

# MEMORANDUM

**TO: BoT**

**FROM:**  
**Bob Joseph ,**  
**Consulting Town Planner**  
**And**  
**Matthew Manley,**  
**Flood Recovery Planner**

**DATE: 12/5/2016**

**SUBJECT: RESOLUTION 2016-PCDC-1**  
**and Ord. 1006, (ADU related code revisions).**

## **Background:**

Attached with this memo are two draft Ordinances and a Resolution. Ordinance 1005 is an amendment to Chapter 13 Utilities that will reduce or eliminate water service costs for ADU's. Ordinance 1006 contains revisions to the zoning code concerning ADU related definitions aimed at creating a clear distinction between Accessory Dwellings and Principal Dwellings in support of the revisions in the Chapter 13 Utilities. Ordinance 1006 also presents updates and additions to some of the existing operative provisions concerning ADU's including ADU occupancy limits, land owner occupancy requirements, clarification of building setbacks and clarification of the ADU size limitation formulas. Lastly this Ordinance also contains a revision prepared by the Town Attorney to the existing public hearing notice provisions in the zoning code to conform to state statute, (15 day notice rather than 10 day notice).

## **Noteworthy PCDC Recommendations and Revisions regarding ADU's:**

**Owner Occupancy.** The PCDC has added language to clarify the "owner occupied" provision so that it prevents renting out both the ADU and the main home at the same time, but does allow renting just one of them (either the ADU or the main home) while the owner is absent. The logic here is that if just *one* is rented in the owner's absence that would not be out of character with a single family neighborhood, whereas the renting of *both* dwellings to two separate tenant families without the owner present to keep an eye on things could be out of character with the single family neighborhood. Owner's must occupy either the ADU or the principal residence as their primary residence for at least 6 months out of every calendar year. This owner occupancy requirement also provides for a temporary "waiver of owner occupancy" that may be granted by the Town Administrator for a period not to exceed two years. The short term vacation rental prohibition remains in effect.

**ADU size limitations.** In the size limitation section of the existing ADU code staff recently discovered unintended errors in the original language and so Ord. 1006 contains some revisions aimed at clarifying the original intent and removing the original errors. The maximum size of any ADU remains capped at 800 s.f.

**ADU Occupancy limitations.** After reviewing several different options for ADU occupancy limitations the PCDC decided that the 800 s.f. ADU size limit was in itself a sufficient limitation on ADU occupancy. So the current the recommendation simply references the existing code definition of a family as “Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship; or Any unrelated group of persons consisting of not more than three (3) persons.”

**ADU setbacks.** Also, staff recently noted that all single family districts have a reduced rear yard building setback of five feet for accessory buildings (as compared to a twenty foot setback for the main residence). Under the current code it is staff’s opinion that a detached ADU is an accessory building that would qualify for the reduced five foot rear setback. However, detached ADU’s are also subject to conditional use review under which the required setbacks could be increased, or not, based on a site specific determination. The PCDC recommends new language in the current draft that simply clarifies this situation as follows:

*“Detached ADU’s are considered accessory buildings and 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.”*