

Chapter 108-3 Cluster Subdivisions

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Sec 108-3-1 Purpose And Intent

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

Are designed and arranged in a manner that considers, gives deference to, and ultimately protects natural topography, environmentally sensitive areas, wildlife habitat, and agriculturally productive lands;

Offer predictable support and encouragement in agricultural areas for a wide variety of long-term agricultural operations on open space parcels;

Benefit those that create cluster subdivisions by offering an inherent gain in the form of reduced infrastructure costs.

Benefit the residents of Ogden Valley by promoting public welfare through the reduction of long-term infrastructure maintenance costs; and

Permanently preserve the city's functional open spaces, picturesque landscapes, and rural character.

Sec 108-3-2 Allowed Zones

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

Sec 108-3-3 Supplemental Subdivision Procedural Requirements

Subdivision procedures and requirements apply. All procedures and requirements of Title 106 shall apply to a cluster subdivision. The provisions of this chapter are intended to supplement, not replace, the subdivision requirements of Title 106. Where a direct conflict exists, the more restrictive provision shall apply unless specifically stated otherwise.

Conceptual sketch plan. In addition to the subdivision approval procedure in Title 106, the cluster subdivision approval procedure requires a conceptual sketch plan endorsement from the planning

commission prior to the submission of a formal subdivision application. An application for a conceptual sketch plan endorsement must demonstrate compliance with applicable standards contained within the Ogden Valley City Code. The completed application must be submitted at least 21 calendar days prior to the planning commission meeting at which the applicant wishes to be heard. Endorsement from the planning commission is only a means to assist in the creation of a complete subdivision application and shall not create any vested right except the right to apply for preliminary subdivision review. The application is complete upon submission of the following:

Payment of a fee, as required by title 16, chapter 2 of the City Code of Ordinances, and submission of a complete sketch plan endorsement application on a form provided by the county planning department.

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

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

An electronic copy of all forms, documents, materials, and information submitted as part of the application.

Preliminary and final cluster subdivision application.

Submission for preliminary cluster subdivision approval. A submission for preliminary cluster subdivision approval shall:

Conform to the endorsed sketch plan;

Comply with all applicable preliminary plan requirements of Title 106;

Contain an open space preservation plan, as required in Section 108-3-5.

Submission for final cluster subdivision approval. A submission for final cluster subdivision approval shall conform to the approval of the preliminary cluster subdivision approval and comply with all applicable final plat requirements of Title 106. If applicable, submission shall also include final conditions, covenants, and restrictions or a homeowner's association declaration that clearly explain the maintenance method for each common area parcel, as required by this chapter or any condition of preliminary cluster subdivision approval. Submission shall also include drafts of any other relevant instrument required for the execution of applicable provisions of this Land Use Code.

Sec 108-3-4 Residential Cluster Subdivision Design And Layout Standards, Generally

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

In all zones. In all zones, a cluster of residential lots, as defined in [Section 101-2](#), shall be designed to avoid, to the extent possible, lands that have characteristics generally valuable for preservation or conservation, including but not limited to viewsheds, ridgelines, canyons, waterways, stands or groupings of mature vegetation, wildlife habitat, and other sensitive ecology identified as being of importance by the applicable general plan or some other land preservation or conservation plan adopted by the county, state, or federal government and that is applicable within the City. Preservation or conservation shall be tailored to execute the goals, objectives, or policies of the relevant plan. The application shall provide sufficient detailed information to clearly verify compliance.

In agricultural zones. In an agricultural zone, only one cluster of residential lots is allowed unless more are necessary to avoid development on prime agricultural land, as defined in [Section 1012](#), or sensitive lands as provided in [Section 108-3-5\(b\)\(4\)](#). The cluster or clusters of residential lots shall be organized in a manner that supports viability of crop production on the open space lands including optimizing ease of access and maneuverability, to and on the open space lands, of large equipment commonly used to support crop production. A cluster of residential lots shall be configured to support the required open space design and layout standards of this chapter. Subdivision phasing that avoids this requirement shall not be allowed.

Street configuration. Streets shall have logical and efficient connections, with block lengths or intersection distances no less than provided in [Section 106-2-3](#).

Ogden Valley City streets. In the Ogden Valley City, a street shall generally follow the proposed street width and alignment displayed on the Streets and Roads map of the Ogden Valley General Plan, or other newer adopted transportation plan, if applicable. Otherwise connectivity shall comply with [Section 106-2-3](#).

Street infrastructure. Any infrastructure or vegetation placed, or altered, in the street right-of-way shall be in accordance with adopted right-of-way standards or shall be to the satisfaction of the city engineer. Operation and maintenance of street lighting and any right-of-way vegetation shall be the responsibility of the homeowners, unless the city has adopted a policy otherwise.

Pathways. [In lieu of a five-foot concrete sidewalk on both sides of the street, with a four-foot wide concrete sidewalk on the other,](#) a ten foot wide asphalt pathway shall be allowed on one side of the street. If only developing a half width street, where otherwise allowed by this Land Use Code, the pathway shall be located on that side; otherwise, preference shall be given to the side that could best support pathway connectivity based on other factors such as existing or planned future pathways in the vicinity and potential pedestrian conflicts. Pathway and sidewalk layout shall be designed in a manner that prioritizes efficiency of non-motorized modes of transportation.

The cluster subdivision's pathway or sidewalk infrastructure layout shall provide a route or combination of routes that offer ingress and egress from any given point along a street within the subdivision within the subdivision to the subdivision boundary in at least three generally opposing directions. Regardless of the actual pathway or sidewalk layout, "three generally opposing directions" shall be determined with a straight line beginning from any

given point along a street and ending where the route exits the subdivision boundary. Each pathway or sidewalk shall offer the most direct walking route practicable.

Within a cluster of residential lots, the maximum pathway or sidewalk walking-distance between pathway or sidewalk intersections shall be 500 feet. A pathway or sidewalk intersection is where a pathway or sidewalk intersects with another pathway, sidewalk, or street. Pathways shall connect using shortest distance reasonably possible.

Pathway and sidewalk layout shall provide for the continuation of existing pathways or sidewalks in the general area, and for future planned pathways, as shown on an adopted pathway plan. A pathway or sidewalk shall connect to any pathway or sidewalk stubbed from adjacent developed property. Continuation of a pathway or sidewalk to adjacent undeveloped property shall be provided with a stub to the subdivision boundary. Pathway and sidewalk arrangement shall not cause any unnecessary hardship for creating convenient and efficient access to future adjoining developments.

In an agricultural zone, pathways in open space areas greater than five acres shall be located as close to the outer boundaries of the open space area as reasonably possible so as not to disrupt the contiguity of the open space area.

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

The waiver may be granted for the following reasons:

Environmental constraints exist that render the connection unreasonable and unnecessary; or

Agricultural open space that is, or would otherwise be, permanently preserved as provided in this Land Use Code would be interrupted by the pathway or sidewalk in a manner that creates a hardship for crop production.

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

Sec 108-3-5 Open Space Preservation Plan

Open space preservation plan procedure.

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

Open space preservation plan amendment. After submittal of a new application and application fee an open space preservation plan may be amended, from time to time in accordance with the standards of this chapter. If an amendment of an open space preservation plan affects any part of the recorded subdivision plat, or if an amendment to a subdivision plat affects any part of an approved open space preservation plan, then the

two shall be amended together and final approval of the amended subdivision plat shall constitute final approval of the amended open space preservation plan. Otherwise, each may be amended independently. Submission for an independently amended open space preservation plan shall be in compliance with the open space plan submittal requirements of this chapter and shall require the approval of the planning commission.

Open space preservation plan submittal requirements. The open space preservation plan submittal shall include the following:

- An overall cluster subdivision map identifying all open space areas and open space area amenities.

- An open space site plan that:

- Identifies the open space parcel ownership types specified in subsection (c)(9) of this section;

- Identifies each proposed ownership type with a unique color;

- Shows the locations of existing and proposed future structures and other open space amenities; structures housing a subdivision utility or serving as a subdivision amenity shall be subject to all applicable standards including all design review and applicable architectural standards found in title 108 of the Ogden Valley City Land Use Code; and

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

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

- The phasing of open space parcels and their relationship to the overall subdivision phasing plan, if any.

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

Minimum required open space area. A cluster subdivision requires a minimum percentage of its net developable acreage, as defined in [Section 101-2](#), to be preserved as open space, as follows:

Zone	Required Open Space
F-40 zone:	90 percent
F-5 zone:	80 percent
HR, AV-3, FV-3 zones:	60 percent

Zones not listed:

30 percent

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

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

By creating parcels of a sufficient size and configuration to support large-scale crop-producing operations. The area or areas of the subdivision that contains prime agricultural land, as defined by [Section 101-2](#), shall first and foremost be used to satisfy the open space requirements of this chapter. Only then may any portion of the prime agricultural land be used for other development purposes.

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

The exterior boundary of a contiguous open space area that is intended to satisfy the open space requirements of this chapter shall be configured so a 50-foot-wide farm implement can reach all parts of the area with three or more passes or turns. Generally, this requires the area to be at least 450 feet wide in any direction at any given point to be considered contiguous. This three turn standard may be reduced by the planning commission for portions of the parcel affected by the following:

The configuration of the existing exterior boundary of the proposed subdivision makes it impossible;

A street required by [Section 108-3-4](#) constrains the width of the parcel or bisects what would otherwise be one contiguous open space area if the street did not exist;

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

Due to existing or reasonably anticipated future conditions, not offering the reduction will inhibit long-term agricultural opportunities onsite or on adjacent permanently preserved agricultural parcels.

Open space area necessary to meet the requirements of part (4) or (5) of this subsection, or open space areas never previously used for crop-production that currently contain areas valuable for preservation or conservation as specified in part (2) of this subsection may be exempt from this part provided they comply with those applicable parts.

Irrigation protection. Open space intended for agricultural use shall maintain legally and physically reliable irrigation access. Existing irrigation ditches, laterals, pipelines, and historic conveyance routes serving the preserved agricultural land shall be preserved or relocated in a manner that maintains equal or better agricultural functionality.

Required irrigation easements shall be shown on the plat where necessary to ensure continued access, maintenance, and operation.

Cluster design shall not isolate preserved agricultural land from its irrigation source unless an engineered and legally protected alternative water delivery system is provided.

Irrigation access shall be considered essential agricultural infrastructure equivalent to road access.

Agricultural access required. Open space intended for agricultural use shall have permanent, recorded legal access suitable for agricultural operations. Access routes shall be of sufficient width and configuration to accommodate farm equipment and shall be shown on the final plat.

Access may be provided by:

- 1 Direct frontage on a public road
- 2 A recorded agricultural access easement
- 3 A private farm access tract

Agricultural access shall not depend solely on HOA permission unless the access rights are permanent and recorded against the property.

Agricultural access easements shall be considered essential infrastructure necessary to preserve long-term agricultural viability.

Small open space parcels within a cluster of residential lots. In order to maximize the contiguous open space acreage as required in part (2) and (3) of this subsection, an open space parcel or portion thereof that is located within a cluster of residential lots, as defined in [Section 101-2](#), or that interrupts contiguity of a cluster of residential lots and is not intended to satisfy part (2), (3), or (5) of this subsection (c), shall be constrained in area and width to provide the minimum acreage and width reasonably necessary for the functionality, operation, and maintenance of the intended open space use. The open space preservation plan shall offer sufficient information regarding the use and any proposed structures to allow the planning commission to verify compliance. See also part (6) and part (8) of this subsection (c) for additional applicable area and coverage regulations.

Sensitive lands requirements. Cluster subdivisions in or on sensitive lands shall be governed as follows:

Lands that can be mitigated such as floodplain and wetlands are considered developable for the purpose of calculating net developable acreage, as defined in **Section 101-2.**

Acreage consumed by a lake, floodway within a river corridor, or a naturally occurring pond area is acreage unsuitable for development, as otherwise defined in **Section 101-2.** When any of these is offered as a community amenity on an open space parcel with public access and a blanket public access easement, the subdivision shall receive 25 percent of the acreage credited to the net developable acreage for the purpose of calculating base density.

Regardless of developability, the following areas shall be located within a cluster subdivision's open space area:

Areas designated as floodplain, as defined by the Federal Emergency Management Agency or other qualified professional determined appropriate by the county engineer; and

Rivers and streams, with and including their designated river or stream corridor setbacks, as defined by the Ogden Valley City Land Use Code.

Open space parcel area. The minimum area for an open space parcel located within a cluster subdivision is as follows:

Common area. Open space parcels designated as common area are not subject to minimum area requirements provided such parcels are not used to satisfy the minimum required open space acreage unless they are of sufficient size and configuration to support the intended preservation purpose. Small common areas may be permitted only where necessary for utilities, drainage, access, or amenities and shall not be used to artificially satisfy open space requirements.

Park area. An open space parcel conveyed to a local park district shall be of a sufficient size to adequately accommodate park infrastructure, amenities, and parking.

Public utility area. An open space parcel conveyed to a culinary or secondary water service provider or a sewer service provider is not subject to minimum area requirements in a cluster subdivision.

Individually owned open space parcel area. An open space parcel designated as an individually owned preservation parcel shall contain an area of not less than five acres and shall be part of a contiguous area of open space consisting of not less than ten acres in total; and shall be in compliance with the following:

The ten acre minimum contiguous area does not need to be platted in the same subdivision.

Each individually owned open space parcel shall be provided clear and perpetual legal access from a public or private street right-of-way.

Drainage detention or retention facilities intended to accommodate subdivision improvements may be located on an individually owned preservation parcel and counted toward the subdivision's overall open space area, but the acreage of the facility shall not be included as part of

the parcel's agricultural use, and the acreage of the facility shall be in addition to, not a part of, the minimum parcel area requirement.

Estate lot area. Up to 80 percent of an estate lot, as defined in [Section 101-2](#), may count towards the open space acreage requirement provided the following standards are applied:

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

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

Drainage detention or retention facilities intended to accommodate subdivision improvements may be located on an estate lot and counted toward the subdivision's overall open space area, but the acreage of the facility shall not be included as part of the lot's agricultural use, and the acreage of the facility shall be in addition to, not a part of, the minimum parcel area requirement.

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

Parcel coverage.

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

Coverage of individually owned preservation parcels by roofed structures or any structures or facilities that require a building permit shall not exceed two and a half percent of the total parcel area.

Coverage of the open space area of an estate lot of five and one-quarter acres or greater by roofed structures or any structures or facilities that require a building permit shall not exceed two and a half percent of the lot's platted open space preservation easement area.

Open space lot or parcel ownership.

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

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

Individually owned open space parcel. An open space parcel may be owned as an individually owned preservation parcel by any person, regardless of whether the person owns a residential lot within the subdivision. In order to keep an individually owned preservation parcel from becoming uncondusive to multiple-acreage preservation uses, an individually owned preservation parcel shall not be

sectioned into sub-areas less than five acres by fencing or other physical barriers unless the sectioning is intended for the rotation of grazing animals provided consistent rotation occurs for the purpose of vegetation regrowth. The planning commission may modify this requirement for uses that support the longevity of the preservation, maintenance, and large-acreage use of the parcel.

Estate lot. An estate lot, as defined in [Section 101-2](#), may be owned by any person. In order to keep an estate parcel from becoming uncondusive to multiple-acreage preservation uses, the preserved open space area shall not be sectioned into sub-areas less than five acres by fencing or other physical barriers unless the sectioning is intended for the rotation of grazing animals provided consistent rotation occurs for the purpose of vegetation regrowth. The planning commission may modify this requirement for uses that support the longevity of the preservation, maintenance, and large-acreage use of the parcel.

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

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

Preservation.

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

Language shall be included in the dedication of the subdivision plat that substantially reads as follows; final language is subject to approval from the county surveyor and county attorney:

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

An agreement, in a form acceptable to the City Attorney, shall be recorded with the final plat to the title of all open space preservation parcels, including estate lots, that details the open space preservation plan and any related conditions of approval necessary to execute the open space preservation plan. The approved site plan shall be included in the agreement. If the plat recordation is also the means of conveyance of any open space parcel, the agreement shall also specify the name and tax notification mailing address if the new owner.

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

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

Identify all open space preservation areas on the final plat with a unique hatch or shading;

Further identify each individually owned preservation parcel with a unique identifying letter;

For an estate lot, delineate on the plat with survey locatable bearings and calls the area of the lot being preserved as open space.

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

A violation of the open space plan or any associated conditions or restrictions shall constitute a violation of this Land Use Code.

Permanent protection required. All open space used to satisfy minimum open space requirements shall be permanently protected from further subdivision and residential development by one or more of the following mechanisms as approved by the City:

- 1 A conservation easement
- 2 A deed restriction recorded with the final plat
- 3 A plat note prohibiting further subdivision or residential development
- 4 A development restriction contained within CC&Rs

Such restrictions shall:

- a Run with the land
- b Bind all future owners
- c Clearly state allowed agricultural uses
- d Allow agricultural buildings, irrigation infrastructure, fencing, and normal farming activities
- e Prohibit future residential density transfer from the preserved land

The City may approve alternative mechanisms that achieve the same permanent preservation outcome.

Prohibition on future subdivision. Open space parcels used to satisfy cluster subdivision requirements shall not be further subdivided for residential purposes and shall not be used to calculate future residential density.

Density attributed to preserved open space shall be considered permanently extinguished unless otherwise specifically authorized by ordinance.

Nothing in this section shall prohibit:

- 1 Agricultural uses
- 2 Agricultural structures
- 3 Irrigation infrastructure
- 4 Conservation improvements
- 5 Lot line adjustments that do not create additional lots

This restriction shall be noted on the final plat.

Open space parcels shall not be considered parent parcels for future density calculations.

Sec 108-3-6 (Reserved)

Sec 108-3-7 Lot Development Standards

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

Lot area. Unless otherwise regulated by the Weber-Morgan Health Department, a lot located within a cluster subdivision shall contain an area of not less than 9,000 square feet, unless otherwise provided in section 108-3-8.

Lot width. Unless otherwise regulated by the Weber-Morgan Health Department, the minimum lot width in a cluster subdivision is as follows:

Zone	Lot Width
F-40 and F-10 zones	100 feet
HR, F-5, and AV-3 zones:	80 feet
RE-15, RE-20 zones:	60 feet
A-3 zones:	60 feet
HR	50 feet

Yard setbacks. The minimum yard setbacks in a cluster subdivision are as follows:

Front yard setbacks:

	Setback
Front:	20 feet

Side yard setbacks:

Side:	Setback
Dwelling or other main building:	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 yard setbacks:

Rear:	Setback
Dwelling or other main building:	20 feet
Accessory building:	1 foot; except 10 feet where accessory building on a corner lot rears on side yard of an adjacent lot.

Building height. The maximum height for a building in a cluster subdivision is as follows:

Building	Height
Dwelling:	35feet
Accessory building:	30 feet

Sec 108-3-9 Homeowners Association

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

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

Compliance with Utah State Code;

The reason and purpose for the association's existence;

Mandatory membership for each lot or homeowner and their successors in interest;

The perpetual nature of the easements related to all dedicated open space parcels;

Responsibilities related to liability, taxes, and the maintenance of recreational and other infrastructure and facilities;

Financial obligations and responsibilities, including the ability to adjust the obligations and responsibilities due to change in needs;

Association enforcement remedies; and

A notification of the county's ability to enforce the terms of the owner's dedication on the subdivision dedication plat.

Register the homeowners association with the state of Utah, Department of Commerce.

Agricultural protection. Homeowners association documents, covenants, conditions, and restrictions shall not prohibit or unreasonably restrict agricultural operations occurring on designated open space parcels.

Agricultural activities may include but are not limited to:

1 Crop production

2 Livestock grazing

3 Irrigation operations

4 Use of agricultural equipment

5 Fertilization and soil amendments

6 Agricultural fencing

7 Normal seasonal agricultural noise, dust, and odors

HOA rules shall acknowledge that agricultural operations are a primary purpose of preserved open space and may create typical agricultural impacts.

A right-to-farm disclosure shall be included in HOA documents and on the final plat

HOA enforcement authority shall not supersede approved agricultural uses.

Sec 108-3-10 Guarantee Of Improvements

Guarantee of improvements. The City shall require an applicant to deposit a guarantee of improvements, as provided in section 106-4-3, for all improvements required by this chapter or as

otherwise volunteered by the applicant that are incomplete at the time of subdivision plat recording. This includes improvements on open space parcels unless otherwise specified in subsection (b) of this section.

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

All final subdivision approvals shall include verification of adequate water rights and infrastructure per the Ogden Valley General Plan and most recent water capacity studies. Final plat approval of a cluster subdivision shall require verification of legally committed and physically available culinary water sufficient to serve the proposed lots.

Verification shall include:

- (1) Evidence of water rights or binding service commitment from a qualified water provider;
- (2) Demonstration that the water is physically available (“wet water”) and not speculative;
- (3) Evidence of adequate infrastructure capacity to deliver the water; and
- (4) Compliance with all water level, water quality, and capacity policies of the General Plan

All cluster subdivisions shall comply with the water rights, water availability, and water infrastructure requirements of Chapter 106 (Subdivisions). Water rights shall be demonstrated to be valid, perfected, and physically and legally available, with a demonstrated means of delivery, prior to final plat approval.