



OGDEN VALLEY PLANNING COMMISSION

WORK SESSION AGENDA

April 03, 2018
5:00 p.m.

2. Petitions, Applications and Public Hearings
- 2.1. Administrative Items
 - a. New Business
 1. ZTA 2017-15 Consideration and action to the modifications to the Cluster Subdivision ordinance to amend open space requirements and provide clarifications.
 2. ZTA 2017-09 Consideration and action to the modifications to the definition of "Height of Building" and additional clarification regarding standards and regulations governing the height of a building.
3. Public Comment for Items not on the Agenda:
4. Remarks from Planning Commissioners:
5. Planning Director Report:
6. Remarks from Legal Counsel:
7. Adjournment

The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah. Work Session will be held in the Breakout Room. A pre-meeting will be held in Room 108 beginning at 4:30 p.m. to discuss agenda items. No decisions are made in this meeting



In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791

Planning Commissioners,

I suppose better late than ever. Perhaps the fact I am sending this on a Saturday will get me a little sympathy for being late getting it to you. Completing the cluster code was challenging.

A couple of things to note:

- The attached ordinance will be reviewed in Tuesday's meeting as a public hearing, not a work session. The County Commission wants their turn working on this ordinance faster than I anticipated.
- I focused all my time and effort on completing the attached draft and put no time into an explanatory staff report. I hope the code itself is clear enough without the need for detail of a staff report.
- Because of the County Commission's desire to get this on their agenda I am asking any of you that can to review the attached version, make note of your specific questions in advance of the meeting and send them my way Monday or early Tuesday so I can better prepare for an expedited conversation.
- I will be available Monday and most of Tuesday by phone or email for discussion if anyone would like to help me get a jump start on questions this version might stimulate.
- The entire code except the bonus section has had legal review. There may still be a little more modification for legal purposes in other sections that were revised as a result of the legal review, but they should be fairly insignificant.
- After the Ogden Valley PC review it will once more be sent to Western Weber PC for their final review. If OVPC can find the attachment, with "lite" revisions if needed, acceptable, then any change the WWPC desires will be presented as specific to them when the code gets to the Commission (unless it's an insignificant administrative clarification). If you think it's still a far cry off feel free to reject it (for now) and I will modify it to only apply to the Western Weber Planning Area and we can continue to retool for the Ogden Valley if needed.

Also attached is the height ordinance and cell tower modifications.

Respectfully,

CHARLIE EWERT, AICP

PRINCIPAL PLANNER

WEBER COUNTY PLANNING DIVISION

2380 WASHINGTON BLVD, SUITE 240

OGDEN, UTAH, 84401-1473

801-399-8763 (OFFICE)



1 Title 101 – GENERAL PROVISIONS

2 ...

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

4 ...

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

Commented [E1]: Review this definition elsewhere in the land use code to verify consistency.

18 ...

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

Commented [E2]: This definition is about synonymous with "net developable acreage" below. Deleting it and using the other. This ordinance amendment includes areas of the code that uses this term and modifies it to use "net developable acreage."

22 ...

23 ~~Acreage, gross. The term "acreage, gross acreage" means a total of all (nondevelopable and~~
24 ~~developable) land area acreage that lies within a project boundary.~~

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

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

41 ...

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

45 ...

46 ~~Adjusted gross acreage. See "acreage, adjusted gross."~~

47 ...

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

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

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

61 ...

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

67 ...

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

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

75

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

77 ...

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

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

83 ...

84 *Density base.* The term "base density" means the number of units allowed in an area. For
85 development types that permit a reduced lot area than otherwise provided by the zone, the base density
86 shall be calculated as the net developable acreage, as defined herein, then divided by the minimum lot
87 area of the zone. This calculation can be observed by this formula: ((net developable acreage) /
88 (minimum lot area)) = base density. The result shall be rounded down to the nearest whole lot.

89 ...

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

92 ...

93 [Gross Acreage. See "acreage, gross."](#)

94 ...

95 [Net developable acreage. See "acreage, net developable."](#)

96 ...

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

101 **Title 104 - ZONES**

102 ...

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

104 ...

Commented [E3]: This is in the DRR-1 Zone.

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

117

118 ...

119 **Title 108 - STANDARDS**

120 ...

121 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

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

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

- 125 (1) are designed and arranged in a manner that considers, gives deference to, and ultimately protects
126 natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally productive
127 lands;
- 128 (2) offer predictable support and encouragement in agricultural areas for a wide variety of long-term
129 agricultural operations on open space parcels;
- 130 (3) benefit those that create cluster subdivisions by offering an inherent gain in the form of reduced
131 infrastructure costs and the possibility for an increase in residential density in the Western Weber
132 Planning Area;
- 133 (4) benefit the residents of Weber County by promoting public welfare through the reduction of long-
134 term infrastructure maintenance costs; and
- 135 (5) permanently preserve the county's functional open spaces, picturesque landscapes, and rural
136 character.

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

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

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

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

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

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

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

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

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

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

170 (1) Submission for preliminary cluster subdivision approval. A submission for preliminary cluster
171 subdivision approval shall:

172 a. conform to the endorsed sketch plan;

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

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

Commented [E4]: Reference

175 (2) *Submission for final cluster subdivision approval.* A submission for final cluster subdivision
176 approval shall conform to the approval of the preliminary cluster subdivision approval and comply
177 with all applicable final plat requirements of Title 106. If applicable, submission shall also include
178 final ~~c~~Conditions, ~~c~~Covenants, and ~~r~~Restrictions or ~~a~~ hHomeowner's ~~a~~ Association ~~d~~ Declaration
179 that clearly explain the maintenance method for each common area parcel, as required by this
180 chapter or any condition of preliminary cluster subdivision approval. Submission shall also include
181 drafts of any other relevant instrument required for the execution of applicable provisions of this
182 Land Use Code.
183

~~(d) Subdivision phasing time limitations. A cluster subdivision may be phased. The entire parcel shall be presented for preliminary approval with a phasing plan. Despite the provisions of Section 106-4-7, a cluster subdivision shall comply with the following:~~

~~(1) Preliminary approval constitutes approval of the phasing plan. Each phase shall include sufficient open space and any approved amenities in a manner that ensures if other phases do not occur the requirements herein are still met.~~

~~(2) Preliminary approval expires if the first phase is not recorded within 12 months.~~

~~(3) Additional phases shall be recorded within 24 months of the previous phase, however, preliminary approval expires if the last phase is not recorded within six years.~~

~~(4) Preliminary approval may be extended by the Planning Director provided the preliminary plat still complies with all current standards, and provided that the approval procedure has not changed in a manner that would have affected the original outcome.~~

~~(5) Any subdivision that has received preliminary or final approval that has become nonconforming in any manner due to changes in applicable ordinances shall be allowed to retain the density which was most recently approved under the former ordinance, provided that the originally approved phasing plan is followed and the time limitations for preliminary and final approval are met.~~

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

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

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

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

Commented [c5]: Reference
Commented [c6]: Reference

(b2) Street configuration. Streets shall have logical and efficient connections, with intersection distances no less than provided in Section 106-2-3, and shall generally follow existing street grid design. Section line streets are mandatory and shall not be waived. When practicable, ~~section lines and~~ quarter section lines shall denote the general location of other through streets. If current parcel configuration does not make this practicable, a through-street, or stubbed-street that will be a future through-street, shall be located as close to these lines as otherwise reasonably possible. ~~The planning commission may waive this requirement for the following:~~

(1) a- The planning commission may waive the quarter section-line street is requirement for the following reasons:

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

- 233 b. agricultural open space that is, or would otherwise be, permanently preserved as provided
234 in this land use code would be interrupted by the street in a manner that creates a hardship
235 for crop production.

236 (2)e. In allowing a waiver under this subsection the planning commission may require the street to be
237 placed in another location to offer optimal compensation for the lack of the connection required
238 herein. No waiver shall be granted for section line roads.

239 (c3) Pathways. In lieu of a sidewalk on both sides of the street, as required by 106-4-2(f), a ten foot wide
240 asphalt pathway may be allowed on one side of the street. If only developing a half width street, where
241 otherwise allowed by this Land Use Code, the pathway shall be located on that side; otherwise,
242 preference shall be given to the side that could best support pathway connectivity based on other
243 factors such as existing or planned future pathways in the vicinity ~~and based on the least~~ and potential
244 pedestrian conflicts.

245 (1) Pathway and sidewalk layout shall be designed in a manner that prioritizes efficiency of non-
246 motorized modes of transportation. The pathway or sidewalk infrastructure layout shall be such
247 that at any given point along a street within a cluster subdivision there shall be a route or
248 combination of routes available that offer ingress to and egress from the given point to the
249 exterior subdivision boundary in at least three different cardinal directions. This shall be
250 determined with a straight line from the given point to the point where the pathway or sidewalk
251 route meets the edge of the subdivision boundary. General intercardinal or secondary
252 intercardinal directions may be used to make this determination provided the pathway or
253 sidewalk system offers egress on at least three generally different or opposing sides of the
254 subdivision's exterior boundary. Each of these routes shall render a walking distance that is
255 shorter than twice the linear distance from the given point to the point on the route at the exterior
256 subdivision boundary, using the same straight line determination found herein.

257 (2) Pathway and sidewalk layout shall provide for the continuation of existing pathways or sidewalks
258 from adjacent developed areas and for the continuation of new pathways or sidewalks to
259 adjacent undeveloped areas. Pathway and sidewalk arrangement shall not cause any
260 unnecessary hardship for creating convenient and efficient access to future adjoining
261 developments. A subdivision located adjacent to a previously stubbed pathway shall make a
262 connection to that stub using the shortest pathway distance reasonably possible.

263 (3) If a pathway does not intersect with another pathway, sidewalk or street within 500 linear feet, as
264 measured along the actual alignment of the pathway, but another pathway, sidewalk, or street
265 exists within 500 feet of any point of the pathway, or the same pathway exists within 500 feet by
266 looping back on itself, as measured using a straight line, then a connection shall be made from
267 the point of the first pathway to the other pathway, sidewalk, or street using the shortest pathway
268 distance reasonably possible. This may require a pathway between lots or through open spaces.

269 (4) In an agricultural zone, pathways in open space areas greater than five acres shall be located as
270 close to the outer boundaries of the open space area as reasonably possible so as not to disrupt
271 the contiguity of the open space area. ~~In the event street configuration does not yield an efficient~~
272 ~~pedestrian connection to nearby rights-of-way outside the subdivision, pathways are required to~~
273 ~~connect to adjacent abutting public rights-of-way or stub into adjacent parcels in the direction of~~
274 ~~these rights-of-way.~~

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

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

278 1. environmental constraints exist that render the connection unreasonable and
279 unnecessary; or

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

Commented [c7]: Reference

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

Sec. 108-3-5. - Open space preservation plan ~~and development standards.~~

(a) *Open space preservation plan procedure.*

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

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

Commented [c8]: Need to create new fee for OS plan amendments.

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

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

(2) An open space site plan that:

a. identifies the open space parcel ownership types specified in (c)(59) of this section;

b. identifies each proposed ownership type ~~shall be identified~~ with a unique color;

c. ~~and shows~~ the locations of existing and proposed future structures and other open space amenities;

Commented [c9]: Check reference

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

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

~~c. For open space that will be an individually owned preservation parcel whereon a building will be located, the site plan shall identify a locatable building envelope, as defined in Section 401-1-7, within which all existing and future buildings shall be located.~~

Commented [c10]: Reference

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

~~(4) A written explanation of the proposed method of maintenance of all open space parcels. This may be included in the written narrative. However, an open space plan with a common area parcel or parcels shall be submitted with proposed Conditions, Covenants, and Restrictions or Homeowner's Association Declaration that clearly explains the maintenance method for each~~

330 common area parcel. At a minimum, the document shall explain vegetation grooming practices,
 331 weed mitigation, and refuse disposal.

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

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

338 (1) *Minimum required open space area.* ~~Unless more is required to gain additional density, as
 339 provided in XXX, the minimum percentage of a cluster subdivision's adjusted gross acreage, as
 340 defined in Section 101-1-7, shall be preserved as open space. The minimum open space areas
 341 are as follows:~~ A cluster subdivision requires a minimum percentage of its net developable
 342 acreage, as defined in Section 101-1-7, to be preserved as open space, as follows:

Commented [c11]: Reference

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

343
 344 ~~a. In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall be
 345 preserved as open space.~~

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

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

351 ~~d. In all other zones where a cluster subdivision is an allowed development type a minimum of
 352 30 percent of a cluster subdivision shall be preserved as open space.~~

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

Commented [c12]: Reference

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

367 a. By creating parcels of a sufficient size and configuration to support large-scale crop-producing
 368 operations. The area or areas of the subdivision that contains prime agricultural land, as

369 defined by Section 101-1-7, shall first and foremost be used to satisfy the open space
370 requirements of this chapter. Only then may any portion of the prime agricultural land be used
371 for other development purposes.

372 b. Open space parcels shall be organized into one contiguous open space area, and be of a
373 sufficient size and configuration that can easily sustain, support, and encourage a variety of
374 large-scale crop-producing operations and any related large equipment commonly used to
375 support them. Contiguity may only be interrupted if preservation of long-term agricultural
376 opportunities is best accomplished by allowing the interruption. The applicant bears the
377 burden of proving this based on soil sampling, irrigation capabilities, parcel boundary
378 configuration, and industry best practices. Contiguity may be interrupted for the purpose of
379 preserving or conserving multiple and noncontiguous areas valuable for preservation or
380 conservation as specified in part (2) of this subsection, or to avoid areas that are not prime
381 agricultural land.

Commented [c13]: Reference

382 ca. In order to encourage a variety of large-scale crop-producing operations in the future, The
383 exterior boundary of a contiguous open space area that is intended to satisfy the open space
384 requirements of this chapter shall be configured so a fifty-foot-wide farm implement can reach
385 all parts of the area with three or more passes or turns. Generally, this requires the area to be
386 at least 450 wide in any direction at any given point to be considered contiguous. the distance
387 between any point of roughly paralleling lines of the exterior boundary of any contiguous open
388 space area shall be no less than 450 feet. This three turn standard may be reduced by the
389 planning commission for portions of the parcel affected by the following:

Commented [c14]: 450x450 = 4.6 acres. This width will allow three turns for a large combine.

390 1i. The configuration of the existing exterior boundary of the proposed subdivision makes it
391 impossible;

392 2ii. A street required by Section 108-3-4 constrains the width of the parcel or bisects what
393 would otherwise be one contiguous open space area if the street did not exist; or

394 3iii. Natural features, or permanent man-made improvements onsite that cannot be moved or
395 realigned, cause an interruption to crop producing capabilities.

396 b. Open space parcels form a contiguous area if each open space parcel shares a common
397 boundary line that is no less than 100 linear feet or lies directly across a street right-of-way,
398 or other approved access, from another open space parcel, with the common boundaries
399 shared with the street right-of-way being no less than 100 linear feet.

400 de. This does not apply to parcels Open space area necessary to meet the requirements of part
401 (4) or (5) of this subsection, or open space areas never previously used for crop production
402 that currently contain areas valuable for preservation or conservation as specified in part (2)
403 of this subsection may be exempt from this part provided they comply with those applicable
404 parts.

Commented [c15]: Reference

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

Commented [c16]: Reference

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

- 417
418
419
- a. Lands that can be mitigated such as floodplain and wetlands are considered developable for the purpose of calculating ~~adjusted-gross~~net developable acreage, as defined in Section 101-1-7.
- 420
421
422
423
424
- b. ~~A Floodway~~ within river corridors, lakes, ~~and-or~~ naturally occurring pond areas, which ~~are~~is ~~acreage unsuitable for development, as defined in Section 101-1-7, not developable~~ but ~~are~~is offered as a community amenity on an open space parcel with public access and a blanket public access easement, shall receive 25 percent of the undevelopable acreage credited to the ~~adjusted-gross~~net developable acreage calculation for the development.
- 425
426
- c. Regardless of developability, the following areas shall be located within a cluster subdivision's open space area:
- 427
428
429
1. areas designated as floodplain, as defined by the Federal Emergency Management Agency or other qualified professional determined appropriate by the county engineer; and
- 430
431
2. rivers and streams, with and including their designated river or stream corridor setbacks, as defined by the Weber County Land Use Code.
- 432
433
- (6) *Open space parcel area.* The minimum area for an open space parcel located within a cluster subdivision is as follows:
- 434
435
- a. *Common area.* An open space parcel designated as common area is not subject to minimum area requirements.
- 436
437
- b. *Park area.* An open space parcel conveyed to a local park district shall be of a sufficient size to adequately accommodate park infrastructure, amenities, and parking.
- 438
439
440
441
- c. *Individually owned open space parcel area.* An open space parcel designated as an individually owned preservation parcel shall contain an area of not less than five acres and shall be part of a contiguous area of open space consisting of not less than ten acres in total; and shall be in compliance with the following:
- 442
443
1. The ten acre minimum contiguous area does not need to be platted in the same subdivision.
- 444
445
2. Each individually owned open space parcel shall be provided clear and perpetual legal access from a public or private street right of way.
- 446
447
448
449
450
451
452
3. Drainage detention or retention facilities may be located on an individually owned preservation parcel and count toward the subdivision's overall open space area, but the acreage of the facility shall not be included as part of the parcel's agricultural use, and the acreage of the facility shall be in addition to, not a part of, the minimum parcel area requirement. ~~acreage of that facility shall be reduced from the minimum required acreage of the individually owned preservation parcel, and shall not be included as useful agricultural acreage in the open space plan.~~
- 453
454
455
- d. *Estate lot area.* Up to eighty percent of ~~a lot of 5.25 acres or greater~~an estate lot, as defined in Section 101-1-7, may count towards the open space acreage requirement provided the following standards are applied:
- 456
457
458
1. The area of the lot designated as open space shall contain an area of not less than five acres and shall be part of a contiguous area of open space consisting of not less than ten acres in total.;
- 459
460
461
462
2. The estate lot shall contain a survey-locatable building envelope on the recorded plat that shares a common boundary with a neighboring residential lot, or in the case of a neighboring estate ~~parcel~~lot, shares a common boundary with the neighboring estate ~~parcel's~~lot's building envelope; ~~and.~~
- 463
464
- (7) *Parcel width, frontage, and access.* Open space parcels located within a cluster subdivision are not subject to frontage requirements and do not have a minimum width standard. Section 106-2-

465 4(c) notwithstanding, all open space parcels without street frontage shall be provided an access
466 easement, recordable at the time of plat recordation, across other parcels and connecting to a
467 public or private street.

Commented [c17]: Reference

Commented [c18]: Adding an access requirement.

468 (8) Parcel coverage.

469 a. Coverage of common area or open space parcels under five acres by any roofed structures
470 or any structures/facility or facilities that requires a building permit shall not exceed ten
471 percent of the total parcel area.

472 b. Coverage of individually owned preservation parcels by roofed structures or any
473 structures/facility that requires a building permit shall not exceed two and a half percent of
474 the total parcel area.

Commented [c19]: Current code lists this as 5%.

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

478 (9) Open space lot or parcel ownership.

479 a. Common area parcel. An open space parcel ~~dedicated as that is~~ common area shall be
480 commonly owned by an appropriate homeowner's association established under U.C.A.
481 1953, § 57-8a-101 et seq., the Community Association Act.

482 b. Park parcel. An open space parcel may be ~~conveyed to owned by~~ a local park district, ~~as~~
483 ~~approved by the park district.~~

484 c. Individually owned open space parcel. An open space parcel may be owned as an
485 individually owned preservation parcel by any person, regardless of whether the person
486 owns a residential lot within the subdivision. In order to keep an individually owned
487 preservation parcel from becoming uncondusive to multiple-acreage preservation uses, an
488 individually owned preservation parcel shall not be sectioned into sub-areas less than five
489 acres by fencing or other physical barriers ~~unless the sectioning is . Pasture ground~~ intended
490 for the rotation of grazing animals ~~shall be exempt~~ provided consistent rotation occurs ~~for~~
491 ~~the purpose of vegetation regrowth~~. The planning commission may modify this requirement
492 for uses that support the longevity of the preservation, maintenance, and large-acreage use
493 of the parcel.

494 d. Estate ~~parcel/lot~~. An estate ~~parcel/lot, as defined in Section 101-1-7, of 6-25 acres or greater~~
495 may be owned by any person. In order to keep an ~~individually owned preservation estate~~
496 parcel from becoming uncondusive to multiple-acreage preservation uses, the preserved
497 open space area shall not be sectioned into sub-areas less than five acres by fencing or
498 other physical barriers ~~unless the sectioning is . Pasture ground~~ intended for the rotation of
499 grazing animals ~~shall be exempt~~ provided consistent rotation occurs ~~for the purpose of~~
500 ~~vegetation regrowth~~. The planning commission may modify this requirement for uses that
501 support the longevity of the preservation, maintenance, and large-acreage use of the parcel.

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

505 (e) Maintenance. The open space parcel owner, whether an individual or an association, shall use,
506 manage, and maintain the owner's parcel in a manner that is consistent with an approved open space
507 preservation plan ~~and or~~ the agriculture, forest, or other type of preservation easement executed under
508 subsection (4f).

509 (f) Preservation.

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

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

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

514 (3) An agreement, in a form acceptable to the County Attorney, shall be recorded with the final plat
515 that details the open space preservation plan and any related conditions of approval necessary
516 to execute the open space preservation plan. The approved site plan shall be included in the
517 agreement. If the plat recordation is also the means of conveyance of any open space parcel, the
518 agreement shall also specify the name and tax notification mailing address if the new owner.

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

522 (5) If a cluster subdivision contains an individually owned preservation parcel or estate lot with an
523 open space area, the applicant shall:

- 524 a. identify all open space preservation areas on the final plat with a unique hatch or shading;
- 525 b. further identify each individually owned preservation parcel with a unique identifying letter;
- 526 c. for an estate lot, delineate on the plat with survey locatable bearings and calls the area of
527 the lot being preserved as open space. ~~shall be delineated with survey locatable bearings~~
528 ~~and calls.~~

529 (7g) The planning commission may impose any additional conditions and restrictions it deems necessary
530 to reasonably ensure maintenance of the open space and adherence to the open space preservation
531 plan. Such conditions may include a plan for the disposition or re-use of the open space property if
532 the open space is not maintained in the manner agreed upon or is abandoned by the owners.

533 (h) A violation of the open space plan or any associate conditions or restrictions, shall constitute a violation
534 of this Land Use Code.

535 **Sec. 108-3-6. – Reserved.**

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

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

- 541 (1) Lot area. Unless otherwise regulated by the Weber-Morgan Health Department, a lot located
542 within a cluster subdivision shall contain an area of not less than 9,000 square feet, unless
543 otherwise provided in Section 108-3-8.
- 544 (2) Lot width. Unless otherwise regulated by the Weber-Morgan Health Department, the minimum lot
545 width in a cluster subdivision ~~per zone~~ is as follows:

ZONE	LOT WIDTH
F-40 and F-10 zones:	100 feet
FR-1, F-5, and AV-3 zones:	80 feet

RE-15, RE-20 zones:	60 feet
A-1, A-2, and A-3 zones:	60 feet
FR-3 zone:	50 feet
DRR-1 zone:	50 feet

546

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

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

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

BUILDING	HEIGHT
Dwelling	40 feet
Accessory building	30 feet

549

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

551 (a) *Western Weber Planning Area bonus density.* In the Western Weber Planning Area, bonus density
 552 shall be awarded on a one to one ratio with the gross acreage of a project area. However, no bonus
 553 density shall be awarded for a project with a gross acreage less than ten acres, and no bonus density
 554 over 50 percent shall be awarded for projects with a gross acreage over 50 acres. ~~not exceed 30~~
 555 ~~percent except as allowed herein.~~ A subdivision that is awarded density shall:

556 (1) Provide a minimum 50 percent open space of the net developable acreage, as defined in Section
 557 101-1-7.

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

Commented [E20]: Need to run policy with the adoption of this.

- 562 (3) Comply with all provisions of Title 108, Chapter 16: Ogden Valley Outdoor Lighting Ordinance,
563 which is incorporated by reference herein as applicable to a cluster subdivision in the Western
564 Weber Planning Area that receives bonus density. A note shall be placed on the final subdivision
565 plat indicating this requirement.
- 566 (b) Ogden Valley Planning Area bonus density. A cluster subdivision shall create no new density
567 entitlements in the Ogden Valley.
- 568 (c) Transferable density as bonus density. A cluster subdivision is allowed bonus units in either planning
569 area when a proportionate number of dwelling units have been retired from another parcel or parcels
570 within the same planning area as the cluster subdivision receiving the bonus. The following limitations
571 apply:
- 572 (1) Ogden Valley bonus transfers. Units may be retired on a parcel in any area within the Ogden
573 Valley Planning Area except areas in the DRR-1, F-40, F-10, and F-5 zones, and except any area
574 within a quarter mile of a village, as depicted on the Commercial Locations and Village Areas Map
575 of the 2016 Ogden Valley General Plan;
- 576 (2) Western Weber bonus transfers. Units may be retired from any parcel or parcels in any area within
577 the Western Weber Planning Area provided the parcel or parcels are within one linear mile of the
578 cluster subdivision receiving the bonus. This bonus is in addition to the bonuses authorized in
579 subsection (a) of this section.
- 580 (3) Bonus transfer supplemental regulations. The following regulations apply for cluster subdivisions
581 receiving bonuses of transferable density.
- 582 a. Dwelling unit retirement. The retirement of a dwelling unit right from another parcel or
583 parcels shall comply with one of the following:
- 584 1. Open space preservation easement. An open space preservation easement shall be
585 granted on, under, and over the parcel or parcels to Weber County and written in a form
586 acceptable to the County Attorney. The easement shall specify the number of units
587 retired from the site, and the number that remain, if any. The easement may be
588 amended from time to time to retire additional units, if applicable.
- 589 2. Rezone. A rezone with a development agreement shall be executed prior to application
590 for preliminary subdivision review that reduces at least the necessary development units
591 from the parcel or parcels as is requested in the bonus allotment. The development
592 agreement shall, amongst other legislatively negotiated development, preservation, or
593 conservation requirements, specify the future developable potential of the property, if
594 any, and the number of development units retired from the property with the rezone.
- 595 3. Other local, state, or federal conservation or preservation easement. As a legislative
596 action, the County Commission may accept the voluntary contribution to a local land
597 trust, or other state or federal agency, whether in land acreage or monetary value, that
598 will yield the same dwelling-unit-retirement result as part (1)a. or (1)b. of this subsection
599 (b). This shall be executed in the form of an agreement prior to application for
600 preliminary subdivision review.
- 601 b. Determination of the actual number of development units retired shall follow the calculation
602 for base density, as defined in 101-1-7.
- 603 c. Bonus dwelling units granted under this subsection (c) are restricted to the approved cluster
604 subdivision and shall not be allowed to be moved or transferred in any form elsewhere,
605 except in the Ogden Valley this may occur in the DRR-1 zone as provided in Title 104,
606 Chapter 29.
- 607 (d) Bonus dwelling units. A dwelling unit resulting from bonus density may be any of the following:
608 (1) A single-family dwelling, if it is the only dwelling on the lot.

609 (2) One accessory dwelling unit, located on the same lot as a main dwelling unit normally intended
610 for a single-family, as defined in Section 101-1-7.

611 a. *Unattached accessory dwelling unit.* If not attached to the main single-family dwelling, the
612 height and footprint of the accessory dwelling unit shall be smaller than the main single-family
613 dwelling and shall be located behind an imaginary line that runs parallel to the front lot line
614 and is located at the rear corner of the main dwelling unit that is furthest from the front lot
615 line.

616 b. *Attached accessory dwelling unit.* If attached to the main dwelling unit, the accessory dwelling
617 unit shall not have an entrance that faces a street abutting the same lot and shall be designed
618 to appear as one dwelling.

619 c. *Setbacks for accessory dwelling unit.* All building setbacks for the main dwelling shall be
620 observed for the accessory dwelling.

621 (3) Combined to create up to a four-family dwelling unit, a four-unit condominium building, or up to
622 four attached town houses. Provided, however, that the four-unit building shall be located no closer
623 than 500 feet from the exterior boundary of the subdivision unless otherwise immediately adjacent to
624 another four-unit building on a lot in an adjacent subdivision and only when none of the four-unit
625 buildings are any closer than 500 feet from the exterior of the combined subdivision boundaries.

626
627 ~~(1) (INSERT AMENITIES REQUIRED TO EARN POINTS HERE. (i.e. street trees, pathway~~
628 ~~landscaping, dark sky preservation, public accessible recreational amenities, public park (if~~
629 ~~district will accept it)...~~

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

632 ~~a. the subdivision shall demonstrate qualification for the basic 30 percent bonus density;~~

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

637 ~~2. be permanently preserved with an agricultural specific preservation easement across~~
638 ~~all 90 percent of the total open space acreage that conforms to the requirements of this~~
639 ~~chapter.~~

640 ~~c. the subdivision shall preserve more than the 30 percent minimum open space area. The~~
641 ~~allowed bonus density percentage may be increased at a one-for-one ratio with the open~~
642 ~~space percentage increases that are over 30 percent, up to a maximum of 50 percent bonus~~
643 ~~density award.~~

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

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

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

649 (1) Establish a homeowners association and submit for the county's review the necessary articles of
650 incorporation, bylaws, and declaration of covenants, conditions, and restrictions that provide for:

- 651 a. Compliance with Utah State Code;
- 652 b. The reason and purpose for the association's existence;
- 653 c. Mandatory membership for each lot or home owner and their successors in interest;

- 654 d. The perpetual nature of the easements related to all dedicated open space parcels;
- 655 e. Responsibilities related to liability, taxes, and the maintenance of recreational and other
- 656 infrastructure and facilities;
- 657 f. Financial obligations and responsibilities, including the ability to adjust the obligations and
- 658 responsibilities due to change in needs;
- 659 g. Association enforcement remedies; and
- 660 h. A notification of the county's ability to enforce the terms of the owner's dedication on the
- 661 subdivision dedication plat.

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

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

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

677
678 ...

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

680 ...

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

682 (f) Carriage house.

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

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

690 ~~located~~

691 ~~*20 percent~~

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

693 ...

Commented [E21]: Administrative edits to the agritourism ordinance for consistency.

1 **Title 101 – GENERAL PROVISIONS**

2 ...

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

4 ...

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

13 ...

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

16 *Acreage, net developable*. The phrase "net developable acreage" means the total acreage within
17 a project boundary, subtracting acreage unsuitable for development, as defined by this section or as
18 otherwise provided in this Land Use Code, areas with slopes 30 percent or greater, and areas with soils
19 of insufficient depth and suitability to protect against detrimental effects of development on surface and
20 groundwater. When calculating net developable acreage, ten percent of the total acreage within a
21 project area shall be reduced to account for potential street rights-of-way. The portions of an existing
22 street right-of-way located within the project boundaries may be included as part of the ten percent.
23 The term "net developable area" shall have the same meaning, unless the context clearly indicates
24 otherwise.

25 ...

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

29 *Adjusted gross acreage*. See "acreage, adjusted gross."

30 ...

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

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

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

44 ...

45 *Agri-tourism*. The term "agri-tourism" means an agricultural accessory use that can provide a
46 means of diversifying a farm's income through broadening its offerings and adding value to its products.
47 They operate during more than six (consecutive or non-consecutive) days per year and provide

48 agriculturally related, and in some instances, non-agriculturally related products and activities that attract
49 members of the public to the farm for retail, educational, recreational, and/or general tourism purposes.

50 ...

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

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

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

59 ...

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

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

65 ...

66 *Density, base.* The term "base density" means the number of units allowed in an area. For
67 development types that permit a reduced lot area than otherwise provided by the zone, the base density
68 shall be calculated as the net developable acreage, as defined herein, then divided by the minimum lot
69 area of the zone. This calculation can be observed by this formula: ((net developable acreage) /
70 (minimum lot area)) = base density. The result shall be rounded down to the nearest whole lot.

71 ...

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

74 ...

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

76 ...

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

78 ...

79

80 **Title 104 - ZONES**

81 ...

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

83 ...

84

- 85 (i) Open space. A minimum of 60 percent of the net developable acreage, owned by the resort and
86 located within the destination and recreation resort zone, shall be designated as open space. A portion
87 of that open space shall consist of conservation open space in an amount equal to or greater than 30
88 percent of the resort's net developable acreage. The area designated as conservation open space
89 shall be encumbered by an irrevocable conservation easement meeting the general/applicable

90 requirements described in section 104-29-6 of this chapter and shall be granted prior to beginning any
91 construction within an overall project phase. The minimum number of acres encumbered by each
92 easement shall be equal to or greater than the number of acres involved in each project phase until
93 the total number, of required conservation open space acres, is met. Areas dedicated (platted and
94 recorded) as open space within residential and nonresidential subdivisions may count towards the
95 minimum open space requirement.

96

97 ...

98 **Title 108 - STANDARDS**

99 ...

100 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

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

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

- 104 (1) are designed and arranged in a manner that considers, gives deference to, and ultimately protects
105 natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally productive
106 lands;
- 107 (2) offer predictable support and encouragement in agricultural areas for a wide variety of long-term
108 agricultural operations on open space parcels;
- 109 (3) benefit those that create cluster subdivisions by offering an inherent gain in the form of reduced
110 infrastructure costs and the possibility for an increase in residential density in the Western Weber
111 Planning Area;
- 112 (4) benefit the residents of Weber County by promoting public welfare through the reduction of long-
113 term infrastructure maintenance costs; and
- 114 (5) permanently preserve the county's functional open spaces, picturesque landscapes, and rural
115 character.

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

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

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

- 120 (a) *Subdivision procedures and requirements apply.* All procedures and requirements of Title 106 shall
121 apply to a cluster subdivision unless there is a conflict or supplement in this chapter, in which case the
122 provisions of this chapter shall prevail.
- 123 (b) *Conceptual sketch plan.* In addition to the subdivision approval procedure in Title 106, the cluster
124 subdivision approval procedure requires a conceptual sketch plan endorsement from the planning
125 commission prior to the submission of a formal subdivision application. An application for a conceptual
126 sketch plan endorsement must demonstrate compliance with applicable standards contained within
127 the Weber County Code. The completed application must be submitted at least 21 calendar days prior
128 to the planning commission meeting at which the applicant wishes to be heard. Endorsement from the
129 planning commission is only a means to assist in the creation of a complete subdivision application
130 and shall not create any vested right except the right to apply for preliminary subdivision review. The
131 application is complete upon submission of the following:
- 132 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of Ordinances,
133 and submission of a complete sketch plan endorsement application on a form provided by the
134 county planning department.

- 135 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject property,
136 surrounding streets, and relevant landmarks.
- 137 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that demonstrates in a
138 suitable manner compliance with all applicable codes. The plan shall include, but not necessarily
139 be limited to, a north arrow and scale, subdivision boundary according to county records,
140 approximate locations of proposed streets, lots with approximate area calculations, common
141 areas and open space parcels with approximate area calculations, easements, waterways,
142 suspected wetlands, floodplains, existing structures, and contour lines. Information related to
143 topography and contour lines may be submitted on a separate map. Contour information may be
144 omitted if the planning director or his designee determines that the subject property lacks
145 topographic characteristics that warrant representation.
- 146 (4) An electronic copy of all forms, documents, materials, and information submitted as part of the
147 application.
- 148 (c) *Preliminary and final cluster subdivision application.*
- 149 (1) Submission for preliminary cluster subdivision approval. A submission for preliminary cluster
150 subdivision approval shall:
- 151 a. conform to the endorsed sketch plan;
- 152 b. comply with all applicable preliminary plan requirements of Title 106;
- 153 c. contain an open space preservation plan, as required in Section 108-3-5.
- 154 (2) *Submission for final cluster subdivision approval.* A submission for final cluster subdivision
155 approval shall conform to the approval of the preliminary cluster subdivision approval and comply
156 with all applicable final plat requirements of Title 106. If applicable, submission shall also include
157 final conditions, covenants, and restrictions or a homeowner's association declaration that clearly
158 explain the maintenance method for each common area parcel, as required by this chapter or any
159 condition of preliminary cluster subdivision approval. Submission shall also include drafts of any
160 other relevant instrument required for the execution of applicable provisions of this Land Use
161 Code.

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

- 163 (a) *Overall configuration.* A cluster subdivision's general design shall concentrate residential building lots,
164 with their adjoining street rights-of-way and any approved alternative access, if applicable, together in
165 accordance with the following:
- 166 (1) in all zones, clusters shall be designed to avoid, to the extent possible, lands that have
167 characteristics generally valuable for preservation or conservation, including but not limited to
168 viewsheds, ridgelines, canyons, waterways, stands or groupings of mature vegetation, wildlife
169 habitat, and other sensitive ecology identified as being of importance by the applicable general
170 plan or some other land preservation or conservation plan adopted by the county, state, or federal
171 government and that is applicable within the county. Preservation or conservation shall be tailored
172 to execute the goals, objectives, or policies of the relevant plan. The application shall provide
173 sufficient detailed information to clearly verify compliance.
- 174 (2) in an agricultural zone, only one cluster of residential lots is allowed unless more are necessary
175 to avoid development on prime agricultural land, as defined in Section 101-1-7, or sensitive lands
176 as provided in Section 108-3-5(b)(4). The cluster or clusters shall be organized in a manner that
177 supports viability of crop production on the open space lands including optimizing ease of access
178 and maneuverability, to and on the open space lands, of large equipment commonly used to
179 support crop production. The clusters shall be configured to support the required open space
180 design and layout standards of this chapter. Subdivision phasing that avoids this requirement shall
181 not be allowed.
- 182 (b) *Street configuration.* Streets shall have logical and efficient connections, with intersection distances
183 no less than provided in Section 106-2-3, and shall generally follow existing street grid design. Section

184 line streets are mandatory and shall not be waived. When practicable, quarter section lines shall
185 denote the general location of other through streets. If current parcel configuration does not make this
186 practicable, a through-street, or stubbed-street that will be a future through-street, shall be located as
187 close to these lines as otherwise reasonably possible.

188 (1) The planning commission may waive the quarter section-line street requirement for the following
189 reasons:

190 a. environmental constraints exist that render a through-street, or a stubbed-street that will
191 become a through-street, unreasonable and unnecessary; or

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

195 (2) In allowing a waiver under this subsection the planning commission may require the street to be
196 placed in another location to offer optimal compensation for the lack of the connection required
197 herein. No waiver shall be granted for section line roads.

198 (c) *Pathways*. In lieu of a sidewalk on both sides of the street, as required by 106-4-2(f), a ten foot wide
199 asphalt pathway may be allowed on one side of the street. If only developing a half width street, where
200 otherwise allowed by this Land Use Code, the pathway shall be located on that side; otherwise,
201 preference shall be given to the side that could best support pathway connectivity based on other
202 factors such as existing or planned future pathways in the vicinity and potential pedestrian conflicts.

203 (1) Pathway and sidewalk layout shall be designed in a manner that prioritizes efficiency of non-
204 motorized modes of transportation. The pathway or sidewalk infrastructure layout shall be such
205 that at any given point along a street within a cluster subdivision there shall be a route or
206 combination of routes available that offer ingress to and egress from the given point to the
207 exterior subdivision boundary in at least three different cardinal directions. This shall be
208 determined with a straight line from the given point to the point where the pathway or sidewalk
209 route meets the edge of the subdivision boundary. General intercardinal or secondary
210 intercardinal directions may be used to make this determination provided the pathway or
211 sidewalk system offers egress on at least three generally different or opposing sides of the
212 subdivision's exterior boundary. Each of these routes shall render a walking distance that is
213 shorter than twice the linear distance from the given point to the point on the route at the exterior
214 subdivision boundary, using the same straight line determination found herein.

215 (2) Pathway and sidewalk layout shall provide for the continuation of existing pathways or sidewalks
216 from adjacent developed areas and for the continuation of new pathways or sidewalks to
217 adjacent undeveloped areas. Pathway and sidewalk arrangement shall not cause any
218 unnecessary hardship for creating convenient and efficient access to future adjoining
219 developments. A subdivision located adjacent to a previously stubbed pathway shall make a
220 connection to that stub using the shortest pathway distance reasonably possible.

221 (3) If a pathway does not intersect with another pathway, sidewalk or street within 500 linear feet, as
222 measured along the actual alignment of the pathway, but another pathway, sidewalk, or street
223 exists within 500 feet of any point of the pathway, or the same pathway exists within 500 feet by
224 looping back on itself, as measured using a straight line, then a connection shall be made from
225 the point of the first pathway to the other pathway, sidewalk, or street using the shortest pathway
226 distance reasonably possible. This may require a pathway between lots or through open spaces.

227 (4) In an agricultural zone, pathways in open space areas greater than five acres shall be located as
228 close to the outer boundaries of the open space area as reasonably possible so as not to disrupt
229 the contiguity of the open space area. (5) The planning commission may waive any of the
230 above pathway requirements for a pathway or sidewalk that is not intended to be a parallel part of
231 the general street transportation system.

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

- 233 1. environmental constraints exist that render the connection unreasonable and
234 unnecessary; or
- 235 2. agricultural open space that is, or would otherwise be, permanently preserved as provided
236 in this land use code would be interrupted by the pathway or sidewalk in a manner that
237 creates a hardship for crop production.
- 238 b. In allowing a waiver under this subsection the planning commission may require the pathway
239 or sidewalk to be placed in another location to offer optimal compensation for the lack of the
240 connection required herein.

241

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

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

244 (1) *Initial open space preservation plan approval.* An open space preservation plan shall accompany
245 an application for preliminary subdivision approval or an application for an open space
246 preservation plan amendment. Preliminary subdivision approval constitutes approval of the open
247 space plan. A final plat shall comply with the approved open space plan.

248 (2) *Open space preservation plan amendment.* After submittal of a new application and application
249 fee an open space preservation plan may be amended, from time to time in accordance with the
250 standards of this chapter. If an amendment of an open space preservation plan affects any part
251 of the recorded subdivision plat, or if an amendment to a subdivision plat affects any part of an
252 approved open space preservation plan, then the two shall be amended together and final
253 approval of the amended subdivision plat shall constitute final approval of the amended open
254 space preservation plan. Otherwise, each may be amended independently. Submission for an
255 independently amended open space preservation plan shall be in compliance with the open space
256 plan submittal requirements of this chapter and shall require the approval of the planning
257 commission.

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

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

262 (2) An open space site plan that:

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

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

265 c. shows the locations of existing and proposed future structures and other open space
266 amenities; structures housing a subdivision utility or serving as a subdivision amenity shall
267 be subject to all applicable standards including all design review and applicable architectural
268 standards found in title 108 of the Weber County Land Use Code;

269 d. includes all park improvements and is accompanied by a letter of approval from the local
270 park district for open space that will be gifted as a park parcel to a local park district.

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

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

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

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

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

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

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

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

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

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

311 1. The configuration of the existing exterior boundary of the proposed subdivision makes it
 312 impossible;

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

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

317

- 318 d. Open space area necessary to meet the requirements of part (4) or (5) of this subsection, or
319 open space areas never previously used for crop-production that currently contain areas
320 valuable for preservation or conservation as specified in part (2) of this subsection may be
321 exempt from this part provided they comply with those applicable parts.
- 322 (4) *Small open space parcels between lots within clusters.* In order to maximize the contiguous open
323 space acreage as required in part (2) and (3) of this subsection, an open space parcel or portion
324 thereof that is located within a cluster of residential lots, as defined in Section 101-1-7, or that
325 interrupts contiguity of a cluster of residential lots and is not intended to satisfy part (2), (3), or (5)
326 of this subsection shall be constrained in area and width to provide the minimum acreage and
327 width reasonably necessary for the functionality, operation, and maintenance of the intended
328 open space use. The open space preservation plan shall offer sufficient information regarding the
329 use and any proposed structures to allow the Planning Commission to verify compliance. See
330 also part (6) and part (8) of this subsection (c) for additional applicable area and coverage
331 regulations.
- 332 (5) *Sensitive lands requirements.* Cluster subdivisions in or on sensitive lands shall be governed as
333 follows:
- 334 a. Lands that can be mitigated such as floodplain and wetlands are considered developable for
335 the purpose of calculating net developable acreage, as defined in Section 101-1-7.
- 336 b. A floodway within river corridor, lake, or naturally occurring pond area, which is acreage
337 unsuitable for development, as defined in Section 101-1-7, but is offered as a community
338 amenity on an open space parcel with public access and a blanket public access easement,
339 shall receive 25 percent of the undevelopable acreage credited to the net developable
340 acreage calculation for the development.
- 341 c. Regardless of developability, the following areas shall be located within a cluster
342 subdivision's open space area:
- 343 1. areas designated as floodplain, as defined by the Federal Emergency Management
344 Agency or other qualified professional determined appropriate by the county engineer;
345 and
- 346 2. rivers and streams, with and including their designated river or stream corridor setbacks,
347 as defined by the Weber County Land Use Code.
- 348 (6) *Open space parcel area.* The minimum area for an open space parcel located within a cluster
349 subdivision is as follows:
- 350 a. *Common area.* An open space parcel designated as common area is not subject to minimum
351 area requirements.
- 352 b. *Park area.* An open space parcel conveyed to a local park district shall be of a sufficient size
353 to adequately accommodate park infrastructure, amenities, and parking.
- 354 c. *Individually owned open space parcel area.* An open space parcel designated as an
355 individually owned preservation parcel shall contain an area of not less than five acres and
356 shall be part of a contiguous area of open space consisting of not less than ten acres in total;
357 and shall be in compliance with the following:
- 358 1. The ten acre minimum contiguous area does not need to be platted in the same
359 subdivision.
- 360 2. Each individually owned open space parcel shall be provided clear and perpetual legal
361 access from a public or private street right of way.
- 362 3. Drainage detention or retention facilities may be located on an individually owned
363 preservation parcel and count toward the subdivision's overall open space area, but the
364 acreage of the facility shall not be included as part of the parcel's agricultural use, and

365 the acreage of the facility shall be in addition to, not a part of, the minimum parcel area
366 requirement.

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

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

373 2. The estate lot shall contain a survey-locatable building envelope on the recorded plat
374 that shares a common boundary with a neighboring residential lot, or in the case of a
375 neighboring estate lot, shares a common boundary with the neighboring estate lot's
376 building envelope.

377 (7) *Parcel width, frontage, and access.* Open space parcels located within a cluster subdivision are
378 not subject to frontage requirements and do not have a minimum width standard. Section 106-2-
379 4(c) notwithstanding, all open space parcels without street frontage shall be provided an access
380 easement, recordable at the time of plat recordation, across other parcels and connecting to a
381 public or private street.

382 (8) *Parcel coverage.*

383 a. Coverage of common area or open space parcels under five acres by any roofed structures
384 or any structures or facilities that requires a building permit shall not exceed ten percent of
385 the total parcel area.

386 b. Coverage of individually owned preservation parcels by roofed structures or any
387 structures/facility that requires a building permit shall not exceed two and a half percent of
388 the total parcel area.

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

392 (9) *Open space lot or parcel ownership.*

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

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

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

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

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

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

420 (f) *Preservation.*

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

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

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

425 (3) An agreement, in a form acceptable to the County Attorney, shall be recorded with the final plat
426 that details the open space preservation plan and any related conditions of approval necessary
427 to execute the open space preservation plan. The approved site plan shall be included in the
428 agreement. If the plat recordation is also the means of conveyance of any open space parcel, the
429 agreement shall also specify the name and tax notification mailing address if the new owner.

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

433 (5) If a cluster subdivision contains an individually owned preservation parcel or estate lot with an
434 open space area, the applicant shall:

- 435 a. identify all open space preservation areas on the final plat with a unique hatch or shading;
- 436 b. further identify each individually owned preservation parcel with a unique identifying letter;
- 437 c. for an estate lot, delineate on the plat with survey locatable bearings and calls the area of
438 the lot being preserved as open space..

439 (g) The planning commission may impose any additional conditions and restrictions it deems necessary
440 to reasonably ensure maintenance of the open space and adherence to the open space preservation
441 plan. Such conditions may include a plan for the disposition or re-use of the open space property if
442 the open space is not maintained in the manner agreed upon or is abandoned by the owners.

443 (h) A violation of the open space plan or any associate conditions or restrictions, shall constitute a violation
444 of this Land Use Code.

445 **Sec. 108-3-6. – Reserved.**

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

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

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

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

- 456
- 457 (3) *Yard setbacks.* The minimum yard setbacks in a cluster subdivision are as follows:

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

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

BUILDING	HEIGHT
Dwelling	40 feet
Accessory building	30 feet

459

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

- 461 (a) *Western Weber Planning Area bonus density.* In the Western Weber Planning Area, bonus density
462 shall be awarded on a one to one ratio with the gross acreage of a project area. However, no bonus
463 density shall be awarded for a project with a gross acreage less than ten acres, and no bonus density
464 over 50 percent shall be awarded for projects with a gross acreage over 50 acres. A subdivision that
465 is awarded density shall:
- 466 (1) Provide a minimum 50 percent open space of the net developable acreage, as defined in Section
467 101-1-7.
- 468 (2) Provide one street tree of at least two-inch caliper, from a species list as determined by county
469 policy, every 50 feet on both sides of each street within the project boundaries. In the event
470 infrastructure or a driveway approach makes a tree's placement impossible, that tree shall be
471 located as close to the 50-foot spacing as otherwise reasonably possible.
- 472 (3) Comply with all provisions of Title 108, Chapter 16: Ogden Valley Outdoor Lighting Ordinance,
473 which is incorporated by reference herein as applicable to a cluster subdivision in the Western
474 Weber Planning Area that receives bonus density. A note shall be placed on the final subdivision
475 plat indicating this requirement.
- 476 (b) *Ogden Valley Planning Area bonus density.* A cluster subdivision shall create no new density
477 entitlements in the Ogden Valley.
- 478 (c) *Transferable density as bonus density.* A cluster subdivision is allowed bonus units in either planning
479 area when a proportionate number of dwelling units have been retired from another parcel or parcels
480 within the same planning area as the cluster subdivision receiving the bonus. The following limitations
481 apply:
- 482 (1) *Ogden Valley bonus transfers.* Units may be retired on a parcel in any area within the Ogden
483 Valley Planning Area except areas in the DRR-1, F-40, F-10, and F-5 zones, and except any area
484 within a quarter mile of a village, as depicted on the Commercial Locations and Village Areas Map
485 of the 2016 Ogden Valley General Plan;
- 486 (2) *Western Weber bonus transfers.* Units may be retired from any parcel or parcels in any area within
487 the Western Weber Planning Area provided the parcel or parcels are within one linear mile of the
488 cluster subdivision receiving the bonus. This bonus is in addition to the bonuses authorized in
489 subsection (a) of this section.
- 490 (3) *Bonus transfer supplemental regulations.* The following regulations apply for cluster subdivisions
491 receiving bonuses of transferable density.
- 492 a. *Dwelling unit retirement.* The retirement of a dwelling unit right from another parcel or
493 parcels shall comply with one of the following:
- 494 1. *Open space preservation easement.* An open space preservation easement shall be
495 granted on, under, and over the parcel or parcels to Weber County and written in a form
496 acceptable to the County Attorney. The easement shall specify the number of units
497 retired from the site, and the number that remain, if any. The easement may be
498 amended from time to time to retire additional units, if applicable.
- 499 2. *Rezone.* A rezone with a development agreement shall be executed prior to application
500 for preliminary subdivision review that reduces at least the necessary development units
501 from the parcel or parcels as is requested in the bonus allotment. The development
502 agreement shall, amongst other legislatively negotiated development, preservation, or
503 conservation requirements, specify the future developable potential of the property, if
504 any, and the number of development units retired from the property with the rezone.
- 505 3. *Other local, state, or federal conservation or preservation easement.* As a legislative
506 action, the County Commission may accept the voluntary contribution to a local land
507 trust, or other state or federal agency, whether in land acreage or monetary value, that
508 will yield the same dwelling-unit-retirement result as part (1)a. or (1)b. of this subsection

- 509 (b). This shall be executed in the form of an agreement prior to application for
510 preliminary subdivision review.
- 511 b. Determination of the actual number of development units retired shall follow the calculation
512 for base density, as defined in 101-1-7.
- 513 c. Bonus dwelling units granted under this subsection (c) are restricted to the approved cluster
514 subdivision and shall not be allowed to be moved or transferred in any form elsewhere,
515 except in the Ogden Valley this may occur in the DRR-1 zone as provided in Title 104,
516 Chapter 29.
- 517 (d) *Bonus dwelling units*. A dwelling unit resulting from bonus density may be any of the following:
- 518 (1) A single-family dwelling, if it is the only dwelling on the lot.
- 519 (2) One accessory dwelling unit, located on the same lot as a main dwelling unit normally intended
520 for a single-family, as defined in Section 101-1-7.
- 521 a. *Unattached accessory dwelling unit*. If not attached to the main single-family dwelling, the
522 height and footprint of the accessory dwelling unit shall be smaller than the main single-family
523 dwelling and shall be located behind an imaginary line that runs parallel to the front lot line
524 and is located at the rear corner of the main dwelling unit that is furthest from the front lot
525 line.
- 526 b. *Attached accessory dwelling unit*. If attached to the main dwelling unit, the accessory dwelling
527 unit shall not have an entrance that faces a street abutting the same lot and shall be designed
528 to appear as one dwelling.
- 529 c. *Setbacks for accessory dwelling unit*. All building setbacks for the main dwelling shall be
530 observed for the accessory dwelling.
- 531 (3) Combined to create up to a four-family dwelling unit, a four-unit condominium building, or up to
532 four attached town houses. Provided, however, that the four-unit building shall be located no
533 closer than 500 feet from the exterior boundary of the subdivision unless otherwise immediately
534 adjacent to another four-unit building on a lot in an adjacent subdivision and only when none of
535 the four-unit buildings are any closer than 500 feet from the exterior of the combined subdivision
536 boundaries.

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

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

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

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

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

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

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

569 ...

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

571 ...

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

573 (f) Carriage house.

574 1. Carriage houses shall be limited to a number that does not exceed the following
575 calculation: net developable acreage of the parcel upon which a carriage house(s) is
576 located divided by the minimum lot area required by the zone in which the lot or parcel(s)
577 is located, all multiplied by 20 percent (net developable acreage / minimum lot area) x
578 20 percent = Maximum number of carriage houses at an approved agri-tourism
579 operation.

580 ...

1 **Title 101 - GENERAL PROVISIONS**

2 ...

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

4 ...

5 *Building envelope.* The term "building envelope" means a portion of a lot, parcel, or tract of land which is
6 to be utilized as the building site as may be required by the cluster subdivision ordinance or as otherwise
7 volunteered on a subdivision plat. "Building envelope" shall not be construed to mean "buildable area"
8 as provided in this section.

9 *Building, height of.* The ~~term phrase~~ "height of building," or any of its variations, normally means the
10 vertical distance between the highest point of the building or structure and the average elevation of the
11 land at the exterior footprint of the building or structure using the finished grade. See Section 108-7-5 for
12 supplemental height provisions. ~~from the average of the highest natural grade and the lowest natural~~
13 ~~grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the~~
14 ~~highest point of the ridge of a pitch or hip roof.~~

15 *Building, main.* The term "main building" means the principal building or one of the principal buildings
16 located on a lot or parcel designed or used to accommodate the primary use to which the premises are
17 devoted. Where a permissible use involves more than one structure designed or used for the primary
18 purpose, as in the case of apartment groups, each such permitted building on one lot as defined by this
19 title shall be deemed a main building.

20 ...

21 *Glare.* The term "glare" means light, originating from a direct artificial light source, or any light reflected
22 off a reflective surface, that causes visual discomfort or reduced visibility.

23 ~~*Grade, natural/existing (adjacent ground elevation).* The term "grade, natural/existing (adjacent ground~~
24 ~~elevation)" means the lowest point of elevation of the finished surface of the natural ground, paving or~~
25 ~~sidewalk within the area between the building and the property line or, when the property line is more~~
26 ~~than five feet from the building, between the building or structure and a line five feet from the building or~~
27 ~~structure.~~

28 *Grade, finished.* The term "finished grade," or any of its variations, means the final slope of the ground
29 after being altered from natural grade.

30 *Grade, natural.* The term "natural grade," or any of its variations, means the slope of the ground as it
31 existed immediately prior to any grading or recontouring done as part of or in anticipation of approval of
32 a land use permit.

33 *Guest house.* The term "guest house" means a separate dwelling structure located on a lot with one or
34 more main dwelling structures and used for housing of guests or servants and not rented, leased, or sold
35 separate from the rental, lease or sale of the main dwelling.

36 ...

37 *Quasi-public.* The term "quasi-public" means the use of premises by a ~~public~~-utility, the utility being
38 available to the general public, such as utility substations and transmission lines (see also "utility"); also
39 a permanently located building or structure, together with its accessory buildings and uses, commonly
40 used for religious worship, such as churches and monasteries.

41 ...

42 *Utility.* The term "utility" means utility facilities, lines, and rights of way related to the provision,
43 distribution, collection, transmission, transfer, storage, generation or disposal of culinary water,
44 secondary water, irrigation water, storm water, sanitary sewer, solid waste, oil, gas, power, information,
45 telecommunication, television or telephone cable, electromagnetic waves, and electricity. See also
46 "quasi-public."

47 Public utility substation. The phrase "public utility substation" means an unattended building or structure
48 designed for the provision of services of a public or quasi-public utility, excluding utility transportation lines
49 and incidental supports and their rights-of-way.

50 ...

51 Structure. The term "structure" means anything constructed or erected which requires location on the
52 ground or attached to something having a location on the ground.

53 Structure, height of. The phrase "height of structure," or any of its variations, shall have the same
54 meaning as "height of building" as defined in this Section.

55 ...

56 Tower. The term "tower" means a structure that is intended to support antennas for transmitting or
57 receiving wireless signals including but not limited to television, cellular, radio, or telephone
58 communication signals. A tower is also a "public utility substation" as defined in this section.

59 ...

60 **Title 108 - STANDARDS**

61 ...

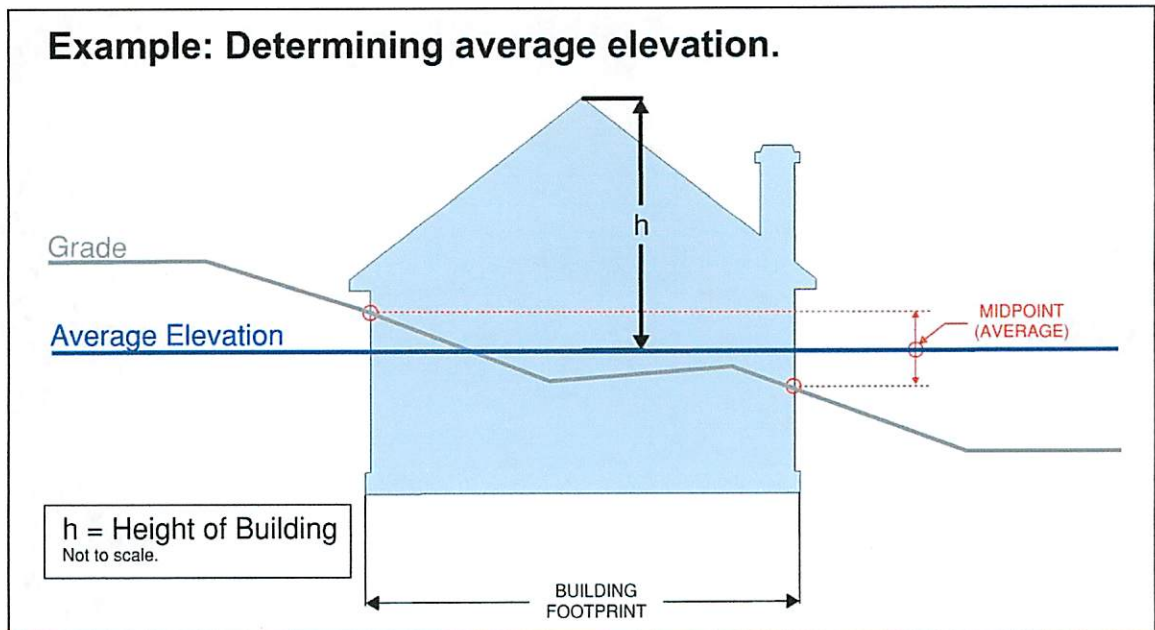
62 **CHAPTER 7. - SUPPLEMENTARY AND QUALIFYING REGULATIONS**

63 ...

64 **Sec. 108-7-5. - ~~Exceptions to height~~ Building or structure height limitations requirements.**

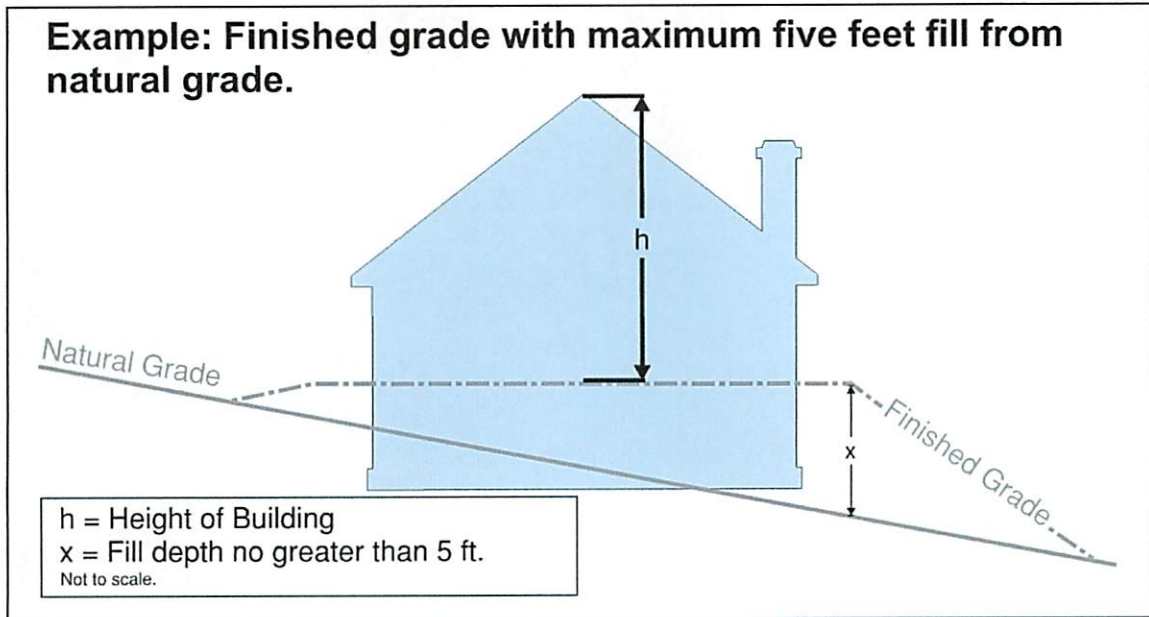
65 (a) Measuring height. For the purpose of determining "height of building," as defined in Section 101-1-7,
66 the following shall apply:

67 (1) Average elevation. Average elevation shall be determined by averaging the highest elevation and
68 the lowest elevation at the exterior footprint of the building or structure, including any support
69 posts that require a footing. An alternative means of calculating average elevation may be
70 approved by the Planning Director for an individual building if it follows industry best practices and
71 is proposed by a licensed surveyor, engineer, or architect.



73
74
75

(2) Fill affecting building height. Except as provided in this subsection, when grading a site to obtain the finished grade, as defined in Section 101-1-7, no fill may exceed five vertical feet at any point from the site's natural grade, as also defined in 101-1-7.



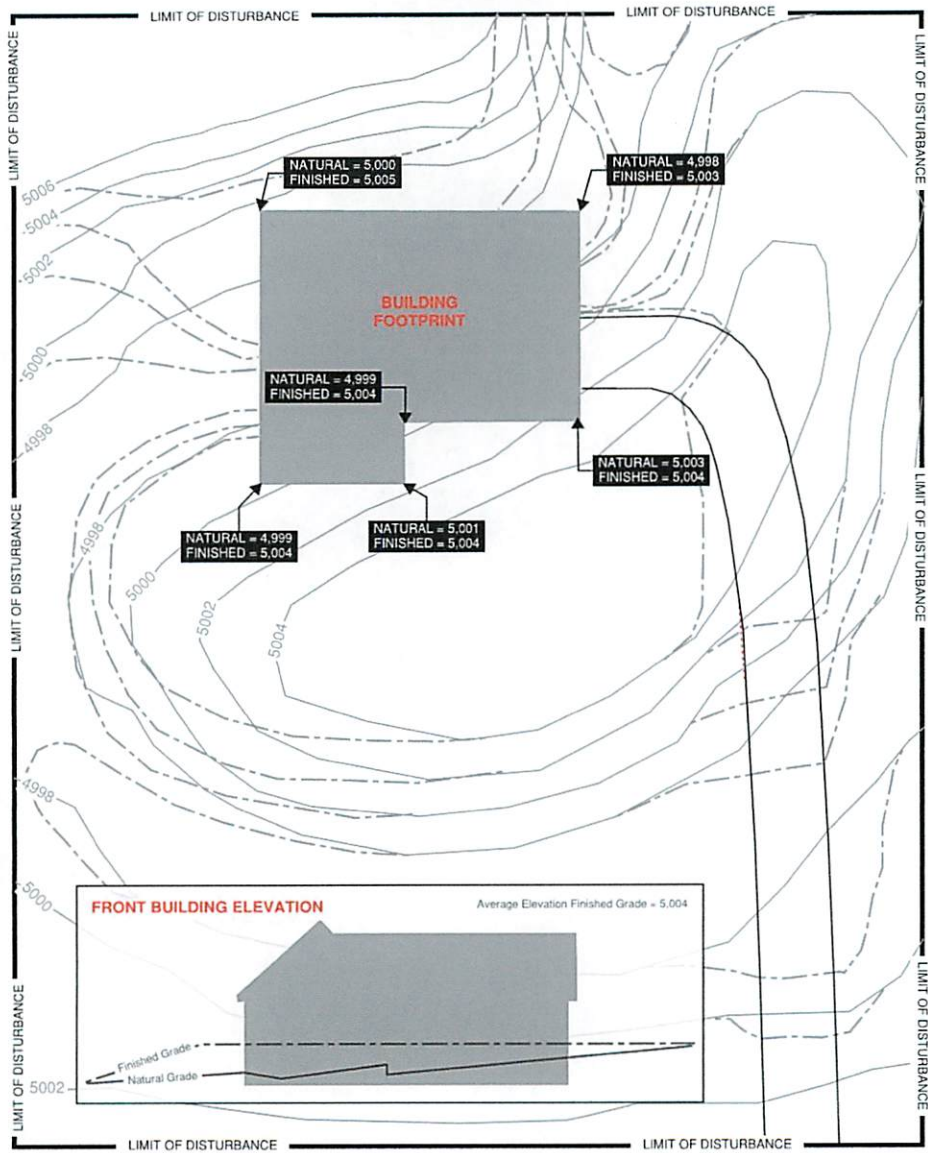
76

- a. Additional fill is allowed if required by county, state, or federal law, or to meet the standards of the National Flood Insurance Program. In this case the fill shall be no higher than the minimum of the other regulation or standard; or
- b. If the building or structure is within 75 feet of a public or private street upon which its lot or parcel has frontage, fill is allowed that will provide an average elevation of finished grade that is equal to the elevation of the street. In this case, the street's elevation shall be determined to be at the midpoint of the lot's front lot line. If on a corner lot the elevation of both streets at the midpoint of each lot line shall be averaged.

85
86
87
88
89
90
91
92
93

(3) Site plan submittal requirements. A site plan shall contain both existing and proposed topographic contours at two foot intervals for the entire limits of disturbance, unless more is required by another section of this Land Use Code or by the Planning Director or County Engineer for the purpose of determining compliance with other laws or standards. Grading that is proposed across lot or parcel lines shall require the consent of all affected owners. Building elevation drawings shall display natural grade and finished grade, and shall present the finished grade's elevation at each corner of the building. This requirement may be waived by the Planning Director or County Engineer for sites that are relatively flat, or if evidence is presented that clearly show the proposed structures will not exceed the maximum height of the zone.

Example: Site plan showing existing and proposed topographic contours and building elevation drawing showing natural and finished grade.



94

(b) Roof structure height exception. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, cupolas, solar panels, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limit of the zone in which they are located, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and at no time shall the height be greater than 15 feet higher than the maximum height of the zone.; ~~and if in proximity to an airport, no heights exceptions are permitted above the maximum allowed under airport height regulations.~~

(b) All exceptions to height shall be subject to applicable design review requirements and all mechanical equipment shall be screened by materials consistent with those used on the exterior of the main building.

103
104
105

106 (c) Air traffic height conflicts. If in proximity to an airport, no building or structure or other appurtenance
107 is permitted above the maximum height allowed by the Federal Aviation Administration, or other
108 applicable airport or airspace regulation.

109 (d) Minimum height of a dwelling. Unless on a lot or parcel five acres or greater, no dwelling shall be
110 erected to a height less than one story above natural grade.

111 **Sec. 108-7-6. - ~~Minimum height of dwelling~~Reserved.**

112 ~~No dwelling shall be erected to a height less than one story above natural grade.~~

113 ...

114 **Sec. 108-7-12. - ~~Reserved Towers.~~**

115 ~~(a) — No commercial tower installation shall exceed a height equal to the distance from the base of~~
116 ~~the tower to the nearest overhead power line by less than five feet.~~

117 ~~(b) — A tower that exceeds the height limitation of the zone in which it is to be located as permitted~~
118 ~~by section 108-7-5, shall be considered a conditional use.~~

119 ~~(c) — In all zones, except in commercial and manufacturing zones, towers shall not be located within~~
120 ~~the minimum front yard setback of any lot, nor within the minimum side yard setback facing a street on a~~
121 ~~corner lot, nor on the roof of a residential structure.~~

122 ~~(d) — A building permit shall be required for a tower. An application for a permit shall include~~
123 ~~construction drawings showing the method of installation and a site plan depicting structures on the~~
124 ~~property and on any affected adjacent property and a structural engineering certification by a registered~~
125 ~~structural engineer from the state.~~

126 **CHAPTER 10. - PUBLIC BUILDINGS AND PUBLIC UTILITY SUBSTATIONS ~~OR STRUCTURES~~**

127 **Sec. 108-10-1. - Location.**

128 The location and arrangement of public buildings and public utility substations ~~or structures~~ will comply
129 with requirements set forth in this chapter and will be in accordance with construction plans submitted
130 to and approved by the planning commission.

131 **Sec. 108-10-2. - Site development standards for public utility substation ~~or structure.~~**

132 (a) Lot area, width, setback, and street frontage regulations. The lot area, width, ~~depth,~~ setback, and
133 street frontage regulations for ~~an unmanned culinary or secondary water system facility, storage~~
134 ~~tank, or well house; unmanned sanitary sewer system facility; unmanned oil or natural gas pipeline~~
135 ~~regulation station; unmanned telecommunication, television, telephone, fiber optic, electrical facility;~~
136 ~~or other unmanned utility service regeneration, transformation, or amplification facility~~ a public utility
137 substation, as defined in Section 101-1-7, are as follows:

138 (1) *Lot area and lot width.* No minimum lot area or width, provided that the lot or parcel shall contain
139 an area and width of sufficient size and dimension to safely accommodate the utility facility or
140 use, any necessary accessory use, any landscaping required by this Land Use Code, the
141 required setbacks, and space to park two maintenance vehicles.

142 (2) *Front yard setback.* Front yard setback requirement may be reduced to no less than ten feet if
143 the lot does not directly front on a public or private street right-of-way, provided that ~~the~~ no
144 substation ~~or structure~~ shall be located closer to a public or private street right-of-way than the
145 minimum front yard setback of the zone, or 20 feet, whichever is more restrictive.

146 (3) *Side yard setback.* The side yard setback requirement shall comply with the typical setback
147 specified in the applicable zone regulating the property.

148 (4) *Rear yard setback.* The rear yard setback requirement may be reduced to the following:

149 a. In a residential zone: five feet.

150 b. In an agricultural zone: ten feet.

- 151 c. In a forest zone: 20 feet.
- 152 d. In a zone not specifically listed above: typical zone setback as provided in the chapter for
153 that zone.
- 154 (5) Street Frontage. No frontage is required along a public right-of-way if clear and legal access
155 exists from a public right of way to the site for the purpose of the utility use.
- 156 (b) Co-location. Co-location of a public utility substation with other existing public utility substations is
157 required provided that the co-location does not cause interference with any public utility, or the
158 reasonable operation of the public utility substation.
- 159 (c) Towers. The following regulations govern the installation of public utility substation towers:
- 160 (1) Tower distance from overhead power. The height of a tower shall be one foot less than the
161 linear distance between the base of the tower and the nearest overhead power line, or lesser
162 height.
- 163 (2) Tower setbacks. In all zones, except in commercial and manufacturing zones, a tower shall not
164 be located within the minimum front yard setback of any lot, nor within the minimum side yard
165 setback facing a street on a corner lot, nor on the roof of a residential structure.
- 166 (3) Tower building permit. A building permit shall be required for a tower. An application for a permit
167 shall include construction drawings showing the method of installation and a site plan depicting
168 structures on the property and on any affected adjacent property and a structural engineering
169 certification by a registered structural engineer from the state.
- 170 (4) Tower disguise. A public utility substation tower may exceed the maximum height allowed in the
171 zone. A public utility substation tower that exceeds 35 feet and which cannot be reasonably co-
172 located on an existing tower shall be disguised so that the average person cannot discern that it
173 is a public utility substation from a distance greater than 200 feet.
- 174 a. With the exception of part b.1. herein, the disguise shall be constructed of painted, stained,
175 sandblasted or carved wood, log timbers, brick, stone, textured concrete or similar material.
176 Glass, metal, or metallic leaf, which is painted, anodized, or otherwise treated to prevent
177 reflective glare may also be used. Copper, brass, wrought iron, and other metals may
178 remain untreated and allowed to develop a natural patina. Support structures shall use
179 natural, muted earth-tone colors including browns, black, grays, rusts, etc. White shall not be
180 used as a predominant color, but may be used as an accent.
- 181 b. The disguise shall be designed by a licensed architect and shall:
- 182 1. replicate natural features found in the natural environment within 1000 feet such that the
183 average person cannot discern that it is not a natural feature from a distance greater
184 than 200 feet. If it replicates vegetation it shall be located no greater than 20 feet from,
185 and be no greater than ten feet taller than, three other native non-deciduous plants of
186 the same species. Any proposal for new vegetation intended to satisfy this requirement
187 shall:
- 188 i. be located no more than 1000 feet from the same species naturally occurring in the
189 area;
- 190 ii. cluster the new planting around the tower in a natural-appearing manner; and
- 191 iii. demonstrate sufficient availability of soil nutrients and soil moisture necessary for
192 species survival. A planting that dies shall be replaced no later than fall or spring,
193 whichever comes first, with a plant of equal or greater size as the originally proposed
194 planting.
- 195 2. architecturally replicate structures that are commonly accessory to onsite agricultural
196 uses;
- 197 3. if in a village area as depicted in the Ogden Valley General Plan's Commercial
198 Locations and Village Areas map, architecturally replicate structures that were

- 199 commonly found in historic old-west or western mining towns prior to 1910, excluding
200 poles, structures, or other features that were used for overhead utilities; or
- 201 4. if in an area governed by a master plan or development agreement that contains a
202 specific architectural theme, replicate architectural structures that support the
203 architectural theme.
- 204 c. The requirement for the disguise may be waived by the appropriate land use authority in
205 cases where the disguise is inconsistent with existing or future-planned land uses onsite or
206 in the area.