

WEBER COUNTY
ORDINANCE 2020-32

SUBDIVISION ON A SUBSTANDARD STREET OR STREET ROUTE

AN AMENDMENT TO THE WEBER COUNTY LAND USE CODE TO CHANGE THE CIRCUMSTANCES UNDER WHICH A SUBDIVISION MAY BE CREATED ALONG A SUBSTANDARD STREET OR STREET ROUTE, DEAD END STREET OR STREET ROUTE, AND RELATED CLERICAL EDITS.

WHEREAS, The Board of Commissioners of Weber County (Board) has heretofore adopted land use regulations applicable to subdivisions in the unincorporated areas of Weber County; and

WHEREAS, The Board has determined that the existing land use regulations are inadequate and unnecessarily restrictive when applied to a subdivision that is located on a terminal substandard street or route of streets; and

WHEREAS, The Board desires to amend the land use regulations to enable subdivisions to occur along a substandard terminal street or street route under certain conditions and when adequate compensation for the subdivision's impact on the street is received; and

WHEREAS, On May 5, 2020, the Ogden Valley Planning Commission offered a recommendation on the proposed ordinance; and

WHEREAS, On February 9, 2021, the Western Weber Planning Commission offered a recommendation on the proposed ordinance; and

NOW THEREFORE, be it ordained by the Board of County Commissioners of Weber County, in the State of Utah, as follows:

SECTION 1: AMENDMENT "Sec 101-2-20 St Definitions" of the Weber County Code is hereby *amended* as follows:

Sec 101-2-20 St ~~Defintions~~Definitions

Temporarily terminal street or temporarily terminal street-route. The terms "temporarily terminal street" or "temporarily terminal street-route" means a street, portion of a street, series of streets, or street-routes that have a single point of entry from the greater public street network, and are only intended to be terminal temporarily until they connect back into the greater public street system through future extensions, as shown in an applicable general plan, small area plan, master streets plan, development agreement, or similar legislatively adopted planning document.

SECTION 2: AMENDMENT "Sec 101-2-20 Su Definitions" of the Weber County Code is hereby *amended* as follows:

Sec 101-2-20 Su ~~Defintions~~Definitions

Subdivision. The term "subdivision" means the same as defined in UCA Section 17-27a-103. ~~any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. The term "subdivision" includes: The division or development land whether by deed, metes and bounds description, devise and testacy, lease, map, plat or other recorded instrument. Except as provided in subsections (c) and (d) of this definition, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. Except as provided in subsections (c) and (d) of this~~

~~definition, and where this Land Use Code provides the requirement, the term "subdivision" includes a requirement to plat an individual parcel that exists as a result of a past subdivision of land that was created without a subdivision plat. Except as provided in subsections (c) and (d) of this definition, and where this Land Use Code provides the requirement, the term "subdivision" includes a requirement to plat the resulting parcel when two or more parcels are combined together as one. The term "subdivision" does not include: A bona fide division or partition of agricultural land for agricultural purposes; A recorded agreement between owners of adjoining properties adjusting their mutual boundary if: No new lot is created; and The adjustment does not violate applicable land use ordinances; A recorded document, executed by the owner of record Revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances; A bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels: An electrical transmission line or a substation; A natural gas pipeline or a regulation station; or An unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility; A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if: No new dwelling lot or housing unit will result from the adjustment; and The adjustment will not violate any applicable land use ordinance; A bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or A parcel boundary adjustment. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.~~

Subdivision, cluster. The term "cluster subdivision" means a subdivision of land that organizes lots that are typically smaller than the minimum area allowed by the zone into clusters of lots, and reserves other areas in the subdivision as opens space. ~~in which the lots have areas less than the minimum lot area of the zone in which the subdivision is located, but which complies with the cluster subdivision provisions of the Land Use Code and in which a significant part of the land is privately reserved or dedicated as permanent common openspace to provide an attractive low density character for the residential lots in the subdivision.~~

Subdivision, small. The term "small subdivision" means:

1. A subdivision ~~consisting of~~ that has three nine or fewer lots ~~and for which no streets will be created or realigned;~~
2. An amended subdivision ~~consisting of~~ that has five nine or fewer lots ~~and for which no streets will be created or realigned;~~ or
3. A final plat of a subdivision phase ~~that~~ consisting of has nine five or fewer lots, which has a valid preliminary approval by the planning commission and meets all conditions of preliminary approval, including proposed street layouts and phasing plan. ~~The county commission will have to accept the roads and the financial guarantee, unless under \$25,000.00.~~

Suitability determination. The term "suitability determination" means a study carried out under the direction of the planning commission to ascertain if a development at increased densities due to a density transfer from a sensitive area is compatible with development on surrounding or adjacent property.

Supermarket. The term "supermarket" means a store for the retail sale of food and household goods with additional services within the building, such as banking, dry cleaners, real estate sales office and insurance sales.

SECTION 2: AMENDMENT "Sec 106-2-1 Relation To Adjoining Street Systems" of the Weber County Code is hereby *amended* as follows:

Sec 106-2-1 ~~Relation To Adjoining Street~~ Systems Configuration

A subdivision shall be designed to follow the street configuration requirements herein and elsewhere in this Land Use Code. Where this code allows an applicant flexibility on street location or configuration, that flexibility shall not be construed to relieve the applicant from requirements of this section.

(a) **General street configuration and alignment.** The ~~arrangement~~ configuration of streets in a new subdivisions shall ~~make provision:~~

- (1) Ensure the continuation of existing streets ~~inadjoining~~ that can logically and reasonably be connected along the same street alignment.;
- (2) Provide for the continuation of new streets into adjoining undeveloped land; ~~(or their proper protection where adjoining land is not subdivided) insofar as such may be deemed necessary by the planning commission for public requirements. Arrangement must be such as~~
- (3) Be designed to consider the block length specified in Section 106-2-3, as it relates to both the subject property and adjoining property;
- (4) Not avoid the requirements of this section by shifting the responsibility of providing a street onto landowners of adjacent undeveloped or underdeveloped parcels; and
- (5) Not create an unnecessary hardship to providing street connections on or to other parcels in the general area, as deemed appropriate, by the Land Use Authority. ~~owners of when they plat their own land and seek to provide for convenient access to it.~~

(b) **Master planned street.** A street shown in an applicable general plan, small area plan, master streets plan, development agreement, or similar adopted planning document, shall be installed by the applicant in the general location depicted in the planning document.

(c) **Section line and quarter section line streets.** A street shall be installed by the applicant along the general alignment of a section line and quarter section line, in compliance with the following.

- (1) **Minor deviations from section lines.** The alignment of a section line or quarter section line street may be adjusted up to 400 feet so the applicant may gain lots on both sides of the street, provided that the radii of the curves are appropriate for the type of street, as determined by the County Engineer. The street shall realign at some point down-street with the same section line or quarter section line, or a previously created street or dedicated street right-of-way intended to be or become the same section line or quarter section line street.
- (2) **Alternative street alignment.** The Land Use Authority may, but is not required to, allow a street's alignment to be rerouted or, if it does not violate the terminal street requirements of Section 106-2-2.4, terminated if strict compliance with this subsection is inappropriate for the following reasons:
 - a. It will result in unreasonable public costs for operations or maintenance of the street;
 - b. It will conflict with a railway, waterway, wetland, critical wildlife habitat, or other environmental concern that cannot be mitigated with reasonable effort;
 - c. It will result in a conflict with another section of this Land Use Code; or
 - d. It will advance a goal of a general plan, small area plan, or similar planning document applicable to the land.
- (3) **Angle of intersecting streets.** Any street approaching an arterial or collector street shall ~~Minor streets shall~~ approach ~~the major or collector streets~~ at an angle of not less than 80 degrees.

(4) Half-streets. A half-street shall be governed as follows:

- a. Within a subdivision. A half-street is not allowed within a subdivision except as more specifically provided herein.
- b. On a subdivision boundary. Where a subdivision's boundary shares a common line with undeveloped land, an approximate half-width street right-of-way is allowed as long as:
 - a. The required street improvements include half of what is otherwise typically required for the type of street plus at least a 20-foot wide vehicle travel surface, designed to specifications of the County Engineer; and
 - b. The street right-of-way within the bounds of the subdivision is wide enough to accommodate these street improvements.

(Ord. of 1952, title 26, § 2-1)

SECTION 3: AMENDMENT "Sec 106-2-2.4 Minor Terminal Streets" of the Weber County County Code is hereby amended as follows:

Sec 106-2-2.4 ~~Minor~~ Terminal Streets

(a) Permanently terminal street.

- (1) Maximum length and number of lots. A ~~Minor~~ permanently terminal streets (cul-de-sacs or dead-end) ~~proposed in the subdivision of flat land where topography presents no barriers to development, or permanently terminal street-route~~ shall:
 - a. Serve no more than 15 subdivision lots or lots of record as defined by Section 101-2;
 - b. Provide access to no more than 30 total dwelling units; and
 - c. Have a maximum length of 750 feet to the beginning of the turnaround¹⁴ This length shall be measured from the point at which the street or street-route becomes terminal to the furthest extent along the terminal street or terminal street-route. If the terminal street or terminal street-route loops back onto itself, the furthest extent shall be the midpoint of the loop.
- (2) Alternative allowance due to constraints. If approved by the local fire authority, a permanently terminal street or street-route may serve a maximum of 30 subdivision lots or lots of record, and the maximum length of the street may be waived by the Land Use Authority, as long as the topography or other constraints of the land in the vicinity will not reasonably allow for a street connection to make the street or street-route non-terminal. ~~Minor terminal streets (cul-de-sacs) proposed in the subdivision of foothill or mountainous lands where topography dictates or limits the options in road design to a considerable extent, the planning commission will establish a maximum length based upon each individual situation. As a guide for design, a maximum length of 2,000 feet to the beginning of the turnaround is established. Each~~
- (3) Turn-around required. A terminal street ~~cul-de-sac~~ shall be terminated by a turnaround of not less than 100 feet diameter, or as otherwise required by the local fire authority or the County Engineer, in subdivisions below elevation 4,900 feet and of not less than 110 feet diameter in subdivisions above elevation 4,900 feet. If surface stormwater drainage is drains into the turnaround, ~~due to the grade of the street, if necessary, a storm water~~ catchbasins and drainage easements shall be provided.

(b) Temporarily terminal street.

- (1) Parameters.** An applicant may extend a temporarily terminal street or street- route beyond the maximum length specified in Subsection (a) of this section if the extension:
 - a. Can be defined as a temporarily terminal street or temporarily terminal street- route, as defined in Section 101-2 of this Land Use Code;
 - b. Runs along the general alignment of a future street, as shown in an applicable general plan, small area plan, master streets plan, development agreement, or similar legislatively adopted planning document.
 - c. Reduces the distance between the terminal street and the greater interconnected public street network, as measured along the general alignment of the planned street; and
 - d. Complies with the requirements of the Local Fire Authority.
- (2) Number of lots allowed and emergency egress requirements.** A secondary emergency egress and fire access road, as approved by the Local Fire Authority, shall connect the temporarily terminal street to the greater interconnected street network before more than 30 residential lots are allowed to gain sole-access from the street. Additionally, at no time shall more than 30 residential lots be allowed to gain sole-access from the street between the street's intersection with the nearest secondary emergency egress and the street's terminus.
- (3) Turn-around required.** A temporarily terminal street shall have a temporary turn-around at the end that complies with minimum requirements of the local fire authority or the County Engineer. The temporary turn around shall remain available and usable by any users of the street so long as the dead-end condition exists.

(c) Substandard terminal street. A subdivision that is proposed along a terminal street or terminal street-route that does not meet County right-of-way or construction standards at any point along the terminal street or terminal street route shall not be allowed unless the County Engineer and Planning Director can mutually make the following findings:

- (1) A traffic study, conducted by a certified professional traffic operations engineer (PTOE) and funded by the applicant, demonstrates that the existing single-access street or street route is adequate and safe, or can be made adequate and safe with improvements volunteered by the applicant, for the increased traffic demand of the new subdivision;**
- (2) That due to topographic, environmental, or other unique characteristics of the area, it is unlikely that another street or street route will be established that provides the new subdivision a second connection to the greater interconnected public street network within the next 10 years;**
- (3) That not providing the new subdivision with a standard single-access street or street route does not conflict with an applicable general plan, small area plan, master streets plan, or similar adopted planning document;**
- (4) That not requiring a second connection to the greater interconnected public street network does not conflict with an applicable general plan, small area plan, master streets plan, or similar adopted planning document; and**
- (5) That compliance with Section 106-2-2.8 will be met.**

Code is hereby *repealed* as follows:

Sec 106-2-2.5 ~~Temporary Terminal Streets~~ (Reserved)

~~Where a street is designated to remain only temporarily as a dead-end street, an adequate temporary turning area shall be provided at the dead end thereof to remain and be available for public use so long as the dead-end conditions exists.~~

SECTION 5: OMITTED

SECTION 6: AMENDMENT "Sec 106-2-2.8 Standard Street Section" of the Weber County Code is hereby *amended* as follows:

Sec 106-2-2.8 ~~Standard Street Section~~ (Reserved)

~~All proposed streets, whether public or private shall conform to the county street cross-section standards as recommended by the planning commission and adopted by the county commission.~~

SECTION 7: AMENDMENT "Sec 106-2-2.8 Standard Street Section" of the Weber County Code is hereby *amended* as follows:

Sec 106-2-2.8 ~~Standard~~ Street Cross Sections

(a) **Street cross section design.** A proposed new street or street extension shall comply with the standards and specifications provided in Section 106-4-5 of this Land Use Code, as shall half of an existing street adjacent to the lots in the subdivision, if applicable. The County Engineer is authorized to require the applicant to make offsite improvements on streets in the area if the impact of the subdivision on those streets necessitates the improvements.

(b) **Development on a substandard street.** When an applicant is proposing a lot or lots that will gain access from a substandard street, or from a terminal street or terminal street-route that is substandard at any point leading to the lot or lots, the applicant can either choose to bring the street to the applicable standard or the following provisions shall apply:

(1) As part of a "project improvement," as defined in UCA 11-36a-102, the applicant shall pay the cost of a proportionate share of street design, street improvements and, if applicable, street right-of-way acquisition to bring the street into or closer to compliance with County standards. The cost of the proportionate share shall be determined as follows:

a. Estimate the cost to improve the street to County standards from the point it becomes substandard to the furthest extent of the applicant's subdivision along the street, in compliance with the following:

b. This shall be furnished by the applicant in the form of an engineer's cost estimate. The estimate shall use up-to-date market costs for engineering and design, surveying, construction material, labor, and any other expense necessary to improve the street to county standards. The added expense of an intersection or other street component that is not related to providing a standard street to the applicant's subdivision shall be excluded from the calculation;

c. The County Engineer may require the applicant to furnish engineered drawings of the street and an itemized cost- estimate in order to substantiate the estimated cost;

- d. The County Engineer has the discretion to adjust the cost- estimate for inflation or market fluctuations during the duration of construction of the applicant's obligations; and
- e. A subdivision improvement that is required of the applicant by this Land Use Code regardless of the condition of the street shall not be included in this calculation, and shall be provided as otherwise required by this Title; then
- f. Find the sum of the estimated number of lots expected along the street at buildout plus the applicant's proposed number of lots, as follows:
 - a. Measure the length of the substandard street or street-route from the point it becomes substandard to the furthest extent of the applicant's subdivision along the substandard street or street-route;
 - b. Determine the estimated number of lots expected along the street at buildout by dividing the length of the street, the result of Subsection (b)(2)b.1., by the standard minimum lot width of the zone., as found in Title 104 of this Land Use Code. Do not use alternative lot widths, such as those allowed in a cluster subdivision or a lot-averaged subdivision, even if the applicant's subdivision is one;
 - c. Combine the estimated number of lots expected along the street at buildout, the results of Subsection (b)(2)b.2., with the applicants proposed number of subdivision lots; then
 - d. Divide the cost to improve the street or street-route to County standards, the result of Subsection (b)(2)a., by the sum of the estimated number of lots expected along the street at buildout plus the applicant's proposed number of lots, the result of Subsection (b)(2)b.

(2) The County Engineer shall:

- a. Require the applicant to make improvements to the substandard street or street-route in an amount up to but not exceeding the applicant's cost of the proportionate share, as determined herein. The County Engineer has full authority and discretion to determine what improvements are required of the applicant;
- b. Require this cost to be deposited with the County for the County to add street's needed improvements into scheduled road maintenance and improvements; or
- c. If the County Engineer determines that the funds that would be made available are insufficient to provide meaningful project improvements along the substandard street or street route, may allow a substandard road agreement in lieu of the project improvements required in paragraph (2)(a) of this Subsection 106-4-2(p). In this case, all owners having interest in the new subdivision shall execute a substandard road agreement and notice to new owners. The content of the substandard road agreement and notice shall be as specified by the county. At a minimum, it shall: Explain that the new subdivision has only a single street access connecting it to the greater interconnected public street network, and the single street access is not built to the minimum design and safety standards adopted by the County; Require a deferral agreement that specifies that the owners or successors and heirs are responsible, at a time the governing authority deems it necessary, to pay for their proportionate share of improving the parts of the single-access street route that do not conform to County standards; Allow the governing authority,

at its option, to withhold any written protest filed by the owners or their successors or heirs under the State Code's Assessment Area Act, Provisions For Local Districts, or any similar government revenue generation mechanism, from the final tally of collected protests, provided that the revenue generated by the mechanism is used to improve access to the subdivision; and Be recorded to the property at the time of subdivision recordation or sooner.

SECTION 8: AMENDMENT "Sec 106-2-2.2 Major And Collector Streets" of the Weber County County Code is hereby *amended* as follows:

Sec 106-2-2.2 ~~Major~~ (b) Arterial And Collector Streets

~~Major~~ Unless specified otherwise in this Land Use Code, an arterial and/or collector streets shall conform to the right-of-way width designated on the master street plan, ~~wherever a subdivision falls in an area for which a master street plan has been adopted. For territory where such street plan has not been completed at the time the preliminary plan is submitted to the planning commission, major or collector streets shall be provided as required by the planning commission, with minimum widths of 80 or 100 feet for major streets and 66 feet for collector streets.~~

SECTION 9: AMENDMENT "Sec 106-2-2.3 Standard Residential Streets" of the Weber County County Code is hereby *amended* as follows:

Sec 106-2-2.3 ~~Standard Residential Streets~~ (Reserved)

~~Standard residential streets shall have a minimum width of 60 feet, except that minor terminal streets and loop streets or minor private streets and private access rights-of-way in summer home subdivisions may have widths of not less than 50 feet.~~

SECTION 10: AMENDMENT "Sec 106-2-2.6 Marginal Access Street" of the Weber County County Code is hereby *amended* as follows:

Sec 106-2-2.6 ~~Marginal Access Street~~ (Reserved)

~~Marginal access streets of not less than 40 feet in width shall be required paralleling all limited access major streets, unless the subdivision is so designed that lots back onto such major streets.~~

SECTION 11: AMENDMENT "Sec 106-2-2.7 Half-Streets" of the Weber County County Code is hereby *amended* as follows:

Sec 106-2-2.7 ~~Half-Streets~~ (Reserved)

~~Half-streets proposed along a subdivision boundary or within any part of a subdivision shall not be approved.~~

SECTION 12: AMENDMENT "Sec 106-4-2.10 Fencing Or Piping Of Canals, Etc" of the Weber County County Code is hereby *amended* as follows:

Sec 106-4-2.10 ~~Fencing Or Piping Of Canals, Etc~~ Ditch or Canal Improvements

- (a) A solid board, chain link, or other non-climbable fence not less than ~~five~~ six feet in height shall be installed on both sides of existing irrigation ditches or canals which carry five second feet or more of water, or bordering open reservoirs, railroad rights-of-way or non-access streets, and which are located within or adjacent to the subdivision. ~~except where the planning commission may determine that park areas including streams or bodies of water shall remain unfenced. Fencing or piping of canals, etc., shall not be required on subdivisions of four or fewer lots, or where~~

canals are located 600 feet from the homes.

- (b) All canals, ditches, or other irrigation conveyance infrastructure on the land or within an adjoining street right-of-way shall be piped as part of the subdivision improvements, unless the owner of the infrastructure notifies the County in writing that they will not allow the piping of the infrastructure, or unless the County Engineer requires otherwise. The piping of the infrastructure shall not restrict the flow of water greater than the existing infrastructure unless otherwise allowed by the owner of the infrastructure.

SECTION 13: **ADOPTION** "Sec 106-4-2(p) Substandard single-access street or street route" of the Weber County County Code is hereby *added* as follows:

ADOPTION


Sec 106-4-2(p) Substandard single-access street or street route(*Added*)


PASSED AND ADOPTED BY THE WEBER COUNTY BOARD OF COUNTY COMMISSIONERS August 16, 2022

	AYE	NAY	ABSENT	ABSTAIN
Gage Froerer	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jim "H" Harvey	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Scott K. Jenkins	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest


James H. Harvey, Board of
Commissioners Chair, Weber County


Ricky D. Hatch, CPA, Clerk/Auditor Weber
County