

## MEMORANDUM

To: Ogden Valley Planning Commission  
From: Charles Ewert, AICP  
Date: January 31, 2018  
Subject: Work session for proposed cluster subdivision amendments

Planning Commissioners,


Attached you will find my latest revisions of the cluster subdivision ordinance. As a recap, this ordinance is being revised at the request of the Western Weber County Planning Commission, with support from the County Commission, to better support and promote long-term agricultural uses of open spaces.

One desired outcome is to tailor the ordinance to the needs of both planning areas so the County is not burdened with the cost of administering another unique ordinance. Because there are things applicable in different ways to each planning area, there is a need to offer some separation in the text, but we hope the planning commission will help support the need to not create two separate cluster subdivision codes if at all possible.

As usual, the red strikeouts are text being deleted, the blue underlines are text being added. The highlighted text are the areas that are new or different since the planning commission's last reading. In these differences I remove some of the more complicated detail of the shape and form of individual clusters in favor of a more simplified cluster approach. I add significant requirements for agriculturally viable acreage to be held as open space, and in the bonus section offer even more incentive for additional agricultural preservation land.

You will find that a couple of sections are still incomplete. You may also find that other sections need some word-smithing. I will continue to work on these needs another time, and am only asking the planning commission to consider the policy direction to verify suitability.

I look forward to the discussion.



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

2 ...

3 *Agricultural parcel.* The term "agricultural parcel" means a single parcel of land, at least  
4 5.0 acres in area if vacant, or 5.25 acres with a residential dwelling unit. This definition needs  
5 to be fulfilled in order to qualify for the agricultural building exemption.

6 *Agricultural soils, prime.* The term "prime agricultural soils" means the soil types on the lot  
7 or parcel that are best suited for crop-producing. These soil types have, or are capable of  
8 having, highest nutrient content and best irrigation capabilities over other soil types on the  
9 property.

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

14

15 ...

16 **Title 108 - STANDARDS**

17 ...

18 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

19 **Sec. 108-3-1. - Purpose and Intent.**

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

30 **Sec. 108-3-2. - General regulations.**

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

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

35 (a) Subdivision procedures and requirements apply. All procedures and requirements of Title  
36 106 shall apply to a cluster subdivision unless there is a conflict or supplement in this  
37 chapter, in which case the provisions of this chapter shall prevail.

38 (b) Conceptual sketch plan. ~~The~~ In addition to the subdivision procedure requirements of Title  
39 106, the cluster subdivision approval procedure requires a conceptual sketch plan  
40 endorsement from the planning commission prior to the submission of a formal subdivision  
41 application. An application for a conceptual sketch plan endorsement shall demonstrate

42 compliance with all applicable standards contained within the Weber County Code. The  
43 completed application must be submitted at least 21 calendar days prior to the planning  
44 commission meeting at which the applicant wishes to be heard. Endorsement from the  
45 planning commission is only a means to assist in the creation of a complete subdivision  
46 application and shall not vest for final approval. The application is complete upon  
47 submission of the following: ~~consists of four phases as follows:~~

48 ~~(1) A conceptual sketch plan endorsement from the appropriate planning area planning~~  
49 ~~commission;~~

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

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

53 ~~(4) A final approval and acceptance by the board of county commissioners.~~

54 ~~(b) An application for a conceptual sketch plan endorsement shall demonstrate compliance~~  
55 ~~with all applicable standards contained within the Weber County Code. The completed~~  
56 ~~application must be submitted at least 14 calendar days prior to the planning commission~~  
57 ~~meeting at which the applicant wishes to be heard. The application is complete upon~~  
58 ~~submission of the following:~~

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

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

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

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

76 ~~(d)~~ Preliminary and final cluster subdivision application.

77 (1) Preliminary cluster subdivision approval. An application for a submission for preliminary  
78 cluster subdivision approval shall:

79 a. conform to the endorsed sketch plan;

80 b. contain an open space plan, as required in Section 108-3-5.

81 1. The planning commission's approval of a preliminary plat shall constitute  
82 approval of the open space plan.

83 2. An open space plan may be amended, from time to time, after submittal of a  
84 new application and application fee.

85 3. An amendment shall be in compliance with applicable laws and shall require  
86 the approval of the planning commission.

87 4. An open space plan amendment shall not require a subdivision plat  
88 amendment provided the resulting plan does not conflict with any part of the  
89 plat, including parcel and lot boundaries, subdivision boundaries, and plat  
90 notes.

91 (2) Final cluster subdivision approval. A submission for final cluster subdivision approval  
92 shall conform to the approval of the preliminary cluster subdivision approval. If  
93 applicable, submission shall also include final Conditions, Covenants, and Restrictions  
94 or Homeowner's Association Declaration that clearly explain the maintenance method  
95 for each common area parcel, as required by this chapter or any condition of  
96 preliminary cluster subdivision approval. Submission shall also include drafts of any  
97 other relevant instrument required for the execution of applicable provisions of this  
98 Land Use Code.

99 ~~by the appropriate planning commission, recommendation for final approval, or final approval and~~  
100 ~~acceptance by the board of county commissioners shall comply with all applicable standards~~  
101 ~~of the Weber County Land Use Code, including this chapter and title 106, Subdivisions. The~~  
102 ~~approval process shall proceed as directed by Weber County Land Use Code title 106,~~  
103 ~~chapter 4.~~

104 **Sec. 108-3-4. ~~Residential C~~cluster subdivision design and layout standards.**

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

109 ~~(a 4)~~ General lot, street, access, and amenity design and layout standards.

110 (1) Overall configuration. A cluster subdivision's general design shall concentrate  
111 residential building lots, with their adjoining ~~road street~~ rights-of-way and any approved  
112 ~~access exceptions~~ alternative access, if applicable, into separate and individual clusters  
113 that are entirely surrounded by open space dedicated as common area, individually  
114 owned preservation parcels, or both, together in accordance with the following:

115 a. in all zones, clusters shall be designed to avoid lands that have characteristics  
116 generally valuable for conservation, including but not limited to viewsheds,  
117 waterways, stands or groupings of mature vegetation, wildlife habitat, and other  
118 sensitive ecology.

119 b. in an agricultural zone, only one cluster of residential lots is allowed unless more  
120 are necessary to avoid development on prime agricultural soils, as defined in  
121 Section 101-1-7, or sensitive lands as provided in 108-3-4(c). The cluster or  
122 clusters shall be organized in a manner that optimizes ease of access and  
123 maneuverability to and on the open space lands of any large equipment commonly  
124 used to support crop production, and the clusters shall be organized in a manner  
125 that supports viability of crop production on the open space lands. Subdivision  
126 phasing that avoids this requirement shall not be allowed.

127 (2) Street configuration. Streets shall have logical and efficient connections and shall  
128 generally follow existing street grid design. When practicable, section lines and quarter  
129 section lines shall denote the general location of through streets. If current parcel  
130 configuration does not make this practicable, a through-street, or stubbed-street that will

131 be a future through-street, shall be located as close to these lines as otherwise  
132 reasonably possible. The planning commission may waive this requirement for the  
133 following:

134 a. environmental constraints that render a through-street, or a stubbed-street that will  
135 become a through-street, unreasonable and unnecessary; or

136 b. agricultural open space that is or would otherwise be permanently preserved as  
137 provided in this land use code would be interrupted by the street in a manner that  
138 creates a hardship for crop production.

139 c. In allowing a waiver under this subsection the planning commission may require the  
140 street to be placed in another location to offer optimal compensation for the lack of  
141 the connection required herein.

142 (3) Pathways. In lieu of a sidewalk on both sides of the street, as required by 106-4-2(f), a  
143 ten foot wide asphalt pathway may be allowed on one side of the street. If only  
144 developing one side of a street, the pathway shall be located on that side, otherwise,  
145 preference shall be given to the side that could best support pathway connectivity given  
146 other existing or future pathways in the vicinity and based on least pedestrian conflicts.  
147 In the event street configuration does not yield an efficient pedestrian connection to  
148 nearby rights-of-way outside the subdivision, pathways are required to connect to  
149 adjacent abutting public rights-of-way or stub into adjacent parcels in the direction of  
150 those rights-of-way.

Comment [c1]: Reference

151 (b) General open space design and layout standards.

152 (1) Agricultural open spaces to be contiguous and useful. In all agricultural zones, and  
153 except as provided otherwise in (b)(3) of this subsection, open space parcels shall be  
154 arranged to create optimal agricultural opportunities. Regardless of the specific  
155 conservation type or open space uses authorized by this chapter and approved in an  
156 open space plan, as specified in Section 108-3-5, in order to offer predictable support  
157 and encouragement for a wide variety of long-term agricultural operations on open  
158 space parcels, open space parcels shall be organized into one contiguous area and be  
159 a sufficient size and configuration that will easily sustain, support, and encourage a  
160 variety of large-scale crop production operations and any related large equipment  
161 commonly used to support them. Open space parcels form a contiguous area if each  
162 open space parcel shares a common boundary line that is no less than 100 linear feet  
163 or lies directly across a street right-of-way, or other approved access, from another  
164 open space parcel, with the common boundaries shared with the street right-of-way  
165 being no less than 100 linear feet. This does not apply to parcels necessary to meet the  
166 requirements of subsection (c) of this section.

Comment [c2]: Reference

Comment [c3]: Reference

167 (2) Non-agricultural conservation open spaces. In all non-agricultural zones, and except as  
168 provided otherwise in (b)(3) of this subsection, open space parcels shall preserve lands  
169 that have characteristics generally valuable for conservation, including but not limited to  
170 viewsheds, waterways, stands or groupings of mature vegetation, wildlife habitat, and  
171 other sensitive ecology.

Comment [c4]: Reference

Comment [c5]: Reference

172 (3) Small open space parcels between lots. Regardless of contiguity with other open space  
173 parcels, open space parcels between residential lots are only permissible for the  
174 following uses. This does not apply to parcels necessary to meet the requirements of  
175 subsection (c) of this section.

Comment [c6]: Reference

176 a. public park;

- 177 b. community recreational ground;
- 178 c. pathway or trail rights-of-way;
- 179 d. trailhead and accessory facilities; or
- 180 e. drainage or other utility facilities.

181 ~~The open space area in between one cluster of lots and another shall not be less than 75 feet in~~  
182 ~~width and the open space area in between lots and an exterior subdivision boundary shall not be~~  
183 ~~less than 50 feet in width. The open space required in between lots and a subdivision's exterior~~  
184 ~~boundary shall be waived if:~~

Comment [c7]: Metric change

- 185 a. ~~Lots sharing a common line with the subdivision boundary contain 15,000 square feet or more;~~
- 186 b. ~~Lots are located along an internal phasing line when that phasing line is acting as a temporary~~  
187 ~~external boundary;~~
- 188 c. ~~The proposed cluster subdivision lies adjacent to an existing subdivision that contains at least~~  
189 ~~one lot that is smaller or not more than 5,000 square feet larger than the smallest lot lying within~~  
190 ~~the proposed cluster subdivision; or~~
- 191 d. ~~Lots located along an external boundary lie adjacent to a parcel that:~~
  - 192 1. ~~Does not contain an existing dwelling; or~~
  - 193 2. ~~Contains a single existing dwelling that lies further than 150 feet away from all external~~  
194 ~~boundaries of the proposed cluster subdivision.~~

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

- 199 a. ~~The total number of lots cannot be equally divided into thirds and leaves a remaining number of~~  
200 ~~lots that does not meet the standard for the minimum number of lots in a cluster; or~~
- 201 b. ~~There are unusual circumstances, such as complications involving topography, infrastructure,~~  
202 ~~geotechnical, or geologic conditions, which warrant an increase.~~

203 (3) ~~To ensure that a cluster subdivision reflects the characteristics of the zone in which it is located, a~~  
204 ~~minimum percentage of a cluster subdivision's adjusted gross acreage shall be preserved as open~~  
205 ~~space and dedicated as described in subsection (1) above. The minimum open space areas are as~~  
206 ~~follows:~~

Comment [c8]: Reference?

- 207 a. ~~In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall be preserved as~~  
208 ~~open space.~~
- 209 b. ~~In the Forest (F-5) and Forest (F-10) Zones, a minimum of 80 percent of a cluster subdivision shall~~  
210 ~~be preserved as open space.~~
- 211 c. ~~In the Agricultural Valley (AV-3), Forest Valley (FV-3), and the Ogden Valley Destination and~~  
212 ~~Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a cluster subdivision shall be~~  
213 ~~preserved as open space.~~
- 214 d. ~~In all other zones where a cluster subdivision is an allowed development type a minimum of 30~~  
215 ~~percent of a cluster subdivision shall be preserved as open space.~~

216 (c.4) Sensitive lands requirements. Cluster subdivisions in or on sensitive lands shall be  
217 governed as follows:

- 218 (1) Lands that can be mitigated such as floodplain and wetlands are considered  
219 developable for the purpose of calculating adjusted gross acreage, as defined in  
220 Section 101-1-7 and shall be counted towards density.

221 (2) Floodways within river corridors, lakes, and naturally occurring pond areas, which  
222 ~~could not be are not developed-developable but are offered as a community provide an~~  
223 ~~amenity on an open space parcel with public access and a blanket public access~~  
224 ~~easement, may shall also be a part of the open space, with receive~~ 25 percent of this  
225 ~~land of the undevelopable acreage credited towards to the adjusted gross acreage~~  
226 ~~calculation for overall density of the development, if this land is used to provide~~  
227 ~~amenities and is accessible to the development.~~

228 (3) Regardless of developability, the follow areas shall be located within a cluster  
229 subdivision's open space area:

230 a. areas designated as floodplain, as defined by the Federal Emergency Management  
231 Agency or other qualified professional determined appropriate by the county  
232 engineer; and

233 b. rivers and streams, with and including their designated river or stream corridor  
234 setbacks, as defined by the Weber County Land Use Code.

235 ~~(5) Areas designated as floodplain, as defined by the Federal Emergency Management Agency or other~~  
236 ~~qualified professional determined appropriate by the county engineer, rivers and streams, with and~~  
237 ~~including their designated river or stream corridor setbacks, as defined by the Weber County Land~~  
238 ~~Use Code, shall be located within a cluster subdivision's open space area.~~

239 **Sec. 108-3-5. - Open space plan approval, ownership, maintenance, preservation, and**  
240 **guarantee of improvement standards and development standards.**

242 ~~Open space parcels, and any improvements proposed thereon, shall be approved, owned,~~  
243 ~~maintained, preserved, and financially guaranteed as follows:~~

244 (a) Open space plan submittal (1) — Plan approval. An open space preservation plan shall  
245 accompany an application for preliminary ~~and final~~ subdivision approval. Preliminary  
246 subdivision approval constitutes approval of the open space plan. A final plat shall comply  
247 with the approved open space plan. ~~approval of a cluster subdivision.~~ The open space plan  
248 shall include the following:

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

251 (2) A site plan that identifies the open space parcel ownership types specified in (b)(5) of  
252 this section; each proposed ownership type shall be identified with a unique color; and  
253 the locations of existing and proposed future structures and other open space  
254 amenities.

255 a. For open space that will be common area parcels, the site plan shall show the  
256 location of existing and future structures by identifying the structure's footprint.  
257 Structures housing a subdivision utility or serving as a subdivision amenity shall be  
258 subject to all applicable standards including all design review and applicable  
259 architectural standards found in title 108 of the Weber County Land Use Code.

260 b. For open space that will be gifted as a park parcel to a local park district, the site  
261 plan shall include all park improvements and be accompanied by a letter of  
262 approval from the local park district.

263 c. For open space that will be an individually owned preservation parcel whereon a  
264 building will be located, the site plan shall identify a locatable building envelope, as

**Comment [c9]:** How to amend without amending "subdivision plat"  
**Comment [c10]:** Retention basin cannot be used as ag or forest open space.

**Comment [c11]:** Check reference

265 defined in Section 101-1-7, within which all existing and future buildings shall be  
266 located.

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

270 (4) A written explanation of the proposed method of maintenance of all open space  
271 parcels. This may be included in the written narrative. However, an open space plan  
272 with a common area parcel or parcels shall be submitted with proposed Conditions,  
273 Covenants, and Restrictions or Homeowner's Association Declaration that clearly  
274 explains the maintenance method for each common area parcel. At a minimum, the  
275 document shall explain vegetation grooming practices, weed mitigation, and refuse  
276 disposal.

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

279 ~~, and maintenance methods for all open space parcels, and~~  
280 ~~a site plan that shows proposed common areas, individually owned preservation parcels, and~~  
281 ~~the locations of existing and proposed future structures.~~

282 ~~a. For open space dedicated as common area parcels, the site plan shall show the~~  
283 ~~location of existing and future structures by identifying the structure's footprint.~~  
284 ~~Structures housing a subdivision utility or serving as a subdivision amenity shall be~~  
285 ~~subject to all applicable standards including all design review and applicable~~  
286 ~~architectural standards found in title 108 of the Weber County Land Use Code.~~

287 ~~b. For open space dedicated as individually owned preservation parcels, the site plan~~  
288 ~~shall identify locatable building envelopes within which all existing and future buildings~~  
289 ~~must be located.~~

290 (b) *Open space development standards and ownership regulations.* Unless otherwise provided  
291 for in this section, open spaces and the specific open space parcels shall be developed in a  
292 manner that meets all applicable standards, including but not limited to those found in the  
293 this Land Use Code.

294 (1) *Minimum total open space required.* Unless more is required to gain additional density,  
295 as provided in XXX, the minimum percentage of a cluster subdivision's adjusted gross  
296 acreage, as defined in Section 101-1-7, shall be preserved as open space. The  
297 minimum open space areas are as follows:

298 a. In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall  
299 be preserved as open space.

300 b. In the Forest (F-5) and Forest (F-10) Zones, a minimum of 80 percent of a cluster  
301 subdivision shall be preserved as open space.

302 c. In the Agricultural Valley (AV-3), Forest Valley (FV-3), and the Ogden Valley  
303 Destination and Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a  
304 cluster subdivision shall be preserved as open space.

305 d. In all other zones where a cluster subdivision is an allowed development type a  
306 minimum of 30 percent of a cluster subdivision shall be preserved as open space.

307 (2) *Open space parcel area.* Unless otherwise regulated by the Weber-Morgan Health  
308 Department or Weber County Land Use Code title 108, chapter 14, Hillside

Comment [c12]: Reference



309 Development Review Procedures and Standards, the minimum area for an open space  
310 parcel located within a cluster subdivision is as follows:

311 a. An open space parcel designated as common area is not subject to minimum area  
312 requirements.

313 b. An open space parcel conveyed to a local park district shall be of a sufficient size  
314 to adequately accommodate park infrastructure, amenities, and parking.

315 c. An open space parcel dedicated as an individually owned preservation parcel shall  
316 contain an area of not less than five acres and shall be part of a contiguous area of  
317 open space consisting of not less than ten acres in total; and shall be in  
318 compliance with the following:

**Comment [c13]:** This is a formatting change.  
Check all references.

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

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

**Comment [c14]:** Making sure it isn't inaccessible  
to future owners.

323 3. Parcel acreage necessary for drainage detention or retention facilities shall not  
324 be included as part of the required five acres, and shall not be included as  
325 useful agricultural acreage in the open space plan.

326 d. Up to eighty percent of an estate lot of 5.25 acres or greater may count towards  
327 open space acreage provided the following standards are applied:

328 1. The area of the estate lot designated as open space shall contain an area of  
329 not less than five acres and shall be part of a contiguous area of open space  
330 consisting of not less than ten acres in total;

331 2. The estate lot shall contain a survey-locatable building envelope on the  
332 recorded plat that is adjacent to other residential lots in a cluster;

333 3. An open space easement shall be recorded as required by this chapter over  
334 the 80 percent of the estate lot designated as open space.

335 (3) Parcel width, frontage, and access. Notwithstanding section 106-2-4(c) and title 108,  
336 chapter 14, Hillside Development Review Procedures and Standards, and unless  
337 otherwise regulated by the Weber-Morgan Health Department, open space parcels  
338 located within a cluster subdivision are not subject to frontage requirements and do not  
339 have a minimum width standard. All open space parcels without street frontage shall  
340 be provided an access easement, recordable at the time of plat recordation, across  
341 other parcels and connecting to a public or private street.

**Comment [c15]:** Adding an access requirement.

342 (4) Parcel coverage.

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

345 b. Coverage of individually owned preservation parcels by roofed structures shall not  
346 exceed two and a half percent of the total parcel area.

**Comment [c16]:** Current code lists this as 5%.

347 (5) Open space parcel ownership.

348 a. Common area parcel. An open space parcel dedicated as common area shall  
349 be commonly owned by an appropriate homeowner's association established  
350 under U.C.A. 1953, § 57-8a-101 et seq., the Community Association Act.

351 b. Park parcel. An open space parcel may be conveyed to a local park district, as  
352 approved by the park district.

353 c. Individually owned open space parcel. An open space parcel~~s~~ may be owned as  
354 an individually owned preservation parcel by any person, regardless of whether  
355 the person owns a residential lot within the subdivision. ~~In order to keep an~~  
356 ~~individually owned preservation parcel from becoming uncondutive to multiple-~~  
357 ~~acreage preservation uses, an individually owned preservation parcel shall not be~~  
358 ~~sectioned into sub-areas of five acres or less by fencing or other physical barriers.~~  
359 ~~The planning commission may modify this requirement for uses that support the~~  
360 ~~longevity of the preservation, maintenance, and large-acreage use of the parcel.~~

361 ~~1. Individually owned preservation parcels of ten acres or more in area may be owned by~~  
362 ~~any person, regardless of whether the person owns a residential lot within the~~  
363 ~~subdivision.~~

364 ~~2. Individually owned preservation parcels of less than ten acres in area may only be~~  
365 ~~owned by an owner of a lot within the same cluster subdivision.~~

366 ~~3. The applicable ownership standard in subsection (2)a.1. or 2. shall be memorialized in~~  
367 ~~the following manner:~~

368 ~~i. An explanation of the applicable ownership standard and a perpetual restriction~~  
369 ~~conforming thereto shall be written into all agriculture, forest, or other type of~~  
370 ~~preservation easements granted pursuant to subsection (4); and~~

371 ~~ii. A note describing the applicable ownership standard shall be placed on the final~~  
372 ~~recorded plat.~~

373 (c) Open space phasing. If development phasing is proposed and approved during preliminary  
374 cluster subdivision approval, the percent of open space of the overall platted acreage shall  
375 at no time be less than the percent of proposed open space approved in the open space  
376 plan.

377 (d3) Maintenance. The open space parcel owner, whether an individual or an association,  
378 shall use, manage, and maintain the owner's parcel in a manner that is consistent with the  
379 open space preservation plan approved under subsection (1), and the agriculture, forest, or  
380 other type of preservation easement executed under subsection (4).

381 (4e) Preservation.

382 (1)~~a-~~ Open space parcels are to be permanently preserved in a manner that is  
383 consistent with the approved open space preservation plan.

384 (2)~~b-~~ The applicant, prior to recording or as part of recording the final cluster  
385 subdivision plat, shall grant and convey to the county, to each lot owner, and to the  
386 homeowner association, if applicable, an open space easement over all areas  
387 dedicated as common area ~~or,~~ individually owned preservation parcels, or open space  
388 area of an estate lot. The open space easement shall incorporate and conform to the  
389 approved open space preservation plan. ~~approved under subsection (1).~~

390 (3)~~e-~~ If a cluster subdivision contains open space intended to preserve substantial or  
391 crucial wildlife habitat, as defined by the Utah Division of Wildlife Resources, a wildlife  
392 habitat easement meeting the requirements of the Utah Division of Wildlife Resources  
393 shall be offered to the division.

394 (4)~~e-~~ If a cluster subdivision contains an individually owned preservation parcel or  
395 open space area of an estate lot, the applicant shall:

Comment [c17]: Huh? (2)a.1 or 2 does not exist?

Comment [c18]: Check reference

Comment [c19]: Need to modify this section to allow "preservation" to be done by easement granted to the public on the subdivision plat OR by recording an open space easement.

- 396 | ~~1a.~~ Identify and label on the final plat each such parcel ~~as an agricultural, forest, or~~  
397 | ~~other type of preservation parcel; as an open space preservation parcel.~~
- 398 | ~~2b.~~ Further identify each preservation parcel by placing a unique identifying letter of  
399 | the alphabet immediately after the label;
- 400 | ~~3c.~~ ~~Present an agricultural, forest, or other type of preservation easement to the~~  
401 | ~~planning commission and gain their approval; and~~
- 402 | ~~4.~~ Record an approved preservation easement on each parcel identified as an  
403 | ~~agricultural, forest, or other type of~~open space preservation parcel.

404 | ~~(5) No open space preservation easement for a subdivision located in an agricultural zone~~  
405 | ~~shall impose restrictions on agricultural uses or operations on any open space parcel,~~  
406 | ~~except those listed in Section 108-3-4 (b)(3) or Section 108-3-4(c).~~

407 | (6)e- The planning commission may impose any additional conditions and restrictions  
408 | it deems necessary to reasonably ensure maintenance of the open space and  
409 | adherence to the open space preservation plan. Such conditions may include a plan for  
410 | the disposition or re-use of the open space property if the open space is not maintained  
411 | in the manner agreed upon or is abandoned by the owners.

412 | (5f) *Guarantee of open space improvements.*

413 | (1)a- The county shall not require an applicant to deposit a financial guarantee for  
414 | open space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a  
415 | certificate of occupancy and that remain incomplete at the time of final approval ~~and~~  
416 | ~~acceptance~~ of the proposed cluster subdivision from the board of county  
417 | commissioners. The applicant or developer shall complete the improvements according  
418 | to the approved phasing component of an open space preservation plan. If the  
419 | applicant fails to complete improvements as presented in the open space preservation  
420 | plan, the county may suspend final plat approvals and record an instrument notifying  
421 | prospective lot buyers that future land use permits may not be issued for any  
422 | construction.

423 | (2)b- The county shall require an applicant to deposit a ~~financial~~ guarantee of  
424 | improvements, as provided in Section 106-4-3, for all open space improvements (e.g.,  
425 | landscaping, trails, fencing, sheds, parking surfaces, etc.) that do not require a  
426 | certificate of occupancy and that remain incomplete at the time of final plat approval,  
427 | ~~and acceptance of the proposed cluster subdivision from the board of county~~  
428 | ~~commissioners.~~ The applicant or developer shall complete all improvements according  
429 | to the approved phasing component of ~~an~~ the open space preservation plan.

430 | **Sec. 108-3-6. ~~Reserved. Open space parcel development standards.~~**

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

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

439 | ~~a. Open space parcels dedicated as common area are not subject to minimum area~~  
440 | ~~requirements.~~

Comment [c20]: Reference

Comment [c21]: Reference

Comment [c22]: Whole section moved to 108-3-5(b).

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

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

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

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

456 ~~(3)—Parcel coverage.~~

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

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

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

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

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

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

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

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

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

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

**Comment [c23]:** Keep at 5%? 5% of five acres is 10,890 square feet, or a quarter acre.

**Comment [c24]:** Larger lot sizes here would result in the following unintended consequences:

1. The smaller lot size offers more affordability options for the younger and aging life-stages. This is a goal from our moderate income housing plan.
2. Smaller lot size does not equal more lots, as the density is capped at the zone's allowance+bonus. So smaller lot size allowances either means that more space can be preserved as open space, or it means that other lots can be given more generous acreages and sold at higher values. Allowance for smaller lots in some parts of the development gives more options for the larger "rural" feel to other parts. The alternative to a cluster, wall-to-wall one acre lots, do not lend to the same kind of rural feel, and would ultimately result in a suburban large-lot feel.

- 484 ~~i. Does not contain an existing dwelling; or~~
- 485 ~~ii. Contains an existing dwelling that lies further than 150 feet away from all~~
- 486 ~~external boundaries of the proposed or subject cluster subdivision.~~

487 (2) ~~Lot width.~~ Unless otherwise regulated by the Weber-Morgan Health Department, ~~or~~

488 ~~Weber County Land Use Code, title 108, chapter 14, Hillside Development Review~~

489 ~~Procedures and Standards,~~ the minimum lot width in a cluster subdivision per zone is

490 as follows:

<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>

- 491 ~~a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.~~
- 492 ~~b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-3), and~~
- 493 ~~the Forest Valley (FV-3) Zones.~~
- 494 ~~c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2, and A-~~
- 495 ~~3) Zones.~~
- 496 ~~d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and Recreation~~
- 497 ~~Resort (DRR-1) Zone.~~

499 (3) ~~Yard setbacks for dwellings.~~ The Minimum yard setbacks ~~for dwellings~~ in a cluster

500 subdivision are as follows:

<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>

- 501 ~~a. Front: 20 feet.~~
- 502 ~~b. Side: 8 feet.~~
- 503 ~~c. Rear: 20 feet.~~

504 (4) ~~Dwelling Building height.~~ The maximum height for ~~dwellings~~ a building in a cluster

505 subdivision ~~is 40 feet~~ is as follows:

**Comment [c25]:** This code unintentionally missed alternative development regulations for accessory buildings.

Dwelling	40 feet
Accessory building	30 feet

506

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

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

513 (a) Western Weber Planning Area bonus density. In the Western Weber Planning Area, bonus  
514 density shall not exceed 30 percent except as allowed herein.

515 (1) (INSERT AMENITIES REQUIRED TO EARN POINTS HERE. (i.e. street trees,  
516 pathway landscaping, dark sky preservation, public-accessible recreational amenities,  
517 public park (if district will accept it)...

**Comment [c26]:** Typical walkways should be required – no incentivized.  
**Comment [c27]:** Still working on it.

518 (2) In an agricultural zone, up to 20 percent additional bonus may be earned in  
519 accordance with the following:

520 a. the subdivision shall demonstrate qualification for the basic 30 percent bonus  
521 density;

522 b. 90 percent of the total open space acreage, but no less than ten acres, shall be:  
523 1. demonstrated through a soils and irrigation analysis produced by a competent  
524 soils engineer to be quality farmland capable of competitive marketability to  
525 typical crop-producing agricultural operations.

526 2. be permanently preserved with an agricultural-specific preservation easement  
527 across all 90 percent of the total open space acreage that conforms to the  
528 requirements of this chapter.

529 c. the subdivision shall preserve more than the 30 percent minimum open space  
530 area. The allowed bonus density percentage may be increased at a one for one  
531 ratio with the open space percentage increases that are over 30 percent, up to a  
532 maximum of 50 percent bonus density award.

**Comment [c28]:** Idea for discussion:  
Ogden Valley Planning Area bonus density. In the Ogden Valley Planning Area, bonus density shall only be allowed when an equal number of residential dwelling unit development rights are permanently removed from a parcel outside the cluster subdivision boundaries.  
(1) A residential unit development right shall be considered permanently removed if the outside parcel or parcels are rezoned in a manner that would prohibit the development of the same number of units that are being added in the bonus, or if an open space preservation easement, as provided in this chapter, is recorded to the outside parcel or parcels in a manner that would prohibit the development of the same number of units that are being added in the bonus.  
(2) Bonus density is not allowed in the S-1, FR-1, FV-3, F-5, F-10, or F-40 zones.  
(3) Bonus density shall not exceed 150 percent unless the parcel is within one quarter mile from a village center as shown on the Commercial Locations and Village Areas Map in the 2016 Ogden Valley General Plan.

533 (b) No bonus density is allowed in the Ogden Valley.

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

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

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

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

- 544 ~~d. If the cluster subdivision provides common area that offers easily accessible~~  
545 ~~amenities, such as a trail, park, or community garden, that are open for use by the~~  
546 ~~general public, up to a five percent bonus density may be granted.~~
- 547 ~~e. If the cluster subdivision dedicates and conveys to the county, the state division of~~  
548 ~~wildlife resources, or both, an open space easement that permanently preserves~~  
549 ~~areas that have been identified by the state division of wildlife resources as having~~  
550 ~~substantial or crucial wildlife habitat value, up to a 15 percent bonus density may~~  
551 ~~be granted.~~
- 552 ~~(2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of~~  
553 ~~up to 50 percent if the applicant preserves an open space percentage above that~~  
554 ~~required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up~~  
555 ~~to 30 percent. Overall bonus density potential shall be no greater than a percentage~~  
556 ~~equal to the percentage of the subdivision's total area preserved as open space. The~~  
557 ~~county may award bonus densities based on an accumulation of any combination of~~  
558 ~~the following:~~
- 559 ~~a. If a cluster subdivision meets the purpose and intent of this chapter, up to a ten~~  
560 ~~percent bonus may be granted.~~
- 561 ~~b. If a cluster subdivision provides and implements an approved roadway landscape~~  
562 ~~and design plan that includes, but is not necessarily limited to, vehicle and~~  
563 ~~pedestrian circulation, lighting, and street trees of an appropriate species, size of~~  
564 ~~at least a two-inch caliper, and quantity of not less than eight trees for every 100~~  
565 ~~feet of road length, up to 20 percent bonus density may be granted.~~
- 566 ~~c. For each five percent increment of open space preserved over 50 percent, a five~~  
567 ~~percent bonus density shall be granted up to the total bonus density allowed by~~  
568 ~~subsection (3).~~
- 569 ~~d. If a cluster subdivision provides a minimum of one approved access to public~~  
570 ~~lands, up to a ten percent bonus density may be granted.~~
- 571 ~~e. If a cluster subdivision provides common area that offers easily accessible~~  
572 ~~amenities such as trails, parks, or community gardens, that are open for use by the~~  
573 ~~general public, up to a 15 percent bonus density may be granted.~~
- 574 ~~f. If ten percent of the lots and homes in a cluster subdivision are permanently set~~  
575 ~~aside for affordable housing as outlined by the Affordable Housing Act of 1990, up~~  
576 ~~to a 20 percent bonus density may be granted.~~
- 577 ~~If a bonus density is granted for affordable housing, the applicant shall:~~
- 578 ~~1. Present and gain Planning Commission approval of an effective plan and~~  
579 ~~method for guaranteeing and enforcing perpetual affordability. Any method~~  
580 ~~used, such as an affordable housing deed restriction, shall limit the sale or~~  
581 ~~rental of the affected lots and homes to a household with an income at or~~  
582 ~~below 80 percent of the county median income;~~
- 583 ~~2. Identify and label, on the final plat, the lots set aside as affordable housing~~  
584 ~~lots; and~~
- 585 ~~3. Provide a note on the final plat explaining the nature of the housing restriction~~  
586 ~~on the lot and the method by which occupancy and affordability will be~~  
587 ~~regulated.~~

- 588 ~~g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based~~  
589 ~~open space preservation plan approved by the planning commission and records~~  
590 ~~an agricultural preservation easement on the parcel, a bonus density may be~~  
591 ~~approved as follows:~~
- 592 ~~1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15~~  
593 ~~percent bonus density may be granted.~~
- 594 ~~2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20~~  
595 ~~percent bonus density may be granted.~~
- 596 ~~3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30~~  
597 ~~percent bonus density may be granted.~~
- 598 ~~4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40~~  
599 ~~percent bonus density may be granted if the parcel standing alone is greater~~  
600 ~~than the minimum open space requirement for the subdivision.~~
- 601 ~~5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus~~  
602 ~~density may be granted if the parcel standing alone is greater than the~~  
603 ~~minimum open space requirement for the subdivision.~~
- 604 ~~h. If a cluster subdivision provides for the preservation of historical sites and buildings~~  
605 ~~that have been identified by the state historic preservation office as having notable~~  
606 ~~historical value, up to a five percent bonus density may be granted.~~
- 607 ~~i. If a cluster subdivision provides for the development of excess sewage treatment~~  
608 ~~capacity, up to a five percent bonus density may be granted.~~
- 609 ~~j. If a cluster subdivision dedicates and conveys to the county, the state division of~~  
610 ~~wildlife resources, or both, an open space easement that permanently preserves~~  
611 ~~areas that have been identified by the state division of wildlife resources as having~~  
612 ~~substantial or crucial wildlife habitat value, up to a 15 percent bonus density may~~  
613 ~~be granted.~~
- 614 ~~k. If a cluster subdivision includes an open space parcel that consists of five acres or~~  
615 ~~more and is contiguous to permanently preserved open space on an adjoining~~  
616 ~~property located outside of the cluster subdivision, up to a 20 percent bonus~~  
617 ~~density may be granted.~~

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

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

- 623 (1) Establish a homeowners association and submit for the county's review the necessary  
624 articles of incorporation, bylaws, and declaration of covenants, conditions, and  
625 restrictions that provide for:
- 626 a. Compliance with Utah State Code;
- 627 b. The reason and purpose for the association's existence;
- 628 c. Mandatory membership for each lot or home owner and their successors in  
629 interest;



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- 630 d. The perpetual nature of the easements related to all dedicated open space  
631 parcels;
  - 632 e. Responsibilities related to liability, taxes, and the maintenance of recreational and  
633 other infrastructure and facilities;
  - 634 f. Financial obligations and responsibilities, including the ability to adjust the  
635 obligations and responsibilities due to change in needs;
  - 636 g. Association enforcement remedies; and
  - 637 h. A notification of the county's ability to enforce the terms of the owner's dedication  
638 on the subdivision dedication plat.
- 639 (2) Register the homeowners association with the State of Utah, Department of  
640 Commerce.