

ORDINANCE NUMBER 2017- 27

AN ORDINANCE AMENDING THE WEBER COUNTY LAND USE CODE TO UPDATE AND CLARIFY PROVISIONS RELATED TO SUBDIVISION IMPROVEMENT GUARANTEE

WHEREAS, the Weber County Land Use Code heretofore contained regulations governing a subdivision improvement guarantee; and

WHEREAS, it is found that the use of a letter of credit should be permitted as a subdivision improvement guarantee; and

WHEREAS, on July 11, 2017, the Western Weber Planning Commission and Ogden Valley Planning Commission, after appropriate notice, held a public hearing to consider public comments regarding proposed amendments to the Weber County Land Use Code with respect to permitting a letter of credit as a subdivision improvement guarantee, and offered a positive recommendations to the County Commission; and

WHEREAS, on July 25, 2017, the Weber County Board of Commissioners, after appropriate notice, held a public hearing to consider public comments on the same; and

WHEREAS, the Weber County Board of Commissioners find that the ordinance amendments herein do not run contrary to the goals and objectives of the General Plan and provide clarification necessary to facilitate efficient administration of the Weber County Land Use Code;

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




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

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

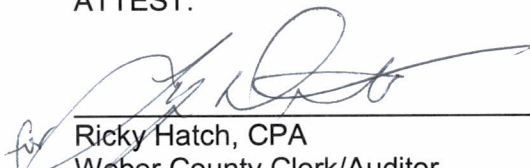
Passed, adopted, and ordered published this 25th day of July, 2017, by the Weber County Board of Commissioners.

BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY

By ,
James Ebert, Chair

Commissioner Ebert voted 
Commissioner Gibson voted 
Commissioner Harvey voted 

ATTEST:


Ricky Hatch, CPA
Weber County Clerk/Auditor

1 CHAPTER 4. - SUBDIVISION IMPROVEMENTS REQUIRED

3 Sec. 106-4-1. - General requirements.

- 4 (a) The owner of any land to be platted as a subdivision shall, before recording the final plat, either
5 install all improvements required by this chapter or provide a financial guarantee for the completion
6 of the improvements as allowed by section 106-4-3.
- 7 (b) All improvements shall comply with the specifications and standards contained in the County's
8 current Public Work Standards and Technical Specifications.
- 9 (c) All improvements shall be installed prior to issuance of any land use permit within a newly approved
10 subdivision. The only improvements that may not be required prior to construction of a dwelling are
11 the asphalt, chip and seal, landscaping, street monuments, secondary water (if not in the right-of-
12 way), and curb, gutter, and sidewalk.
- 13 (d) All public and private utilities within the road right-of-way shall be installed prior to the road being
14 asphalted. Cuts within one year of asphalt placement on a new road will require a special permit and
15 include requirements for special backfill and asphalt replacement.
- 16 (e) The applicant shall sign a survey monumentation improvement agreement and pay applicable fees
17 associated prior to the county surveyor signing the final subdivision plat Mylar.
- 18 (f) Upon completion of the construction of roads and utility lines, the developer's engineer shall prepare
19 and submit as-built plans for all improvements for the approval of the county engineer. As-built plans
20 shall include a digital plan (dwg format) and one set of reproducible Mylars prior to county
21 acceptance for maintenance of roads.
- 22 (g) Whenever the applicant develops a subdivision a phase at a time, such development shall be in an
23 orderly manner and in such a way that the required improvements will be made available to the
24 buyers of the lots. The applicant shall be responsible for coordinating the installation of utilities,
25 streets, water lines, fire hydrants, and all other required improvements with the buyers of lots.
- 26 (h) New subdivisions with sole access from a substandard street shall not be approved until the
27 substandard street is fully improved to County Public Work Standards and adopted right-of-way
28 width.

31 Sec. 106-4-2. - Improvements required.

32 (a) *Water supply.*

33 (1) *Public system.*

- 34 a. Where an approved public water supply is reasonably accessible or procurable, the
35 applicant shall install water lines, or shall contract with the local water distributing agency
36 to make the water supply available to each lot within the subdivision, including laterals to
37 the property line of each lot. Water lines and fire hydrants shall be operational before
38 building permits are issued for any structures.
- 39 b. Capacity assessment letter is required prior to final approval from the planning
40 commission. A construct permit from the Utah State Department of Environmental Quality
41 Division of Drinking Water for expansion of the water system and water lines serving the
42 subdivision is required prior to the subdivision receiving final approval from the county
43 commission.

(2) *New system.* Where an approved public water supply or system is not reasonably accessible nor procurable, the applicant shall install a water distribution system and provide a water supply to each lot from a source meeting the requirements of the Utah Division of Drinking Water and/or the Weber Morgan Health Department.

(3) *Wells.* If individual well permits are issued by the Utah State Division of Water Rights, one well permit must be obtained along with a letter of feasibility from the Division of Water Rights and the Weber Morgan Health Department, which states that well permits can be issued in the proposed area by the Division of Water Rights for exchange purposes. The owner of record of the proposed subdivision property shall record a covenant to run with the land which advises the new lot owner of the requirements to be fulfilled before a building permit can be obtained. This shall include but not be limited to:

- a. that a well permit must be obtained;
- b. the time it may take to obtain the permit;
- c. the well must be drilled;
- d. water quality to be satisfactory; and
- e. water quantity to be sufficient as required by the Weber County Health Department, before a building permit can be obtained.

If well permits cannot be obtained, the lot will no longer be deemed a buildable lot.

(b) *Sewage disposal.*

(1) Where any part of a building situated within the unincorporated areas of the county is within 300 feet of any street, alley, court, passageway or area in which a public sewer or sewer owned or operated by any special improvement sanitary sewer district is in existence and use, or where the building is close enough in the determination of the county health officer to require a connection, the applicant shall connect sanitary sewer and provide adequate lateral lines to the property line of each lot. Sewer systems shall be approved by the county health official, and connections shall comply with the public work standards of the county. Where the construction of a sewer trunk line is required to serve the subdivision, the applicant shall be required to construct the trunk line in accordance with plans and specifications approved by the county and sewer improvement district. The new trunk line shall be designed with sufficient capacity for the service area as determined by the county engineer. The applicant may be entitled to reimbursement for the oversized costs through impact fee or development agreement within the service area for a period of ten years from the date of acceptance by the county.

(2) Where a public sanitary sewer is not accessible, the applicant shall obtain approval from the county health officer for individual sewage disposal for each of the lots. Written approval from the county health officer shall be submitted to the planning division at the time the subdivision application is submitted. Septic tanks shall be installed according to the specifications and under the inspection of the county health officer. Where a sewer treatment facility is being approved by the State of Utah Department of Environmental Quality Division of Water Quality, a letter of feasibility is required for preliminary approval and a construct permit from the state is required before final approval can be granted by the planning commission.

(c) *Stormwater.*

(1) The county engineer shall require the applicant to dispose of stormwater, if such provision is deemed necessary, and provide drainage structures so that runoff from the subdivision does not exceed the runoff under undeveloped or natural conditions. If easements are required across abutting property to permit drainage of the subdivision, it shall be the responsibility of the applicant to acquire such easements.

(2) When drainage structures such as storm water detention and/or retention facilities are required by the county engineer, the county, at its option, may require the facility to be dedicated or

otherwise transferred to Weber County or its designee. Weber County may also require the developer of the subdivision which the detention and/or retention facility serves, to form a Homeowners Association of all homes in the subdivision with articles of incorporation and by-laws filed with the department of commerce. Provision shall be made in said association for the contracting with the county engineer to do periodic inspections and maintain the drainage facilities. The purpose of the association shall be to own and maintain the detention and/or retention facility in satisfactory condition as specified by the county engineer. In such cases, the County shall be granted an easement over the detention/retention facilities to guarantee such facilities will remain and be used as intended for stormwater detention purposes.

- (d) *Street grading and surfacing.* All public and private streets and private access rights-of-way shall be graded and surfaced in accordance with the public work standards.
- (e) *Curbs and gutters.* Curbs and gutters shall be installed on existing and proposed streets by the applicant. Deferrals for curb and gutter will be required for lots in the Ogden Valley. Curb and gutter shall be installed by the applicant in subdivisions along abutting Utah State Highways, if required by Utah State Department of Transportation.
- (f) *Sidewalks.* Sidewalks shall be required by the planning commission for reasons of safety and public welfare, and where the proposed subdivision is located within the walking distance established by the local School District. Deferrals for sidewalk will be required for lots in the Ogden Valley. Weber County will not waive sidewalk requirements on state highways unless the Utah State Department of Transportation has waived the sidewalk requirement. If a letter is provided by the Utah State Department of Transportation for a waiver, then a deferral agreement may be approved by the county commission. Approved walking paths may be substituted for sidewalks.
- (g) *Street monuments.* Permanent street monuments shall be accurately set at points necessary to establish all lines of the street. Street monuments shall be of a type specified by the county surveyor.
- (h) *Street trees.* Street trees shall be planted by the applicant when so required by the planning commission and of a variety and location as approved by the planning commission.
- (i) *Street signs.* Street signs shall be installed by the applicant at locations designated by the county engineer. Signs shall be a type and material prescribed by the county engineer. The county commissioners shall have the option to install signs and charge the costs to the applicant.
- (j) *Fencing or piping of canals, etc.* A solid board, chain link, or other non-climbable fence not less than five feet in height shall be installed on both sides of existing irrigation ditches or canals which carry five second feet or more of water, or bordering open reservoirs, railroad rights-of-way or non-access streets, and which are located within or adjacent to the subdivision, except where the planning commission determines that park areas including streams or bodies of water shall remain unfenced. Fencing or piping of canals, etc., shall not be required on subdivisions of four or fewer lots, or where canals are located 600 feet from the homes.
- (k) *Staking subdivision corners.* Survey markers shall be placed at all subdivision corners and lot corners to completely identify the boundaries on the ground. This shall be performed and confirmed by the surveyor's office before the subdivision is recorded.
 - (1) The minimum standard for a boundary or lot corner monument shall be a number five rebar 24 inches in length and visibly marked or tagged with the registered business name or the letters P.L.S. (Professional Land Surveyor) followed by the registration number of the surveyor in charge. Where ground conditions do not permit such monumentation, substitute monuments shall be noted on the subdivision plat and must be durably and visibly marked or tagged with the registered business name or the letters "P.L.S." followed by the registration number of the surveyor in charge.
 - (2) If the monument is set by a public officer, it shall be marked with the official title of the office.
- (l) *Peripheral fencing.* The planning commission may require fencing along the periphery of a subdivision in an agricultural zone to provide protection to adjacent farming lands from the adverse effects of residential living and vice versa.

(m) *Secondary water.* The term "secondary water" shall mean water furnished for other than culinary purposes. Where a subdivision is proposed within an existing culinary water district or service area of an existing water corporation or within a water district or water corporation service area created to serve such subdivision, the planning commission shall, as part of the approval of the subdivision, require the applicant to furnish adequate secondary water and install a secondary water delivery system to the lots in the subdivision sufficient to conform to the public works standards, if such water district or company files or has filed a written statement with the Weber County Planning Division which specifies that the policy of such water district or company is to the effect that its water is not to be used for other than culinary purposes and will not permit culinary water connections unless secondary water is provided by the applicant. A certified copy of the minutes of the board of trustees of such water district or company showing the enactment of such policy must be furnished to the planning commission. If secondary water is to be by shallow well, then a copy of the approved well permit shall be submitted, and the shallow well shall be pump tested with a copy of the test results submitted for review prior to the subdivision being recorded. When subdivisions are within the service area of a secondary water provider company or district, the applicant shall install a secondary water system in accordance with the provider's requirements or standards.

(n) *Transfer of irrigation water rights.* Where the county, on behalf of a culinary water agency, requires irrigation water to be provided to each lot in a subdivision as part of the required improvements, the applicant shall provide for the transfer of irrigation water rights by either of the following methods as determined by the planning commission.

(1) The applicant shall form a lot owners association as a non-profit corporation for owning the irrigation water rights or stock for the lots in the subdivision. The applicant shall transfer to the association at the time of subdivision recording, sufficient rights or stock as required by the irrigation agency for the number of lots in the subdivision. The articles of incorporation of the association shall provide, in addition to the association owning the required water rights or shares on behalf of each and every lot owner, that each lot owner shall automatically be a member of the association, is entitled to a pro rata share of irrigation water, is subject to a water distribution schedule and procedure established by the association, and is responsible for his share of the costs of ditch and system maintenance and assessments as made by the association from time to time, or

(2) The applicant shall provide the county with evidence that sufficient irrigation water rights or shares for all of the lots in the subdivision are held by the developer/property owner. At the time of recording the approved subdivision plat, the developer/property owner shall record a covenant to run with the land that these rights or shares will not be disposed of except to the lots in the subdivision and with the sale of each lot, a transfer at no cost, the required water rights or shares needed to properly irrigate the lot, to the lot purchaser who is to be responsible for the proper use of the water as outlined in the irrigation water district or company's distribution schedule and procedures.

(o) *Fire protection.*

(1) A letter from the Weber Fire District approving the fire protection method shall be provided prior to final approval of the subdivision by the planning commission. Before a land use permit is issued, the fire protection method shall be operational, and a letter to that effect will be required from the Weber Fire District.

(2) Subdivisions located in the Forest and Forest Valley Zones shall have requirements in the Subdivision Covenants, Conditions, and Restrictions on Wildfire mitigation as outlined by the Weber County Fire District.

Sec. 106-4-3. - Guarantee of improvements.

- 191 (a) *Financial guarantee for the completion of improvements.* An applicant who desires to record any
192 subdivision plat prior to the completion of improvements shall provide a financial guarantee for the
193 completion of the improvements. The applicant shall furnish and file with the county an escrow
194 agreement or a letter of credit in an amount equal to 110% of the future cost of the installation of the
195 improvements at the termination of the two-year improvement completion period, as estimated by the
196 county engineer, to assure the installation of improvements within two years.
- 197 (1) *Escrow agreement.* An escrow agreement, and the associated funds, requires the approval of
198 the county commissioners and county attorney. Escrow funds shall be deposited with the county
199 treasurer at the time the escrow agreement is executed.
- 200 (2) *Letter of credit.* An applicant may only use a letter of credit if the following conditions are met:
- 201 a. the engineer's cost estimate for installation of the improvements exceeds one million
202 dollars;
- 203 b. the applicant and, if applicable, the applicant's subsidiaries and the applicant's member's
204 or shareholders has a history of positive performance, with no incidences of negative
205 performance, in its development related contractual obligations in the State of Utah, and
206 has a history of positive performance, with no incidences of negative performance, in
207 completing developments in the State of Utah. The Planning Director or County Engineer
208 may require the applicant to provide a performance history from other jurisdictions;
- 209 c. the applicant's financial institution has a history of positive performance in fulfilling its
210 financial obligations, as determined by the county treasurer and based on typical
211 conventions of the financial industry;
- 212 d. the applicant's financial institution provides the letter of credit on a standard letter of credit
213 form supplied by Weber County or in a form that provides equal or greater financial
214 protection to the county, as determined by the county attorney; and
- 215 e. the county attorney, county treasurer, and county commissioners approve the letter of
216 credit, which they shall do if all of the conditions above are met unless they have
217 reasonable, objective indications of a substantial risk that either the applicant or the
218 applicant's financial institution will not fulfill its obligations related to the completion of
219 improvements or the financial guarantee;
- 220 f. a cash escrow is deposited with the county treasurer at the time the letter of credit is
221 executed equal to the full cost to revegetate any removed vegetation in the event the
222 applicant, his successors or heirs, or his financial institution fails to perform.
- 223 (3) *Acceptance of financial guarantee.* A financial guarantee under this section is accepted when
224 the county commissioners approve and sign a subdivision improvement agreement between the
225 county and the applicant, and an escrow agreement or letter of credit. After the subdivision
226 improvement agreement is approved, the applicant may record the subdivision, as long as all
227 other recording requirements have been met. The recording of the subdivision will allow the
228 developer to sell the lots, but not allow building and/or land use permits to be issued until all
229 improvements are installed, except as listed above.
- 230
- 231 (b) *Partial release of financial guarantee.* Unless otherwise specified by the terms of the subdivision
232 improvement agreement, the county is only obligated to offer a partial release of the financial
233 guarantee for an independent improvement system, including but not limited to those specified in
234 Section 106-4-2, that is completed to the satisfaction of the county engineer.
- 235 (c) *Warranty, and conditional acceptance of improvements.* Upon satisfactory completion of all
236 improvements, as determined by the county engineer, the improvements shall enter a conditional
237 acceptance period. Ten percent of the approved financial guarantee shall be retained by the county
238 for an improvement warranty period as defined by UCA §17-27a-103. At the discretion of the county

239 engineer, the warranty period may restart for any individual improvement needing replacement or
240 repairs prior to the end of the conditional acceptance period.

- 241 (d) *Final acceptance of improvements* After the warranty period has expired, if the improvements have
242 performed to the county engineer's satisfaction, the county engineer shall release the remainder of
243 the financial guarantee. At this time the county engineer may also offer final acceptance of the
244 improvements. Final acceptance may be withheld if circumstances unforeseen at the time of
245 conditional acceptance become known that expose the county or the public to unreasonable
246 financial or safety risk. The county is not responsible for operations or maintenance of public
247 improvements that have not received final acceptance.

248
249 Sec. 106-4-4. - Inspection of improvements.

250 The county engineer, building inspector, county surveyor, and county health officer shall inspect all
251 buildings, structures, streets, street monuments, fire hydrants, water supply, and sewage disposal
252 systems in the course of construction, installation or repair, etc. Excavations for fire hydrants, water and
253 sewer mains, and laterals shall not be covered over or back-filled until such installations have been
254 approved by the County Engineer, or utility owner's representative. If any installation is covered before
255 being inspected and approved, it shall be uncovered after notice to uncover has been issued to the
256 responsible person by the County Engineer.

1 CHAPTER 4. - SUBDIVISION IMPROVEMENTS REQUIRED

2
3 Sec. 106-4-1. - ~~Owner of subdivision responsible for costs~~ General requirements.

- 4 (a) The owner of any land to be platted as a subdivision shall ~~at his own expense install or provide an~~
5 ~~escrow with Weber County for improvements prior to~~, before recording the final plat ~~according to~~,
6 either install all improvements required by this chapter or provide a financial guarantee for the
7 completion of the improvements as allowed by section 106-4-3.
- 8 (b) All improvements shall comply with the specifications and standards contained in the "County's
9 current Public Work Standards and Technical Specifications" ~~adopted January 26, 1982.~~
- 10 (c) All improvements shall be installed prior to issuance of any land use permit within a newly approved
11 subdivision. The only improvements that may not be required prior to construction of a dwelling are
12 the asphalt, chip and ~~under the inspection of~~ seal, landscaping, street monuments, secondary water
13 (if not in the right-of-way), and curb, gutter, and sidewalk.
- 14 (d) All public and private utilities within the road right-of-way shall be installed prior to the road being
15 asphalted. Cuts within one year of asphalt placement on a new road will require a special permit and
16 include requirements for special backfill and asphalt replacement.
- 17 (e) The applicant shall sign a survey monumentation improvement agreement and pay applicable fees
18 associated prior to the county surveyor signing the final subdivision plat Mylar.
- 19 (f) Upon completion of the construction of roads and utility lines, the developer's engineer ~~Septic tanks~~
20 ~~shall be installed according to the specifications and under the inspection of the county health officer.~~
21 shall prepare and submit as-built plans for all improvements for the approval of the county engineer.
22 As-built plans shall include a digital plan (dwg format) and one set of reproducible Mylars prior to
23 county acceptance for maintenance of roads.
- 24 (g) Whenever the applicant develops a subdivision a phase at a time, such development shall be in an
25 orderly manner and in such a way that the required improvements will be made available to the
26 buyers of the lots. The applicant shall be responsible for coordinating the installation of utilities,
27 streets, water lines, fire hydrants, and all other required improvements with the buyers of lots.
- 28 (h) New subdivisions with sole access from a substandard street shall not be approved until the
29 substandard street is fully improved to County Public Work Standards and adopted right-of-way
30 width.

31
32
33 Sec. 106-4-2. - Improvements required.

34 (a) *Water supply.*

35 (1) *Public system.*

- 36 a. Where an approved public water supply is reasonably accessible or procurable, the
37 applicant shall install water lines, or shall contract with the local water distributing agency
38 to make the water supply available to each lot within the subdivision, including laterals to
39 the property line of each lot. Water lines and fire hydrants shall be operational before
40 building permits are issued for any structures.
- 41 b. Capacity assessment letter is required prior to final approval from the planning
42 commission. A construct permit from the Utah State Department of Environmental Quality
43 Division of Drinking Water for expansion of the water system and water lines serving the

subdivision is required prior to the subdivision receiving final approval from the county commission.

(2) *New system.* Where an approved public water supply or system is not reasonably accessible nor procurable, the applicant shall install a water distribution system and provide a water supply to each lot from a source meeting the requirements of the Utah Division of Drinking Water and/or the Weber Morgan Health Department.

(3) *Wells.* If individual well permits are issued by the Utah State Division of Water Rights, one well permit must be obtained along with a letter of feasibility from the Division of Water Rights and the Weber Morgan Health Department, which states that well permits can be issued in the proposed area by the Division of Water Rights for exchange purposes. The owner of record of the proposed subdivision property shall record a covenant to run with the land which advises the new lot owner of the requirements to be fulfilled before a building permit can be obtained. This shall include but not be limited to:

- a. that a well permit must be obtained;
- b. the time it may take to obtain the permit;
- c. the well must be drilled;
- d. water quality to be satisfactory; and
- e. water quantity to be sufficient as required by the Weber County Health Department, before a building permit can be obtained.

If well permits cannot be obtained, the lot will no longer be deemed a buildable lot.

(b) *Sewage disposal.*

(1) Where any part of a building situated within the unincorporated areas of the county is within 300 feet of any street, alley, court, passageway or area in which a public sewer or sewer owned or operated by any special improvement sanitary sewer district is in existence and use, or where the building is close enough in the determination of the county health officer to require a connection, the applicant shall connect sanitary sewer and provide adequate lateral lines to the property line of each lot. Sewer systems shall be approved by the county health official, and connections shall comply with the public work standards of the county. Where the construction of a sewer trunk line is required to serve the subdivision, the applicant shall be required to construct the trunk line in accordance with plans and specifications approved by the county and sewer improvement district. The new trunk line shall be designed with sufficient capacity for the service area as determined by the county engineer. The applicant may be entitled to reimbursement for the oversized costs through impact fee or development agreement within the service area for a period of ten years from the date of acceptance by the county.

(2) Where a public sanitary sewer is not accessible, the applicant shall obtain approval from the county health officer for individual sewage disposal for each of the lots. Written approval from the county health officer shall be submitted to the planning division at the time the subdivision application is submitted. Septic tanks shall be installed according to the specifications and under the inspection of the county health officer. Where a sewer treatment facility is being approved by the State of Utah Department of Environmental Quality Division of Water Quality, a letter of feasibility is required for preliminary approval and a construct permit from the state is required before final approval can be granted by the planning commission.

(c) *Stormwater.*

(1) The county engineer shall require the applicant to dispose of stormwater, if such provision is deemed necessary, and provide drainage structures so that runoff from the subdivision does not exceed the runoff under undeveloped or natural conditions. If easements are required across abutting property to permit drainage of the subdivision, it shall be the responsibility of the applicant to acquire such easements.

(2) When drainage structures such as storm water detention and/or retention facilities are required by the county engineer, the county, at its option, may require the facility to be dedicated or otherwise transferred to Weber County or ~~it's designate~~ its designee. Weber County may also require the developer of the subdivision which the detention and/or retention facility serves, to form a Homeowners Association of all homes in the subdivision with articles of incorporation and by-laws filed with the department of commerce. Provision shall be made in said association for the contracting with the county engineer to do periodic inspections and maintain the drainage facilities. The purpose of the association shall be to own and maintain the detention and/or retention facility in satisfactory condition as specified by the county engineer. In such cases, the County shall be granted an easement over the detention/retention facilities to guarantee such facilities will remain and be used as intended for stormwater detention purposes.

(d) *Street grading and surfacing.* All public and private streets and private access rights-of-way shall be graded and surfaced in accordance with the public work standards.

(e) *Curbs and gutters.* Curbs and gutters shall be installed on existing and proposed streets by the applicant. Deferrals for curb and gutter will be required for lots in the Ogden Valley. Curb and gutter shall be installed by the applicant in subdivisions along ~~the~~ abutting Utah State Highways, if required by Utah State Department of Transportation.

(f) *Sidewalks.* Sidewalks shall be required by the planning commission for reasons of safety and public welfare, and where the proposed subdivision is located within the walking distance ~~as~~ established by the local School District. Deferrals for sidewalk will be required for lots in the Ogden Valley. Weber County will not waive sidewalk requirements on state highways unless the Utah State Department of Transportation has waived the sidewalk requirement. If a letter is provided by the Utah State Department of Transportation for a waiver, then a deferral agreement may be approved by the county commission. Approved walking paths may be substituted for sidewalks.

(g) *Street monuments.* Permanent street monuments shall be accurately set at points necessary to establish all lines of the street. Street monuments shall be of a type specified by the county surveyor.

(h) *Street trees.* Street trees shall be planted by the applicant when so required by the planning commission and of a variety and location as approved by the planning commission.

(i) *Street signs.* Street signs shall be installed by the applicant at locations designated by the county engineer. Signs shall be a type and material prescribed by the county engineer. The county commissioners shall have the option to install signs and charge the costs to the applicant.

(j) *Fencing or piping of canals, etc.* A solid board, chain link, or other non-climbable fence not less than five feet in height shall be installed on both sides of existing irrigation ditches or canals which carry five second feet or more of water, or bordering open reservoirs, railroad rights-of-way or non-access streets, and which are located within or adjacent to the subdivision, except where the planning commission determines that park areas including streams or bodies of water shall remain unfenced. Fencing or piping of canals, etc., shall not be required on subdivisions of four or fewer lots, or where canals are located 600 feet from the homes.

(k) *Staking subdivision corners.* Survey markers shall be placed at all subdivision corners and lot corners to completely identify the boundaries on the ground. This shall be performed and confirmed by the surveyor's office before the subdivision is recorded.

(1) The minimum standard for a boundary or lot corner monument shall be a number five rebar 24 inches in length and visibly marked or tagged with the registered business name or the letters P.L.S. (Professional Land Surveyor) followed by the registration number of the surveyor in charge. Where ground conditions do not permit such monumentation, substitute monuments shall be noted on the subdivision plat and must be durably and visibly marked or tagged with the registered business name or the letters "P.L.S." followed by the registration number of the surveyor in charge.

(2) If the monument is set by a public officer, it shall be marked with the official title of the office.

- (l) *Peripheral fencing.* The planning commission may require fencing along the periphery of a subdivision in an agricultural zone to provide protection to adjacent farming lands from the adverse ~~affects~~effects of residential living and vice versa.
- (m) *Secondary water.* The term "secondary water" shall mean water furnished for other than culinary purposes. Where a subdivision is proposed within an existing culinary water district or service area of an existing water corporation or within a water district or water corporation service area created to serve such subdivision, the planning commission shall, as part of the approval of the subdivision, require the applicant to furnish adequate secondary water and install a secondary water delivery system to the lots in the subdivision sufficient to conform to the public works standards, if such water district or company files or has filed a written statement with the Weber County Planning Division which specifies that the policy of such water district or company is to the effect that its water is not to be used for other than culinary purposes and will not permit culinary water connections unless secondary water is provided by the applicant, ~~a.~~ A certified copy of the minutes of the board of trustees of such water district or company showing the enactment of such policy must be furnished to the planning commission. If secondary water is to be by shallow well, then a copy of the approved well permit shall be submitted, and the shallow well shall be pump tested with a copy of the test results submitted for review prior to the subdivision being recorded. When subdivisions are within the service area of a secondary water provider company or district, the applicant shall install a secondary water system in accordance with the provider's requirements or standards.
- (n) *Transfer of irrigation water rights.* Where the county, on behalf of a culinary water agency, requires irrigation water to be provided to each lot in a subdivision as part of the required improvements, the applicant shall provide for the transfer of irrigation water rights by either of the following methods as determined by the planning commission.
- (1) The applicant shall form a lot owners association as a non-profit corporation for owning the irrigation water rights or stock for the lots in the subdivision. The applicant shall transfer to the association at the time of subdivision recording, sufficient rights or stock as required by the irrigation agency for the number of lots in the subdivision. The articles of incorporation of the association shall provide, in addition to the association owning the required water rights or shares on behalf of each and every lot owner, that each lot owner shall automatically be a member of the association, is entitled to a pro rata share of irrigation water, is subject to a water distribution schedule and procedure established by the association, and is responsible for his share of the costs of ditch and system maintenance and assessments as made by the association from time to time, or
 - (2) The applicant shall provide the county with evidence that sufficient irrigation water rights or shares for all of the lots in the subdivision are held by the developer/property owner. At the time of recording the approved subdivision plat, the developer/property owner shall record a covenant to run with the land that these rights or shares will not be disposed of except to the lots in the subdivision and with the sale of each lot, a transfer at no cost, the required water rights or shares needed to properly irrigate the lot, to the lot purchaser who is to be responsible for the proper use of the water as outlined in the irrigation water district or company's distribution schedule and procedures.
- (o) *Fire protection.*
- (1) A letter from the Weber Fire District approving the fire protection method shall be provided prior to final approval of the subdivision by the planning commission. Before a land use permit is issued, the fire protection method shall be operational, and a letter to that ~~affect~~effect will be required from the Weber Fire District.
 - (2) Subdivisions located in the Forest and Forest Valley Zones shall have requirements in the Subdivision Covenants, Conditions, and Restrictions on Wildfire mitigation as outlined by the Weber County Fire District.

Sec. 106-4-3. - Guarantee of improvements.

~~(a) Deposit and escrow.~~

~~(1) All improvements shall be installed prior to issuance of any land use permit within a newly approved subdivision. The only improvement that may not be required prior to construction of a dwelling is the asphalt, chip and seal, landscaping, street monuments, secondary water (if not in the right-of-way), and curb, gutter, and sidewalk. All public and private utilities within the road right-of-way shall be installed prior to the road being asphalted. Cuts within one year of asphalt placement on a new road, will require a special permit and include requirements for special backfill and asphalt replacement.~~

~~(2) The applicant shall guarantee the installation of improvements by depositing the financial guarantee funds into the Weber County Engineer's Escrow which will allow the recording of a subdivision.~~

(a) Financial guarantee for the completion of improvements. An applicant who desires to record any subdivision plat prior to the completion of improvements shall provide a financial guarantee for the completion of the improvements. The applicant shall furnish and file with the county an escrow agreement or a letter of credit in an amount equal to 110% of the future cost of the installation of the improvements at the termination of the two-year improvement completion period, as estimated by the county engineer, to assure the installation of improvements within two years.

(1) Escrow agreement. An escrow agreement, and the associated funds, requires the approval of the county commissioners and county attorney. Escrow funds shall be deposited with the county treasurer at the time the escrow agreement is executed.

(2) Letter of credit. An applicant may only use a letter of credit if the following conditions are met:

a. the engineer's cost estimate for installation of the improvements exceeds one million dollars;

b. the applicant and, if applicable, the applicant's subsidiaries and the applicant's member's or shareholders has a history of positive performance, with no incidences of negative performance, in its development related contractual obligations in the State of Utah, and has a history of positive performance, with no incidences of negative performance, in completing developments in the State of Utah. The Planning Director or County Engineer may require the applicant to provide a performance history from other jurisdictions;

c. the applicant's financial institution has a history of positive performance in fulfilling its financial obligations, as determined by the county treasurer and based on typical conventions of the financial industry;

d. the applicant's financial institution provides the letter of credit on a standard letter of credit form supplied by Weber County or in a form that provides equal or greater financial protection to the county, as determined by the county attorney; and

e. the county attorney, county treasurer, and county commissioners approve the letter of credit, which they shall do if all of the conditions above are met unless they have reasonable, objective indications of a substantial risk that either the applicant or the applicant's financial institution will not fulfill its obligations related to the completion of improvements or the financial guarantee;

f. a cash escrow is deposited with the county treasurer at the time the letter of credit is executed equal to the full cost to revegetate any removed vegetation in the event the applicant, his successors or heirs, or his financial institution fails to perform.

(3) Acceptance of financial guarantee. A financial guarantee under this section is accepted when the county commissioners approve and sign a subdivision improvement agreement between the county and the applicant, and an escrow agreement or letter of credit. After the subdivision improvement agreement is approved, the applicant may record the subdivision, as long as all other recording requirements have been met. The recording of the subdivision will allow the

239 developer to sell the lots, but not allow building and/or land use permits to be issued until all
240 improvements are installed, except as listed above.

241 ~~(3) The applicant shall furnish and file with the county commission the escrow of the Weber County~~
242 ~~Engineer in an amount equal to the future cost of the installation of the improvements at the~~
243 ~~termination of the financial guarantee period as estimated by the county engineer, to assure the~~
244 ~~installation of improvements within two years. The escrow shall be approved by the county~~
245 ~~commissioners and county attorney.~~

246 ~~(4) Upon completion of the construction of roads and utility lines, the developer's engineer shall~~
247 ~~prepare and submit as-built plans for all improvements for the approval of the county engineer.~~
248 ~~As-built plans shall include a digital plan (dwg format) and one set of reproducible Mylars prior~~
249 ~~to the county acceptance for maintenance of roads.~~

250 ~~(b) Upon completion of all improvements, ten percent of the approved financial guarantee shall be~~
251 ~~retained by Weber County for a period of one year at which time, upon recommendation of the~~
252 ~~county engineer, the roads may be accepted for maintenance by the county.~~

253 (b) *Partial release of financial guarantee.* Unless otherwise specified by the terms of the subdivision
254 improvement agreement, the county is only obligated to offer a partial release of the financial
255 guarantee for an independent improvement system, including but not limited to those specified in
256 Section 106-4-2, that is completed to the satisfaction of the county engineer.

257 (c) *Warranty, and conditional acceptance of improvements.* Upon satisfactory completion of all
258 improvements, as determined by the county engineer, the improvements shall enter a conditional
259 acceptance period. Ten percent of the approved financial guarantee shall be retained by the county
260 for an improvement warranty period as defined by UCA §17-27a-103. At the discretion of the county
261 engineer, the warranty period may restart for any individual improvement needing replacement or
262 repairs prior to the end of the conditional acceptance period.

263 ~~(c) Whenever the applicant develops a subdivision a phase at a time, such development shall be in an~~
264 ~~orderly manner and in such a way that the required improvements will be made available. The~~
265 ~~applicant shall be responsible for coordinating the installation of utility, street, water lines, fire~~
266 ~~hydrants, and all other required improvements with the buyers of lots.~~

267 ~~(d) The county engineer, at the request of the applicant, may release portions of the escrow agreement~~
268 ~~when all obligations have been fully performed by the installation of the improvements.~~

269 ~~(e) The applicant shall deposit with the County Engineer at the time of final plat approval, an amount of~~
270 ~~money equal to the estimated cost of purchase and installation of the traffic control and street name~~
271 ~~signs.~~

272 ~~(f) The applicant shall sign a survey monumentation improvement agreement and pay applicable fees~~
273 ~~associated prior to the county surveyor signing the final subdivision plat Mylar.~~

274 ~~(g) New subdivisions having to utilize a road that is substandard in road right-of-way width and/or~~
275 ~~improvements shall not be consider for approval or extension, until the substandard road is fully~~
276 ~~improved to County Public Work Standards.~~

277
278 (d) *Final acceptance of improvements* After the warranty period has expired, if the improvements have
279 performed to the county engineer's satisfaction, the county engineer shall release the remainder of
280 the financial guarantee. At this time the county engineer may also offer final acceptance of the
281 improvements. Final acceptance may be withheld if circumstances unforeseen at the time of
282 conditional acceptance become known that expose the county or the public to unreasonable
283 financial or safety risk. The county is not responsible for operations or maintenance of public
284 improvements that have not received final acceptance.

286 Sec. 106-4-4. - Inspection of improvements.

287 The county engineer, building inspector, county surveyor, and county health officer shall inspect all
288 buildings, structures, streets, street monuments, fire hydrants, water supply, and sewage disposal
289 systems in the course of construction, installation or repair, etc. Excavations for fire hydrants, water and
290 sewer mains, and laterals shall not be covered over or back-filled until such installations have been
291 | approved by the County Engineer, or utility ~~owner's~~owner's representative. If any installation is covered
292 before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the
293 responsible person by the County Engineer.