



**TOWN OF KITTEERY**  
**Planning and Development**  
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**TO:** PLANNING BOARD  
**FROM:** ADAM CAUSEY, DIRECTOR OF PLANNING & DEVELOPMENT  
**SUBJECT: PROPOSED AMENDMENTS TO TITLE 16 REGARDING  
ACCESSORY DWELLING UNITS**

**DATE:** January 17, 2019  
**CC:** KENDRA AMARAL, TOWN MANAGER

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In mid-2018, the Housing Working Group was tasked with examining the Town's existing rules for accessory dwelling units, or ADUs. An ADU is typically defined as a smaller, independent residential dwelling unit located on the same lot as a stand-alone single-family home. ADUs can serve many purposes, but the most common are to generate additional income for the homeowner or to house a family member.

The Town's current codes regulating ADUs are fairly restrictive and not supportive of their development. In today's climate of rising housing costs and limited housing supply, this inflexibility contributes to making Kittery a more expensive place to live. The Housing Working Group was charged with researching ways to promote a variety of housing types and price points in Kittery to accommodate a diverse population. The Housing Working Group determined that making changes to the Town's ADU regulations would be a good first step towards achieving these housing goals.

The proposed changes allow for greater flexibility in the design and development of accessory dwelling units. The desire is for rules that provide opportunities for existing residents to remain in their homes, to provide new housing units compatible within existing neighborhoods, and to offer more affordable housing options.

Thank you,

Adam Causey, AICP  
Director, Planning & Development Department

## ACCESSORY DWELLING UNITS

### 1 §16.2 DEFINITIONS

#### 2 ACCESSORY DWELLING UNIT (ADU)

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

### 10 §16.8.25 ACCESSORY DWELLING UNITS

#### 11 § 16.8.25.1 Purpose.

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

#### 19 § 16.8.25.2 Applicability.

20 An accessory dwelling unit is allowed in all zoning districts where the use is permitted in Chapter 16.3.

21 The unit must be located:

- 22 A. within an existing structure, either principal or accessory on the property or;  
23 B. attached to the existing principal structure, sharing a common wall or;  
24 C. within a new accessory structure constructed for this purpose on the property.

25 Neither may be rented for less than a 30-day period. Violation of the 30-day minimum rental period shall  
26 result in the revocation of the certificate of occupancy for the ADU.

#### 27 § 16.8.25.3 Application for accessory dwelling unit.

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

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

34 C. An accessory dwelling unit that fails to meet the size standards ~~and/or the development standards~~  
35 provided in this article may not receive administrative approval; however, the accessory dwelling  
36 unit may still be allowed. See § 16.8.25.4.C, 16.8.25.4A and B below.

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

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

## 45 § 16.8.25.4 Accessory dwelling unit standards.

## 46 A. Lot standards.

- 47 (1) Legal lot/residence. An accessory dwelling unit is allowed only on lots within the Town  
48 that contain one legal, single-family residence as the principal unit.
- 49 (2) Number of accessory dwelling units per lot. No more than one accessory dwelling unit is  
50 permitted on a lot.
- 51 (3) Zone lot size and unit density. The property on which an accessory dwelling unit is located  
52 must meet the size required by the applicable zoning standards for principal residence  
53 except in the case of legally non-conforming lots. However, accessory units are exempt  
54 from the density requirements of the zone in which they are located.
- 55 (4) Setbacks and Coverage. Yard setbacks for the zone must be met. However, for legally non-  
56 conforming lots where a proposed accessory dwelling unit will be attached to a principal  
57 dwelling unit and cannot meet the zone's side and rear yard setbacks, the percentage by  
58 which a lot is smaller than the required lot size for the zone will dictate the required  
59 setbacks for that lot. For example, a 30,000 square foot legally non-conforming lot in a  
60 zone that requires 40,000 square feet would require side and rear yard setbacks that are  
61 75% of the zone's side and rear yard setbacks. Building coverage requirements will remain  
62 as required by the zone.
- 63 (5) Utility connections. Accessory units must be connected to adequate water and sewer  
64 wastewater services.
- 65 (a) Public sewer.
- 66 [1] Service: verification, in writing, of adequate service to support the  
67 additional flow from the Superintendent of Wastewater Treatment Facilities.
- 68 [2] Fees: Payment of appropriate fees for connection to the municipal sewer  
69 system is required prior to obtaining the certificate of occupancy.
- 70 (b) Septic systems. Verification of adequate sewage disposal for subsurface waste  
71 disposal is required. The septic system, existing or proposed, must be verified as  
72 adequate or reconstructed as required. Plans for subsurface waste disposal must be  
73 prepared by a Maine-licensed site evaluator in full compliance with the State of  
74 Maine Subsurface Wastewater Disposal Rules, 10-144 C.M.R. 241.
- 75 (c) Public water. Verification in writing is required from the Kittery Water District for  
76 volume and supply.
- 77 (d) Wells. Verification of the potable water supply for private wells is required. Tests  
78 of the existing well or proposed well, if applicable, must indicate that the water  
79 supply is potable and acceptable for domestic use and must conform to the  
80 recommendations included in the "Manual for Evaluating Public Drinking Water  
81 Supplies, Public Health Service No. 1180 (1969)."
- 82 (6) Parking. Each accessory dwelling unit must have one on-site parking space in addition to  
83 the parking for the primary dwelling unit. Tandem parking is permitted
- 84 (7) Private road or right-of-way access. Where an applicant seeks to locate an accessory  
85 dwelling unit on a privately maintained road or right-of-way the following applies:

86 (a) Applicant must submit written consent from the road or homeowner's association  
87 or owner and parties responsible for street maintenance; ~~and~~

88 ~~(b) Road construction standards must support the additional trips generated.~~

89 B. Unit standards.

90 (1) Unit size. ~~The habitable floor space of an accessory dwelling unit must be a minimum of~~  
91 ~~400 square feet and no larger than 800 square feet.~~ The size of an accessory dwelling unit  
92 must meet the minimum size for a dwelling unit as set by building code standards adopted  
93 and amended from time to time by Maine's Bureau of Building Codes and Standards and  
94 be no larger than 1,000 square feet. For principal dwelling units 1,000 square feet or  
95 smaller, an accessory dwelling unit may be no greater than 80% of the size, as measured in  
96 square feet, of the principal dwelling unit. An accessory dwelling unit may have no more  
97 than two bedrooms.

98 (2) Unit location. ~~An accessory dwelling unit:~~

99 (a) ~~Must be fully constructed within the existing footprint of any legal primary~~  
100 ~~residence or accessory building.~~ An accessory dwelling unit must meet one of the  
101 following conditions:

102 [1] Be fully constructed within the existing footprint of any legal  
103 principal residence or accessory building; or

104 [2] Share a common wall with the principal residence, providing yard  
105 setbacks can be met per 16.8.25.4.A.(4); or

106 [3] Be constructed as a new accessory building containing an accessory  
107 dwelling unit, providing yard setbacks can be met for the zone.

108 (b) Accessory dwelling units will be allowed inside of the primary to be fully  
109 constructed within the principal residence building where even if the building has  
110 does not meet noneonforming yard setbacks.

111 (c) Accessory dwelling units will not be allowed in accessory or detached buildings  
112 encroaching on yard setbacks.

113 ~~(3) Building code compliance. An accessory dwelling unit must satisfy the requirements~~  
114 ~~contained in the building code and fire code as currently adopted by the Town. See~~  
115 ~~§ 16.5.3E, Conformance to standards.~~

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