

WEBER COUNTY ORDINANCE 2024 - 03

AN ORDINANCE AMENDING THE COUNTY'S LAND USE CODE, CHANGING CERTAIN PORTIONS OF TITLE 106, SUBDIVISIONS, PROVIDING FOR CHANGES RELATIVE TO ADMINISTRATIVE LAND USE AUTHORITY, SUBDIVISION APPLICATION REVIEW AND APPROVAL PROCEDURES, AND FINANCIAL GUARANTEES REQUIRED FOR PUBLIC IMPROVEMENTS, AND PROVIDING OTHER ADMINISTRATIVE AND CLERICAL EDITS.

WHEREAS, the County has an interest in regulating zoning districts in the unincorporated areas of the County to promote the orderly and regular development and use of property; and,

WHEREAS, State Code Section 17-27a-502 (1) states that a planning commission shall provide notice, hold a public hearing, and forward a recommendation to the legislative body for all proposed land use regulation changes; and,

WHEREAS, on December 12, 2023, the Western Weber Planning Commission, and on December 19, 2023, the Ogden Valley Planning Commission, after proper notice of the meetings, held public hearings to receive comment about the proposed ordinance changes; and,

WHEREAS, in those meetings, the Planning Commissions voted to forward a positive recommendation to the County Commission; and,

WHEREAS, State Code Section 17-27a-502 (2) states that the legislative body shall consider each proposed land use regulation that the Planning Commission has forwarded; and,

WHEREAS, the County wishes to comply with all appertaining State regulations and codes related to ordinance amendments; and,

WHEREAS, as a result of SB 174, passed by the Utah State Legislature in 2023, certain revisions are required to be implemented prior to February 1, 2024,

NOW THEREFORE, be it ordained by the Board of County Commissioners of Weber County, in the State of Utah, as follows in Exhibit A. The Weber County Board of Commissioners also delegates authority to staff to reformat the ordinance attached hereto for public publishing purposes and in doing so make any clerical or administrative edits necessary to produce a professionally published document:

PASSED AND ADOPTED BY THE WEBER COUNTY BOARD OF COUNTY COMMISSIONERS ON THIS 16th DAY OF January, 2024

AYE

NAY

ABSENT

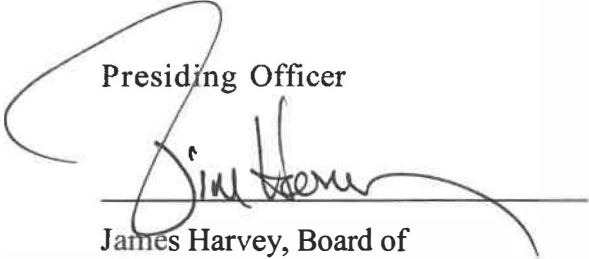
ABSTAIN

Gage Froerer


James Harvey

Sharon Arrington
Bolos

Presiding Officer


James Harvey, Board of
Commissioners Chair, Weber
County

Attest


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

Title 106 Subdivisions

Chapter 106-1 General Provisions

Chapter 106-2 Subdivision Standards

Chapter 106-3 Condominium Projects

Chapter 106-4 Subdivision Improvements Required

Chapter 106-5 Enforcement And Permits

Chapter 106-6 Penalty, Validity And Repealer

Chapter 106-7 Owner's Dedication

Chapter 106-8 Signature Blocks

State Law reference—County Land Use, Development, and Management Act subdivision ordinances, U.C.A. 1953, § 17-27a-601 et seq.

Chapter 106-1 General Provisions

Sec 106-1-1 Purpose And Intent

Sec 106-1-2 (Reserved)

Sec 106-1-3 Applicability

Sec 106-1-4 Subdivision Application Requirements

Sec 106-1-5 Preliminary Plan/Plat Requirements And Approval Procedure

Sec 106-1-6 (Reserved)

Sec 106-1-7 Subdivision Time Limitations

Sec 106-1-8 Final Plat Requirements And Approval Procedure

...

Sec 106-1-4 Subdivision Application Requirements

- (a) ***Pre-application meeting.*** The county strongly suggests that each person who proposes to subdivide land shall confer with the county planning staff before submitting any plats, charts, or plans in order to become familiar with the county subdivision requirements and existing general plans and to discuss the proposed development of the tract. Additional required submittal information will be identified during the pre-meeting, such as sensitive lands, slope analysis, wetlands, wells, taxes, state roads, neighborhood circulation plan, landscape design, and water budget submittal.
- (b) ***Subdivision application submittal.*** Subdivision applications shall be submitted to the planning division. Only complete applications will be accepted. A complete application shall include all applicable submittal requirements for subdivision review as required by this Land Use Code, including, but not limited to:
- (1) ***Application form.*** A complete subdivision application form, signed by the property owners.
 - (2) ***Preliminary plan.*** A preliminary plan meeting the requirements, standards, codes, regulations, and all other specifications listed in this title and other applicable regulatory documents. This includes a phasing plan if phasing is proposed.

...

Sec 106-1-5.20 Agency Reviews and Determination of Completeness

- (a) ***Agency review.*** The Planning Division shall distribute copies of the preliminary plan to other County divisions or departments. Any other reviews by agencies' or organizations, outside of the

County's direct organization, as required by County or State Code, that are necessary to ensure thorough review of the proposed plan, shall be submitted to the County by the applicant.

(b) Application Determination of Completeness. Upon determination of a complete application, the County shall not require more than four review cycles, as outlined in Utah State Code Section 17-27a-604.2, unless mutually agreed upon otherwise by the County and the applicant. The County shall have 15 business days to review the preliminary plans and return detailed, itemized, and all other applicable information and recommendations to the applicant.

UDOT corridor review. A subdivision proposed within a designated UDOT corridor preservation area shall be sent to the UDOT regional office for review and comment.

Sec 106-1-5.30 Approval Procedure

- (a) **Subdivision approval.** After the applicable staff and agency reviews, the preliminary plan/plat, including the phasing plan, shall be presented to the Land Use Authority. The Land Use Authority shall review the preliminary plan/plat to verify compliance with applicable ordinances. After determining compliance with applicable ordinances, or determining compliance after adding conditions of approval to ensure compliance with applicable laws, the Land Use Authority shall approve the preliminary plan/plat. When considering conditions of approval, the Land Use Authority shall follow the decision requirements found in [Section 108-4-4](#) of this Land Use Code, and the conditional use standards of [Section 108-4-5](#). A decision on a subdivision that includes conditions of approval shall not constitute a conditional use or require a conditional use permit.
- (b) **Small subdivision review.** Preliminary plan/plat approval of a small subdivision, as defined in [Section 101-2-20](#) of this Land Use Code, is not required. The preliminary plan/plat required in this section shall be reviewed simultaneously with the final plat.
- (c) **Administrative Land Use Authority designated.** The Administrative Land Use Authority for preliminary plat approval of a subdivision other than a small subdivision, as defined in [Section 101-2-20](#) of this Land Use Code, is the applicable planning area Planning Commission.

Sec 106-1-8 Final Plat Requirements And Approval Procedure

[Sec 106-1-8.10 Final Plat Required](#)

[Sec 106-1-8.20 Final Plat Requirements](#)

[Sec 106-1-8.30 Final Plat Approval Process](#)

[Sec 106-1-8.40 Final Plat Recordation](#)

Sec 106-1-8.10 Final Plat Required

1. After compliance with the preliminary plan/plat provisions of [Section 106-1-5](#), the applicant shall digitally submit a draft final plat and draft improvement plans, meeting the remaining requirements of this Title and any additional conditions set by the Administrative Land Use Authority. The registered land surveyor's certification on such plats shall indicate all lots meet the requirements of the Land Use Code.

Upon determination of a complete application submittal, the County shall not require more than four review cycles, as outlined in Utah State Code Section 17-27a-604.2. The County, in each review cycle, shall return detailed comments to the applicant within 20 days of submittal from the applicant. Reviews by the County shall be detailed, itemized, and complete.

Sec 106-1-8.20 Final Plat Requirements

The following are requirements for final plat consideration:

...

1. **Signature block.** A signature block conforming to State Code and county ordinances shall be included on the plat for the following:
 1. Private licensed land surveyor's "certificate of survey";
 2. Owner's dedication certificate;
 3. Notary public's acknowledgment;
 4. County Administrative Land Use Authority's certificate of approval, to be signed by the Planning Director or designee;
 5. County Engineer's certificate of approval;
 6. County Attorney's certificate of approval;
 7. Board of County Commissioners' certificate of acceptance;
 8. County Clerk's certificate of attest;
 9. County Surveyor's certificate of approval;
 10. Local health department certificate of approval, if required by the local health department;
 11. Culinary water authority certificate of approval, if not the local health department; and
 12. Sanitary sewer authority certificate of approval, if not the local health department.
 13. In lieu of a signature block on the final plat for the culinary water authority or sanitary sewer authority, the applicant may furnish a final plat approval letter from either or both of these entities, if applicable. The final plat approval letter shall indicate the water or sewer authority's unconditioned approval of the final plat and the proposed improvements for their respective facilities, and shall include a copy of the final plat and final improvement drawings for which they are granting approval. A conditional letter of approval is not allowed.
2. **Recorder's block.** A three-inch by three-inch space in the lower right-hand corner of the drawing for recording information.
3. **Subdivision boundary.** The subdivision boundary corners, lot corners and centerline street monuments shall be noted on the final plat in conformance with county ordinances.
4. **Map narrative.** A map narrative that complies with [U.C.A. 1953, § 17-23-17](#) and [Section 45-3-4](#) of the Weber County Code of Ordinances.
5. **Occupation lines.** All evidence of occupation such as fence lines, walls, curbs, etc. shall be shown on the dedication plat, as directed by the County Surveyor.
6. **Easements.** All easements observed, recorded in the Office of the County Recorder, or included in a preliminary title report unless legally vacated by all easement holders.

...

Sec 106-1-8.30 Final Plat Approval Process

1. **Final subdivision approval.** After the applicable staff and agency reviews, the final plat shall be presented to the Land Use Authority. The Land Use Authority shall review the final plat to verify compliance with applicable ordinances. After determining compliance with applicable ordinances, or determining compliance after adding conditions of approval to ensure compliance

with applicable laws, the Land Use Authority shall approve the final plat. If applicable, when considering conditions of approval, the Land Use Authority shall follow the decision requirements found in [Section 108-4-4](#) of this Land Use Code, and the conditional use standards found in [Section 108-4-5](#). A decision on a subdivision that includes conditions of approval shall not constitute a conditional use or require a conditional use permit.

2. ***Land Use Authority designated.*** The Administrative Land Use Authority for final plat approval is the County Planning Division Director.
3. ***Submittal of final plat and final improvement plans.*** After approval of the final plat, the applicant shall submit a final plat printed on a 24-inch by 36-inch mylar sheet that includes the required signatures of all non-county employees. With the mylar, the applicant shall submit final improvement plans to the County Engineer for final approval, pursuant to [Title 106, Chapter 4](#). After the final plat mylar has all required official approval signatures, and after the final improvement plans have received final approval by the County Engineer, the final plat may be recorded in the Office of the County Recorder, at the expense of the applicant.
4. ***Tax clearance.*** The county may withhold an otherwise valid plat approval until the owner of the land provides a tax clearance letter indicating that all taxes, interest, and penalties owing on the land have been paid.

Record of survey. A copy of the subdivision mylar shall be filed as a record of survey in the county surveyor's Office, prior to the Weber County Surveyor signing the dedication plat.

1 **Title 106 Subdivisions**

2 ...
3 **Chapter 106-4 Subdivision Improvements Required**

4 ...
5 **Sec 106-4-1 General Requirements**

6 ...
7 (d)

- 8 (1) **Improvements to be installed prior to issuance of permits.** All required subdivision improvements
9 shall be installed and pass inspection, pursuant to Section 106-4-3, prior to issuance of any land use
10 permit in a subdivision.
11 (2) This shall not apply to the required chip and seal, street monuments, street trees, and other required
12 landscaping (and associated irrigation and controls) as long as a sufficient financial guarantee of
13 improvements exists or is provided as required by Section 106-4-3 for the incomplete improvements.
14 (3) A certificate of occupancy shall not be issued until the missing improvements are installed and pass
15 inspection or an updated financial guarantee has been provided as required by Section 106-4-3.
16 (4) For the purpose of ensuring that improvements are not damaged or neglected during construction, in
17 the event that a property is not granted certificate of occupancy outside of the one year warranty
18 guarantee period, a separate landscaping, sidewalk, and curb and gutter bond shall be posted in the
19 amount for those improvements where the lots have not been given certificate of occupancy, as
20 determined by the County. The County shall retain this bond until certificate of occupancy is granted
21 to each subsequent lot.

22
23 **Sec 106-4-2 Specific Requirements**

24 ...

25 **Sec 106-4-2.050 Curbs And Gutters**

- 26 (a) **Curb and gutter.** Curbs and gutters shall be installed on existing and proposed streets by the applicant. The
27 County Engineer may allow curb and gutter to be deferred to a later time if it is in the best interest of the
28 street system. Deferrals shall be documented by recorded agreement, in a form as approved by the County
29 Attorney, between the County and the owner. Curb and gutter shall be installed by the applicant in
30 subdivisions along abutting Utah State Highways unless specified in writing by the Utah State Department
31 of Transportation.
32 (b) **Driveway aprons.** The applicant shall install driveway aprons to each Lot that has a Lot Width of 60 feet or
33 less. These driveway aprons shall be provided on construction drawings. No such driveway apron shall be of
34 greater width than 20 feet and no lot shall have more than one driveway apron. Driveway aprons shall be
35 constructed of concrete. Installation of a driveway apron for a Lot that has a Lot Width greater than 60 feet
36 may be postponed until after the approval of a site plan.

37 **Sec 106-4-2.060 Sidewalks and Pathways**

- 38 (a) **Sidewalk.** Five foot wide sidewalks are required on both sides of the street, unless specified otherwise in this
39 Land Use Code or other adopted street right-of-way standard. Regardless of any other provision otherwise,
40 all sidewalks are required to be six inches (6") in depth. Where no sidewalk currently exists in the area, or
41 where a subdivision's required sidewalk is premature given existing conditions, the required sidewalk may,
42 at the sole discretion of the County Engineer, be deferred to a later time by recording a deferral agreement to
43 each lot in a form as approved by the County Attorney, County Engineer, and County Planning Director.
44 (b) **Pathway.** A pathway, either paved or concrete as determined by the County Engineer given site conditions,
45 shall be substituted for a sidewalks along routes that are delineated on an adopted trail or pathway plan or

map, or as may be required in this Land Use Code. Otherwise, at the option of the developer, a pathway may be substituted for a sidewalk as long as it is constructed of a material as determined by the County Engineer.

Sec 106-4-3 Guarantee of Improvements

- (a) *Financial guarantee for the completion of improvements.* An applicant who desires to record any subdivision plat prior to the completion of subdivision improvements shall provide a financial guarantee to assure completion of incomplete improvements within a two year period.

(1) *Financial guarantee cost estimate.* The applicant shall furnish and file with the county an escrow agreement or a letter of credit in an amount equal to 100 percent of the estimated future cost of the installation of incomplete improvements, plus a 10 percent warranty guarantee. The estimated future cost shall include a 10 percent construction contingency that is separate from the 10 percent warranty guarantee. The estimated cost shall be provided by the applicant's engineer and verified by the county engineer.

(2) *Financial guarantee expiration and default.* If the subdivision is not complete within two years, the financial guarantee is in default unless an extension of the financial guarantee is requested, in writing, by the applicant and approved by the County Engineer. An extension shall not be granted unless the applicant provides an updated estimated future cost for remaining improvements to be installed. At this time the financial guarantee shall be reassessed and increased to reflect cost increases, if any.

(3) *Allowed financial guarantees.*

a. *Escrow agreement.* An escrow agreement, and the associated funds, requires the approval of the County Engineer and County Attorney. Escrow funds shall be deposited with the County Treasurer at the time the escrow agreement is executed.

b. *Letter of credit.* An applicant may only use a letter of credit if the following conditions are met:

1. The engineer's cost estimate for installation of the improvements exceeds \$5,000,000.00;
2. The applicant and, if applicable, the applicant's subsidiaries and the applicant's members or shareholders has a history of positive performance, with no incidences of negative performance, in its development related contractual obligations in the State of Utah, and has a history of positive performance, with no incidences of negative performance, in completing developments in the State of Utah. The Planning Director or County Engineer may require the applicant to provide a performance history from other jurisdictions;
3. The applicant's financial institution has a history of positive performance in fulfilling its financial obligations, as determined by the county treasurer and based on typical conventions of the financial industry;
4. The applicant's financial institution provides the letter of credit on a standard letter of credit form supplied by Weber County or in a form that provides equal or greater financial protection to the county, as determined by the County Attorney;
5. The County Attorney, County Treasurer, and County Engineer approve the letter of credit, which they shall do if all of the conditions above are met unless they have reasonable, objective indications of a substantial risk that either the applicant or the applicant's financial institution will not fulfill its obligations related to the completion of improvements or the financial guarantee; and
6. A cash escrow is deposited with the county treasurer at the time the letter of credit is executed equal to the full cost to revegetate any removed vegetation in the event the applicant, his successors or heirs, or his financial institution fails to perform.

(2) *Acceptance of financial guarantee.* A financial guarantee under this section is accepted when the County Engineer signs a standard subdivision improvement agreement and an escrow agreement or letter of credit. After the subdivision improvement agreement is approved and executed, the applicant may record the subdivision, as long as all other recording requirements have been met.

The recording of the subdivision will allow the developer to sell the lots, but not allow building and/or land use permits to be issued until all improvements are installed, except as listed in this Title.

- (b) ***Partial release of financial guarantee.*** Unless otherwise specified by the terms of the subdivision improvement agreement, the county is only obligated to offer a partial release of the financial guarantee for an independent improvement system that is completed to the satisfaction of the County Engineer. An independent improvement system includes but is not limited to those improvements specified in Section 106-4-2. At no time shall the balance of the financial guarantee be reduced below the actual cost to complete an incomplete improvement system, regardless of the engineer's cost estimate. If, in the opinion of the County Engineer, costs are increasing or have increased greater than anticipated by the initial engineer's cost estimate, the guarantee shall be reassessed and increased to reflect cost increases, if any.
- (c) ***Warranty guarantee, and conditional acceptance of improvements.***
- (1) Upon satisfactory completion of all improvements, as determined by the County Engineer, the improvements shall enter a conditional acceptance period. At this time, remaining financial guarantee funds may be released, except those necessary for the warranty guarantee, as specified in Subsection (c)(2) of this section. If street trees or other required landscaping, or driveway aprons for Lots with a Lot Width greater than 60 feet, are not installed by the time the rest of all other required improvements meet satisfactory completion, then, at the discretion of the County Engineer, all other improvements may enter the conditional acceptance period.
 - (2) Ten percent of the estimated cost of all improvements, using current market costs as approved by the County Engineer, shall be remitted or retained by the county for a warranty guarantee, for a period as defined by U.C.A. 1953, § 17-27a-103. If any improvement fails within the warranty guarantee period, the failure shall be remediated by the developer, and the warranty guarantee period shall restart. At the discretion of the County Engineer, the warranty guarantee period, and conditional acceptance, may be restarted for individual improvements needing replacement or repairs, rather than restarting the entire warranty guarantee period. .
- (d) ***Final acceptance of improvements.*** After the warranty guarantee period has expired, if the improvements have performed to the County Engineer's satisfaction, the County Engineer shall release the warranty guarantee. At this time the County Engineer may also offer final acceptance of the improvements. Final acceptance may be withheld if circumstances unforeseen at the time of conditional acceptance become known that expose the county or the public to unreasonable financial or safety risk. The county is not responsible for operations or maintenance of public improvements that have not received final acceptance. At the time of final acceptance of all other improvements, if street trees or other required landscaping is not satisfactorily installed or has not satisfactorily performed through the minimum warranty period, then the appropriate amount of financial guarantee shall be retained by the County in an amount sufficient to satisfactorily install the trees or other landscaping, and to ensure proper performance of the trees or other required landscaping through the duration of the minimum required warranty period. If the amount of remaining financial guarantee and warranty guarantee is not sufficient to pay for the County's current costs to install the street trees, an updated engineer's cost estimate and financial guarantee shall be retained by the County.
- (e) ***County's authority under default.*** If a financial guarantee authorized by this section is defaulted, the County shall have the authority, in its sole discretion, to use the remaining defaulted funds to make whatever improvements the County deems necessary to bring the subdivision into or closer to compliance with the requirements of this Land Use Code. For any subdivision that has a defaulted financial guarantee, the County is authorized, but not obligated, to release financial guarantee funds to a third party that performs the work that the County has deemed necessary.

