

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
13 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 Use Categories 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.

Several new concepts and features are proposed to be adopted into the municipal code with this draft. First and foremost is an emphasis on 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. Also, a definition of a "household" is introduced that serves to expand and clarify housing options that do not fit neatly within the older "family" based terminology

now found in the zoning code. This does two things; first, it demonstrates that any homeowner in any single family zone district is free at anytime to take on a “lodger” without any associated Town review or permitting approval. This is clarification that a bedroom may be rented out for compensation long term (monthly or annually, not to be confused with short term vacation rentals) to an occupant that is not a member/relative of the family *provided* they all live together as a single “household” as defined in the code revision. The cap of eight or fewer unrelated individuals composing a single household is taken from existing state statutes that define a *Small Group Home*, which by state law cannot be prohibited from locating in a single family zone district by the municipality. Secondly, definition of a single household serves to make a clear distinction that is drawn between taking on a renter who shares a single kitchen and other common area living space in a single *Principal Dwelling*, as compared to an *Accessory Dwelling Unit* where a second separate kitchen, and completely separate sleeping quarters and bath is provided for use by a second separate household, that is subordinate and accessory to the Principal Dwelling. The PCDC would like to recommend adding this definition to the Zoning Code after legal review is conducted to determine if a local statute can have a number of unrelated individuals that is lower than the state statute of 8 – provided that provisions are kept in place for protected classes (group homes).

Another new feature introduced in this draft is the restriction that ADU’s are only allowed where the owner of the property resides on site as his or her primary residence (i.e. at least six months in a 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.

**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

Principal Dwelling Unit means, unless otherwise specifically defined by another section of this Chapter: (1) in reference to a residential use, a residential dwelling, mobile home, apartment house or motel, designed primarily for occupancy by one (1) person, one (1) family ***or household*** or otherwise intended as a single living or sleeping area, whether temporary or permanent; or (2) in reference to a nonresidential use, the property or the use controlled by a consumer.

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 director determines such to be infeasible.

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)

RECOMMEND

**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**

For the Town of Lyons Board of Trustees

Workshop 9/19/2016

Ordinance Number: 1005

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

Proposed New Definitions: Household, Single-Family Use, Accessory Dwelling Unit

Sec. 16-1-160. - Definitions

Household *-Shall mean a family unit related by blood, marriage or adoption, or eight (8) or fewer unrelated individuals (including resident and nonresident caregivers) living together in a single dwelling unit, with common access to and common use of all living and eating areas and all facilities for the preparation and serving of food within the dwelling unit. **PCDC would like to recommend adding this definition to the Zoning Code after legal review is conducted to determine if a local statute can have a number of unrelated individuals that is lower than the state statute of 8 – provided that provisions are kept in place for protected classes (group homes).***

Single Family Use

*Shall mean use by a family unit related by blood, marriage or adoption, or eight (8) or fewer unrelated individuals (including resident and nonresident caregivers) living together in a single dwelling unit, with common access to and common use of all living and eating areas and all facilities for the preparation and serving of food within the dwelling unit. **PCDC would like to recommend adding this definition to the Zoning Code after legal review is conducted to determine if a local statute can have a number of unrelated individuals that is lower than the state statute of 8 – provided that provisions are kept in place for protected classes (group homes).***

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

Sec. 16-1-160. – Definitions

Dwelling Unit

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.

Dwelling, two-family

Dwelling, two-family means a building occupied by two (2) families **or households** 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

(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, **Use** and Creation of new accessory dwelling units. **(See also Sec. 16-1-160. Definitions, Dwelling Unit, Accessory)**

(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.

(2) 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.

(3) 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.

(4) Mobile homes, recreational vehicles and travel trailers shall not be used as accessory dwelling units.

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

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

(7) 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 director determines such to be infeasible.