

## 1 AMEND § 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~~  
 5 ~~may benefit from the additional income. The owner may also elect to occupy the accessory dwelling~~  
 6 ~~unit and rent the principal dwelling unit. A secondary dwelling unit with facilities used or intended to~~  
 7 ~~be used for living, sleeping, cooking, eating, and sanitary facilities for one or more persons, whether~~  
 8 ~~attached to the primary dwelling unit, detached from it, or contained within it.~~

## 9 AMEND §16.8.25 Accessory Dwelling Units:

## 10 § 16.8.25.1 Purpose.

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

## 20 § 16.8.25.2 Applicability.

21 A. An accessory dwelling unit is allowed in all zoning districts where the use is permitted in Chapter  
 22 16.3. The unit must be located:

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

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

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

26 ~~with a certificate of occupancy issued more than five years prior to the date of the ADU application, on~~  
 27 ~~the property where the owner of the property occupies one of the units. The accessory dwelling unit may~~  
 28 ~~be attached to, or detached from, the primary dwelling unit. No expansion of a building's footprint is~~  
 29 ~~allowed to accommodate an accessory dwelling unit. No ADU may be rented for less than a 30-day~~  
 30 ~~period. Violation of the 30-day minimum rental period shall result in the revocation of the certificate of~~  
 31 ~~occupancy for the ADU. A revoked certificate of occupancy for an ADU shall not be reissued for a period~~  
 32 ~~of 90 days.~~

33 B. All ADUs must comply with the provisions of this ordinance within 90 days of the effective date  
 34 of this ordinance.

## 35 § 16.8.25.3 Application for accessory dwelling unit.

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

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

42 C. An accessory dwelling unit that fails to meet the ~~unit size standards and/or the development~~  
 43 ~~standards~~ provided in this article may not receive administrative approval; however, the accessory

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44 dwelling unit may still be allowed. See § 16.8.25.4 ~~A and BC~~ below.

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

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

### 52 § 16.8.25.4 Accessory dwelling unit standards.

53 A. Lot standards.

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

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

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

62 (4) Setbacks and Coverage. Yard setbacks for the zone must be met. However, for legally non-  
63 conforming lots where a proposed accessory dwelling unit will be attached to a principal dwelling  
64 unit and cannot meet the zone's side and rear yard setbacks, the percentage by which a lot is smaller  
65 than the required lot size for the zone will dictate the required setbacks for that lot. For example, a  
66 30,000 square foot legally non-conforming lot in a zone that requires 40,000 square feet would  
67 require side and rear yard setbacks that are 75% of the zone's side and rear yard setbacks. Building  
68 coverage requirements will remain as required by the zone.

69 ~~(45)~~ Utility connections. Accessory dwelling units must be connected to water and wastewater services  
70 approved by the Town.

71 (a) Public sewer.

72 [1] Service: verification, in writing, of adequate service to support the additional flow from the  
73 Superintendent of Wastewater Treatment Facilities.

74 [2] Fees: Payment of appropriate fees for connection to the municipal sewer system is required prior to  
75 obtaining the certificate of occupancy.

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

80 (c) Public water. Verification in writing is required from the Kittery Water District for volume and  
81 supply.

82 (d) Wells. Verification of the potable water supply for private wells is required. Tests of the existing  
83 well or proposed well, if applicable, must indicate that the water supply is potable and acceptable for

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84 domestic use and must conform to the recommendations included in the "Manual for Evaluating  
85 Public Drinking Water Supplies, Public Health Service No. 1180 (1969)."

86 (6) Parking. Each accessory dwelling unit must have one on-site parking space in addition to the parking  
87 for the primary dwelling unit. Tandem parking is permitted.

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

90 (a) Applicant must provide written consent from the association or parties responsible for street  
91 maintenance; and

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

93 B. Unit standards.

94 (1) Unit size. ~~The habitable floor space of an accessory dwelling unit must be a minimum of 400-~~  
95 ~~square feet and no larger than 800 square feet. The size of an accessory dwelling unit must meet~~  
96 ~~the minimum size for a dwelling unit as set by building code standards adopted and amended~~  
97 ~~from time to time by Maine's Bureau of Building Codes and Standards and be no larger than~~  
98 ~~1,000 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory~~  
99 ~~dwelling unit may be no greater than 80% of the size, as measured in square feet, of the~~  
100 ~~principal dwelling unit. An accessory dwelling unit may have no more than two bedrooms.~~

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

103 (a) An accessory dwelling unit must meet one of the following conditions:

104 [1] Must be fully constructed within the existing footprint of any legal primary residence or accessory  
105 building; or

106 [2] Share a common wall with the principal residence, providing yard setbacks can be met per  
107 16.8.25.4.A.(4); or

108 [3] Be constructed as a new accessory building containing an accessory dwelling unit, providing yard  
109 setbacks can be met for the zone.

110 (b) Accessory dwelling units will will be allowed inside of the primary principal residence building-  
111 where the even if the building has nonconforming does not meet yard setbacks.

112 (c) Accessory dwelling units will will not be allowed in accessory ~~or detached~~ buildings encroaching on  
113 yard Shoreland Overlay Zone or Resource Protection Overlay Zone setbacks.

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

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

**From:** [Ron Ledgett](#)  
**To:** [Jamie Steffen](#); [Adam Causey](#)  
**Cc:** [Drew Fitch](#); [Dutch Dunkelberger](#); [Karen Kalmar](#); [Mark Alessi](#); [Steve Bellantone](#); [Russell White](#)  
**Subject:** Re: ADU - April 11 Meeting Discussion  
**Date:** Thursday, April 04, 2019 4:22:28 AM

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Jamie,

Please include this email document in the packet for the April 11 Planning Board Meeting for discussion at that meeting. I have included Planning Board members in the distribution per past member requests to see substantial written comments for review (not discussion or debate) prior to the meeting.

While not able to attend the March 28 meeting I was able to watch the live broadcast of the meeting.

My observations from the March 28 Planning Board public hearing concerning the proposed changes to Title 16 ADU requirements, considering the history of these requirements, the history of proposed changes and the record of public correspondence in the record but not discussed at the public hearing are as follows:

1. Title 16 currently allows Kittery Residents residing in their principal dwelling to rent an approved ADU on their property short term or long term as they choose. The purpose of the current ADU requirements is to help Kittery residents remain Kittery residents.
2. With the intent of increasing affordable housing stock for people living and working in Kittery a change is proposed to Title 16 that (1) deletes the requirement for owner occupancy of either the primary residence or the ADU and (2) adds a minimum rental period for the ADU of 30 days. Change (1) enables non-resident investors to compete with residents potentially decreasing the economic benefit to Kittery residents investing in ADUs. Change (2) takes away Kittery residents existing right to rent their ADU short term (or long term as they choose).
3. As pointed out by member Drew Fitch and public commenter Tom Emerson the purpose of the proposed ADU change under discussion at the public hearing is to increase housing availability at an affordable price for individuals working in and/or wanting to reside in Kittery and that the 30 day minimum rental period is a compromise essential to achieving that objective with ADUs.
4. At the March 28 meeting the Planning Board did not support the 30 day limitation because of substantial negative impact on Kittery residents but did not address the negative impact on Kittery residents from non-resident investor competition for rental of properties with ADUs. The existing ADU requirements of Title 16 appear to be consistent with the best interests of Kittery residents except for administration and enforcement.
5. The difficulties with enforcement of the ADU residency requirement as currently specified in Title 16 can readily be addressed by changing to one of the successful approaches used by other Maine communities. One of the successful approaches, annual permitting with fees to cover costs, already is being used by Kittery for administration of moorings.
6. In summary for ADUs the best interests of Kittery residents would seem to be met by (1) retaining the existing residency requirement, (2) retaining the existing flexibility to rent ADUs short term or longer term, (3) changing existing Title 16 requirements to enable a successful method for administration and enforcement with fees to cover costs, and (4) addressing affordable housing in Kittery independent of ADUs.

Sent from my iPhone