

**TOWN OF LYONS, COLORADO
ORDINANCE NO. 1006**

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF
CHAPTER 16 OF THE LYONS MUNICIPAL CODE
REGULATING ACCESSORY DWELLING UNITS AND
CONCERNING THE ZONING AMENDMENT PROCESS**

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town of Lyons (“Town”) possesses the authority to zone, rezone, change, supplement, and revise the zoning classifications or designation of property and to regulate land uses within the Town; and

WHEREAS, the Town is authorized by C.R.S. § 31-23-301 to regulate zoning and land use within the Town’s boundaries, and the Town has in fact adopted a comprehensive zoning scheme; and

WHEREAS, the Lyons Comprehensive Plan establishes a goal of recognizing and accommodating the housing needs of a diverse population; and

WHEREAS, the Lyons Comprehensive Plan includes various means to reach that housing goal, including but not limited to Housing Strategy 1.1.1, which requires a review of the Town’s Land Use Code as necessary to promote a variety of residential options, including accessory dwelling units (“ADUs”), and Housing Objective 1.2, increasing opportunities for affordable housing; and

WHEREAS, Housing Objective 1.3 of the Lyons Recovery Action Plan describes the importance of replacing the affordable housing lost to the September 2013 flood; and

WHEREAS, the Board of Trustees desires to provide for a mix of housing options, including a range of affordable housing, particularly in the aftermath of the devastating flood of September 2013, but also in response to the aging of the population and changing family needs; and

WHEREAS, pursuant to Resolution 2016-43, the Board of Trustees authorized Town staff to examine opportunities and propose lawful means for adopting and implementing affordable housing measures; and

WHEREAS, pursuant to Section 2-8-170(b)(1) of the Lyons Municipal Code (“LMC”), the Planning and Community Development Commission (“PCDC”) is charged with advising, recommending, and assisting the Board of Trustees in matters relating to planning the physical growth of the Town in accordance with the powers granted pursuant to Article 23 of Title 31, C.R.S.; and

WHEREAS, in furtherance of the goals, strategies, and directives stated above, Town staff and the PCDC have studied what additional strategies may be employed to encourage the creation and use of ADUs; and

WHEREAS, as a result of this evaluation, staff determined that the costs associated with Town’s water and wastewater connection fees present an obstacle to the establishment of ADUs; and

WHEREAS, pursuant to § 2-8-200 of the LMC, the Utilities and Engineering Board (“UEB”) has evaluated options and has recommended to the Board of Trustees a separate ordinance that will eliminate that obstacle via changes to the water and wastewater connection fees established in Chapter 13 of the LMC; and

WHEREAS, the PCDC has determined that certain changes to Chapter 16 of the LMC are required to support and to be consistent with the recommended changes to Chapter 13 and to protect the health, safety, and welfare of the citizens of the Town and directed staff to prepare this Ordinance; and

WHEREAS, the text of Chapter 16 of the LMC shall not be amended unless such amendment complies with any of the criteria set forth in § 16-15-50 of the LMC, which, among other criteria, permits an amendment that furthers the implementation of the goals and objectives of the Comprehensive Plan; and

WHEREAS, in analyzing possible revisions to Chapter 16 of the LMC to encourage ADUs, staff determined that certain changes to the process for adopting text or map amendments to the Town’s zoning regulations are required to comply with state law regarding such process, and in particular, C.R.S. § 31-23-304, which changes are incorporated in this Ordinance; and

WHEREAS, as required by law, a duly noticed public hearing was held before the PCDC to review the proposed text amendments to Chapter 16 of the LMC; and

WHEREAS, pursuant to §16-15-30(f) of the LMC (“Step 6: PCDC Public Hearing and Action on Zoning Amendment”), the PCDC held a public hearing on the proposed text amendments to Chapter 16 of the LMC and following conclusion of said hearing adopted Resolution 2016-PCDC-01, recommending that the Board of Trustees proceed with the consideration and adoption of this Ordinance; and

WHEREAS, as set forth in Resolution 2016-PCDC-01, PCDC has determined that this Ordinance complies with the criteria set forth in § 16-15-50 of the LMC by furthering the implementation of the goals and objectives of the Comprehensive Plan, including the housing goals, objectives, and strategies set forth therein; and

WHEREAS, as required by law, the Board of Trustees conducted a duly noticed public hearing, considered the evidence presented, and approved this Ordinance; and

WHEREAS, the Town Clerk is in possession of the publisher’s affidavits of publication concerning the notice of public hearings before the PCDC and the Board of Trustees on this Ordinance; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., as amended, the Board of Trustees finds that the amendments to the Town’s zoning regulations as set forth in this Ordinance further the public health, safety, convenience and general welfare of the community; generally conform with the Town’s Comprehensive Plan, as amended and updated; and otherwise meet the applicable criteria set forth in Chapter 16 of the LMC; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Board of Trustees desires to comply with state law and the LMC by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the proposal. Approval of this Ordinance on first reading does not constitute a representation that

the Board of Trustees, or any member of the Town Board, supports, approves, rejects, or denies this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, BOULDER COUNTY, COLORADO:

Section 1. Recitals Incorporated. The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. New Definition of Accessory Dwelling Unit. Section 16-1-160 of the Lyons Municipal Code is hereby amended by adding the following definition:

Dwelling Unit, Accessory (ADU) means 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 eight hundred (800) square feet and may be either added to, co-located with as a detached unit, or created within a principal single-family detached dwelling. ADUs are created for the purpose of accommodating a second family that lives separately from the family residing in the principal single-family detached dwelling. An ADU is occupied by a second family 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 detached dwelling. In this definition, "family" refers to that term as it is defined in this Section 16-1-160.

Section 3. New Definition of Principal Dwelling Unit; Revised Definitions of Dwelling, Two-Family; and Dwelling, One-Family Attached. Section 16-1-160 of the Lyons Municipal Code is hereby amended by removing the definitions of dwelling unit; dwelling, two-family; and dwelling, one-family attached and replacing them with the following definitions:

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 herein is not a principal dwelling unit.

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 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.

Section 4. Section 16-10-70 Repealed and Replaced. Section 16-10-70 of the Lyons Municipal Code is hereby repealed and replaced in its entirety to read as follows:

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 provide a broader range of accessible and more affordable housing;
- (3) To increase the number of small dwelling units available for rent in the Town by low- to moderate-income persons;
- (4) To provide a means for residents to remain in their homes and neighborhoods and obtain extra income, security, companionship, and services;
- (5) To allow more efficient use of existing housing stock and infrastructure; and
- (6) To create new housing compatible with the scale and look of single-family neighborhoods.

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

- (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 homes, and recreational vehicles, which includes all vehicles that bear a Vehicle Identification Number (VIN), shall not qualify or be used as accessory dwelling units.
- (4) Owner Occupation. The owner and/or the owner's family and a second separate family may both reside on the lot concurrently while either the ADU or the Principle Residence is rented or leased. In this event the owner of the property must reside in one of the authorized dwelling units on the property as their principal residence for at least six (6) months or more out of the calendar year. For the purposes of this sub-section, "owner" means one or more individuals who hold title to the property directly or indirectly, and for whom the dwelling constitutes the owner's primary residence. Nothing in this section shall be construed to prevent the renting or occupancy of only one of either the ADU or the principal dwelling to a tenant while the owner of the lot is not permanently residing on the lot. However, the concurrent renting and occupancy of both the ADU and the principal dwelling to more than one family as tenants while the owner of the lot is absent or not permanently residing thereon for at least six months in a calendar year is prohibited, except for temporary absence of the owner as provided below.

- (a) Temporary absence of owner. The owner of a property containing an accessory dwelling unit who is to be absent for a period of less than two (2) years may concurrently lease both the principal dwelling as

well as the accessory dwelling unit during the owner's temporary absence provided that:

(1) The owner provides six weeks prior written notice of the owner's expected absence together with a written request for a temporary suspension of the owner occupancy requirement to the Town Administrator on a form prescribed by the Town and the Town Administrator subsequently grants the request; and

(2) provided the accessory dwelling unit has been occupied as a permitted use for at least two (2) years prior to and between all temporary absences and the owner submits proof of absence from the Town to the Town Administrator.

(5) There shall be no short-term lodgers within an Accessory Dwelling Unit. Owners shall not lease or rent Accessory Dwelling Units for a period of time or term of occupancy of less than thirty (30) days.

(6) ADU Occupancy Caps –

Accessory Dwelling Units shall not be occupied by more than one (1) family as defined in Section 16-1-160 of this Code.

(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 family living independently and separately from the principal single-family dwelling and the family 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.

f. Detached ADUs are considered accessory buildings and as such are subject to accessory building setbacks unless these are modified as part of a site-specific conditional use review under which the minimum setback standards may be increased.

(4) Size of an accessory dwelling unit (habitable floor area). There is no minimum ADU size set by this Section. For principal dwelling units with habitable floor area of one thousand six hundred (1,600) square feet or larger the maximum size of the associated ADU shall be eight hundred (800) square feet. 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 fifty percent (50%) of the size of the habitable floor area of the principal dwelling. For principal dwelling units 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).

Section 5. Amendment of Section 16-15-20, General Rezoning. The second and third sentences of Section 16-15-20 of the Lyons Municipal Code are hereby amended to read as follows, with deletions being shown in strikethrough and additions shown in italics:

However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for ~~ten~~ (10) *fifteen* (15) days prior to the public hearing on such amendments. The Town Clerk shall also publish notice in the newspaper of record no less than ~~ten~~ (10) *fifteen* (15) days prior to the public hearing.

Section 6. Amendment of Section 16-15-30(d), Zoning Amendment Application Process – Step 4: Set PCDC Public Hearing and Complete Public Notification Process. The second sentence of Section 16-15-30(d) of the Lyons Municipal Code is hereby amended to read as follows, with deletions being shown in strikethrough and additions shown in italics:

The Town Clerk shall also publish notice in the newspaper of record no less than ~~ten~~ (10) *fifteen* (15) days prior to the *PCDC* public hearing.

Section 7. Amendment of Section 16-15-30(g), Zoning Amendment Application Process -- Step 7: Set BOT Public Hearing and Complete Public Notification Process. The second sentence of Section 16-15-30(g) of the Lyons Municipal Code is hereby amended to read as follows, with deletions being shown in strikethrough and additions shown in italics:

The Town Clerk shall publish notice in the newspaper of record ~~at least ten (10) no less than fifteen (15) days from the date of the~~ *prior to the BOT* public hearing.

Section 8. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 9. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

Section 10. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS 21st DAY OF NOVEMBER, 2016.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 5TH DAY OF DECEMBER, 2016.

TOWN OF LYONS, COLORADO

Connie Sullivan, Mayor

ATTEST:

Debra K. Anthony, Town Clerk