than 10% of the total  
101 number of market rate bedrooms in the development, rounded up when the fractional  
102 portion is .5 or more. For example, a 10-unit multi-family dwelling with 9 market rate  
103 housing units of 2 bedrooms each would be required to provide one affordable housing unit  
104 with two bedrooms.  
105
- 106 a. Studio dwelling units will be counted as a one-bedroom unit. In cases where a  
107 development is providing only studio apartments and one-bedroom apartments, the  
108 Planning Board has the authority to decide whether each required affordable  
109 housing unit will be a studio or one-bedroom unit.  
110
- 111 4) Affordable housing units or lots that will be owner-occupied shall be:  
112 a. Restricted to households having an income that does not exceed 120% of the area  
113 median income for the family size having the same number of persons as the subject  
114 household for the York-Kittery-South Berwick, Maine, Metro Fair market Area  
115 (HMFA), as published by the U.S. Department of Housing and Urban Development as  
116 of the date of the buyer’s application, and whose housing and utility costs do not exceed  
117 30 percent of the household’s annual gross income; and  
118 b. Maintained as affordable housing units through a land use restriction agreement with  
119 the Town of Kittery for a period no less than the maximum period permitted by Maine  
120 law or twenty (30) years, whichever is longer.  
121
- 122 5) Affordable housing units that will be leased or rented shall be:  
123 a. Restricted to households having an income that does not exceed 80% of the area  
124 median income for the family size having the same number of persons as the subject  
125 household for the Y York-Kittery-South Berwick, Maine, Metro Fair market Area,  
126 as published by the U.S. Department of Housing and Urban Development as of the  
127 date of the household’s application, and whose housing and utility costs do not  
128 exceed 30 percent of the household’s annual gross income; and

- 129           b. Maintained as affordable housing units through a land use restriction agreement  
130           with the Town of Kittery for a period no less than the maximum period permitted  
131           Maine law or twenty (30) years, whichever is longer.  
132
- 133       6) Subleasing of any leased affordable housing unit is not permitted. Leasing and renting of  
134       any owner-occupied affordable housing unit is not permitted.  
135
- 136       7) Affordable housing units shall be actively marketed for sale or lease, as applicable, to  
137       eligible households, which active marketing shall include, as a minimum, the following:
- 138           a. The owner shall provide a notice of availability to the Town Planner of its intent to  
139           rent or sell an affordable housing unit.
- 140           b. The owner or their authorized representative shall provide an affidavit to the Town  
141           Planner confirming that household eligibility requirements have been met. Any  
142           lease or rental agreement shall be in writing and provided to the Town upon request.
- 143           c. A non-eligible household may occupy an affordable housing unit if, despite active  
144           marketing, an eligible household is not available to purchase or rent the housing  
145           unit. If an affordable housing unit is being offered for lease, a non-eligible  
146           household may occupy it on the date 90 days after the Town’s receipt of a notice  
147           of availability. If an affordable housing unit is being sold, a non-eligible household  
148           may occupy it on the date 120 days after the Town’s receipt of a notice of  
149           availability.
- 150
- 151       8) Supplemental Standards for Approval
- 152           a. Prior to issuance of any development approvals, the developer shall submit a  
153           Housing Plan outlining the incentives sought and standards satisfied from this  
154           Section.
- 155           b. The Town Planner shall certify in writing that the development for which approval  
156           is sought, as described in the Housing Plan, is consistent with all applicable  
157           requirements of this Section.
- 158           c. Prior to the submittal of any development application, a pre-application conference  
159           between the developer and the Town Planner is required to discuss the application  
160           and relevant requirements of the Housing Plan.
- 161           d. A land use restriction agreement shall be executed between the Town Manager and  
162           the developer, in a form promulgated by the Town and approved by the Town  
163           Attorney, based on the Housing Plan, which land use restriction agreement sets  
164           forth the land use restrictions required by this Section.
- 165           e. Prior to issuance of the certificate of occupancy for a development subject to this  
166           Section, the developer shall provide the Town Planner with a fully executed copy  
167           of the land use restriction agreement providing sufficient indicia that it has been  
168           recorded in the real property records maintained by the York County Registry of  
169           Deeds.

171 **§16.7.8.4 Exemptions to net residential acreage calculations.**

172  
 173 C. The Mixed-Use – Neighborhood Zone (MU-N) zone and certain residential uses in the C-  
 174 1 and C-3 zones as noted in §16.3.2.11 are is exempt from § 16.7.8.2, Net residential  
 175 acreage calculation, but is are subject to the minimum land area per dwelling unit as defined  
 176 in Chapter 2, Definitions, except that 50% of all wetlands may be subtracted, rather than  
 177 100%.

178  
 179 **§16.8.9.4 Off-Street Parking Standards**

180 [The table and text below to be added below existing parking standard Table 2]

181  
 182 Table 2-A  
 Compact Car Parking

Angle of Parking (degrees)	Stall Width (feet)	Stall Depth (feet)	Stall to Curb (feet)	Skew (feet)	Width of Maneuvering Aisle – 1-way (feet)	Width of Maneuvering Aisle – 2-way (feet)
61 to 90	8	16	TBD	TBD	22	22
46 to 60	8	16	TBD	TBD	18	18
45	8	16	TBD	TBD	15	18
Parallel	8	16	8	TBD	12	18

183  
 184 N. Compact-size parking spaces, unless restricted for use by and located adjacent to a dwelling  
 185 unit, must be located in one (1) or more continuous areas and cannot be intermixed with  
 186 spaces designed for full size vehicles.

187  
 188 O. Compact-size parking spaces shall be clearly designated by pavement marking and by  
 189 direction signs in conformance with 16.8.10.9.

190  
 191  
 192 **Title 16 Land Use and Development Code**

193 **§16.3 Land Use Zone Regulations**

194 **§16.3.2.4 Residential – Urban RU**

195 **§16.3.2.4.D Standards**

196  
 197 (4) In the case of housing for the elderly, the above standards may be modified in accordance with  
 198 the special provisions of Article XIII of Chapter 16.8 and with the condition that:

- 199 (a) Municipal sewerage and water must be provided.
- 200 (b) A minimum land area of three acres must be provided.
- 201 (c) The maximum net density may not exceed four dwelling units per net residential acre. In  
 202 no event may the Planning Board authorize a departure which increases the total number  
 203 of dwelling units greater than that specified under the applicable zoning ordinance.
- 204 (d) ~~A single bedroom unit may not be less than 550 square feet and a two-bedroom unit not~~  
 205 ~~less than 650 square feet.~~

206

207 *Recommended motion to schedule the public hearing*

208

209 *Move to schedule a public hearing on August 13, 2020 to amend Title 16 to add a new section*

210 *entitled “Affordable Housing”, to amend §16.7.8.4 Exemptions to net residential acreage*

211 *standards, to amend §16.3.2.4.D Standard, and to amend §16.8.9.4 Off-street parking*

212 *standards.*