

Chapter 17.46 R2 OVERLAY ZONE

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Section 17.46.010 Purpose.

1. The purpose of the R2 Overlay Zone is to provide 'moderate income housing', as defined by the Utah State Code, and thereby achieve a reasonable opportunity for a variety of housing types, to meet the needs of people desiring to live and fully participate in all aspects of neighborhood and community life in Lindon. This Overlay zone establishes a place where, two (2) and three (3) family dwelling units can be constructed. It shall also be the purpose of this ordinance to establish a means whereby multi-family housing can be distributed throughout the City and throughout the individual R2 Overlay planning districts. Except for accessory apartments (either internal or detached), R2 Overlay projects and applications shall be considered a Conditional Use and regulated as such.
2. Neighborhood organizations, home owners associations, and/or private citizens shall not be permitted to restrict the placement and construction of R2 Overlay projects in specific neighborhoods and subdivisions through the use and implementation of Conditions, Covenants, and Restrictions and/or other types of restrictive legal documents. Such practices undermine Lindon City's ability to provide for the housing needs of its citizens and prohibit attainment of established zoning requirements and General Plan Goals. (Ord 2005-6, Amended 06/10/2005, Ord. 2002-18, Amended 07/02/2002, Ord. 2000-13, Amended 10/23/2000; Ord. 98-13, Amended 10/03/2000)

Section 17.46.015 Definitions

For the purposes of this chapter, the terms below shall have the following meanings:

Accessory apartment: A residential unit that is located on the same lot or parcel as a single-family dwelling unit, either internal to or attached to the single-family unit or in a detached structure on the same lot or parcel, and which is owned by an owner occupant of the property. The accessory apartment shall be a complete housekeeping unit with a separate entrance, kitchen, sleeping area, and bathroom facilities.

Owner occupant:

- 1) An individual who:
 - a. Possesses, as shown by a recorded deed, fifty (50) percent or more ownership in a dwelling unit, and
 - b. Occupies the dwelling unit with a bona fide intent to make it his or her primary residence;or
- 2) An individual who:
 - a. Is a trustor of a family trust which:

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- i. Possesses fee title ownership to a dwelling unit;
 - ii. Was created for estate planning purposes by one (1) or more trustors of the trust; and
 - b. Occupies the dwelling unit owned by the trust with a bona fide intent to make it his or her primary residence.
- 3) An owner occupant as defined in section 1 or 2 of this definition shall continue to be defined as such even if said owner occupant temporarily resides elsewhere due to a disability, infirmity, military service, temporary job assignments, sabbaticals, or voluntary and ecclesiastical service which requires the owner to temporarily reside at another location not to exceed three (3) years. In such event, the dwelling unit shall be considered an occupied domicile by the owner occupant during the temporary absence.

Owner occupied: A residential dwelling unit that is occupied by an owner occupant. (Ord. 2012-2, amended 01/18/2012)

Section 17.46.020 Map and district establishment.

The Planning Department shall maintain on file a map and associated documents which divide the residential areas within the city into individual R2 Overlay districts and which includes such data as: total acreage of each district, total allowable units per district, etc. The R2 Overlay Zone includes all residential zones in their entirety, and also all residential uses within non-residential zones that existed prior to April 1, 2011. (Ord. 2005-6, Amended 06/10/2005, Ord. 2002-18, Amended 07/02/2002, Ord. 98-13, Amended 10/03/2000)

Section 17.46.025 Underlying Zoning Applies

Unless specifically provided for otherwise in this chapter, R2 Overlay projects and accessory apartments are subject to the regulations of the underlying zoning district in which they are constructed. (Ord. 2012-2, amended 01/18/2012)

Section 17.46.030 District unit calculations.

The maximum number of units that are permitted within each R2 Overlay district identified on the R2 Overlay map shall be calculated by multiplying 4% of the total acreage within each district by six (6). Each dwelling unit approved as part of an R2 project, and each accessory apartment and its' associated single-family dwelling unit, shall be counted towards the capacity of the units permitted in each district. At such time as a district reaches the maximum permitted capacity of units that district will be closed to any further R2 Overlay projects. However, owner occupied single-family dwellings with accessory apartments shall continue to be permitted even if the district reaches its capacity. (Ord. 2012-2, amended 01/18/2012. Ord 2008-1, adopted 02/19/2008, Ord. 2005-6, Amended 06/10/2005. Ord. 98-13, Amended 10/03/2000)

Section 17.46.040 Density, lot size, & required separation distance.

Density: The maximum number of units allowed for any R2 Overlay project shall be four (4) units. Available multi-family projects include twin homes, condominiums, apartments, duplexes, triplexes, townhouses, or any other multi-family housing unit that has two or three units per structure. Detached single-family dwellings (one unit only) and projects with four units (4-plexes) are prohibited.

Lot size: The maximum number of units on an approved building lot in the residential zone is two (2) units. In the event that the lots are larger than twenty thousand (20,000) square feet for the R1-20 zone and twelve thousand (12,000) square feet for the R1-12 zone, then the maximum density shall be calculated at four (4) units per net acre. Substandard legal non-conforming lots shall only be allowed a maximum number of units based on four (4) units per acre.

Separation Distance: Irrespective of R2 Overlay district boundaries, new R2 Overlay projects shall not be within seven hundred fifty feet (750') from any other approved R2 Overlay unit or other existing multi-family housing units, except for accessory apartments.

(Ord. 2005-6, Amended 06/10/2005, Ord. 200-13, Amended 10/23/2000, Ord. 98-13, Amended 10/03/2000)

Section 17.46.050 Application submittal requirements.

1. Any applicant desiring to receive approval for an R2 Overlay Zone project as described in this ordinance (17.46) shall submit a Land Use Application and fee for a Conditional Use, including a completed site plan which includes all the project design criteria as established in this chapter and any submittal requirements as established in the Land Development Policies, Standard Specifications and Drawings Manual (Development Manual).
2. Any applicant for an R2 Overlay project shall provide documentation that each proposed dwelling unit will meet the "moderate income housing" definition as per Utah State Code. On a form approved by the City, a certification regarding the owner's understanding of the moderate income housing requirements, and an agreement to abide by said requirements, shall be recorded against the property and shall run with the land and be binding on future successors of the property. A building permit will not be issued until said documentation is received by the Planning Department.
3. The provisions of subsection 2. above shall apply to any R2 Overlay project which was approved by Lindon City after January 17, 2012.

(Ord. 2012-2, amended 01/18/2012. Ord. 2005-6, Amended 06/10/2005 Ord. 2002-18, Amended 07/02/2002, Ord. 2000-13, Amended 10/23/2000 Ord. 98-13, Amended 10/03/2000).

Section 17.46.060 R2 Project design criteria.

1. Compliance with Lindon City Code. Any proposal in the R2 Overlay Zone shall comply with the requirements of this Chapter and all other applicable Lindon City Code divisions and the conditions imposed by the Land Use Authority. The requirements and standards set forth herein shall apply to any R2 Overlay proposal.
2. Structure Setbacks. Building setbacks shall be the same as that required in the underlying residential zone in which the project is being constructed.
3. Width to Depth Ratio. No proposed lot utilized for an R2 Overlay project shall have a width to depth ratio that exceeds one (1) to three (3) unless the subject property is a platted subdivision lot previously approved by the City.
4. Land Ownership Designation. All land within a development shall be either common area, limited common area, dedicated to public use, privately owned as a buildable lot or a combination of the above.
5. Utilities. All dwelling units shall be served by the public sewer system and public water supply. Installation of these and other utilities shall conform to applicable building codes and city ordinances. All utilities shall be placed underground.
6. Fences. A six foot (6') high sight obscuring fence shall be erected on the perimeter, except the front yard setback, of all R2 projects. The Land Use Authority may waive or modify fencing requirements if it is necessary to preserve the character and aesthetic qualities of the development or surrounding areas. These fencing requirements may be waived or modified by the Land Use Authority only if the following criteria are met:
 - a. Removing or modifying the fence will still provide for an adequate buffer for the adjoining use.
 - b. The appearance or removing of the fence will not detract from the uses of neighboring property.

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- c. Removing or modifying the proposed fence will still provide some method of shielding for the neighboring use from noise, storage, traffic, or any other possible characteristics of an R2 overlay project.
 - d. Problems with care and maintenance of fences shall be dealt with in accordance with LCC 8.20 (Nuisances).
- 7. Landscaping.
 - a. Except for driveways, the required front setbacks, street-side yard setbacks, and all common areas shall be permanently landscaped with trees, shrubs, lawn, or other living ground cover and shall be maintained in accordance with good landscaping practices.
 - b. Landscaped areas within the front yard and street-side yard setbacks may not be used for parking.
 - c. Not less than forty percent (40%) of the net acreage of the entire development shall remain in permanently landscaped areas.
- 8. Security Lighting. All R2 proposals with attached housing units shall include a security lighting system which shall be designed in such a way as to give control of its operation to the homeowner's association or property owner of the project.
- 9. Parking. Dwelling units shall be provided with not less than two (2) off street parking spaces each. Required off-street parking spaces shall not be permitted within the front yard or street-side yard setbacks. Guest parking shall be located within seventy five feet (75') of the dwellings served. All parking spaces, parking areas, and driveways shall be hard surface and properly drained as per Lindon City Development Manual specifications. Drainage shall not be channeled or caused to flow across pedestrian walkways. All freestanding and unenclosed parking structures incorporated into an R2 Overlay project shall be to the rear of the main building. Free standing parking structures shall not be allowed in the front or side yard setback of any lot.
- 10. Streets.
 - a. For the purposes of this division the following definitions apply:
 - i. Public Street shall mean a right-of-way owned and maintained by the City.
 - ii. Driveway shall mean a vehicular right-of-way owned and maintained privately that is no more than thirty four feet (34') in width and is no less than twenty feet (20') in width. After considering public safety and access issues the Land Use Authority shall designate the width of the drive access as per this requirement.
 - b. Public streets shall adhere to design and construction standards found within the Development Manual and shall be properly dedicated to the city.
 - c. A driveway shall be paved with either concrete or asphalt.
 - d. No "hammerhead" turnarounds shall be permitted.
 - e. All streets that are shown on the Lindon City Master Plan shall be developed as public streets according to the size and general location shown on the Lindon City Street Master Plan Map. The Land Use Authority has the authority to require streets in an R2 proposal to connect with other public streets outside the proposed project where such connection is necessary for good traffic circulation in the area.
 - f. All streets in an R2 proposal shall be public streets. However, driveways may be permitted provided that:
 - i. They will not extend to provide service to another property or parcel not included in the project unless there is no reasonable way to access existing parcels contiguous to a private street. However, the Land Use Authority may consider limited connections of additional lot accesses to a

driveway on a case-by-case basis to allow for reasonable development of surrounding properties that will compliment the R2-Overlay project and will not cause a burden or hazard from traffic flows on the private driveway. Any additional lots that are approved to access R-2 Overlay project driveways shall meet all standard lot and development requirements applicable to the zone in which the property is located, and could be accessed and served with utilities as a 'stand alone' lot. Shared access shall only be permitted if it is determined to provide safer access for the additional lots in question and/or provides other reasonable benefits to the surrounding neighborhood and community.

- ii. They will not provide access or travel between, or otherwise connect with two (2) or more public streets unless the street or driveway is designed to discourage through traffic.
 - iii. They are designed and constructed to City Standards and Specifications found within the Development Manual.
 - iv. They are designated on the final plat as perpetual right-of-way and public utility easements.
 - v. They shall not be longer than one hundred fifty feet (150'). Driveways longer than 150' shall be dedicated public streets and comply with all City standards for public streets.
 - vi. Private driveways, private streets, and private utilities will not be maintained and/or serviced by the City.
11. Common Areas. Common areas of a development shall be developed according to the plan approved by the Land Use Authority and maintained in accordance with the provisions of this chapter.
12. Storage Areas and Central Waste Receptacles. Exterior storage areas available to multiple tenants for the keeping of boats, RV's, or other miscellaneous items, shall be enclosed with a 6' high site obscuring fence. Said storage areas shall only be permitted on the side or rear of the dwelling units. Central waste receptacles shall only be permitted within a trash enclosure which meets standards found in the Development Manual. Trash enclosures shall be located in the side or rear of the dwelling units and must be accessible for garbage trucks. All individual garbage containers shall have the ability to be serviced from a public street.
13. Architectural Styles and Treatments. The intent of the architectural styles and treatment requirements is to maintain the single-family residential appearance of R2 multi-family projects and to avoid obvious recognition that the structure is a duplex, twin home, or triplex. R2 project proposals shall be designed according to traditional residential styles which are compatible with other home in the immediate vicinity. The building colors shall be in earth tone(s) (refer to Commercial Design Guidelines for color palate). Unless otherwise existing, the building shall have no more than one front door and garage/carport entrance facing the street frontage or facing the same direction unless in the rear of the building. Corner lots shall have no more than one front door and garage/carport entrance facing each street or side-street frontage unless otherwise existing. (See Table 17.46 A) The applicant shall submit building elevations with details on exterior materials and colors addressing the requirements listed above. (Ord. 2008-12, Approved 11/18/2008, Ord. 2008-6, adopted 04/15/2008, Ord. 2008-1, Approved 02/19/2008, Ord. 2007-14, amended 12/18/2007, Ord. 2005-6, Amended 6/10/2005 Ord. 2004-1, Amended 01/06/2004 Ord. 2002-18, Amended 07/02/2002 Ord. 2000-13, Amended 10/23/2000 Ord. 98, Amended 10/03/2000)

Section 17.46.100 Accessory Apartments.

This section establishes requirements and regulations regarding accessory apartments.

- A. Purpose Statement: It is the intent of the R2 Overlay Zone to allow accessory apartments in conjunction with owner occupied single family homes in residential zones, where such single family homes were not approved as part of an R2 Overlay project. The purpose of the accessory apartment provisions are to:
- i. Provide a mix of housing options that responds to changing family needs and smaller households;
 - ii. Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services;
 - iii. Provide a broader range of affordable housing;
 - iv. Create new housing units within existing residential zones while respecting the look and scale of single-family dwelling development within Lindon.
1. General Requirements for all Accessory Apartments:
- a. Location. Accessory apartments shall be allowed only in conjunction with owner occupied single-family dwellings , but shall not be approved in conjunction with other R2 Overlay projects.
 - b. Number of Accessory Apartments. A maximum number of one (1) accessory apartment shall be allowed in conjunction with each owner occupied single family dwelling.
 - c. Parking. A single family dwelling with an accessory apartment shall provide at least four total off-street parking stalls (2 for the single-family dwelling and 2 for the accessory apartment). Parking stalls within a garage or carport utilized by the single-family dwelling shall not count toward the two additional required parking stalls for the accessory apartment, or vice versa, unless the garage is sized for more than two vehicles and an accessible route from the garage parking to the accessory apartment can be maintained. No required parking shall be within the front or street-side yard setback. Tandem (end-to-end) parking in a side-yard may be acceptable for the required parking. Parking areas and driveways shall be provided with a dustless, hard surface material such as asphalt, concrete, compacted gravel, masonry, or concrete pavers. A hard surfaced path, sidewalk, or walkway shall be provided from the accessory apartment entrance to the required accessory apartment off-street parking stalls.
 - d. Size Restrictions. The size of an accessory apartment shall be at least three hundred (300) square feet and shall not contain more than three (3) bedrooms.
 - e. Building Code. All construction and remodeling shall comply with building codes in effect at the time of construction or remodeling.
 - f. Building Entrances. A single-family dwelling approved with an accessory apartment shall not have a separate entrance at the front of the building or side of the building facing the street where the sole purpose of the entrance is to provide access to the accessory apartment. Entrances to detached accessory apartments shall also not face a street unless the detached accessory apartment is placed behind the primary residence so that the entrance is not substantially visible from the street. The purpose of this requirement is to preserve the single-family residential appearance of the single-family dwelling and/or the detached accessory apartment.
 - g. New or existing garages and accessory buildings substantially attached to the main dwelling by covered walkways, covered breeze ways, and covered porches

may include an accessory apartment. In such instances, the garage/accessory building shall not be more than a distance of eighteen feet (18') from the main dwelling unit measured linearly between the foundation lines of the two structures, and the apartment may not exceed 60% of the footprint of the primary residence livable floor area, but in no case shall it exceed on thousand two hundred (1,200) square feet of maximum livable floor area.

- h. Apartment address. The address of the accessory apartment shall be clearly posted so as to be seen from the public street.
 - i. Ownership: An accessory apartment shall not be sold separately, or subdivided from the principal dwelling unit, parcel, or lot.
2. Additional Requirements for Detached Accessory Apartments:
- a. Height Restrictions. Detached accessory apartments are limited to one (1) single-story above grade with a maximum height not to exceed the height of the primary residence or twenty feet (20') high, whichever is less. Building height is determined by averaging the measurements of the four (4) corners of the structure from finished grade to the highest point of the roof structure. The Planning Director and Chief Building Official shall be responsible for designating and identifying the four corners of a structure and determining building height.
 - b. Setbacks. A detached accessory apartment must meet the same setbacks as the primary residence for the underlying zone in which it is located, except that it shall be set back at least 10' further from a front-facing façade of the primary residence which faces a street. Detached accessory apartments on the street-side yard of corner lots are only required to be set back 10' further than the front-facing façade of the primary residence. No additional setback applies to street-side yard areas. See Table 17.46B.
 - c. Size limit. The detached accessory apartment may be attached to or part of other accessory structures, but in no case shall the maximum livable floor area of the detached accessory apartment exceed one thousand (1,000) square feet.
 - d. Exterior design. Architectural features of the detached accessory apartment shall be designed and constructed to be compatible with the character and materials used on the exterior of the primary residence.
 - e. Utilities. Except for sewer service, all public and private utility services to the detached accessory apartment shall be provided through utility lines which service the primary residence. Additional utility meters, utility laterals, or secondary service hook-ups are not permitted except as approved by the Chief Building Official and/or the Public Works Director in cases where options to provide utilities through the primary residence service laterals are not feasible or cause significant hardship to the applicant.
3. Accessory Apartment Permit. Any person constructing or causing the construction of a residence that has an accessory apartment or any person remodeling or causing the remodeling of a residence for an accessory apartment, or any person desiring an accessory apartment shall obtain a building permit from the City. Before the permit is issued the applicant shall:
- a. Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, and the location of parking stalls.
 - b. Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses and other criteria required by the Chief Building Official.
4. The City shall evaluate the permit and shall approve or deny the application based on the criteria as outlined in LCC 17.46.100. If the application meets all requirements, the City shall mail notice to owners of record within 300' of the subject property. This notice shall summarize the nature of the request, give the location of the apartment, list the

approval criteria with an indication that the City intends to issue the permit, and inform the property owners that they may request that the accessory apartment application be reviewed by the Planning Commission if they feel that the application does not meet the approval criteria. Any interested party requesting Planning Commission review shall submit a written request to the Planning Commission within fourteen (14) days after the date of the notice received and shall state how the application does not meet the ordinance criteria. If no written request for Planning Commission review is received by the City within 14 days after the date of the notice, the permit for the accessory apartment can be issued.

5. Upon submittal to the Planning Department of a written request for Planning Commission review, the Planning Commission shall hear the item at their next regularly scheduled meeting and shall review the request to determine compliance with the approval criteria as found within LCC 17.46. The Planning Commission shall then approve, continue, or deny the application.
6. Upon issuance of the accessory apartment building permit, the applicant shall pay fees in accordance with the currently adopted Lindon City Fee Schedule.
7. Affidavit and Agreement Requirements. The following affidavits and agreements shall be required prior to issuance or final approval of a building permit for an accessory apartment:
 - a. The owner of any single-family dwelling requesting an accessory apartment shall sign an affidavit therein stating that the primary dwelling and/or the accessory apartment on the lot or parcel will be owner occupied. This affidavit shall be recorded against the property and run with the land and be binding on future successors of the property; and
 - b. The owner shall provide documentation that the accessory apartment rental rates will meet the "moderate income housing" definition as per Utah State Code. On a form approved by the City, a certification regarding the owner's understanding of the moderate income housing requirements and an agreement to abide by said requirements shall be signed by the owner and recorded against the property and shall run with the land and be binding on future successors of the property.
 - c. The provisions of subsection b. above shall apply to any accessory apartment which was approved by Lindon City after February 1, 2012.

(Ord. 2012-2, amended 01/18/2012. Ord. 2008-6, Approved 04/15/2008, Ord. 2008-1, Approved 02/19/2008, Ord. 2001-10, Amended 8/21/2001 Ord. 200-13, Amended 10/23/2000 Ord. 99-22, Amended, 10/04/2000 Ord. 98-13, Amended 10/03/2000)

Section 17.46.110 Second Kitchen Requirements

- a. Single family homes with more than one kitchen shall not be considered to have an accessory apartment (unless specifically approved as such by issuance of a building permit) and shall comply with the following requirements:
- b. The home shall have only one address.
- c. An interior access shall be maintained to all parts of the home. This requirement is to assure that an accessory apartment is not created. For example, doors between the second kitchen and the remainder of the home shall have no locks or deadbolt mechanisms which could restrict access. Other methods for limiting or restricting access from the second kitchen to the remainder of the home shall also not be permitted. Access to a second kitchen through a garage shall not be considered "interior access."
- d. The home shall have no more than one electrical meter.
- e. A kitchen shall be defined as a place with permanent food preparation facilities which shall include a stove/range appliance.

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- f. The owner of any single-family dwelling requesting a second kitchen shall sign an affidavit on a form prepared by the City, therein stating that the second kitchen area in the dwelling will not be used as a duplex or accessory apartment. Presence of a second kitchen does not constitute approval of a multi-family unit. This affidavit shall be recorded against the property and run with the land and be binding on future successors of the property. (Ord. 2012-2, amended 01/18/2012. Ord. 2002-18, Amended 07/02/2002 Ord. 2001-10, Adopted 8/21/2001)

TABLE 17.46 A

(Sample layouts for R2 Projects in which only one entrance faces the street)

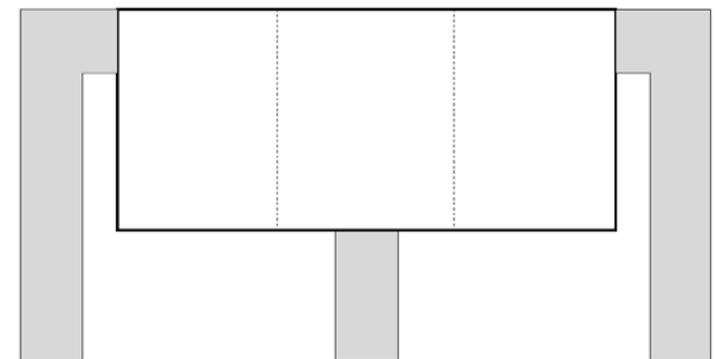
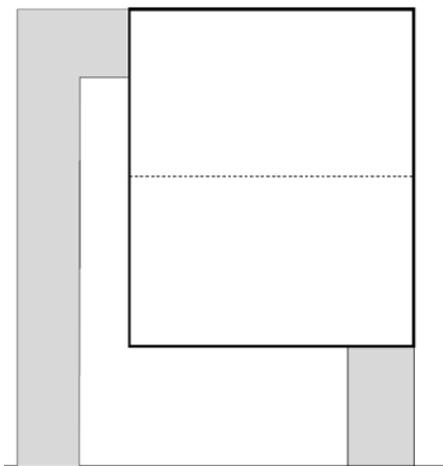
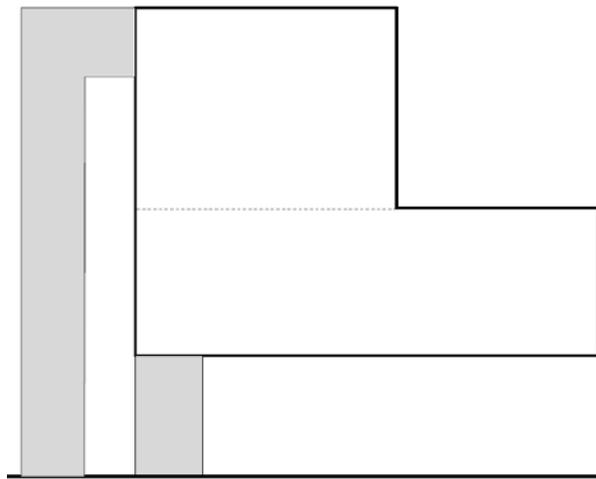
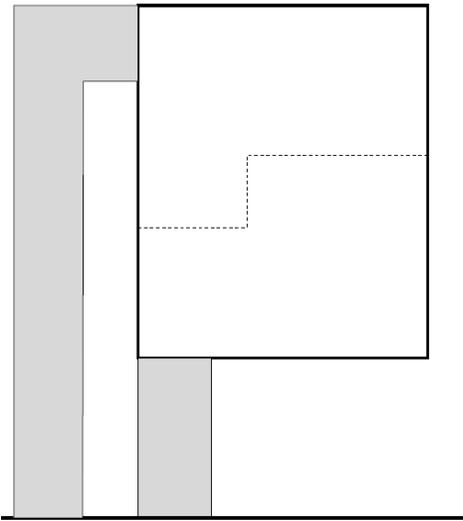
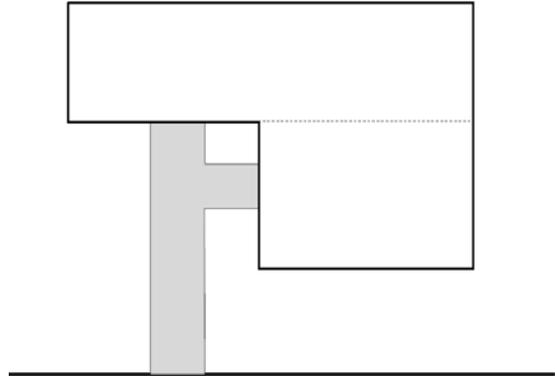
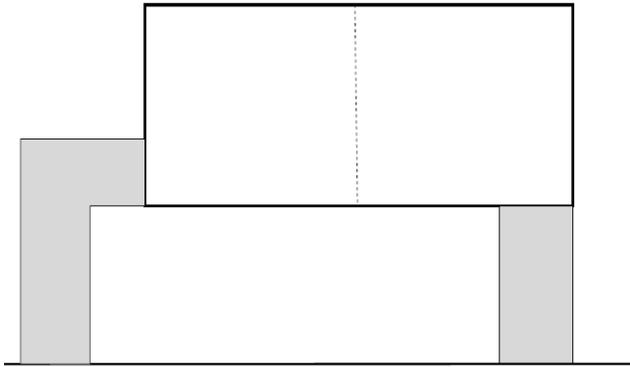


TABLE 17.46 B
(Typical setbacks for detached accessory apartments)

