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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 (10-9-307(2)(a)), 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. Commercial and industrial uses are not permitted except as permitted by home occupations. Further, it is the purpose of this Chapter to replace the previously repealed Chapter 17.26. Planned Unit Developments and 17.46. High Density Housing. 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 17.46.020 Map.

This division includes a map which, in effect, divides the city into planning districts as per the approved R2 Overlay District Map. The R2 Overlay Zone includes the R1-12 and R1-20 zones in their entirety. This map shall include such data as: total acreage, total allowable acres per district, total allowable units per district based upon a percentage of growth (Growth Share, see 17.46.030) in the City over the past calendar year. In no case shall this density exceed four (4) units per net acre. (Ord. 2005-6, Amended 06/10/2005, Ord. 2002-18, Amended 07/02/2002, Ord. 98-13, Amended 10/03/2000)

Section 17.46.030 Calculation of growth share.

Growth share is calculated using the total number of building permits issued, including residential, commercial and industrial in the last calendar year, then taking twenty percent (20%) of this number for the total number of units available for the new calendar year. This calculation is to be done each January. All growth share units shall be distributed in order of application submittal and approval by the Planning Commission. In no case shall the minimum growth share calculation be allowed to fall below five percent (5%) of the total available units city wide. This five percent (5%) minimum growth share number is to be distributed in all available R2 districts. (Ord. 98-13, Amended 10/03/2000)

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Section 17.46.040 Four percent rule.

For planning purposes, the City will allow, through strict adherence to this division, four percent (4%) of the total available residential land area within each planning district to be developed as multiple family housing. At such time as a planning district reaches its capacity of (4%) of the land area multiplied by six (6) units per acre, that district will be closed to any further R2 project proposals. However, owner occupied accessory apartments shall be permitted by conditional use even if the district reaches its capacity, assuming the proposal meets the requirements of 17.46.100. (NOTE: Six units per acre is only used for calculating the 4% rule, and should not be confused with the number of units allowed per acre for an R2 project). An exception to the four percent (4%) rule can be granted to allow more units in a district which has reached its capacity if the following requirements are met:

1. The City shall mail notice to all adjacent owners of record within 300 feet of the subject property no less than 3 calendar days before the meeting, and said notice shall include the time, date and place of the meeting and a general summary of what is being requested.
2. It is the Planning Commission and City Council opinion that the project agrees with sound planning principles and would be a substantial benefit to the community at large.
3. The exception is for reasons other than increasing the number of units or density in an R2 District but the exception is necessary to develop property in a way that is complementary and not detrimental to the immediate neighborhood and public utilities and services. The motivation for the request shall not be solely economic in nature.

(Ord 2008-1, adopted 02/19/2008, Ord. 2005-6, Amended 06/10/2005. Ord. 98-13, Amended 10/03/2000)

Section 17.46.050 Yearly growth share percentage rule.

No more than one hundred percent (100%) of the total growth share number of multiple family units within the entire city will be approved for development within any calendar year. (Ord. 98-13, Amended 10/03/2000)

Section 17.46.060 Twenty percent district rule.

No more than twenty percent (20%) of the total growth share of multiple family units within the City shall be approved in any one (1) planning district in any calendar year. Should the maximum be, in fact, approved in any district, the affected district would then be considered closed until the next calendar year. (Ord 98-13, Amended 10/03/2000)

Section 17.46.070 Density, lot size, & required separation distance.

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. R2 project proposals shall not be within seven hundred fifty feet (750') from any other approved R2 Overlay unit or other constructed multi-family housing except for owner occupied accessory apartment, irrespective of R2 planning district boundaries. The maximum number of units on an approved building lot in the R1-12 zone or R1-20 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. (Ord. 2005-6,

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

Section 17.46.080 Application submittal requirements.

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 including a completed site plan which includes all the project design criteria as established in 17.46.090 with the appropriate number of copies. Any application for a multi-family project (other than accessory apartments) shall provide documentation that each dwelling unit proposed will meet the "moderate income housing" definition as per Utah State Code 10-9-307(2)(a). An application will not be considered complete until such is done and received by the Planning Department. (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 17.46.090 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 stipulations and requirements of the Planning Commission and City Council. The requirements and standards set forth herein shall apply to any R2 proposal.
2. Structure Setbacks.
 - a. No structure shall be set back less than thirty feet (30') from the right-of-way line of a dedicated street.
 - b. Building setbacks along the peripheral property lines of an R2 project proposal shall be the same as that required in the zone for any abutting residential properties.
 - c. A structure must match its neighbor's required rear and side yard setback. If the structure

borders multiple parcels in the rear or side, the structure must match the larger setback.

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. All utilities shall be placed underground. Each dwelling unit shall be individually metered for natural gas, electricity, and water. Each building shall be served by a separate sewer lateral and not more than three (3) dwelling units within a building may be connected to one (1) lateral. Each unit will be required to install back flow water valves in accordance with the applicable plumbing code.
6. Fences. All fencing requirements are to be reviewed in conjunction with Conditional Use Permit as part of the site plan review process. A six foot (6') high sight obscuring fence shall be erected on the perimeter, except the front yard setback, of all R2 projects. All fences shall have a method of finishing treatment which shall include a high grade paint or sealant that resists graffiti efforts. The Planning Commission or City Council 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

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by the Planning Commission only if the following criteria are met:

- a. Removing or modifying the fence will still provide for an adequate buffer for the adjoining residential use.
 - b. The appearance or removing of the fence will not detract from the residential uses of neighboring property.
 - c. Removing or modifying the proposed fence will still provide some method of shielding for the neighboring residential 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 Chapter 8.20.
7. Landscaping.
- a. The required front setbacks and side setbacks adjacent to a dedicated street shall be landscaped except for permitted driveways, and shall not be used for parking.
 - b. All common areas shall be permanently landscaped with trees, shrubs, lawn, or ground cover and maintained in accordance with good landscaping practice.
 - 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. 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 standard 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. mean a right-of-way owned and Public Street shall maintained by the City that has a width of at least fifty feet (50').
 - 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 Planning Commission shall designate the width of the drive access as per this requirement.
- b. The minimum public street shall have a six foot (6') wide concrete curb, gutter, and sidewalk combination on each side and at least thirty four feet (34') of asphalt or concrete paving.

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- c. A driveway shall be paved with either concrete or asphalt.
 - d. All streets shall comply with City standards.
 - e. No “hammerhead” turnarounds shall be permitted.
 - f. 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 Master Street Plan. The Planning Commission 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. All streets in an R2 proposal shall be public streets constructed to City Standards and Specifications and dedicated to the City. 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 Planning Commission and City Council may consider limited connections 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.
 - 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 Planning Commission and maintained in accordance with the provision of this chapter.
12. Storage Areas and Solid Waste Receptacles. All storage and solid waste receptacles which are not located within a building shall be enclosed within a sight obscuring structure or fence compatible with the design of the development. All individual garbage containers shall have the ability to be serviced from a public street. If a central waste receptacle is used, which services more than three (3) units, then a handling plan shall be prepared by the applicant and submitted

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to the Planning Department for review with the site plan.

13. Architectural Styles and Treatments. R2 project proposals shall demonstrate architectural treatments and styles to buildings and structures that are common to the neighborhood in which the buildings are constructed. This shall include items such as building materials, roof pitches, colors, exterior finishing materials, fences, etc.

14. Declaration of Covenants, Conditions, and Restriction. Where covenants, conditions, and restrictions are imposed upon an R2 project, two (2) copies of the Declaration of Covenants, Conditions, and Restrictions shall be submitted to the City signed and prepared for recording at the Utah County Recorder's office prior to final approval. (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 division establishes requirements and regulations regarding accessory apartments. It is the intent of the R2 Overlay Zone to allow owner occupied accessory apartments in single family homes in both the R1-12 and the R1-20 zones where such single family homes were not approved as part of an R2 Overlay project. Accessory apartments are included in growth share calculations for each individual R2 district.

1. Accessory Apartment Requirements:
 - a. Location. Accessory apartments shall be allowed only in owner occupied single-family dwellings.
 - b. Number of Accessory Apartments. A maximum number of one (1) accessory apartment shall be allowed in 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 unless the garage is sized for more than two vehicles and clear access 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 accessory apartment 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 stall.
- d. Utility Meters. A single-family dwelling with an accessory apartment shall have no more than two (2) meters for each water, gas, and electric utility service and each meter shall be in the property owner's name.
- e. Minimum Size – Maximum Size. The size of an accessory apartment shall be at least three hundred (300) square feet. An accessory apartment shall not exceed twelve hundred (1200) square feet nor shall it contain more than three (3) bedrooms. In addition, the single-family dwelling shall maintain a minimum of one thousand (1000) square feet of finished living space separate from the accessory apartment.
- f. Building Code. All construction and remodeling shall comply with building

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- codes in effect at the time of construction or remodeling.
- g. **Building Entrances.** A new single-family structure 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. An accessory apartment approved in an existing structure shall use existing entrances on any side of the structure that faces a street. The purpose of this requirement is to preserve the single-family residential appearance of the building.
- h. **Attached Apartments.** Accessory Apartment may be created:
1. Over an attached garage (to the main dwelling unit), provided the parking within the garage is not converted.
 2. Inside the home through an internal conversion of the housing unit.
 3. By an addition to the house, containing an internal connection between the dwelling units, provided that the addition will not alter the single family character of the building.
- i. **Garages and accessory buildings** substantially attached to the main dwelling by covered walkways, covered breeze ways, and covered porches may include an accessory apartment when approved by the Planning Commission. In such instances, the garage/accessory building shall not be more than a distance of fifteen feet (15') from the main dwelling unit measured linearly, and any structural alterations or additions shall be consistent with the architecture and décor of the main dwelling unit. This shall be determined by the Planning Commission.
- The accessory apartment shall be above or behind the garage.
- j. Accessory apartments attached by a breeze way or other covered walkways shall not be considered attached to the main dwelling unit.
- k. **Detached Apartments.** Detached accessory apartments are not permitted. Accessory apartments as part of detached garages and/or outbuildings shall also not be permitted.
2. **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:
- i. 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, the location of parking stalls, and utility meters.
 - ii. 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.
- b. 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

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the City plans 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.

- c. 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 17.46.100. The Planning Commission shall then approve, continue, or deny the application.
 - d. Upon issuance of the accessory apartment building permit, the applicant shall pay fees in accordance with the currently adopted Lindon City Fee Schedule.
3. Prior Uses. The Planning and Building Departments will issue a permit for any accessory apartment existing at the time of the adoption of this ordinance if the following conditions are met:
- i. The accessory apartment is in compliance with the zoning ordinance, and
 - ii. A building permit was issued when the apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall

pay an inspection fee and the Chief Building Official (CBO) or designee shall inspect the apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.

- 4. Affidavit Requirements. It shall be required once an accessory apartment is approved by the Lindon City Planning Commission that the owner of any single-family dwelling requesting an accessory apartment sign an affidavit therein stating that the home containing the accessory apartment will be owner occupied. In the event that a home changes ownership, the new owner shall be required to complete a new affidavit stating the home will be owner occupied. These affidavits will be recorded at the Utah County Recorders office. This requirement applies only to accessory apartment approved after the date of approval of this ordinance. (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

- 1. Single family homes with a second kitchen shall not be considered to have an accessory apartment and shall comply with the following requirements:
 - i. The home shall have only one address.
 - ii. 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

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- 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.”
- iii. The home shall have no more than one electrical meter.
 - iv. A second kitchen may exist only as part of the primary structure and may not be installed in an accessory or “out” building unless approved by the Planning Commission as part of a home occupation permit.
2. A kitchen shall be defined as a place with food preparation facilities which shall include a stove/range appliance. (Ord. 2002-18, Amended 07/02/2002 Ord. 2001-10, Adopted 8/21/2001)