

UEB & PCDC to Present Proposed Revisions to Chapter 13 and Chapter 16 Concerning Code Changes Which will Support the Construction of ADU'S

Workshop 5:30 pm – 6:45

DRAFT AGENDA
TOWN OF LYONS
MONDAY, AUGUST 19, 2016,
SHIRLEY F. JOHNSON COUNCIL CHAMBER
LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO

I. Workshop

- I.1. Ordinance 1005 - Cover Letter
Cover Letter for Ordinance 1005 - Proposed Changes to the Utility Code and
Zoning Code Related to ADU Tap Fees

Documents:

[COVER LETTER BOT WORKSHOP 9_19.PDF](#)

- I.2. Ordinance 1005 - Proposed Changes To Utility Code

Proposed Revisions to *Chapter 13* of the Lyons Municipal Code

Concerning Definitions of Principal and Accessory Dwelling Units

and Related Utility Connection Fees

Documents:

[PROPOSED CHANGES TO UTILITY CODE RELATED TO ADU TAP
FEES.PDF](#)

- I.3. Ordinance 1005 - Proposed Changes To Zoning Code

Proposed Revisions to *Chapter 16* of the Lyons Municipal Code

Concerning Definitions of Principal and Accessory Dwelling Units

As it Relates to ADU Tap Fees and Attainable Housing

Documents:

[PROPOSED CHANGES TO ZONING CODE RELATED TO ADU TAP FEES 9
15 16.PDF](#)

“The Town of Lyons will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Persons needing accommodations or special assistance should contact the Town at hr@townoflyons.com as soon as possible, but no later than 72 hours before the scheduled event.”

Cover Letter for Ordinance 1005

- SUBJECT:**
- **Proposed Revisions to Chapter 13 related to Definitions for Accessory & Principal Dwelling Units and Related Tap Fees**
 - **Proposed Revisions to Chapter 16 Definitions of Accessory & Principal Dwelling Units and Additional Proposed Changes Related to Attainable Housing**

Attached with this memo is a draft of code revisions intended to create a clear distinction between *Principal* dwelling units and *Accessory* dwelling units. This draft follows from the recent discussions at the latest UEB and PCDC meetings, workshops and public hearing, including the joint UEB/PCDC discussions regarding ADU utility service. The revisions to the two separate chapters of the municipal code (zoning and utilities) are intended to run in parallel and arrive together as a package for consideration before the BOT. It is the UEB's role to forward the utility code revisions and it is the PCDC's role to forward the zoning code revisions. These revisions are now undertaken in concert in a coordinated effort by the PCDC and UEB to remove the current utility service costs for ADU's as a financial barrier to creation of ADU housing in Lyons – a goal that was outlined under the Affordable Housing Chapter of the 2010 Town of Lyons Comprehensive Plan.

Background:

Utility Code Changes – The proposed changes to Chapter 13 (Utility Code) were voted on and approved by the UEB (4 to 1) on September 7, 2016.

The UEB and Town Staff have worked in unison with the PCDC to identify gaps in the utility code where a clear distinction of Accessory and Principal Dwelling Units were absent. The current interpretation of the code would require a property-owner who is eligible and willing to construct and ADU to pay utility connection fees for water, wastewater and electricity. These utility connection fees were identified as an obstacle to ADU construction. The changes that are being recommended to the BOT are made in an effort to distinguish ADUs from Principal Dwelling Units in the Utility Code under 3 sections – Electric Community Investment Fee, Connection or Tap Fees (water) and Wastewater System Connection Permit and Charges. The proposed changes will essentially eliminate these utility connection fees for ADUs.

Zoning Code Changes - The proposed changes to Chapter 16 (Zoning Code) were voted on and approved by the PCDC (5 to 1) on September 12, 2016.

The first and foremost proposed change to the zoning code is to establish a clear functional distinction between *Accessory* Dwelling Units and *Principal* Dwelling Units to be recognized by the utility code. It is this distinction that underpins a separate Utility Fee structure for ADU's.

Another new feature introduced in this draft is the restriction that ADU's are only allowed where the owner of the property resides on the lot as his or her primary residence (i.e. at least six months in a calendar year). This is a limitation commonly found in ADU zoning regulations that is aimed at greater protection of the single-family neighborhood character at the expense of reduced opportunities for creation of ADU's.

Additionally, since the intention of these proposed changes are to remove barriers that will lead to increasing the number of housing units that are attainable for local works, senior citizens, and artists, among others, the PCDC is also recommending to prohibit the use of ADUs for Short-Term Vacation Rentals.

The Town Attorney also suggested that we strike the term "Travel Trailer" from the list of prohibited dwellings in the ADU codes. Since Recreational Vehicles are also prohibited, "Travel Trailer" was deemed redundant.

**Proposed Revisions to *Chapter 13* of the Lyons Municipal Code
Concerning Definitions of Principal and Accessory Dwelling Units
and Related Utility Connection Fees:**

**a Recommendation from the Utility & Engineering Board to the
Board of Trustees (Approved by UEB 4 to1 on 9/7/2016)**

Ordinance Number: 1005

*Note: proposed text changes appear **bold & italicized** throughout this memo*

Sec. 13-1-10. – Definitions

Dwelling Unit, Accessory

An accessory dwelling unit (ADU) is a second, subordinate unit co-located on the same lot as a principal residence in a single family residential zone district. An Accessory Dwelling Unit is no larger than 800 square feet and may be either added to, co-located with as a detached unit, or created within a principal detached single-family dwelling. ADUs are created for the purpose of accommodating a second household that lives separately from the principal household. The ADU is occupied by a second family or household that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single-family dwelling.

Accessory dwelling units must be connected to the water, wastewater and electric utilities of the principal dwelling unit and may not have separate services, unless the Town Administrator determines such to be infeasible.

Principal Dwelling Unit

Principal Dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, ***either detached or attached to*** a one-family, two-family or multi-family dwelling or mixed-use building. An accessory dwelling unit as defined here in is not a principal unit.

Sec. 13-2-110. - Electric Community Investment Fee.

(a) Fee required. Except as otherwise provided by this Section, no building permit for new construction shall be issued unless and until an electric community investment fee in the amount of four thousand five hundred dollars (\$4,500.00) is paid in accordance with this Section. The electric community investment fee is assessed for the purpose of maintaining and providing improvements to the electric distribution system which are necessary to permit extension of services to new construction.

(b) For purposes of this Section only, *new construction* shall mean the erection, construction, fabrication or relocation of a residential or nonresidential building within the Town. *New construction* shall not include:

(1) The alteration, modification, rehabilitation or expansion of an existing building that does not increase the number of **principal** dwelling units or increase the gross floor area of the building by more than seventy-five percent (75%);

(2) Replacement of an existing building with a new building, provided that the new building does not increase the number of dwelling units; or

(3) An accessory building or structure as defined by [Chapter 16](#) of this Code. ***Creation of an Accessory Dwelling Unit as defined by Chapter 16 of this Code shall not constitute an increase in the number of dwelling units for purposes of this Section.***

(c) Fee is additional to others. The electric community investment fee is in addition to any other fee or charge for electrical service and construction.

(d) Payment of fees.

(1) There is hereby established a subaccount within the Electrical Enterprise Fund, entitled the Electric Community Investment Fees Fund. All electric community investment fees shall be paid into such subaccount.

(2) The electric community investment fee shall be paid to the Town prior to the issuance of the building permit for new construction; provided, however, that the Town may, in its discretion, enter into a written agreement with the property owner to permit the payment of the fee within six (6) months of the issuance of the building permit or before the Town issues a certificate of occupancy, whichever occurs first.

(3) The Town shall use the Electric Community Investment Fees Fund only for electric utility capital improvements property, including but not limited to electric main feeder system improvements, electric substations, engineering design and permitting for electric Utility System improvements and construction of all necessary features of an electric utility distribution system.

(Prior code 7211; Ord. 956 §1, 2014)

Sec. 13-3-90. - Connection or Tap Fees (Water)

(a) Connection or tap fees. Unless otherwise approved by the Board of Trustees as permitted by this Code, the following tap fees for water service from the public water system shall be collected on all new connections or taps. All consumers shall pay, in addition to the applicable connection or tap fee, all costs and expenses of installation of water service, including labor, materials, equipment, supplies, acquisition of easements and rights-of-way and a Town-approved water meter.

(b) Connection fees for property within the Town.

(1) The following connection or tap fees shall be paid by a consumer within the Town prior to connection to the public water system:

<i>Connection or Tap Size</i>	<i>Connection or Tap Fee</i>
¾"	\$17,500.00
1"	35,000.00
1½"	70,000.00
2"	105,000.00

These tap or connection fees are proportionately related and based upon the following table of recommended design criteria for equivalent flow through the water meter:

<i>Connection Size</i>	<i>Equivalency to ¾-inch Connection or Tap Size</i>
¾"	1
1"	2
1½"	4
2"	6

(2) No connection or tap greater than two (2) inches in size shall be permitted within the Town unless otherwise approved by the Board of Trustees pursuant to a written agreement. Any agreement shall include provisions for construction, maintenance, connection or tap fees, mandatory meter installation and rates for water service.

(3) Where a building served by a single tap includes more than one (1) **principal** residential dwelling unit, the connection or tap fee provided by this Subsection shall be increased by an additional eleven thousand five hundred dollars (\$11,500.00) for each additional **principal** dwelling unit. ***Creation of an Accessory Dwelling Unit as defined by Chapter 16 of this Code shall not constitute an increase in the number of dwelling units for purposes of this Section.***

(c) Connection fees for property outside of the Town. It is the policy of the Town to extend its corporate boundaries in a manner that is consistent with the Town's utility service area. The Town shall not provide new connections or increases in size of existing connections for water services to properties outside of the corporate limits of the Town, unless such property is annexed into the Town prior to the provision of water

service. Nothing in this Section shall affect or modify continued service to properties previously provided connection to the Town's water system in accordance with all applicable provisions of this Chapter. All use of water outside the Town's corporate limits shall be subject to the paramount rights of users within the Town's corporate limits and, in case there is insufficient water to provide for users both within and without the corporate limits, the Board of Trustees may reduce, curtail or discontinue the supply of water to consumers outside of the Town's corporate limits during such period of water shortage or scarcity.

(d) The Board of Trustees may, for good cause shown, increase, reduce, waive or modify any of the conditions or requirements of this Section. Any action by the Board of Trustees to increase, reduce, waive or modify any of the conditions or requirements of this Section shall be made by resolution. For purposes of waiving the prohibition of providing services to properties outside of the Town's limits, good cause shown shall include a demonstration by the owner of property that the owner, or a predecessor-in-interest of the owner, provided substantial consideration or value to the Town prior to March 7, 1998, in anticipation that future service would be provided and that an emergency exists which necessitates the owner's connection to the Town's water system in order to protect the health, safety and welfare of the owner or the residents of the owner's property. The Board of Trustees may impose reasonable conditions upon the provision of services outside of the Town limits, including but not limited to the execution of an agreement by the owner which includes an obligation to annex into the Town when the owner's property is eligible for annexation.

Sec. 13-4-80. Wastewater System connection permit and charges.

(a) Wastewater connection permit and charges permit required. It shall be unlawful for any person to tap or make any connection to the wastewater lines or wastewater mains forming part of the Town wastewater system without having first obtained a Town approved license for connection pursuant to Article 1 of this Chapter and having paid in full all required connection fees in accordance with this Article.

(b) Issuance of permit. Any person seeking a permit for connection to the wastewater system shall file with the Town Clerk a completed application in a form furnished by the Town. Such application shall include a full description of the work proposed to be undertaken. Such application shall clearly identify and designate the point at which the proposed connection shall be made to the wastewater system of the Town and the property or property address to be served by the connection or tap.

(c) Connection charges for property within the Town. For property within the Town, there shall be assessed and charged for each connection to the Town wastewater system a connection fee (also commonly known as a "tap fee") in the following rates and amounts:

Connection	Fee
All connections other than multiple- principal dwelling units:	\$8,500.00
Connections for multiple- principal dwelling units:	

First unit	8,500.00
Each additional unit	6,375.00

(d) All connection charges shall be paid in full prior to the issuance of a permit for connection. Unless otherwise accepted by the Town, all payments shall be made in cash or certified funds.

(e) Unless approved by the Board of Trustees, applications for connection to the public wastewater system shall be approved only for use in serving the property described in the application, and a permit shall be appurtenant to the property described in the application and shall not be sold, transferred, conveyed or otherwise divided or separated from the property to be served.

(f) The Board of Trustees may reduce or waive the amount of any wastewater connection charges required by this Section on a case-by-case basis upon written request of an applicant. Approval of a reduction or waiver shall require that the Board of Trustees find that the reduction or waiver will encourage, advance, establish or permit desired land uses (such as development of affordable housing) or significant employment opportunities or provide a significant public benefit.

(g) The Board of Trustees may enter into an agreement with any owner of a connection permit for the repurchase of such permit where the connection to the wastewater system has not been made or has been discontinued and physically disconnected from the public wastewater system. In no event shall the repurchase price be greater than the original connection charge or tap fee paid by the owner or the owner's predecessor.

(Prior code 748; Ord. 956 §1, 2014)

RECOM

**Proposed Revisions to *Chapter 16* of the Lyons Municipal Code
Concerning Definitions of Principal and Accessory Dwelling Units
and Related Use Categories**

For the BoT Workshop 9/19/16

Ordinance Number: 1005

*Note: proposed text changes appear **bold & italicized** throughout this memo*

Proposed New Definitions: Accessory Dwelling Unit

Sec. 16-1-160. - Definitions

Dwelling Unit, Accessory

An accessory dwelling unit (ADU) is a second, subordinate unit co-located on the same lot as a principal residence in a single family residential zone district. An Accessory Dwelling Unit is no larger than 800 square feet and may be either added to, co-located with as a detached unit, or created within a principal detached single-family dwelling. ADUs are created for the purpose of accommodating a second household that lives separately from the principal household. The ADU is occupied by a second family or household that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single-family dwelling

Revisions to Existing Definitions: Dwelling Unit; Dwelling-Two Family; & Dwelling-One-Family Attached

Principal Dwelling Unit

Principal Dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, **either *detached or attached to*** a one-family, two-family or multi-family dwelling or mixed-use building. An accessory dwelling unit as defined here in is not a principal unit.

Dwelling, two-family

Dwelling, two-family means a building occupied by two (2) families living independently of each other, and containing two (2) **principal** dwelling units

Dwelling, one-family attached

Dwelling, one-family attached means a residential building containing **principal** dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes

Proposed Revisions to ADU Provisions

Sec. 16-10-70. Accessory Dwelling Units

Sec. 16-10-70. Accessory dwelling units.

(a) Purpose. This Section is adopted for the following purposes:

- (1) To provide a mix of housing that is responsive to changing demographics and family needs;
- (2) To encourage a range of affordability in Town housing units and provide a broader range of more affordable housing; and
- (3) To create new housing compatible with the scale and look of single-family neighborhoods.

(b) **Definition** *Creation and use* of new accessory dwelling units.

~~(1) An accessory dwelling unit (ADU) is a second and subordinate dwelling unit added to or created within a principal detached single family dwelling that is located in a single family residential zoning district. ADUs are created for the purpose of accommodating a second household that lives separately from the principal household. An ADU is a secondary dwelling occupied by a second family or household that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single family dwelling.~~

(1) ADUs may either be created in converted space in an existing principal dwelling or in new space attached to the principal dwelling as a use by right in all single-family residential zoning districts.

(2) Detached ADUs are allowed subject to conditional use review in new or existing space detached from the principal dwelling or created in new or existing space situated in or over an existing detached garage or other detached accessory building.

(3) Mobile homes, **Manufactured Housing Units**, and recreational vehicles ~~and travel trailers~~ shall not be used as accessory dwelling units.

(4) Owner-Occupied: The owner of the property must reside in one of the permitted dwelling units on the lot as their principal residence for at least six months or more out of the calendar year.

(5) Accessory Dwelling Units must not be leased or rented for a period of time or term of occupancy of less than thirty days.

(c) Standards.

(1) Districts permitted as attached use by right or as detached subject to conditional use review. Accessory dwelling units shall be allowed as accessory uses to single-family residential uses in the R-1, E, EC and A residential districts.

(2) Minimum lot area required for a detached ADU is six thousand (6,000) square feet. There shall be no minimum lot area required for attached ADUs.

(3) Design standards.

a. An accessory dwelling unit shall comply with all applicable site design and building design standards, access standards and other standards applicable to principal dwelling units in the zoning district where the accessory dwelling unit will be located.

b. An accessory dwelling unit shall contain private sanitary facilities with hot and cold running water, cooking and food storage facilities and sleeping quarters to accommodate a second household living independently and separately from the principal single-family dwelling and the principal household residing therein.

c. A separate entrance into an accessory dwelling unit shall not be located on a street facing exterior building facade.

d. Attached ADUs shall share a common building wall with the principal dwelling that is at least ten (10) feet in length with indoor living space or enclosed garage space on either side of the common wall.

e. An accessory dwelling unit shall comply with the locally adopted building code and all other applicable local, state and federal regulations.

(4) Size of an accessory dwelling unit (habitable floor area). There is no minimum ADU size set by this Section. The maximum ADU size for principal dwellings with habitable floor area of one thousand six hundred (1,600) square feet or larger shall be eight hundred (800) square feet or fifty percent (50%) of the principal dwelling unit, whichever is less. The maximum ADU size for principal dwellings smaller than one thousand six hundred (1,600) square feet but bigger than one thousand two hundred (1,200) square feet shall be six hundred (600) square feet or fifty percent (50%) of the size of the habitable floor area, whichever is less. For principal dwellings smaller than one thousand two hundred (1,200) square feet, the ADU may be as large as six hundred (600) square feet, but shall not exceed six hundred (600) square feet. These size limitations shall not apply to ADUs located in a basement for which there is no size limit.

(5) There shall be no more than one (1) accessory dwelling unit on a lot.

(6) Parking requirements. One (1) off-street parking space is required for the accessory dwelling unit.

(7) Maximum height.

a. If the accessory dwelling unit is attached to the principal dwelling, it shall conform to the maximum building height limit of the underlying zoning district.

b. If the accessory dwelling unit is detached from the principal dwelling, it may be restricted to a lower height as determined through a conditional use review.

(8) Conditional use review criteria for detached ADUs.

- a. Detached ADUs shall be oriented towards existing alleys and use alley access where that is available, except where created over or within an existing detached garage or other detached accessory building.
- b. Detached ADUs shall not be sited to minimize negative impacts to the principal residence where that results in greater negative impacts to adjacent property.
- c. Detached ADUs shall demonstrate architectural compatibility with the principal dwelling and the existing neighborhood.
- (d) Unity of ownership. The fee ownership of the principal dwelling and accessory dwelling unit shall not be separated.
- (e) Utilities. All accessory dwelling units shall be served with municipal water, municipal sanitary sewer and municipal electric service. ***Accessory dwelling units must be connected to the water, wastewater and electric utilities of the principal dwelling unit and may not have separate services, unless the Town Administrator determines such to be infeasible.***
- (f) Appeals. The final administrative determination of the staff may be appealed to the Board of Trustees. The decision of the Board of Trustees may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4). (Ord. 950 §1, 2014; Ord. 956 §1, 2014)