

ORDINANCE NUMBER 2018-2

AN ORDINANCE AMENDING THE WEBER COUNTY LAND USE CODE TO ALLOW PARCELS CREATED PRIOR TO JULY 1, 1992 CONTAINING A PERMITTED SINGLE FAMILY DWELLING TO BE CONSIDERED A LOT OF RECORD.

WHEREAS, the Weber County Land Use Code heretofore defined the term "Lot of Record"; and

WHEREAS, the Weber County Land Use Code heretofore contained regulations governing noncomplying structures, nonconforming uses, and nonconforming lots; and

WHEREAS, these regulations offered inadequate, vague, or inconsistent provisions; and

WHEREAS, on December 12, 2017, the Western Weber Planning Commission, after appropriate notice, held a public hearing to consider public comments regarding the proposed amendments to the Weber County Land Use Code with respect to allowing parcels created prior to July 1, 1992 containing a permitted single family dwelling to be considered a lot of record, and offered a positive recommendation to the County Commission; and

WHEREAS, on January 2, 2018, the Ogden Valley Planning Commission, after appropriate notice, held a public hearing to consider public comments on the same, and offered a positive recommendation to the County Commission; and

WHEREAS, on February 6, 2018, 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 Plans 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.

Adopted and ordered published this 6th day of February, 2018.

Weber County Commission

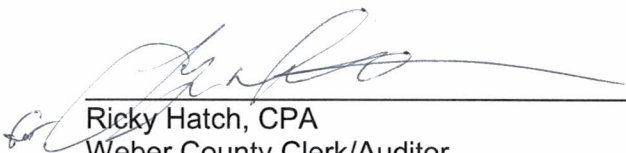


Kerky W. Gibson, Vice Chair

Commissioner Ebert voted
Commissioner Gibson voted
Commissioner Harvey voted

aye
aye
absent

ATTEST:



Ricky Hatch, CPA
Weber County Clerk/Auditor

Exhibit A

1 **Title 101 - GENERAL PROVISIONS**

2 ...

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

4 *Lot of record.* A lot of record is defined as any one of the following circumstances:

- 5 (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat
6 that has been approved by Weber County and is on file in the Weber County Planning
7 Office; or
- 8 (2) A parcel of real property identified as a building lot on a subdivision plat that has been
9 approved by Weber County and recorded in the office of the Weber County Recorder;
10 or
- 11 (3) A parcel or lot described in a deed, sales contract or survey that was recorded in the
12 office of the Weber County Recorder before January 1, 1966; or
- 13 (4) A parcel or lot described in a deed, sales contract or survey that was recorded in the
14 office of the Weber County Recorder in between January 1, 1966, and June 30, 1992,
15 which complied with the zoning requirements in effect at the time of its creation and
16 was shown to be the first or second division of a larger parent parcel; or
- 17 (5) A parcel or lot that was created in its current size and configuration and contained a
18 lawfully permitted single family dwelling prior to July 1, 1992; or
- 19 (6) A parcel/lot that does not fall within any one of the previously listed circumstances but
20 has received a variance from the Weber County Board of Adjustment which has
21 otherwise deemed a particular parcel/lot as a lot of record.

22 ...

23 **Title 108 - STANDARDS**

24 ...

25 **CHAPTER 12. - NONCOMPLYING STRUCTURES, NONCONFORMING USES, AND**
26 **NONCONFORMING LOTS**

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

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

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

- 33 (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures
34 on lots of record.
- 35 (b) Dwellings or other structures built on lots or parcels which were once legal, but have since
36 been modified in a manner that is in violation of applicable laws, shall not be issued land
37 use or building permits, unless the structure is being strengthened or restored to a safe

38 condition, or the lot or parcel is made to conform to current zoning regulations. In restoring
39 the structure to a safe condition, no expansion of the structure is allowed.

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

41 (a) Except as provided in subsection (c), a structure which is occupied by a nonconforming use
42 shall not be added to or expanded in any manner, unless such expansion is made to
43 conform to all yard and use regulations of the zone in which the structure is located,

44 (b) Except as provided in subsection (c), a noncomplying structure (main or accessory) shall
45 not be added to or enlarged in any manner, unless such addition or enlargement conforms
46 to all the regulations of the zone in which it is located, or conforms to the reduced yard
47 setbacks as allowed in section 108-12-13.

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

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

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

55 (d) A legally constructed dwelling or other structure on a lot of record, which is located within a
56 stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-
57 23 and/or 104-28-2), may be added to or enlarged, provided that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

101 A nonconforming use may be extended to include the entire floor area of the existing legal
102 structure in which it was conducted at the time the use became nonconforming; provided,
103 however, that a land use permit is first obtained for such extension of use.

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

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

110 **Sec. 108-12-11. - Subdivision plat requirements for nonconforming lots; exemptions.**

111 All lots and parcels shall be platted as part of a subdivision in conformance with the
112 requirements of title 106 of this Land Use Code, unless otherwise exempted by state code or
113 this Land Use Code. The platting of nonconforming lots, and the amendment to a platted
114 subdivision containing nonconforming lots are governed as follows:

115 (1) The following rules govern the treatment of an unplatted lot that does not conform to
116 the current lot standards and may not have complied with the requirements of the
117 subdivision code in effect at the time of the lot's creation:

118 a. If the existing lot can be defined as a lot of record, as defined in section 101-1-7,
119 the lot shall be exempt from subdivision platting requirements.

- 120 b. If the existing lot was created prior to July 1, 1992 and contained a lawfully
121 permitted single family dwelling unit, then the lot shall be exempt from subdivision
122 platting requirements, and is a nonconforming lot.
- 123 c. If the existing lot was created prior to July 1, 1992, and does not qualify for the
124 provisions of subsections (1)a. and (1)b., then the lot shall be platted in
125 accordance with title 106 of this Land Use Code. Lot standards applicable for such
126 subdivision lot may be reduced to meet the minimum standards of the zone in
127 effect at the time of the lot's creation so long as it does not create any more lots
128 than currently exist, and the current lot size is not materially reduced from its
129 current acreage, except for minor adjustments necessary to facilitate a more
130 accurate legal description. All such platted lots that do not conform to current
131 zoning standards shall thereafter be considered nonconforming lots. A lot that
132 does not meet the minimum standards of the zone in effect at the time of the lot's
133 creation may be reconfigured upon platting to comply with such standards as long
134 as the reconfiguration does not cause any other lot to become nonconforming or
135 more nonconforming. A lot platted pursuant to this subsection may be further
136 reduced in size to accommodate any right-of-way dedication as may be required
137 by title 106 of this Land Use Code. No unplatted lot or parcel governed by this
138 subsection shall be granted a land use permit prior to subdivision platting.
- 139 (2) Any lot legally platted within the bounds of a subdivision that was created pursuant to
140 the standards of the zoning code and subdivision code in effect at the time of its
141 creation, but no longer complies due to subsequent changes to these codes, may be
142 amended pursuant to the minimum standards in effect at the time of its creation. The
143 amendment shall not create any new lots. An amended plat shall be required.

144 **Sec. 108-12-12. - Reconfiguring nonconforming lots.**

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

150 ...

151

Exhibit B

1 **Title 101 - GENERAL PROVISIONS**

2 ...

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

4 | *Lot of record* ~~(lawfully created lot)~~. A lot of record is defined as any one of the following
5 circumstances:

6 (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat
7 that has been approved by Weber County and is on file in the Weber County Planning
8 Office; or

9 (2) A parcel of real property identified as a building lot on a subdivision plat that has been
10 approved by Weber County and recorded in the office of the Weber County Recorder;
11 or

12 | (3) A parcel or lot described in a deed, sales contract or survey that was recorded in the
13 office of the Weber County Recorder before January 1, 1966; or

14 | (4) A parcel or lot described in a deed, sales contract or survey that was recorded in the
15 office of the Weber County Recorder in between January 1, 1966, and June 30, 1992,
16 which complied with the zoning requirements in effect at the time of its creation and
17 was shown to be the first or second division of a larger parent parcel; or

18 (5) A parcel or lot that was created in its current size and configuration and contained a
19 lawfully permitted single family dwelling prior to July 1, 1992; or

20 (56) A parcel/lot that does not fall within any one of the previously listed circumstances but
21 has received a variance from the Weber County Board of Adjustment which has
22 otherwise deemed a particular parcel/lot as a lot of record.

23 ...

24 **Title 108 - STANDARDS**

25 ...

26 **CHAPTER 12. - NONCOMPLYING STRUCTURES, NONCONFORMING USES, AND**
27 **NONCONFORMING LOTS**

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

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

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

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

36 (b) Dwellings or other structures built on lots or parcels which were once legal, but have since
37 been modified in a manner that is in violation of applicable laws, shall not be issued land
38 use or building permits, unless the structure is being strengthened or restored to a safe

39 condition, or the lot or parcel is made to conform to current zoning regulations. In restoring
40 the structure to a safe condition, no expansion of the structure is allowed.

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

42 | (a) Except as provided in subsection (c), aA structure which is occupied by a nonconforming
43 use shall not be added to or expanded in any manner, unless such expansion is made to
44 conform to all yard and use regulations of the zone in which the structure is located.

45 | (b) Except as provided in subsection (c), aA noncomplying structure (main or accessory) shall
46 not be added to or enlarged in any manner, unless such addition or enlargement conforms
47 to all the regulations of the zone in which it is located, or conforms to the reduced yard
48 setbacks as allowed in section 108-12-13.

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

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

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

56 (d) A legally constructed dwelling or other structure on a lot of record, which is located within a
57 stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-
58 23 and/or 104-28-2), may be added to or enlarged, provided that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

102 A nonconforming use may be extended to include the entire floor area of the existing legal
103 structure in which it was conducted at the time the use became nonconforming; provided,
104 however, that a land use permit is first obtained for such extension of use.

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

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

111 **Sec. 108-12-11. - Subdivision plat requirements for nonconforming lots; exemptions.**

112 All lots and parcels shall be platted as part of a subdivision in conformance with the
113 requirements of title 106 of this Land Use Code, unless otherwise exempted by state code or
114 this Land Use Code. The platting of nonconforming lots, and the amendment to a platted
115 subdivision containing nonconforming lots are governed as follows:

116 (1) The following rules govern the treatment of an unplatted lot ~~that was created in~~
117 ~~conformance with the lot standards in effect at the time of the lot's creation and,~~
118 ~~because of subsequent changes to the Land Use Code, that~~ does not conform to the
119 current lot standards; ~~the lot may not~~ and ~~may not~~ have ~~conformed~~ complied with the
120 requirements of the subdivision code in effect at ~~that~~ the time of the lot's creation:

121 a. If the existing lot can be defined as a lot of record, as defined in section 101-1-7,
122 the lot shall be exempt from subdivision platting requirements.

- 123 | b. If the existing lot was created prior to July 1, 1992 ~~and,~~ contained a lawfully
124 | permitted single family dwelling unit, then ~~and complied with the standards of the~~
125 | ~~zone in effect at the time of the lot's creation,~~ the lot shall be exempt from
126 | subdivision platting requirements, and is a nonconforming lot.
- 127 | c. If the existing lot was created prior to July 1, 1992, and does not qualify for the
128 | provisions of subsections (1)a. and (1)b., then the lot shall be platted in
129 | accordance with title 106 of this Land Use Code. Lot standards applicable for such
130 | subdivision lot may be reduced to meet the minimum standards of the zone in
131 | effect at the time of the lot's creation so long as it does not create any more lots
132 | than currently exist, and the current lot size is not materially reduced from ~~its~~
133 | current acreage, except for minor adjustments necessary to facilitate a more
134 | accurate legal description. All such platted lots that do not conform to current
135 | zoning standards shall thereafter be considered nonconforming lots. A lot that
136 | does not meet the minimum standards of the zone in effect at the time of the lot's
137 | creation may be reconfigured upon platting to comply with such standards as long
138 | as the reconfiguration does not cause any other lot to become nonconforming or
139 | more nonconforming. A lot platted pursuant to this subsection may be further
140 | reduced in size to accommodate any right-of-way dedication as may be required
141 | by title 106 of this Land Use Code. No unplatted lot or parcel governed by this
142 | subsection shall be granted a land use permit prior to subdivision platting.
- 143 | (2) Any lot legally platted within the bounds of a subdivision that was created pursuant to
144 | the standards of the zoning code and subdivision code in effect at the time of its
145 | creation, but no longer complies due to subsequent changes to these codes, may be
146 | amended pursuant to the minimum standards in effect at the time of its creation. The
147 | amendment shall not create any new lots. An amended plat shall be required.

148 | **Sec. 108-12-12. - ~~Enlarging~~ Reconfiguring nonconforming lots.**

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

154 | ...

155