

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 is located on the same building lot as the principle building and:

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. ~~It may not be a standalone dwelling unit.~~
3. Is not used as the primary dwelling or primary 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.~~ It may be placed and anchored to a concrete pad not exceeding six inches (6") in thickness.
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 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 that is two hundred (200) square feet or more is considered 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. The primary dwelling or primary place of residence.
2. Hazardous chemical storage unless specifically permitted by the city.
- ~~3. Sleeping quarters or housing used for short term rentals.~~

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 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.~~

D.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 set back not less than 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 interior side or rear 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. This may include concrete pads, walks or driveways.
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.

Commented [JP1]: HB82 states that we can't prohibit short term rentals unless we do it city wide. We can require an additional fee for them???

Commented [JP2]: HB82 States we can't restrict the sizing.

Commented [JP3]: Worded to be more consistent and clear with other sections of our code. HB82 stated that unless already written in code, we may not place a restriction and the setback needs to be less than the primary dwelling requirements for side and rear. As the building code provides for zero lot line structures. If we go that route we can provide up to a 12' clearance to neighboring primary buildings. Possible discussion on backyard PUE's.

E.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. The height of the accessory building may not exceed the height of the main structure. Maximum portable accessory building height is per ~~subsection 3~~ of the definition of "portable accessory building" of this section.

E.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.

~~G.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 building zone where it will be located.~~

G.I. Drainage: No drainage from the roof of any Principle building, accessory building, shed or roof only building may be discharged onto an adjacent lot, public street, or right-of-way. this would cover direct and indirect drainage.

H.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; Ord. 21-11, 12-17-2021; Ord. 22-03, 5-10-2022)

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

Living and sleeping quarters shall not be permitted in any accessory building unless the quarters are constructed and occupied as an accessory apartment in accordance with this chapter. (Ord. 07-13, 9-25-2007, eff. 9-28-2007; Ord. 21-11, 12-17-2021)

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:

Commented [JP4]: HB82 says we can't restrict the sizing.

1. Accessory apartments situated within single-family dwellings or permanent accessory buildings may be approved by city administration, 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 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) All plans and other submittals 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 (1) accessory apartment located within the dwelling or not more than one (1) accessory apartment located in an accessory building associated with the dwelling. More than one accessory apartment of any kind associated with a single-family dwelling is prohibited.

4. An accessory apartment located within a single-family dwelling shall include not less than ~~one two~~ (12) off street parking spaces in addition to all spaces required for the principal dwelling unit, and an accessory apartment located in an accessory building shall not include less than ~~one two~~ (12) off street parking spaces in addition to all spaces required for the principal dwelling unit. All parking spaces that are reduced or removed due to the creation of the accessory apartment must be replaced with other off-street parking. In any instance the quantity of off street parking spaces must be sufficient to prevent on street parking for all residents. No portion of the required off street parking for an accessory apartment shall be situated within the front setback area located directly in front of the principal building or the clear view area of an intersecting street as defined in section [10-12-9](#) of this chapter with the exception of a driveway, which may be used for off-street parking even if located within the front setback. All off street parking areas shall be paved with concrete, asphalt, masonry or concrete pavers.

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

Commented [JP5]: HB82 changed the required additional parking spaces to (1).

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.

Commented [JP6]: HB82 says we can't restrict sizing.

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 and accessory building ~~may shall not~~ be located at the front of the dwelling adjacent to a street.

Commented [JP7]: HB82 Changed this.

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. An address placard for the entrance to the accessory apartment shall:

a. Be located on the front of the building adjacent to the entrance of the accessory apartment.

b. Be clearly visible from the street and have the same size and appearance as the primary building address placard, as per this code

c. Have clear direction to the entrance of the accessory apartment via additional arrows and or directions.

~~12.41.~~ 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)

~~13.42.~~ Accessory apartments, including those, located in an accessory building must contain at least one (1) bathroom, one (1) 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 July 1 of the year following its issuance. Thereafter, the accessory apartment permit shall be automatically renewed for the next succeeding year upon receipt of all of the following:

1. payment of an annual accessory apartment permit fee; and
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; and
2. The primary dwelling and the portion intended for use as an accessory apartment ~~shall~~

~~have~~ has been inspected by the building inspector and certified as being safe for occupancy; and

3. The owner of the primary dwelling ~~shall have~~ has submitted an application to continue operation of the accessory apartment within ninety (90) days of the adoption of this section; and (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; amd. Ord. 21-11, 12-17-2021)