



## Staff Report to the Western Weber and Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** A public hearing to consider and take action on ZTA 2019-04, a proposal to amend Titles 101, and 106 of the Land Use Code to update provisions related to culinary and secondary water requirements for subdivision lots, and other administrative edits to support the same.

**Agenda Date:** Tuesday, May 28, 2019

**Staff Report Date:** Tuesday, May 21, 2019

**Applicant:** Hooper Irrigation Company; Agent: Greg Seegmiller

**File Number:** ZTA 2019-04

#### Staff Information

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**Report Reviewer:** RG

### Applicable Ordinances

§101-1-7: Definitions  
 §106-1: Subdivision General Provisions  
 §106-2: Subdivision Standards

### Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

### Summary and Background

The attached proposed ordinance amendment will address two inter-related issues. They are as follows:

- The current code provides very limited standards to which secondary water infrastructure should meet. Often, culinary water services from a local water system is conditioned on secondary water service to the property. Current code allows secondary water service to be by onsite shallow well or any other unspecified means. Some culinary water providers have expressed concerned that their condition of culinary service cannot be adequately enforced without better secondary water system standards. This amendment provides additional standards and oversight processes. However, it keeps the responsibility of verification of a functioning secondary system on the culinary provider that has conditioned their service. The county could get involved at the county engineer's discretion, but will not be required. This proposal also will require a connection to a local functioning secondary system if that system is within 300 feet multiplied by the number of lots from the subdivision boundary.
- Culinary water may be approved by means of a private well onsite. When a well is proposed, current code allows the approval and recordation of subdivision lots without proof of access to ground-water, and defers the responsibility of proving access to ground water onto the future owner/builder. There is inherent risk that the future owner/builder may not be able to access groundwater on the lot. This amendment will require a licensed engineer or geologist to assert that there is reasonable likelihood of accessing water by means of well onsite without an impact on others. It requires the engineer or geologist to review other wells in the area and local available hydrology and/or hydrogeology information.

### Policy Analysis

#### Policy Considerations:

The proposed ordinance draft is attached as Exhibits A and B. The following is an analysis of the proposal based on the existing general plan and existing ordinances.

**General plan.**

The Ogden Valley General Plan offers this guidance regarding water availability:

**Utilities and Public Services Principle 1.1:** Although Weber County has no direct regulatory role, the County should support communication among water and sewer service providers to coordinate the planning for and delivery of culinary water and sewer services in a manner that pursues the possibility of an eventual valleywide sewer and water system plan.

**Utilities and Public Services Principle 1.2:** Weber County will require that adequate water and sewer services are available as a condition of approval of all future developments.

**Utilities and Public Services Principle 1.3:** Support conservation of water resources

**Utilities and Public Services Implementation 1.3.3:** Weber County will encourage the Weber Basin Conservancy District to verify that clear evidence exists that the impacts of an exchange application can be mitigated.

The West Central Weber County General Plan does not offer as specific guidance regarding the regulation of access to water, but between it and the Western Weber County Resource Management Plan it appears to indicate that an important role of Weber County Government is to assist in enhancing access to safe and clean drinking water.

**Ordinance.**

The current subdivision code contains a paragraph, Section 106-4-2(m), that is poorly written. Essentially, this paragraph is intended to require secondary water provisions to subdivisions lots when the culinary water provider requires a secondary system as a condition of their culinary service. The poor clarity of this section has resulted in multiple reasonable interpretations, which has generated conflict over its administration and application. It is incumbent on the county to provide ordinances that are clear and predictable. This proposal replaces the current standards with clearer requirements.

In addition to this conflict, the Hooper Irrigation Company is asking the county to add standards regarding secondary water service – when required by a culinary water provider. This includes expectations for how a system is constructed and operated. It also includes an expectation for a developer to connect to an existing local system, rather than gain secondary water by means of private well or the creation of a new secondary system, when the development is within 300 feet multiplied by the number of lots in the subdivision.

Another subject of this ordinance change is how the county should verify whether there is sufficient access to ground water when a lot is proposed to be served by a well. This subject was not specifically a part of the applicant’s request, however has ties to the request that should be addressed with the proposed changes.

The problem boils down to the following key discussion points:

- Several culinary water companies make their service dependent on access to other water for secondary water service. However, the culinary water companies often have little or no control over the functionality of the secondary system.
- Who is or should be responsible and accountable to verify that newly installed secondary water infrastructure can satisfy a culinary provider’s conditions of service?
- Who is or should be responsible when a secondary system fails or goes defunct, and what impact does that have on a culinary water providers ability to serve?
- If there is a requirement to hook into a nearby existing secondary system that is built to a specific standard, functions, and is appropriately managed, then conditioning culinary water service on a local secondary company becomes less risky.
- Should the county be allowing lots proposed to be served by a well if the well has not been dug and pump-tested? If so, how can the county better assure that future purchasers might have access to water and that the access will not negatively affect others in the area?

*Public culinary water and secondary water.*

When a culinary water company conditions access to culinary water on a developer's ability to access secondary water, there seems to be some confusion regarding who is accountable for ensuring the secondary system is installed and functioning.

First, a "culinary water authority" is defined by UCA § 17-27a-103 as:

"... the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property."

Then, UCA § 17-27a-603(2)(a), says:

"Subject to Subsections (3), (5), and (6), if the plat conforms to the county's ordinances and this part **and has been approved by the culinary water authority**, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat." (Italics offered for emphasis.)

This section requires a final subdivision plat to be approved by a "culinary water authority" **before** the county can take action on approving the final plat. This provision essentially grants a culinary water authority at least equal authority as the county when it comes to approving a subdivision plat. When a culinary water authority conditions its service on a secondary system's performance, it makes the culinary service wholly dependent on the performance of the secondary system. If the culinary water service has no control over the secondary system, then the culinary authority has shifted their responsibility of providing culinary water onto an entity that is beyond their control. However, once the culinary service is established it cannot be shutoff, even if the secondary system fails to perform.

In order to verify they will not fail to perform, a few culinary service providers have requested that the county be the overseer of the functionality of the secondary systems, asserting that they do not have the administrative capacity to do so themselves. Because the county is not in the water rights/shares business, nor in the water distribution or service business, the county has limited control over whether a secondary system functions according to the needs of the culinary provider. To the extent the county can control the performance of the secondary system, it would not be advisable for the county to assume that responsibility since the county has no responsibility or accountability for the culinary water service. That accountability and responsibility should remain with the culinary water service provider, as they are best suited to understand their own needs and are the entity designated by state law to be the authority.

The proposed ordinance offers better standards to which a secondary system should be constructed and managed. It enables the county to verify adequacy of the secondary system as a public benefit and courtesy to the local water companies, but it does not require the county to accept responsibility for the system's construction or performance. Staff feel that this might strike a balance between the interests of the water company, the interests of the public, and the interest of the county without transferring liability and responsibility to the county for systems over which it has no authority.

*Private wells.*

The current code allows a subdivision with lots served by a private well to be recorded without ever requiring verification that there is access to groundwater from an onsite well. This creates a "dry subdivision." A purchaser of such a lot will have no way to verify that there is access to groundwater from the site without first drilling and testing a well. They take a risk when purchasing a dry lot. The code requires a notice to be recorded to the lot to notify a purchaser of this risk, but does little else to minimize the risk.

It might be in the best interest of the purchaser and the surrounding well owners for verified access to groundwater to exist prior to the plat being recorded. However, requiring the drilling of a well onsite prior to plat recordation poses a couple of challenges:

- A well is not necessary until an onsite use requires it – usually a residential dwelling. It is not uncommon for a subdivision lot to sit vacant for a number of years before the landowner decides to build. Letting a well sit without continuous circulation can risk the health of the well water.
- It is difficult to get a construction loan to drill a well and construct a house without the lot being transferred to the new owner so the banks have something to lien. The lot ownership cannot be transferred until the plat is recorded.

Other counties have combated these challenges by allowing “dry subdivisions” to be recorded, but only after each proposed well has been vetted by a professional engineer or geologist for feasibility. The proposed ordinance offers similar new requirements. Even though this might not offer complete risk avoidance for the future lot owner or the surrounding well owners, it offers a layer of protection by means of expert review. If after the lot has been recorded a new well ends up affecting access to other well owner’s entitled water, the state engineer has a protest process that neighbors may engage to seek reprieve. The planning commission might determine that this a sufficient compromise to a difficult problem.

**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

**Staff Recommendation**

If the planning commission is satisfied with the attached ordinance amendment, staff recommends the Planning Commission offer a favorable recommendation for them to the County Commission. This recommendation is based on the following findings:

1. The changes align with the directives of the Ogden Valley General Plan, West Central Weber County General Plan, and the Western Weber County Resource Management Plan.
2. The changes will provide additional clarity to the existing ordinance.
3. The changes will strengthen the administration of the ordinance.
4. The changes will better promote the health, safety, and general welfare of the public.

**Exhibits**

- A. Proposed Ordinance Changes – Track Change Copy.
- B. Proposed Ordinance Changes – Clean Copy.
- C. Application

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1 **Title 101 - GENERAL PROVISIONS**

2 ...

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

4 ...

5 *Variance.* The term "variance" means a relaxation, by the board of adjustment, of the  
6 dimensional regulations of the Land Use Code where such action will not be contrary to the public  
7 interest and where, owing to conditions peculiar to the property and not the result of actions or  
8 the situation of the applicant or previous owners, a literal enforcement of the Code would result in  
9 unnecessary and undue hardship, other than an economic nature or self-imposed hardship. A  
10 self-imposed hardship created by a previous owner is considered to run with the land.

11 *Water, secondary.* The term "secondary water" means water typically used for crop or  
12 landscape irrigation and not usually treated for culinary drinking water purpose.

13 *Yard.* The term "yard" means an open space on a lot, other than a court, unoccupied and  
14 unobstructed from the ground upward by permanently parked vehicles, buildings or structures  
15 except as otherwise provided herein.

16 ...

17 **Title 106 - SUBDIVISIONS**

18 **CHAPTER 1. - GENERAL PROVISIONS**

19 ...

20 **Sec. 106-1-4. - Subdivision application requirements.**

21 (a) *Pre-application meeting required.* Each person who proposes to subdivide land shall confer  
22 with the county planning staff before preparing any plats, charts, or plans in order to become  
23 familiar with the county subdivision requirements and existing general plans and to discuss  
24 the proposed development of the tract. Additional required submittal information will be  
25 identified during the pre-meeting, such as sensitive lands, slope analysis, wetlands, wells,  
26 taxes, state roads, and neighborhood circulation plan.

27 (b) *Subdivision application submittal.* Subdivision applications shall be submitted to the  
28 planning division, by appointment, and shall include:

29 (1) *Application form.* A completely filled out subdivision application form, signed by the  
30 property owners.

31 (2) *Copies of preliminary plan.* One 24-inch by 36-inch copy, one 11-inch by 17-inch copy,  
32 and one 8½-inch by 11-inch copy of the proposed preliminary plan meeting the  
33 requirements listed in this title. This shall also include one 24 inch by 36-inch copy of the  
34 phasing plan, if applicable.

35 (3) *Electronic documents.* All documents required by this title shall be accompanied by a PDF  
36 file of the respective document. All plans (including but not limited to subdivision plats,  
37 improvement drawings, architectural drawings, phasing plans, etc.), and subsequent  
38 submittals and revisions, shall be accompanied by a full-scale set of PDF files of the  
39 respective plans.

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40 (4) *Statement of culinary water feasibility.* A written statement of feasibility, also known as a  
41 “will-serve letter,” specifying culinary water provisions for each lot.

42 a. The statement shall come from the culinary water authority pursuant to UCA § 17-27a-  
43 603 as follows:

- 44 1. The local health department for lots proposed to be served by a private well; or
- 45 2. An existing culinary water service provider; or
- 46 3. If the culinary water authority is being newly formed, the statement shall come from  
47 the manager of the newly formed water corporation. The applicant shall also  
48 submit a written notification from the Utah Department of Environmental Quality  
49 indicating their acknowledgement of the new culinary water authority and the  
50 proposed system, and offer any other relevant information necessary for  
51 demonstrating system feasibility.

52 b. The statement from the culinary water authority shall provide:

- 53 1. An acknowledgment of the number of lots proposed to be served;
- 54 2. An acknowledgement of all intended uses of the culinary water including, but not  
55 limited to, fire suppression appurtenances or applicable secondary water uses as  
56 provided for in Section 106-4-2;
- 57 3. The method of culinary water delivery to each applicable proposed lot;
- 58 4. From where the water rights or shares necessary to serve the lots are proposed to  
59 come;
- 60 5. Any other requirement expected or necessary to attain the culinary water  
61 authority’s approval of the final subdivision plat.

62 (5) *Statement of sanitary sewer or septic system feasibility.* A written statement of feasibility,  
63 also known as a “will-serve letter,” specifying wastewater provisions for each lot.

64 a. The statement shall come from the sanitary sewer authority pursuant to UCA § 17-  
65 27a-603 as follows:

- 66 1. The local health department for lots proposed to be served by a septic system;
- 67 2. An existing sanitary sewer service provider; or
- 68 3. If the sanitary sewer authority is being newly formed, the statement shall come from  
69 the body politic or manager of the system. The applicant shall also submit a written  
70 notification from the Utah State Department of Environmental Quality indicating their  
71 acknowledgement of the proposed system, and offer any other relevant information  
72 necessary for demonstrating system feasibility.  
73 b. The statement shall provide:
  - 74 1. An acknowledgment of the number of lots proposed to be served;
  - 75 2. The method of wastewater disposal for each applicable proposed lot;



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- 76 3. An assertion that there is sufficient capability for safe wastewater disposal using  
77 the proposed method; and  
78 4. Any other requirement expected or necessary to attain the sanitary sewer  
79 authority's approval of the final subdivision plat.  
80 (6) *Application fee.* Full payment of the application fee is required at the time of application  
81 submittal. The payment of a partial application fee, or the submittal of plans for a pre-  
82 submittal review, does not constitute a complete application.

83 ...

84 **Sec. 106-1-8. - Final plat requirements and approval procedure.**

- 85 (a) *Preliminary approval required.* Until all preliminary requirements outlined in the agencies'  
86 review are met, the subdivision shall not proceed to final approval. Final plat submittal will not  
87 be accepted until the conditions of preliminary approval are met.

88 ...

- 89 (c) *Final plat requirements.*

- 90 (1) Digital copies shall be submitted until the county engineer and surveyor give their  
91 approval for a subdivision mylar to be submitted. The final plat shall be a sheet of mylar  
92 with dimensions of 24 by 36 inches and the border line of the plat shall be drawn in heavy  
93 lines leaving a space of a minimum of one-half-inch or a maximum of 1½-inch margin on  
94 all four sides of the sheet. The final plat shall be signed and stamped by a licensed land  
95 surveyor licensed in the state. All lines, dimensions and markings shall be made on the  
96 mylar with permanent ink meeting industry standards. The plat shall be made to a scale  
97 large enough to clearly show all details in any case not smaller than 100 feet to the inch,  
98 unless specified otherwise by the county surveyor, and the workmanship on the finished  
99 drawing shall be legible having a text size of not less than 0.10 of an inch (approximately  
100 3/32 of an inch). The plat shall be signed by all parties mentioned in subsection (c)(1)h of  
101 this section, duly authorized and required to sign and shall contain the following  
102 information:

103 ...

- 104 h. A signature block conforming to state code and county ordinances shall be included  
105 on the plat for the following:  
106 1. Description of land included in subdivision;  
107 2. Private licensed land surveyor's "certificate of survey";  
108 3. Owner's dedication certificate;  
109 4. Notary public's acknowledgment;  
110 5. County planning commission's certificate of approval, to be signed by the planning  
111 director for the chair;  
112 6. County engineer's certificate of approval;

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- 113 7. County attorney's certificate of approval;
- 114 8. Board of county commissioners' certificate of acceptance;
- 115 9. County clerk's certificate of attest;
- 116 10. County surveyor's certificate of approval;
- 117 11. Local health department certificate of approval if required by the local health
- 118 department;
- 119 12. Culinary water authority and sanitary sewer authority certificate of approval, if
- 120 required by the culinary water authority or sanitary sewer authority.

121 ...

122 **CHAPTER 4. - SUBDIVISION IMPROVEMENTS REQUIRED**

123 ...

124 **Sec. 106-4-2. - Improvements required.**

125 (a) *Culinary water supply.* (1) *Private well.* Unless required otherwise by part two (2) of

126 this subsection 106-4-2(a), culinary water may be provided by private well.

127 a. *Private well capacity assessment.* The applicant shall provide the following capacity

128 assessment verification prior to final plat approval.

129 1. Written verification from the Utah Division of Water Rights that a well permit has

130 been obtained for each lot proposed to be served by private well.

131 2. Written verification from Weber Basin Water Conservancy District that adequate

132 shares have been secured for each proposed well, or proof of sufficient culinary

133 water rights for each proposed well.

134 3. A signed, dated, and stamped written statement from a professional engineer or

135 professional geologist licensed by the State of Utah.

136 i. The statement shall attest that a thorough review has been conducted in

137 accordance with this part and that it is reasonably likely the proposed well will

138 offer adequate water flow and quality for all uses proposed.

139 ii. The statement shall offer an opinion that the proposed well location is unlikely

140 to offer unreasonable impact on other wells.

141 iii. The review shall include a study of logs of three or more wells which are closest

142 to the proposed well and which, wherever possible, are likely to be affected by

143 similar hydrogeologic conditions as the proposed well.

144 iv. If this statement cannot be made upon review of other wells, a well shall be drilled and

145 pump-tested from which this review and statement can be offered. Inability to provide

146 this statement shall result in a denial of the subdivision unless another lawfully

147 approved culinary water source can be provided. b. *Unapproved well notice.*

148 Except where an approved well exists on a lot at the time of plat recordation, together

149 with the recorded water rights or shares required, a notice shall be recorded to run



150 with each lot proposed to be served by a well. The notice shall, at a minimum, specify  
151 that prior to the issuance of a building permit for a structure intended for human  
152 occupancy, a well shall be dug, pump-tested, and approved by the local health  
153 department for all water uses proposed in the subdivision approval including, but not  
154 limited to, applicable secondary water uses and fire suppression appurtenances. If a  
155 well cannot be approved, the building permit shall not be approved unless another  
156 lawfully approved culinary water source can be provided.

157 (2) *Public culinary water service provider.*

158 a. *Existing public culinary water service provider.* A connection to an existing culinary  
159 water system is required where a subdivision is situated within 300 feet, multiplied by  
160 the number of lots in the subdivision, of any part of a currently operating culinary water  
161 service provider's system, and the service provider is willing and able to serve the  
162 subdivision. If multiple systems are available, connection to the system that will yield  
163 the best organization of culinary water infrastructure in the area is required. If conflict  
164 arises in making such a determination, the county engineer shall make the final  
165 determination. Overlapping culinary water infrastructure should be avoided whenever  
166 possible.

167 b. *New public culinary water service provider.* Where outside the connection distance of  
168 an existing culinary water service provider and where a private well will not be  
169 proposed or cannot be approved by the Health Department, a new culinary water  
170 service provider may be created pursuant to state law to serve the needs of the  
171 subdivision.

172 c. *Capacity assessment.* Prior to final plat approval, the applicant shall provide the  
173 county with written capacity assessment. Capacity assessment shall include:

174 1. Written verification from the public culinary water service provider. The  
175 assessment shall verify:

176 i. That the system is, or will be at the time the subdivision improvements are  
177 complete, capable of serving the culinary water needs of each applicable  
178 subdivision lot;

179 ii. That adequate culinary water flow and culinary water storage is or will be  
180 available at the time the subdivision improvements are complete for all  
181 intended or proposed uses of culinary water including, but not limited to,  
182 applicable secondary water uses and fire suppression appurtenances; and

183 iii. The specific details regarding the requirements or conditions for the culinary  
184 service of which the county should be aware during the approval or  
185 construction process.

186 2. Evidence that a state construct permit has been secured from the Utah Department  
187 of Environmental Quality's Division of Drinking Water.

188 d. *Culinary water improvements required.* The applicant shall submit to the county  
189 written approval of new culinary water infrastructure from the public culinary water

190 service provider prior to final acceptance of the subdivision’s improvements by the  
191 county.

192 1. Culinary water infrastructure shall be provided to the furthest extent of the  
193 subdivision boundary within a public street right of way or a public utility  
194 easement and laterals shall be stubbed to each lot and/or irrigable parcel.

195 2. Culinary infrastructure shall be designed with sufficient capacity for the system  
196 service area as determined by the culinary water service provider, or as may  
197 otherwise be required by the county engineer.

198 3. Unless authorized by the county engineer, culinary water system infrastructure  
199 shall be located outside of the asphalt area of a public street.

200 4. Water lines and fire hydrants shall be operational before building permits are  
201 issued for any structures.

202 5. Acceptance of the subdivision’s improvements shall not constitute an obligation  
203 to the county for the ownership or operation of the water facilities.

204 (3) *Transfer of rights and penalty for removal.* All necessary culinary water rights or shares  
205 required for each lot shall be transferred to the culinary water service provider, if required  
206 by the culinary water service provider. Otherwise, the rights or shares required shall be  
207 assigned to the lot or a governing homeowner’s association at the time of subdivision  
208 recordation. Removal or reallocation of required rights or shares shall constitute a violation  
209 of this land use code, with all associated enforcement measures being at the county’s  
210 disposal. The county is also authorized to void the recorded plat or withhold any further  
211 land use approvals for the affected lot or lots, as determined by the Planning Director.

212  
213 ...

214 (m) *Secondary water.* When acting as the culinary water authority pursuant to UCA § 17-27a-603,  
215 a culinary water service provider may require that a secondary water system serve some or  
216 all lots within the subdivision as a condition of committing to serve culinary water. The culinary  
217 water service provider shall be responsible for notifying the county, in writing, of this  
218 requirement at the time it commits to serve, along with any other specific requirement applied  
219 to secondary water provisions. Secondary water required under this provision shall comply  
220 with the following:

221 (1) *Private well.* Unless required otherwise by part two (2) of this Section 106-4-2(m),  
222 secondary water may be provided by private well.

223 a. *Capacity assessment.* Prior to final plat recording a signed, dated, and stamped written  
224 statement from a professional engineer or professional geologist licensed by the State  
225 of Utah shall be submitted.

226 1. The statement shall attest that a thorough review has been conducted in  
227 accordance with this part and that it is reasonably likely the proposed well will offer  
228 adequate water flow and quality for all uses proposed.

- 229 2. The statement shall offer an opinion that the proposed well location is unlikely to  
230 offer unreasonable impact on other wells.
- 231 3. The review shall include a study of logs of three or more wells which are closest to  
232 the proposed well and which, wherever possible, are likely to be affected by similar  
233 hydrogeologic conditions as the proposed well.
- 234 4. If this statement cannot be made upon review of other wells, a well shall be drilled  
235 and pump-tested from which this review and statement can be offered. Inability to  
236 provide this statement shall result in a denial of the subdivision unless another  
237 lawfully approved secondary water source can be provided.
- 238 b. *Unapproved well notice.* Except where an approved well exists on a lot at the time of  
239 plat recordation, together with the recorded water rights or shares required, a notice  
240 shall be recorded to run with each lot proposed to be served by a well. The notice  
241 shall, at a minimum, specify that prior to the issuance of a building permit for a structure  
242 intended for human occupancy, a well shall be dug, pump-tested, and approved by  
243 the local health department for all water uses proposed in the subdivision approval  
244 including, but not limited to, applicable secondary water uses and fire suppression  
245 appurtenances. If a well cannot be approved, the building permit shall not be approved  
246 unless another lawfully approved culinary water source can be provided.
- 247 (2) *Secondary water service provider.*
- 248 a. *Existing secondary water service provider.* A connection to an existing secondary  
249 water system is required where a subdivision is situated within 300 feet, multiplied  
250 by the number of lots in the subdivision, of any part of a currently operating  
251 secondary water service provider's system, and the service provider is willing and  
252 able to serve the subdivision. If multiple systems are available, connection to the  
253 system that will yield the best organization of secondary water infrastructure in the  
254 area is required, as determined by the county engineer.
- 255 b. *New secondary water service provider.* Where outside the connection distance of an  
256 existing secondary water service provider and where a private well will not be  
257 proposed or will not yield adequate flow as required by this subsection, a new  
258 secondary water service provider may be created to serve the needs of the  
259 subdivision.
- 260 c. *Improvements required.* Written approval of secondary water infrastructure shall be  
261 submitted to the county from the secondary water service provider and the culinary  
262 water service provider prior to final acceptance of the subdivision's improvements  
263 by the county.
- 264 1. Secondary water infrastructure shall be provided to the furthest extent of the  
265 subdivision and laterals shall be stubbed to each lot and/or irrigable parcel.
- 266 2. Infrastructure shall be designed with sufficient capacity for the system service  
267 area as determined by the secondary water service provider, or as may  
268 otherwise be required by the county engineer.

- 269 3. Unless authorized by the county engineer, secondary water system  
270 infrastructure shall be located outside of the asphalt area of a public street.
- 271 d. *Verification of capability to serve.* The culinary water service provider requiring the  
272 secondary system bears full responsibility for verifying a secondary water system's  
273 capability to satisfy the conditions and requirements of offering the culinary service  
274 to the subdivision.
- 275 1. Final plat approval by the culinary water authority indicates satisfaction of the  
276 proposal for secondary water services.
- 277 2. The culinary water provider is encouraged to secure any financial guarantees  
278 necessary to ensure satisfactory performance from a secondary water provider.  
279 At the county engineer's discretion and when the culinary water provider  
280 declines, the county may require secondary water infrastructure to be a part of  
281 the county's financial guarantee for the subdivision, pursuant to Section 106-4-  
282 3.
- 283 3. As a basis to establish capability to serve, the culinary water service provider or  
284 the county may determine adequacy of a secondary water system's source,  
285 storage, pumping, distribution, and administration.
- 286 i. Source considerations may include diversion structures, source flow  
287 measurement, screening of the water, adequate shares or rights deeded to  
288 the system provider or the county.
- 289 ii. Storage considerations may include adequate volume for daily demands  
290 (which may a week of storage depending upon water turns), chemical  
291 treatment capability for algae and mussels, accounting for evaporation, basin  
292 capable to accommodate groundwater table fluctuations, barrier to minimize  
293 infiltration or exfiltration, fencing for security, and maintenance of water  
294 quality including separation from storm water.
- 295 iii. Pumping considerations may include adequate power, pump capacity and  
296 variability for minimum flows to peak instantaneous flows of the future  
297 system, above-ground shelter, wet well, and ventilation.
- 298 iv. Distribution considerations may include consistent pipe materials, locating  
299 wires, sizing adequate for future peak day flows, service laterals including  
300 meters, draining and filling appurtenances, valves and installation of pipes  
301 only within public rights-of-way for accessibility.
- 302 v. Administration considerations may include ability to provide billing to users,  
303 enforcement of any watering restriction, maintenance ability, contingency  
304 funding for emergency repairs, annual reporting ability to the State Division  
305 of Water Rights, and management of Bluestakes.
- 306 e. *Exactions and denials.* A culinary water service provider shall not use this part to  
307 require an unlawful exaction or an unlawful subdivision denial, pursuant to state law.

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308 Requirements for secondary water shall be reasonable and in accordance with  
309 industry best practices.

310 (3) *Transfer of rights and penalty for removal.* All necessary secondary or irrigation water  
311 rights or shares required for each lot shall be transferred to the secondary water service  
312 provider, if required by the secondary water service provider. Otherwise, the rights or  
313 shares required shall be assigned to the lot or a governing homeowner's association at  
314 or prior to subdivision recordation. Removal or reallocation of required rights or shares  
315 shall constitute a violation of this land use code, with all associated enforcement  
316 measures being at the county's disposal. The county is also authorized to void the  
317 recorded plat or withhold any further land use approvals for the affected lot or lots, as  
318 determined by the Planning Director.

319

320 (n) Reserved. ...

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1 **Title 101 - GENERAL PROVISIONS**

2 ...

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

4 ...

5 *Variance.* The term "variance" means a relaxation, by the board of adjustment, of the  
6 dimensional regulations of the Land Use Code where such action will not be contrary to the public  
7 interest and where, owing to conditions peculiar to the property and not the result of actions or  
8 the situation of the applicant or previous owners, a literal enforcement of the Code would result in  
9 unnecessary and undue hardship, other than an economic nature or self-imposed hardship. A  
10 self-imposed hardship created by a previous owner is considered to run with the land.

11 Water, secondary. The term "secondary water" means water typically used for crop or  
12 landscape irrigation and not usually treated for culinary drinking water purpose.

13 *Yard.* The term "yard" means an open space on a lot, other than a court, unoccupied and  
14 unobstructed from the ground upward by permanently parked vehicles, buildings or structures  
15 except as otherwise provided herein.

16 ...

17 **Title 106 - SUBDIVISIONS**

18 **CHAPTER 1. - GENERAL PROVISIONS**

19 ...

20 **Sec. 106-1-4. - Subdivision application requirements.**

21 (a) *Pre-application meeting required.* Each person who proposes to subdivide land shall confer  
22 with the county planning staff before preparing any plats, charts, or plans in order to become  
23 familiar with the county subdivision requirements and existing general plans and to discuss  
24 the proposed development of the tract. Additional required submittal information will be  
25 identified during the pre-meeting, such as sensitive lands, slope analysis, wetlands, wells,  
26 taxes, state roads, and neighborhood circulation plan.

27 (b) *Subdivision application submittal.* Subdivision applications shall be submitted to the  
28 planning division, by appointment, and shall include:

29 (1) Application form. A completely filled out subdivision application form, signed by the  
30 property owners.

31 (2) Copies of preliminary plan. ~~Five full-size~~ One 24-inch by 36-inch ~~copies~~ copy, and one  
32 ~~reduced size-11-inch~~ by 17-inch ~~copy~~, and one ~~reduced size-8½-inch~~ by 11-inch copy of  
33 ~~a the proposed~~ preliminary plan meeting the requirements listed in this title. This shall also  
34 ~~includes two one 24 inch by 36 36-inch copies-copy~~ of the phasing plan, if applicable. ~~Once~~  
35 ~~all preliminary requirements have been met, two 24 by 36 copies and a one digital copy~~  
36 ~~shall be submitted to the planning division. This requirement shall be met prior to the~~  
37 ~~submittal for final approval.~~

38 (3) Electronic documents. All documents required by this title shall ~~submitted in the~~  
39 ~~subdivision application shall~~ be accompanied by a PDF file of the respective document.



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40 All plans (including but not limited to subdivision plats, improvement drawings,  
41 architectural drawings, phasing plans, etc.), and subsequent submittals and revisions,  
42 shall be accompanied by a ~~full-scale~~full-scale set of PDF files of the respective plans.

43 (4) Statement of culinary water feasibility. A written statement of feasibility, also known as a  
44 "will-serve letter," specifying culinary water provisions for each lot.

45 a. The statement shall come from the ~~county or state~~ culinary water authority pursuant to  
46 UCA § 17-27a-603 as follows:

47 1. The local health department ~~which states~~ for lots proposed to be served by a private  
48 well; or

49 2. An existing culinary water service provider; or

50 3. If the ~~recommendation of~~ culinary water authority is being newly formed, the  
51 statement shall come from the manager of the newly formed water corporation.  
52 The applicant shall also submit a ~~the~~ written notification from the Utah Department  
53 of Environmental Quality indicating their acknowledgement of the new culinary  
54 water authority and the proposed system, and offer any other relevant information  
55 necessary for demonstrating system feasibility.

56 b. The statement from the culinary water authority shall provide:

57 1. An acknowledgment of the number of lots proposed to be served;

58 2. An acknowledgement of all intended uses of the culinary water including, but not  
59 limited to, fire suppression appurtenances or applicable secondary water uses as  
60 provided for in Section 106-4-2;

61 3. The method of culinary water delivery to each applicable proposed lot;

62 4. From where the water rights or shares necessary to serve the lots are proposed to  
63 come;

64 5. Any other requirement expected or necessary to attain the culinary water  
65 authority's approval of the final subdivision plat.

66 (5) Statement of sanitary sewer or septic system feasibility. A written statement of feasibility,  
67 also known as a "will-serve letter," specifying wastewater provisions for each lot.

68 a. The statement shall come from the sanitary sewer authority pursuant to UCA § 17-  
69 27a-603 as follows:

70 1. The local health department ~~regarding-~~ for lots proposed to be served by a septic  
71 system;

72 ~~a. Sanitary sewage disposal;~~

73 ~~b. Culinary water availability; and~~

74 ~~c. A project notification form~~

75 2. An existing sanitary sewer service provider; or

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76 3. If the sanitary sewer authority is being newly formed, the statement shall come  
77 from the body politic or manager of the system. The applicant shall also submit a  
78 written notification from the Utah State Department of Environmental Quality,  
79 ~~Division of Drinking Water,~~ indicating their acknowledgement of the proposed  
80 system, and offer any other relevant information necessary for demonstrating  
81 system feasibility.

82 b. The statement shall provide:

83 1. An acknowledgment of the number of lots proposed to be served;

84 2. The method of wastewater disposal for each applicable proposed lot;

85 3. An assertion that there is sufficient capability for safe wastewater disposal using  
86 the proposed method; and

87 4. Any other requirement expected or necessary to attain the sanitary sewer  
88 authority's approval of the final subdivision plat.

89 (6) ~~An~~ application fee. Full payment of the application fee is required at the time of  
90 application submittal. The payment of a partial application fee, or the submittal of plans  
91 for a pre-submittal review, does not constitute a complete application.

92 ...

93 **Sec. 106-1-8. - Final plat requirements and approval procedure.**

94 (a) ~~—[ Preliminary approval required.—]~~ Until all preliminary requirements outlined in the  
95 agencies' review are met, the subdivision shall not proceed to final approval. Final plat  
96 submittal will not be accepted until the conditions of preliminary approval are met.

97 ...

98 (c) *Final plat requirements.*

99 (1) Digital copies shall be submitted until the county engineer and surveyor give their  
100 approval for a subdivision mylar to be submitted. The final plat shall be a sheet of mylar  
101 with dimensions of 24 by 36 inches and the border line of the plat shall be drawn in heavy  
102 lines leaving a space of a minimum of one-half-inch or a maximum of 1½-inch margin on  
103 all four sides of the sheet. The final plat shall be signed and stamped by a licensed land  
104 surveyor licensed in the state. All lines, dimensions and markings shall be made on the  
105 mylar with permanent ink meeting industry standards. The plat shall be made to a scale  
106 large enough to clearly show all details in any case not smaller than 100 feet to the inch,  
107 unless specified otherwise by the county surveyor, and the workmanship on the finished  
108 drawing shall be legible having a text size of not less than 0.10 of an inch (approximately  
109 3/32 of an inch). The plat shall be signed by all parties mentioned in subsection (c)(1)h of  
110 this section, duly authorized and required to sign and shall contain the following  
111 information:

112 ...

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- 113 h. A signature block conforming to state code and county ordinances shall be included  
114 on the plat for the following:
- 115 1. Description of land included in subdivision;
  - 116 2. Private licensed land surveyor's "certificate of survey";
  - 117 3. Owner's dedication certificate;
  - 118 4. Notary public's acknowledgment;
  - 119 5. County planning commission's certificate of approval, to be signed by the planning  
120 director for the chair;
  - 121 6. County engineer's certificate of approval;
  - 122 7. County attorney's certificate of approval;
  - 123 8. Board of county commissioners' certificate of acceptance;
  - 124 9. County clerk's certificate of attest;
  - 125 10. County surveyor's certificate of approval;
  - 126 11. ~~Weber-Morgan Local Health Department~~ health Department certificate of  
127 approval if required by the local health department;
  - 128 12. Culinary water authority and sanitary sewer authority certificate of approval, if  
129 required by the culinary water authority or sanitary sewer authority.

130 ...

131 **CHAPTER 4. - SUBDIVISION IMPROVEMENTS REQUIRED**

132 ...

133 **Sec. 106-4-2. - Improvements required.**

134 (a) ~~Culinary~~ Water supply.

135 (1) Private well. Unless required otherwise by part two (2) of this subsection 106-4-2(a),  
136 culinary water may be provided by private well.

137 a. Private well capacity assessment. The applicant shall provide the following capacity  
138 assessment verification prior to final plat approval.

139 1. Written verification from the Utah Division of Water Rights that a well permit has  
140 been obtained for each lot proposed to be served by private well.

141 2. Written verification from Weber Basin Water Conservancy District that adequate  
142 shares have been secured for each proposed well, or proof of sufficient culinary  
143 water rights for each proposed well.

144 3. A signed, dated, and stamped written statement from a professional engineer or  
145 professional geologist licensed by the State of Utah.

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146 i. The statement shall attest that a thorough review has been conducted in  
147 accordance with this part and that it is reasonably likely the proposed well will  
148 offer adequate water flow and quality for all uses proposed.

149 ii. The statement shall offer an opinion that the proposed well location is unlikely  
150 to offer unreasonable impact on other wells.

151 iii. The review shall include a study of logs of three or more wells which are closest  
152 to the proposed well and which, wherever possible, are likely to be affected by  
153 similar hydrogeologic conditions as the proposed well.

154 iv. If this statement cannot be made upon review of other wells, a well shall be  
155 drilled and pump-tested from which this review and statement can be offered.  
156 Inability to provide this statement shall result in a denial of the subdivision  
157 unless another lawfully approved culinary water source can be provided.

158 b. *Unapproved well notice.* Except where an approved well exists on a lot at the time of  
159 plat recordation, together with the recorded water rights or shares required, a notice  
160 shall be recorded to run with each lot proposed to be served by a well. The notice  
161 shall, at a minimum, specify that prior to the issuance of a building permit for a structure  
162 intended for human occupancy, a well shall be dug, pump-tested, and approved by  
163 the local health department for all water uses proposed in the subdivision approval  
164 including, but not limited to, applicable secondary water uses and fire suppression  
165 appurtenances. If a well cannot be approved, the building permit shall not be approved  
166 unless another lawfully approved culinary water source can be provided.

167 (2) *Public culinary water service provider.*

168 a. *Existing public culinary water service provider.* A connection to an existing culinary  
169 water system is required where a subdivision is situated within 300 feet, multiplied by  
170 the number of lots in the subdivision, of any part of a currently operating culinary water  
171 service provider's system, and the service provider is willing and able to serve the  
172 subdivision. If multiple systems are available, connection to the system that will yield  
173 the best organization of culinary water infrastructure in the area is required. If conflict  
174 arises in making such a determination, the county engineer shall make the final  
175 determination. Overlapping culinary water infrastructure should be avoided whenever  
176 possible.

177 b. *New public culinary water service provider.* Where outside the connection distance of  
178 an existing culinary water service provider and where a private well will not be  
179 proposed or cannot be approved by the Health Department, a new culinary water  
180 service provider may be created pursuant to state law to serve the needs of the  
181 subdivision.

182 c. *Capacity assessment.* Prior to final plat approval, the applicant shall provide the  
183 county with written capacity assessment. Capacity assessment shall include:

184 1. *Written verification from the public culinary water service provider.* The  
185 assessment shall verify:

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- 186 i. That the system is, or will be at the time the subdivision improvements are  
187 complete, capable of serving the culinary water needs of each applicable  
188 subdivision lot;
- 189 ii. That adequate culinary water flow and culinary water storage is or will be  
190 available at the time the subdivision improvements are complete for all  
191 intended or proposed uses of culinary water including, but not limited to,  
192 applicable secondary water uses and fire suppression appurtenances; and
- 193 iii. The specific details regarding the requirements or conditions for the culinary  
194 service of which the county should be aware during the approval or  
195 construction process.
- 196 2. Evidence that a state construct permit has been secured from the Utah Department  
197 of Environmental Quality's Division of Drinking Water.
- 198 d. Culinary water improvements required. The applicant shall submit to the county  
199 written approval of new culinary water infrastructure from the public culinary water  
200 service provider prior to final acceptance of the subdivision's improvements by the  
201 county.
- 202 1. Culinary water infrastructure shall be provided to the furthest extent of the  
203 subdivision boundary within a public street right of way or a public utility  
204 easement and laterals shall be stubbed to each lot and/or irrigable parcel.
- 205 2. Culinary infrastructure shall be designed with sufficient capacity for the system  
206 service area as determined by the culinary water service provider, or as may  
207 otherwise be required by the county engineer.
- 208 3. Unless authorized by the county engineer, culinary water system infrastructure  
209 shall be located outside of the asphalt area of a public street.
- 210 4. Water lines and fire hydrants shall be operational before building permits are  
211 issued for any structures.
- 212 5. Acceptance of the subdivision's improvements shall not constitute an obligation  
213 to the county for the ownership or operation of the water facilities.
- 214 (3) Transfer of rights and penalty for removal. All necessary culinary water rights or shares  
215 required for each lot shall be transferred to the culinary water service provider, if required  
216 by the culinary water service provider. Otherwise, the rights or shares required shall be  
217 assigned to the lot or a governing homeowner's association at the time of subdivision  
218 recordation. Removal or reallocation of required rights or shares shall constitute a violation  
219 of this land use code, with all associated enforcement measures being at the county's  
220 disposal. The county is also authorized to void the recorded plat or withhold any further  
221 land use approvals for the affected lot or lots, as determined by the Planning Director.

222 ~~(1) Public system.~~

223 ~~a. Where an approved public water supply is reasonably accessible or procurable, the applicant~~  
224 ~~shall install water lines, or shall contract with the local water distributing agency to make the~~

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225 water supply available to each lot within the subdivision, including laterals to the property line  
226 of each lot. Water lines and fire hydrants shall be operational before building permits are  
227 issued for any structures.

228 ~~b. Capacity assessment letter is required prior to final approval from the planning commission.  
229 A construct permit from the Utah State Department of Environmental Quality Division of  
230 Drinking Water for expansion of the water system and water lines serving the subdivision is  
231 required prior to the subdivision receiving final approval from the county commission.~~

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

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

243 ~~a. That a well permit must be obtained;~~

244 ~~b. The time it may take to obtain the permit;~~

245 ~~c. The well must be drilled;~~

246 ~~d. Water quality to be satisfactory; and~~

247 ~~e. Water quantity to be sufficient as required by the Weber County Health Department,  
248 before a building permit can be obtained.~~

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

250 ...

251 (m) Secondary water. When acting as the culinary water authority pursuant to UCA § 17-27a-603,  
252 a culinary water service provider may require that a secondary water system serve some or  
253 all lots within the subdivision as a condition of committing to serve culinary water. The culinary  
254 water service provider shall be responsible for notifying the county, in writing, of this  
255 requirement at the time it commits to serve, along with any other specific requirement applied  
256 to secondary water provisions. Secondary water required under this provision shall comply  
257 with the following:

258 (1) Private well. Unless required otherwise by part two (2) of this Section 106-4-2(m),  
259 secondary water may be provided by private well.

260 a. Capacity assessment. Prior to final plat recording a signed, dated, and stamped written  
261 statement from a professional engineer or professional geologist licensed by the State  
262 of Utah shall be submitted.



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- 263 1. The statement shall attest that a thorough review has been conducted in  
264 accordance with this part and that it is reasonably likely the proposed well will offer  
265 adequate water flow and quality for all uses proposed.
- 266 2. The statement shall offer an opinion that the proposed well location is unlikely to  
267 offer unreasonable impact on other wells.
- 268 3. The review shall include a study of logs of three or more wells which are closest to  
269 the proposed well and which, wherever possible, are likely to be affected by similar  
270 hydrogeologic conditions as the proposed well.
- 271 4. If this statement cannot be made upon review of other wells, a well shall be drilled  
272 and pump-tested from which this review and statement can be offered. Inability to  
273 provide this statement shall result in a denial of the subdivision unless another  
274 lawfully approved secondary water source can be provided.
- 275 b. *Unapproved well notice.* Except where an approved well exists on a lot at the time of  
276 plat recordation, together with the recorded water rights or shares required, a notice  
277 shall be recorded to run with each lot proposed to be served by a well. The notice  
278 shall, at a minimum, specify that prior to the issuance of a building permit for a structure  
279 intended for human occupancy, a well shall be dug, pump-tested, and approved by  
280 the local health department for all water uses proposed in the subdivision approval  
281 including, but not limited to, applicable secondary water uses and fire suppression  
282 appurtenances. If a well cannot be approved, the building permit shall not be approved  
283 unless another lawfully approved culinary water source can be provided.
- 284 (2) *Secondary water service provider.*
- 285 a. *Existing secondary water service provider.* A connection to an existing secondary  
286 water system is required where a subdivision is situated within 300 feet, multiplied  
287 by the number of lots in the subdivision, of any part of a currently operating  
288 secondary water service provider's system, and the service provider is willing and  
289 able to serve the subdivision. If multiple systems are available, connection to the  
290 system that will yield the best organization of secondary water infrastructure in the  
291 area is required, as determined by the county engineer.
- 292 b. *New secondary water service provider.* Where outside the connection distance of an  
293 existing secondary water service provider and where a private well will not be  
294 proposed or will not yield adequate flow as required by this subsection, a new  
295 secondary water service provider may be created to serve the needs of the  
296 subdivision.
- 297 c. *Improvements required.* Written approval of secondary water infrastructure shall be  
298 submitted to the county from the secondary water service provider and the culinary  
299 water service provider prior to final acceptance of the subdivision's improvements  
300 by the county.
- 301 1. *Secondary water infrastructure shall be provided to the furthest extent of the*  
302 *subdivision and laterals shall be stubbed to each lot and/or irrigable parcel.*

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- 303           2. Infrastructure shall be designed with sufficient capacity for the system service  
304           area as determined by the secondary water service provider, or as may  
305           otherwise be required by the county engineer.
- 306           3. Unless authorized by the county engineer, secondary water system  
307           infrastructure shall be located outside of the asphalt area of a public street.
- 308           d. Verification of capability to serve. The culinary water service provider requiring the  
309           secondary system bears full responsibility for verifying a secondary water system's  
310           capability to satisfy the conditions and requirements of offering the culinary service  
311           to the subdivision.
- 312           1. Final plat approval by the culinary water authority indicates satisfaction of the  
313           proposal for secondary water services.
- 314           2. The culinary water provider is encouraged to secure any financial guarantees  
315           necessary to ensure satisfactory performance from a secondary water provider.  
316           At the county engineer's discretion and when the culinary water provider  
317           declines, the county may require secondary water infrastructure to be a part of  
318           the county's financial guarantee for the subdivision, pursuant to Section 106-4-  
319           3.
- 320           3. As a basis to establish capability to serve, the culinary water service provider or  
321           the county may determine adequacy of a secondary water system's source,  
322           storage, pumping, distribution, and administration.
- 323           i. Source considerations may include diversion structures, source flow  
324           measurement, screening of the water, adequate shares or rights deeded to  
325           the system provider or the county.
- 326           ii. Storage considerations may include adequate volume for daily demands  
327           (which may a week of storage depending upon water turns), chemical  
328           treatment capability for algae and mussels, accounting for evaporation, basin  
329           capable to accommodate groundwater table fluctuations, barrier to minimize  
330           infiltration or exfiltration, fencing for security, and maintenance of water  
331           quality including separation from storm water.
- 332           iii. Pumping considerations may include adequate power, pump capacity and  
333           variability for minimum flows to peak instantaneous flows of the future  
334           system, above-ground shelter, wet well, and ventilation.
- 335           iv. Distribution considerations may include consistent pipe materials, locating  
336           wires, sizing adequate for future peak day flows, service laterals including  
337           meters, draining and filling appurtenances, valves and installation of pipes  
338           only within public rights-of-way for accessibility.
- 339           v. Administration considerations may include ability to provide billing to users,  
340           enforcement of any watering restriction, maintenance ability, contingency  
341           funding for emergency repairs, annual reporting ability to the State Division  
342           of Water Rights, and management of Bluestakes.

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343 e. Exactions and denials. A culinary water service provider shall not use this part to  
344 require an unlawful exaction or an unlawful subdivision denial, pursuant to state law.  
345 Requirements for secondary water shall be reasonable and in accordance with  
346 industry best practices.

347 (3) Transfer of rights and penalty for removal. All necessary secondary or irrigation water  
348 rights or shares required for each lot shall be transferred to the secondary water service  
349 provider, if required by the secondary water service provider. Otherwise, the rights or  
350 shares required shall be assigned to the lot or a governing homeowner's association at  
351 or prior to subdivision recordation. Removal or reallocation of required rights or shares  
352 shall constitute a violation of this land use code, with all associated enforcement  
353 measures being at the county's disposal. The county is also authorized to void the  
354 recorded plat or withhold any further land use approvals for the affected lot or lots, as  
355 determined by the Planning Director.

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

Commented [E1]: Moved to definitions section.

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

Commented [E2]: Moved to definitions section.

378 ~~(1) The applicant shall form a lot owners association as a non-profit corporation for owning the~~  
379 ~~irrigation water rights or stock for the lots in the subdivision. The applicant shall transfer to~~  
380 ~~the association at the time of subdivision recording, sufficient rights or stock as required by~~  
381 ~~the irrigation agency for the number of lots in the subdivision. The articles of incorporation of~~  
382 ~~the association shall provide, in addition to the association owning the required water rights~~  
383 ~~or shares on behalf of each and every lot owner, that each lot owner shall automatically be a~~  
384 ~~member of the association, is entitled to a pro-rata share of irrigation water, is subject to a~~  
385 ~~water distribution schedule and procedure established by the association, and is responsible~~

Commented [CE23]: These requirements simplified and moved to part (3) in the previous section.

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386 ~~for his share of the costs of ditch and system maintenance and assessments as made by the~~  
387 ~~association from time to time; or~~

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

396 ...

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*Text Amendment*

## Weber County Zoning Map Amendment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted	Received By (Office Use)	Added to Map (Office Use)
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### Property Owner Contact Information

Name of Property Owner(s) <i>Hooper Irrigation Co.</i>		Mailing Address of Property Owner(s)
Phone <i>801-985-8429</i>	Fax	
Email Address <i>Hooperirrigationco@msn.com</i>		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

### Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) <i>Greg Seegwiler</i>		Mailing Address of Authorized Person
Phone <i>801-499-9977</i>	Fax	
Email Address <i>gseegwiler@job.com</i>		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

### Property Information

Project Name		Current Zoning	Proposed Zoning
Approximate Address		Land Serial Number(s)	
Total Acreage	Current Use	Proposed Use	

### Project Narrative

Describing the project vision.

*Text amendment to the Subdivision Code Sec 106\*4-2.  
 for secondary water systems within 300' or 300'x lot numbers  
 from an existing system.*





J-U-B ENGINEERS, INC.

J-U-B COMPANIES



THE LANGDON GROUP



GATEWAY MAPPING INC.

## MEMORANDUM

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**DATE:** April 2, 2019  
**TO:** Weber County Planning and Engineering  
**CC:** Hooper Irrigation Company  
**FROM:** Greg Seegmiller, PE  
**SUBJECT:** Secondary Water Systems in Weber County; J-U-B Project 55-19-009-000

---

In reviewing the Weber County Ordinance and in meeting with Weber County Planning and Engineering, concerns were raised about developers installing substandard secondary water systems that compete with larger systems. There are some reasons we would like to have Weber County consider when approving developments that want to do their own irrigation system. These benefits include:

1. **Treatment** - A larger system has the ability to treat Algae and Mussels that get into the water. Smaller systems don't have the same means.
2. **Source Water** - The water comes to the properties every 7.5 days. Until there is a full stream of water needed for a system (3cfs), this means that someone will need to be up sometimes in the middle of the night to turn on the water. That equates to around 500 connections.
3. **HOA Management** – Smaller systems are typically ran by HOAs. HOAs are difficult to maintain for extended periods of time and often return to the Governing Jurisdiction. There is a critical mass to starting one up and keeping it running.
4. **Storage Requirements** - The water storage for the development must be equal to a full week of usage in the peak of the summer.
5. **Evaporation** – larger system are able to use deeper reservoirs and keep them fenced and safe from intrusion and minimize evaporation.
6. **Environmentally Conscious** - Hooper Irrigation has started discussion with some of the Cities/Communities (Hooper Water Improvement District, and Taylor West Weber Improvement District) to return their Water Rights back to the land. The State allows this to be done in an effort to maximize the resource of water. Due to the tertiary treatment cost, this can't be done if several small systems are involved. That resource will be wasted if smaller systems are allowed.
7. **Recent State Legislation** – The State is starting to push for meters on secondary water in an effort to conserve. A larger system has the ability to not only put into place the meter reading equipment but also make that information available to the users. As other legislation come, It makes sense to work with one system rather than multiple similar to Culinary Water systems.
8. **Master Planning**- Hooper Irrigation has sized water reservoirs, pumps, and distribution lines for a certain areas and capacities. If this area is significantly reduced then our sizing is wrong and our reservoirs, pumps and pipes are less efficient.



9. **Loan Repayment** – our loans with the State Board of Water Resources for building the system assume that our pre-defined service area will connect as the County grows. These connection fees are used to pay back the loans. If smaller systems are allowed, we run the risk of default.
10. **Blue Staking** – if two secondary systems are in the same area we run the risk of contractors feeling confident that blue stakes are done once they see purple in the area, and then hitting the other pipe.
11. **Confusion in Maintenance** - if a leak surfaces, which utility is it, Culinary, Roy Secondary, or Hooper Secondary? When drains are open in the fall, which drain belongs to which system? Which valve shuts off which main?
12. **System Courtesy** – Hooper Irrigation Company currently has or is working on Boundary Agreements with Weber Basin Water, Davis and Weber Canal Company, and Roy Water Conservancy District for the reasons stated above. These boundary agreements has worked well in the past for the reasons stated above. If smaller systems are allowed, we would request that the county determine where those systems would be permitted so we can plan accordingly.

We request that Weber County modify their ordinance to require subdivisions to connect to existing secondary water systems. Please contact me if you have any questions.

*The Weber County ordinance currently reads as follows:*

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

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

*We propose that the following text be added to the above paragraph (m):*

The provider's requirements and standards shall consider and provide for Source, Storage, Pumping, Distribution and Administration. Source considerations shall include: diversion structures, source flow measurement, screening of the water, adequate shares or rights deeded to the system provider or the county. Storage considerations shall include: adequate volume for daily demands (which may a week of storage depending upon water turns), chemical treatment capability for algae and mussels, accounting for evaporation, basin capable to accommodate groundwater table fluctuations, barrier to minimize infiltration or exfiltration, fencing for security, and maintenance of water quality including separation from storm water. Pumping considerations shall include: Adequate power, pump capacity and variability for minimum flows to peak instantaneous flows of the future system, above-ground shelter, wet well, and ventilation. Distribution considerations shall include: consistent pipe materials, locating wires, sizing adequate for future peak day flows, service laterals including meters, draining and filling appurtenances, valves and installation of pipes only within public rights-of-way for accessibility. Administration considerations shall include: ability to provide billing to users, enforcement of any watering restriction, maintenance ability, contingency funding for emergency repairs, annual reporting ability to the State Division of Water Rights, and management of Bluestakes.

Where any part of a Development situated within the unincorporated areas of the county is within 300 feet of any part of a Secondary Water System currently operating, or where the lot is close enough in the determination of the County Engineer to require a connection, or when the development is within the distance calculated by the number of lots in the development (including future phases) multiplied by 300 feet, the applicant shall connect to the Secondary Water System. Said system shall have a declared service area boundary incorporating the

development or ability to expand its boundaries. The development shall provide adequate pipe lines to the furthest extent of the frontages of the development and laterals to each lot and/or irrigable parcel. Secondary Water pipes and appurtenances shall be approved by the Secondary Water Company, and connections shall comply with the Standards of the company.

Where the construction of a Secondary water transmission line is required to serve the development, the applicant shall be required to construct transmission lines in accordance with plans and specifications approved by the county and secondary water company. The new transmission line shall be designed with sufficient capacity for the system service area as determined by the County Engineer and/or the secondary water company. The development shall be required to produce adequate shares/rights, and pay other connection or impact fees in accordance with the connection policy of the secondary water company. The applicant may be entitled to reimbursement for the extension and oversize costs through Oversize Agreements, Pioneering Agreements, Development Agreements or Impact Fees within the service area as applicable by the provider.



# Weber County Corporation

Weber County  
2380 Washington Blvd  
Ogden UT 84401

Planning Commission Staff Report -- Culinary and Secondary Water Provisions Page 30 of 30  
Exhibit C: Application and Applicant Narrative Page 6 of 6

<b>Customer Receipt</b>	
Receipt Number	<b>104447</b>

<b>Receipt Date</b>
<b>04/10/19</b>

Received From:  
Hooper Irrigation Co

Time: 14:10  
Clerk: amorby

Description	Comment	Amount
ZONING FEES	Zoning Map	\$600.00

Payment Type	Quantity	Ref	Amount
CHECK		6634	

AMT TENDERED: \$600.00  
 AMT APPLIED: \$600.00  
 CHANGE: \$0.00