

## ORDINANCE NO. 41-2002

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING THE CITY OF ELK GROVE ZONING CODE REGARDING ACCESSORY STRUCTURES IN THE RESIDENTIAL, AGRICULTURAL-RESIDENTIAL AND AGRICULTURAL ZONES

The City Council of the City of Elk Grove does ordain as follows:

#### Section 1: Purpose and Authority

The purpose of this Ordinance is to amend the City of Elk Grove Zoning Code regarding development standards for accessory structures as specified within the attached exhibit.

#### Section 2: Deletions

The Zoning Code as adopted by Ordinance No. 2002-14a of the Elk Grove Municipal Code is hereby deleted in part as follows:

<b>Zoning Code - Ordinance No. 2000-14a</b>	<b>Deletions</b>
TITLE I, CHAPTER 25, TERMINOLOGY AND DEFINITIONS	130-01 Accessory Building is repealed by Ordinance No. 41-2002
TITLE I, CHAPTER 25, TERMINOLOGY AND DEFINITIONS	130-02 Accessory Structure is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-80 Applications is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-81 Prohibition is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-82 General Regulations is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-83 Residential Accessory Dwelling Regulations is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-83.2 Setback Chart is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-84 is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-85 is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY	305-87 is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS	ARTICLE 1: GENERAL AGRICULTURAL USES is repealed by Ordinance No. 41-2002
TITLE III, CHAPTER 10: AGRICULTURAL USE	310-01 is repealed by Ordinance No. 41-2002

DEVELOPMENT STANDARDS

TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

310-02 is repealed by Ordinance No. 41-2002

TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

310-03 is repealed by Ordinance No. 41-2002

TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

ARTICLE 2: INCIDENTAL AGRICULTURAL USES is repealed by Ordinance No. 41-2002

TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

310-02 (d) is repealed by Ordinance No. 41-2002

TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

310-12 is repealed by Ordinance No. 41-2002

TITLE III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

310-12.5 is repealed by Ordinance No. 41-2002

Section 3. Amendments and Replacements

The following numbered sections are amended or replaced by Ordinance No. 41-2002, and shall read as follows:

TITLE I, CHAPTER 25, TERMINOLOGY AND DEFINITIONS

1. (Add) 130-01. Accessory Structure

A subordinate structure located on the same premises to the principal use, and is incidental to the primary use of the premises.

TITLE II, CHAPTER 1, ARTICLE 1, RESIDENTIAL

2. See attached chart, Modifications to Table 1, Title II, Section 201-02

TITLE III, CHAPTER 5, ARTICLE 1 SINGLE FAMILY

3. (Add) subparagraph (e) to Section 305-02 Yards

(e) Maximum Lot Coverage The main structure and all accessory structures shall not cover more than 60% of the net lot area.

TITLE III, CHAPTER 5, ARTICLE 6: ACCESSORY STRUCTURES INCIDENTAL TO PRIMARY RESIDENTIAL DWELLINGS.

4. (Add) new Section 305-80. Purpose

The purpose of this chapter is to identify and regulate detached accessory structures to ensure that such structures do not create public safety or nuisance issues, do not

create an adverse aesthetic from street right-of-ways, and do not create a negative impact (light, air, drainage, or aesthetic) on surrounding properties. Regulations for residential accessory dwellings are listed in Section 305-85.

5. (Add) new Section 305-81. Permit Requirements

Except as otherwise exempt, detached accessory structures 120 sq ft or larger (see Table 305-85) require a building permit.

- 1) Guest house, cabana, or similar enclosed structure
- 2) Garage/carport
- 3) Storage shed
- 4) Greenhouse/workshop
- 5) Covered patio/trellis
- 6) Treehouse/play structure
- 7) Decks and patios that are 30 inches or more above natural grade
- 8) Pool spa with at least 2,000 gallons of water and a minimum depth of three feet.

6. (Add) new Section 305-82. Exemptions

The following detached accessory structures shall be exempt from permit and plan check requirements of this chapter as specified below.

- 1) Accessory structures smaller than 120 square feet in size, with no portion of the structure equal to or greater than nine (9) feet in height.
- 2) Decks and patios that are less than 30 inches above natural grade, are not over any basement or story below, and are unenclosed except for a safety railing with a maximum height of 42 inches. In order to maintain necessary firebreaks, all decks and patios which are combustible shall be set back a minimum of three feet from all interior property lines.
- 3) Pools, spas, hot tubs, and fishponds that are less than 120 square feet in area (including related equipment, contain less than 2,000 gallons of water, and are less than three feet in depth.
- 4) Mechanical and HVAC equipment (including pool equipment) in residential side and rear yards, provided that a minimum three foot clearance is maintained for pedestrian access from the rear and side property lines.

5) Fences and walls with a maximum height of 36 inches in the required front yard and six feet in the required rear yard, interior side yard, and street side yard of the residential property.

- a. Fences taller than the specified height limits may be approved (by a Conditional Use Permit or Conditions of Approval) where the appropriate authority finds that different screening requirements are necessary.
- b. Fences over six (6) feet in height are permitted on interior property lines upon the grant of a Conditional Use Permit by the Zoning Administrator.
- c. Fence height may be modified by a Condition of Approval where the appropriate authority finds that different screening requirements are necessary.

7. (Add) Section 305-83. Prohibition

No accessory structure shall be built, enlarged, or moved unless the requirements of this Article are met. Accessory structures are not permitted until the primary structure is present. No accessory structure shall be used as sleeping or housekeeping quarters unless expressly permitted in the zone in which the property is located.

8. (Add) Section 305-85. General Regulations

Unless specifically provided otherwise in this Code, the following regulations shall pertain to all accessory structures listed in Section 305-80 constructed, enlarged, or otherwise modified after January 12, 1985, as shown in the following table.

Table 305-85

ACCESSORY STRUCTURES:		
Size of Accessory Building	Less than 120 sq. ft.	120 sq. ft. or Larger
Minimum Distance from Main Building	None	6 ft.
Minimum Yard Setbacks		
front	Not permitted	Not permitted
Side	0	3 ft.
Street Side	12 ½ ft.	12 ½ ft.
Rear	0	3 ft.
Maximum Height	9 ft. (1)	16 ft. (2)

- 1) An accessory structure less than 120 sq. ft. may increase in maximum height at a ratio of one additional foot of height for each one foot of setback from the side or rear property line.
- 2) Maximum height of detached structure defaults to underlying residential zone (if outside of established setbacks).

- a. Portion of building outside of setbacks may construct to 30-feet/2-story in height.
  - b. Portion of building within the rear setback has a maximum height of 16-feet.
- 3) Fences over six (6) feet in height are permitted on interior property lines upon the grant of a Conditional Use Permit by the Zoning Administrator. Fence height may be modified by a condition of approval where the appropriate authority finds that different screening requirements are necessary to protect the health, safety and welfare of the individual.
- 4) Exceeding the above standards may be permitted upon approval of a Conditional Use Permit.

9. (Add) 305-87. Residential Accessory Dwelling Regulations

The following regulations shall pertain to all residential accessory dwellings constructed, enlarged, or otherwise modified after January 12, 1985.

- a) Number Of Accessory Units. Only one habitable accessory structure, including residential accessory dwellings, shall be permitted on any lot.
- b) Parking. One-covered off-street parking space for the first bedroom, no more than two spaces shall be provided for two or more bedrooms.
- c) Surface Of Parking And Driveway Areas.
  - 1. All (R) Residential zoned properties shall provide a paved parking surface.
  - 2. All (AG or AR) Agriculture or Agricultural-Residential properties shall be served by a driveway with a dust free surface.
- d) Setbacks. Front, rear, side, and side-street yard setbacks of the parent zone shall apply. In addition, there shall be a minimum of 10 feet between an accessory dwelling and the primary residence.
- e) Height. The appropriate authority may approve a residential accessory dwelling, which exceeds the height regulations of Section 305-85 provided the proposed height will not adversely affect adjoining residentially zoned property, and the residential accessory dwelling does not exceed the allowable height of the primary residential structure on the lot.
- f) Sewer and Water. Public sewer and water facilities shall be provided in the RD zones.
- g) Parcelization The property upon which a primary structure and residential accessory dwelling is located shall remain as an un-subdivided parcel, unless all standards of the parent zone can be met.

- h) Maximum Floor Area. Accessory dwellings shall not exceed 1000 square feet in habitable floor area.
- i) Additional Requirements. The appropriate authority may apply additional conditions to a use permit relative, but not limited to, dwelling size, location, access, height, etc., if special circumstances arise requiring such mitigation of anticipated adverse impacts to neighboring residences.
- j) Conditional Use. Exceeding the above standards may be permitted upon approval of a Conditional Use Permit.

10. (Add) 305-88. Location--Accessory Mobile homes

Accessory mobile homes shall not be located:

- (a) Within twenty (20) feet of the front property line.
- (b) Within twelve and one-half (12-1/2) feet of the side street property line.
- (c) Within five (5) feet of side property line.
- (d) Within ten (10) feet of rear property line.
- (e) Within ten (10) feet of primary dwelling.

11. (Add) 305-89. Location--Swimming Pools and Spas

Swimming pools and spas shall not be located:

- (a) Within a recorded setback except rear yards of through lots unless otherwise prohibited by recorded subdivision map.
- (b) Within a public utility easement.
- (c) Within a public easement.
- (d) Within the required front or side street yards.
- (e) Within three (3) feet of side or rear property lines except that the Chief, Building Inspection Division, may approve setbacks less than three (3) feet from side or rear property lines as provided for in the Swimming Pool Code, County Code 19.36.120, Part 1, Section 1.10A. For the purpose of this Section, setback shall be from the right-of-way line or property line to the water line.

- (f) The provisions herein shall not affect codes of the Special Planning Areas as applicable.

Title III, CHAPTER 10: AGRICULTURAL USE DEVELOPMENT STANDARDS

- 12. Article 1: General Agricultural Uses (Add) the term "Incidental" to read General/Incidental Agricultural Uses.

- 13. (Add) Section 310-01. Purpose

The purpose of this chapter is to identify and regulate agriculture and accessory structures to ensure that such structures do not create public safety or nuisance issuances, do not create an adverse aesthetic view from street right-of-ways, and do not create a negative impact (light, air, drainage, or aesthetic) on surrounding properties. Regulations for agriculture/accessory structures are listed in the following sections.

- 14. (Amend) Section 310- 40 ~~02~~. ~~Application~~ General Regulations

Unless specifically provided otherwise in this Code, the following regulations shall pertain to all accessory structures listed below in Table 310-01. ~~The provisions of this Article shall apply to the following uses in any zone, whether such use is the principal use of the property, or incidental to another principal use:~~

- (a) Accessory and Agriculture structures may be constructed on Agricultural-Residential (AR) or Agricultural (AG) zoned lots when the use is clearly incidental and secondary to the primary use of the property (i.e. barn, workshop, accessory dwelling, etc.). An Accessory residential dwelling requires a Conditional Use Permit from the Planning Commission.
- (b) When the accessory dwelling/structure is attached to the primary dwelling or main building on the property, it shall be made structurally a part of the main building and share compatible architecture, materials, and surface textures with requirements applicable to the main building.
- (c) Incidental agricultural uses, as defined in Title I, Chapter ~~30~~ 25.

- 15. (Amend) Section 310- 44 ~~03~~. Development Standards

All structures shall comply with the following development standards:

**Table 310-01**

<b>AR/AG STRUCTURES:</b>		
	<b>Residential Dwelling</b>	<b>Agriculture Structure(s)</b>
<b>Minimum Distance from primary residence</b>	10 ft.	10 ft.
<b>Minimum Yard Setbacks</b>		
Within front ½ of Lot	As required by the applicable zoning district	As required by the applicable zoning district
Within rear ½ of Lot		
Side	10 ft.	20 ft.
Street Side	15 ft.	20 ft.
Rear	10 ft.	20 ft.
<b>Maximum Height</b>	30 ft.	30 ft. (AR-1 and AR-2 zones only) 40 ft. (all other AR zones and all AG zones)
<b>Maximum Lot Coverage</b>	25%	25%

(1) *Structures exceeding the above standards may be permitted upon approval of a Conditional Use Permit.*

**16. (Amend) Section 310- 43 04. Lot Area for Animals/Stables**

The minimum lot area for any lot used for any use set forth in Section 310- 40 02, whether such use is a principal use of the property or is incidental to another principal use, shall be the area specified in this Code applicable to the zone in which the property is located or the area hereinafter specified whichever is the greater:

- (a) For any commercial or public stable the minimum lot area shall be three (3) acres.
- (b) For any private stable, the minimum lot area shall be twenty thousand (20,000) square feet.
- (c) The minimum lot area for the keeping of small animals (with a weight of less than seventy-five (75) pounds at maturity), other than pets, on a noncommercial scale as an incidental use, shall be ten thousand (10,000) square feet, except that the Administrator may approve the keeping of small animals on a lot of less than ten thousand (10,000) square feet, subject to the provision of Section 310- 45 06, and a conditional use permit by the Zoning Administrator.

- (d) For any other incidental agricultural use, the minimum lot area shall be twenty thousand (20,000) square feet.

17. (Amend) Section 310- 44 **05**. Riding Stables and Corral Standards

In addition to the requirements set forth in this Article, riding stables, boarding stables, and riding academies, whether private or commercial, shall not be erected, located, enlarged, or maintained without complying with the following standards:

- (a) Any corral, paddock, riding ring, or exercise yard used for keeping horses shall be enclosed by fence or other enclosure; and no part of any such corral, paddock, riding ring, or exercise yard shall be located closer than twenty (20) feet to any door, window, or other opening of any building or structure on the same lot or any other parcel used or designed to be used for human habitation.
- (b) All fences which enclose livestock shall be constructed of an adequate height and shall be designed to control and contain such livestock at all times, and so as to prevent such livestock from reaching across any property lines, to damage adjacent property.
- (c) An operator of a commercial or private stable shall not allow dust, odor, or flies to cause nuisance or annoyance to any considerable number of persons in the neighborhood or the public and at a minimum shall comply with the following:
  - (1) All areas shall be maintained to be sufficiently dust free that no visible quantity of dust is observable at the property lines of the parcel. This shall be done by maintaining sufficient natural vegetation, by watering down corral area as often as necessary to prevent dust problems, or by utilizing other more effective dust prevention methods.
  - (2) The operator of a stable shall take every reasonable precaution to prevent the breeding of flies or the emission of dust or odors into the neighborhood. Reasonable precautions shall include:
    - (aa) Routine manure and bedding clean out of stalls and routine clean up of manure deposited on the property.
    - (bb) Disposal of animal wastes in a manner and location approved by the Department of Health, such as:
      - (i) properly drying or composting, away from neighboring properties.
      - (ii) burying (2 feet minimum).
      - (iii) removal to approved disposal site.

(3) All areas shall be maintained in a sanitary condition and in compliance with the following standards:

(aa) Water usage and drainage shall not mix with manure accumulations and shall not be disposed of contrary to local and state requirements.

(bb) Animal feed shall be stored and utilized in a manner that will not encourage rodent populations.

**18. (Amend) Section 310- 45 06 Incidental Keeping of Animals**

Animals may be kept on any parcel or lot as an incidental agricultural use subject to the provisions of the zone in which the property is located and the following standards:

- (a) The conditions, standards, and requirements of Title 8 of the Elk Grove Municipal Code are met to the satisfaction of the Chief of Animal Control.
- (b) All areas devoted to such uses shall comply with standards adopted by the Department of Public Health relative to noise, dust, odor, and pests, and shall be maintained to the satisfaction of the Director of Public Health.
- (c) The keeping of animals on lots smaller than ten thousand (10,000) square feet shall be conducted in accordance with a development plan and management plan approved by the Zoning Administrator at public hearing for a conditional use permit.
- (d) The provisions of this Section shall not apply to public or private stables, or where such animals are kept as a general agricultural use.

**Section 3: No Mandatory Duty of Care.**

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

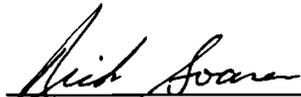
**Section 4: Severability**

If any such provision of section of this Ordinance is determined to be unenforceable, invalid, or unlawful, such determination shall not affect the enforceability of the remaining provisions of this Ordinance.

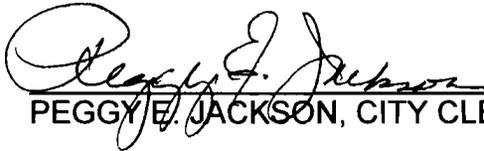
**Section 5: Effective Date and Publication**

This Ordinance shall take effect thirty (30) days after its adoption, and within fifteen (15) days after its passage, shall be posted in three (3) public places.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 6<sup>TH</sup> day of November 2002.

  
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RICK SOARES, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
\_\_\_\_\_  
PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**AYES:** Soares, Briggs, Cooper  
Scherman, Leary  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**EFFECTIVE DATE:** December 6, 2002