

#### 10-12-5: ACCESSORY BUILDING REGULATIONS:

A. Definitions: For the purpose of this section, the following shall be used as definitions:

**ACCESSORY BUILDING:** An accessory building for both residential and nonresidential development is defined as a building that:

1. Is detached from the principal building and is more than six feet (6') away from the principal building.
2. Is clearly a supplementary use to the principal building.
3. Is not used as a the primary dwelling or place of residence.

**ACCESSORY STRUCTURE:** A structure that does not provide shelter from elements. Examples may include swimming pools, pool screening and decking, waterfalls, fountains and barbecue pits with concrete foundations, decorative ponds, or decks. Not included in this section are driveways, fences, walls, curbing, portable fountains, birdbaths, benches, or mobile barbecue pits.

**BUILDING:** A permanent or semipermanent structure with a roof and walls usually used as a place for people to live, work, play, do activities, or store things.

**GARAGE, DETACHED:** A permanent building with footings that is enclosed on all sides by walls and/or doors and designed primarily for the shelter of motor vehicles. A detached garage is an accessory building.

**PORTABLE ACCESSORY BUILDING:** 1. A building that is two hundred (200) square feet or less.

2. A semipermanent structure with no concrete footings or concrete floor and is on skids or some type of device that will allow for easy relocation.
3. Does not exceed twelve feet (12') in height from the lowest part of the structure to the top.

**PRINCIPAL BUILDING:** Also known as the main building or dwelling on a lot where most of the activity on that lot is performed. Garages, carports or other buildings attached to the principal building or that are within six feet (6') of the principal building shall be considered as part of that principal building.

**ROOF ONLY BUILDING:** Consists of a roof and roof support structure. Up to three (3) sides may be covered but the sides must not be part of the support structures for the roof. A roof only building is an accessory building. A conditional use permit is required if a roof only building is larger than seven hundred (700) square feet.

**SIDE YARD FOR DETERMINING ANY ACCESSORY BUILDING COVERED AREA:** The area between the front wall plane of the principal building and the rear wall plane of the principal building and the area between the side wall plane of the principal building and the side yard property line.

B. Prohibited Accessory Building Uses:

1. A The primary dwelling or place of residence.
2. Use as adhoc sleeping quarters on a regular or continual basis.
3. Hazardous chemical storage unless specifically permitted by the city.
4. Sleeping quarters or housing associated with any reservation system or activity.

C. Prohibited Accessory Buildings And Structures: The following are prohibited:

1. Tents (when used more than 2 weeks in a 2 month period).
2. Trailers and mobile homes (when used as an accessory building).
3. Cargo containers, reefer containers, semitrailers of any type.
4. Any other object or enclosed space which its intended primary function as constructed or manufactured differs from its proposed purpose as an accessory building.
5. A prohibited item may be approved for use as an accessory building by the planning commission if the item is modified in such a way that the planning commission determines that the item is aesthetically consistent with the principal building and surroundings and will continue to be maintained as such.

6. In a residential only zone, where no principal building exists on a lot, an accessory building or roof only building is prohibited.

D. Accessory Building Coverage Area: Accessory buildings may not cover more than fifteen percent (15%) of the combined total area of the rear and side yards nor more than eight percent (8%) of the total area, whichever is less.

E. Accessory Building or Structure Setbacks: All accessory buildings or structures shall be located in accordance with the following:

1. Front Setback:
  - a. Any accessory building portable or otherwise shall be placed behind the front setback as defined for primary buildings in Chapter 10 of this code.
  - b. Any accessory structure except for waterfalls, fountains, or decorative ponds shall be placed behind the front setback as defined for primary buildings in Chapter 10 of this code.
2. Side Setback; Corner Lot, Side Abutting Street:
  - a. Any accessory building portable or otherwise shall be placed behind the side setback or the side yard street abutting setback if a corner lot. Line of sight shall be maintained at all intersections in accordance with section 10-12-9 of this chapter.
  - b. Any accessory structure except for waterfalls, fountains, or decorative ponds shall be placed behind the side setback or the side yard street abutting setback if a corner lot.
3. Side and Rear Setback; Interior Lot Line:
  - a. Any accessory building or an accessory structure shall be located a minimum of eight feet (8') from the property line and not located on a public utility easement.
  - b. Portable accessory buildings may be placed on a public utility easement; but the owner or successor in interest shall be responsible for moving and for any associated costs for moving the building in the event public utilities need to do work within the public utility easement.
4. Setback From Principal Building: Accessory buildings which are located six feet (6') or less from the principal building shall be considered part of the main building. Setbacks shall be the same as those for the principal building, and all current building codes shall apply.

F. Accessory Building Maximum Height: An accessory building is not to exceed thirty feet (30') in height from the lowest part of the structure, which is the bottom of the lowest sill plate or top of main floor (nearest ground level), whichever is lower, to the highest point on the roof. ~~In addition, the accessory building maximum height shall not exceed the~~

~~maximum height of the principal building.~~ Maximum portable accessory building height is per subsection 3 of the definition of "portable accessory building" of this section.

G. Building Permit Required:

1. Any accessory building or accessory structure not meeting the definition of a "portable accessory building" as defined in this section shall have a building permit issued before work commences.

2. A portable accessory building shall require a permit and inspection if one or more of the following applies:

a. Solar panels are permanently installed.

b. One hundred twenty (120) volt or greater electrical system is permanently installed.

c. Connected to any utility such as electric, natural gas, telephone, cable, city culinary water or sanitary sewer system. The addition of utilities may change the building status from portable accessory building to accessory building and will depend on the utilities connected. The determination of the building status will be made by Elk Ridge City staff.

H. Conditional Use Permit Required: A roof only building exceeding seven hundred (700) square feet may be permitted following conditional use approval by the Planning Commission in accordance with section 10-12-33 of this chapter. (In no case, shall the roof only building area exceed the allowable areas in subsection D of this section.) The roof only building shall conform to the setbacks found in the applicable zone where it will be located.

I. Drainage: No drainage from the roof of any accessory building or roof only building may be discharged onto an adjacent lot, public street, or right-of-way.

J. Nonconforming Uses: All accessory buildings not in compliance at the time of adoption hereof are hereby grandfathered and are allowed to continue undisturbed. Any subsequent modification to an accessory building or to the use of that building shall require the prevailing code to be followed. (Ord. 16-5, 9-27-2016; amd. Ord. 20-01, 1-14-2020; Ord. 21-01, 2-9-2021)

10-12-6: ACCESSORY BUILDING PROHIBITED AS LIVING QUARTERS:

Living and sleeping quarters shall not be permitted in any accessory building that is not built to the same building standards as the principal building.

(Ord. 07-13, 9-25-2007, eff. 9-28-2007)

10-12-29: ACCESSORY APARTMENTS:

A. Intent: The following regulations have been established to:

1. Provide minimum standards for the establishment and operation of accessory apartments within the city. (Ord. 99-6-22-4, 6-22-1999)

2. To facilitate the implementation of the affordable housing element of the general plan by adopting provisions allowing the construction and operation of accessory apartments within single-family dwellings or permanent accessory buildings as defined in 10-12-5(A).

B. Application And Approval Required:

1. Accessory apartments situated within single-family dwellings ~~or permanent accessory buildings~~ may be approved by the zoning administrator, or such other city officer or board (hereafter referred to as "designated approval authority"), as may be delegated by the city council, following receipt of an application and subject to a finding that the primary dwelling ~~or permanent accessory building~~ and proposed accessory apartment conforms to the conditions and standards hereinafter set forth.

2. Any person constructing or causing the construction of ~~a single-family dwelling~~ ~~any building as defined in 10-12-5(A)~~ containing an accessory apartment, or any person remodeling or causing the remodeling of a single-family dwelling ~~or building~~ intended to include an accessory apartment shall first obtain an accessory apartment permit. Before the permit is issued the applicant shall: (Ord. 99-6-22-4, 6-22-1999; amd. Ord. 12-05, 11-27-2012)

a. Submit the following materials relating to the proposed accessory apartment:

(1) An application for approval of an accessory apartment.

(2) A site plan, drawn accurately to scale, that shows property lines and dimensions, the location of all existing buildings, the location of existing and proposed entrances, and the location of existing and proposed off street parking stalls.

(3) A detailed floor plan of the dwelling, drawn to scale, and showing the use of each room and the location of the rooms included in the accessory apartment.

(4) ~~Request to establish a utility service account with the city which includes the accessory apartment.~~

(5) All plans and other submittal shall conform with the standards set forth in this section. (Ord. 99-6-22-4, 6-22-1999)

b. (Rep. by Ord. 15-1, 1-10-2015)

c. Make payment of such fees as are required for the processing of the application.

C. Standards And Design Criteria: Any proposal for the establishment of an accessory apartment shall comply with the following standards and criteria:

1. Accessory apartments are specifically listed as a permitted or conditional use within the zone.

2. Accessory apartments shall be permitted only in the instance where the primary dwelling is owner occupied. (Ord. 99-6-22-4, 6-22-1999)

3. A single-family dwelling may include not more than one accessory apartment ~~located within the dwelling and not more than one accessory apartment located in an accessory building associated with the dwelling.~~

4. ~~The lot occupied by a single-family dwelling with an~~ An accessory apartment ~~located within a single-family dwelling~~ shall include not less than three (3) off street parking spaces ~~and an accessory apartment located in an accessory building shall include not less than two (2) off street parking spaces.~~ No portion of the required off street parking shall be situated within the front setback area ~~of the principal building~~ or side setback area adjacent to a street. All off street parking areas shall be paved with concrete, asphalt, masonry or concrete pavers.

5. ~~Single-family dwellings containing an~~ Accessory apartments ~~associated with single-family dwellings~~ shall be served by ~~a single water and sewer~~ the same utility connections ~~as the principal building.~~ (Ord. 99-6-22-4, 6-22-1999; amd. Ord. 12-05, 11-27-2012)

6. An accessory apartment shall contain not less than three hundred (300) square feet. The primary dwelling shall conform to the building area requirements of the zone, not including the portion devoted to the accessory apartment.

7. All construction and remodeling to accommodate the accessory apartment shall conform to the building code in effect at the time of construction or remodeling. (Ord. 99-6-22-4, 6-22-1999)

8. The exterior entrance for an accessory apartment shall be separate from the primary single-family dwelling entrance.

9. The exterior entrance for an accessory apartment approved as part of a new single-family dwelling **or any accessory building** shall not be located at the front of the dwelling adjacent to a street.

10. Where the proposed accessory apartment is to be located in an existing single-family dwelling, the entrance shall: a) conform to the requirements applicable to a new dwelling; or b) where the separate entrance is an existing entrance facing the street, the style of the entrance door shall be the same as the entrance door for the primary dwelling. The purpose of this requirement is to preserve the single-family residential look of the structure.

11. The primary dwelling shall either: a) be served by the city sanitary sewer system; or b) if served by septic tank disposal system, provide written evidence from the county health department, or its successor agency, that the septic tank and drainfield system is adequate to accommodate the additional demand from the accessory apartment. (Ord. 15-1, 1-10-2015)

**12. Accessory apartments located in an accessory building served by a septic system is prohibited.**

**13. Accessory apartments located in an accessory building must not depend on any function located in another building and must contain at least one bathroom, one kitchen area with facilities to properly prepare food, and a separate area for sleeping.**

D. Duration Of Permit; Continuing Obligation: An accessory apartment permit shall be valid for the year in which it is first issued and until May 1 of the year following its issuance. Thereafter, the accessory apartment permit shall be automatically renewed for the next succeeding year upon receipt of: 1) payment of an annual accessory apartment permit fee; 2) evidence that the primary dwelling is occupied by the owner; and 3) a determination by the city that all conditions of approval remain in effect. (Ord. 99-6-22-4, 6-22-1999)

E. Preexisting Accessory Apartments: Where an existing single-family dwelling contains an accessory apartment, the city will issue a permit for continued operation of the accessory apartment existing at the time of the adoption hereof if all the following conditions are met: (Ord. 99-6-22-4, 6-22-1999; amd. Ord. 12-05, 11-27-2012)

1. Accessory apartments are permitted within the zone in which the dwelling is located;

2. The primary dwelling and the portion intended for use as an accessory apartment shall have been inspected by the building inspector and certified as being safe for occupancy;

3. The owner of the primary dwelling shall have submitted an application to continue operation of the accessory apartment within ninety (90) days of the adoption of this section; (Ord. 99-6-22-4, 6-22-1999)

4. The city shall have received payment of processing fees required as a condition of approval of an accessory apartment. (Ord. 15-1, 1-10-2015)

F. Penalty: Failure to secure approval of an accessory apartment as provided in this section or to operate an accessory apartment in accordance with the terms of this section shall be considered a violation of this development code and punishable as provided herein. (Ord. 99-6-22-4, 6-22-1999)