



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

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Public hearing to discuss and take comment on a proposal to amend the following section of Weber County Code: Cluster Subdivisions (§108-3) to amend the size requirements for individually owned preservation parcels, to add alternative standards for accessory buildings, and to provide administrative edits for clarity.

**Agenda Date:** Tuesday, November 21, 2017 (Western Weber PC)  
Tuesday, November 28, 2017 (Ogden Valley PC)

**Staff Report Date:** Tuesday, November 14, 2017

**Applicant:** Weber County Planning Division

**File Number:** ZTA 2017-15

### Staff Information

**Report Presenter:** Charlie Ewert  
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**Report Reviewer:** RG

## Applicable Ordinances

§108-3. – Cluster Subdivisions

## Legislative Decisions

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

## Summary and Background

The Western Weber Planning Commission recently reviewed a cluster subdivision in which individually owned open space parcels were being proposed at one acre per parcel. The Planning Commission determined that this acreage was too small to be conducive to the longevity of preservation parcels, and in effect, does not offer meaningful open spaces. The Planning Commission requested staff to recommend amendments that would address the concern.

The proposed ordinance amendments will require that individually owned preservation parcels be at least five acres each and be grouped in no less than two preservation parcels. This will ensure that each open space area that contains an individually owned preservation parcel is no less than 10 acres.

The Planning Commission should determine whether the modifications adequately address the concern. For expediency purposes this item was not presented at work session for either Planning Commission.

## Policy Analysis

### Policy Considerations:

Below is a breakdown of the proposed changes and where the Planning Commission can find them in Exhibit A.

*Line 27: Sketch Plan Review* – Staff are struggling to offer a complete review of a sketch plan prior to the end of the 14 day deadline. We are requesting that the deadline be extended by one week.

*Line 57-58:* Updating terminology.

*Line 109 – 110:* Renaming the section header to prepare it for consolidation.

*Line 112 - 115:* Admin edits for clarity.

*Line 126:* Admin edits for clarity.

*Line 129 - 157:* This text has been removed from lines 234-264 and placed here for fluidity and consistency purposes. The fragmentation of it was a little confusing.

*Line 140 - 147:* This is the new standard that addresses the parcel size of individually owned preservation parcels. It requires that a parcel be at least five acres and be grouped with other open space parcels for a total grouping of no less than 10 acres. This will hopefully foster a future wherein the larger parcels will support a diversity of open-space related uses, and reduce the probability that these preservation parcels will just be extensions of backyards.

*Line 158 - 178:* Admin edits for clarity.

*Line 179 - 184:* This paragraph is new. It is intended to keep the preservation parcels from becoming sectioned off and leased out into parcels too small to be conducive to a management strategy necessary for meaningful open spaces.

*Line 234 - 264:* The text in this section was moved to lines 129-157.

*Line 298 - 305:* The current Cluster code has alternative setback standards for residences, but does not address alternatives for accessory buildings. In some zones the setbacks for accessory buildings might make them impossible. The addition of the table addresses this and helps clarify.

## Conformance to the General Plan

Generally, land use code changes should be vetted through the filter of policy recommendations of the applicable general plan. The 2016 Ogden Valley General Plan offers us guidance on what the community desires:

### **Western Weber General Plan:**

The West Central Weber County general plan offers the following advice:

#### **Policy: Pattern of Development:**

The existing one and two-acre zoning lends itself to a cluster subdivision pattern of development with preservation of open space. An increase in overall density is permitted in Weber County's current Cluster Subdivision Special Provision Ordinance (Chapter 22B) for preservation of open space; however, additional incentives are desired. It is anticipated that the open space and public space allocated as a result of incentive-based increased density should be useable, undeveloped, consolidated open space in the form of parks, natural areas, sensitive lands, agriculturally productive land, or other managed open space.

### **Ogden Valley General Plan:**

The Ogden Valley general plan suggests the following goals and principles:

#### **Gateways and Viewsheds Goal 2: A goal of Weber County is to protect the Valley's sense of openness and rural character.**

Gateways and Viewsheds Principle 2.2: Encourage creative development designs that preserve natural, agricultural, and other open spaces, including clustered and mixed-use developments.

#### **Land Use Goal 1: A goal of Weber County is to reduce the overall amount and impact of future land development in the Ogden Valley planning area.**

Land Use Principle 1.5: Encourage new development to locate in areas where water and sewer service

could be provided by a sewer system. Encourage clustered residential developments with smaller building lots and larger areas of open space for most subdivisions.

If the Planning Commission(s) can determine that the proposal will advance the objectives of their general plan it should recommend approval of the proposal to the County Commission.

### **Past Action on this Item**

No formal action has occurred on this item. The Western Weber Planning Commission requested that the individually owned preservation parcel requirements be re-addressed.

### **Noticing Compliance**

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

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

### **Staff Recommendation**

Staff recommends that the Planning Commission consider the text included as Exhibit A and Exhibit B and offer staff critical feedback for additional amendments, if needed. If the Planning Commission is comfortable with the proposal, it could be forwarded to the County Commission with the following findings:

1. The changes are generally supported by the general plan.
2. The changes will offer an avenue for more preserved open spaces.
3. The changes are not detrimental to the general health and welfare of County residents.

### **Exhibits**

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

1 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

2 **Sec. 108-3-1. - Intent.**

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

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

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

17 **Sec. 108-3-3. - Approval procedure.**

18 (a) The cluster subdivision approval procedure consists of four phases as follows:

- 19 (1) A conceptual sketch plan endorsement from the appropriate planning area planning  
20 commission;
- 21 (2) A preliminary approval by the appropriate planning area planning commission;
- 22 (3) A recommendation from the appropriate planning area planning commission for final  
23 approval by the board of county commissioners; and
- 24 (4) A final approval and acceptance by the board of county commissioners.

25 (b) An application for a conceptual sketch plan endorsement shall demonstrate compliance  
26 with all applicable standards contained within the Weber County Code. The completed  
27 application must be submitted at least ~~44~~21 calendar days prior to the planning  
28 commission meeting at which the applicant wishes to be heard. The application is complete  
29 upon submission of the following:

- 30 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of  
31 Ordinances, and submission of a complete sketch plan endorsement application on a  
32 form provided by the county planning department.
- 33 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject  
34 property, surrounding streets, and relevant landmarks.
- 35 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that  
36 demonstrates in a suitable manner compliance with all applicable codes. The plan shall  
37 include, but not necessarily be limited to, a north arrow and scale, subdivision  
38 boundary according to county records, approximate locations of proposed streets, lots  
39 with approximate area calculations, common areas and open space parcels with  
40 approximate area calculations, easements, waterways, suspected wetlands,  
41 floodplains, existing structures, and contour lines. Information related to topography  
42 and contour lines may be submitted on a separate map. Contour information may be

43 omitted if the planning director or his designee determines that the subject property  
44 lacks topographic characteristics that warrant representation.

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

47 (c) An application for preliminary approval by the appropriate planning commission,  
48 recommendation for final approval, or final approval and acceptance by the board of county  
49 commissioners shall comply with all applicable standards of the Weber County Land Use  
50 Code, including this chapter and title 106, Subdivisions. The approval process shall  
51 proceed as directed by Weber County Land Use Code title 106, chapter 1.

52 **Sec. 108-3-4. - Cluster subdivision design and layout standards.**

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

56 (1) A cluster subdivision's general design shall concentrate residential building lots, with  
57 their adjoining road rights-of-way and any approved ~~access exceptions~~ alternative  
58 access, if applicable, into separate and individual clusters that are entirely surrounded  
59 by open space dedicated as common area, individually owned preservation parcels, or  
60 both. The open space area ~~is~~ between one cluster of lots and another cluster, or one  
61 cluster of lots and the subdivision boundary, shall not be less than ~~75-100~~ 75 feet in width,  
62 ~~and the open space area in between lots and an exterior subdivision boundary shall~~  
63 ~~not be less than 50 feet in width.~~ The open space required in between lots and a  
64 subdivision's exterior boundary shall be waived if:

Comment [c1]: Metric change

- 65 a. Lots sharing a common line with the subdivision boundary contain 15,000 square  
66 feet or more;
- 67 b. Lots are located along an internal phasing line when that phasing line is acting as  
68 a temporary external boundary;
- 69 c. The proposed cluster subdivision lies adjacent to an existing subdivision that  
70 contains at least one lot that is smaller or not more than 5,000 square feet larger  
71 than the smallest lot lying within the proposed cluster subdivision; or
- 72 d. Lots located along an external boundary lie adjacent to a parcel that:
  - 73 1. Does not contain an existing dwelling; or
  - 74 2. Contains a single existing dwelling that lies further than 150 feet away from all  
75 external boundaries of the proposed cluster subdivision.

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

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

- 86 (3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is  
 87 located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall  
 88 be preserved as open space and dedicated as described in subsection (1) above. The  
 89 minimum open space areas are as follows:
- 90 a. In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall  
 91 be preserved as open space.
  - 92 b. In the Forest (F-5) and Forest (F-10) Zones, a minimum of 80 percent of a cluster  
 93 subdivision shall be preserved as open space.
  - 94 c. In the Agricultural Valley (AV-3), Forest Valley (FV-3), and the Ogden Valley  
 95 Destination and Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a  
 96 cluster subdivision shall be preserved as open space.
  - 97 d. In all other zones where a cluster subdivision is an allowed development type a  
 98 minimum of 30 percent of a cluster subdivision shall be preserved as open space.
- 99 (4) Lands that can be mitigated such as floodplain and wetlands are considered  
 100 developable and shall be counted towards density. Floodways within river corridors,  
 101 lakes, and naturally occurring pond areas, which could not be developed but provide  
 102 an amenity may also be a part of the open space, with 25 percent of this land credited  
 103 towards the overall density of the development if this land is used to provide amenities  
 104 and is accessible to the development.
- 105 (5) Areas designated as floodplain, as defined by the Federal Emergency Management  
 106 Agency or other qualified professional determined appropriate by the county engineer,  
 107 rivers and streams, with and including their designated river or stream corridor  
 108 setbacks, as defined by the Weber County Land Use Code, shall be located within a  
 109 cluster subdivision's open space area.

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

112

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

115 ~~(a) (1) — Plan approval~~ Open space plan submittal. In addition to the subdivision application  
 116 requirements specified in Title 106 of this Land Use Code. ~~An~~ open space preservation  
 117 plan shall accompany an application for preliminary and final approval of a cluster  
 118 subdivision. The plan shall include a narrative describing all proposed uses, phasing, and  
 119 maintenance methods for all open space parcels, and a site plan that shows proposed  
 120 common areas, individually owned preservation parcels, and the locations of existing and  
 121 proposed future structures.

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

127 ~~(2)b-~~ For open space dedicated as individually owned preservation parcels whereon  
 128 buildings will be located, the site plan shall identify locatable building envelopes within  
 129 which all existing and future buildings must be located.

130 (b) Open space parcel development standards and ownership regulations. Unless otherwise  
131 provided for in this section, open space parcels shall be developed in a manner that meets  
132 all applicable standards, including but not limited to those found in the Weber County Land  
133 Use Code. Open space parcels shall adhere to the following specific site development  
134 standards:

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

139 a. Open space parcels dedicated as common area are not subject to minimum area  
140 requirements.

141 b. Open space parcels dedicated as individually owned preservation parcels shall  
142 contain an area of not less than five acres and shall be part of a contiguous area of  
143 open space parcels consisting of not less than ten acres in total. Open space  
144 parcels form a contiguous area if each open space parcel in the area shares a  
145 common boundary line that is no less than 100 linear feet with another open space  
146 parcel or lies directly across a street right-of-way, or other approved access, from  
147 another open space parcel, with the common boundaries shared with the street  
148 right-of-way being no less than 100 linear feet.

Comment [c2]: New open space standard.

149 (2) Parcel width. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside  
150 Development Review Procedures and Standards, and unless otherwise regulated by  
151 the Weber-Morgan Health Department, open space parcels located within a cluster  
152 subdivision are not subject to frontage requirements and do not have a minimum width  
153 standard other than the standard described in section 108-3-4(1) and 108-3-5(b)(1).

Comment [c3]: Check References

154 (3) Parcel coverage.

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

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

Comment [c4]: Current code lists this as 5%.

159 (4) Parcel Ownership.

160 a. An open space parcels dedicated as common area shall be commonly owned by  
161 an appropriate homeowner's association established under U.C.A. 1953, § 57-8a-  
162 101 et seq., the Community Association Act.

163 b. In addition to the standards of Section 108-3-6, an open space parcels may be  
164 owned as an individually owned preservation parcel in accordance with the  
165 following:-

Comment [c5]: Check Reference

166 1. An individually owned preservation parcels of ten acres or more in area may  
167 be owned by any person, regardless of whether the person owns a residential  
168 lot within the subdivision.

169 2. An individually owned preservation parcels of less than ten acres in area may  
170 only be owned by an owner of a lot within the same cluster subdivision.

Comment [c6]: See 108-3-6(1)b.1.

171 3. The applicable ownership standard for an individually owned preservation  
172 parcel in subsection (2)a.1. or 2. shall be memorialized in the following  
173 manner:

Comment [c7]: Huh? (2)a.1 or 2 does not exist?

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

178 ii. A note describing the applicable ownership standard shall be placed on  
179 the final recorded plat.

180 c. In order to keep an individually owned preservation parcel from becoming  
181 unconducive to multiple-acreage preservation uses, an individually owned  
182 preservation parcel shall not be sectioned into sub-areas of five acres or less by  
183 fencing or other physical barriers. The planning commission may modify this  
184 requirement for uses that support the longevity of the preservation, maintenance,  
185 and large-acreage use of the parcel.

186 (3c) *Maintenance.* The open space parcel owner, whether an individual or an association,  
187 shall use, manage, and maintain the owner's parcel in a manner that is consistent with the  
188 open space preservation plan approved under subsection (1), and the agriculture, forest, or  
189 other type of preservation easement executed under subsection (4).

190 (4d) Preservation.

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

193 (2)b- The applicant, prior to recording or as part of recording the final cluster  
194 subdivision plat, shall grant and convey to the county, to each lot owner, and to the  
195 homeowner association, if applicable, an open space easement over all areas  
196 dedicated as common area or individually owned preservation parcels. The open  
197 space easement shall incorporate and conform to the open space preservation plan  
198 approved under subsection (1).

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

203 (4)e- If a cluster subdivision contains an individually owned preservation parcel, the  
204 applicant shall:

205 1.a. Identify and label on the final plat each such parcel as an agricultural, forest, or  
206 other type of preservation parcel;

207 2.b. Further identify each preservation parcel by placing a unique identifying letter of  
208 the alphabet immediately after the label;

209 3.c. Present an agricultural, forest, or other type of preservation easement to the  
210 planning commission and gain their approval; and

211 4.d. Record an approved preservation easement on each parcel identified as a  
212 agricultural, forest, or other type of preservation parcel.

213 (5)e- The planning commission may impose any additional conditions and restrictions  
214 it deems necessary to ensure maintenance of the open space and adherence to the  
215 open space preservation plan. Such conditions may include a plan for the disposition  
216 or re-use of the open space property if the open space is not maintained in the manner  
217 agreed upon or is abandoned by the owners.



218 | ~~(5e)~~ *Guarantee of open space improvements.*

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

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

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

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

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

244 | ~~a. — Open space parcels dedicated as common area are not subject to minimum area~~  
245 | ~~requirements.~~

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

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

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

256 | ~~(2) — Parcel width. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside~~  
257 | ~~Development Review Procedures and Standards, and unless otherwise regulated by the~~

**Comment [c8]:** Whole section moved to 108-3-5(b).

258 ~~Weber-Morgan Health Department, open space parcels located within a cluster subdivision are~~  
259 ~~not subject to frontage requirements and do not have a minimum width standard other than the~~  
260 ~~standard described in section 108-3-4(1).~~

261 ~~(3) — Parcel coverage.~~

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

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

**Comment [c9]:** Keep at 5%? 5% of five acres is 10,890 square feet, or a quarter acre.

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

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

271 (1) *Lot area.*

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

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

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

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

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

286 i. Does not contain an existing dwelling; or

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

289 (2) *Lot width.* Unless otherwise regulated by the Weber-Morgan Health Department or  
290 Weber County Land Use Code, title 108, chapter 14, Hillside Development Review  
291 Procedures and Standards, the minimum lot width in a cluster subdivision is:

292 a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.

293 b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-  
294 3), and the Forest Valley (FV-3) Zones.

295 c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2,  
296 and A-3) Zones.

297 d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and  
 298 Recreation Resort (DRR-1) Zone.

299 (3) ~~Yard setbacks for dwellings. The M~~minimum yard setbacks ~~for dwellings~~ in a cluster  
 300 subdivision are as follows:

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

301 ~~a. Front: 20 feet.~~

302 ~~b. Side: 8 feet.~~

303 ~~c. Rear: 20 feet.~~

304 (4) ~~Dwelling-Building height.~~ The maximum height for ~~dwellings-a building~~ in a cluster  
 305 subdivision ~~is 40 feet~~ is as follows:

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

**Comment [c10]:** This code unintentionally missed alternative development regulations for accessory buildings.

306

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

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

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

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

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

- 321 c. If the cluster subdivision provides a minimum of one approved public access to  
322 public lands, up to a five percent bonus density may be granted.
- 323 d. If the cluster subdivision provides common area that offers easily accessible  
324 amenities, such as a trail, park, or community garden, that are open for use by the  
325 general public, up to a five percent bonus density may be granted.
- 326 e. If the cluster subdivision dedicates and conveys to the county, the state division of  
327 wildlife resources, or both, an open space easement that permanently preserves  
328 areas that have been identified by the state division of wildlife resources as having  
329 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may  
330 be granted.
- 331 (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of  
332 up to 50 percent if the applicant preserves an open space percentage above that  
333 required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up  
334 to 30 percent. Overall bonus density potential shall be no greater than a percentage  
335 equal to the percentage of the subdivision's total area preserved as open space. The  
336 county may award bonus densities based on an accumulation of any combination of  
337 the following:
- 338 a. If a cluster subdivision meets the purpose and intent of this chapter, up to a ten  
339 percent bonus may be granted.
- 340 b. If a cluster subdivision provides and implements an approved roadway landscape  
341 and design plan that includes, but is not necessarily limited to, vehicle and  
342 pedestrian circulation, lighting, and street trees of an appropriate species, size of  
343 at least a two-inch caliper, and quantity of not less than eight trees for every 100  
344 feet of road length, up to 20 percent bonus density may be granted.
- 345 c. For each five percent increment of open space preserved over 50 percent: a five  
346 percent bonus density shall be granted up to the total bonus density allowed by  
347 subsection (3).
- 348 d. If a cluster subdivision provides a minimum of one approved access to public  
349 lands, up to a ten percent bonus density may be granted.
- 350 e. If a cluster subdivision provides common area that offers easily accessible  
351 amenities such as trails, parks, or community gardens, that are open for use by the  
352 general public, up to a 15 percent bonus density may be granted.
- 353 f. If ten percent of the lots and homes in a cluster subdivision are permanently set  
354 aside for affordable housing as outlined by the Affordable Housing Act of 1990, up  
355 to a 20 percent bonus density may be granted.
- 356 If a bonus density is granted for affordable housing, the applicant shall:
- 357 1. Present and gain Planning Commission approval of an effective plan and  
358 method for guaranteeing and enforcing perpetual affordability. Any method  
359 used, such as an affordable housing deed restriction, shall limit the sale or  
360 rental of the affected lots and homes to a household with an income at or  
361 below 80 percent of the county median income;
- 362 2. Identify and label, on the final plat, the lots set aside as affordable housing  
363 Lots; and

- 364 3. Provide a note on the final plat explaining the nature of the housing restriction  
365 on the lot and the method by which occupancy and affordability will be  
366 regulated.
- 367 g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based  
368 open space preservation plan approved by the planning commission and records  
369 an agricultural preservation easement on the parcel, a bonus density may be  
370 approved as follows:
- 371 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15  
372 percent bonus density may be granted.
- 373 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20  
374 percent bonus density may be granted.
- 375 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30  
376 percent bonus density may be granted.
- 377 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40  
378 percent bonus density may be granted if the parcel standing alone is greater  
379 than the minimum open space requirement for the subdivision.
- 380 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus  
381 density may be granted if the parcel standing alone is greater than the  
382 minimum open space requirement for the subdivision.
- 383 h. If a cluster subdivision provides for the preservation of historical sites and buildings  
384 that have been identified by the state historic preservation office as having notable  
385 historical value, up to a five percent bonus density may be granted.
- 386 i. If a cluster subdivision provides for the development of excess sewage treatment  
387 capacity, up to a five percent bonus density may be granted.
- 388 j. If a cluster subdivision dedicates and conveys to the county, the state division of  
389 wildlife resources, or both, an open space easement that permanently preserves  
390 areas that have been identified by the state division of wildlife resources as having  
391 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may  
392 be granted.
- 393 k. If a cluster subdivision includes an open space parcel that consists of five acres or  
394 more and is contiguous to permanently preserved open space on an adjoining  
395 property located outside of the cluster subdivision, up to a 20 percent bonus  
396 density may be granted.

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

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

- 402 (1) Establish a homeowners association and submit for the county's review the necessary  
403 articles of incorporation, bylaws, and declaration of covenants, conditions, and  
404 restrictions that provide for:
- 405 a. Compliance with Utah State Code;
- 406 b. The reason and purpose for the association's existence;

- 407 c. Mandatory membership for each lot or home owner and their successors in  
408 interest;
- 409 d. The perpetual nature of the easements related to all dedicated open space  
410 parcels;
- 411 e. Responsibilities related to liability, taxes, and the maintenance of recreational and  
412 other infrastructure and facilities;
- 413 f. Financial obligations and responsibilities, including the ability to adjust the  
414 obligations and responsibilities due to change in needs;
- 415 g. Association enforcement remedies; and
- 416 h. A notification of the county's ability to enforce the terms of the owner's dedication  
417 on the subdivision dedication plat.
- 418 (2) Register the homeowners association with the State of Utah, Department of  
419 Commerce.

1 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

2 **Sec. 108-3-1. - Intent.**

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

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

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

17 **Sec. 108-3-3. - Approval procedure.**

18 (a) The cluster subdivision approval procedure consists of four phases as follows:

- 19 (1) A conceptual sketch plan endorsement from the appropriate planning area planning  
20 commission;
- 21 (2) A preliminary approval by the appropriate planning area planning commission;
- 22 (3) A recommendation from the appropriate planning area planning commission for final  
23 approval by the board of county commissioners; and
- 24 (4) A final approval and acceptance by the board of county commissioners.

25 (b) An application for a conceptual sketch plan endorsement shall demonstrate compliance  
26 with all applicable standards contained within the Weber County Code. The completed  
27 application must be submitted at least 21 calendar days prior to the planning commission  
28 meeting at which the applicant wishes to be heard. The application is complete upon  
29 submission of the following:

- 30 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of  
31 Ordinances, and submission of a complete sketch plan endorsement application on a  
32 form provided by the county planning department.
- 33 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject  
34 property, surrounding streets, and relevant landmarks.
- 35 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that  
36 demonstrates in a suitable manner compliance with all applicable codes. The plan shall  
37 include, but not necessarily be limited to, a north arrow and scale, subdivision  
38 boundary according to county records, approximate locations of proposed streets, lots  
39 with approximate area calculations, common areas and open space parcels with  
40 approximate area calculations, easements, waterways, suspected wetlands,  
41 floodplains, existing structures, and contour lines. Information related to topography  
42 and contour lines may be submitted on a separate map. Contour information may be

43 omitted if the planning director or his designee determines that the subject property  
44 lacks topographic characteristics that warrant representation.

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

47 (c) An application for preliminary approval by the appropriate planning commission,  
48 recommendation for final approval, or final approval and acceptance by the board of county  
49 commissioners shall comply with all applicable standards of the Weber County Land Use  
50 Code, including this chapter and title 106, Subdivisions. The approval process shall  
51 proceed as directed by Weber County Land Use Code title 106, chapter 1.

52 **Sec. 108-3-4. - Cluster subdivision design and layout standards.**

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

56 (1) A cluster subdivision's general design shall concentrate residential building lots, with  
57 their adjoining road rights-of-way and any approved alternative access, if applicable,  
58 into separate and individual clusters that are entirely surrounded by open space  
59 dedicated as common area, individually owned preservation parcels, or both. The open  
60 space area between one cluster of lots and another cluster, or one cluster of lots and  
61 the subdivision boundary, shall not be less than 100 feet in width. The open space  
62 required in between lots and a subdivision's exterior boundary shall be waived if:

63 a. Lots sharing a common line with the subdivision boundary contain 15,000 square  
64 feet or more;

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

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

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

71 1. Does not contain an existing dwelling; or

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

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

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

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

84 (3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is  
85 located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall



86 be preserved as open space and dedicated as described in subsection (1) above. The  
87 minimum open space areas are as follows:

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

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

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

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

97 (4) Lands that can be mitigated such as floodplain and wetlands are considered  
98 developable and shall be counted towards density. Floodways within river corridors,  
99 lakes, and naturally occurring pond areas, which could not be developed but provide  
100 an amenity may also be a part of the open space, with 25 percent of this land credited  
101 towards the overall density of the development if this land is used to provide amenities  
102 and is accessible to the development.

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

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

109 (a) *Open space plan submittal.* In addition to the subdivision application requirements specified  
110 in Title 106 of this Land Use Code, an open space preservation plan shall accompany an  
111 application for preliminary and final approval of a cluster subdivision. The plan shall include  
112 a narrative describing all proposed uses, phasing, and maintenance methods for all open  
113 space parcels, and a site plan that shows proposed common areas, individually owned  
114 preservation parcels, and the locations of existing and proposed future structures.

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

120 (2) For open space dedicated as individually owned preservation parcels whereon  
121 buildings will be located, the site plan shall identify locatable building envelopes within  
122 which all existing and future buildings must be located.

123 (b) *Open space parcel development standards and ownership regulations.* Unless otherwise  
124 provided for in this section, open space parcels shall be developed in a manner that meets  
125 all applicable standards, including but not limited to those found in the Weber County Land  
126 Use Code. Open space parcels shall adhere to the following specific site development  
127 standards:

128 (1) *Parcel area.* Unless otherwise regulated by the Weber-Morgan Health Department or  
129 Weber County Land Use Code title 108, chapter 14, Hillside Development Review

130 Procedures and Standards, the minimum area for an open space parcel located within  
131 a cluster subdivision is as follows:

132 a. Open space parcels dedicated as common area are not subject to minimum area  
133 requirements.

134 b. Open space parcels dedicated as individually owned preservation parcels shall  
135 contain an area of not less than five acres and shall be part of a contiguous area of  
136 open space parcels consisting of not less than ten acres in total. Open space  
137 parcels form a contiguous area if each open space parcel in the area shares a  
138 common boundary line that is no less than 100 linear feet with another open space  
139 parcel or lies directly across a street right-of-way, or other approved access, from  
140 another open space parcel, with the common boundaries shared with the street  
141 right-of-way being no less than 100 linear feet.

142 (2) *Parcel width.* Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside  
143 Development Review Procedures and Standards, and unless otherwise regulated by  
144 the Weber-Morgan Health Department, open space parcels located within a cluster  
145 subdivision are not subject to frontage requirements and do not have a minimum width  
146 standard other than the standard described in section 108-3-4(1) and 108-3-5(b)(1).

147 (3) *Parcel coverage.*

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

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

152 (4) *Parcel ownership.*

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

156 b. In addition to the standards of Section 108-3-6, an open space parcel may be  
157 owned as an individually owned preservation parcel in accordance with the  
158 following:

159 1. An individually owned preservation parcel of ten acres or more in area may be  
160 owned by any person, regardless of whether the person owns a residential lot  
161 within the subdivision.

162 2. An individually owned preservation parcel of less than ten acres in area may  
163 only be owned by an owner of a lot within the same cluster subdivision.

164 3. The applicable ownership standard for an individually owned preservation  
165 parcel shall be memorialized in the following manner:

166 i. An explanation of the applicable ownership standard and a perpetual  
167 restriction conforming thereto shall be written into all agriculture, forest, or  
168 other type of preservation easement granted pursuant to subsection (4);  
169 and

170 ii. A note describing the applicable ownership standard shall be placed on  
171 the final recorded plat.

172 c. In order to keep an individually owned preservation parcel from becoming uncondusive to  
173 multiple-acreage preservation uses, an individually owned preservation parcel shall not be  
174 sectioned into sub-areas of five acres or less by fencing or other physical barriers. The  
175 planning commission may modify this requirement for uses that support the longevity of the  
176 preservation, maintenance, and large-acreage use of the parcel. (c) *Maintenance*. The  
177 open space parcel owner, whether an individual or an association, shall use, manage, and  
178 maintain the owner's parcel in a manner that is consistent with the open space preservation  
179 plan approved under subsection (1), and the agriculture, forest, or other type of  
180 preservation easement executed under subsection (4).

181 (d) Preservation.

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

184 (2) The applicant, prior to recording or as part of recording the final cluster subdivision plat,  
185 shall grant and convey to the county, to each lot owner, and to the homeowner  
186 association, if applicable, an open space easement over all areas dedicated as  
187 common area or individually owned preservation parcels. The open space easement  
188 shall incorporate and conform to the open space preservation plan approved under  
189 subsection (1).

190 (3) If a cluster subdivision contains open space intended to preserve substantial or crucial  
191 wildlife habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat  
192 easement meeting the requirements of the Utah Division of Wildlife Resources shall be  
193 offered to the division.

194 (4) If a cluster subdivision contains an individually owned preservation parcel, the  
195 applicant shall:

196 a. Identify and label on the final plat each such parcel as an agricultural, forest, or  
197 other type of preservation parcel;

198 b. Further identify each preservation parcel by placing a unique identifying letter of  
199 the alphabet immediately after the label;

200 c. Present an agricultural, forest, or other type of preservation easement to the  
201 planning commission and gain their approval; and

202 d. Record an approved preservation easement on each parcel identified as an  
203 agricultural, forest, or other type of preservation parcel.

204 (5) The planning commission may impose any additional conditions and restrictions it  
205 deems necessary to ensure maintenance of the open space and adherence to the  
206 open space preservation plan. Such conditions may include a plan for the disposition  
207 or re-use of the open space property if the open space is not maintained in the manner  
208 agreed upon or is abandoned by the owners.

209 (e) *Guarantee of open space improvements*.

210 (1) The county shall not require an applicant to deposit a financial guarantee for open  
211 space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a  
212 certificate of occupancy and that remain incomplete at the time of final approval and  
213 acceptance of the proposed cluster subdivision from the board of county  
214 commissioners. The applicant or developer shall complete the improvements according  
215 to the approved phasing component of an open space preservation plan. If the  
216 applicant fails to complete improvements as presented in the open space preservation

217 plan, the county may suspend final plat approvals and record an instrument notifying  
218 prospective lot buyers that future land use permits may not be issued for any  
219 construction.

220 (2) The county shall require an applicant to deposit a financial guarantee for all open  
221 space improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.)  
222 that do not require a certificate of occupancy and that remain incomplete at the time of  
223 final approval and acceptance of the proposed cluster subdivision from the board of  
224 county commissioners. The applicant or developer shall complete all improvements  
225 according to the approved phasing component of an open space preservation plan.

226 **Sec. 108-3-6. – Reserved.**

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

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

232 (1) *Lot area.*

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

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

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

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

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

247 i. Does not contain an existing dwelling; or

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

250 (2) *Lot width.* Unless otherwise regulated by the Weber-Morgan Health Department or  
251 Weber County Land Use Code, title 108, chapter 14, Hillside Development Review  
252 Procedures and Standards, the minimum lot width in a cluster subdivision is:

253 a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.

254 b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-  
255 3), and the Forest Valley (FV-3) Zones.

256 c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2,  
257 and A-3) Zones.

258 d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and  
 259 Recreation Resort (DRR-1) Zone.

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

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

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

Dwelling	40 feet
Accessory building	30 feet

263

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

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

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

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

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

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

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

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

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

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

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

302 c. For each five percent increment of open space preserved over 50 percent: a five  
303 percent bonus density shall be granted up to the total bonus density allowed by  
304 subsection (3).

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

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

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

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

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

319 2. Identify and label, on the final plat, the lots set aside as affordable housing  
320 Lots; and

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

324 g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based  
325 open space preservation plan approved by the planning commission and records

326 an agricultural preservation easement on the parcel, a bonus density may be  
327 approved as follows:

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

330 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20  
331 percent bonus density may be granted.

332 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30  
333 percent bonus density may be granted.

334 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40  
335 percent bonus density may be granted if the parcel standing alone is greater  
336 than the minimum open space requirement for the subdivision.

337 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus  
338 density may be granted if the parcel standing alone is greater than the  
339 minimum open space requirement for the subdivision.

340 h. If a cluster subdivision provides for the preservation of historical sites and buildings  
341 that have been identified by the state historic preservation office as having notable  
342 historical value, up to a five percent bonus density may be granted.

343 i. If a cluster subdivision provides for the development of excess sewage treatment  
344 capacity, up to a five percent bonus density may be granted.

345 j. If a cluster subdivision dedicates and conveys to the county, the state division of  
346 wildlife resources, or both, an open space easement that permanently preserves  
347 areas that have been identified by the state division of wildlife resources as having  
348 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may  
349 be granted.

350 k. If a cluster subdivision includes an open space parcel that consists of five acres or  
351 more and is contiguous to permanently preserved open space on an adjoining  
352 property located outside of the cluster subdivision, up to a 20 percent bonus  
353 density may be granted.

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

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

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

362 a. Compliance with Utah State Code;

363 b. The reason and purpose for the association's existence;

364 c. Mandatory membership for each lot or home owner and their successors in  
365 interest;

366 d. The perpetual nature of the easements related to all dedicated open space  
367 parcels;

- 368 e. Responsibilities related to liability, taxes, and the maintenance of recreational and  
369 other infrastructure and facilities;
- 370 f. Financial obligations and responsibilities, including the ability to adjust the  
371 obligations and responsibilities due to change in needs;
- 372 g. Association enforcement remedies; and
- 373 h. A notification of the county's ability to enforce the terms of the owner's dedication  
374 on the subdivision dedication plat.
- 375 (2) Register the homeowners association with the State of Utah, Department of  
376 Commerce.