

ORDINANCE NUMBER 2015- 8

An ordinance amending the Weber County Land Use Code Title 108, Chapter 12, to add provisions for lots and buildings made nonconforming or noncomplying due to a public right-of-way expansions, and to provide related administrative clarifications.

Whereas, the expansion of various public rights-of-way may cause some lots and/or buildings to become nonconforming or more nonconforming to the applicable standards of the County Land Use Code; and

Whereas, the County Land Use Code did not heretofore specify how such nonconformities should be governed; and

Whereas, on February 24, 2015, the Ogden Valley Planning Commission, after appropriate notice, held a public hearing to consider public comments regarding amendments to the County Land Use Code to provide for said nonconformities; and on April 14, 2015, the Western Weber Planning Commission did the same; and

Whereas, both the Ogden Valley Planning Commission and the Western Weber Planning Commission have forwarded a positive recommendation to the County Commission for amendments to County Land Use Code County to provide for said nonconformities; and

Whereas, on May 5, 2015, the Weber County Board of Commissioners, after appropriate notice, held a public hearing to consider public comments regarding amendments to the County Land Use Code to provide for said nonconformities; and

Whereas, The Weber County Board of Commissioners, find that the proposed ordinance amendments comply with the goals/objectives of the General Plan and provide clarification necessary to facilitate efficient administration of the Weber County Land Use Code; and

Now therefore, the Weber County Board of Commissioners ordains an amendment to the Weber County Land Use Code as follows:


See Exhibit A (Track Changes) and Exhibit B (Clean Copy)

This ordinance shall become effective fifteen (15) days after publication.

Passed, adopted, and ordered published this 5th day of May, 2015, by the Weber County Board of Commissioners.

Commissioner Gibson
Commissioner Bell
Commissioner Ebert

Voting aye
Voting aye
Voting aye



Commission Chair

ATTEST:



Ricky Hatch, CPA Weber County Clerk

EXHIBIT A: CODE CHANGE – RIGHT OF WAY EXPANSIONS CAUSING NONCONFORMING LOTS.

All sections of code not specifically addressed herein shall remain unchanged.

1 **PART II LAND USE CODE**

2 Title 101 - GENERAL PROVISIONS

3 ...

4 Title 108 - STANDARDS

5 ...

6 **Title 101 GENERAL PROVISIONS**

7 ...

8 Sec. 101-1-7. Definitions.

9 ...

10 **Sec. 101-1-7. Definitions.**

11 ...

12 *Lot, nonconforming.* The term "nonconforming lot" means a lot or parcel that complied
13 with lot standards in effect at the time of the lot's creation and, because of subsequent changes to
14 the Land Use Code, does not conform to the current lot standards. Applicable standards include
15 lot standards of the zone in which the lot is located, lot standards of the subdivision ordinance,
16 and other lot standards of this Land Use Code. ~~of land that has less than the required minimum~~
17 ~~area or width as established by the zone in which it is located and provided that such lot or parcel~~
18 ~~was of record as a legally created lot on the effective date of the ordinance from which this title is~~
19 ~~derived.~~

20 ...

21 *Noncomplying structure.* The term "noncomplying structure" means a structure that
22 legally existed before its current land use designation and because of one or more subsequent
23 land use ordinance changes, does not conform to the setback, height restrictions, or other
24 regulations, excluding those regulations that govern the use of land.

25 *Nonconforming building or structure.* The term "nonconforming building or structure"
26 means a building or structure or portion thereof, lawfully existing at the time of the effective date
27 of the ordinance from which this chapter is derived, which does not conform to all the height, area
28 and yard regulations herein prescribed in the zone in which it is located.

29 *Nonconforming lot or parcel.* See "Lot, nonconforming."

30 *Nonconforming sign.* See "Sign, nonconforming."

31 *Nonconforming use.* The term "nonconforming use" means a use of land that legally
32 existed before its current land use designation, has been maintained continuously since the time
33 the land use ordinance regulation governing the land changed, and because of one or more
34 subsequent land use ordinance changes, does not conform to the regulations that now govern
35 the use of the land.

36 ...

37 Title 108 STANDARDS

38 ...

39 CHAPTER 12. - NONCOMPLYING STRUCTURES ~~AND~~, NONCONFORMING USES/~~PARCELS~~, AND 40 NONCONFORMING LOTS

41 ...

42 CHAPTER 12. NONCOMPLYING STRUCTURES, ~~AND~~ NONCONFORMING USES, ~~PARCELS~~ AND 43 NONCONFORMING LOTS

44 Sec. 108-12-1. Purpose and intent.

45 Sec. 108-12-2. Maintenance, repairs, and alterations.

46 Sec. 108-12-3. Additions and enlargements.

47 Sec. 108-12-4. Alteration where parking insufficient.

48 Sec. 108-12-5. Moving noncomplying structures.

49 Sec. 108-12-6. Restoration of damaged buildings.

50 Sec. 108-12-7. One-year vacancy or abandonment.

51 Sec. 108-12-8. Change of use.

52 Sec. 108-12-9. Expansion of nonconforming use.

53 Sec. 108-12-10. Legal use of ~~parcels~~ nonconforming lots.

54 Sec. 108-12-11. Subdivision plat requirements for nonconforming lots, exceptions. ~~Parcels in areas subjected~~
55 ~~to change in zoning.~~

56 Sec. 108-12-12. ~~Combining~~ Enlarging nonconforming ~~parcels~~ lots.

57 Sec. 108-12-13. Setback requirements for nonconforming lots. ~~Small lots/parcels created prior to zoning.~~

58 Sec. 108-12-14. Parcels previously combined for tax purposes.

59 Sec. 108-12-15. Effect of Public Right of Way Expansion.

60 **Sec. 108-12-1. Purpose and intent.**

61 The purpose and intent of this chapter is to provide standards for the development and
62 use of noncomplying structures ~~and~~, nonconforming uses, ~~and nonconforming lots~~ parcels. These
63 structures, uses, and ~~lots~~ parcels are considered legal, despite not meeting the current
64 requirements of the zone in which they are located.

65 **Sec. 108-12-2. Maintenance, repairs, and alterations.**

66 (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures on
67 lots of record.

68 (b) Dwellings or other structures built on lots or parcels which were once legal, but have since
69 been ~~made illegal~~ modified in a manner that is in violation of applicable laws, shall not be
70 issued land use or building permits, unless the structure is being strengthened or restored to
71 a safe condition, or the lot or parcel is made to conform to current zoning regulations. In
72 restoring the structure to a safe condition, no expansion of the structure is allowed.

73 **Sec. 108-12-3. Additions and enlargements.**

74 (a) A structure which is occupied by a nonconforming use shall not be added to or expanded in
75 any manner, unless such expansion is made to conform to all yard and use regulations of the
76 zone in which the structure is located.

77 (b) A noncomplying structure (main or accessory) shall not be added to or enlarged in any
78 manner, unless such addition or enlargement conforms to all the regulations of the zone in
79 which it is located, or conforms to the reduced yard setbacks as allowed in section 108-12-13

80 (c) A legally constructed dwelling or other structure on a lot of record, which has yard setbacks
81 that are less than the required yard setbacks for the zone in which it is located, shall be
82 allowed to have an addition, provided that:

83 (1) The addition does not encroach into the required yard setbacks further than the
84 existing dwelling or other structure; and

85 (2) The addition is located completely on the same property as the existing structure and
86 does not encroach into a road right-of-way or on to adjacent property.

87 (d) A legally constructed dwelling or other structure on a lot of record, which is located within a
88 stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-
89 23 and/or 104-28-2, ~~shall be allowed to have an addition(s)~~ may be added to or enlarged,
90 provided that:

91 (1) The addition does not encroach into the stream corridor setback further than the
92 existing dwelling or other structure; and

93 (2) The addition meets the yard setback requirements of the zone in which it is located or
94 conforms to the reduced yard setbacks as allowed in section 108-12-13; or

95 (3) The addition does not encroach into the required yard setbacks further than the
96 existing dwelling or other structure.

97 **Sec. 108-12-4. Alteration where parking insufficient.**

98 A structure lacking sufficient automobile parking space as required by this chapter may
99 be altered or enlarged, provided additional automobile parking space is supplied to meet the
100 requirements of the Weber County Land Use Code.

101 **Sec. 108-12-5. Moving noncomplying structures.**

102 A noncomplying structure shall not be moved in whole or in part to any other location on
103 a lot ~~or~~ parcel, unless every portion of such structure is made to conform to all regulations of the
104 zone in which it is located, or made to conform to the reduced yard setbacks as allowed in section
105 108-12-13.

106 **Sec. 108-12-6. Restoration of damaged buildings.**

107 A noncomplying structure which is damaged or partially destroyed by fire, flood, wind,
108 earthquake, or other calamity, act of God, or the public enemy, may be restored and the
109 occupancy or use of such structure or part thereof, may be continued or resumed, provided that
110 such restoration is started within a period of one year, by obtaining a land use permit, and is
111 diligently pursued to completion.

112 **Sec. 108-12-7. One-year vacancy or abandonment.**

113 (a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and which is
114 or hereafter becomes vacant and remains unoccupied for a continuous period of one year,
115 except for dwellings and structures to house animals and fowl, shall not thereafter be

116 occupied except by a use which conforms to the use regulations of the zone in which it is
117 located. Wherever a nonconforming use has been discontinued for a period of one year, such
118 use shall not thereafter be re-established and any future use shall be in conformance with the
119 current provisions of the Weber County Land Use Code.

120 (b) Any building or structure for which a valid building permit has been issued and actual
121 construction was lawfully begun prior to the date when the structure became noncomplying,
122 may be completed and used in accordance with the plans, specifications and permit on which
123 said building permit was granted. The term "actual construction" is hereby defined to be the
124 actual placing of construction materials in their permanent position, fastened in a permanent
125 manner, actual work in excavating a basement or the demolition or removal of an existing
126 structure begun preparatory to rebuilding; provided that in all cases actual construction work
127 shall be diligently carried on until the completion of the building or structure involved.

128 **Sec. 108-12-8. Change of use.**

129 The nonconforming use of a legal structure may not be changed except to a conforming
130 use. Where such a change is made to a conforming use, the use shall not thereafter be changed
131 back to a nonconforming use.

132 **Sec. 108-12-9. Expansion of nonconforming use.**

133 A nonconforming use may be extended to include the entire floor area of the existing
134 legal structure in which it was conducted at the time the use became nonconforming, provided,
135 however, that a ~~certificate of occupancy~~ Land Use Permit is first obtained for such extension of
136 use.

137 **Sec. 108-12-10. Legal use of nonconforming lots ~~parcels~~.**

138 ~~(a) Any legally created lot and/or parcel of land, which existed prior to adoption of the Weber~~
139 ~~County Land Use Code/Zoning Map may apply to develop any of the permitted or conditional~~
140 ~~uses for which the lot and/or parcel qualifies, in the zone where the lot and/or parcel of land is~~
141 ~~located. In Western Weber County, the 1962 ownership plats are used as the legal reference~~
142 ~~point, and in the Ogden Valley, the 1966 ownership plats are used as the legal reference point.~~

143 ~~(b) Any legally created lot and/or parcel of land which existed prior to the adoption of the~~
144 ~~Weber County Land Use Code or an amendment to the Land Use Code, but which may now~~
145 ~~require a different lot area or lot width/frontage, may apply to develop any of the permitted or~~
146 ~~conditional uses for which the lot and/or parcel qualifies, in the zone where the lot and/or parcel of~~
147 ~~land is located.~~

148 Development on a nonconforming lot is permitted. Development on a nonconforming lot
149 is limited to only those permitted and conditional uses allowed on the smallest minimum lot size

150 for the applicable zone. A new use on a nonconforming lot is prohibited if the proposed use
151 requires a lot size larger than the smallest lot size permitted in the zone. A legally established use
152 may continue on a nonconforming lot regardless of the lot size requirements of the use.

153 ...

154 **Sec. 108-12-11. ~~Parcels in areas subjected to change in zoning~~ Subdivision plat requirements for**
155 **nonconforming lots, exemptions.**

156 All lots and parcels shall be platted as part of a subdivision in conformance with the
157 requirements of Title 106 of this Land Use Code, unless otherwise exempted by State Code or
158 this Land Use Code. The platting of nonconforming lots, and the amendment to a platted
159 subdivision containing nonconforming lots are governed as follows:

160 (a) The following rules govern the treatment of an unplatted lot that was created in conformance
161 with the lot standards in effect at the time of the lot's creation and, because of subsequent
162 changes to the Land Use Code, does not conform to the current lot standards; the lot may not
163 have conformed with the requirements of the subdivision code in effect at that time:

164 (1) If the existing lot can be defined as a Lot of Record, as defined in Section 101-1-7, the lot
165 shall be exempt from subdivision platting requirements.

166 (2) If the existing lot was created prior to July 1, 1992, contained a single family dwelling unit,
167 and complied with the standards of the zone in effect at the time of the lot's creation, the
168 lot shall be exempt from subdivision platting requirements, and is a nonconforming lot.

169 (3) If the existing lot was created prior to July 1, 1992, and does not qualify for the provisions
170 of subsections (a)(1) and (a)(2), then the lot shall be platted in accordance with Title 106
171 of this Land Use Code. Lot standards applicable for such subdivision may be reduced to
172 meet the minimum standards of the zone in effect at the time of the lot's creation so long
173 as it does not create any more lots than currently exist, and the current lot size is not
174 materially reduced from it's current acreage. All such platted lots that do not conform to
175 current zoning standards shall thereafter be considered nonconforming lots. A lot that
176 does not meet the minimum standards of the zone in effect at the time of the lot's
177 creation may be reconfigured upon platting to comply with such standards as long as the
178 reconfiguration does not cause any other lot to become nonconforming or more
179 nonconforming. A lot platted pursuant to this subsection may be further reduced in size to
180 accommodate any right of way dedication as may be required by Title 106 of this Land
181 Use Code. No unplatted lot or parcel governed by this subsection shall be granted a land
182 use permit prior to subdivision platting.

183 (b) Any lot legally platted within the bounds of a subdivision that was created pursuant to the
184 standards of the zoning code and subdivision code in effect at the time of its creation, but no
185 longer complies due to subsequent changes to these codes, may be amended pursuant to
186 the minimum standards in effect at the time of its creation. The amendment shall not create
187 any new lots. An amended plat shall be required.

188 ~~Where lot area and/or frontage/width requirements have increased as a result of a~~
189 ~~change in zoning, the following shall apply:~~

190 ~~(1) — Parcels not meeting current zoning as to area and/or frontage/width~~
191 ~~requirements, but containing a single-family dwelling which:~~

192 ~~a. — Were built on and created and recorded prior to July 1992 changes to~~
193 ~~the Utah Code, Subdivision Law and met area and frontage/width requirements~~
194 ~~for the zone in which they were created at the time they were created are~~
195 ~~considered nonconforming parcels; or~~

196 ~~b. — Were created and recorded with an existing single-family dwelling after~~
197 ~~July 1992 changes to the Utah Code, Subdivision Law but prior to the change in~~
198 ~~zoning, and met area and frontage/width requirements for the zone in which they~~
199 ~~were created at the time they were created shall submit an application for~~
200 ~~subdivision approval;~~

201 ~~c. — Were part of a legal subdivision, but were further divided, and met the~~
202 ~~requirements of subsections (1)a or b of this section shall be subject to the note~~
203 ~~below.~~

204
205 ~~NOTE: No lot within a subdivision approved by the Planning Commission and~~
206 ~~County Commission and recorded in the County Recorder's Office in accordance~~
207 ~~with the provisions of the Subdivision Ordinance, shall be further divided,~~
208 ~~rearranged, added to or reduced in area nor shall the boundaries of any lot be~~
209 ~~altered in a any manner so as to create more lots than initially recorded without~~
210 ~~first obtaining the approval of the Land Use Authority. Therefore, an amended~~
211 ~~plat shall be required.~~

212
213
214 ~~(2) — Parcels not meeting current zoning as to area and/or frontage/width~~
215 ~~requirements, containing a single-family dwelling which:~~

216 ~~a. — Were created and recorded prior to July 1992 changes to the Utah Code,~~
217 ~~Subdivision Law;~~

218 b. ~~Are able to obtain the additional area and frontage/width which would~~
219 ~~bring the lot into compliance with the area and frontage/width requirements for~~
220 ~~the zone in which they were created at the time they were created; and~~
221 c. ~~Complied with all other county ordinances when built;~~
222 ~~may submit an application for subdivision approval provided they meet all other~~
223 ~~requirements of title 106, Subdivisions.~~

224 (3) ~~Parcels not meeting current zoning as to area and/or frontage/width~~
225 ~~requirements which:~~

226 a. ~~Were created and recorded prior to July 1992 changes to the Utah Code,~~
227 ~~Subdivision Law; and~~

228 b. ~~Met area and frontage/width requirements for the zone in which they~~
229 ~~were created at the time they were created;~~

230 ~~may submit an application for subdivision approval provided they meet all other~~
231 ~~requirements of title 106.~~

232 (4) ~~Lots/parcels which are subject to subsections (1), (2), or (3) of this~~
233 ~~section, and have boundary descriptions that fall within a roadway, shall be allowed to~~
234 ~~develop with the lot/parcel area that remains after dedicating land for the roadway, as~~
235 ~~required by the Weber County Land Use Code.~~

236 (5) ~~Parcels that have been combined by the county recorder's office for tax~~
237 ~~purposes shall be allowed to separate one or more of the combined parcels on an~~
238 ~~approved and recorded form provided:~~

239 a. ~~The parcels that are being separated were originally created prior to July~~
240 ~~1992 changes to the Utah Code, and Subdivision Law;~~

241 b. ~~The properties as configured prior to the combination met area and~~
242 ~~frontage/width requirements for the zone in which they were created, or were considered~~
243 ~~nonconforming parcels;~~

244 e. ~~The combination was done by the current owner or same owner acting~~
245 ~~as trustee, and was done by a quit claim, combination form, or other instrument, which~~
246 ~~states the consolidation of parcels is for tax purposes;~~

247 d. ~~No new lots are being created;~~

248 e. ~~The separation of parcels results in a configuration consistent with the~~
249 ~~original parcels and conforms to the ordinance that was in place prior to the recording of~~
250 ~~the combination form; and~~

251 ~~f. The separation of combined parcels authorized under this subsection~~
252 ~~does not authorize a change in the configuration of an approved and recorded subdivision~~
253 ~~or lots within such subdivision. A subdivision plat cannot be changed unless an amended~~
254 ~~subdivision plat is prepared and recorded in accordance with Utah Code and title 106 of~~
255 ~~the Land Use Code.~~

256 **Sec. 108-12-12. Combining Enlarging nonconforming parcels lots.**

257 Nonconforming lots may be reconfigured in a manner that complies with the standards of
258 the zone in effect at the time of the lot's creation if the reconfiguration does not create any more
259 lots than currently exist. The reconfiguration shall not cause any other lot to become
260 nonconforming or more nonconforming. If the nonconforming lot is part of a platted subdivision an
261 amended subdivision plat is required. ~~Parcels not meeting current zoning as to area and~~
262 ~~frontage/width requirements that were legally created or made legal through the provisions of this~~
263 ~~chapter, may be enlarged by combining adjoining parcels provided that:~~

264
265 ~~(1) The combination is achieved by submitting a subdivision if any of the parcels were~~
266 ~~part of a recorded subdivision or by combining parcels if they have metes and~~
267 ~~bounds descriptions;~~

268 ~~(2) All adjoining parcels under common ownership, or brought under common ownership~~
269 ~~after the date of the adoption of this section are merged to create the largest lot~~
270 ~~possible;~~

271 ~~(3) The combination does not result in any illegal divisions of land; and~~

272 ~~(4) Structures built on the newly created lot shall resemble the architectural style, height,~~
273 ~~size and mass of existing noncommercial structures on parcels within 500 feet of the~~
274 ~~newly created lot, and meet all current setback and height requirements of the zone~~
275 ~~in which the combination is made.~~

276 **Sec. 108-12-13. Setback requirements for nonconforming lots.** ~~Small lots/parcels created prior to~~
277 ~~zoning.~~

278 A nonconforming lot ~~/parcel~~ that has a smaller width than is required for the zone in which
279 it is located may be developed in a manner that does not exceed the following allowed reduction
280 in side yard setbacks:

- 281 (1) A nonconforming lot's/parcel's actual width (v) may be divided by the current required
282 frontage/width (w) in order to formulate a ratio or proportional relation (x). (Formula:
283 "v" divided by "w" equals "x.")
- 284 (2) The ratio may then be multiplied by the current zone's side yard setback requirement
285 (y) in order to establish a reduced setback (z). (Formula: "x" multiplied by "y" equals
286 "z".)
- 287 (3) The reduced side yard setback is subject to the conditions listed below. (Formula:
288 $v \div w = x$, $x \times y = z$.)
- 289 a. Under no circumstances shall an interior lot/parcel be allowed to reduce the
290 side-yard setback requirement below five feet on one side and eight feet on the
291 other.
- 292 b. Under no circumstances shall a corner lot/parcel be allowed to reduce the
293 side-yard requirement below ten feet when the side yard fronts on a street.
294

295 **Sec. 108-12-14. Parcels previously combined for tax purposes.**

296 (a) Parcels that have been combined by the county recorder's office for tax purposes shall be allowed to
297 separate one or more of the combined parcels on an approved and recorded form providedif:

- 298 (1) a.—The parcels that are being separated were originally created prior to July 1, 1992;
299 changes to the Utah Code, and Subdivision Law;
- 300 (2) b.—The properties as configured prior to the combination met area and frontage/width
301 requirements for the zone in which they were created, or were considered nonconforming
302 parcelslots;
- 303 (3) c.—The combination was done by the current owner or same owner acting as trustee, and
304 was done by a quit claim, combination form, or other instrument, which states the
305 consolidation of parcels is for tax purposes;
- 306 (4) d.—No new lots are being created; and
- 307 (5) e.—The separation of parcels results in a configuration consistent with the original parcels
308 and conforms to the ordinance that was in place prior to the recording of the combination
309 form, and the resulting lots conform with the provisions of Section 108-12-11.; and

310 (b) f.—The separation of combined parcels authorized under this subSection does not authorize a
311 change in the configuration of an approved and recorded subdivision or lots within such subdivision.
312 A subdivision plat cannot be changed unless an amended subdivision plat is prepared and recorded

313 in accordance with Utah Code and titleAny change to the configuration of a subdivision must comply
314 with Title 106 of the Land Use Code, and any applicable state law.

315 **Sec. 108-12-15. Effect of Public Right of Way Expansion.**

316 (a) Any structure that legally existed with conforming or nonconforming setback prior to the
317 expansion of a public right of way where the expansion of such public right of way makes the
318 structure noncomplying or more noncomplying to the setback requirements of this Land Use
319 Code, shall be deemed a legal, noncomplying structure.

320 (b) Any lot that legally existed in a conforming or nonconforming status prior to the expansion of
321 a public right of way where the expansion of such public right of way makes the lot
322 nonconforming or more nonconforming to the standards of this Land Use Code, shall be
323 deemed a legal, nonconforming lot.

324 (c) This section does not excuse or exempt any past or future action that creates or modifies a
325 lot in a manner that is in violation of applicable laws.
326

EXHIBIT B: [CLEAN COPY] CODE CHANGE – RIGHT OF WAY EXPANSIONS CAUSING
NONCONFORMING LOTS.

All sections of code not specifically addressed herein shall remain unchanged.

327 PART II LAND USE CODE

328 Title 101 - GENERAL PROVISIONS

329 ...

330 Title 108 - STANDARDS

331 ...

332 Title 101 GENERAL PROVISIONS

333 ...

334 Sec. 101-1-7. Definitions.

335 ...

336 Sec. 101-1-7. Definitions.

337 ...

338 *Lot, nonconforming.* The term "nonconforming lot" means a lot or parcel that complied
339 with lot standards in effect at the time of the lot's creation and, because of subsequent changes to
340 the Land Use Code, does not conform to the current lot standards. Applicable standards include
341 lot standards of the zone in which the lot is located, lot standards of the subdivision ordinance,
342 and other lot standards of this Land Use Code.

343 ...

344 *Noncomplying structure.* The term "noncomplying structure" means a structure that
345 legally existed before its current land use designation and because of one or more subsequent
346 land use ordinance changes, does not conform to the setback, height restrictions, or other
347 regulations, excluding those regulations that govern the use of land.

348

349 *Nonconforming lot or parcel.* See "Lot, nonconforming."

350 *Nonconforming sign.* See "Sign, nonconforming."

351 *Nonconforming use.* The term "nonconforming use" means a use of land that legally
352 existed before its current land use designation, has been maintained continuously since the time
353 the land use ordinance regulation governing the land changed, and because of one or more
354 subsequent land use ordinance changes, does not conform to the regulations that now govern
355 the use of the land.

356 ...

357 **Title 108 STANDARDS**

358 ...

359 **CHAPTER 12. - NONCOMPLYING STRUCTURES, NONCONFORMING USES, AND**
360 **NONCONFORMING LOTS**

361 ...

362 **CHAPTER 12. NONCOMPLYING STRUCTURES, NONCONFORMING USES, AND**
363 **NONCONFORMING LOTS**

- 364 Sec. 108-12-1. Purpose and intent.
- 365 Sec. 108-12-2. Maintenance, repairs, and alterations.
- 366 Sec. 108-12-3. Additions and enlargements.
- 367 Sec. 108-12-4. Alteration where parking insufficient.
- 368 Sec. 108-12-5. Moving noncomplying structures.
- 369 Sec. 108-12-6. Restoration of damaged buildings.
- 370 Sec. 108-12-7. One-year vacancy or abandonment.
- 371 Sec. 108-12-8. Change of use.
- 372 Sec. 108-12-9. Expansion of nonconforming use.
- 373 Sec. 108-12-10. Legal use of nonconforming lots.
- 374 Sec. 108-12-11. Subdivision plat requirements for nonconforming lots, exceptions.
- 375 Sec. 108-12-12. Enlarging nonconforming lots.
- 376 Sec. 108-12-13. Setback requirements for nonconforming lots.
- 377 Sec. 108-12-14. Parcels previously combined for tax purposes.
- 378 Sec. 108-12-15. Effect of Public Right of Way Expansion.

379 **Sec. 108-12-1. Purpose and intent.**

380 The purpose and intent of this chapter is to provide standards for the development and
381 use of noncomplying structures, nonconforming uses, and nonconforming lots. These structures,
382 uses, and lots are considered legal, despite not meeting the current requirements of the zone in
383 which they are located.

384 **Sec. 108-12-2. Maintenance, repairs, and alterations.**

385 (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures on
386 lots of record.

387 (b) Dwellings or other structures built on lots or parcels which were once legal, but have since
388 been modified in a manner that is in violation of applicable laws, shall not be issued land use
389 or building permits, unless the structure is being strengthened or restored to a safe condition,
390 or the lot or parcel is made to conform to current zoning regulations. In restoring the structure
391 to a safe condition, no expansion of the structure is allowed.

392 **Sec. 108-12-3. Additions and enlargements.**

393 (a) A structure which is occupied by a nonconforming use shall not be added to or expanded in
394 any manner, unless such expansion is made to conform to all yard and use regulations of the
395 zone in which the structure is located.

396 (b) A noncomplying structure (main or accessory) shall not be added to or enlarged in any
397 manner, unless such addition or enlargement conforms to all the regulations of the zone in
398 which it is located, or conforms to the reduced yard setbacks as allowed in section 108-12-13

399 (c) A legally constructed dwelling or other structure on a lot of record, which has yard setbacks
400 that are less than the required yard setbacks for the zone in which it is located, shall be
401 allowed to have an addition, provided that:

402 (1) The addition does not encroach into the required yard setbacks further than the
403 existing dwelling or other structure; and

404 (2) The addition is located completely on the same property as the existing structure and
405 does not encroach into a road right-of-way or on to adjacent property.

406 (d) A legally constructed dwelling or other structure on a lot of record, which is located within a
407 stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-
408 23 and/or 104-28-2, may be added to or enlarged, provided that:

409 (1) The addition does not encroach into the stream corridor setback further than the existing
410 dwelling or other structure; and

- 411 (2) The addition meets the yard setback requirements of the zone in which it is located or
412 conforms to the reduced yard setbacks as allowed in section 108-12-13; or
413 (3) The addition does not encroach into the required yard setbacks further than the
414 existing dwelling or other structure.

415 **Sec. 108-12-4. Alteration where parking insufficient.**

416 A structure lacking sufficient automobile parking space as required by this chapter may
417 be altered or enlarged, provided additional automobile parking space is supplied to meet the
418 requirements of the Weber County Land Use Code.

419 **Sec. 108-12-5. Moving noncomplying structures.**

420 A noncomplying structure shall not be moved in whole or in part to any other location on
421 a lot or parcel, unless every portion of such structure is made to conform to all regulations of the
422 zone in which it is located, or made to conform to the reduced yard setbacks as allowed in section
423 108-12-13.

424 **Sec. 108-12-6. Restoration of damaged buildings.**

425 A noncomplying structure which is damaged or partially destroyed by fire, flood, wind,
426 earthquake, or other calamity, act of God, or the public enemy, may be restored and the
427 occupancy or use of such structure or part thereof, may be continued or resumed, provided that
428 such restoration is started within a period of one year, by obtaining a land use permit, and is
429 diligently pursued to completion.

430 **Sec. 108-12-7. One-year vacancy or abandonment.**

431 (a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and which is
432 or hereafter becomes vacant and remains unoccupied for a continuous period of one year,
433 except for dwellings and structures to house animals and fowl, shall not thereafter be
434 occupied except by a use which conforms to the use regulations of the zone in which it is
435 located. Wherever a nonconforming use has been discontinued for a period of one year, such
436 use shall not thereafter be re-established and any future use shall be in conformance with the
437 current provisions of the Weber County Land Use Code.

438 (b) Any building or structure for which a valid building permit has been issued and actual
439 construction was lawfully begun prior to the date when the structure became noncomplying,
440 may be completed and used in accordance with the plans, specifications and permit on which
441 said building permit was granted. The term "actual construction" is hereby defined to be the
442 actual placing of construction materials in their permanent position, fastened in a permanent

443 manner, actual work in excavating a basement or the demolition or removal of an existing
444 structure begun preparatory to rebuilding; provided that in all cases actual construction work
445 shall be diligently carried on until the completion of the building or structure involved.

446 **Sec. 108-12-8. Change of use.**

447 The nonconforming use of a legal structure may not be changed except to a conforming
448 use. Where such a change is made to a conforming use, the use shall not thereafter be changed
449 back to a nonconforming use.

450 **Sec. 108-12-9. Expansion of nonconforming use.**

451 A nonconforming use may be extended to include the entire floor area of the existing
452 legal structure in which it was conducted at the time the use became nonconforming, provided,
453 however, that a Land Use Permit is first obtained for such extension of use.

454 **Sec. 108-12-10. Legal use of nonconforming lots.**

455 Development on a nonconforming lot is permitted. Development on a nonconforming lot
456 is limited to only those permitted and conditional uses allowed on the smallest minimum lot size
457 for the applicable zone. A new use on a nonconforming lot is prohibited if the proposed use
458 requires a lot size larger than the smallest lot size permitted in the zone. A legally established use
459 may continue on a nonconforming lot regardless of the lot size requirements of the use.

460 ...

461 **Sec. 108-12-11. Subdivision plat requirements for nonconforming lots, exemptions.**

462 All lots and parcels shall be platted as part of a subdivision in conformance with the
463 requirements of Title 106 of this Land Use Code, unless otherwise exempted by State Code or
464 this Land Use Code. The platting of nonconforming lots, and the amendment to a platted
465 subdivision containing nonconforming lots are governed as follows:

466 (a) The following rules govern the treatment of an unplatted lot that was created in conformance
467 with the lot standards in effect at the time of the lot's creation and, because of subsequent
468 changes to the Land Use Code, does not conform to the current lot standards; the lot may not
469 have conformed with the requirements of the subdivision code in effect at that time:

470 (1) If the existing lot can be defined as a Lot of Record, as defined in Section 101-1-7, the lot
471 shall be exempt from subdivision platting requirements.

472 (2) If the existing lot was created prior to July 1, 1992, contained a single family dwelling unit,
473 and complied with the standards of the zone in effect at the time of the lot's creation, the
474 lot shall be exempt from subdivision platting requirements, and is a nonconforming lot.

475 (3) If the existing lot was created prior to July 1, 1992, and does not qualify for the provisions
476 of subsections (a)(1) and (a)(2), then the lot shall be platted in accordance with Title 106
477 of this Land Use Code. Lot standards applicable for such subdivision may be reduced to
478 meet the minimum standards of the zone in effect at the time of the lot's creation so long
479 as it does not create any more lots than currently exist, and the current lot size is not
480 materially reduced from it's current acreage. All such platted lots that do not conform to
481 current zoning standards shall thereafter be considered nonconforming lots. A lot that
482 does not meet the minimum standards of the zone in effect at the time of the lot's
483 creation may be reconfigured upon platting to comply with such standards as long as the
484 reconfiguration does not cause any other lot to become nonconforming or more
485 nonconforming. A lot platted pursuant to this subsection may be further reduced in size to
486 accommodate any right of way dedication as may be required by Title 106 of this Land
487 Use Code. No unplatted lot or parcel governed by this subsection shall be granted a land
488 use permit prior to subdivision platting.

489 (b) Any lot legally platted within the bounds of a subdivision that was created pursuant to the
490 standards of the zoning code and subdivision code in effect at the time of its creation, but no
491 longer complies due to subsequent changes to these codes, may be amended pursuant to
492 the minimum standards in effect at the time of its creation. The amendment shall not create
493 any new lots. An amended plat shall be required.

494 **Sec. 108-12-12. Enlarging nonconforming lots.**

495 Nonconforming lots may be reconfigured in a manner that complies with the standards of
496 the zone in effect at the time of the lot's creation if the reconfiguration does not create any more
497 lots than currently exist. The reconfiguration shall not cause any other lot to become
498 nonconforming or more nonconforming. If the nonconforming lot is part of a platted subdivision an
499 amended subdivision plat is required.

500 **Sec. 108-12-13. Setback requirements for nonconforming lots..**

501 A nonconforming lot that has a smaller width than is required for the zone in which it is
502 located may be developed in a manner that does not exceed the following allowed reduction in
503 side yard setbacks:

504 (1) A nonconforming lot's actual width (v) may be divided by the current required
505 frontage/width (w) in order to formulate a ratio or proportional relation (x). (Formula:
506 "v" divided by "w" equals "x.")

507 (2) The ratio may then be multiplied by the current zone's side yard setback requirement
508 (y) in order to establish a reduced setback (z). (Formula: "x" multiplied by "y" equals
509 "z".)

510 (3) The reduced side yard setback is subject to the conditions listed below.

511 a. Under no circumstances shall an interior lot be allowed to reduce the side-yard
512 setback requirement below five feet on one side and eight feet on the other.

513 b. Under no circumstances shall a corner lot be allowed to reduce the side-yard
514 requirement below ten feet when the side yard fronts on a street.

515

516 **Sec. 108-12-14. Parcels previously combined for tax purposes.**

517 (a) Parcels that have been combined by the county recorder's office for tax purposes shall be
518 allowed to separate one or more of the combined parcels on an approved and recorded form
519 if:

520 (1) The parcels that are being separated were originally created prior to July 1, 1992;

521 (2) The properties as configured prior to the combination met area and frontage/width
522 requirements for the zone in which they were created, or were considered
523 nonconforming lots;

524 (3) The combination was done by the current owner or same owner acting as trustee, and
525 was done by a quit claim, combination form, or other instrument, which states the
526 consolidation of parcels is for tax purposes;

527 (4) No new lots are being created; and

528 (5) The separation of parcels results in a configuration consistent with the original parcels
529 and conforms to the ordinance that was in place prior to the recording of the
530 combination form, and the resulting lots conform with the provisions of Section 108-12-
531 11.

532 (b) The separation of combined parcels authorized under this Section does not authorize a
533 change in the configuration of an approved and recorded subdivision or lots within such
534 subdivision. Any change to the configuration of a subdivision must comply with Title 106 of
535 the Land Use Code, and any applicable state law.

536 **Sec. 108-12-15. Effect of Public Right of Way Expansion.**

537 (a) Any structure that legally existed with conforming or nonconforming setback prior to the
538 expansion of a public right of way where the expansion of such public right of way makes the

539 structure noncomplying or more noncomplying to the setback requirements of this Land Use
540 Code, shall be deemed a legal, noncomplying structure.

541 (b) Any lot that legally existed in a conforming or nonconforming status prior to the expansion of
542 a public right of way where the expansion of such public right of way makes the lot
543 nonconforming or more nonconforming to the standards of this Land Use Code, shall be
544 deemed a legal, nonconforming lot.

545 (c) This section does not excuse or exempt any past or future action that creates or modifies a
546 lot in a manner that is in violation of applicable laws.