

## **LD-2003 related amendments to Kittery's Land Use and Development Code (Title 16)**

*LD-2003 is a three-part ordinance. The first part deals with affordable housing and the associated density bonus, the second part focuses on allowing more density where housing is currently allowed in zoning districts (affordability not a requirement) and the third part addresses Accessory Dwelling Units (ADUs), requiring that all communities allow them without adherence to land area per dwelling unit requirements and parking requirements.*

Part 1. According to LD-2003, to utilize the 2.5x affordable housing density bonus, the development must:

- designate greater than 50% of the dwelling units proposed as affordable (defined as below 80% AMI for rental and 120% AMI for owned)
- be zoned for multifamily as of July 1, 2023
- be in a growth area as defined by a community's comprehensive plan or be zoned for public utilities, special utility district etc.
- meet the State's minimum lot size requirements (basically 20,000 sf for septic)
- meet water and wastewater verification requirements
- meet the long-term affordability requirements

1. Growth areas as identified by Kittery's Comprehensive Plan's Future Land Use Map
  - a. Business-Local Zone (B-L)
  - b. Business-Local-1 Zone (B-L1)
  - c. Business-Park Zone (B-PK, formerly MU-N, Neighborhood Mixed-Use Zone)
  - d. Commercial-1 Zone (C-1)
  - e. Commercial-2 Zone (C-2)
  - f. Commercial-3 Zone (C-3)
  - g. Mixed-Use (MU-BI)
  - h. Mixed-Use Zone (M-U)
  - i. Residential-Rural (R-RL – but only a small portion between Rt 236 and Wilson Road)
  - j. Residential-Suburban (R-S)
  - k. Residential-Urban (R-U)
2. Of those zones, only these allow multifamily currently:
  - a. Business-Local Zone (B-L)
  - b. Business-Local-1 Zone (B-L1)
  - c. Commercial-1 Zone (C-1)
  - d. Commercial-3 Zone (C-3)
  - e. Mixed-Use Zone (M-U)
  - f. Residential-Suburban (R-S)
  - g. Residential-Urban (R-U)

Part 2. According to LD-2003's dwelling unit allowance section, a municipality must allow:

1. 4 dwelling units per undeveloped lot if the lot is in a zone that allows housing and is in a growth area as defined by a community's comprehensive plan or served by public utilities, special utility district etc.
2. 2 dwelling units per undeveloped lot if the lot doesn't meet the requirements of #1 above, but the lot is in a zone that allows housing and the lot meets the State lot size requirements (20,000 sf for septic)
3. Two additional dwelling units if a lot already has one dwelling unit.

No more restrictive setbacks than those for a single-family dwelling are allowed and the land area per dwelling unit may not be more than that for a single-family dwelling unit. There are also sewer/septic and drinking water verification requirements. Affordability as defined by LD-2003 is not a requirement.

4. The following zones allow housing and are in the growth area as defined by the Town's comprehensive plan:
  - a. Business-Local Zone (B-L) \*
  - b. Business-Local-1 Zone (B-L1) \*
  - c. Business Park Zone (B-PK, formerly MU-N, Neighborhood Mixed-Use)\*
  - d. Commercial-1 Zone (C-1) \*
  - e. Commercial-3 Zone (C-3) \*
  - f. Mixed-Use Zone (M-U) \*
  - g. Residential-Rural Zone (R-RL) (only portion between Rt 236 and Wilson Road)
  - h. Residential-Suburban Zone (R-S) \*
  - i. Residential-Urban Zone (R-U) \*

\*All or part of the zone has public utilities or access to them

5. These zones also allow housing but are not in the growth area designated by the comprehensive plan:
  - a. Mixed-Use-Kittery Foreside (MU-KF)
  - b. Residential-Kittery Point Village Zone (R-KPV)
  - c. Residential-Rural (R-RL, the majority of it)
  - d. Residential-Rural Conservation Zone (R-RC)
  - e. Residential-Village Zone (R-V)

Of these zones, the Residential-Village Zone (R-V) and the Mixed-Use-Kittery Foreside (MU-KF) have public water and sewer. These two zones have few, if any, undeveloped lots so the 2 units per lot with an existing residence would apply, provided other requirements are met.

The Residential-Kittery Point Village Zone (R-KPV) and the Residential-Rural Conservation Zone (R-RC) have no sewer but do have public water for the most part, while the R-RL zone has limited public water and no sewer. There are undeveloped (vacant) lots in all three of these zones so the two units per vacant lot would apply. For lots that have an existing residence, the two additional units per lot would apply provided other requirements are met.

Part 3. According to LD-2003, Accessory Dwelling Units (ADUs) must be allowed in all zones where housing is allowed.

It appears that Kittery's ADU ordinance is nearly in full compliance with this portion of LD-2003 except for parking.

***Conclusion: LD-2003's affordable housing and/or density allowances apply to 14 of Kittery's 18 zoning districts because they include housing as a permitted use. The ADU provisions in LD-2003 apply to those 14 zones as well as the C-2 zone that doesn't allow new housing because there are existing "grandfathered" dwelling units in that zone.***

LD2003 – Kittery Town Code Title 16-Zoning

List of draft changes 6.12.2023:

Title 16 Section	
Accessory Dwelling units 16.5.3-D.1.e.2	Septic systems: add reference to MRS 30-A 4221
D.1.e.4	Wells: add reference to 01-672 C.M.R. ch. 10, section 10.25(J), Land Use Districts and Standards
D.1.e.4.f	Parking: Replace on-site parking requirement with: <b><i>No additional parking space is required for the accessory dwelling unit but the primary dwelling unit must have on-site parking</i></b>
D.2a	Unit size: Revise reference to building code standards
BL zoning Standards 16.4.17- D.1.b.1.c	Parking: add "c", reducing on-site parking required from 1.5 spaces as follows: <i>More than 50% of the dwelling units proposed will be affordable as defined by this code in which case parking is reduced to two spaces per three dwelling units.</i>
BL-1 Standards 16.4.18.D -1.a.4	Minimum land area/ dwelling unit: revise as follows: [4] 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: <del>1,500</del> <b>1,000</b> square feet. [For comparison 29.4 units per acre is the current density while 43.6 units would be the new units per acre] OR When <del>25%</del> <b>50%</b> or more of the dwelling units will be affordable housing units as defined by this code, the minimum land area per dwelling unit is: <del>1,500</del> <b>1,000</b> square feet. [43.6 units per acre for comparison]
Parking iv	Add subsection modifying on-site requirement as follows: <i>More than 50% of the dwelling units proposed will be affordable as defined by this code in which case parking is reduced to two spaces per three dwelling units.</i>
16.4.26 Business Park	Staff suggest adding definition for cluster mixed-use development
C Zones; 16.4.19 & 16.4.21 E.2.a	Density: add: <i>40 units per acre when over 50% of the units are affordable housing units as defined by this Code*.</i>
E.4.c.1	Parking: add: <i>When more than 50% of the dwelling units proposed are affordable as defined by this Code, two parking spaces for every three dwelling units.</i>
Mixed Use – Badgers Is. 16.4.24 -D.1.a.1	Change density as follows: <del>For each of the first two dwelling units and thereafter: 6,000 square feet.</del> <b><i>If more than 50% of the dwelling units will be affordable housing units as defined by this code: 1,200 square feet.</i></b>
Mixed Use – Kittery Foreside 16.4.25 D.2.a	Density: add: <b><i>(a) – 1. If more than 50% of the dwelling units will be affordable housing units as defined by this code: 2,000 square feet.</i></b>
D.7	Parking: add: <b><i>(c) Dwelling units in buildings where more than 50% of the dwelling units proposed will be affordable as defined by this code in which case parking is reduced to two spaces per three dwelling units.</i></b>
R-S Residential Suburban 16.4.11-D.2	Add <b><i>[3] When more than 50% of the dwelling units proposed will be affordable as defined by this Code and have public sewer: 12,000 square feet</i></b>

<p>Parking, D.5 &amp; D.6</p>	<p>Revise as follows:</p> <p><b><u>(5) Parking. When more than 50% of the dwelling units provided while be affordable as defined by this code: two parking spaces per three dwelling units.</u></b></p> <p><b><u>(6) Affordable housing requirements:</u></b></p> <p><b><u>(a) All requirements in §16.5.4 Affordable Housing must be met.</u></b></p> <p><b><u>(b) Density incentives outlined above in subsection D.(2).(a).[3] may be applied 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.</u></b></p>															
<p>Residential Urban 16.4.13 – D.2</p>	<p>Density: add</p> <p><b><u>When more than 50% of the dwelling units proposed will be affordable as defined by this code:</u></b></p> <p><b><u>i. With public sewer: 8,000 square feet</u></b></p>															
<p>Parking, D.6 &amp; D.7</p>	<p>Add:</p> <p><b><u>(6) Parking. When more than 50% of the dwelling units provided while be affordable as defined by this code: two parking spaces per three dwelling units.</u></b></p> <p><b><u>(7) Affordable housing requirements:</u></b></p> <p><b><u>(a) All requirements in §16.5.4 Affordable Housing must be met.</u></b></p> <p><b><u>(b) Density incentives outlined above in subsection D.(2).(a).[3] may be applied 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.</u></b></p>															
<p>Residential- Rural Conservation 16.4.15</p> <p>Residential – Rural 16.4.10</p> <p>Residential – Village 16.4.14</p>	<p>Revise by inserting table:</p> <table border="1" data-bbox="560 1528 1377 1749"> <thead> <tr> <th></th> <th colspan="2">Maximum total # of units allowed on lot</th> </tr> <tr> <th># of Existing Units</th> <th>Public Sewer and Water Available</th> <th>Public sewer and water not available</th> </tr> </thead> <tbody> <tr> <td>0</td> <td>4</td> <td>2</td> </tr> <tr> <td>1</td> <td>3</td> <td>3</td> </tr> <tr> <td>2</td> <td>2</td> <td>2</td> </tr> </tbody> </table>		Maximum total # of units allowed on lot		# of Existing Units	Public Sewer and Water Available	Public sewer and water not available	0	4	2	1	3	3	2	2	2
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