

## Proposed Text Amendment: Clean Version

### 2.08 DEFINITIONS

"**Lot**" A Lot as defined under Utah Code 17-79-102.

A. **Lot of Record:** A Lot of Record is defined as any one of the following:

1. A Lot designated on a subdivision plat duly recorded pursuant to statute in the Utah County Recorder's Office or other official record, which does not conform to the current requirements of this ordinance for a Zoning Lot; or
2. A Lot that has been recognized by Utah County ~~Appeal Authority~~ as an approved and legal Lot, and is on file in the Utah County Community Development Office; or
3. A Lot which has been joined to another lot(s) or to a parcel and which does not conform to the current requirements of this ordinance for a Zoning Lot; or

B. **Restricted Lot:** A Lot that has been created without meeting the State or County subdivision requirements, or without the necessary Land Use Authority approval

C. **Zoning Lot:** A Lot occupied by, or which is qualified to be occupied by, a building or use of land, or a group of buildings or uses, which meets all of the applicable requirements set forth in this ordinance, for such use. (A Lot which is a part of an unapproved and/or illegally recorded Subdivision shall not qualify as a Zoning Lot under the terms of this definition)

"**Parcel**" A Parcel as defined under Utah Code 17-79-102.

A. **Parcel of Record:** A Parcel shown by metes and bounds, duly recorded pursuant to statute in the Utah County Recorder's Office or other official record which was shown continuously on the records of the County as an independent Parcel since before July 1, 1992, and which does not conform to the current applicable requirements of this ordinance for a Zoning Parcel.

B. **Vested Parcel:** A Parcel of Record with an existing dwelling in accordance with the provisions of UCLUO 1.27.

C. **Zoning Parcel:** A Parcel occupied by, or which is qualified to be occupied by, a building or use of land, or a group of buildings or uses, which meets all of the applicable requirements set forth in this ordinance, for such use. (A Parcel which is part of an unapproved and/or illegally recorded division of land shall not qualify as a zoning Parcel under the terms of this definition.)

- D. **Restricted Parcel:** A Parcel that has been created without meeting the State or County subdivision requirements, or without the necessary Land Use Authority approval.

### **“Roads and Travelways”**

- E. **Qualifying Street:** A paved City Street, paved State Road, or paved county class “B” Road designated on the Official County Road Map of Utah County.
- F. **Road:** A travel way passable to four wheeled, front or rear wheel drive automobiles.
- G. **Street, Major:** A public street designated in the General Plan as a collector, arterial, or other principal thoroughfare, as distinguished from a minor street.
- H. **Street, Minor (Local Street):** Any public street which provides access to property, which street is not shown in the General Plan as a major street.
- I. **Stub Road:** A Road which is terminated at the boundary line of the Subdivision, but which will be required to be extended at a later date to provide access to abutting land or connecting public Road.

## **1.24 NONCOMPLYING STRUCTURES AND NONCONFORMING USES**

### **A. INTENT**

It is the intent of this ordinance that Noncomplying Structures and Nonconforming Uses of land (except Billboards) existing at the time of passage of the zoning ordinance, but not in conformance therewith, be changed, ultimately, to complying Structures and conforming uses and that Noncomplying Structures and Nonconforming Uses shall not be continued, increased, nor expanded except as permitted herein.

### **B. ESTABLISHMENT OF A NONCOMPLYING STRUCTURE OR NONCONFORMING USE**

1. The property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence submitted to the Zoning Administrator.

### **C. CONTINUATION**

1. A Noncomplying Structure or a Nonconforming Use may continue to the same extent and character as legally existing and permitted on the effective date of the ordinance provision(s) causing noncompliance or nonconformity, subject to the applicable requirements of this section:
2. A Noncomplying Structure or Nonconforming Use may continue if the boundaries of the Lot or Parcel on which the Noncomplying Structure or Nonconforming Use are changed, subject to one of the following:
  1. The boundaries of the Lot or Parcel on which the Structure or use lies are changed due to one of the following reasons:
    - a. The addition of more land area to the Lot or Parcel; or
    - b. Boundary Adjustment that establish historic boundaries, or
    - c. Dedication of Road right-of-way in compliance with this Ordinance.

3. A Noncomplying Structure consisting of an inhabited Structure shall be allowed to continue in its noncomplying status when the boundaries of the Parcel on which the inhabited Structure is located are changed to create a platted Subdivision Lot, if the County Engineer has provided the Zoning Administrator with a written statement that the noncompliance will not impair the right-of-way nor increase any hazard to public safety.
4. A Noncomplying Structure consisting of an inhabited Structure shall be allowed to continue in its noncomplying status when the boundaries of the Lot or Parcel on which the inhabited Structure is located are reconfigured and such reconfigured Lot or Parcel meets the area and width requirements of the applicable zone, if such noncompliance is relative to the Structure's distance from a front property line or distance from a right of way line or center line of an official county or state Road and the County Engineer has provided the Zoning Administrator with a written statement that the noncompliance will not impair the right-of-way nor increase any hazard to public safety.
5. A Noncomplying Structure consisting of a permitted agricultural Structure shall be allowed to continue in its noncomplying status when the Parcel on which the agricultural Structure is located are included within an approved plat, if the County Engineer has provided the Zoning Administrator with a written statement that the noncompliance will not impair the right-of-way nor increase any hazard to public safety.

#### **D. EXPANSION**

Any expansion of a Noncomplying Structure or Nonconforming Use that increases the degree of nonconformance is prohibited except as provided in this Subsection or as may be required by law. A Noncomplying Structure or Nonconforming Use may be expanded only if:

1. The Zoning Administrator approves the expansion after making the following findings:
    - a. The specific Noncomplying Structure or Nonconforming Use to be expanded is a noncomplying, one-Family Dwelling, and
    - b. The boundaries of the Lot of Record or Vested Parcel are unchanged from those existing when the Dwelling became noncomplying, except for the addition of more land area to the Lot or Parcel, or Boundary Adjustment that establish historic boundaries; and
    - c. The proposed expansion meets all the requirements of the zone in which it is located for Subdivision, Health Department approval of water supply and sewage, Flood protection, parking, and Setback, except New Construction may be approved within the required front, side, or rear Setback distance if it does not intrude beyond the Setback measured at the closest distance from the property line or Road centerline of the existing Structure.
- Or:

2. The Zoning Administrator approves the expansion after making the following findings:
  - a. The specific use and Structure to be expanded is an existing church or other Structure for religious worship that is located on a legal Lot or Parcel of Record; and
  - b. The overall use and Structure meet all of the requirements of Utah County and the State of Utah for fire protection, water supply for fire suppression, drinking water, sewage disposal, drainage and Flood protection, Subdivision, parking capacity, construction code compliance, and Building Setback, except construction to expand the structure may be approved within the required front, side, or rear Setback distance if it does not intrude beyond the Setback measured at the closest distance from the property line or Road centerline of the existing Structure.

**E. REPAIRS**

Repairs may be made to a Noncomplying Structure, but only when the repairs are for the purpose of the maintenance of the existing Structure. The repairs cannot increase the total square footage of the Structure (including all floor levels), cannot alter the footprint of the Structure, and cannot create or relocate any exterior walls of the Structure.

**F. REPLACEMENT OF NONCOMPLYING STRUCTURES**

A Noncomplying Structure which is rendered unusable for its approved use, or, if a habitable Structure, is rendered uninhabitable, for any reason, including but not limited to destruction or damage caused by a fire, Flood, or other calamity or act of nature, (triggering event) may be restored and the preexisting use resumed, only if a Building permit for reconstruction is obtained within one year from the date written notice is served to the property owners that the Structure is uninhabitable due to the triggering event and a certificate of occupancy is issued by the zoning administrator within two years from the date written notice is served to the property owners that the Structure is uninhabitable due to the triggering event. Failure to either obtain said Building permit, or obtain said certificate of occupancy, within such time deadlines, shall be conclusively deemed an abandonment of all rights related to such Noncomplying Structure.

**G. ABANDONMENT**

Abandonment shall be established in accordance with Utah Code 17-79-903(4)

**H. AMORTIZATION OF RIGHT TO OCCUPY OR USE**

A Noncomplying Structure or Nonconforming Use which is not used for its approved use, or, if a habitable Structure, is not inhabited, for a continuous period of one year or longer from the date written notice is served to the property owners that the Structure has been abandoned, shall be conclusively deemed abandoned and shall not thereafter be used or inhabited except by a Structure and use which conform to the regulations of the zone in which the Structure and use are located.

**I. CHANGE IN USE**

1. A Noncomplying Structure or Nonconforming Use shall not be changed to another Noncomplying Structure or Nonconforming Use.

2. Any change to a Noncomplying Structure or Nonconforming Use shall not be made except in conformity with the current provisions of the Land Use Ordinance.
3. A Nonconforming Structure or Nonconforming Use may be altered or improved only when such modification reduces the extent of the nonconformity and brings the structure or use closer to compliance with this ordinance; however, once any portion of the nonconformity has been reduced, the structure or use shall not thereafter be returned to, re-established at, or expanded to any previous level of nonconformity.
4. A Noncomplying Structure or Nonconforming Use which has been changed to a complying Structure or conforming use shall not be allowed to be changed back to a Noncomplying Structure or a Nonconforming Use.

**J. NO RIGHTS GAINED BY UNPERMITTED OCCUPANCY OR USE**

A noncomplying or nonconforming status shall not be created, and no right to occupy or use any structure, Lot, or Parcel of land in violation of this ordinance shall be established, by reason of any past occupancy or use that was illegal or conducted without the required permits. Such prior occupancy or use shall not confer any rights unless expressly allowed by the provisions of this ordinance.

**K. EFFECT OF AMENDMENTS**

The provisions of the Land Use Ordinance pertaining to Noncomplying Structures and Nonconforming Uses also apply to Structures and land uses which hereafter become noncomplying and nonconforming because of an amendment to the Land Use Ordinance.

a.

**L. EFFECT OF TAX SALES ON NONCONFORMING USES**

When Utah County acquires title to any property because of tax sale, the future use of the property shall conform with the existing requirements within the zone

**1.26 LOTS THAT ARE NONCONFORMING**

1. No provision of this Ordinance shall render an existing, Lot of Record unbuildable because it does not meet the requirements of the zoning district in which it lies.
2. A Lot may be diminished by the dedication of right-of-way to a governmental agency in accordance with UCLUO 4.50.
3. A restricted lot may not be eligible to receive land use permits.

**1.27 PARCELS THAT ARE NONCONFORMING**

**A. Parcel of Record**

1. To qualify for a building or use of land, a Parcel of Record shall meet all applicable requirements for such use.

2. A Parcel of Record may be returned to a legal configuration by recombining all associated portions using an outside boundary description, into a previously legal configuration or into the configuration that existed prior to July 1, 1992.

**B. Vested Parcel**

1. A Parcel shall be considered a Vested Parcel if all of the following are met:
  - a. The Parcel qualifies as a Parcel of Record.
  - b. The Parcel contains a lawfully recognized or permitted dwelling, as determined by the Zoning Administrator.
  - c. The Parcel has a minimum area of 1 acre.
    - (1) A parcel containing less than one (1) acre may qualify as a Vested Parcel only if the dwelling is demonstrated to have been maintained in the same configuration as the dwelling originally approved or recognized on the parcel.
2. A Vested Parcel may be diminished through the dedication right-of-way to a governmental agency in accordance with UCLUO 4.50.
3. A vested parcel is which is noncompliant with any ordinance requirement must be shown to have been approved by Utah County and is on file in the Utah County Community Development Office.
4. A Vested Parcel may be modified in accordance with the provisions of UCLUO 1.24.

**C. Restricted Parcel:** A restricted lot/parcel is not eligible to receive building permits, or land use permits.

**D. Transitional Period:** A Parcel of Record that contains at least one (1) acre shall be eligible for a dwelling, subject to all applicable ordinance requirements except minimum Lot/Parcel width. This eligibility shall apply for three years following the adoption of this amendment, or until December 31, 2029, whichever is later, or unless subsequently amended or repealed.

#### **4.32 DWELLING SITE REQUIREMENTS**

No Lot or Parcel of land, nor portion thereof, shall be used as a Dwelling site which does not qualify as a "Zoning Lot" as defined herein and meets the area, Frontage, width, use, and all other requirements of the zone in which it is located (all other sections of the land use ordinance which apply to the property in the subject zone), unless such Lot or Parcel qualifies as a Dwelling site as a Lot or Record or Vested Parcel subject to the provisions of this land use ordinance.

#### **4.44.A.8 FRONTAGE ON AN APPROVED PUBLIC STREET REQUIRED, EXCEPTIONS**

8. A parcel that lacks official road frontage solely because it is separated from such frontage by State or Federal land or by a railroad right-of-way, and that otherwise

satisfies all applicable requirements for a dwelling, may establish vehicular access to the lot or parcel, provided that all of the following conditions are met:

## 12.08 RA-5 RESIDENTIAL AGRICULTURAL ZONE

D. **Area Requirements:** The minimum area of a Zoning Lot or Zoning Parcel within the RA-5 zone shall be as follows:

1. Each one-Family Dwelling, manufactured home, Nursing Home, planned Subdivision, preschool, primary School, secondary School, Landscape Park, Livestock auction Yard, Roping and Riding Arenas, or veterinary facility, shall be on a Lot containing at least five (5) acres of land.
2. Each church or other Structure for religious worship shall be located on a Lot containing at least two and one-half (2 1/2) acres of land; each church with a parsonage shall be on a Lot containing at least five (5) acres of land.
3. Each private, private rescue, commercial or commercial rescue Kennel shall be on a Parcel with a minimum area of five (5) acres and located on the same Parcel as the Dwelling to which it is accessory.

E. Each Agricultural Equipment and Agricultural Vehicle repair facility, including the one-Family Dwelling to which it is accessory, shall be on a Parcel with a minimum area of five (5) acres. **Width Requirements:** The minimum width of a Zoning Lot or Zoning Parcel within the RA-5 zone shall be as follows:

1. For each one-Family Dwelling, manufactured home, Nursing Home, preschool, primary School, secondary School, Landscape Park, Roping and Riding Arena, Livestock auction Yard, veterinary facility, or Equine Reproduction and/or Rehabilitation Facility, the minimum width of the Lot at any point between the Frontage and the Structure shall be two hundred fifty (250) feet.
2. For each church or other Structure for public worship, or church with a parsonage, the minimum width of the Lot at any point between the Frontage and the Structure shall be two hundred fifty (250) feet.
3. For each Agricultural Equipment and Agricultural Vehicle repair facility, including the one-Family Dwelling to which it is accessory, the minimum width of the Lot at any point between the Frontage and the Dwelling shall be two hundred fifty (250) feet.

## 12.12 RR-5 RURAL RESIDENTIAL ZONE

D. **Area Requirements:** The minimum area of a Zoning Lot or Zoning Parcel within the RR-5 zone shall be as follows:

1. Each one-Family Dwelling, manufactured home, Nursing Home, preschool, primary School or secondary School, shall be on a Lot or Parcel containing at least five (5) acres of land; however, the minimum area required for a Lot within an approved, recorded, platted Development, including a Large-scale Development, for a one-Family Dwelling or manufactured home, shall be as set

forth on the approved, recorded, Development plat, and the minimum area required for a Lot of Record or Vested Parcel, for a one-Family Dwelling or manufactured home, shall be as set forth in UCLUO 1.

#### **14.12 PLANNED SUBDIVISIONS**

**D. Standards and Conditions:** All planned Subdivisions shall conform to all of the requirements of this land use ordinance and the following standards and conditions.

**2. Size of Development:**

- a. A Parcel less than five (5) acres may be approved for a planned Subdivision, provided that:
  - (1) Such Parcel is located in the TR-5 or RR-5 Zone;
  - (2) Such Parcel is a Parcel of Record as defined by this ordinance; and
  - (3) Such Parcel cannot be added to an existing Subdivision or combined with other Parcels to make a combined Lot area which conforms to this schedule.

#### **4.50 DEDICATION OF RIGHT-OF-WAY**

**A. A Lot Diminished by Right-of-Way Dedication:**

1. A Lot which meets all the requirements for a Dwelling and that is reduced in area by the deeding and/or dedication of a portion of the Lot to a governmental entity for a Qualifying Street or other applicable right-of-way, provided the governmental entity accepts the dedication, shall continue as a buildable Lot, subject to the following:
  - a. The Lot shall maintain frontage on a Qualifying Street.
  - b. The Lot area shall not be reduced below the minimum area necessary to construct a dwelling with standard setbacks in the underlying zone.
  - c. The Lot shall meet all applicable Utah County Health Department requirements for wells and septic systems in accordance with UCLUO 6.04.
2. A Lot diminished solely by a right-of-way dedication shall not be required to amend the plat if the above are satisfied.
3. A plat amendment shall be required for any right-of-way dedication which results in the creation of additional Lots (excluding the right-of-way).

**B. A Parcel Diminished by Right-of-Way Dedication:**

1. A Parcel of Record, Vested Parcel, or Zoning Parcel that qualified for all requirements for a Dwelling prior to a right-of-way dedication, and that is reduced in area by the deeding and/or dedication of a portion of the Parcel to the a governmental entity for a Qualifying Street or other applicable right-of-way,

provided the governmental entity accepts the dedication, shall continue as a buildable Parcel, subject to the following:

- a. The Parcel shall maintain frontage on a Qualifying Street.
  - b. The Parcel area shall not be reduced below the minimum area necessary to construct a dwelling with standard setbacks in the underlying zone.
  - c. The Parcel shall meet all applicable Utah County Health Department requirements for well and septic with a dwelling in accordance with UCLUO 6.04.
2. A Parcel that has dedicated right-of-way as specified above, and the dedication results in the creation of additional Parcels (excluding the right-of-way), the following provisions shall apply:
- a. Any Parcel which meets all applicable requirements for a permitted use shall be recognized as a Zoning Parcel.
  - b. Any Parcel which does not meet the minimum requirements for a permitted use within the zone shall remain a Parcel of Record and may be combined, reconfigured, or modified to qualify as a Zoning Parcel.
  - c. A Parcel with an existing Dwelling that does not meet the requirements of a Zoning Parcel shall be recognized as a Vested Parcel, subject to compliance with subsection B.1. above.
  - d. When the two resulting parcels do not meet the minimum area and/or Lot/Parcel width required by the zone, but each complies with all other applicable zoning standards, one of the parcels may be designated by the property owner to qualify for a dwelling as a Vested Parcel Without a Dwelling. The remaining parcel shall retain its status as a Parcel of Record or shall be recognized as a Zoning Parcel if it meets all applicable zoning requirements..