



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
City Attorney	Kathryn Dunleavy - Planner	December 20, 2022

ITEM: Ordinance 2022-26, Amending Municipal Code Section 13-3-10 regarding the definition of customer classes.

REQUEST / BACKGROUND

The proposed ordinance amends the “Accessory Dwelling Unit” customer class to define all Accessory Dwelling Units as the same customer class. This will result in charging water and wastewater system development fees on all Accessory Dwelling Units with water and/or wastewater connections, whether available for rental or not. Charging a system development fee whenever a new unit connects to the City’s water and wastewater system is an equitable way of sharing amongst all users the expense and impact of managing a municipal water and wastewater system.

Currently, an owner is given the option of recording a system development fee deferral agreement for their property if the owner intends to *not* make the accessory dwelling unit available for rental. This deferral option allows the restricted unit to be utilized as an extension of the primary home as well to be occupied by family / friends / relatives of the owner, as long as it is not “available for rental” to a separate household. Allowing this deferral option may also dis-incentivize an owner from making an ADU available for rental. There is currently no system to administratively track the use of the deferred properties, as doing so would be extremely difficult. When an owner’s circumstances change, the City is dependent on owner self-reporting to pay the system development fee. This reliance on self-reporting has the potential to create inequity when spreading the cost of the City’s water and wastewater system and infrastructure amongst its users.

FISCAL NOTE: There is no increase in fees proposed. However, by no longer offering an exemption, Ordinance 2022-26 will have a fiscal impact. From 2020 through December 13, 2022, the City has averaged 22 ADU permits per year, with 20% of owners choosing the deferral option. (Note that there is nothing stopping up to 100% of owners from claiming this exemption.)

Using the above averages, the estimated annual impact would be $22 \text{ units} \times 20\% = 4.4 \text{ avg. units deferring} \times \text{the ADU SDF of } \$5,487 = \underline{\text{approx. } \$24,000 \text{ annually in additional System Dev. Fees}}$

STAFF RECOMMENDATION: Staff recommends approval of Ordinance No. 2022-26.

SUGGESTED MOTION: A City Councilmember should state, “I move to approve Ordinance 2022-26 on first reading and set the second reading and public hearing for January 3, 2023.”

CITY OF SALIDA, COLORADO
ORDINANCE NO. 26
(Series of 2022)

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO AMENDING CHAPTER 13, ARTICLE III OF THE SALIDA MUNICIPAL CODE ENTITLED “WATER AND WASTEWATER FEES, RATES AND CHARGES” TO AMEND THE EXISTING CUSTOMER CLASS/DEFINITION OF ACCESSORY DWELLING UNITS

WHEREAS, the City is obliged to not unduly impact the City’s ability to grow its water and wastewater infrastructure, in compliance with state and federal mandates.

WHEREAS, currently, the customer classes within the utility code define accessory dwelling units as only those structures available for rental.

WHEREAS, customers who agree to *not* offer their accessory dwelling unit as available for rental are able to defer payment of the system development fee by signing a deed restriction.

WHEREAS, city administration has no way to verify initially nor on an ongoing basis that any accessory dwelling unit is either not occupied, or is occupied by a relative of the primary homeowner.

WHEREAS, an undue impact on the City’s ability to grow its water and wastewater system is, therefore, created by either the use of accessory dwelling units by friends, relatives, and extended family utilizing a deed-restricted unit, or by an accessory dwelling unit that was initially deed-restricted which then becomes a rental unit without paying the required system development fee.

WHEREAS, therefore, all accessory dwelling units with water and wastewater connections, whether available for rental or not, shall be treated as a single customer class.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Chapter 13, Article III “Water and Wastewater Fees, Rates and Charges,” Section 13-3-10, entitled “Customer classes/definitions” is hereby amended to read as follows:

Sec. 13-3-10. – Customer classes/definitions

(a) For the purpose of establishing system development fees, usage rates and charges for water and wastewater services, the following classes of customers are hereby established:

- (1) Residential Single-Family and Duplexes. Water and/or wastewater services provided to exclusively residential property upon which one (1) primary dwelling unit or duplex is located;
 - (2) Accessory Dwelling Unit. Water and/or wastewater services provided to residential property upon which an accessory dwelling unit ~~available for rental~~ is located;
 - (3) Residential Multi-Family. Water and/or wastewater services provided to exclusively residential property upon which the structure or structures served contain three (3) or more living units, including apartments, triplexes/quadplexes, etc.;
 - (4) Legally-Restricted Affordable Housing. Water and/or wastewater services provided to exclusively residential property upon which the structure or structures served are legally-restricted for affordable housing at less than or equal to eighty percent (80%) area median income;
 - (5) Commercial. Water and/or wastewater services provided to property which is neither single-family residential, multi-family residential, nor for irrigation only, as those classes are defined herein. Includes attached mixed-use developments where fifty percent (50%) or more of the ground floor is used for commercial, personal service and office uses, and other uses as approved by City Council;
 - (6) Irrigation. Water services only provided to property solely for the purpose of irrigation; and
 - (7) Bulk Water. Water provided through a hydrant meter or from a bulk water fill station.
- (b) The City Administrator shall determine the appropriate class to be applied to each customer.
- (c) Changes in use shall be administered pursuant to Section 13-2-230.

Section 3. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this 20th day of December, 2022, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 20th day of December, 2022, and set for second reading and public hearing on the 3rd day of January, 2023.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this 3rd day of January, 2023.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk