



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and decision on a proposal to amend the certain sections of the Land Use Code to provide new open space requirements for cluster subdivisions, with special emphasis on agricultural encouragement, and to offer new or modified definitions and other clerical edits to other sections of code related to the new or modified definitions.

Agenda Date: Tuesday, May 01, 2018
Staff Report Date: Wednesday, April 25, 2018
Applicant: Weber County Planning Division
File Number: ZTA 2017-15

Staff Information

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Applicable Ordinances

§101-1-7: Definitions
§104-17-5: Site Development Standards
§104-29-2: Development Standards
§108-3: Cluster Subdivisions
§108-3-10: Guarantee of Improvements.
§108-21-6: Use/Standards and Limitations.

Summary and Background

The Western Weber County Planning Commission has recently reviewed a number of cluster subdivisions that have caused concern over the actual effect of the current cluster subdivision ordinance. Of primary concern, the recent clusters have not been producing the acreages of useable open space that was originally expected. Developers have been designing smaller-parcel open spaces intended to be individually owned by the adjoining lot owner instead of the desired large-acreage open areas. Because individually owned open space parcels do not require street frontage, but the adjoining lot does, this standard often results in the open space area being tucked to the rear of the lot as a virtual extension to the lot's backyard. The benefit of that small open space parcel to the public cannot be realized when it is hidden in the rear of a lot. The second concern is that the minimum open space parcel size is not sufficient to offer quality agricultural opportunities, and is only resulting in small horse properties or extended backyards.

To defend against this practice the Planning Commission is asking that the cluster subdivision standards be amended to better reflect the intent of the general plan's cluster subdivision policy recommendation. This recommendation suggests clustering residential lots together as tightly as possible so that the open space can also be better organized as contiguous open space, to the extent possible. Larger contiguous open spaces better provide for agricultural opportunities, but also better provide for the sense of open-rural character by offering visual breaks in the built environment that are occupied by undeveloped lands.

In making this change, the Western Weber Planning Commission also suggested a number of other clerical and administrative modifications that they felt would better help with decision making.

The Ogden Valley Planning Commission acknowledges the concerns of the Western Weber Planning Commission, however, has not had the opportunity to experience the issues. The Ogden Valley Planning Commission is less concerned over the long-term preservation of agricultural opportunities, but is very concerned about the preservation of meaningful open space that will help maintain their community's rural and open feel.

Both Planning Commissions have offered a positive recommendation for the changes. This proposal is being made under the pending legislation time constraints of state code. Both Planning Commissions would like the County Commission to be aware that these changes are the minimum that could be accomplished within this timeframe, and that other changes may be needed in the near future to more fully execute best possible outcomes.

Policy Analysis

Recommended method of reviewing the proposal. The complete proposal is presented in the ordinance provided herein as Attachment 2. The attachment 1 provides a more specific analysis of the changes with staff commentary in text-balloons in the margins.

A brief synopsis of the proposed changes is provided below.

Policy considerations.

Definitions. The proposal offers a few new definitions and recommends modification to a few existing definitions. The new terms are to better explain some new terminology in the new cluster code. The modified terms are to better provide for those terms, but also consolidate multiple definitions throughout the code into more simple and centralized terms within the definitions sections. This is intended to help avoid terminology confusion in the future.

Purpose and intent. The purpose and intent statement of the cluster subdivision code is proposed to be altered to be more directive and objective.

Supplemental subdivision and procedural requirements. The proposal better emphasizes that a cluster subdivision is just a type of subdivision and that the typical subdivision rules still apply as well. This new section also better specifies what is required to be submitted with the cluster subdivision application and it better explains the additional process steps that are necessary to review a cluster subdivision application.

Residential cluster subdivision design and layout standards, generally. This revised section of code is intended to better specify the desired layout of a cluster subdivision. It offers general guidance about clusters, open spaces, streets, and pathways or sidewalks layout. The increased specificity is intended to better provide the applicant through the process by avoiding some of the more subjective language of the current code.

Open space preservation plan. This revised section of the code offers reduces much of the complicated specificity of the current code and offers a little more simplified and objective criteria for open space design, layout, and preservation. This includes ownership types and instrument of perpetual preservation. In revising this section staff felt it wisest to eliminate the section below (in the current code) and more clearly incorporate it into this section, as the subject is the same.

Lot development standards. In this section very little criteria changed. Instead of a complication formula about lot sizes in relation to their proximity of other lots in adjacent developments, this section of code instead offers a flat minimum lot size of 9,000 square feet. It is worth mentioning, however, that the Western Weber Planning Commission had serious discussion about requiring lots adjacent to large collector roads to be larger, This did not make it into the proposal due to time constraints, and may come back up for consideration at a later time. The lot development standards found in the newly proposed section are just formatting changes for ease of use, not changes to standards,

Bonus density. The Western Weber Planning Commission is also asking with this proposal that the bonus density offered in a cluster change, They've proposed a graduated scale that is based on subdivision acreage. The more acreage of the subdivision, the more bonus density that is allowed – up to 50% for 50 acres. The outcome seeks to attract larger tracts for cluster subdivisions thereby attracting larger contiguous open space areas for potential agricultural uses.

Conformance to the General Plan

Generally, land use code changes should be vetted through the filter of policy recommendations of the applicable general plan. The new 2016 Ogden Valley General plan advises the county to strengthen its cluster subdivision ordinance to better offer meaningful open spaces.

The West Central Weber General Plan also recommends the clustering of development as a means of protecting open space and farmland. It specifically recommends the contiguity angle that is in the proposal.

Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

Planning Commission Recommendations

Both planning commissions have forwarded a positive recommendation to the County Commission for the proposal.

Staff Recommendation

Staff and both Planning Commissions recommend approval of the attached ordinance. The following findings can be made:

1. The proposal will better provide for larger open areas more conducive to agricultural operations.
2. The proposal is necessary to reduce conflicting terms in the Land Use Code.
3. The changes are necessary to provide clarity in the Land Use Code.
4. The clarifications will provide for a more efficient administration of the Land Use Code.
5. The changes are directly supported by the general plans.

Attachments

1. Annotated Redlined Version of Code Changes
2. Proposed Ordinance

Title 101 – GENERAL PROVISIONS

Sec. 101-1-7. - Definitions.

Accessory dwelling unit ~~The term "accessory dwelling unit," also referred to as an "ADU," means a dwelling unit, as defined by this Section, that is either attached to the main dwelling or is otherwise located on the same lot or parcel as the main single family dwelling. An accessory dwelling unit is not an accessory apartment, as otherwise defined by this Section. Ownership of an accessory dwelling unit shall not be transferred separate from the main single family dwelling to which it is accessory. See also "carriage house." (ADU). The term "accessory dwelling unit (ADU)" means an accessory, non-owner occupied, single-family dwelling unit that is sited on the same lot/parcel as a main dwelling unit. The ADU is located in designated areas when constructed on property that can accommodate the necessary zoning, water, wastewater, and typical building system requirements. It may privately serve as a guest house or be rented/leased separately; however, an ADU is not, by any means, sold/conveyed separately from the main house. The right to construct an ADU does not constitute a transferable development right. See also Carriage house.~~

Comment [c1]: When reading the changes, blue underline = additions. Red strikethrough = deletions. Black text = no changes from current code. Green strikethrough or underline means the language was moved from elsewhere.

~~Acreage, adjusted gross. The term "acreage, adjusted gross" means a total of all land area that lies within a project boundary and is classified as "developable" by this or any other county, state or federal law, ordinance or regulation.~~

Comment [E2]: This modification is relevant to an idea that started emerging with this rewrite. Given the expedited nature of this rewrite we will fully incorporate ADU's into cluster subdivisions another time. This modification will make that task easier.

Acreage, gross. ~~The term "gross acreage" means a total of all acreage that lies within a project boundary. The term "acreage, adjusted gross" means a total of all land area that lies within a project boundary and is classified as "developable" by this or any other county, state or federal law, ordinance or regulation.~~

Comment [E3]: This definition is about synonymous with "net developable acreage" below. Deleting it and using the other. This ordinance amendment includes areas of the code that uses this term and modifies it to use "net developable acreage."

Acreage, net developable. ~~The phrase "net developable acreage" means the total acreage within a project boundary, subtracting acreage unsuitable for development, as defined by this section or as otherwise provided in this Land Use Code. When calculating net developable acreage, ten percent of the total acreage within a project area shall be reduced to account for potential street rights-of-way. The portions of an existing street right-of-way located within the project boundaries may be included as part of the ten percent. The term "net developable area" shall have the same meaning, unless the context clearly indicates otherwise. The term "acreage, net developable" means a total of all land area that lies within a project boundary and has not been excluded from use in density calculations or deemed "undevelopable" by this or any other county, state, or federal law, ordinance or regulation. The area within existing and proposed public and private road rights-of-way shall not be counted towards "net developable acreage."~~

Comment [CE4]: This definition modification draws from multiple other descriptions of net developable acreage throughout the code and standardizes and centralizes it here.

Acreage, productive agri-tourism. ~~The term "productive agri-tourism acreage" means agriculturally productive land area used for the combined purpose of cultivating agricultural products and hosting active tourism attractions (e.g., pumpkin patch, corn maze, U-pick, U-cut Christmas trees, crop tour, bird watching, hunting, horseback/sleigh/wagon rides etc.).~~

Acreage unsuitable for development. ~~The phrase "acreage unsuitable for development" means the area within a project that has extraordinary circumstances that under existing county, state, or federal laws render development on it very unlikely. The applicant bears the burden of proof.~~

Comment [CE5]: This definition is intended to replace non-developable area/acreage. There are very few areas, if any, that cannot be developed given proper funding.

Agricultural arts center. ~~The term "agricultural arts center" means a facility designed for the purpose of offering public education, enjoyment, and enlightenment through artistic expression and/or a translation of concepts related to art, art history, and art theory. It, in a conducive agricultural setting,~~

49 acts as a venue for the community to experience, appreciate, and consume art in a variety of forms,
50 including, but not limited to, visual or media art, literature, music, theatre, film, and/or dance. An
51 agricultural arts center does not provide accommodation for nightly farm-stays; however, it may serve
52 meals when served to event participants and/or guests.

53 *Agricultural parcel.* The term "agricultural parcel" means a single parcel of land, at least 5.0 acres
54 in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in
55 order to qualify for the agricultural building exemption.

56 *Agricultural land, prime.* The term "prime agricultural land" means the area of a lot or parcel best
57 suited for large-scale crop production. This area has soil types that have, or are capable of having,
58 highest nutrient content and best irrigation capabilities over other soil types on the property, and are of a
59 sufficient size and configuration to offer marketable opportunities for crop-production. Unless otherwise
60 specified by this land use code, actual crop production need not exist onsite for a property to be
61 considered to contain prime agricultural land.

Comment [CE6]: New term intended to help identify the best areas to preserve for long-term farming.

62 *Agriculture.* The term "agriculture" means use of land for primarily farming and related purposes
63 such as pastures, farms, dairies, horticulture, aquaculture, animal husbandry, and crop production, but
64 not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit
65 packing plants, fur farms, animal hospitals or similar uses.

66 ...

67 *Agri-tourism.* The term "agri-tourism" means an agricultural accessory use that can provide a
68 means of diversifying a farm's income through broadening its offerings and adding value to its products.
69 ~~Agri-tourism businesses are permitted conditionally in designated zones, excepting those areas within
70 residential subdivisions that are dedicated for the purpose of open space or common area.~~ They operate
71 during more than six (consecutive or non-consecutive) days per year and provide agriculturally related,
72 and in some instances, non-agriculturally related products and activities that attract members of the public
73 to the farm for retail, educational, recreational, and/or general tourism purposes. ~~Educational and
74 recreational agri-tourism activities/uses may include, but not be limited to, educational activities, nightly
75 accommodations, entertainment opportunities, and/or outdoor recreation (e.g., farm tours,
76 farm/cooking/ecological classes, farm stays, corn mazes, and special occasions including weddings and
77 family reunions, special events including harvest festivals and musical events, U-pick operations,
78 agriculturally related competitions, and other similar events). Consumer direct sales of farm products may
79 include, but not be limited to, open air or farmers markets, on farm produce stands, and value added
80 product processing and packaging and retail sales facilities (e.g., process pumpkins grown on-premises,
81 into pumpkin pies).~~

Comment [c7]: Removing this will allow agricultural operations to occur on common open land within a cluster subdivision.

Comment [c8]: This language is "use" oriented, and not "definition" oriented. All of it is otherwise already provided for in the agritourism section as is unnecessary here.

82 ...

83 *Club or fraternal lodge/organization, private.* The term "club or fraternal lodge/organization, private"
84 means a non-profit association of persons who are bona fide members which owns or leases a building
85 or portion thereof, the use of such premises being restricted to members and their guests.

86 *Cluster of residential lots.* The phrase "cluster of residential lots" means a grouping of residential
87 lots, as provided Title 108 Chapter 3 of this land use code, that are contiguous and uninterrupted by
88 other nonresidential parcels except parcels required for a street and other allowed access or as
89 otherwise allowed by this land use code.

Comment [c9]: This is a new definition for use in the new cluster code.

90 *Code.* The term "Code" means the Land Use Code of Weber County, Utah.

91 ...

92 *Conservation easement.* The term "conservation easement" means:

- 93 (1) An easement granting a right or interest in real property that is appropriate to retaining land or
- 94 water areas predominately in their natural, scenic, open or wooded condition;
- 95 (2) Retaining such areas as suitable habitat for fish, plants or wildlife; or
- 96 (3) Maintaining existing land uses.

97 ...
98 Density base. The term "base density" means the number of dwelling units allowed in an area. For
99 development types that permit a reduced lot area than otherwise provided by the zone, the base density
100 shall be calculated as the net developable acreage, as defined herein, divided by the minimum lot area
101 of the zone, except when a greater area would otherwise be required by the Weber-Morgan Health
102 Department due to lack of sanitary sewer or culinary water, then the greater area shall be used. This
103 calculation can be observed by this formula: ((net developable acreage) / (minimum lot area)) = base
104 dwelling unit density. The result shall be rounded down to the nearest whole dwelling unit.

Comment [CE10]: This definition/calculation has always been assumed, but is nowhere explicitly offered in this land use code.

106 Estate lot. The term "estate lot" means a lot within a subdivision, intended for the use of a dwelling
107 unit, that contains at least 5.25 acres.

Comment [CE11]: New term for new type of lot allowed in a cluster subdivision.

109 Gross Acreage. See "acreage, gross."

111 Net developable acreage. See "acreage, net developable."

113 ~~Non developable area.~~ The term "non-developable area" means an area where, due to topographic
114 (e.g., over 30 percent slope), or hazardous conditions (e.g., earthquake, landslide), as defined by Weber
115 County Ordinances, the land is not considered to be suitable for construction of residential, commercial
116 or manufacturing buildings or structures.

Comment [CE12]: Being replaced with the term "acreage unsuitable for development."

117 **Title 104 - ZONES**

118 **Sec. 104-17-5. – Site development standards**

Comment [CE13]: This is in the FR-3 zone.

121 (a) Minimum lot area. Two different minimum area regulations are recognized based upon the use of
122 either individual wastewater disposal systems of a community or a group wastewater disposal
123 systems of a community or a group wastewater disposal facility approved by the state division of
124 health as follows:

126 (2) Developments using a community or group wastewater disposal facility meeting the
127 requirements of the state division of health code of wastewater disposal regulations:

128 ~~e. Net developable area or acre.~~ The term "net developable area" or "net developable acre" is
129 ~~defined as a quantity of ground within a parcel or parcels of land with slopes of less than~~
130 ~~30 percent and with soils of sufficient depth and suitable types to ensure against~~
131 ~~development being a detriment to surface water and groundwater quality.~~

Comment [CE14]: This is a staff suggestion – offered after Planning Commission review.
New definition found in the definitions section above makes this unnecessary.

134 **Sec. 104-29-2. – Development standards.**

Comment [E15]: This is in the DRR-1 Zone. Modifications of this section are only to make terms consistent with definition changes in the definition section.

137 (i) Open space. A minimum of 60 percent of the ~~adjusted-gross~~ net developable acreage, owned by the
138 resort and located within the destination and recreation resort zone, shall be designated as open
139 space. A portion of that open space shall consist of conservation open space in an amount equal to

140 | or greater than 30 percent of the resort's ~~adjusted-grossnet~~ developable acreage. The area
141 | designated as conservation open space shall be encumbered by an irrevocable conservation
142 | easement meeting the general/applicable requirements described in section 104-29-6 of this chapter
143 | and shall be granted prior to beginning any construction within an overall project phase. The
144 | minimum number of acres encumbered by each easement shall be equal to or greater than the
145 | number of acres involved in each project phase until the total number, of required conservation open
146 | space acres, is met. Areas dedicated (platted and recorded) as open space within residential and
147 | nonresidential subdivisions may count towards the minimum open space requirement.

148

149 | ...

150 | **Title 108 - STANDARDS**

151 | ...

152 | **CHAPTER 3. - CLUSTER SUBDIVISIONS**

153 | **Sec. 108-3-1. – Purpose and Intent.**

154 | The purpose of this chapter is to provide flexible development standards to landowners that are
155 | committed to developing safe, attractive, conservation oriented neighborhoods that:

- 156 | (1) are designed and arranged in a manner that considers, gives deference to, and ultimately
157 | protects natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally
158 | productive lands;
- 159 | (2) offer predictable support and encouragement in agricultural areas for a wide variety of long-term
160 | agricultural operations on open space parcels;
- 161 | (3) benefit those that create cluster subdivisions by offering an inherent gain in the form of reduced
162 | infrastructure costs and the possibility for an increase in residential density in the Western
163 | Weber Planning Area;
- 164 | (4) benefit the residents of Weber County by promoting public welfare through the reduction of
165 | long-term infrastructure maintenance costs; and
- 166 | (5) permanently preserve the county's functional open spaces, picturesque landscapes, and rural
167 | character.

168 | ~~The purpose of this chapter is to provide flexible development standards to landowners that are~~
169 | ~~committed to developing safe, attractive, conservation oriented neighborhoods that are thoughtfully~~
170 | ~~designed and arranged in a manner that considers, gives deference to, and ultimately protects~~
171 | ~~natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally productive~~
172 | ~~lands. It is intended to benefit those that create cluster subdivisions by offering an inherent gain in~~
173 | ~~the form of reduced infrastructure costs and the possibility for a substantial increase in residential~~
174 | ~~density in the Western Weber Planning Area. It is equally intended to benefit the residents of Weber~~
175 | ~~County by promoting public welfare through the reduction of long-term infrastructure maintenance~~
176 | ~~costs and the permanent preservation of the county's functional open spaces, picturesque~~
177 | ~~landscapes, and rural character.~~

178

179 | **Sec. 108-3-2. - ~~General regulations~~ Allowed zones.**

180 | Subject to the requirements of this chapter, cluster subdivisions are permitted in all zones except for
181 | the commercial, manufacturing, gravel, residential mobile home, open space, and shoreline zones.

182 | ~~-Subject to the requirements of this chapter, cluster subdivisions are permitted in all classified Weber~~
183 | ~~County zone areas except for the commercial, manufacturing, gravel, residential mobile home, open~~
184 | ~~space, and shoreline zones.~~

185 | **Sec. 108-3-3. - Supplemental subdivision procedural requirements. ~~Approval procedure.~~**

- 186 (a) Subdivision procedures and requirements apply. All procedures and requirements of Title 106 shall
187 apply to a cluster subdivision unless there is a conflict or supplement in this chapter, in which case
188 the provisions of this chapter shall prevail.
- 189 (b) Conceptual sketch plan. In addition to the subdivision approval procedure in Title 106, the cluster
190 subdivision approval procedure requires a conceptual sketch plan endorsement from the planning
191 commission prior to the submission of a formal subdivision application. An application for a
192 conceptual sketch plan endorsement must demonstrate compliance with applicable standards
193 contained within the Weber County Code. The completed application must be submitted at least 21
194 calendar days prior to the planning commission meeting at which the applicant wishes to be heard.
195 Endorsement from the planning commission is only a means to assist in the creation of a complete
196 subdivision application and shall not create any vested right except the right to apply for preliminary
197 subdivision review. The application is complete upon submission of the following:
- 198 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of Ordinances,
199 and submission of a complete sketch plan endorsement application on a form provided by the
200 county planning department.
- 201 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject
202 property, surrounding streets, and relevant landmarks.
- 203 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that demonstrates in a
204 suitable manner compliance with all applicable codes. The plan shall include, but not
205 necessarily be limited to, a north arrow and scale, subdivision boundary according to county
206 records, approximate locations of proposed streets, lots with approximate area calculations,
207 common areas and open space parcels with approximate area calculations, easements,
208 waterways, suspected wetlands, floodplains, existing structures, and contour lines. Information
209 related to topography and contour lines may be submitted on a separate map. Contour
210 information may be omitted if the planning director or his designee determines that the subject
211 property lacks topographic characteristics that warrant representation.
- 212 (4) An electronic copy of all forms, documents, materials, and information submitted as part of the
213 application.
- 214 (c) Preliminary and final cluster subdivision application.
- 215 (1) Submission for preliminary cluster subdivision approval. A submission for preliminary cluster
216 subdivision approval shall:
- 217 a. conform to the endorsed sketch plan;
- 218 b. comply with all applicable preliminary plan requirements of Title 106;
- 219 c. contain an open space preservation plan, as required in Section 108-3-5.
- 220 (2) Submission for final cluster subdivision approval. A submission for final cluster subdivision
221 approval shall conform to the approval of the preliminary cluster subdivision approval and
222 comply with all applicable final plat requirements of Title 106. If applicable, submission shall
223 also include final conditions, covenants, and restrictions or a homeowner's association
224 declaration that clearly explain the maintenance method for each common area parcel, as
225 required by this chapter or any condition of preliminary cluster subdivision approval. Submission
226 shall also include drafts of any other relevant instrument required for the execution of applicable
227 provisions of this Land Use Code.
- 228 ~~(a) The cluster subdivision approval procedure consists of four phases as follows:-~~
- 229 ~~(1) A conceptual sketch plan endorsement from the appropriate planning area planning~~
230 ~~commission;-~~
- 231 ~~(2) A preliminary approval by the appropriate planning area planning commission;-~~
- 232 ~~(3) A recommendation from the appropriate planning area planning commission for final approval by~~
233 ~~the board of county commissioners; and-~~

- 234 ~~(4) — A final approval and acceptance by the board of county commissioners.~~
- 235 ~~(b) — An application for a conceptual sketch plan endorsement shall demonstrate compliance with all~~
- 236 ~~applicable standards contained within the Weber County Code. The completed application must be~~
- 237 ~~submitted at least 14 calendar days prior to the planning commission meeting at which the applicant~~
- 238 ~~wishes to be heard. The application is complete upon submission of the following:~~
- 239 ~~(1) — Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of Ordinances,~~
- 240 ~~and submission of a complete sketch plan endorsement application on a form provided by the~~
- 241 ~~county planning department.~~
- 242 ~~(2) — One 8.5 inch by 11 inch vicinity map, underlain by an aerial photo, showing the subject property,~~
- 243 ~~surrounding streets, and relevant landmarks.~~
- 244 ~~(3) — One 11 inch by 17 inch conceptual plan, drawn at a reasonable scale, that demonstrates in a~~
- 245 ~~suitable manner compliance with all applicable codes. The plan shall include, but not necessarily~~
- 246 ~~be limited to, a north arrow and scale, subdivision boundary according to county records,~~
- 247 ~~approximate locations of proposed streets, lots with approximate area calculations, common areas~~
- 248 ~~and open space parcels with approximate area calculations, easements, waterways, suspected~~
- 249 ~~wetlands, floodplains, existing structures, and contour lines. Information related to topography and~~
- 250 ~~contour lines may be submitted on a separate map. Contour information may be omitted if the~~
- 251 ~~planning director or his designee determines that the subject property lacks topographic~~
- 252 ~~characteristics that warrant representation.~~
- 253 ~~(4) — An electronic copy of all forms, documents, materials, and information submitted as part of the~~
- 254 ~~application.~~
- 255 ~~(c) — An application for preliminary approval by the appropriate planning commission, recommendation~~
- 256 ~~for final approval, or final approval and acceptance by the board of county commissioners shall~~
- 257 ~~comply with all applicable standards of the Weber County Land Use Code, including this chapter and~~
- 258 ~~title 106, Subdivisions. The approval process shall proceed as directed by Weber County Land Use~~
- 259 ~~Code title 106, chapter 1.~~

260

261 **Sec. 108-3-4. Residential cluster subdivision design and layout standards, generally. ~~Cluster~~**
262 **~~subdivision design and layout standards.~~**

- 263 (a) Overall configuration. A cluster subdivision's general design shall concentrate residential building
- 264 lots, with their adjoining street rights-of-way and any approved alternative access, if applicable,
- 265 together in accordance with the following:
- 266 (1) In all zones. In all zones, a cluster of residential lots, as defined in Section 101-1-7, shall be
- 267 designed to avoid, to the extent possible, lands that have characteristics generally valuable for
- 268 preservation or conservation, including but not limited to viewsheds, ridgelines, canyons,
- 269 waterways, stands or groupings of mature vegetation, wildlife habitat, and other sensitive
- 270 ecology identified as being of importance by the applicable general plan or some other land
- 271 preservation or conservation plan adopted by the county, state, or federal government and that
- 272 is applicable within the county. Preservation or conservation shall be tailored to execute the
- 273 goals, objectives, or policies of the relevant plan. The application shall provide sufficient detailed
- 274 information to clearly verify compliance.
- 275 (2) In agricultural zones. In an agricultural zone, only one cluster of residential lots is allowed unless
- 276 more are necessary to avoid development on prime agricultural land, as defined in Section 101-
- 277 1-7, or sensitive lands as provided in Section 108-3-5(b)(4). The cluster or clusters of residential
- 278 lots shall be organized in a manner that supports viability of crop production on the open space
- 279 lands including optimizing ease of access and maneuverability, to and on the open space lands,
- 280 of large equipment commonly used to support crop production. A cluster of residential lots shall
- 281 be configured to support the required open space design and layout standards of this chapter.
- 282 Subdivision phasing that avoids this requirement shall not be allowed.

Comment [c16]: There is strong support for this in the general plan. The reason is that if all the homes are located together in one area then more contiguous acreage can be preserved as open areas, which will hopefully eventually reinvigorate larger-scale agricultural operations on those larger open areas.

283 (b) Street configuration. Streets shall have logical and efficient connections, with block lengths or
284 intersection distances no less than provided in Section 106-2-3.

285 (1) Western Weber Planning Area Streets. In the Western Weber Planning Area, streets shall
286 generally follow existing street grid design. Section line streets are mandatory and shall not be
287 waived. When practicable, quarter section lines shall denote the general location of other
288 through streets. If current parcel configuration does not make this practicable, a through-street,
289 or stubbed-street that will be a future through-street, shall be located as close to these lines as
290 otherwise reasonably possible.

291 a. The planning commission may waive this requirement for the following:

292 1. environmental constraints exist that render a through-street, or a stubbed-street that
293 will become a through-street, unreasonable and unnecessary; or

294 2. agricultural open space that is or would otherwise be permanently preserved as
295 provided in this land use code would be interrupted by the street in a manner that
296 creates a hardship for crop production.

297 b. In allowing a waiver under this subsection the planning commission may require the street
298 to be placed in another location to offer optimal compensation for the lack of the
299 connection required herein.

300 (2) Ogden Valley Planning Area Streets. In the Ogden Valley Planning Area, a street shall generally
301 follow the proposed street width and alignment displayed on the Streets and Roads map of the
302 2016 Ogden Valley General Plan, or other newer adopted transportation plan, if applicable.
303 Otherwise connectivity shall comply with Section 106-2-3.

304 (3) Street infrastructure: Any infrastructure or vegetation placed, or altered, in the street right of way
305 shall be in accordance with adopted right-of-way standards or shall be to the satisfaction of the
306 County Engineer. Operation and maintenance of street lighting and any right-of-way vegetation
307 shall be the responsibility of the homeowners, unless the county has adopted a policy otherwise.

308 (c) Pathways. In lieu of a sidewalk on both sides of the street, as required by 106-4-2(f), a ten foot wide
309 asphalt pathway may be allowed on one side of the street. If only developing a half width street,
310 where otherwise allowed by this Land Use Code, the pathway shall be located on that side;
311 otherwise, preference shall be given to the side that could best support pathway connectivity based
312 on other factors such as existing or planned future pathways in the vicinity and potential pedestrian
313 conflicts. Pathway and sidewalk layout shall be designed in a manner that prioritizes efficiency of
314 non-motorized modes of transportation.

315 (1) Regardless of street layout, the cluster subdivision's pathway or sidewalk infrastructure
316 layout shall provide a route or combination of routes that offer ingress and egress from any
317 given point along a street to the subdivision boundary in at least three generally opposing
318 and straight-line directions of the cardinal compass. Each of these routes shall provide a
319 walking distance that is shorter than twice the straight-line distance from the given point to
320 where the route intersects with the subdivision boundary.

321 (2) Within a cluster of residential lots, the maximum pathway or sidewalk walking-distance
322 between pathway or sidewalk intersections shall be 500 feet. A pathway or sidewalk
323 intersection is where a pathway or sidewalk intersects with another pathway, sidewalk, or
324 street. Pathways shall connect using shortest distance reasonably possible.

325 (3) Pathways and sidewalk layout shall provide for the continuation of existing pathways or
326 sidewalks in the general area, and for future planned pathways, as shown on an adopted
327 pathway plan. A pathway or sidewalk shall connect to any pathway or sidewalk stubbed from
328 adjacent developed property. Continuation of a pathway or sidewalk to adjacent undeveloped
329 property shall be provided with a stub to the subdivision boundary. Pathway and sidewalk
330 arrangement shall not cause any unnecessary hardship for creating convenient and efficient
331 access to future adjoining developments.

Comment [CE17]: General policy: Build streets on sections lines and quarter section lines, except in the Ogden Valley, where the roads should be built in accordance with the general plan map.

Subdivision code already requires street connectivity.

Comment [CE18]: Maximum street distance between street intersections is already specified in the subdivision chapter as being 1300 feet. This offers a similar standards for pathways.

332 (4) In an agricultural zone, pathways in open space areas greater than five acres shall be located as
333 close to the outer boundaries of the open space area as reasonably possible so as not to disrupt
334 the contiguity of the open space area.

335 (5) The planning commission may waive any of the above pathway requirements for a pathway or
336 sidewalk that is not intended to be a parallel part of the general street transportation system.

337 a. The waiver may be granted for the following reasons:

338 1. environmental constraints exist that render the connection unreasonable and
339 unnecessary; or

340 2. agricultural open space that is, or would otherwise be, permanently preserved as
341 provided in this land use code would be interrupted by the pathway or sidewalk in a
342 manner that creates a hardship for crop production.

343 b. In allowing a waiver under this subsection the planning commission may require the
344 pathway or sidewalk to be placed in another location to offer optimal compensation for the
345 lack of the connection required herein.

346

347 ~~The planning commission and county commission shall approve an application for a cluster~~
348 ~~subdivision if the planning commission and county commission find that the subject proposal~~
349 ~~meets all applicable standards of the Weber County Land Use Code, including the following:~~

350 ~~(1) A cluster subdivision's general design shall concentrate residential building lots, with their~~
351 ~~adjoining road rights of way and any approved access exceptions, into separate and~~
352 ~~individual clusters that are entirely surrounded by open space dedicated as common area,~~
353 ~~individually owned preservation parcels, or both. The open space area in between one~~
354 ~~cluster of lots and another shall not be less than 75 feet in width and the open space area in~~
355 ~~between lots and an exterior subdivision boundary shall not be less than 50 feet in width.~~
356 ~~The open space required in between lots and a subdivision's exterior boundary shall be~~
357 ~~waived if:~~

358 ~~a. Lots sharing a common line with the subdivision boundary contain 15,000 square feet or~~
359 ~~more;~~

360 ~~b. Lots are located along an internal phasing line when that phasing line is acting as a~~
361 ~~temporary external boundary;~~

362 ~~c. The proposed cluster subdivision lies adjacent to an existing subdivision that contains at~~
363 ~~least one lot that is smaller or not more than 5,000 square feet larger than the smallest lot~~
364 ~~lying within the proposed cluster subdivision; or~~

365 ~~d. Lots located along an external boundary lie adjacent to a parcel that:~~

366 ~~1. Does not contain an existing dwelling; or~~

367 ~~2. Contains a single existing dwelling that lies further than 150 feet away from all external~~
368 ~~boundaries of the proposed cluster subdivision.~~

369 ~~(2) In a subdivision consisting of 60 or more lots, each cluster shall contain no less than three~~
370 ~~lots and no more than 20 lots. In a subdivision consisting of fewer than 60 lots, each cluster~~
371 ~~shall contain no less than three lots and no more than one third of the total number of lots in~~
372 ~~the subdivision. The county may approve up to a five lot increase in the number of lots in a~~
373 ~~cluster if:~~

374 ~~a. The total number of lots cannot be equally divided into thirds and leaves a remaining~~
375 ~~number of lots that does not meet the standard for the minimum number of lots in a cluster;~~
376 ~~or~~

377 ~~b. There are unusual circumstances, such as complications involving topography,~~
378 ~~infrastructure, geotechnical, or geologic conditions, which warrant an increase.~~

- 379 ~~(3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is~~
380 ~~located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall be~~
381 ~~preserved as open space and dedicated as described in subsection (1) above. The~~
382 ~~minimum open space areas are as follows:~~
- 383 ~~a. In the Forest (F 40) Zone, a minimum of 90 percent of a cluster subdivision shall be~~
384 ~~preserved as open space.~~
- 385 ~~b. In the Forest (F 5) and Forest (F 10) Zones, a minimum of 80 percent of a cluster~~
386 ~~subdivision shall be preserved as open space.~~
- 387 ~~c. In the Agricultural Valley (AV 3), Forest Valley (FV 3), and the Ogden Valley Destination~~
388 ~~and Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a cluster subdivision~~
389 ~~shall be preserved as open space.~~
- 390 ~~d. In all other zones where a cluster subdivision is an allowed development type a minimum of~~
391 ~~30 percent of a cluster subdivision shall be preserved as open space.~~
- 392 ~~(4) Lands that can be mitigated such as floodplain and wetlands are considered developable~~
393 ~~and shall be counted towards density. Floodways within river corridors, lakes, and naturally~~
394 ~~occurring pond areas, which could not be developed but provide an amenity may also be a~~
395 ~~part of the open space, with 25 percent of this land credited towards the overall density of~~
396 ~~the development if this land is used to provide amenities and is accessible to the~~
397 ~~development.~~
- 398 ~~(5) Areas designated as floodplain, as defined by the Federal Emergency Management Agency or~~
399 ~~other qualified professional determined appropriate by the county engineer, rivers and streams,~~
400 ~~with and including their designated river or stream corridor setbacks, as defined by the Weber~~
401 ~~County Land Use Code, shall be located within a cluster subdivision's open space area.~~

402 **Sec. 108-3-5. - Open space preservation plan. ~~Open space plan approval, ownership, maintenance,~~**
403 **~~preservation, and guarantee of improvement standards.~~**

404 (a) Open space preservation plan procedure.

405 (1) Initial open space preservation plan approval. An open space preservation plan shall
406 accompany an application for preliminary subdivision approval or an application for an open
407 space preservation plan amendment. Preliminary subdivision approval constitutes approval of
408 the open space plan. A final plat shall comply with the approved open space plan.

409 (2) Open space preservation plan amendment. After submittal of a new application and application
410 fee an open space preservation plan may be amended, from time to time in accordance with the
411 standards of this chapter. If an amendment of an open space preservation plan affects any part
412 of the recorded subdivision plat, or if an amendment to a subdivision plat affects any part of an
413 approved open space preservation plan, then the two shall be amended together and final
414 approval of the amended subdivision plat shall constitute final approval of the amended open
415 space preservation plan. Otherwise, each may be amended independently. Submission for an
416 independently amended open space preservation plan shall be in compliance with the open
417 space plan submittal requirements of this chapter and shall require the approval of the planning
418 commission.

419 (b) Open space preservation plan submittal requirements. The open space preservation plan submittal
420 shall include the following:

421 (1) An overall cluster subdivision map identifying all open space areas and open space area
422 amenities.

423 (2) An open space site plan that:

424 a. identifies the open space parcel ownership types specified in (c)(9) of this section;

425 b. identifies each proposed ownership type with a unique color;

- 426 c. shows the locations of existing and proposed future structures and other open space
 427 amenities; structures housing a subdivision utility or serving as a subdivision amenity shall
 428 be subject to all applicable standards including all design review and applicable
 429 architectural standards found in title 108 of the Weber County Land Use Code;and
- 430 d. includes all park improvements and is accompanied by a letter of approval from the local
 431 park district for open space that will be gifted as a park parcel to a local park district.
- 432 (3) A narrative describing all proposed open space parcels, their proposed method of ownership,
 433 their proposed method of maintenance, their proposed uses, and any proposed building
 434 envelopes.
- 435 (4) The phasing of open space parcels and their relationship to the overall subdivision phasing
 436 plan, if any.

437 (c) Open space development standards and ownership regulations. All open space area proposed to
 438 count toward the minimum open space area required by this chapter shall be clearly identified on the
 439 open space site plan. The following standards apply to their creation. Open space area in excess of
 440 the minimum required by this chapter is exempt from these standards.

441 (1) ~~Minimum~~ required open space area. A cluster subdivision requires a minimum percentage of its
 442 net developable acreage, as defined in Section 101-1-7, to be preserved as open space, as
 443 follows:

<u>ZONE</u>	<u>REQUIRED OPEN SPACE</u>
<u>F-40 zone:</u>	<u>90 percent</u>
<u>F-5 and F-10 zones:</u>	<u>80 percent</u>
<u>AV-3, FV-3, and DRR-1 zones:</u>	<u>60 percent</u>
<u>Zones not listed:</u>	<u>30 percent</u>

Comment [CE19]: Nothing changing here from original code except the formatting.

444 (2) ~~Non-agricultural preservation open spaces.~~ In all nonagricultural zones, and except as provided
 445 otherwise in parts (4) or (5) of this subsection (c), open space parcels shall preserve, to the
 446 extent possible, lands that have characteristics generally valuable for preservation or
 447 conservation, including but not limited to viewsheds, ridgelines, waterways, stands or groupings
 448 of mature vegetation, wildlife habitat, and other sensitive ecology. Open space parcels shall be
 449 organized into one contiguous open space area, except contiguity may be interrupted if
 450 preservation or conservation of those characteristics is best accomplished by allowing the
 451 interruption. The applicant bears the burden of proving the social or environmental value of the
 452 preservation or conservation based on specific objectives found in the general plan or based on
 453 objectives of some other land preservation or conservation plan, or other preservation or
 454 conservation policy as adopted by the county, state, or federal government, and applicable
 455 within the county.

456 (3) ~~Agricultural~~ open spaces to be contiguous and useful. In all agricultural zones, open space
 457 parcels shall be arranged to create future long-term agricultural opportunities in the following
 458 ways:

- 459 a. By creating parcels of a sufficient size and configuration to support large-scale crop-
 460 producing operations. The area or areas of the subdivision that contains prime agricultural
 461 land, as defined by Section 101-1-7, shall first and foremost be used to satisfy the open
 462 space requirements of this chapter. Only then may any portion of the prime agricultural land
 463 be used for other development purposes.
- 464 b. Open space parcels shall be organized into one contiguous open space area. Contiguity
 465 may only be interrupted if preservation of long-term agricultural opportunities is best

Comment [CE20]: This is the primary policy change that this code rewrite seeks to accomplish. This will require bigger and more contiguous open areas. The hope is to reserve enough contiguous land to motivate farming in the future.

The specifics focus on crop production capabilities, but it is not intended to require crop production – simply plan for the opportunity.

466 accomplished by allowing the interruption. The applicant bears the burden of proving this
467 based on soil sampling, irrigation capabilities, parcel boundary configuration, and industry
468 best practices.

469 c. The exterior boundary of a contiguous open space area that is intended to satisfy the open
470 space requirements of this chapter shall be configured so a fifty-foot-wide farm implement
471 can reach all parts of the area with three or more passes or turns. Generally, this requires
472 the area to be at least 450 wide in any direction at any given point to be considered
473 contiguous. This three turn standard may be reduced by the planning commission for
474 portions of the parcel affected by the following:

475 1. The configuration of the existing exterior boundary of the proposed subdivision makes it
476 impossible;

477 2. A street required by Section 108-3-4 constrains the width of the parcel or bisects what
478 would otherwise be one contiguous open space area if the street did not exist; or

479 3. Natural features, or permanent man-made improvements onsite that cannot be moved
480 or realigned, cause an interruption to crop producing capabilities.

481 d. Open space area necessary to meet the requirements of part (4) or (5) of this subsection, or
482 open space areas never previously used for crop-production that currently contain areas
483 valuable for preservation or conservation as specified in part (2) of this subsection may be
484 exempt from this part provided they comply with those applicable parts.

Comment [c21]: Reference

485 (4) Small open space parcels within a cluster of residential lots. In order to maximize the
486 contiguous open space acreage as required in part (2) and (3) of this subsection, an open
487 space parcel or portion thereof that is located within a cluster of residential lots, as defined in
488 Section 101-1-7, or that interrupts contiguity of a cluster of residential lots and is not intended to
489 satisfy part (2), (3), or (5) of this subsection (c), shall be constrained in area and width to
490 provide the minimum acreage and width reasonably necessary for the functionality, operation,
491 and maintenance of the intended open space use. The open space preservation plan shall offer
492 sufficient information regarding the use and any proposed structures to allow the Planning
493 Commission to verify compliance. See also part (6) and part (8) of this subsection (c) for
494 additional applicable area and coverage regulations.

Comment [c22]: Reference

495 (5) Sensitive lands requirements. Cluster subdivisions in or on sensitive lands shall be governed as
496 follows:

497 a. Lands that can be mitigated such as floodplain and wetlands are considered developable
498 for the purpose of calculating net developable acreage, as defined in Section 101-1-7.

499 b. Acreage consumed by a lake, floodway within a river corridor, or a naturally occurring pond
500 area is acreage unsuitable for development, as otherwise defined in Section 101-1-
501 7. When any of these is offered as a community amenity on an open space parcel with
502 public access and a blanket public access easement, the subdivision shall receive 25
503 percent of the acreage credited to the net developable acreage for the purpose of
504 calculating base density.

Comment [CE23]: Encouraging, not requiring, access to waterways.

505 c. Regardless of developability, the following areas shall be located within a cluster
506 subdivision's open space area:

507 1. areas designated as floodplain, as defined by the Federal Emergency Management
508 Agency or other qualified professional determined appropriate by the county engineer;
509 and

510 2. rivers and streams, with and including their designated river or stream corridor setbacks,
511 as defined by the Weber County Land Use Code.

512 (6) Open space parcel area. The minimum area for an open space parcel located within a cluster
513 subdivision is as follows:

- 514 a. Common area. An open space parcel designated as common area is not subject to
515 minimum area requirements.
- 516 b. Park area. An open space parcel conveyed to a local park district shall be of a sufficient
517 size to adequately accommodate park infrastructure, amenities, and parking.
- 518 c. Individually owned open space parcel area. An open space parcel designated as an
519 individually owned preservation parcel shall contain an area of not less than five acres and
520 shall be part of a contiguous area of open space consisting of not less than ten acres in
521 total; and shall be in compliance with the following:
- 522 1. The ten acre minimum contiguous area does not need to be platted in the same
523 subdivision.
- 524 2. Each individually owned open space parcel shall be provided clear and perpetual legal
525 access from a public or private street right of way.
- 526 3. Drainage detention or retention facilities intended to accommodate subdivision
527 improvements may be located on an individually owned preservation parcel and
528 counted toward the subdivision's overall open space area, but the acreage of the
529 facility shall not be included as part of the parcel's agricultural use, and the acreage of
530 the facility shall be in addition to, not a part of, the minimum parcel area requirement.
- 531 d. Estate lot area. Up to eighty percent of an estate lot, as defined in Section 101-1-7, may
532 count towards the open space acreage requirement provided the following standards are
533 applied:
- 534 1. The area of the lot designated as open space shall contain an area of not less than
535 five acres and shall be part of a contiguous area of open space consisting of not less
536 than ten acres in total.
- 537 2. The estate lot shall contain a survey-locatable building envelope on the recorded plat
538 that shares a common boundary with a neighboring residential lot, or in the case of a
539 neighboring estate lot, shares a common boundary with the neighboring estate lot's
540 building envelope.
- 541 3. Drainage detention or retention facilities intended to accommodate subdivision
542 improvements may be located on an estate lot and counted toward the subdivision's
543 overall open space area, but the acreage of the facility shall not be included as part of
544 the lot's agricultural use, and the acreage of the facility shall be in addition to, not a
545 part of, the minimum parcel area requirement.
- 546 (7) Parcel width, frontage, and access. Open space parcels located within a cluster subdivision are
547 not subject to frontage requirements and do not have a minimum width standard. Section 106-2-
548 4(c) notwithstanding, all open space parcels without street frontage shall be provided an access
549 easement, recordable at the time of plat recordation, across other parcels and connecting to a
550 public or private street.
- 551 (8) Parcel coverage.
- 552 a. Coverage of common area or open space parcels under five acres by any roofed
553 structures or any structures or facilities that requires a building permit shall not exceed ten
554 percent of the total parcel area.
- 555 b. Coverage of individually owned preservation parcels by roofed structures or any
556 structures/facility that requires a building permit shall not exceed two and a half percent of
557 the total parcel area.
- 558 c. Coverage of the open space area of an estate lot of 5.25 acres or greater by roofed
559 structures or any structures/facility that requires a building permit shall be not exceed two
560 and a half percent of the lot's platted open space preservation easement area.
- 561 (9) Open space lot or parcel ownership.

Comment [CE24]: New type of lot for a cluster sub.

Comment [c25]: Current code lists this as 5%. With the increased open space parcel requirement it seems appropriate to reduce.

562 a. Common area parcel. An open space parcel that is common area shall be commonly
563 owned by an appropriate homeowner's association established under U.C.A. 1953, § 57-
564 8a-101 et seq., the Community Association Act.

565 b. Park parcel. An open space parcel may be owned by a local park district.

566 c. Individually owned open space parcel. An open space parcel may be owned as an
567 individually owned preservation parcel by any person, regardless of whether the person
568 owns a residential lot within the subdivision. In order to keep an individually owned
569 preservation parcel from becoming uncondusive to multiple-acreage preservation uses, an
570 individually owned preservation parcel shall not be sectioned into sub-areas less than five
571 acres by fencing or other physical barriers unless the sectioning is intended for the rotation
572 of grazing animals provided consistent rotation occurs for the purpose of vegetation
573 regrowth. The planning commission may modify this requirement for uses that support the
574 longevity of the preservation, maintenance, and large-acreage use of the parcel.

575 d. Estate lot. An estate lot, as defined in Section 101-1-7, may be owned by any person. In
576 order to keep an estate parcel from becoming uncondusive to multiple-acreage
577 preservation uses, the preserved open space area shall not be sectioned into sub-areas
578 less than five acres by fencing or other physical barriers unless the sectioning is intended
579 for the rotation of grazing animals provided consistent rotation occurs for the purpose of
580 vegetation regrowth. The planning commission may modify this requirement for uses that
581 support the longevity of the preservation, maintenance, and large-acreage use of the
582 parcel.

583 (d) Open space phasing. If development phasing is proposed and approved during preliminary cluster
584 subdivision approval, the percent of open space of the overall platted acreage shall at no time be
585 less than the percent of proposed open space approved in the open space plan.

586 (e) Maintenance. The open space parcel owner, whether an individual or an association, shall use,
587 manage, and maintain the owner's parcel in a manner that is consistent with an approved open
588 space preservation plan or the agriculture, forest, or other type of preservation easement executed
589 under subsection (f).

590 (f) Preservation.

591 (1) Open space parcels shall be permanently preserved in a manner that is consistent with the
592 approved open space preservation plan.

593 (2) Language shall be included in the dedication of the subdivision plat that substantially reads as
594 follows; final language is subject to approval from the County Surveyor and County Attorney:

... and additionally dedicate and convey to Weber County a perpetual open space
easement on, under, and over all parcels and areas denoted as open space
parcels or areas to guarantee to the public that those parcels and areas remain
open and undeveloped in a manner consistent with the approved open space
plan; ...

595 (3) An agreement, in a form acceptable to the County Attorney, shall be recorded with the final plat
596 to the title of all open space preservation parcels, including estate lots, that details the open
597 space preservation plan and any related conditions of approval necessary to execute the open
598 space preservation plan. The approved site plan shall be included in the agreement. If the plat
599 recording is also the means of conveyance of any open space parcel, the agreement shall
600 also specify the name and tax notification mailing address if the new owner.

601 (4) If a cluster subdivision contains open space intended to preserve substantial or crucial wildlife
602 habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat easement
603 meeting the requirements of the Utah Division of Wildlife Resources shall be offered to the
604 division.

Comment [CE26]: New to the cluster code. This will hopefully offer the new parks districts land to reserve – at the developer's and districts mutual option.

Comment [CE27]: This is the essential document that will preserve the open space in perpetuity.

- 605 (5) If a cluster subdivision contains an individually owned preservation parcel or estate lot with an
606 open space area, the applicant shall:
- 607 a. identify all open space preservation areas on the final plat with a unique hatch or shading;
608 b. further identify each individually owned preservation parcel with a unique identifying letter;
609 c. for an estate lot, delineate on the plat with survey locatable bearings and calls the area of
610 the lot being preserved as open space..
- 611 (g) The planning commission may impose any additional conditions and restrictions it deems necessary
612 to reasonably ensure maintenance of the open space and adherence to the open space preservation
613 plan. Such conditions may include a plan for the disposition or re-use of the open space property if
614 the open space is not maintained in the manner agreed upon or is abandoned by the owners.
- 615 (h) A violation of the open space plan or any associate conditions or restrictions, shall constitute a
616 violation of this Land Use Code.
- ~~617 (1) Plan approval. An open space preservation plan shall accompany an application for preliminary and~~
~~618 final approval of a cluster subdivision. The plan shall include a narrative describing all proposed~~
~~619 uses, phasing, and maintenance methods for all open space parcels, and a site plan that shows~~
~~620 proposed common areas, individually owned preservation parcels, and the locations of existing and~~
~~621 proposed future structures.~~
- ~~622 a. For open space dedicated as common area parcels, the site plan shall show the location of existing~~
~~623 and future structures by identifying the structure's footprint. Structures housing a subdivision utility or~~
~~624 serving as a subdivision amenity shall be subject to all applicable standards including all design~~
~~625 review and applicable architectural standards found in title 108 of the Weber County Land Use~~
~~626 Code.~~
- ~~627 b. For open space dedicated as individually owned preservation parcels, the site plan shall identify~~
~~628 locatable building envelopes within which all existing and future buildings must be located.~~
- ~~629 (2) Ownership.~~
- ~~630 a. Open space parcels dedicated as common area shall be commonly owned by an appropriate~~
~~631 homeowner's association established under U.C.A. 1953, § 57-8a-101 et seq., the Community~~
~~632 Association Act.~~
- ~~633 b. Other open space parcels may be owned individually.~~
- ~~634 1. Individually owned preservation parcels of ten acres or more in area may be owned by any person,~~
~~635 regardless of whether the person owns a residential lot within the subdivision.~~
- ~~636 2. Individually owned preservation parcels of less than ten acres in area may only be owned by an~~
~~637 owner of a lot within the same cluster subdivision.~~
- ~~638 3. The applicable ownership standard in subsection (2)a.1. or 2. shall be memorialized in the following~~
~~639 manner:~~
- ~~640 i. An explanation of the applicable ownership standard and a perpetual restriction conforming thereto~~
~~641 shall be written into all agriculture, forest, or other type of preservation easements granted pursuant~~
~~642 to subsection (4); and~~
- ~~643 ii. A note describing the applicable ownership standard shall be placed on the final recorded plat.~~
- ~~644 (3) Maintenance. The open space parcel owner, whether an individual or an association, shall use,~~
~~645 manage, and maintain the owner's parcel in a manner that is consistent with the open space~~
~~646 preservation plan approved under subsection (1), and the agriculture, forest, or other type of~~
~~647 preservation easement executed under subsection (4).~~
- ~~648 (4) Preservation.~~
- ~~649 a. Open space parcels are to be permanently preserved in a manner that is consistent with the~~
~~650 approved open space preservation plan.~~

651 ~~b.—The applicant, prior to recording or as part of recording the final cluster subdivision plat, shall grant~~
652 ~~and convey to the county, to each lot owner, and to the homeowner association if applicable, an~~
653 ~~open space easement over all areas dedicated as common area or individually owned preservation~~
654 ~~parcels. The open space easement shall incorporate and conform to the open space preservation~~
655 ~~plan approved under subsection (1).~~

656 ~~c.—If a cluster subdivision contains open space intended to preserve substantial or crucial wildlife~~
657 ~~habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat easement meeting~~
658 ~~the requirements of the Utah Division of Wildlife Resources shall be offered to the division.~~

659 ~~d.—If a cluster subdivision contains an individually owned preservation parcel, the applicant shall:~~

660 ~~1.—Identify and label on the final plat each such parcel as an agricultural, forest, or other type of~~
661 ~~preservation parcel;~~

662 ~~2.—Further identify each preservation parcel by placing a unique identifying letter of the alphabet~~
663 ~~immediately after the label;~~

664 ~~3.—Present an agricultural, forest, or other type of preservation easement to the planning commission~~
665 ~~and gain their approval; and~~

666 ~~4.—Record an approved preservation easement on each parcel identified as an agricultural, forest, or~~
667 ~~other type of preservation parcel.~~

668 ~~e.—The planning commission may impose any additional conditions and restrictions it deems necessary~~
669 ~~to ensure maintenance of the open space and adherence to the open space preservation plan. Such~~
670 ~~conditions may include a plan for the disposition or re-use of the open space property if the open~~
671 ~~space is not maintained in the manner agreed upon or is abandoned by the owners.~~

672 ~~(5)—Guarantee of open space improvements.~~

673 ~~a.—The county shall not require an applicant to deposit a financial guarantee for open space~~
674 ~~improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a certificate of occupancy~~
675 ~~and that remain incomplete at the time of final approval and acceptance of the proposed cluster~~
676 ~~subdivision from the board of county commissioners. The applicant or developer shall complete the~~
677 ~~improvements according to the approved phasing component of an open space preservation plan. If~~
678 ~~the applicant fails to complete improvements as presented in the open space preservation plan, the~~
679 ~~county may suspend final plat approvals and record an instrument notifying prospective lot buyers~~
680 ~~that future land use permits may not be issued for any construction.~~

681 ~~b.—The county shall require an applicant to deposit a financial guarantee for all open space~~
682 ~~improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.) that do not require a~~
683 ~~certificate of occupancy and that remain incomplete at the time of final approval and acceptance of~~
684 ~~the proposed cluster subdivision from the board of county commissioners. The applicant or~~
685 ~~developer shall complete all improvements according to the approved phasing component of an~~
686 ~~open space preservation plan.~~

687 **Sec. 108-3-6. – Reserved. Open space parcel development standards.–**

688 Unless otherwise provided for in this section, open space parcels shall be developed in a
689 manner that meets all applicable standards, including but not limited to those found in the Weber
690 County Land Use Code. Open space parcels shall adhere to the following specific site development
691 standards:–

692 (1) ~~Parcel area.~~ Unless otherwise regulated by the Weber-Morgan Health Department or
693 Weber County Land Use Code title 108, chapter 14, Hillside Development Review Procedures and
694 Standards, the minimum area for an open space parcel located within a cluster subdivision is as
695 follows:–

696 a.—Open space parcels dedicated as common area are not subject to minimum area
697 requirements.–

~~b. Open space parcels dedicated as individually owned preservation parcels shall contain an area of not less than three acres.~~

~~1. The minimum area of an individually owned preservation parcel may be reduced to not less than one acre if the preservation parcel is part of a contiguous area of open space parcels consisting of not less than three acres in total. Open space parcels form a contiguous area if each open space parcel in the area shares a common boundary line with another open space parcel or lies directly across a road right of way, or other approved access, from another open space parcel.~~

~~2. Parcels containing less than five acres are not agricultural parcels for purposes of agricultural exemptions granted by the Weber County Land Use Code.~~

~~(2) Parcel width. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside Development Review Procedures and Standards, and unless otherwise regulated by the Weber-Morgan Health Department, open space parcels located within a cluster subdivision are not subject to frontage requirements and do not have a minimum width standard other than the standard described in section 108-3-4(1).~~

~~(3) Parcel coverage.~~

~~a. Coverage of common area parcels by roofed structures shall not exceed ten percent of the total parcel area.~~

~~b. Coverage of individually owned preservation parcels by roofed structures shall not exceed five percent of the total parcel area.~~

Sec. 108-3-7. - Lot development standards.

Unless otherwise provided for in this section, residential building lots shall be developed in a manner that meets all applicable standards, including but not limited to those found in the Weber County Land Use Code and the requirements and standards of the Weber-Morgan Health Department, if applicable. The following specific site development standards apply to lots in cluster subdivisions:

(1) Lot area. Unless otherwise regulated by the Weber-Morgan Health Department, a lot located within a cluster subdivision shall contain an area of not less than 9,000 square feet, unless otherwise provided in Section 108-3-8.

(2) Lot width. Unless otherwise regulated by the Weber-Morgan Health Department, the minimum lot width in a cluster subdivision is as follows:

<u>ZONE</u>	<u>LOT WIDTH</u>
<u>F-40 and F-10 zones:</u>	<u>100 feet</u>
<u>FR-1, F-5, and AV-3 zones:</u>	<u>80 feet</u>
<u>RE-15, RE-20 zones:</u>	<u>60 feet</u>
<u>A-1, A-2, and A-3 zones:</u>	<u>60 feet</u>
<u>FR-3 zone:</u>	<u>50 feet</u>
<u>DRR-1 zone:</u>	<u>50 feet</u>

(3) Yard setbacks. The minimum yard setbacks in a cluster subdivision are as follows:

<u>YARD</u>	<u>SETBACK</u>

Front:	20 feet
Side:	
Dwelling:	8 feet
Accessory building:	8 feet; except one foot if located at least six feet in rear of dwelling.
Accessory building over 1,000 square feet:	See Section 108-7-16
Corner lot side facing street:	20 feet
Rear:	20 feet

729 (4) Building height. The maximum height for a building in a cluster subdivision is as follows:

BUILDING	HEIGHT
Dwelling	40 feet
Accessory building	30 feet

730 Unless otherwise provided for in this section, residential building lots shall be developed in a manner
 731 that meets all applicable standards, including but not limited to those found in the Weber County
 732 Land Use Code. The following specific site development standards apply to lots in cluster
 733 subdivisions:

- 734 ~~(1) Lot area.~~
- 735 a. ~~Unless otherwise regulated by the Weber Morgan Health Department or Weber County Land~~
 736 ~~Use Code, title 108, chapter 14, Hillside Development Review Procedures and Standards, a lot~~
 737 ~~located within a cluster subdivision shall contain an area of not less than 15,000 square feet.~~
- 738 b. ~~A lot's minimum area is reduced to 6,000 square feet if:~~
- 739 1. ~~The lot is located 50 feet or more from its own cluster subdivision boundary, not including those~~
 740 ~~boundaries formed by existing streets or internal phasing lines if the phasing lines act as a~~
 741 ~~temporary external boundary;~~
- 742 2. ~~The lot lies within a cluster subdivision that is adjacent to an existing subdivision that contains at~~
 743 ~~least one lot that is smaller or not more than 5,000 square feet larger than the smallest lot lying~~
 744 ~~within the subject cluster subdivision; or~~
- 745 3. ~~The lot lies within a cluster subdivision that is adjacent to an undeveloped parcel. A parcel is~~
 746 ~~considered undeveloped if it:~~
- 747 i. ~~Does not contain an existing dwelling; or~~
- 748 ii. ~~Contains an existing dwelling that lies further than 150 feet away from all external boundaries of~~
 749 ~~the proposed or subject cluster subdivision.~~
- 750 ~~(2) Lot width. Unless otherwise regulated by the Weber Morgan Health Department or Weber~~
 751 ~~County Land Use Code, title 108, chapter 14, Hillside Development Review Procedures and~~
 752 ~~Standards, the minimum lot width in a cluster subdivision is:~~
- 753 a. ~~One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.~~

- 754 ~~b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-3), and the~~
- 755 ~~Forest Valley (FV-3) Zones.~~
- 756 ~~e. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2, and A-3)~~
- 757 ~~Zones.~~
- 758 ~~d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and Recreation~~
- 759 ~~Resort (DRR-1) Zone.~~
- 760 ~~(3) Yard setbacks for dwellings. Minimum yard setbacks for dwellings in a cluster subdivision are~~
- 761 ~~as follows:~~
- 762 ~~a. Front: 20 feet.~~
- 763 ~~b. Side: 8 feet.~~
- 764 ~~c. Rear: 20 feet.~~
- 765 ~~(4) Dwelling height. The maximum height for dwellings in a cluster subdivision is 40 feet.~~

Sec. 108-3-8. - Bonus density.

767 (a) Western Weber Planning Area bonus density. In the Western Weber Planning Area, bonus density
768 shall be awarded on a one to one ratio with the gross acreage of a project area. However, no bonus
769 density shall be awarded for a project with a gross acreage less than ten acres, and no bonus
770 density over 50 percent shall be awarded for projects with a gross acreage over 50 acres. A
771 subdivision that is awarded density shall:

772 (1) Provide a minimum 50 percent open space of the net developable acreage, as defined in
773 Section 101-1-7.

774 (2) Provide one street tree of at least two-inch caliper, from a species list as determined by county
775 policy, every 50 feet on both sides of each street within the project boundaries. In the event
776 infrastructure or a driveway approach makes a tree's placement impossible, that tree shall be
777 located as close to the 50-foot spacing as otherwise reasonably possible.

778 (3) Comply with all provisions of Title 108, Chapter 16: Ogden Valley Outdoor Lighting Ordinance,
779 which is incorporated by reference herein as applicable to a cluster subdivision in the Western
780 Weber Planning Area that receives bonus density. A note shall be placed on the final subdivision
781 plat indicating this requirement.

782 (b) Ogden Valley Planning Area bonus density. A cluster subdivision shall create no new density
783 entitlements in the Ogden Valley.

784 ~~The county may, in its discretion, allow for an increased number of residential lots by~~
785 ~~awarding bonus densities to those cluster subdivisions developed within the Western~~
786 ~~Weber County Planning Area. Cluster subdivisions within the Ogden Valley Planning~~
787 ~~Area are not eligible for bonus densities. The following presents the bonus density~~
788 ~~opportunities that are available to cluster subdivisions located within specific zoning~~
789 ~~boundaries:~~

790 ~~(1) In the Forest (F-40) Zones, the county may award a maximum bonus density of 20~~
791 ~~percent based on an accumulation of any combination of the following:~~

792 ~~a. If the cluster subdivision meets the purpose and intent of this chapter, up to a five~~
793 ~~percent bonus may be granted.~~

794 ~~b. If the cluster subdivision provides a minimum of one road stub to an adjacent~~
795 ~~property where the planning commission determines that streets are needed to provide~~
796 ~~for current or future traffic circulation, up to a five percent bonus density may be granted.~~

797 ~~c. If the cluster subdivision provides a minimum of one approved public access to~~
798 ~~public lands, up to a five percent bonus density may be granted.~~

Comment [E28]: Need to run policy with the adoption of this.
Comment [c29]: Current cluster code requires a tree every 10-20 feet, which may be excessive.

799 ~~d. If the cluster subdivision provides common area that offers easily accessible~~
800 ~~amenities, such as a trail, park, or community garden, that are open for use by the~~
801 ~~general public, up to a five percent bonus density may be granted.~~

802 ~~e. If the cluster subdivision dedicates and conveys to the county, the state division of~~
803 ~~wildlife resources, or both, an open space easement that permanently preserves areas~~
804 ~~that have been identified by the state division of wildlife resources as having substantial~~
805 ~~or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.~~

806 ~~(2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density~~
807 ~~of up to 50 percent if the applicant preserves an open space percentage above that~~
808 ~~required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up to~~
809 ~~30 percent. Overall bonus density potential shall be no greater than a percentage equal~~
810 ~~to the percentage of the subdivision's total area preserved as open space. The county~~
811 ~~may award bonus densities based on an accumulation of any combination of the~~
812 ~~following:~~

813 ~~a. If a cluster subdivision meets the purpose and intent of this chapter, up to a ten~~
814 ~~percent bonus may be granted.~~

815 ~~b. If a cluster subdivision provides and implements an approved roadway landscape~~
816 ~~and design plan that includes, but is not necessarily limited to, vehicle and pedestrian~~
817 ~~circulation, lighting, and street trees of an appropriate species, size of at least a two-inch~~
818 ~~caliper, and quantity of not less than eight trees for every 100 feet of road length, up to 20~~
819 ~~percent bonus density may be granted.~~

820 ~~c. For each five percent increment of open space preserved over 50 percent, a five~~
821 ~~percent bonus density shall be granted up to the total bonus density allowed by~~
822 ~~subsection (3).~~

823 ~~d. If a cluster subdivision provides a minimum of one approved access to public lands,~~
824 ~~up to a ten percent bonus density may be granted.~~

825 ~~e. If a cluster subdivision provides common area that offers easily accessible~~
826 ~~amenities such as trails, parks, or community gardens, that are open for use by the~~
827 ~~general public, up to a 15 percent bonus density may be granted.~~

828 ~~f. If ten percent of the lots and homes in a cluster subdivision are permanently set~~
829 ~~aside for affordable housing as outlined by the Affordable Housing Act of 1990, up to a 20~~
830 ~~percent bonus density may be granted.~~

831 ~~If a bonus density is granted for affordable housing, the applicant shall:~~

832 ~~1. Present and gain Planning Commission approval of an effective plan and method for~~
833 ~~guaranteeing and enforcing perpetual affordability. Any method used, such as an~~
834 ~~affordable housing deed restriction, shall limit the sale or rental of the affected lots and~~
835 ~~homes to a household with an income at or below 80 percent of the county median~~
836 ~~income;~~

837 ~~2. Identify and label, on the final plat, the lots set aside as affordable housing Lots;~~
838 ~~and~~

839 ~~3. Provide a note on the final plat explaining the nature of the housing restriction on the~~
840 ~~lot and the method by which occupancy and affordability will be regulated.~~

841 ~~g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based~~
842 ~~open space preservation plan approved by the planning commission and records an~~
843 ~~agricultural preservation easement on the parcel, a bonus density may be approved as~~
844 ~~follows:~~

845 ~~1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15~~
846 ~~percent bonus density may be granted.~~

- 847 ~~2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent~~
848 ~~bonus density may be granted.~~
- 849 ~~3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent~~
850 ~~bonus density may be granted.~~
- 851 ~~4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent~~
852 ~~bonus density may be granted if the parcel standing alone is greater than the minimum~~
853 ~~open space requirement for the subdivision.~~
- 854 ~~5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density~~
855 ~~may be granted if the parcel standing alone is greater than the minimum open space~~
856 ~~requirement for the subdivision.~~
- 857 ~~h. If a cluster subdivision provides for the preservation of historical sites and buildings~~
858 ~~that have been identified by the state historic preservation office as having notable~~
859 ~~historical value, up to a five percent bonus density may be granted.~~
- 860 ~~i. If a cluster subdivision provides for the development of excess sewage treatment~~
861 ~~capacity, up to a five percent bonus density may be granted.~~
- 862 ~~j. If a cluster subdivision dedicates and conveys to the county, the state division of~~
863 ~~wildlife resources, or both, an open space easement that permanently preserves areas~~
864 ~~that have been identified by the state division of wildlife resources as having substantial~~
865 ~~or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.~~
- 866 ~~k. If a cluster subdivision includes an open space parcel that consists of five acres or~~
867 ~~more and is contiguous to permanently preserved open space on an adjoining property~~
868 ~~located outside of the cluster subdivision, up to a 20 percent bonus density may be~~
869 ~~granted.~~

870 **Sec. 108-3-9. - Homeowners association required.**

871 In order to provide for proper management and maintenance of commonly owned areas and private
872 improvements, all cluster subdivisions with such areas or improvements are required to have a
873 homeowners association. The applicant, prior to recording a final plat of the cluster subdivision, shall:

- 874 (1) Establish a homeowners association and submit for the county's review the necessary articles
875 of incorporation, bylaws, and declaration of covenants, conditions, and restrictions that provide
876 for:
- 877 a. Compliance with Utah State Code;
 - 878 b. The reason and purpose for the association's existence;
 - 879 c. Mandatory membership for each lot or home owner and their successors in interest;
 - 880 d. The perpetual nature of the easements related to all dedicated open space parcels;
 - 881 e. Responsibilities related to liability, taxes, and the maintenance of recreational and other
882 infrastructure and facilities;
 - 883 f. Financial obligations and responsibilities, including the ability to adjust the obligations and
884 responsibilities due to change in needs;
 - 885 g. Association enforcement remedies; and
 - 886 h. A notification of the county's ability to enforce the terms of the owner's dedication on the
887 subdivision dedication plat.

- 888 (2) Register the homeowners association with the State of Utah, Department of Commerce.

889 **Sec. 108-3-10. – Guarantee of improvements.**

890 (a) *Guarantee of improvements.* The county shall require an applicant to deposit a guarantee of
891 improvements, as provided in Section 106-4-3, for all improvements required by this chapter or as
892 otherwise volunteered by the applicant that are incomplete at the time of subdivision plat recording.
893 This includes improvements on open space parcels unless otherwise specified in subsection (b) of
894 this section.

895 (b) Improvements requiring certificate of occupancy. The county shall not require an applicant to deposit
896 a financial guarantee for open space improvements that require a certificate of occupancy and that
897 remain incomplete at the time of final approval of the proposed cluster subdivision ~~from~~ by the board
898 of county commissioners. The applicant or developer shall complete the improvements according to
899 the approved phasing component of an open space preservation plan. If the applicant fails to
900 complete improvements as presented in the open space preservation plan, the county may suspend
901 final plat approvals and record an instrument notifying prospective lot buyers that future land use
902 permits may not be issued for any construction.

903
904 ...

905 **Sec. 108-21-6. - Use/activity standards and limitations.**

906 ...

907 (1) Farm stay (residential and overnight accommodation) uses/activities.

908 (f) Carriage house.

909 1. Carriage houses shall be limited to a number that does not exceed the following
910 calculation: ~~Adjusted gross net developable~~ acreage of the parcel upon which a carriage
911 house(s) is located divided by the minimum lot area required by the zone in which the
912 lot or parcel(s) is located, all multiplied by 20 percent (net developable acreage /
913 minimum lot area) x 20 percent = Maximum number of carriage houses at an
914 approved agri-tourism operation.

915 ~~;~~ ~~ds;~~ ~~Minimum single family dwelling area requirement set forth by the zone in which the parcel(s) is~~
916 ~~located~~

917 ~~x20 percent~~

918 ~~= Maximum number of carriage houses at an approved agri-tourism operation~~

919 ...

Comment [E30]: Administrative edits to the agritourism ordinance for terminology and formatting consistency.

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF WEBER COUNTY COMMISSIONERS MODIFYING THE WEBER COUNTY LAND USE CODE’S CLUSTER SUBDIVISION ORDINANCE AND RELATED PROVISIONS TO REQUIRE MORE MEANINGFUL OPEN SPACE, ALTER DENSITY CALCULATIONS, AND PROVIDE CLARIFICATIONS AND MORE OBJECTIVE STANDARDS THROUGHOUT.

WHEREAS, The Board of Weber County Commissioners (herein “Board”) has heretofore adopted land use regulations regarding the development of cluster subdivisions in various zones; and

WHEREAS, The Board has determined that certain provisions in these regulations are not resulting in desired cluster subdivision outcomes; and

WHEREAS, The Board is desirous to modify these regulations to offer better cluster subdivision outcomes; and

WHEREAS, The outcomes desired include more meaningful open spaces, better agricultural opportunities, more development motivation to cluster housing contiguously, and more objective decision-making standards; and

WHEREAS, After public hearing, the Ogden Valley Planning Commission offered the Board a positive recommendation for the same outcomes on April 3, 2018; and

WHEREAS, After public hearing, the Western Weber Planning Commission offered the Board a positive recommendation for the same outcomes on April 10, 2018; and

WHEREAS, The Board finds that the modifications found herein are in strict compliance with both the Ogden Valley General Plan and the Western Weber General Plan; and

WHEREAS, The Board finds that the modifications found herein will better achieve the desired outcomes, promote public welfare, and ease administration and implementation of the land use code.

NOW THEREFORE, The Board hereby adopts the modifications below and incorporates them into the Weber County Land Use Code:

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

This ordinance shall go into effect 15 days after publication.

PASSED, ADOPTED, AND ORDERED PUBLISHED THIS _____ DAY OF MAY, 2018.

BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY

JAMES H. “JIM” HARVEY, CHAIR

COMMISSIONER HARVEY VOTED _____
COMMISSIONER EBERT VOTED _____
COMMISSIONER GIBSON VOTED _____

ATTEST

RICKY HATCH, CPA
WEBER COUNTY CLERK/AUDITOR

1 **Title 101 – GENERAL PROVISIONS**

2 ...

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

4 ...

5 *Accessory dwelling unit.* The term "accessory dwelling unit," also referred to as an "ADU," means
6 a dwelling unit, as defined by this Section, that is either attached to the main dwelling or is otherwise
7 located on the same lot or parcel as the main single family dwelling. An accessory dwelling unit is not
8 an accessory apartment, as otherwise defined by this Section. Ownership of an accessory dwelling unit
9 shall not be transferred separate from the main single family dwelling to which it is accessory. See also
10 "carriage house."

11 ...

12 ...

13 *Acreage, gross.* The term "gross acreage" means a total of all acreage that lies within a project
14 boundary.

15 *Acreage, net developable.* The phrase "net developable acreage" means the total acreage within
16 a project boundary, subtracting acreage unsuitable for development, as defined by this section or as
17 otherwise provided in this Land Use Code. When calculating net developable acreage, ten percent of
18 the total acreage within a project area shall be reduced to account for potential street rights-of-way.
19 The portions of an existing street right-of-way located within the project boundaries may be included as
20 part of the ten percent. The term "net developable area" shall have the same meaning, unless the
21 context clearly indicates otherwise.

22 ...

23 *Acreage, productive agri-tourism.* The term "productive agri-tourism acreage" means agriculturally
24 productive land area used for the combined purpose of cultivating agricultural products and hosting active
25 tourism attractions (e.g., pumpkin patch, corn maze, U-pick, U-cut Christmas trees, crop tour, bird
26 watching, hunting, horseback/sleigh/wagon rides etc.).

27 *Acreage unsuitable for development.* The phrase "acreage unsuitable for development," means
28 the area within a project that has extraordinary circumstances that under existing county, state, or
29 federal laws render development on it very unlikely. The applicant bears the burden of
30 proof. *Agricultural arts center.* The term "agricultural arts center" means a facility designed for the
31 purpose of offering public education, enjoyment, and enlightenment through artistic expression and/or a
32 translation of concepts related to art, art history, and art theory. It, in a conducive agricultural setting,
33 acts as a venue for the community to experience, appreciate, and consume art in a variety of forms,
34 including, but not limited to, visual or media art, literature, music, theatre, film, and/or dance. An
35 agricultural arts center does not provide accommodation for nightly farm-stays; however, it may serve
36 meals when served to event participants and/or guests.

37 *Agricultural parcel.* The term "agricultural parcel" means a single parcel of land, at least 5.0 acres
38 in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in
39 order to qualify for the agricultural building exemption.

40 *Agricultural land, prime.* The term "prime agricultural land" means the area of a lot or parcel best
41 suited for large-scale crop production. This area has soil types that have, or are capable of having,
42 highest nutrient content and best irrigation capabilities over other soil types on the property, and are of a
43 sufficient size and configuration to offer marketable opportunities for crop-production. Unless otherwise
44 specified by this land use code, actual crop production need not exist onsite for a property to be
45 considered to contain prime agricultural land.

46 *Agriculture.* The term "agriculture" means use of land for primarily farming and related purposes
47 such as pastures, farms, dairies, horticulture, aquaculture, animal husbandry, and crop production, but

48 not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit
49 packing plants, fur farms, animal hospitals or similar uses.

50 ...

51 *Agri-tourism.* The term "agri-tourism" means an agricultural accessory use that can provide a
52 means of diversifying a farm's income through broadening its offerings and adding value to its products.
53 They operate during more than six (consecutive or non-consecutive) days per year and provide
54 agriculturally related, and in some instances, non-agriculturally related products and activities that attract
55 members of the public to the farm for retail, educational, recreational, and/or general tourism purposes.

56 ...

57 *Club or fraternal lodge/organization, private.* The term "club or fraternal lodge/organization, private"
58 means a non-profit association of persons who are bona fide members which owns or leases a building
59 or portion thereof, the use of such premises being restricted to members and their guests.

60 *Cluster of residential lots.* The phrase "cluster of residential lots" means a grouping of residential
61 lots, as provided Title 108 Chapter 3 of this land use code, that are contiguous and uninterrupted by
62 other nonresidential parcels except parcels required for a street and other allowed access or as
63 otherwise allowed by this land use code.

64 *Code.* The term "Code" means the Land Use Code of Weber County, Utah.

65 ...

66 *Conservation easement.* The term "conservation easement" means:

- 67 (1) An easement granting a right or interest in real property that is appropriate to retaining land or
68 water areas predominately in their natural, scenic, open or wooded condition;
- 69 (2) Retaining such areas as suitable habitat for fish, plants or wildlife; or
- 70 (3) Maintaining existing land uses.

71 ...

72 *Density, base.* The term "base density" means the number of dwelling units allowed in an area. For
73 development types that permit a reduced lot area than otherwise provided by the zone, the base density
74 shall be calculated as the net developable acreage, as defined herein, divided by the minimum lot area
75 of the zone, except when a greater area would otherwise be required by the Weber-Morgan Health
76 Department due to lack of sanitary sewer or culinary water, then the greater area shall be used. This
77 calculation can be observed by this formula: $((\text{net developable acreage}) / (\text{minimum lot area})) = \text{base}$
78 dwelling unit density. The result shall be rounded down to the nearest whole dwelling unit.

79 ...

80 *Estate lot.* The term "estate lot" means a lot within a subdivision, intended for the use of a dwelling
81 unit, that contains at least 5.25 acres.

82 ...

83 *Gross Acreage.* See "acreage, gross."

84 ...

85 *Net developable acreage.* See "acreage, net developable."

86 ...

87

88 **Title 104 - ZONES**

89 **Sec. 104-17-5. – Site development standards**

90 ...

91 (a) Minimum lot area. Two different minimum area regulations are recognized based upon the use of
92 either individual wastewater disposal systems of a community or a group wastewater disposal
93 systems of a community or a group wastewater disposal facility approved by the state division of
94 health as follows:

95 ...

96 (2) Developments using a community or group wastewater disposal facility meeting the
97 requirements of the state division of health code of wastewater disposal regulations:

98 ...

99 **Sec. 104-29-2. – Development standards.**

100 ...

101
102 (i) Open space. A minimum of 60 percent of the net developable acreage, owned by the resort and
103 located within the destination and recreation resort zone, shall be designated as open space. A
104 portion of that open space shall consist of conservation open space in an amount equal to or greater
105 than 30 percent of the resort's net developable acreage. The area designated as conservation open
106 space shall be encumbered by an irrevocable conservation easement meeting the general/applicable
107 requirements described in section 104-29-6 of this chapter and shall be granted prior to beginning
108 any construction within an overall project phase. The minimum number of acres encumbered by
109 each easement shall be equal to or greater than the number of acres involved in each project phase
110 until the total number, of required conservation open space acres, is met. Areas dedicated (platted
111 and recorded) as open space within residential and nonresidential subdivisions may count towards
112 the minimum open space requirement.

113

114 ...

115 **Title 108 - STANDARDS**

116 ...

117 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

118 **Sec. 108-3-1. – Purpose and Intent.**

119 The purpose of this chapter is to provide flexible development standards to landowners that are
120 committed to developing safe, attractive, conservation oriented neighborhoods that:

121 (1) are designed and arranged in a manner that considers, gives deference to, and ultimately
122 protects natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally
123 productive lands;

124 (2) offer predictable support and encouragement in agricultural areas for a wide variety of long-term
125 agricultural operations on open space parcels;

126 (3) benefit those that create cluster subdivisions by offering an inherent gain in the form of reduced
127 infrastructure costs and the possibility for an increase in residential density in the Western
128 Weber Planning Area;

129 (4) benefit the residents of Weber County by promoting public welfare through the reduction of
130 long-term infrastructure maintenance costs; and

131 (5) permanently preserve the county's functional open spaces, picturesque landscapes, and rural
132 character.

133

134 **Sec. 108-3-2. - Allowed zones.**

135 Subject to the requirements of this chapter, cluster subdivisions are permitted in all zones except for
136 the commercial, manufacturing, gravel, residential mobile home, open space, and shoreline zones.

137

138 **Sec. 108-3-3. - Supplemental subdivision procedural requirements.**

139 (a) *Subdivision procedures and requirements apply.* All procedures and requirements of Title 106 shall
140 apply to a cluster subdivision unless there is a conflict or supplement in this chapter, in which case
141 the provisions of this chapter shall prevail.

142 (b) *Conceptual sketch plan.* In addition to the subdivision approval procedure in Title 106, the cluster
143 subdivision approval procedure requires a conceptual sketch plan endorsement from the planning
144 commission prior to the submission of a formal subdivision application. An application for a
145 conceptual sketch plan endorsement must demonstrate compliance with applicable standards
146 contained within the Weber County Code. The completed application must be submitted at least 21
147 calendar days prior to the planning commission meeting at which the applicant wishes to be heard.
148 Endorsement from the planning commission is only a means to assist in the creation of a complete
149 subdivision application and shall not create any vested right except the right to apply for preliminary
150 subdivision review. The application is complete upon submission of the following:

151 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of Ordinances,
152 and submission of a complete sketch plan endorsement application on a form provided by the
153 county planning department.

154 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject
155 property, surrounding streets, and relevant landmarks.

156 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that demonstrates in a
157 suitable manner compliance with all applicable codes. The plan shall include, but not
158 necessarily be limited to, a north arrow and scale, subdivision boundary according to county
159 records, approximate locations of proposed streets, lots with approximate area calculations,
160 common areas and open space parcels with approximate area calculations, easements,
161 waterways, suspected wetlands, floodplains, existing structures, and contour lines. Information
162 related to topography and contour lines may be submitted on a separate map. Contour
163 information may be omitted if the planning director or his designee determines that the subject
164 property lacks topographic characteristics that warrant representation.

165 (4) An electronic copy of all forms, documents, materials, and information submitted as part of the
166 application.

167 (c) *Preliminary and final cluster subdivision application.*

168 (1) *Submission for preliminary cluster subdivision approval.* A submission for preliminary cluster
169 subdivision approval shall:

- 170 a. conform to the endorsed sketch plan;
- 171 b. comply with all applicable preliminary plan requirements of Title 106;
- 172 c. contain an open space preservation plan, as required in Section 108-3-5.

173 (2) *Submission for final cluster subdivision approval.* A submission for final cluster subdivision
174 approval shall conform to the approval of the preliminary cluster subdivision approval and
175 comply with all applicable final plat requirements of Title 106. If applicable, submission shall
176 also include final conditions, covenants, and restrictions or a homeowner's association
177 declaration that clearly explain the maintenance method for each common area parcel, as
178 required by this chapter or any condition of preliminary cluster subdivision approval. Submission
179 shall also include drafts of any other relevant instrument required for the execution of applicable
180 provisions of this Land Use Code.

181

182 **Sec. 108-3-4. –Residential cluster subdivision design and layout standards, generally.**

183 (a) *Overall configuration.* A cluster subdivision's general design shall concentrate residential building
184 lots, with their adjoining street rights-of-way and any approved alternative access, if applicable,
185 together in accordance with the following:

186 (1) *In all zones.* In all zones, a cluster of residential lots, as defined in Section 101-1-7, shall be
187 designed to avoid, to the extent possible, lands that have characteristics generally valuable for
188 preservation or conservation, including but not limited to viewsheds, ridgelines, canyons,
189 waterways, stands or groupings of mature vegetation, wildlife habitat, and other sensitive
190 ecology identified as being of importance by the applicable general plan or some other land
191 preservation or conservation plan adopted by the county, state, or federal government and that
192 is applicable within the county. Preservation or conservation shall be tailored to execute the
193 goals, objectives, or policies of the relevant plan. The application shall provide sufficient detailed
194 information to clearly verify compliance.

195 (2) *In agricultural zones.* In an agricultural zone, only one cluster of residential lots is allowed unless
196 more are necessary to avoid development on prime agricultural land, as defined in Section 101-
197 1-7, or sensitive lands as provided in Section 108-3-5(b)(4). The cluster or clusters of residential
198 lots shall be organized in a manner that supports viability of crop production on the open space
199 lands including optimizing ease of access and maneuverability, to and on the open space lands,
200 of large equipment commonly used to support crop production. A cluster of residential lots shall
201 be configured to support the required open space design and layout standards of this chapter.
202 Subdivision phasing that avoids this requirement shall not be allowed.

203 (b) *Street configuration.* Streets shall have logical and efficient connections, with block lengths or
204 intersection distances no less than provided in Section 106-2-3.

205 (1) *Western Weber Planning Area Streets.* In the Western Weber Planning Area, streets shall
206 generally follow existing street grid design. Section line streets are mandatory and shall not be
207 waived. When practicable, quarter section lines shall denote the general location of other
208 through streets. If current parcel configuration does not make this practicable, a through-street,
209 or stubbed-street that will be a future through-street, shall be located as close to these lines as
210 otherwise reasonably possible.

211 a. The planning commission may waive this requirement for the following:

212 1. environmental constraints exist that render a through-street, or a stubbed-street that
213 will become a through-street, unreasonable and unnecessary; or

214 2. agricultural open space that is or would otherwise be permanently preserved as
215 provided in this land use code would be interrupted by the street in a manner that
216 creates a hardship for crop production.

217 b. In allowing a waiver under this subsection the planning commission may require the street
218 to be placed in another location to offer optimal compensation for the lack of the
219 connection required herein.

220 (2) *Ogden Valley Planning Area Streets.* In the Ogden Valley Planning Area, a street shall generally
221 follow the proposed street width and alignment displayed on the Streets and Roads map of the
222 2016 Ogden Valley General Plan, or other newer adopted transportation plan, if applicable.
223 Otherwise connectivity shall comply with Section 106-2-3.

224 (3) *Street infrastructure:* Any infrastructure or vegetation placed, or altered, in the street right of way
225 shall be in accordance with adopted right-of-way standards or shall be to the satisfaction of the
226 County Engineer. Operation and maintenance of street lighting and any right-of-way vegetation
227 shall be the responsibility of the homeowners, unless the county has adopted a policy otherwise.

228 (c) *Pathways.* In lieu of a sidewalk on both sides of the street, as required by 106-4-2(f), a ten foot wide
229 asphalt pathway may be allowed on one side of the street. If only developing a half width street,
230 where otherwise allowed by this Land Use Code, the pathway shall be located on that side;
231 otherwise, preference shall be given to the side that could best support pathway connectivity based

232 on other factors such as existing or planned future pathways in the vicinity and potential pedestrian
233 conflicts. Pathway and sidewalk layout shall be designed in a manner that prioritizes efficiency of
234 non-motorized modes of transportation.

235 (1) Regardless of street layout, the cluster subdivision's pathway or sidewalk infrastructure
236 layout shall provide a route or combination of routes that offer ingress and egress from any
237 given point along a street to the subdivision boundary in at least three generally opposing
238 and straight-line directions of the cardinal compass. Each of these routes shall provide a
239 walking distance that is shorter than twice the straight-line distance from the given point to
240 where the route intersects with the subdivision boundary.

241 (2) Within a cluster of residential lots, the maximum pathway or sidewalk walking-distance
242 between pathway or sidewalk intersections shall be 500 feet. A pathway or sidewalk
243 intersection is where a pathway or sidewalk intersects with another pathway, sidewalk, or
244 street. Pathways shall connect using shortest distance reasonably possible.

245 (3) Pathways and sidewalk layout shall provide for the continuation of existing pathways or
246 sidewalks in the general area, and for future planned pathways, as shown on an adopted
247 pathway plan. A pathway or sidewalk shall connect to any pathway or sidewalk stubbed from
248 adjacent developed property. Continuation of a pathway or sidewalk to adjacent undeveloped
249 property shall be provided with a stub to the subdivision boundary. Pathway and sidewalk
250 arrangement shall not cause any unnecessary hardship for creating convenient and efficient
251 access to future adjoining developments.

252 (4) In an agricultural zone, pathways in open space areas greater than five acres shall be located as
253 close to the outer boundaries of the open space area as reasonably possible so as not to disrupt
254 the contiguity of the open space area.

255 (5) The planning commission may waive any of the above pathway requirements for a pathway or
256 sidewalk that is not intended to be a parallel part of the general street transportation system.

257 a. The waiver may be granted for the following reasons:

258 1. environmental constraints exist that render the connection unreasonable and
259 unnecessary; or

260 2. agricultural open space that is, or would otherwise be, permanently preserved as
261 provided in this land use code would be interrupted by the pathway or sidewalk in a
262 manner that creates a hardship for crop production.

263 b. In allowing a waiver under this subsection the planning commission may require the
264 pathway or sidewalk to be placed in another location to offer optimal compensation for the
265 lack of the connection required herein.

266

267

268 **Sec. 108-3-5. - Open space preservation plan.**

269 (a) *Open space preservation plan procedure.*

270 (1) *Initial open space preservation plan approval.* An open space preservation plan shall
271 accompany an application for preliminary subdivision approval or an application for an open
272 space preservation plan amendment. Preliminary subdivision approval constitutes approval of
273 the open space plan. A final plat shall comply with the approved open space plan.

274 (2) *Open space preservation plan amendment.* After submittal of a new application and application
275 fee an open space preservation plan may be amended, from time to time in accordance with the
276 standards of this chapter. If an amendment of an open space preservation plan affects any part
277 of the recorded subdivision plat, or if an amendment to a subdivision plat affects any part of an
278 approved open space preservation plan, then the two shall be amended together and final
279 approval of the amended subdivision plat shall constitute final approval of the amended open

280 space preservation plan. Otherwise, each may be amended independently. Submission for an
 281 independently amended open space preservation plan shall be in compliance with the open
 282 space plan submittal requirements of this chapter and shall require the approval of the planning
 283 commission.

284 (b) *Open space preservation plan submittal requirements.* The open space preservation plan submittal
 285 shall include the following:

286 (1) An overall cluster subdivision map identifying all open space areas and open space area
 287 amenities.

288 (2) An open space site plan that:
 289 a. identifies the open space parcel ownership types specified in (c)(9) of this section;
 290 b. identifies each proposed ownership type with a unique color;
 291 c. shows the locations of existing and proposed future structures and other open space
 292 amenities; structures housing a subdivision utility or serving as a subdivision amenity shall
 293 be subject to all applicable standards including all design review and applicable
 294 architectural standards found in title 108 of the Weber County Land Use Code;and
 295 d. includes all park improvements and is accompanied by a letter of approval from the local
 296 park district for open space that will be gifted as a park parcel to a local park district.

297 (3) A narrative describing all proposed open space parcels, their proposed method of ownership,
 298 their proposed method of maintenance, their proposed uses, and any proposed building
 299 envelopes.

300 (4) The phasing of open space parcels and their relationship to the overall subdivision phasing
 301 plan, if any.

302 (c) *Open space development standards and ownership regulations.* All open space area proposed to
 303 count toward the minimum open space area required by this chapter shall be clearly identified on the
 304 open space site plan. The following standards apply to their creation. Open space area in excess of
 305 the minimum required by this chapter is exempt from these standards.

306 (1) *Minimum required open space area.* A cluster subdivision requires a minimum percentage of its
 307 net developable acreage, as defined in Section 101-1-7, to be preserved as open space, as
 308 follows:

ZONE	REQUIRED OPEN SPACE
F-40 zone:	90 percent
F-5 and F-10 zones:	80 percent
AV-3, FV-3, and DRR-1 zones:	60 percent
Zones not listed:	30 percent

309 (2) *Non-agricultural preservation open spaces.* In all nonagricultural zones, and except as provided
 310 otherwise in parts (4) or (5) of this subsection (c), open space parcels shall preserve, to the
 311 extent possible, lands that have characteristics generally valuable for preservation or
 312 conservation, including but not limited to viewsheds, ridgelines, waterways, stands or groupings
 313 of mature vegetation, wildlife habitat, and other sensitive ecology. Open space parcels shall be
 314 organized into one contiguous open space area, except contiguity may be interrupted if
 315 preservation or conservation of those characteristics is best accomplished by allowing the
 316 interruption. The applicant bears the burden of proving the social or environmental value of the
 317 preservation or conservation based on specific objectives found in the general plan or based on
 318 objectives of some other land preservation or conservation plan, or other preservation or

319 conservation policy as adopted by the county, state, or federal government, and applicable
320 within the county.

321 (3) *Agricultural open spaces to be contiguous and useful.* In all agricultural zones, open space
322 parcels shall be arranged to create future long-term agricultural opportunities in the following
323 ways:

324 a. By creating parcels of a sufficient size and configuration to support large-scale crop-
325 producing operations. The area or areas of the subdivision that contains prime agricultural
326 land, as defined by Section 101-1-7, shall first and foremost be used to satisfy the open
327 space requirements of this chapter. Only then may any portion of the prime agricultural land
328 be used for other development purposes.

329 b. Open space parcels shall be organized into one contiguous open space area. Contiguity
330 may only be interrupted if preservation of long-term agricultural opportunities is best
331 accomplished by allowing the interruption. The applicant bears the burden of proving this
332 based on soil sampling, irrigation capabilities, parcel boundary configuration, and industry
333 best practices.

334 c. The exterior boundary of a contiguous open space area that is intended to satisfy the open
335 space requirements of this chapter shall be configured so a fifty-foot-wide farm implement
336 can reach all parts of the area with three or more passes or turns. Generally, this requires
337 the area to be at least 450 wide in any direction at any given point to be considered
338 contiguous. This three turn standard may be reduced by the planning commission for
339 portions of the parcel affected by the following:

340 1. The configuration of the existing exterior boundary of the proposed subdivision makes it
341 impossible;

342 2. A street required by Section 108-3-4 constrains the width of the parcel or bisects what
343 would otherwise be one contiguous open space area if the street did not exist; or

344 3. Natural features, or permanent man-made improvements onsite that cannot be moved
345 or realigned, cause an interruption to crop producing capabilities.

346 d. Open space area necessary to meet the requirements of part (4) or (5) of this subsection, or
347 open space areas never previously used for crop-production that currently contain areas
348 valuable for preservation or conservation as specified in part (2) of this subsection may be
349 exempt from this part provided they comply with those applicable parts.

350 (4) *Small open space parcels within a cluster of residential lots.* In order to maximize the
351 contiguous open space acreage as required in part (2) and (3) of this subsection, an open
352 space parcel or portion thereof that is located within a cluster of residential lots, as defined in
353 Section 101-1-7, or that interrupts contiguity of a cluster of residential lots and is not intended to
354 satisfy part (2), (3), or (5) of this subsection (c), shall be constrained in area and width to
355 provide the minimum acreage and width reasonably necessary for the functionality, operation,
356 and maintenance of the intended open space use. The open space preservation plan shall offer
357 sufficient information regarding the use and any proposed structures to allow the Planning
358 Commission to verify compliance. See also part (6) and part (8) of this subsection (c) for
359 additional applicable area and coverage regulations.

360 (5) *Sensitive lands requirements.* Cluster subdivisions in or on sensitive lands shall be governed as
361 follows:

362 a. Lands that can be mitigated such as floodplain and wetlands are considered developable
363 for the purpose of calculating net developable acreage, as defined in Section 101-1-7.

364 b. Acreage consumed by a lake, floodway within a river corridor, or a naturally occurring pond
365 area is acreage unsuitable for development, as otherwise defined in Section 101-1-
366 7. When any of these is offered as a community amenity on an open space parcel with
367 public access and a blanket public access easement, the subdivision shall receive 25

368 percent of the acreage credited to the net developable acreage for the purpose of
369 calculating base density.

370 c. Regardless of developability, the following areas shall be located within a cluster
371 subdivision's open space area:

372 1. areas designated as floodplain, as defined by the Federal Emergency Management
373 Agency or other qualified professional determined appropriate by the county engineer;
374 and

375 2. rivers and streams, with and including their designated river or stream corridor setbacks,
376 as defined by the Weber County Land Use Code.

377 (6) *Open space parcel area.* The minimum area for an open space parcel located within a cluster
378 subdivision is as follows:

379 a. *Common area.* An open space parcel designated as common area is not subject to
380 minimum area requirements.

381 b. *Park area.* An open space parcel conveyed to a local park district shall be of a sufficient
382 size to adequately accommodate park infrastructure, amenities, and parking.

383 c. *Individually owned open space parcel area.* An open space parcel designated as an
384 individually owned preservation parcel shall contain an area of not less than five acres and
385 shall be part of a contiguous area of open space consisting of not less than ten acres in
386 total; and shall be in compliance with the following:

387 1. The ten acre minimum contiguous area does not need to be platted in the same
388 subdivision.

389 2. Each individually owned open space parcel shall be provided clear and perpetual legal
390 access from a public or private street right of way.

391 3. Drainage detention or retention facilities intended to accommodate subdivision
392 improvements may be located on an individually owned preservation parcel and
393 counted toward the subdivision's overall open space area, but the acreage of the
394 facility shall not be included as part of the parcel's agricultural use, and the acreage of
395 the facility shall be in addition to, not a part of, the minimum parcel area requirement.

396 d. *Estate lot area.* Up to eighty percent of an estate lot, as defined in Section 101-1-7, may
397 count towards the open space acreage requirement provided the following standards are
398 applied:

399 1. The area of the lot designated as open space shall contain an area of not less than
400 five acres and shall be part of a contiguous area of open space consisting of not less
401 than ten acres in total.

402 2. The estate lot shall contain a survey-locatable building envelope on the recorded plat
403 that shares a common boundary with a neighboring residential lot, or in the case of a
404 neighboring estate lot, shares a common boundary with the neighboring estate lot's
405 building envelope.

406 3. Drainage detention or retention facilities intended to accommodate subdivision
407 improvements may be located on an estate lot and counted toward the subdivision's
408 overall open space area, but the acreage of the facility shall not be included as part of
409 the lot's agricultural use, and the acreage of the facility shall be in addition to, not a
410 part of, the minimum parcel area requirement.

411 (7) *Parcel width, frontage, and access.* Open space parcels located within a cluster subdivision are
412 not subject to frontage requirements and do not have a minimum width standard. Section 106-2-
413 4(c) notwithstanding, all open space parcels without street frontage shall be provided an access
414 easement, recordable at the time of plat recordation, across other parcels and connecting to a
415 public or private street.

- 416 (8) *Parcel coverage.*
- 417 a. Coverage of common area or open space parcels under five acres by any roofed
- 418 structures or any structures or facilities that requires a building permit shall not exceed ten
- 419 percent of the total parcel area.
- 420 b. Coverage of individually owned preservation parcels by roofed structures or any
- 421 structures/facility that requires a building permit shall not exceed two and a half percent of
- 422 the total parcel area.
- 423 c. Coverage of the open space area of an estate lot of 5.25 acres or greater by roofed
- 424 structures or any structures/facility that requires a building permit shall be not exceed two
- 425 and a half percent of the lot's platted open space preservation easement area.
- 426 (9) *Open space lot or parcel ownership.*
- 427 a. *Common area parcel.* An open space parcel that is common area shall be commonly
- 428 owned by an appropriate homeowner's association established under U.C.A. 1953, § 57-
- 429 8a-101 et seq., the Community Association Act.
- 430 b. *Park parcel.* An open space parcel may be owned by a local park district.
- 431 c. *Individually owned open space parcel.* An open space parcel may be owned as an
- 432 individually owned preservation parcel by any person, regardless of whether the person
- 433 owns a residential lot within the subdivision. In order to keep an individually owned
- 434 preservation parcel from becoming uncondusive to multiple-acreage preservation uses, an
- 435 individually owned preservation parcel shall not be sectioned into sub-areas less than five
- 436 acres by fencing or other physical barriers unless the sectioning is intended for the rotation
- 437 of grazing animals provided consistent rotation occurs for the purpose of vegetation
- 438 regrowth. The planning commission may modify this requirement for uses that support the
- 439 longevity of the preservation, maintenance, and large-acreage use of the parcel.
- 440 d. *Estate lot.* An estate lot, as defined in Section 101-1-7, may be owned by any person. In
- 441 order to keep an estate parcel from becoming uncondusive to multiple-acreage
- 442 preservation uses, the preserved open space area shall not be sectioned into sub-areas
- 443 less than five acres by fencing or other physical barriers unless the sectioning is intended
- 444 for the rotation of grazing animals provided consistent rotation occurs for the purpose of
- 445 vegetation regrowth. The planning commission may modify this requirement for uses that
- 446 support the longevity of the preservation, maintenance, and large-acreage use of the
- 447 parcel.
- 448 (d) *Open space phasing.* If development phasing is proposed and approved during preliminary cluster
- 449 subdivision approval, the percent of open space of the overall platted acreage shall at no time be
- 450 less than the percent of proposed open space approved in the open space plan.
- 451 (e) *Maintenance.* The open space parcel owner, whether an individual or an association, shall use,
- 452 manage, and maintain the owner's parcel in a manner that is consistent with an approved open
- 453 space preservation plan or the agriculture, forest, or other type of preservation easement executed
- 454 under subsection (f).
- 455 (f) *Preservation.*
- 456 (1) Open space parcels shall be permanently preserved in a manner that is consistent with the
- 457 approved open space preservation plan.
- 458 (2) Language shall be included in the dedication of the subdivision plat that substantially reads as
- 459 follows; final language is subject to approval from the County Surveyor and County Attorney:

... and additionally dedicate and convey to Weber County a perpetual open space easement on, under, and over all parcels and areas denoted as open space parcels or areas to guarantee to the public that those parcels and areas remain

open and undeveloped in a manner consistent with the approved open space plan; ...

- 460 (3) An agreement, in a form acceptable to the County Attorney, shall be recorded with the final plat
 461 to the title of all open space preservation parcels, including estate lots, that details the open
 462 space preservation plan and any related conditions of approval necessary to execute the open
 463 space preservation plan. The approved site plan shall be included in the agreement. If the plat
 464 recordation is also the means of conveyance of any open space parcel, the agreement shall
 465 also specify the name and tax notification mailing address if the new owner.
- 466 (4) If a cluster subdivision contains open space intended to preserve substantial or crucial wildlife
 467 habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat easement
 468 meeting the requirements of the Utah Division of Wildlife Resources shall be offered to the
 469 division.
- 470 (5) If a cluster subdivision contains an individually owned preservation parcel or estate lot with an
 471 open space area, the applicant shall:
- 472 a. identify all open space preservation areas on the final plat with a unique hatch or shading;
 - 473 b. further identify each individually owned preservation parcel with a unique identifying letter;
 - 474 c. for an estate lot, delineate on the plat with survey locatable bearings and calls the area of
 475 the lot being preserved as open space..
- 476 (g) The planning commission may impose any additional conditions and restrictions it deems necessary
 477 to reasonably ensure maintenance of the open space and adherence to the open space preservation
 478 plan. Such conditions may include a plan for the disposition or re-use of the open space property if
 479 the open space is not maintained in the manner agreed upon or is abandoned by the owners.
- 480 (h) A violation of the open space plan or any associate conditions or restrictions, shall constitute a
 481 violation of this Land Use Code.

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483 **Sec. 108-3-6. – Reserved.**

484 **Sec. 108-3-7. - Lot development standards.**

485 Unless otherwise provided for in this section, residential building lots shall be developed in a manner
 486 that meets all applicable standards, including but not limited to those found in the Weber County Land
 487 Use Code and the requirements and standards of the Weber-Morgan Health Department, if applicable.
 488 The following specific site development standards apply to lots in cluster subdivisions:

- 489 (1) *Lot area.* Unless otherwise regulated by the Weber-Morgan Health Department, a lot located
 490 within a cluster subdivision shall contain an area of not less than 9,000 square feet, unless
 491 otherwise provided in Section 108-3-8.
- 492 (2) *Lot width.* Unless otherwise regulated by the Weber-Morgan Health Department, the minimum
 493 lot width in a cluster subdivision is as follows:

ZONE	LOT WIDTH
F-40 and F-10 zones:	100 feet
FR-1, F-5, and AV-3 zones:	80 feet
RE-15, RE-20 zones:	60 feet
A-1, A-2, and A-3 zones:	60 feet

FR-3 zone:	50 feet
DRR-1 zone:	50 feet

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(3) *Yard setbacks.* The minimum yard setbacks in a cluster subdivision are as follows:

YARD	SETBACK
Front:	20 feet
Side:	
Dwelling:	8 feet
Accessory building:	8 feet; except one foot if located at least six feet in rear of dwelling.
Accessory building over 1,000 square feet:	See Section 108-7-16
Corner lot side facing street:	20 feet
Rear:	20 feet

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(4) *Building height.* The maximum height for a building in a cluster subdivision is as follows:

BUILDING	HEIGHT
Dwelling	40 feet
Accessory building	30 feet

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Sec. 108-3-8. - Bonus density.

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(a) *Western Weber Planning Area bonus density.* In the Western Weber Planning Area, bonus density shall be awarded on a one to one ratio with the gross acreage of a project area. However, no bonus density shall be awarded for a project with a gross acreage less than ten acres, and no bonus density over 50 percent shall be awarded for projects with a gross acreage over 50 acres. A subdivision that is awarded density shall:

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(1) Provide a minimum 50 percent open space of the net developable acreage, as defined in Section 101-1-7.

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(2) Provide one street tree of at least two-inch caliper, from a species list as determined by county policy, every 50 feet on both sides of each street within the project boundaries. In the event infrastructure or a driveway approach makes a tree's placement impossible, that tree shall be located as close to the 50-foot spacing as otherwise reasonably possible.

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(3) Comply with all provisions of Title 108, Chapter 16: Ogden Valley Outdoor Lighting Ordinance, which is incorporated by reference herein as applicable to a cluster subdivision in the Western Weber Planning Area that receives bonus density. A note shall be placed on the final subdivision plat indicating this requirement.

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(b) *Ogden Valley Planning Area bonus density.* A cluster subdivision shall create no new density entitlements in the Ogden Valley.

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Sec. 108-3-9. - Homeowners association.

In order to provide for proper management and maintenance of commonly owned areas and private improvements, all cluster subdivisions with such areas or improvements are required to have a homeowners association. The applicant, prior to recording a final plat of the cluster subdivision, shall:

- (1) Establish a homeowners association and submit for the county's review the necessary articles of incorporation, bylaws, and declaration of covenants, conditions, and restrictions that provide for:
 - a. Compliance with Utah State Code;
 - b. The reason and purpose for the association's existence;
 - c. Mandatory membership for each lot or home owner and their successors in interest;
 - d. The perpetual nature of the easements related to all dedicated open space parcels;
 - e. Responsibilities related to liability, taxes, and the maintenance of recreational and other infrastructure and facilities;
 - f. Financial obligations and responsibilities, including the ability to adjust the obligations and responsibilities due to change in needs;
 - g. Association enforcement remedies; and
 - h. A notification of the county's ability to enforce the terms of the owner's dedication on the subdivision dedication plat.
- (2) Register the homeowners association with the State of Utah, Department of Commerce.

Sec. 108-3-10. – Guarantee of improvements.

- (a) *Guarantee of improvements.* The county shall require an applicant to deposit a guarantee of improvements, as provided in Section 106-4-3, for all improvements required by this chapter or as otherwise volunteered by the applicant that are incomplete at the time of subdivision plat recording. This includes improvements on open space parcels unless otherwise specified in subsection (b) of this section.
- (b) Improvements requiring certificate of occupancy. The county shall not require an applicant to deposit a financial guarantee for open space improvements that require a certificate of occupancy and that remain incomplete at the time of final approval of the proposed cluster subdivision by the board of county commissioners. The applicant or developer shall complete the improvements according to the approved phasing component of an open space preservation plan. If the applicant fails to complete improvements as presented in the open space preservation plan, the county may suspend final plat approvals and record an instrument notifying prospective lot buyers that future land use permits may not be issued for any construction.

...

Sec. 108-21-6. - Use/activity standards and limitations.

...

- (1) Farm stay (residential and overnight accommodation) uses/activities.
 - (f) Carriage house.
 - 1. Carriage houses shall be limited to a number that does not exceed the following calculation: net developable acreage of the parcel upon which a carriage house(s) is located divided by the minimum lot area required by the zone in which the lot or parcel(s) is located, all multiplied by 20 percent (net developable acreage / minimum lot area) x 20 percent = Maximum number of carriage houses at an approved agri-tourism operation.

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1 **Title 101 – GENERAL PROVISIONS**

2 ...

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

4 ...

5 *Accessory dwelling unit* The term "accessory dwelling unit," also referred to as an "ADU," means a
6 dwelling unit, as defined by this Section, that is either attached to the main dwelling or is otherwise
7 located on the same lot or parcel as the main single family dwelling. An accessory dwelling unit is not
8 an accessory apartment, as otherwise defined by this Section. Ownership of an accessory dwelling unit
9 shall not be transferred separate from the main single family dwelling to which it is accessory. See also
10 "carriage house." (ADU). The term "accessory dwelling unit (ADU)" means an accessory, non-owner
11 occupied, single family dwelling unit that is sited on the same lot/parcel as a main dwelling unit. The ADU
12 is located in designated areas when constructed on property that can accommodate the necessary
13 zoning, water, wastewater, and typical building system requirements. It may privately serve as a guest
14 house or be rented/leased separately; however, an ADU is not, by any means, sold/conveyed separately
15 from the main house. The right to construct an ADU does not constitute a transferable development right.
16 See also Carriage house.

17 ...

18 ...
19 ~~*Acreage, adjusted gross.* The term "acreage, adjusted gross " means a total of all land area that~~
20 ~~lies within a project boundary and is classified as "developable" by this or any other county, state or~~
21 ~~federal law, ordinance or regulation.~~

22 ...

23 *Acreage, gross.* The term " gross acreage" means a total of all acreage that lies within a project
24 boundary.~~The term "acreage, adjusted gross" means a total of all land area that lies within a project~~
25 ~~boundary and is classified as "developable" by this or any other county, state or federal law, ordinance or~~
26 ~~regulation.~~

27 *Acreage, net developable.* The phrase "net developable acreage" means the total acreage within
28 a project boundary, subtracting acreage unsuitable for development, as defined by this section or as
29 otherwise provided in this Land Use Code. When calculating net developable acreage, ten percent of
30 the total acreage within a project area shall be reduced to account for potential street rights-of-way.
31 The portions of an existing street right-of-way located within the project boundaries may be included as
32 part of the ten percent. The term "net developable area" shall have the same meaning, unless the
33 context clearly indicates otherwise.~~The term "acreage, net developable" means a total of all land area~~
34 ~~that lies within a project boundary and has not been excluded from use in density calculations or deemed~~
35 ~~"undevelopable" by this or any other county, state, or federal law, ordinance or regulation. The area within~~
36 ~~existing and proposed public and private road rights-of-way shall not be counted towards "net~~
37 ~~developable acreage."~~

38 ...

39 *Acreage, productive agri-tourism.* The term "productive agri-tourism acreage" means agriculturally
40 productive land area used for the combined purpose of cultivating agricultural products and hosting active
41 tourism attractions (e.g., pumpkin patch, corn maze, U-pick, U-cut Christmas trees, crop tour, bird
42 watching, hunting, horseback/sleigh/wagon rides etc.).

43 *Acreage unsuitable for development.* The phrase "acreage unsuitable for development," means
44 the area within a project that has extraordinary circumstances that under existing county, state, or
45 federal laws render development on it very unlikely. The applicant bears the burden of proof.

46 *Agricultural arts center.* The term "agricultural arts center" means a facility designed for the
47 purpose of offering public education, enjoyment, and enlightenment through artistic expression and/or a
48 translation of concepts related to art, art history, and art theory. It, in a conducive agricultural setting,

49 acts as a venue for the community to experience, appreciate, and consume art in a variety of forms,
50 including, but not limited to, visual or media art, literature, music, theatre, film, and/or dance. An
51 agricultural arts center does not provide accommodation for nightly farm-stays; however, it may serve
52 meals when served to event participants and/or guests.

53 *Agricultural parcel.* The term "agricultural parcel" means a single parcel of land, at least 5.0 acres
54 in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs to be fulfilled in
55 order to qualify for the agricultural building exemption.

56 *Agricultural land, prime.* The term "prime agricultural land" means the area of a lot or parcel best
57 suited for large-scale crop production. This area has soil types that have, or are capable of having,
58 highest nutrient content and best irrigation capabilities over other soil types on the property, and are of a
59 sufficient size and configuration to offer marketable opportunities for crop-production. Unless otherwise
60 specified by this land use code, actual crop production need not exist onsite for a property to be
61 considered to contain prime agricultural land.

62 *Agriculture.* The term "agriculture" means use of land for primarily farming and related purposes
63 such as pastures, farms, dairies, horticulture, aquaculture, animal husbandry, and crop production, but
64 not the keeping or raising of domestic pets, nor any agricultural industry or business such as fruit
65 packing plants, fur farms, animal hospitals or similar uses.

66 ...

67 *Agri-tourism.* The term "agri-tourism" means an agricultural accessory use that can provide a
68 means of diversifying a farm's income through broadening its offerings and adding value to its products.
69 ~~Agri-tourism businesses are permitted conditionally in designated zones, excepting those areas within~~
70 ~~residential subdivisions that are dedicated for the purpose of open space or common area.~~ They operate
71 during more than six (consecutive or non-consecutive) days per year and provide agriculturally related,
72 and in some instances, non-agriculturally related products and activities that attract members of the public
73 to the farm for retail, educational, recreational, and/or general tourism purposes. ~~Educational and~~
74 ~~recreational agri-tourism activities/uses may include, but not be limited to, educational activities, nightly~~
75 ~~accommodations, entertainment opportunities, and/or outdoor recreation (e.g., farm tours,~~
76 ~~farm/cooking/ecological classes, farm-stays, corn mazes, and special occasions including weddings and~~
77 ~~family reunions, special events including harvest festivals and musical events, U-pick operations,~~
78 ~~agriculturally related competitions, and other similar events).~~ Consumer direct sales of farm products may
79 include, but not be limited to, open air or farmers markets, on farm produce stands, and value added
80 product processing and packaging and retail sales facilities (e.g., process pumpkins grown on premises,
81 into pumpkin pies)-

82 ...

83 *Club or fraternal lodge/organization, private.* The term "club or fraternal lodge/organization, private"
84 means a non-profit association of persons who are bona fide members which owns or leases a building
85 or portion thereof, the use of such premises being restricted to members and their guests.

86 *Cluster of residential lots.* The phrase "cluster of residential lots" means a grouping of residential
87 lots, as provided Title 108 Chapter 3 of this land use code, that are contiguous and uninterrupted by
88 other nonresidential parcels except parcels required for a street and other allowed access or as
89 otherwise allowed by this land use code.

90 *Code.* The term "Code" means the Land Use Code of Weber County, Utah.

91 ...

92 *Conservation easement.* The term "conservation easement" means:

- 93 (1) An easement granting a right or interest in real property that is appropriate to retaining land or
94 water areas predominately in their natural, scenic, open or wooded condition;
- 95 (2) Retaining such areas as suitable habitat for fish, plants or wildlife; or
- 96 (3) Maintaining existing land uses.

97 | ...

98 | Density, base. The term “base density” means the number of dwelling units allowed in an area. For
99 | development types that permit a reduced lot area than otherwise provided by the zone, the base density
100 | shall be calculated as the net developable acreage, as defined herein, divided by the minimum lot area
101 | of the zone, except when a greater area would otherwise be required by the Weber-Morgan Health
102 | Department due to lack of sanitary sewer or culinary water, then the greater area shall be used. This
103 | calculation can be observed by this formula: ((net developable acreage) / (minimum lot area)) = base
104 | dwelling unit density. The result shall be rounded down to the nearest whole dwelling unit.

105 | ...

106 | Estate lot. The term “estate lot” means a lot within a subdivision, intended for the use of a dwelling
107 | unit, that contains at least 5.25 acres.

108 | ...

109 | Gross Acreage. See “acreage, gross.”

110 | ...

111 | Net developable acreage. See “acreage, net developable.”

112 | ...

113 | ~~Non-developable area.~~ The term “non-developable area” means an area where, due to topographic
114 | ~~(e.g., over 30 percent slope), or hazardous conditions (e.g., earthquake, landslide), as defined by Weber~~
115 | ~~County Ordinances, the land is not considered to be suitable for construction of residential, commercial~~
116 | ~~or manufacturing buildings or structures.~~

117 | **Title 104 - ZONES**

118 | **Sec. 104-17-5. – Site development standards**

119 | ...

120 |

121 | (a) Minimum lot area. Two different minimum area regulations are recognized based upon the use of
122 | either individual wastewater disposal systems of a community or a group wastewater disposal
123 | systems of a community or a group wastewater disposal facility approved by the state division of
124 | health as follows:

125 | ...

126 | (2) Developments using a community or group wastewater disposal facility meeting the
127 | requirements of the state division of health code of wastewater disposal regulations:

128 | ~~e. — Net developable area or acre. The term “net developable area” or “net developable acre” is~~
129 | ~~defined as a quantity of ground within a parcel or parcels of land with slopes of less than~~
130 | ~~30 percent and with soils of sufficient depth and suitable types to ensure against~~
131 | ~~development being a detriment to surface water and groundwater quality.~~

132 |

133 | ...

134 | **Sec. 104-29-2. – Development standards.**

135 | ...

136 |

137 | (i) Open space. A minimum of 60 percent of the ~~adjusted gross~~ net developable acreage, owned by the
138 | resort and located within the destination and recreation resort zone, shall be designated as open
139 | space. A portion of that open space shall consist of conservation open space in an amount equal to
140 | or greater than 30 percent of the resort's ~~adjusted gross~~ net developable acreage. The area

141 designated as conservation open space shall be encumbered by an irrevocable conservation
142 easement meeting the general/applicable requirements described in section 104-29-6 of this chapter
143 and shall be granted prior to beginning any construction within an overall project phase. The
144 minimum number of acres encumbered by each easement shall be equal to or greater than the
145 number of acres involved in each project phase until the total number, of required conservation open
146 space acres, is met. Areas dedicated (platted and recorded) as open space within residential and
147 nonresidential subdivisions may count towards the minimum open space requirement.

148
149 | ...

150 **Title 108 - STANDARDS**

151 | ...

152 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

153 **Sec. 108-3-1. – Purpose and Intent.**

154 The purpose of this chapter is to provide flexible development standards to landowners that are
155 committed to developing safe, attractive, conservation oriented neighborhoods that:

- 156 (1) are designed and arranged in a manner that considers, gives deference to, and ultimately
157 protects natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally
158 productive lands;
- 159 (2) offer predictable support and encouragement in agricultural areas for a wide variety of long-term
160 agricultural operations on open space parcels;
- 161 (3) benefit those that create cluster subdivisions by offering an inherent gain in the form of reduced
162 infrastructure costs and the possibility for an increase in residential density in the Western
163 Weber Planning Area;
- 164 (4) benefit the residents of Weber County by promoting public welfare through the reduction of
165 long-term infrastructure maintenance costs; and
- 166 (5) permanently preserve the county's functional open spaces, picturesque landscapes, and rural
167 character.

168 ~~The purpose of this chapter is to provide flexible development standards to landowners that are~~
169 ~~committed to developing safe, attractive, conservation oriented neighborhoods that are thoughtfully~~
170 ~~designed and arranged in a manner that considers, gives deference to, and ultimately protects~~
171 ~~natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally productive~~
172 ~~lands. It is intended to benefit those that create cluster subdivisions by offering an inherent gain in~~
173 ~~the form of reduced infrastructure costs and the possibility for a substantial increase in residential~~
174 ~~density in the Western Weber Planning Area. It is equally intended to benefit the residents of Weber~~
175 ~~County by promoting public welfare through the reduction of long-term infrastructure maintenance~~
176 ~~costs and the permanent preservation of the county's functional open spaces, picturesque~~
177 ~~landscapes, and rural character.~~

178
179 **Sec. 108-3-2. - ~~General regulations~~Allowed zones.**

180 Subject to the requirements of this chapter, cluster subdivisions are permitted in all zones except for
181 the commercial, manufacturing, gravel, residential mobile home, open space, and shoreline zones.

182 ~~-Subject to the requirements of this chapter, cluster subdivisions are permitted in all classified Weber~~
183 ~~County zone areas except for the commercial, manufacturing, gravel, residential mobile home, open~~
184 ~~space, and shoreline zones.~~

185 **Sec. 108-3-3. - Supplemental subdivision procedural requirements.~~Approval procedure.~~**

186 (a) Subdivision procedures and requirements apply. All procedures and requirements of Title 106 shall
187 apply to a cluster subdivision unless there is a conflict or supplement in this chapter, in which case
188 the provisions of this chapter shall prevail.

189 (b) Conceptual sketch plan. In addition to the subdivision approval procedure in Title 106, the cluster
190 subdivision approval procedure requires a conceptual sketch plan endorsement from the planning
191 commission prior to the submission of a formal subdivision application. An application for a
192 conceptual sketch plan endorsement must demonstrate compliance with applicable standards
193 contained within the Weber County Code. The completed application must be submitted at least 21
194 calendar days prior to the planning commission meeting at which the applicant wishes to be heard.
195 Endorsement from the planning commission is only a means to assist in the creation of a complete
196 subdivision application and shall not create any vested right except the right to apply for preliminary
197 subdivision review. The application is complete upon submission of the following:

198 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of Ordinances,
199 and submission of a complete sketch plan endorsement application on a form provided by the
200 county planning department.

201 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject
202 property, surrounding streets, and relevant landmarks.

203 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that demonstrates in a
204 suitable manner compliance with all applicable codes. The plan shall include, but not
205 necessarily be limited to, a north arrow and scale, subdivision boundary according to county
206 records, approximate locations of proposed streets, lots with approximate area calculations,
207 common areas and open space parcels with approximate area calculations, easements,
208 waterways, suspected wetlands, floodplains, existing structures, and contour lines. Information
209 related to topography and contour lines may be submitted on a separate map. Contour
210 information may be omitted if the planning director or his designee determines that the subject
211 property lacks topographic characteristics that warrant representation.

212 (4) An electronic copy of all forms, documents, materials, and information submitted as part of the
213 application.

214 (c) Preliminary and final cluster subdivision application.

215 (1) Submission for preliminary cluster subdivision approval. A submission for preliminary cluster
216 subdivision approval shall:

217 a. conform to the endorsed sketch plan;

218 b. comply with all applicable preliminary plan requirements of Title 106;

219 c. contain an open space preservation plan, as required in Section 108-3-5.

220 (2) Submission for final cluster subdivision approval. A submission for final cluster subdivision
221 approval shall conform to the approval of the preliminary cluster subdivision approval and
222 comply with all applicable final plat requirements of Title 106. If applicable, submission shall
223 also include final conditions, covenants, and restrictions or a homeowner's association
224 declaration that clearly explain the maintenance method for each common area parcel, as
225 required by this chapter or any condition of preliminary cluster subdivision approval. Submission
226 shall also include drafts of any other relevant instrument required for the execution of applicable
227 provisions of this Land Use Code.

228 ~~(a) The cluster subdivision approval procedure consists of four phases as follows:-~~

229 ~~(1) A conceptual sketch plan endorsement from the appropriate planning area planning~~
230 ~~commission;-~~

231 ~~(2) A preliminary approval by the appropriate planning area planning commission;-~~

232 ~~(3) A recommendation from the appropriate planning area planning commission for final~~
233 ~~approval by the board of county commissioners; and-~~

- 234 ~~(4) A final approval and acceptance by the board of county commissioners.~~
- 235 ~~(b) An application for a conceptual sketch plan endorsement shall demonstrate compliance~~
236 ~~with all applicable standards contained within the Weber County Code. The completed~~
237 ~~application must be submitted at least 14 calendar days prior to the planning commission~~
238 ~~meeting at which the applicant wishes to be heard. The application is complete upon~~
239 ~~submission of the following:~~
- 240 ~~(1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of~~
241 ~~Ordinances, and submission of a complete sketch plan endorsement application on a~~
242 ~~form provided by the county planning department.~~
- 243 ~~(2) One 8.5 inch by 11 inch vicinity map, underlain by an aerial photo, showing the subject~~
244 ~~property, surrounding streets, and relevant landmarks.~~
- 245 ~~(3) One 11 inch by 17 inch conceptual plan, drawn at a reasonable scale, that~~
246 ~~demonstrates in a suitable manner compliance with all applicable codes. The plan shall~~
247 ~~include, but not necessarily be limited to, a north arrow and scale, subdivision boundary~~
248 ~~according to county records, approximate locations of proposed streets, lots with~~
249 ~~approximate area calculations, common areas and open space parcels with approximate~~
250 ~~area calculations, easements, waterways, suspected wetlands, floodplains, existing~~
251 ~~structures, and contour lines. Information related to topography and contour lines may be~~
252 ~~submitted on a separate map. Contour information may be omitted if the planning director~~
253 ~~or his designee determines that the subject property lacks topographic characteristics~~
254 ~~that warrant representation.~~
- 255 ~~(4) An electronic copy of all forms, documents, materials, and information submitted as~~
256 ~~part of the application.~~
- 257 ~~(c) An application for preliminary approval by the appropriate planning commission,~~
258 ~~recommendation for final approval, or final approval and acceptance by the board of county~~
259 ~~commissioners shall comply with all applicable standards of the Weber County Land Use~~
260 ~~Code, including this chapter and title 106, Subdivisions. The approval process shall proceed~~
261 ~~as directed by Weber County Land Use Code title 106, chapter 1.~~

262

263 **Sec. 108-3-4. Residential cluster subdivision design and layout standards, generally. ~~Cluster~~**
264 **~~subdivision design and layout standards.~~**

265 (a) Overall configuration. A cluster subdivision's general design shall concentrate residential building
266 lots, with their adjoining street rights-of-way and any approved alternative access, if applicable,
267 together in accordance with the following:

268 (1) In all zones. In all zones, a cluster of residential lots, as defined in Section 101-1-7, shall be
269 designed to avoid, to the extent possible, lands that have characteristics generally valuable for
270 preservation or conservation, including but not limited to viewsheds, ridgelines, canyons,
271 waterways, stands or groupings of mature vegetation, wildlife habitat, and other sensitive
272 ecology identified as being of importance by the applicable general plan or some other land
273 preservation or conservation plan adopted by the county, state, or federal government and that
274 is applicable within the county. Preservation or conservation shall be tailored to execute the
275 goals, objectives, or policies of the relevant plan. The application shall provide sufficient detailed
276 information to clearly verify compliance.

277 (2) In agricultural zones. In an agricultural zone, only one cluster of residential lots is allowed unless
278 more are necessary to avoid development on prime agricultural land, as defined in Section 101-
279 1-7, or sensitive lands as provided in Section 108-3-5(b)(4). The cluster or clusters of residential
280 lots shall be organized in a manner that supports viability of crop production on the open space
281 lands including optimizing ease of access and maneuverability, to and on the open space lands,

282 of large equipment commonly used to support crop production. A cluster of residential lots shall
283 be configured to support the required open space design and layout standards of this chapter.
284 Subdivision phasing that avoids this requirement shall not be allowed.

285 (b) *Street configuration.* Streets shall have logical and efficient connections, with block lengths or
286 intersection distances no less than provided in Section 106-2-3.

287 (1) *Western Weber Planning Area Streets.* In the Western Weber Planning Area, streets shall
288 generally follow existing street grid design. Section line streets are mandatory and shall not be
289 waived. When practicable, quarter section lines shall denote the general location of other
290 through streets. If current parcel configuration does not make this practicable, a through-street,
291 or stubbed-street that will be a future through-street, shall be located as close to these lines as
292 otherwise reasonably possible.

293 a. The planning commission may waive this requirement for the following:

294 1. environmental constraints exist that render a through-street, or a stubbed-street that
295 will become a through-street, unreasonable and unnecessary; or

296 2. agricultural open space that is or would otherwise be permanently preserved as
297 provided in this land use code would be interrupted by the street in a manner that
298 creates a hardship for crop production.

299 b. In allowing a waiver under this subsection the planning commission may require the street
300 to be placed in another location to offer optimal compensation for the lack of the
301 connection required herein.

302 (2) *Ogden Valley Planning Area Streets.* In the Ogden Valley Planning Area, a street shall generally
303 follow the proposed street width and alignment displayed on the Streets and Roads map of the
304 2016 Ogden Valley General Plan, or other newer adopted transportation plan, if applicable.
305 Otherwise connectivity shall comply with Section 106-2-3.

306 (3) *Street infrastructure:* Any infrastructure or vegetation placed, or altered, in the street right of way
307 shall be in accordance with adopted right-of-way standards or shall be to the satisfaction of the
308 County Engineer. Operation and maintenance of street lighting and any right-of-way vegetation
309 shall be the responsibility of the homeowners, unless the county has adopted a policy otherwise.

310 (c) *Pathways.* In lieu of a sidewalk on both sides of the street, as required by 106-4-2(f), a ten foot wide
311 asphalt pathway may be allowed on one side of the street. If only developing a half width street,
312 where otherwise allowed by this Land Use Code, the pathway shall be located on that side;
313 otherwise, preference shall be given to the side that could best support pathway connectivity based
314 on other factors such as existing or planned future pathways in the vicinity and potential pedestrian
315 conflicts. Pathway and sidewalk layout shall be designed in a manner that prioritizes efficiency of
316 non-motorized modes of transportation.

317 (1) Regardless of street layout, the cluster subdivision's pathway or sidewalk infrastructure
318 layout shall provide a route or combination of routes that offer ingress and egress from any
319 given point along a street to the subdivision boundary in at least three generally opposing
320 and straight-line directions of the cardinal compass. Each of these routes shall provide a
321 walking distance that is shorter than twice the straight-line distance from the given point to
322 where the route intersects with the subdivision boundary.

323 (2) Within a cluster of residential lots, the maximum pathway or sidewalk walking-distance
324 between pathway or sidewalk intersections shall be 500 feet. A pathway or sidewalk
325 intersection is where a pathway or sidewalk intersects with another pathway, sidewalk, or
326 street. Pathways shall connect using shortest distance reasonably possible.

327 (3) Pathways and sidewalk layout shall provide for the continuation of existing pathways or
328 sidewalks in the general area, and for future planned pathways, as shown on an adopted
329 pathway plan. A pathway or sidewalk shall connect to any pathway or sidewalk stubbed from
330 adjacent developed property. Continuation of a pathway or sidewalk to adjacent undeveloped
331 property shall be provided with a stub to the subdivision boundary. Pathway and sidewalk

332 arrangement shall not cause any unnecessary hardship for creating convenient and efficient
333 access to future adjoining developments.

334 (4) In an agricultural zone, pathways in open space areas greater than five acres shall be located as
335 close to the outer boundaries of the open space area as reasonably possible so as not to disrupt
336 the contiguity of the open space area.

337 (5) The planning commission may waive any of the above pathway requirements for a pathway or
338 sidewalk that is not intended to be a parallel part of the general street transportation system.

339 a. The waiver may be granted for the following reasons:

340 1. environmental constraints exist that render the connection unreasonable and
341 unnecessary; or

342 2. agricultural open space that is, or would otherwise be, permanently preserved as
343 provided in this land use code would be interrupted by the pathway or sidewalk in a
344 manner that creates a hardship for crop production.

345 b. In allowing a waiver under this subsection the planning commission may require the
346 pathway or sidewalk to be placed in another location to offer optimal compensation for the
347 lack of the connection required herein.

348

349 ~~The planning commission and county commission shall approve an application for a cluster~~
350 ~~subdivision if the planning commission and county commission find that the subject proposal~~
351 ~~meets all applicable standards of the Weber County Land Use Code, including the following:~~

352 ~~(1) A cluster subdivision's general design shall concentrate residential building lots, with their~~
353 ~~adjoining road rights-of-way and any approved access exceptions, into separate and~~
354 ~~individual clusters that are entirely surrounded by open space dedicated as common area,~~
355 ~~individually owned preservation parcels, or both. The open space area in between one~~
356 ~~cluster of lots and another shall not be less than 75 feet in width and the open space area in~~
357 ~~between lots and an exterior subdivision boundary shall not be less than 50 feet in width.~~
358 ~~The open space required in between lots and a subdivision's exterior boundary shall be~~
359 ~~waived if:~~

360 ~~a. Lots sharing a common line with the subdivision boundary contain 15,000 square feet or~~
361 ~~more;~~

362 ~~b. Lots are located along an internal phasing line when that phasing line is acting as a~~
363 ~~temporary external boundary;~~

364 ~~c. The proposed cluster subdivision lies adjacent to an existing subdivision that contains at~~
365 ~~least one lot that is smaller or not more than 5,000 square feet larger than the smallest lot~~
366 ~~lying within the proposed cluster subdivision; or~~

367 ~~d. Lots located along an external boundary lie adjacent to a parcel that:~~

368 ~~1. Does not contain an existing dwelling; or~~

369 ~~2. Contains a single existing dwelling that lies further than 150 feet away from all external~~
370 ~~boundaries of the proposed cluster subdivision.~~

371 ~~(2) In a subdivision consisting of 60 or more lots, each cluster shall contain no less than three~~
372 ~~lots and no more than 20 lots. In a subdivision consisting of fewer than 60 lots, each cluster~~
373 ~~shall contain no less than three lots and no more than one-third of the total number of lots in~~
374 ~~the subdivision. The county may approve up to a five lot increase in the number of lots in a~~
375 ~~cluster if:~~

376 ~~a. The total number of lots cannot be equally divided into thirds and leaves a remaining~~
377 ~~number of lots that does not meet the standard for the minimum number of lots in a cluster;~~
378 ~~or~~

- 379 ~~b. There are unusual circumstances, such as complications involving topography,~~
380 ~~infrastructure, geotechnical, or geologic conditions, which warrant an increase.~~
- 381 ~~(3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is~~
382 ~~located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall be~~
383 ~~preserved as open space and dedicated as described in subsection (1) above. The~~
384 ~~minimum open space areas are as follows:~~
- 385 ~~a. In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall be~~
386 ~~preserved as open space.~~
- 387 ~~b. In the Forest (F-5) and Forest (F-10) Zones, a minimum of 80 percent of a cluster~~
388 ~~subdivision shall be preserved as open space.~~
- 389 ~~c. In the Agricultural Valley (AV-3), Forest Valley (FV-3), and the Ogden Valley Destination~~
390 ~~and Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a cluster subdivision~~
391 ~~shall be preserved as open space.~~
- 392 ~~d. In all other zones where a cluster subdivision is an allowed development type a minimum of~~
393 ~~30 percent of a cluster subdivision shall be preserved as open space.~~
- 394 ~~(4) Lands that can be mitigated such as floodplain and wetlands are considered developable~~
395 ~~and shall be counted towards density. Floodways within river corridors, lakes, and naturally~~
396 ~~occurring pond areas, which could not be developed but provide an amenity may also be a~~
397 ~~part of the open space, with 25 percent of this land credited towards the overall density of~~
398 ~~the development if this land is used to provide amenities and is accessible to the~~
399 ~~development.~~
- 400 ~~(5) Areas designated as floodplain, as defined by the Federal Emergency Management Agency or~~
401 ~~other qualified professional determined appropriate by the county engineer, rivers and streams,~~
402 ~~with and including their designated river or stream corridor setbacks, as defined by the Weber~~
403 ~~County Land Use Code, shall be located within a cluster subdivision's open space area.~~

404 **Sec. 108-3-5. - Open space preservation plan. ~~Open space plan approval, ownership, maintenance,~~**
405 **~~preservation, and guarantee of improvement standards.~~**

406 (a) Open space preservation plan procedure.

407 (1) Initial open space preservation plan approval. An open space preservation plan shall
408 accompany an application for preliminary subdivision approval or an application for an open
409 space preservation plan amendment. Preliminary subdivision approval constitutes approval of
410 the open space plan. A final plat shall comply with the approved open space plan.

411 (2) Open space preservation plan amendment. After submittal of a new application and application
412 fee an open space preservation plan may be amended, from time to time in accordance with the
413 standards of this chapter. If an amendment of an open space preservation plan affects any part
414 of the recorded subdivision plat, or if an amendment to a subdivision plat affects any part of an
415 approved open space preservation plan, then the two shall be amended together and final
416 approval of the amended subdivision plat shall constitute final approval of the amended open
417 space preservation plan. Otherwise, each may be amended independently. Submission for an
418 independently amended open space preservation plan shall be in compliance with the open
419 space plan submittal requirements of this chapter and shall require the approval of the planning
420 commission.

421 (b) Open space preservation plan submittal requirements. The open space preservation plan submittal
422 shall include the following:

423 (1) An overall cluster subdivision map identifying all open space areas and open space area
424 amenities.

425 (2) An open space site plan that:

426 a. identifies the open space parcel ownership types specified in (c)(9) of this section;

- b. identifies each proposed ownership type with a unique color;
- c. shows the locations of existing and proposed future structures and other open space amenities; structures housing a subdivision utility or serving as a subdivision amenity shall be subject to all applicable standards including all design review and applicable architectural standards found in title 108 of the Weber County Land Use Code;and
- d. includes all park improvements and is accompanied by a letter of approval from the local park district for open space that will be gifted as a park parcel to a local park district.

(3) A narrative describing all proposed open space parcels, their proposed method of ownership, their proposed method of maintenance, their proposed uses, and any proposed building envelopes.

(4) The phasing of open space parcels and their relationship to the overall subdivision phasing plan, if any.

(c) Open space development standards and ownership regulations. All open space area proposed to count toward the minimum open space area required by this chapter shall be clearly identified on the open space site plan. The following standards apply to their creation. Open space area in excess of the minimum required by this chapter is exempt from these standards.

(1) Minimum required open space area. A cluster subdivision requires a minimum percentage of its net developable acreage, as defined in Section 101-1-7, to be preserved as open space, as follows:

<u>ZONE</u>	<u>REQUIRED OPEN SPACE</u>
<u>F-40 zone:</u>	<u>90 percent</u>
<u>F-5 and F-10 zones:</u>	<u>80 percent</u>
<u>AV-3, FV-3, and DRR-1 zones:</u>	<u>60 percent</u>
<u>Zones not listed:</u>	<u>30 percent</u>

(2) Non-agricultural preservation open spaces. In all nonagricultural zones, and except as provided otherwise in parts (4) or (5) of this subsection (c), open space parcels shall preserve, to the extent possible, lands that have characteristics generally valuable for preservation or conservation, including but not limited to viewsheds, ridgelines, waterways, stands or groupings of mature vegetation, wildlife habitat, and other sensitive ecology. Open space parcels shall be organized into one contiguous open space area, except contiguity may be interrupted if preservation or conservation of those characteristics is best accomplished by allowing the interruption. The applicant bears the burden of proving the social or environmental value of the preservation or conservation based on specific objectives found in the general plan or based on objectives of some other land preservation or conservation plan, or other preservation or conservation policy as adopted by the county, state, or federal government, and applicable within the county.

(3) Agricultural open spaces to be contiguous and useful. In all agricultural zones, open space parcels shall be arranged to create future long-term agricultural opportunities in the following ways:

a. By creating parcels of a sufficient size and configuration to support large-scale crop-producing operations. The area or areas of the subdivision that contains prime agricultural land, as defined by Section 101-1-7, shall first and foremost be used to satisfy the open space requirements of this chapter. Only then may any portion of the prime agricultural land be used for other development purposes.

- 466 b. Open space parcels shall be organized into one contiguous open space area. Contiguity
467 may only be interrupted if preservation of long-term agricultural opportunities is best
468 accomplished by allowing the interruption. The applicant bears the burden of proving this
469 based on soil sampling, irrigation capabilities, parcel boundary configuration, and industry
470 best practices.
- 471 c. The exterior boundary of a contiguous open space area that is intended to satisfy the open
472 space requirements of this chapter shall be configured so a fifty-foot-wide farm implement
473 can reach all parts of the area with three or more passes or turns. Generally, this requires
474 the area to be at least 450 wide in any direction at any given point to be considered
475 contiguous. This three turn standard may be reduced by the planning commission for
476 portions of the parcel affected by the following:
- 477 1. The configuration of the existing exterior boundary of the proposed subdivision makes it
478 impossible;
- 479 2. A street required by Section 108-3-4 constrains the width of the parcel or bisects what
480 would otherwise be one contiguous open space area if the street did not exist; or
- 481 3. Natural features, or permanent man-made improvements onsite that cannot be moved
482 or realigned, cause an interruption to crop producing capabilities.
- 483 d. Open space area necessary to meet the requirements of part (4) or (5) of this subsection, or
484 open space areas never previously used for crop-production that currently contain areas
485 valuable for preservation or conservation as specified in part (2) of this subsection may be
486 exempt from this part provided they comply with those applicable parts.
- 487 (4) *Small open space parcels within a cluster of residential lots.* In order to maximize the
488 contiguous open space acreage as required in part (2) and (3) of this subsection, an open
489 space parcel or portion thereof that is located within a cluster of residential lots, as defined in
490 Section 101-1-7, or that interrupts contiguity of a cluster of residential lots and is not intended to
491 satisfy part (2), (3), or (5) of this subsection (c), shall be constrained in area and width to
492 provide the minimum acreage and width reasonably necessary for the functionality, operation,
493 and maintenance of the intended open space use. The open space preservation plan shall offer
494 sufficient information regarding the use and any proposed structures to allow the Planning
495 Commission to verify compliance. See also part (6) and part (8) of this subsection (c) for
496 additional applicable area and coverage regulations.
- 497 (5) *Sensitive lands requirements.* Cluster subdivisions in or on sensitive lands shall be governed as
498 follows:
- 499 a. Lands that can be mitigated such as floodplain and wetlands are considered developable
500 for the purpose of calculating net developable acreage, as defined in Section 101-1-7.
- 501 b. Acreage consumed by a lake, floodway within a river corridor, or a naturally occurring pond
502 area is acreage unsuitable for development, as otherwise defined in Section 101-1-
503 7. When any of these is offered as a community amenity on an open space parcel with
504 public access and a blanket public access easement, the subdivision shall receive 25
505 percent of the acreage credited to the net developable acreage for the purpose of
506 calculating base density.
- 507 c. Regardless of developability, the following areas shall be located within a cluster
508 subdivision's open space area:
- 509 1. areas designated as floodplain, as defined by the Federal Emergency Management
510 Agency or other qualified professional determined appropriate by the county engineer;
511 and
- 512 2. rivers and streams, with and including their designated river or stream corridor setbacks,
513 as defined by the Weber County Land Use Code.

- 514 (6) Open space parcel area. The minimum area for an open space parcel located within a cluster
515 subdivision is as follows:
- 516 a. Common area. An open space parcel designated as common area is not subject to
517 minimum area requirements.
- 518 b. Park area. An open space parcel conveyed to a local park district shall be of a sufficient
519 size to adequately accommodate park infrastructure, amenities, and parking.
- 520 c. Individually owned open space parcel area. An open space parcel designated as an
521 individually owned preservation parcel shall contain an area of not less than five acres and
522 shall be part of a contiguous area of open space consisting of not less than ten acres in
523 total; and shall be in compliance with the following:
- 524 1. The ten acre minimum contiguous area does not need to be platted in the same
525 subdivision.
- 526 2. Each individually owned open space parcel shall be provided clear and perpetual legal
527 access from a public or private street right of way.
- 528 3. Drainage detention or retention facilities intended to accommodate subdivision
529 improvements may be located on an individually owned preservation parcel and
530 counted toward the subdivision's overall open space area, but the acreage of the
531 facility shall not be included as part of the parcel's agricultural use, and the acreage of
532 the facility shall be in addition to, not a part of, the minimum parcel area requirement.
- 533 d. Estate lot area. Up to eighty percent of an estate lot, as defined in Section 101-1-7, may
534 count towards the open space acreage requirement provided the following standards are
535 applied:
- 536 1. The area of the lot designated as open space shall contain an area of not less than
537 five acres and shall be part of a contiguous area of open space consisting of not less
538 than ten acres in total.
- 539 2. The estate lot shall contain a survey-locatable building envelope on the recorded plat
540 that shares a common boundary with a neighboring residential lot, or in the case of a
541 neighboring estate lot, shares a common boundary with the neighboring estate lot's
542 building envelope.
- 543 3. Drainage detention or retention facilities intended to accommodate subdivision
544 improvements may be located on an estate lot and counted toward the subdivision's
545 overall open space area, but the acreage of the facility shall not be included as part of
546 the lot's agricultural use, and the acreage of the facility shall be in addition to, not a
547 part of, the minimum parcel area requirement.
- 548 (7) Parcel width, frontage, and access. Open space parcels located within a cluster subdivision are
549 not subject to frontage requirements and do not have a minimum width standard. Section 106-2-
550 4(c) notwithstanding, all open space parcels without street frontage shall be provided an access
551 easement, recordable at the time of plat recordation, across other parcels and connecting to a
552 public or private street.
- 553 (8) Parcel coverage.
- 554 a. Coverage of common area or open space parcels under five acres by any roofed
555 structures or any structures or facilities that requires a building permit shall not exceed ten
556 percent of the total parcel area.
- 557 b. Coverage of individually owned preservation parcels by roofed structures or any
558 structures/facility that requires a building permit shall not exceed two and a half percent of
559 the total parcel area.

560 c. Coverage of the open space area of an estate lot of 5.25 acres or greater by roofed
561 structures or any structures/facility that requires a building permit shall be not exceed two
562 and a half percent of the lot's platted open space preservation easement area.

563 (9) Open space lot or parcel ownership.

564 a. Common area parcel. An open space parcel that is common area shall be commonly
565 owned by an appropriate homeowner's association established under U.C.A. 1953, § 57-
566 8a-101 et seq., the Community Association Act.

567 b. Park parcel. An open space parcel may be owned by a local park district.

568 c. Individually owned open space parcel. An open space parcel may be owned as an
569 individually owned preservation parcel by any person, regardless of whether the person
570 owns a residential lot within the subdivision. In order to keep an individually owned
571 preservation parcel from becoming uncondusive to multiple-acreage preservation uses, an
572 individually owned preservation parcel shall not be sectioned into sub-areas less than five
573 acres by fencing or other physical barriers unless the sectioning is intended for the rotation
574 of grazing animals provided consistent rotation occurs for the purpose of vegetation
575 regrowth. The planning commission may modify this requirement for uses that support the
576 longevity of the preservation, maintenance, and large-acreage use of the parcel.

577 d. Estate lot. An estate lot, as defined in Section 101-1-7, may be owned by any person. In
578 order to keep an estate parcel from becoming uncondusive to multiple-acreage
579 preservation uses, the preserved open space area shall not be sectioned into sub-areas
580 less than five acres by fencing or other physical barriers unless the sectioning is intended
581 for the rotation of grazing animals provided consistent rotation occurs for the purpose of
582 vegetation regrowth. The planning commission may modify this requirement for uses that
583 support the longevity of the preservation, maintenance, and large-acreage use of the
584 parcel.

585 (d) Open space phasing. If development phasing is proposed and approved during preliminary cluster
586 subdivision approval, the percent of open space of the overall platted acreage shall at no time be
587 less than the percent of proposed open space approved in the open space plan.

588 (e) Maintenance. The open space parcel owner, whether an individual or an association, shall use,
589 manage, and maintain the owner's parcel in a manner that is consistent with an approved open
590 space preservation plan or the agriculture, forest, or other type of preservation easement executed
591 under subsection (f).

592 (f) Preservation.

593 (1) Open space parcels shall be permanently preserved in a manner that is consistent with the
594 approved open space preservation plan.

595 (2) Language shall be included in the dedication of the subdivision plat that substantially reads as
596 follows; final language is subject to approval from the County Surveyor and County Attorney:

... and additionally dedicate and convey to Weber County a perpetual open space
easement on, under, and over all parcels and areas denoted as open space
parcels or areas to guarantee to the public that those parcels and areas remain
open and undeveloped in a manner consistent with the approved open space
plan; ...

597 (3) An agreement, in a form acceptable to the County Attorney, shall be recorded with the final plat
598 to the title of all open space preservation parcels, including estate lots, that details the open
599 space preservation plan and any related conditions of approval necessary to execute the open
600 space preservation plan. The approved site plan shall be included in the agreement. If the plat
601 recordation is also the means of conveyance of any open space parcel, the agreement shall
602 also specify the name and tax notification mailing address if the new owner.

- 603 (4) If a cluster subdivision contains open space intended to preserve substantial or crucial wildlife
604 habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat easement
605 meeting the requirements of the Utah Division of Wildlife Resources shall be offered to the
606 division.
- 607 (5) If a cluster subdivision contains an individually owned preservation parcel or estate lot with an
608 open space area, the applicant shall:
- 609 a. identify all open space preservation areas on the final plat with a unique hatch or shading;
610 b. further identify each individually owned preservation parcel with a unique identifying letter;
611 c. for an estate lot, delineate on the plat with survey locatable bearings and calls the area of
612 the lot being preserved as open space..
- 613 (g) The planning commission may impose any additional conditions and restrictions it deems necessary
614 to reasonably ensure maintenance of the open space and adherence to the open space preservation
615 plan. Such conditions may include a plan for the disposition or re-use of the open space property if
616 the open space is not maintained in the manner agreed upon or is abandoned by the owners.
- 617 (h) A violation of the open space plan or any associate conditions or restrictions, shall constitute a
618 violation of this Land Use Code.
- ~~619 (1) Plan approval. An open space preservation plan shall accompany an application for preliminary and~~
~~620 final approval of a cluster subdivision. The plan shall include a narrative describing all proposed~~
~~621 uses, phasing, and maintenance methods for all open space parcels, and a site plan that shows~~
~~622 proposed common areas, individually owned preservation parcels, and the locations of existing and~~
~~623 proposed future structures.~~
- ~~624 a. For open space dedicated as common area parcels, the site plan shall show the location of existing~~
~~625 and future structures by identifying the structure's footprint. Structures housing a subdivision utility or~~
~~626 serving as a subdivision amenity shall be subject to all applicable standards including all design~~
~~627 review and applicable architectural standards found in title 108 of the Weber County Land Use~~
~~628 Code.~~
- ~~629 b. For open space dedicated as individually owned preservation parcels, the site plan shall identify~~
~~630 locatable building envelopes within which all existing and future buildings must be located.~~
- ~~631 (2) Ownership.~~
- ~~632 a. Open space parcels dedicated as common area shall be commonly owned by an appropriate~~
~~633 homeowner's association established under U.C.A. 1953, § 57-8a-101 et seq., the Community~~
~~634 Association Act.~~
- ~~635 b. Other open space parcels may be owned individually.~~
- ~~636 1. Individually owned preservation parcels of ten acres or more in area may be owned by any person,~~
~~637 regardless of whether the person owns a residential lot within the subdivision.~~
- ~~638 2. Individually owned preservation parcels of less than ten acres in area may only be owned by an~~
~~639 owner of a lot within the same cluster subdivision.~~
- ~~640 3. The applicable ownership standard in subsection (2)a.1. or 2. shall be memorialized in the following~~
~~641 manner:~~
- ~~642 i. An explanation of the applicable ownership standard and a perpetual restriction conforming thereto~~
~~643 shall be written into all agriculture, forest, or other type of preservation easements granted pursuant~~
~~644 to subsection (4); and~~
- ~~645 ii. A note describing the applicable ownership standard shall be placed on the final recorded plat.~~
- ~~646 (3) Maintenance. The open space parcel owner, whether an individual or an association, shall use,~~
~~647 manage, and maintain the owner's parcel in a manner that is consistent with the open space~~

648 ~~preservation plan approved under subsection (1), and the agriculture, forest, or other type of~~
649 ~~preservation easement executed under subsection (4).~~

650 ~~(4) Preservation.~~

651 ~~a. Open space parcels are to be permanently preserved in a manner that is consistent with the~~
652 ~~approved open space preservation plan.~~

653 ~~b. The applicant, prior to recording or as part of recording the final cluster subdivision plat, shall grant~~
654 ~~and convey to the county, to each lot owner, and to the homeowner association if applicable, an~~
655 ~~open space easement over all areas dedicated as common area or individually owned preservation~~
656 ~~parcels. The open space easement shall incorporate and conform to the open space preservation~~
657 ~~plan approved under subsection (1).~~

658 ~~c. If a cluster subdivision contains open space intended to preserve substantial or crucial wildlife~~
659 ~~habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat easement meeting~~
660 ~~the requirements of the Utah Division of Wildlife Resources shall be offered to the division.~~

661 ~~d. If a cluster subdivision contains an individually owned preservation parcel, the applicant shall:~~

662 ~~1. Identify and label on the final plat each such parcel as an agricultural, forest, or other type of~~
663 ~~preservation parcel;~~

664 ~~2. Further identify each preservation parcel by placing a unique identifying letter of the alphabet~~
665 ~~immediately after the label;~~

666 ~~3. Present an agricultural, forest, or other type of preservation easement to the planning commission~~
667 ~~and gain their approval; and~~

668 ~~4. Record an approved preservation easement on each parcel identified as an agricultural, forest, or~~
669 ~~other type of preservation parcel.~~

670 ~~e. The planning commission may impose any additional conditions and restrictions it deems necessary~~
671 ~~to ensure maintenance of the open space and adherence to the open space preservation plan. Such~~
672 ~~conditions may include a plan for the disposition or re-use of the open space property if the open~~
673 ~~space is not maintained in the manner agreed upon or is abandoned by the owners.~~

674 ~~(5) Guarantee of open space improvements.~~

675 ~~a. The county shall not require an applicant to deposit a financial guarantee for open space~~
676 ~~improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a certificate of occupancy~~
677 ~~and that remain incomplete at the time of final approval and acceptance of the proposed cluster~~
678 ~~subdivision from the board of county commissioners. The applicant or developer shall complete the~~
679 ~~improvements according to the approved phasing component of an open space preservation plan. If~~
680 ~~the applicant fails to complete improvements as presented in the open space preservation plan, the~~
681 ~~county may suspend final plat approvals and record an instrument notifying prospective lot buyers~~
682 ~~that future land use permits may not be issued for any construction.~~

683 ~~b. The county shall require an applicant to deposit a financial guarantee for all open space~~
684 ~~improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.) that do not require a~~
685 ~~certificate of occupancy and that remain incomplete at the time of final approval and acceptance of~~
686 ~~the proposed cluster subdivision from the board of county commissioners. The applicant or~~
687 ~~developer shall complete all improvements according to the approved phasing component of an~~
688 ~~open space preservation plan.~~

689 **Sec. 108-3-6. – Reserved. Open space parcel development standards.–**

690 ~~Unless otherwise provided for in this section, open space parcels shall be developed in a~~
691 ~~manner that meets all applicable standards, including but not limited to those found in the Weber~~
692 ~~County Land Use Code. Open space parcels shall adhere to the following specific site development~~
693 ~~standards:–~~

694 ~~(1) Parcel area. Unless otherwise regulated by the Weber Morgan Health Department or~~
695 ~~Weber County Land Use Code title 108, chapter 14, Hillside Development Review Procedures and~~

696 ~~Standards, the minimum area for an open space parcel located within a cluster subdivision is as~~
697 ~~follows:-~~

698 ~~a.—Open space parcels dedicated as common area are not subject to minimum area~~
699 ~~requirements.-~~

700 ~~b.—Open space parcels dedicated as individually owned preservation parcels shall contain an~~
701 ~~area of not less than three acres.-~~

702 ~~1.—The minimum area of an individually owned preservation parcel may be reduced to not less~~
703 ~~than one acre if the preservation parcel is part of a contiguous area of open space parcels consisting~~
704 ~~of not less than three acres in total. Open space parcels form a contiguous area if each open space~~
705 ~~parcel in the area shares a common boundary line with another open space parcel or lies directly~~
706 ~~across a road right of way, or other approved access, from another open space parcel.-~~

707 ~~2.—Parcels containing less than five acres are not agricultural parcels for purposes of~~
708 ~~agricultural exemptions granted by the Weber County Land Use Code.-~~

709 ~~(2)—Parcel width. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside~~
710 ~~Development Review Procedures and Standards, and unless otherwise regulated by the Weber-~~
711 ~~Morgan Health Department, open space parcels located within a cluster subdivision are not subject~~
712 ~~to frontage requirements and do not have a minimum width standard other than the standard~~
713 ~~described in section 108-3-4(1).-~~

714 ~~(3)—Parcel coverage.-~~

715 ~~a.—Coverage of common area parcels by roofed structures shall not exceed ten percent of the~~
716 ~~total parcel area.-~~

717 ~~b.—Coverage of individually owned preservation parcels by roofed structures shall not exceed~~
718 ~~five percent of the total parcel area.-~~

719 **Sec. 108-3-7. - Lot development standards.**

720 Unless otherwise provided for in this section, residential building lots shall be developed in a manner
721 that meets all applicable standards, including but not limited to those found in the Weber County Land
722 Use Code and the requirements and standards of the Weber-Morgan Health Department, if applicable.
723 The following specific site development standards apply to lots in cluster subdivisions:

724 (1) Lot area. Unless otherwise regulated by the Weber-Morgan Health Department, a lot located
725 within a cluster subdivision shall contain an area of not less than 9,000 square feet, unless
726 otherwise provided in Section 108-3-8.

727 (2) Lot width. Unless otherwise regulated by the Weber-Morgan Health Department, the minimum
728 lot width in a cluster subdivision is as follows:

<u>ZONE</u>	<u>LOT WIDTH</u>
<u>F-40 and F-10 zones:</u>	<u>100 feet</u>
<u>FR-1, F-5, and AV-3 zones:</u>	<u>80 feet</u>
<u>RE-15, RE-20 zones:</u>	<u>60 feet</u>
<u>A-1, A-2, and A-3 zones:</u>	<u>60 feet</u>
<u>FR-3 zone:</u>	<u>50 feet</u>
<u>DRR-1 zone:</u>	<u>50 feet</u>

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730

(3) Yard setbacks. The minimum yard setbacks in a cluster subdivision are as follows:

<u>YARD</u>	<u>SETBACK</u>
<u>Front:</u>	<u>20 feet</u>
<u>Side:</u>	
<u>Dwelling:</u>	<u>8 feet</u>
<u>Accessory building:</u>	<u>8 feet; except one foot if located at least six feet in rear of dwelling.</u>
<u>Accessory building over 1,000 square feet:</u>	<u>See Section 108-7-16</u>
<u>Corner lot side facing street:</u>	<u>20 feet</u>
<u>Rear:</u>	<u>20 feet</u>

731

(4) Building height. The maximum height for a building in a cluster subdivision is as follows:

<u>BUILDING</u>	<u>HEIGHT</u>
<u>Dwelling</u>	<u>40 feet</u>
<u>Accessory building</u>	<u>30 feet</u>

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735

~~Unless otherwise provided for in this section, residential building lots shall be developed in a manner that meets all applicable standards, including but not limited to those found in the Weber County Land Use Code. The following specific site development standards apply to lots in cluster subdivisions:~~

736

~~(1) Lot area:~~

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~~a. Unless otherwise regulated by the Weber Morgan Health Department or Weber County Land Use Code, title 108, chapter 14, Hillside Development Review Procedures and Standards, a lot located within a cluster subdivision shall contain an area of not less than 15,000 square feet.~~

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~~b. A lot's minimum area is reduced to 6,000 square feet if:~~

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742
743

~~1. The lot is located 50 feet or more from its own cluster subdivision boundary, not including those boundaries formed by existing streets or internal phasing lines if the phasing lines act as a temporary external boundary;~~

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746

~~2. The lot lies within a cluster subdivision that is adjacent to an existing subdivision that contains at least one lot that is smaller or not more than 5,000 square feet larger than the smallest lot lying within the subject cluster subdivision; or~~

747
748

~~3. The lot lies within a cluster subdivision that is adjacent to an undeveloped parcel. A parcel is considered undeveloped if it:~~

749

~~i. Does not contain an existing dwelling; or~~

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751

~~ii. Contains an existing dwelling that lies further than 150 feet away from all external boundaries of the proposed or subject cluster subdivision.~~

- 752 ~~(2) Lot width. Unless otherwise regulated by the Weber-Morgan Health Department or Weber~~
 753 ~~County Land Use Code, title 108, chapter 14, Hillside Development Review Procedures and~~
 754 ~~Standards, the minimum lot width in a cluster subdivision is:~~
- 755 ~~a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.~~
- 756 ~~b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-3), and the~~
 757 ~~Forest Valley (FV-3) Zones.~~
- 758 ~~c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2, and A-3)~~
 759 ~~Zones.~~
- 760 ~~d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and Recreation~~
 761 ~~Resort (DRR-1) Zone.~~
- 762 ~~(3) Yard setbacks for dwellings. Minimum yard setbacks for dwellings in a cluster subdivision are~~
 763 ~~as follows:~~
- 764 ~~a. Front: 20 feet.~~
- 765 ~~b. Side: 8 feet.~~
- 766 ~~c. Rear: 20 feet.~~
- 767 ~~(4) Dwelling height. The maximum height for dwellings in a cluster subdivision is 40 feet.~~

768 **Sec. 108-3-8. - Bonus density.**

769 (a) Western Weber Planning Area bonus density. In the Western Weber Planning Area, bonus density
 770 shall be awarded on a one to one ratio with the gross acreage of a project area. However, no bonus
 771 density shall be awarded for a project with a gross acreage less than ten acres, and no bonus
 772 density over 50 percent shall be awarded for projects with a gross acreage over 50 acres. A
 773 subdivision that is awarded density shall:

- 774 (1) Provide a minimum 50 percent open space of the net developable acreage, as defined in
 775 Section 101-1-7.
- 776 (2) Provide one street tree of at least two-inch caliper, from a species list as determined by county
 777 policy, every 50 feet on both sides of each street within the project boundaries. In the event
 778 infrastructure or a driveway approach makes a tree's placement impossible, that tree shall be
 779 located as close to the 50-foot spacing as otherwise reasonably possible.
- 780 (3) Comply with all provisions of Title 108, Chapter 16: Ogden Valley Outdoor Lighting Ordinance,
 781 which is incorporated by reference herein as applicable to a cluster subdivision in the Western
 782 Weber Planning Area that receives bonus density. A note shall be place on the final subdivision
 783 plat indicating this requirement.

784 (b) Ogden Valley Planning Area bonus density. A cluster subdivision shall create no new density
 785 entitlements in the Ogden Valley.

786 ~~The county may, in its discretion, allow for an increased number of residential lots by~~
 787 ~~awarding bonus densities to those cluster subdivisions developed within the Western~~
 788 ~~Weber County Planning Area. Cluster subdivisions within the Ogden Valley Planning~~
 789 ~~Area are not eligible for bonus densities. The following presents the bonus density~~
 790 ~~opportunities that are available to cluster subdivisions located within specific zoning~~
 791 ~~boundaries:-~~

- 792 ~~(1) In the Forest (F-40) Zones, the county may award a maximum bonus density of 20~~
 793 ~~percent based on an accumulation of any combination of the following:-~~
- 794 ~~a. If the cluster subdivision meets the purpose and intent of this chapter, up to a five~~
 795 ~~percent bonus may be granted.-~~

796 ~~b.—If the cluster subdivision provides a minimum of one road stub to an adjacent~~
797 ~~property where the planning commission determines that streets are needed to provide~~
798 ~~for current or future traffic circulation, up to a five percent bonus density may be granted.—~~

799 ~~e.—If the cluster subdivision provides a minimum of one approved public access to~~
800 ~~public lands, up to a five percent bonus density may be granted.—~~

801 ~~d.—If the cluster subdivision provides common area that offers easily accessible~~
802 ~~amenities, such as a trail, park, or community garden, that are open for use by the~~
803 ~~general public, up to a five percent bonus density may be granted.—~~

804 ~~e.—If the cluster subdivision dedicates and conveys to the county, the state division of~~
805 ~~wildlife resources, or both, an open space easement that permanently preserves areas~~
806 ~~that have been identified by the state division of wildlife resources as having substantial~~
807 ~~or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.—~~

808 ~~(2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density~~
809 ~~of up to 50 percent if the applicant preserves an open space percentage above that~~
810 ~~required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up to~~
811 ~~30 percent. Overall bonus density potential shall be no greater than a percentage equal~~
812 ~~to the percentage of the subdivision's total area preserved as open space. The county~~
813 ~~may award bonus densities based on an accumulation of any combination of the~~
814 ~~following:—~~

815 ~~a.—If a cluster subdivision meets the purpose and intent of this chapter, up to a ten~~
816 ~~percent bonus may be granted.—~~

817 ~~b.—If a cluster subdivision provides and implements an approved roadway landscape~~
818 ~~and design plan that includes, but is not necessarily limited to, vehicle and pedestrian~~
819 ~~circulation, lighting, and street trees of an appropriate species, size of at least a two-inch~~
820 ~~caliper, and quantity of not less than eight trees for every 100 feet of road length, up to 20~~
821 ~~percent bonus density may be granted.—~~

822 ~~c.—For each five percent increment of open space preserved over 50 percent: a five~~
823 ~~percent bonus density shall be granted up to the total bonus density allowed by~~
824 ~~subsection (3).—~~

825 ~~d.—If a cluster subdivision provides a minimum of one approved access to public lands,~~
826 ~~up to a ten percent bonus density may be granted.—~~

827 ~~e.—If a cluster subdivision provides common area that offers easily accessible~~
828 ~~amenities such as trails, parks, or community gardens, that are open for use by the~~
829 ~~general public, up to a 15 percent bonus density may be granted.—~~

830 ~~f.—If ten percent of the lots and homes in a cluster subdivision are permanently set~~
831 ~~aside for affordable housing as outlined by the Affordable Housing Act of 1990, up to a 20~~
832 ~~percent bonus density may be granted.—~~

833 ~~If a bonus density is granted for affordable housing, the applicant shall:—~~

834 ~~1.—Present and gain Planning Commission approval of an effective plan and method for~~
835 ~~guaranteeing and enforcing perpetual affordability. Any method used, such as an~~
836 ~~affordable housing deed restriction, shall limit the sale or rental of the affected lots and~~
837 ~~homes to a household with an income at or below 80 percent of the county median~~
838 ~~income;—~~

839 ~~2.—Identify and label, on the final plat, the lots set aside as affordable housing Lots;~~
840 ~~and—~~

841 ~~3.—Provide a note on the final plat explaining the nature of the housing restriction on the~~
842 ~~lot and the method by which occupancy and affordability will be regulated.—~~

- 843 ~~g.— If a cluster subdivision preserves an agricultural parcel with an agriculturally based~~
844 ~~open space preservation plan approved by the planning commission and records an~~
845 ~~agricultural preservation easement on the parcel, a bonus density may be approved as~~
846 ~~follows:—~~
- 847 ~~1.— For a parcel containing at least ten acres but fewer than 20 acres, up to a 15~~
848 ~~percent bonus density may be granted.—~~
- 849 ~~2.— For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent~~
850 ~~bonus density may be granted.—~~
- 851 ~~3.— For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent~~
852 ~~bonus density may be granted.—~~
- 853 ~~4.— For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent~~
854 ~~bonus density may be granted if the parcel standing alone is greater than the minimum~~
855 ~~open space requirement for the subdivision.—~~
- 856 ~~5.— For a parcel containing at least 50 acres or more, up to a 50 percent bonus density~~
857 ~~may be granted if the parcel standing alone is greater than the minimum open space~~
858 ~~requirement for the subdivision.—~~
- 859 ~~h.— If a cluster subdivision provides for the preservation of historical sites and buildings~~
860 ~~that have been identified by the state historic preservation office as having notable~~
861 ~~historical value, up to a five percent bonus density may be granted.—~~
- 862 ~~i.— If a cluster subdivision provides for the development of excess sewage treatment~~
863 ~~capacity, up to a five percent bonus density may be granted.—~~
- 864 ~~j.— If a cluster subdivision dedicates and conveys to the county, the state division of~~
865 ~~wildlife resources, or both, an open space easement that permanently preserves areas~~
866 ~~that have been identified by the state division of wildlife resources as having substantial~~
867 ~~or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.—~~
- 868 ~~k.— If a cluster subdivision includes an open space parcel that consists of five acres or~~
869 ~~more and is contiguous to permanently preserved open space on an adjoining property~~
870 ~~located outside of the cluster subdivision, up to a 20 percent bonus density may be~~
871 ~~granted.—~~

872 **Sec. 108-3-9. - Homeowners association ~~required~~.**

873 In order to provide for proper management and maintenance of commonly owned areas and private
874 improvements, all cluster subdivisions with such areas or improvements are required to have a
875 homeowners association. The applicant, prior to recording a final plat of the cluster subdivision, shall:

- 876 (1) Establish a homeowners association and submit for the county's review the necessary articles
877 of incorporation, bylaws, and declaration of covenants, conditions, and restrictions that provide
878 for:
- 879 a. Compliance with Utah State Code;
 - 880 b. The reason and purpose for the association's existence;
 - 881 c. Mandatory membership for each lot or home owner and their successors in interest;
 - 882 d. The perpetual nature of the easements related to all dedicated open space parcels;
 - 883 e. Responsibilities related to liability, taxes, and the maintenance of recreational and other
884 infrastructure and facilities;
 - 885 f. Financial obligations and responsibilities, including the ability to adjust the obligations and
886 responsibilities due to change in needs;
 - 887 g. Association enforcement remedies; and

888 h. A notification of the county's ability to enforce the terms of the owner's dedication on the
889 subdivision dedication plat.

890 (2) Register the homeowners association with the State of Utah, Department of Commerce.

891 **Sec. 108-3-10. – Guarantee of improvements.**

892 (a) *Guarantee of improvements.* The county shall require an applicant to deposit a guarantee of
893 improvements, as provided in Section 106-4-3, for all improvements required by this chapter or as
894 otherwise volunteered by the applicant that are incomplete at the time of subdivision plat recording.
895 This includes improvements on open space parcels unless otherwise specified in subsection (b) of
896 this section.

897 (b) Improvements requiring certificate of occupancy. The county shall not require an applicant to deposit
898 a financial guarantee for open space improvements that require a certificate of occupancy and that
899 remain incomplete at the time of final approval of the proposed cluster subdivision ~~from~~ by the board
900 of county commissioners. The applicant or developer shall complete the improvements according to
901 the approved phasing component of an open space preservation plan. If the applicant fails to
902 complete improvements as presented in the open space preservation plan, the county may suspend
903 final plat approvals and record an instrument notifying prospective lot buyers that future land use
904 permits may not be issued for any construction.

905
906 ...

907 **Sec. 108-21-6. - Use/activity standards and limitations.**

908 ...

909 (1) Farm stay (residential and overnight accommodation) uses/activities.

910 (f) Carriage house.

911 1. Carriage houses shall be limited to a number that does not exceed the following
912 calculation: ~~Adjusted gross~~ net developable acreage of the parcel upon which a carriage
913 house(s) is located divided by the minimum lot area required by the zone in which the
914 lot or parcel(s) is located, all multiplied by 20 percent (net developable acreage /
915 minimum lot area) x 20 percent = Maximum number of carriage houses at an
916 approved agri-tourism operation.

917 ~~ds;Minimum single-family dwelling area requirement set forth by the zone in which the parcel(s) is~~
918 ~~located~~

919 ~~x20 percent~~

920 ~~= Maximum number of carriage houses at an approved agri-tourism operation~~

921 ...