



Weber County Planning Division

To: Ogden Valley Planning Commission
From: Charles Ewert, AICP
Date: November 3, 2014
Subject: Ordinance Revision Work Session: Title 108, Standards, Chapter 12, Noncomplying Structures and Nonconforming Uses/Parcels

Summary. The County is working on expanding certain public rights of way to facilitate street improvements. The right of way expansions may cause some abutting lots that are at the minimum zoning standards to drop below adopted standards. The current Land Use Code does not provide these land owners appropriate protections from the County considering their lots “illegal.” The attached ordinance revisions began as a simple addition to the *Noncomplying Structures and Nonconforming Uses/Parcels* chapter, as can be seen in the attached proposed code change as the new Section 108-12-15. However, as staff reviewed the chapter in its entirety it became apparent that other changes could help for clarity and administration. Those changes are also being presented here.

Background. The Engineering Department is currently working with the public along 3500 West and 12th Street to initiate a public right of way expansion of both roads. The expansions will take the front portions of the parcels that front these streets. The amount taken depends on a myriad of factors, such as the current right of way width, necessary road appurtenances, and proximity to intersections of streets and canals. A special ordinance is necessary that allows lots made noncompliant to current zoning standards to be considered a legal, nonconforming status. This will help clarify in the law that the current occupancy, use, and the right to initiate new uses, as may be allowed by the zone, may be continued on properties that drop below the zoning standards.

In the process of vetting language to enable this, staff found other areas of the code related to nonconforming parcels that need additional clarity. Under historic best management practices, and in model ordinances used throughout the country, the nonconforming use and noncomplying structures ordinance is intended to ensure that the right to continue existing uses and structures are vested throughout time, and are protected from zoning changes or standards changes presented by new ordinances (often referred to as “grandfathered”). However, the original intent of such an ordinance is to make the changes or modifications of nonconforming uses and structures so restrictive that future land owners are more motivated to eliminate the nonconformity and comply with new ordinance standards (achieved by reconfiguring property and/or tearing down old structures). This intent was a method of advancing the purposes of new ordinances, which were presumably enacted to better the health, safety, and welfare of the public.



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In Weber County, such restrictiveness has not prevailed. Even though the framework of Chapter 108-12 *Noncomplying Structures and Nonconforming Uses/Parcels* appears to follow the framework of historic model ordinances, the chapter has been amended to be more permissive regarding the modification of noncomplying structures. It has also been amended with provisions on how to treat nonconforming lots, giving leniency to those lots created in a manner that did not comply with previous subdivision codes. Essentially, what this does is gives a grant of amnesty from subdivision requirements for these lots. The County does this for three reasons:

1. In some cases it is difficult to determine what laws were in effect at the time, and whether they complied with state laws of the time.
2. It is difficult to tell whether the County has consistently and fairly applied those laws to all people/properties.
3. It is politically unpalatable to penalize a successor for violations that were created by a prior owner.

These provisions are not proposed to be removed, but they are being revised to provide clarity.

Proposal. To provide for lots affected by the right of way expansion, Staff proposes the changes that can be found in the attached Exhibit A proposed code change, Section 108-12-15. Along with this new code section, a notice document has been created that will be recorded on the properties affected by right of way expansions. This notice will give current and future property owners notice of the new ordinance, and provide clarity in the record that their right to existing and new uses on the property will not be affected by the right of way expansion. This notice is provided in Exhibit B.

Regarding unplatted properties, the changes proposed in Exhibit A, under Section 108-12-11, maintain the flexibility of the current ordinance whilst also providing clarifications. One primary difference in the proposal that deviates from the historic standard of practice is the modified definition of “Lot, nonconforming.” Current ordinance only lists that zoning area and zoning width standards may make a lot nonconforming. The new definition specifies that *all applicable standards* may make a lot nonconforming. The significance of this change is this: lot standards may be found in various places in the code, including the zoning ordinance and the subdivision ordinance. If a lot is legally created or modified under the standards of any land use code requirement at the time and any of those standards are later changed, then the lot is considered nonconforming as it relates to the changed standard, whatever that standard may be. The proposed definition is no longer limiting to zoning area and zoning width standards.



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Because this change parts ways with historic application of this ordinance, both within Weber County and elsewhere, staff consulted with the Weber County legal team and the Office of the Property Rights Ombudsman to ensure the philosophy is keeping with the goal of maintaining a supportable and defensible code.

This new distinction is only important inasmuch as nonconforming lots are treated differently from conforming lots. Staff has searched the code for all references to nonconforming lots and cannot find any reference that this change may negatively affect.

Weber County Land Use Code Revision Workflow. This change fits into the workflow of ordinance changes as ongoing edits, clarifications, and additions to various sections of the Land Use Code, as can be seen in Exhibit C.

Planning Commission Consideration. As the Planning Commission hears and considers this proposed change there are several things to be looking for:

1. Does the proposed change comply with the purpose and/or intent of the specific code section or relevant zone? Every change should comply with that purpose/intent OR that purpose/intent should be changed to more accurately reflect current needs and desires.
2. Does the proposed change comply with the goals and objectives of the General Plan? You will need to dust off those general plans and refresh your knowledge of what is in them. The General Plan should act as a guide to vet land use ordinance decisions.
3. Does the proposed change promote the health, safety, and welfare of the community?
4. Does the proposed change provide equitable balance between land use rights and the public good?

Attachments:

- Exhibit A: Proposed Code Change – Right of Way Expansions Causing Nonconforming Lots
- Exhibit B: Sample Notice of Effect
- Exhibit C: Weber County Land Use Code Revision Process Workflow

Exhibit A: Code Change – Right of Way Expansions Causing Nonconforming Lots.

The following code changes are being proposed due to several planned public right of way expansion projects that may cause some lots to lose area and drop below the minimum lot standards of the applicable zone. During routine review of related code sections, staff found the need for greater clarity throughout, and are proposing such changes here.

This change addresses the following sections:

Sec 101-1-7. Definitions:

Lot, nonconforming

Lot of record (lawfully created lot)

Noncomplying structure

Nonconforming lot or parcel

Nonconforming sign

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

Related Additions, Corrections, and Clarifications:

Sec. 108-12. General Code Cleanup.

Sec. 108-12-11. Subdivision Plat Requirements for Nonconforming Lots

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

Sec. 108-12-14. Parcels previously combined

Key to changes:

Language that has been added is shown in blue underline.

~~Language that has been moved to a new location is shown in green double strikeout.~~

~~Language that has been deleted is shown in red strikeouts.~~

Language that has been moved from an old location is shown in green double underline.

1 **PART II LAND USE CODE** ^[1]

2 Title 101 - GENERAL PROVISIONS

3 Title 102 - ADMINISTRATION

4 Title 103 - RESERVED

5 Title 104 - ZONES

6 Title 105 - RESERVED

7 Title 106 - SUBDIVISIONS

8 Title 107 - RESERVED

9 Title 108 - STANDARDS

10 Title 109 - RESERVED

11 Title 110 - SIGNS

12 **Title 101 GENERAL PROVISIONS** ^[2]

13 Sec. 101-1-1. Short title.

14 Sec. 101-1-2. Purpose.

15 Sec. 101-1-3. Interpretation.

16 Sec. 101-1-4. Conflict.

17 Sec. 101-1-5. Effect on previous ordinances and maps.

18 Sec. 101-1-6. Rules of construction.

19 Sec. 101-1-7. Definitions.

20 Sec. 101-1-8. Amendments to Code; effect of new ordinances; amendatory language.

21 Sec. 101-1-9. Supplementation of Code.

22 Sec. 101-1-10. Catchlines of sections.

23 Sec. 101-1-11. Altering Code.

24 Sec. 101-1-12. Severability of parts of Code.

25 Sec. 101-1-13. General penalty; continuing violations.

26 Sec. 101-1-14. Certain ordinances not repealed or affected by adoption of Code.

27 ...

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

29 ...

30 *Lot, nonconforming.* The term "nonconforming lot" means a lot or parcel [that complied](#)
31 [with all applicable standards in effect at the time of the lot's creation and, because of subsequent](#)
32 [changes to the Land Use Code, does not conform to the current applicable standards.](#) [Applicable](#)

standards include standards of the zone in which the lot is located, standards of the subdivision ordinance, and other standards of this Land Use Code. ~~of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of the ordinance from which this title is derived.~~

...
Lot of record (lawfully created lot). A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
- (3) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
- (4) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and has undergone and successfully completed the Weber County subdivision process; or
- (5) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or
- (6) A parcel/lot that is the subject of a land division where Weber County, in compliance with Utah State Code, has expressly approved the division in anticipation of further land use approvals conditioned upon and as authorized by the Weber County Zoning Ordinance; or
- (7) A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.

There are parcels/lots within Weber County that may have been created and subsequently recorded in the office of the Weber County Recorder, but were not lawfully created in accordance with Utah State Code or Weber County Ordinances/Policy as described herein. Weber County is not able to issue a land use permit and/or building permit for such parcels/lots.

~~Noncomplying structure.~~ The term "noncomplying structure" means a structure that legally existed before its current land use designation and because of one or more subsequent

Comment [c1]: What needs to be done to consolidate this definition with the one below?

71 land use ordinance changes, does not conform to the setback, height restrictions, or other
72 regulations, excluding those regulations that govern the use of land.

Comment [c2]: Straight from State Code

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

Comment [c3]: Provided for in "noncomplying structure" above. A search for both "nonconforming building" and "nonconforming structure" of current code did not yield any results.

77 Nonconforming lot or parcel. See "Lot, nonconforming."

78 Nonconforming sign. See "Sign, nonconforming."

79 ~~Nonconforming use. The term "nonconforming use" means a use of land that legally~~
80 ~~existed before its current land use designation, has been maintained continuously since the time~~
81 ~~the land use ordinance regulation governing the land changed, and because of one or more~~
82 ~~subsequent land use ordinance changes, does not conform to the regulations that now govern~~
83 ~~the use of the land.~~

Comment [c4]: Straight from State Code.

84 ...

85 **Title 108 STANDARDS** 

86 CHAPTER 1. - DESIGN REVIEW

87 CHAPTER 2. - OGDEN VALLEY ARCHITECTURAL, LANDSCAPE AND SCREENING DESIGN STANDARDS

88 CHAPTER 3. - CLUSTER SUBDIVISIONS

89 CHAPTER 4. - CONDITIONAL USES

90 CHAPTER 5. - PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD)

91 CHAPTER 6. - TIME SHARE

92 CHAPTER 7. - SUPPLEMENTARY AND QUALIFYING REGULATIONS

93 CHAPTER 8. - PARKING AND LOADING SPACE, VEHICLE TRAFFIC AND ACCESS REGULATIONS

94 CHAPTER 9. - MOTOR VEHICLE ACCESS

95 CHAPTER 10. - PUBLIC BUILDINGS AND PUBLIC UTILITY SUBSTATIONS AND STRUCTURES

96 CHAPTER 11. - RESERVED

97 CHAPTER 12. - NONCOMPLYING STRUCTURES AND NONCONFORMING USES/PARCELS

Comment [c5]: Chapter of Focus

98 CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY OUTDOOR SALES; FARMER'S
99 MARKETS

100 CHAPTER 14. - HILLSIDE DEVELOPMENT REVIEW PROCEDURES AND STANDARDS

101 [CHAPTER 15. - STANDARDS FOR SINGLE-FAMILY DWELLINGS](#)

102 [CHAPTER 16. - OGDEN VALLEY LIGHTING](#)

103 [CHAPTER 17. - OGDEN VALLEY PATHWAYS](#)

104 [CHAPTER 18. - DRINKING WATER SOURCE PROTECTION](#)

105 [CHAPTER 19. - ACCESSORY APARTMENTS](#)

106 [CHAPTER 20. - FOREST CAMPGROUNDS](#)

107 [CHAPTER 21 - AGRI-TOURISM](#)

108 ...

109 **CHAPTER 12. NONCOMPLYING STRUCTURES AND NONCONFORMING USES/PARCELS**

110 [Sec. 108-12-1. Purpose and intent.](#)

111 [Sec. 108-12-2. Maintenance, repairs, and alterations.](#)

112 [Sec. 108-12-3. Additions and enlargements.](#)

113 [Sec. 108-12-4. Alteration where parking insufficient.](#)

114 [Sec. 108-12-5. Moving noncomplying structures.](#)

115 [Sec. 108-12-6. Restoration of damaged buildings.](#)

116 [Sec. 108-12-7. One-year vacancy or abandonment.](#)

117 [Sec. 108-12-8. Change of use.](#)

118 [Sec. 108-12-9. Expansion of nonconforming use.](#)

119 [Sec. 108-12-10. Legal use of ~~parcels~~nonconforming lots.](#)

120 [Sec. 108-12-11. Subdivision plat requirements for nonconforming lots, exceptions. ~~Parcels in areas subjected~~](#)

121 [to change in zoning.](#)

122 [Sec. 108-12-12. ~~Combining~~Enlarging nonconforming parcels.](#)

123 [Sec. 108-12-13. ~~Setback requirements for nonconforming lots.~~Small lots/parcels created prior to zoning.](#)

124 [Sec. 108-12-14. Parcels previously combined for tax purposes.](#)

125 [Sec. 108-12-15. Effect of Public Right of Way Expansion.](#)

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

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

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

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

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

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

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

144 (b) A noncomplying structure (main or accessory) shall not be added to or enlarged in any
145 manner, unless such addition or enlargement conforms to all the regulations of the zone
146 in which it is located, or conforms to the reduced yard setbacks as allowed in section
147 108-12-13

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

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

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

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

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

161 (2) The addition meets the yard setback requirements of the zone in which it is
162 located or conforms to the reduced yard setbacks as allowed in section 108-12-
163 13; or

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

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

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

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

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

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

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

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

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

189 (b) Any building or structure for which a valid building permit has been issued and actual
190 construction was lawfully begun prior to the date when the structure became
191 noncomplying, may be completed and used in accordance with the plans, specifications
192 and permit on which said building permit was granted. The term "actual construction" is
193 hereby defined to be the actual placing of construction materials in their permanent
194 position, fastened in a permanent manner, actual work in excavating a basement or the
195 demolition or removal of an existing structure begun preparatory to rebuilding; provided

196 that in all cases actual construction work shall be diligently carried on until the completion
197 of the building or structure involved.

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

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

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

203 A nonconforming use may be extended to include the entire floor area of the existing
204 legal structure in which it was conducted at the time the use became nonconforming,
205 provided, however, that a ~~certificate of occupancy~~ [Land Use Permit](#) is first obtained for such
206 extension of use.

207 **Sec. 108-12-10. Legal use of ~~nonconforming lots~~ [parcels](#).**

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

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

219 [Development of any permitted or conditional use on a nonconforming lot, as defined
220 in Section 101-1-7, shall be allowed subject to this Chapter, the zone of the property, other
221 relevant sections of this Land Use Code, and other applicable local, state, and federal laws.](#)

222 ...

223 **Sec. 108-12-11. ~~Parcels in areas subjected to change in zoning~~ [Subdivision plat](#)
224 [requirements for nonconforming lots, exemptions](#).**

225 [All lots and parcels shall be platted as part of a subdivision in conformance with the](#)
226 [requirements of Title 106 of this Land Use Code, unless otherwise exempted by State Code](#)
227 [or this Land Use Code. The platting of nonconforming lots, and the amendment to a platted](#)
228 [subdivision containing nonconforming lots are governed as follows:](#)

229 (a) The following rules govern the treatment of unplatted lots that were created in
230 conformance with the lot standards of the zone in effect at the time of the lots creation
231 but not in conformance with the requirements of the subdivision code in effect at that
232 time:
233 (1) If the existing lot can be defined as a Lot of Record, as defined in Section 101-1-7,
234 the lot shall be exempt from subdivision platting requirements.
235 (2) If the existing lot was created prior to July 1, 1992, contained a single family dwelling
236 unit, and complied with the standards of the zone in effect at the time of the lots
237 creation, the lot shall be exempt from subdivision platting requirements, and is a
238 nonconforming lot.
239 (3) If the existing lot does not qualify for the provisions of subsections (a)(1) and (a)(2),
240 then the lot shall be platted in accordance with Title 106 of this Land Use Code. Lot
241 standards for such subdivision may be reduced to meet the minimum standards of
242 the zone in effect at the time of the lot's creation so long as it does not create any
243 more lots than currently exist. All such platted lots that do not conform to current
244 zoning standards shall thereafter be considered nonconforming lots. A lot that does
245 not meet the minimum standards of the zone in effect at the time of the lot's creation
246 may be reconfigured upon platting to comply with such standards as long as the
247 reconfiguration does not cause any other lot to become nonconforming or more
248 nonconforming. A lot platted pursuant to this subsection may be further reduced in
249 size to accommodate any right of way dedication as may be required by Title 106 of
250 this Land Use Code. No unplatted lot or parcel governed by this subsection shall be
251 granted a land use permit prior to subdivision platting.
252 (b) Any lot legally platted within the bounds of a subdivision that was created pursuant to the
253 standards of the zoning code and subdivision code in effect at the time of its creation, but
254 no longer complies due to subsequent changes to these codes, may be amended
255 pursuant to the minimum standards in effect at the time of its creation. The amendment
256 shall not create any new lots. An amended plat shall be required.

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

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

Comment [c6]: Initially I wrote this solely for lots that now no longer comply with zoning area, width, and frontage requirements of today's ordinances, however, it became apparent that such a narrow focus excludes lots that conform to today's zoning but were not properly platted.

Comment [c7]: Even if the lot complies with current zoning standards it does not comply with the current or former subdivision standards (otherwise, if it did, it would be defined as a "Lot of Record"), thus, it is nonconforming to subdivision standards.

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- a. — Were built on and created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law and met area and frontage/width requirements for the zone in which they were created at the time they were created are considered nonconforming parcels; or
- b. — Were created and recorded with an existing single family dwelling after July 1992 changes to the Utah Code, Subdivision Law but prior to the change in zoning, and met area and frontage/width requirements for the zone in which they were created at the time they were created shall submit an application for subdivision approval;
- c. — Were part of a legal subdivision, but were further divided, and met the requirements of subsections (1)a or b of this section shall be subject to the note below.

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

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

- a. — Were created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law;
 - b. — Are able to obtain the additional area and frontage/width which would bring the lot into compliance with the area and frontage/width requirements for the zone in which they were created at the time they were created; and
 - c. — Complied with all other county ordinances when built;
- may submit an application for subdivision approval provided they meet all other requirements of title 106, Subdivisions.

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

- a. — Were created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law; and
- b. — Met area and frontage/width requirements for the zone in which they were created at the time they were created;

Field Code Changed

299 may submit an application for subdivision approval provided they meet all other
300 requirements of title 106.

Field Code Changed

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

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

308 a. The parcels that are being separated were originally created prior to July
309 1992 changes to the Utah Code, and Subdivision Law;

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

313 c. The combination was done by the current owner or same owner acting as
314 trustee, and was done by a quit claim, combination form, or other instrument, which
315 states the consolidation of parcels is for tax purposes;

316 d. No new lots are being created;

317 e. The separation of parcels results in a configuration consistent with the
318 original parcels and conforms to the ordinance that was in place prior to the recording
319 of the combination form; and

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

Comment [c8]: Moved to new section 108-12-14
below.

325 **Sec. 108-12-12. Combining Enlarging nonconforming parcels.**

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

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

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

338

339

340

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

341

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

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Comment [c9]: Why? Will we require similar arch styles as adjacent parcels for all residences?

Also, the setbacks may still need to be reviewed under the provisions of 108-12-13 if the lot still does not meet current width and area requirements.

I recommend deleting this section.

345

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

346

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

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350

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

351

352

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(2) The ratio may then be multiplied by the current zone's side yard setback requirement (y) in order to establish a reduced setback (z).

354

355

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

356

(Formula: $v \div w = x$. $x \times y = z$.)

357

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

358

359

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

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363

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

Comment [c10]: This section was buried in 108-12-11, but was not relevant to the heading of that section. It has been placed in its own section, with a new section number and heading.

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

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367 (a)(1) a. The parcels that are being separated were originally created prior to July 1,
368 1992; changes to the Utah Code, and Subdivision Law;

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369 (b)(2) b. The properties as configured prior to the combination met area and
370 frontage/width requirements for the zone in which they were created, or were considered
371 nonconforming parcels;

372 (e)(3) c. The combination was done by the current owner or same owner acting as
373 trustee, and was done by a quit claim, combination form, or other instrument, which
374 states the consolidation of parcels is for tax purposes;

375 (d)(4) d. No new lots are being created; and

376 (e)(5) e. The separation of parcels results in a configuration consistent with the
377 original parcels and conforms to the ordinance that was in place prior to the recording of
378 the combination form, and the resulting lots conform with the provisions of Section 108-
379 12-11; and

Comment [c11]: This is additional language to
provide for the possibility that some lots were
created illegally, then combined, and now being
separated. Those lots need to be brought into
conformance, and may need to be platted if the
provisions of 108-12-11(a)(3) apply.

380 (f)(b) f. The separation of combined parcels authorized under this subSection does not
381 authorize a change in the configuration of an approved and recorded subdivision or lots within
382 such subdivision. A subdivision plat cannot be changed unless an amended subdivision plat is
383 prepared and recorded in accordance with Utah Code and title Any change to the configuration
384 of a subdivision must comply with Title 106 of the Land Use Code, and any applicable state
385 law.

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

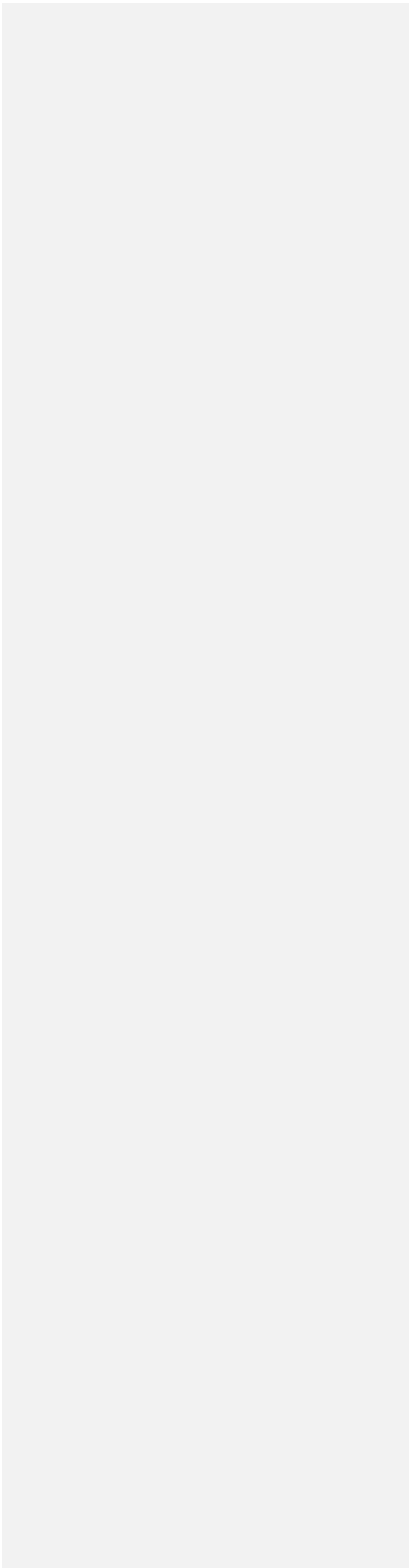
387 (a) Any structure that legally existed with conforming or nonconforming setback prior to the
388 expansion of a public right of way where the expansion of such public right of way makes
389 the structure noncomplying or more noncomplying to the setback requirements of this
390 Land Use Code, shall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

Comment [c12]: Intended to help lots reduced
in size by ROW expansions.

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

Comment [c13]: Intended to help lots reduced
in size by ROW expansions.

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





Weber County

**Notice of Effect
Public Right of Way Expansion of Street Name**

Legal Description

SEE EXHIBIT A

RE: Potential Nonconformity on Land Due to the Expansion of the Street Name Right of Way, as part of Project Number and Description.

The parcel of land with the Land Serial Number # _____ is currently zoned ZONE _____ (ZONE SYMBOL).

This notice is intended to document how the above specified right of way expansion project affects the subject property. If the property legally existed in a conforming or legal nonconforming status prior to the expansion of the public right of way, and the expansion of the public right of way has made the lot or parcel nonconforming or more nonconforming to the lot standards of the subject property's zone, the property shall be deemed legal, even though nonconforming. Any further development of it shall be allowed pursuant to and in compliance with Weber County Code §108-12, and other applicable local, state, and federal laws. The same consideration will be given for structures affected by the expansion of a public right of way; if the setbacks are made noncomplying or more noncomplying the structure shall be deemed legal, even though noncomplying.

Note: This notice does not excuse or exempt any past or future action that creates or modifies a lot, parcel, or structure in a manner that is in violation of applicable laws.

_____ Dated this ____ day of _____, 20____

Sean Wilkinson
Planning Director

STATE OF UTAH)
 :SS
COUNTY OF WEBER)

On the _____ day of _____, 20____, personally appeared before me _____ the signer(s) of the foregoing instrument, who duly acknowledged to me that he/she/they executed the same.

Notary Public

Residing at _____

Weber County Land Use Code Revision Process Workflow

The proposed edits fall here

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

