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ADUs and You!

Accessory Dwelling Units

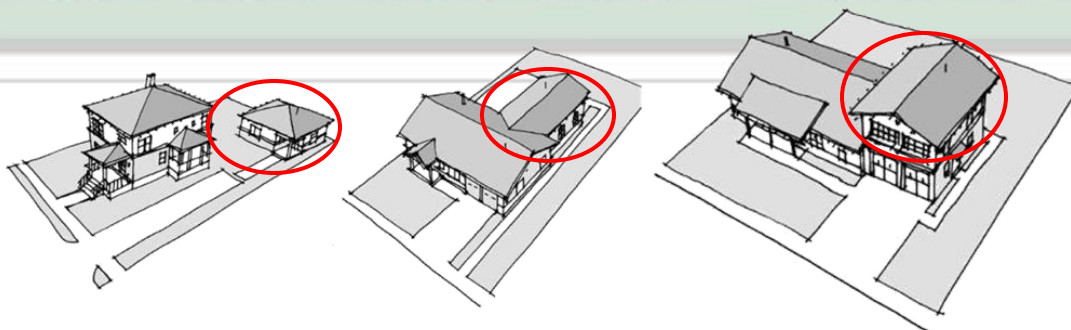
Town of Lyons

What is an ADU? What are the rules for building one? There is a high level of interest in ADUs in Lyons. If you are one of those interested parties, begin by reading the attached information and then contact the Town with additional questions.

Accessory Dwelling Units (ADUs) are a form of housing that can be an important tool for diversifying and increasing the local housing stock. Lyons lost a great deal of housing in the flood of 2013. Much of these homes were attainable for low-to-median income households. With rising home prices and fewer homes available, Lyons has been pursuing a variety of measures to help alleviate the affordable housing crisis. One of the first strategies was to allow ADUs. So an Ordinance was passed after the flood which spelled out the parameters for ADU construction. However, the Town did not see an increase in the number of ADUs because the utility connection fees were a deterrent to property owners. Recognizing this, the Planning & Community Development Commission and the Utility & Engineering Board worked very closely with Town Staff to make code changes that eliminated those tap fees. The full ordinance which reflects the changes made to Chapter 16 (Zoning) and Chapter 13 (Utilities) of the Lyons Municipal Codes can be found in this document. These changes to the code save property-owners \$20-\$40K in construction expenses. A key factor that brought about this code change was the measure that ***reserved ADUs for long-term housing rather than commercial enterprises. Therefore short-term vacation rentals are not allowed in ADUs.***



Common types of ADUs include mother-in-law suite, garage apartments and finished basements.



ADUs can either be attached or detached. The LMC has different rules for detached ADUs which include a Conditional Use Review. The main purpose of the Conditional Use Review is to ensure that the construction of the new structure is compatible with the neighborhood and does not create adverse impacts on neighboring properties. Whether it is attached or detached, a building permit is needed for an ADU. The Lyons Fire Protection District as well as the building inspector will need to approve construction.

LYONS MUNICIPAL CODE

Definitions

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.

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.

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 subsection, "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, provided that this requirement may be waived via the conditional use review process as applicable after considering the feasibility of the owner's ability to provide the required parking.

(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).



COLORADO

Sec. 16-7-20. - Conditional use review process.

(a) Step 1: Preapplication Conference. The applicant shall attend a preapplication conference with a representative from the Town. The purpose of the meeting is to discuss the conditional use submittal requirements and *review* process.

(b) Step-2: Conditional Use Application Submittal. The applicant shall submit ten (10) copies of the complete conditional use application package to the Town Clerk and shall request that the application be reviewed by the PCDC and BOT. The application shall include:

(1) Completed application form, application fee and fee agreement.

(2) Current proof of ownership in the form of title insurance issued within thirty (30) days of submission of the application.

(3) Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use *review* criteria have been satisfied. The written statement shall address the following points:

a. Need for the proposed conditional use;

b. Present and future impacts on the existing adjacent properties, uses and physical character of the surrounding area;

c. Impact of the proposed conditional use on area accesses and traffic patterns;

d. Availability of utilities for conditional use;

e. Potential impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools and transit;

f. Fiscal impact analysis;

g. Environmental impact analysis;

h. The relationship between the proposal and the Comprehensive Plan; and

i. Public benefits arising from the proposal.

(4) A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.

(5) Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.

(6) Such additional material as the PCDC and/or BOT may prescribe or the applicant may submit pertinent to the application.

(7) Surrounding and interested property ownership report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners within three hundred (300) feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

(8) Surrounding and interested property ownership notification envelopes: One (1) set of stamped and addressed, envelopes. The envelopes shall have the Town's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners within three hundred (300) feet of the property, mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.

(9) A signed certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. It is the applicant's responsibility to ensure that accurate and complete information is provided.

(c) Step 3: Conditional Use Application Certification of Completion. Within ten (10) working days, Town Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the amended application to the Town Clerk.

(d) Step 4: Set PCDC Public Hearing and Complete Public Notification Process. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies before the PCDC public hearing. The Town Clerk shall also publish notice in the newspaper of record no less than ten (10) days prior to the public hearing. If the conditional use request is accompanying another application that is scheduled for public hearings before the PCDC and BOT, one (1) public hearing may be held on both applications.

(e) Step 5: Final Staff Review and Report to PCDC. Town Staff shall complete a final *review* of the materials, including referral responses, and prepare a report to the PCDC explaining how the application is or is not consistent with the approval criteria for conditional uses.

(f) Step 6: PCDC Public Hearing and Action on the Conditional Use. The PCDC shall hold a public hearing to *review* the conditional use based on the approval criteria for conditional uses. The PCDC shall then make a recommendation to the BOT to approve, conditionally approve or deny the conditional use application.

(g) Step 7: Set BOT Public Hearing and Complete Public Notification Process. The BOT shall schedule a public hearing for the purpose of taking action on the conditional use. The Town Clerk shall publish notice in the newspaper of record no less than ten (10) days from the date of advertising.

(h) Step 8: BOT Public Hearing and Action on the Conditional Use. The BOT shall, after receiving the report and recommendations from the PCDC, hold a public hearing and act upon the proposed amendment. Following the required hearing, the BOT shall consider the comments and evidence presented at the hearing and evaluate the application in accordance with the approval criteria specified in [Section 16-7-30](#) below and approve, approve with conditions or deny the application in whole or in part.

(Prior code 9-2-7; Ord. 956 §1, 2014)

Sec. 16-7-30. - Conditional use approval review criteria.

The Town shall *use* the following criteria to evaluate the applicant's request:

- (1) The *conditional use* shall satisfy all applicable provisions of the zoning regulations and subdivision regulations.
- (2) The *conditional use* shall conform with or further the goals, policies and strategies set forth in the Lyons Comprehensive Plan.
- (3) The *conditional use* shall be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted *uses* of the district.
- (4) The *conditional use* shall not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.
- (5) The *conditional use* shall result in efficient on-site and off-site traffic circulation which will not have a significant adverse impact on the adjacent *uses* or result in hazardous *conditions* for pedestrians or vehicles in or adjacent to the site.

- (6) Potential adverse impacts of the *conditional use* on the rest of the neighborhood or of the neighborhood on the *conditional use* shall be mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods.
- (7) The *conditional use* minimizes environmental impacts, mitigates impacts to wildlife and wildlife habitat and promotes green building standards.
- (8) The *conditional use* avoids placing unreasonable financial burdens on the Town.
- (9) The applicant shall submit evidence that all applicable local, state and federal permits have been or will be obtained.
- (10) The *conditional use* will not create more noise, dust, odors, vibrations, lights, traffic or parking than is customary for the zone district in which the *conditional use* is proposed, or that such increased impacts can be adequately mitigated.

(Prior code 9-2-7; Ord. 956 §1, 2014)

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 *principal* 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.*

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

(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.*

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

(g) *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.*