



ENT 167304:2020 PG 1 of 19
JEFFERY SMITH
UTAH COUNTY RECORDER
2020 Oct 26 2:14 pm FEE 0.00 BY MA
RECORDED FOR UTAH COUNTY COMMISSION

ORDINANCE NO. 2020- 897

AN ORDINANCE AMENDING CHAPTER 3, PART 2 OF THE UTAH COUNTY LAND USE ORDINANCE RELATED TO PROVIDING CLARITY AND CONSISTENCY TO VARIOUS LAND USE REGULATIONS

WHEREAS, the Utah County Commission initiated a review of Chapter 3, Part 2 of the Utah County Land Use Ordinance (UCLUO) related to providing clarity and consistency to various land use regulations; and

WHEREAS, the Utah County Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during the regularly scheduled meeting of the Planning Commission on September 15, 2020, held a public hearing regarding the proposed amendment, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, and the minutes of the Planning Commission meeting and the public hearing regarding the proposed amendment to the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed amendment to the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners finds the proposed amendment to the Utah County Land Use Ordinance conforms to the Utah County General Plan, and is consistent with the other provisions of the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners finds that the proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors.

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

Chapter 3, Part 2 of the Utah County Land Use Ordinance is hereby amended, including the re-numbering of applicable subsections, to read as follows:

See Exhibit "A"

Part II:

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

Part III:

If any of the sections, sentences, clauses or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part IV:

This ordinance shall become effective fifteen (15) days after it is passed and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 21st day of October 2020.

UTAH COUNTY COMMISSION

DocuSigned by:
Tanner Ringe
 TANNER RINGE, CHAIR

DocuSigned by:
Nathan Ivie
 NATHAN IVIE, VICE-CHAIR

DocuSigned by:
William C. Lee
 WILLIAM C. LEE, COMMISSIONER



VOTE

YEA _____

YEA _____

YEA _____

ATTEST:

AMELIA A. POWERS
Utah County Clerk/Auditor

DocuSigned by:
Alice Black
 Deputy

APPROVED AS TO FORM:

DAVID O. LEAVITT
Utah County Attorney

Approved

Disapproved

DocuSigned by:
Robert J Moore
 Deputy

Date of Publication: Once only, as soon as possible

EXHIBIT "A"**CHAPTER 3****SUPPLEMENTARY REQUIREMENTS AND
PROCEDURES APPLICABLE WITHIN ZONES****Part 2. Environmental Provisions****3-20: HEALTH DEPARTMENT APPROVAL, WATER AND SEWER**

No residence, commercial or major noncommercial campground, commercial establishment with occupied structure(s), or manned industrial plant shall be used or occupied, nor a permit issued therefor, until a potable water supply facility and sanitary sewage disposal facility have been installed and approved by the Utah County Health Department; further, before a building permit shall be issued, the proposed water and sewage facilities shall first be approved by the Utah County Health Department.

3-21: DRAINAGE

Surface water shall not be allowed to drain onto adjacent lots or parcels except for natural conditions where the activities of man have not altered the flow and percolation of water.

3-22: FLOOD PROTECTION

In all zones, the following regulations shall apply.

A. No dwelling or other building used for human habitation shall be constructed within one hundred (100) feet from the banks of a stream, gully, or other flood channel.

Exception: A permit may be issued by the Zoning Administrator within the 100-foot limit, upon a favorable review of the County Engineer based on existing engineering reports or his own on-site investigations, when it is determined:

1. That the structure will be above water during normal spring runoff and the water levels of a base flood; and
2. The design of the building and any appurtenant residential accessory structures, grading work, driveways, and landscaping features will be sufficient to protect both the building and other property from damage due to flooding. However, if the Zoning Administrator, with the assistance of the County Engineer, cannot determine that the above criteria are met based on the available information, an engineering study and report by a Professional Engineer licensed to practice in the State of Utah may be obtained by the applicant and submitted for approval by the Zoning Administrator, after favorable review of the County Engineer.

B. No use or structure (except flood control works or irrigation diversion dams) shall be permitted in any flood channel if such use or structure will adversely affect normal flow, will increase flooding of land above or below the property, will increase erosion within or adjoining the flood channel, will cause diversion of flood waters in a manner more likely

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to create damage than does flow in a normal course, will increase peak flows or velocities in a manner likely to add to property damage or hazards to life, or will increase amounts of damaging materials (including those likely to be injurious to health) which might be carried downstream in floods.

3-23: FLOOD PROTECTION IN SPECIAL FLOOD HAZARD AREAS

A. DECLARATION OF LEGISLATIVE INTENT

The requirements of this section apply to those flood hazard areas of the unincorporated portion of Utah County which have been identified by the most current Federal Insurance Administration report entitled "Flood Insurance Study, Utah County, Utah, Unincorporated Areas" and its accompanying "FIRM Flood Insurance Rate Map, Utah County, Utah" as having a one percent chance of flooding.

It is hereby declared that the specific purposes and intent of the County Commission in establishing these requirements are:

1. To take advantage of the powers and more fully implement the basic purposes for planning and zoning set forth in Utah Code Annotated 1953, as amended.
2. To make the unincorporated portion of Utah County eligible for the federal flood insurance program by enacting these flood protection regulations according to federal guidelines.
3. To protect human life and health.
4. To minimize the expenditure of public money for costly flood control projects.
5. To minimize the need for rescue and relief efforts associated with flooding which occur at public expense.
6. To minimize prolonged business interruptions.
7. To minimize damage to essential public facilities, telephone and sewer lines, roads, and bridges located in areas of special flood hazard.
8. To provide notification of areas of special flood hazard to the public.
9. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions regarding land use, construction, and grading.

In order to accomplish the stated purposes and intent, the following provisions shall apply:

B. SCOPE

1. Extent

The provisions of this section shall apply to all areas of special flood hazard within the unincorporated area of Utah County, which are depicted as having a one percent chance of flooding as identified by the most current effective Utah County Flood Insurance Study and FIRM Flood Insurance Rate Map published by the Federal Emergency Management Agency . Such provisions shall not abrogate but shall be in addition to the requirements of the zoning districts pertaining to the property; where

the provisions of this section conflict with any other requirement, the more stringent restriction shall apply.

2. Interpretation

Those properties having a one percent chance of flooding as identified by the Utah County Flood Insurance Study and FIRM map are subject to the requirements of this section.

Any person contesting the inclusion of their property in an area identified as having a one percent chance of flooding shall follow all applicable federal guidelines for FIRM maps revisions.

3. Compliance

- a. No structure or land use shall hereafter be constructed, located, extended, converted, altered or otherwise developed without full compliance with the terms of this section. In this regard, "new construction" shall mean structural work commenced after October 29, 1982, and "new subdivision or mobile home park" shall refer to divisions making new lots or mobile home sites after October 29, 1982.
- b. The minimum requirements and standards of the National Flood Insurance Program (NFIP) and the Flood Plain Management Criteria for Flood Prone Areas found in Title 44 Code of Federal Regulations Section 60.3(d) shall apply. In addition, all applicable requirements of the currently adopted building construction codes of Utah County or by any future addition of these codes that may be adopted shall be met.

C. PERMITTED USES

1. Uses

All uses and structures which are listed as permitted uses and permitted conditional uses in the applicable zoning districts shall also be permitted or approved as a conditional use in the territory subject to these requirements if they meet the standards of this section as well as the standards of the applicable zoning district.

2. Clearance

Before any permit to develop, grade, or construct is issued, the Zoning Administrator must first find that such development, grading, or construction complies with the requirements of this section and the applicable zone and issue a written clearance attesting to such finding. The Zoning Administrator may be assisted in this determination by the Utah County Building Official and/or the Utah County Engineer. No development, grading or construction shall be commenced until the clearance and a permit based on such clearance are issued.

D. GENERAL DEVELOPMENT STANDARDS

In addition to the above referenced NFIP requirements, the following standards may apply:

1. Anchoring
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - b. All new manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - i. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations (except mobile homes less than 50 feet long require only one additional tie per side);
 - ii. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points (except mobile homes less than 50 feet long require only four additional ties per side);
 - iii. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - iv. Any additions to the mobile home be similarly anchored.
2. Construction Materials and Methods
 - a. All applicable new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All applicable new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Utilities
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - d. Electrical, heating, ventilation, plumbing, air conditioning and similar service facilities shall be designed and/or located so as to prevent water from entering the facilities during conditions of flooding.
4. Fill
 - a. No fill shall be placed and accomplished in a manner that will increase the flood hazard in any area of special flood hazard.
 - b. When any area is proposed to receive fill, the applicant shall submit a plan which shows the horizontal extent of the fill and a typical cross section.
5. Large-Scale Development Proposals
 - a. All large-scale development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
 - b. All large-scale development proposals shall have adequate drainage provided to reduce exposure to flood damage.

- c. Base flood elevation data shall be provided for any large-scale development proposal which contains at least 50 lots or 5 acres (whichever is less).
- E. STANDARDS WHERE THE BASE FLOOD ELEVATION IS KNOWN

In all areas where the base flood elevation data has been determined in the Flood Insurance Study, the FIRM map, or a federal, state, or other accurate scientific engineering flood plain study maintained under subsection H of this section, the following provisions shall be required.

1. Residential Construction

- a. Any new construction or substantial improvement to any structure used as a dwelling shall have the lowest floor (including basement) raised one(1) foot above the elevation of the base flood.
- b. Within areas designated AO and AH on the FIRM map, all new construction and substantial improvements to structures used as a dwelling shall have the lowest floor (including basement) raised above the highest adjacent grade one(1) foot above the depth number specified in feet on the FIRM map (at least two feet if no depth number is specified.)
- c. Within areas designated AO and AH on the FIRM map, there shall be drainage paths around existing and proposed structures built on slopes which are adequate to guide flood waters around and away from any proposed dwelling structure.
- d. All new construction and substantial improvements that fully enclose areas below the lowest floor that are usable solely for the parking of vehicles, building access, or storage in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of flood water. Designs for meeting this requirement must either be certified by a professional engineer or architect licensed to practice in the State of Utah or meet or exceed the following criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii. The bottom of all openings shall be no higher than one foot above grade;
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood water.

2. Nonresidential Construction

- a. Any new construction or substantial improvement to any commercial, industrial, or other nonresidential building shall have the lowest floor, including basement, raised one(1) foot above the level of the base flood elevation.
Exception: The building, together with any attendant utility and sanitary facilities, may be placed below such elevation if it:
 - i. Is flood proofed so that below the base flood level, the building is watertight with walls substantially impermeable to the passage of water;
 - ii. Has structural components capable of resisting hydrodynamic loads and the effects of buoyancy; and

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- iii. Is certified by a professional engineer or architect licensed to practice in the State of Utah that the standards of this land use section are satisfied. (Such certifications shall be provided to the Zoning Administrator as set forth in subsection H).
- b. Within areas designated AO and AH on the FIRM map, any new construction or substantial improvement to a commercial, industrial, or other nonresidential building shall have the lowest floor (including basement) raised above the highest adjacent grade to a point at least one(1) foot above the flood depth number specified in feet on the FIRM map (at least two feet if no depth number is specified).

Exception: The building, together with attendant utility and sanitary facilities, may be placed below such flood depth number if it is completely flood proofed up to or above the specified flood level according to the flood proofing standard required in subsection E immediately above.

- c. Within areas designated AH and AO on the FIRM map, there shall be drainage paths around existing and proposed structures built on slopes which are adequate to guide flood waters around and away from the proposed buildings.
 - d. All new construction and substantial improvements that fully enclose areas below the lowest floor that are usable solely for the parking of vehicles, building access, or storage in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of flood water. Designs for meeting this requirement must either be certified by a professional engineer or architect licensed to practice in the State of Utah or meet or exceed the following criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii. The bottom of all openings shall be no higher than one foot above grade;
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood water.
3. Manufactured Homes
- a. For any new manufactured home park or manufactured home subdivision; for any expansions to an existing manufactured home park or manufactured home subdivision; for any existing manufactured home park or manufactured home subdivision where the repair, reconstruction, or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the assessed value of the streets, utilities, and pads before the work commenced; or for any manufactured home placed elsewhere than in a manufactured home park or manufactured home subdivision, it is required that:
 - i. Stands or lots be elevated on compacted fill or manufactured homes placed on pilings so that the lowest floor of the manufactured home is one(1) foot above the base flood level;

- ii. Adequate surface drainage and access for a manufactured home transporter are provided; and
 - iii. In the instance of elevation on pilings, lots are large enough to permit steps; piling foundations are placed in stable soil not more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level.
- b. No manufactured home shall be placed in a floodway, except in an existing manufactured home park or existing manufactured home subdivision.
- c. All manufactured homes that are placed or substantially improved within zones A1-30, AH, or AE on the FIRM for Utah County on sites, outside of a manufactured home park or subdivision, within a new manufactured home park or subdivision, in an expansion to an existing manufactured home or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one(1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- d. All manufactured homes to be placed or substantially improved on sites in a manufactured home park or subdivision within flood zones A1-30, AH, or AE on the FIRM for Utah County that are not subject to the provisions of subsection E above, shall be elevated so that either:
 - i. The lowest floor level of the manufactured home is one(1) foot above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and that are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- e. Any basement on which a manufactured home is placed shall meet the standards of subsection E above, for "residential construction".

4. Recreational Vehicles

All recreational vehicles placed on sites within flood zones A1-30, AH, or AE on the FIRM for Utah County shall either:

- a. Be on the site for fewer than 180 consecutive days, or
- b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect-type utilities and security (hold-down) devices, and has no permanently attached additions.

F. STANDARDS WITHIN FLOODWAYS

Floodways shall be identified by the most current Flood Insurance Study, the "Flood Boundary and Floodway Map, Utah County, Utah" or Floodway Map, and engineering studies maintained according to this section. Because a floodway is an especially hazardous area due to the velocity of flood waters which carry debris, potential

projectiles, and erosion potential, the following requirements shall apply in a floodway in addition to the other applicable requirements of this section.

1. Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless a written report is provided of a study conducted by a professional engineer licensed to practice in the State of Utah which certifies that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If subpart 1 immediately above is satisfied, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of this section.
3. No manufactured home shall be placed in a floodway except in an existing manufactured home park or existing manufactured home subdivision.

G. VARIANCES

The Board of Adjustment may grant a variance in the size, distance or elevation requirements of this section, according to the standards of chapter 7 of this land use ordinance and the standards stated below.

1. Items to Consider

In deciding whether to grant a variance and what conditions to attach to its approval, the Board shall consider:

- a. The danger that materials may be swept onto other lands causing injury to others.
- b. The danger to life and property caused by flooding and erosion.
- c. The degree of susceptibility to flood damage of the proposed use or building (including its contents), and the effect of such damage to the owners.
- d. The importance of services provided by the facility to the community.
- e. The necessity of the facility to be on a waterfront, if applicable.
- f. The availability of alternate locations for the proposed use or building, which are not subject to flooding or erosion damage.
- g. The compatibility of the proposed use with the existing and anticipated development.
- h. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- i. The safety of access to the property during flooding for ordinary and emergency vehicles.
- j. The expected flood water height, velocity, duration, rate of rise, sediment transport, and wave action effects at the site.
- k. The cost of providing governmental and public utility services during and after flood conditions, including the maintenance and repair of roads, bridges, electric lines, gas lines, and water and sewer services.

1. Whether the lot to be built on has any area outside of the area having a one percent chance of flooding where the structure might be constructed.
2. Presumptions Relative to Approval
 - a. With alternate programs to protect life and provide reasonable safety, a variance may be granted to permit the restoration or rehabilitation of structures on the National Register of Historic Places without regard to the standards contained in subsections D and E above.
 - b. No variance shall be granted within a floodway if such will increase the flood level during the base flood discharge.
 - c. A variance shall be granted only upon the determination that the variance is the minimum amount necessary, in view of the flood hazard, to afford relief.
 - d. A variance shall be granted only if such will not result in a threat to public safety, extraordinary public expense, create a nuisance, or cause fraud or victimization of the public.
3. Disclosure

The Zoning Administrator shall give to any applicant receiving a variance a written disclosure statement stating that because the structure will be built below the base flood elevation the cost of flood insurance will be commensurate with the increased risk. All variances shall be reported to the Federal Emergency Management Agency.

H. SPECIAL REQUIREMENTS

1. Plans

In addition to the plans required by chapter 7 of this land use ordinance, any application for a permit and certification shall include:

- a. Elevation documentation identifying the elevation in relation to mean sea level of the lowest floor, including basement floor elevation, of all structures to be permitted.
- b. Elevation documentation identifying the elevation in relation to mean sea level to which any applicable structure has been flood proofed.
- c. A statement of the nature of any applicable flood proofing methods used and a certification by a professional engineer or architect who is licensed to practice in the State of Utah that the flood proofing methods used meet the flood proofing criteria as found in this section.
- d. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- e. A descriptive scale drawing showing the nature, location, dimensions, and elevations of the area to be developed or built on, and the nature and locations of existing and proposed structures on the site, fill, storage of materials, and drainage facilities.
- f. The location, in relation to the proposed development, of the floodway expanse needed to discharge a base flood, and a statement of the vertical increase in elevation during a base flood caused by the proposed development.

- g. A copy of any Federal Water Pollution Control Act permits, and copies of any other permits that may be required under Federal or Utah State law, or a statement certifying that no permit is required.

2. Certification by Engineer

A plan received according to subpart 1 immediately above shall bear on it the certification of an engineer licensed to practice in the State of Utah that the requirements and standards of this section have been met.

Notwithstanding such certification, the plans and certification shall be reviewed by the Utah County Engineer to determine compliance with this section before any clearance to commence construction is issued by the Zoning Administrator.

Exception: The Zoning Administrator shall waive such for a structure to house livestock or agricultural products or machinery, and may waive such for a residential accessory structure if he/she finds the plans are sufficient to determine the structure meets the standards of this section.

3. Records

The Zoning Administrator shall maintain any base flood elevation data for the unincorporated area of Utah County he/she obtains from a federal, state or other reliable source, in addition to the Flood Insurance Study, the FIRM map, and the Floodway Map, and shall consider such information when processing applications for any portion of the unincorporated area of Utah County for which base flood information has not been provided by the Federal Emergency Management Agency in its flood insurance program.

Further, the Zoning Administrator shall:

- a. Obtain and record the actual elevation in relation to mean sea level of the lowest floor including basements of all new or substantially improved structures and identify which stories are in basements.
- b. Maintain the engineer's flood proofing certifications required in subsection H above, and verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed.
- c. Maintain all records collected in the issuing of permits and administering this section.

4. Maps and studies adopted by reference

The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Utah County and Incorporated Communities" dated June 19, 2020, with accompanying FIRMs. The following three publications of the Federal Emergency Management Agency are hereby adopted by reference in book and applicable digital form: the "Flood Insurance Study, Utah County, Utah," with an effective date of June 19, 2020, the "FIRM Flood Insurance Rate Map, Utah County, Utah", and the "Floodway Flood Boundary and Floodway Map, Utah County, Utah".

A copy of each publication is hereby ordered to be placed in the office of the Utah County Clerk/Auditor, as required by law. These publications shall be used in the administration of this section as required therein and shall be the most current effective study published by the Federal Emergency Management Agency, which publications, and any revisions thereto, are automatically adopted by reference and declared to be part of this ordinance .

5. Altered watercourses

The Zoning Administrator shall give notification to adjacent municipalities and the Utah State Division of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

Further, such altered or relocated watercourse shall be required to be maintained by the applicant so the flood carrying capacity is not diminished.

I. WARNING AND DISCLAIMER

The degree of protection from flooding provided by this section is considered reasonable for regulatory purposes and is based on a scientific and regulatory study made by the Federal Emergency Management Agency and offered to Utah County. By adopting this section, it is anticipated that the danger, cost and impact from floods will be minimized. However, because of natural processes that change flood channels and watersheds, unforeseen or unknown conditions not identified in the Federal study, extreme flood conditions beyond the limits considered in the study, the activities of man occurring after the study was completed, or other causes, damage due to flooding may occur even to persons or properties which are in full compliance with this ordinance, both those within and without the areas determined to have a one percent chance of flooding. Therefore, no reliance on this section shall create a liability on the part of, or be a cause of action against, the county or any officer or employee thereof for any flood-related damage.

3-24. AVALANCHE HAZARD MITIGATION

No permit for an occupied structure nor critical facility shall be issued therefor, in a known avalanche path, unless the following requirements are met:

- A. A detailed avalanche hazard analysis and mitigation report shall be submitted for the proposed structure or critical facility, and the land which such structure or critical facility impacts. The avalanche hazards analysis and mitigation report shall bear the signed certification of the licensed engineer, or other qualified avalanche expert, who has at least four (4) years of experience in a responsible position in the field of avalanche hazard mitigation. This report shall identify the hazards and describe the mitigation measures required to address hazards. The mitigation measures shall address all potential hazards to the proposed structure or critical facility, occupants of the structure or critical facility, visitors to the structure or critical facility, adjacent properties, structures, critical facilities, persons located, or that may be located, on, or in, adjacent properties, structures and critical facilities. The County Engineer shall review the submitted report and determine

whether the report meets the standards of this section. The County Engineer may reject the report if the County Engineer finds that the licensed engineer, or other avalanche expert, has insufficient training or experience, or if the County Engineer finds that the report is insufficient in depth, scope, or detail. The County Engineer may require that a supplemental or revised report be submitted.

- B. All recommended mitigation measures identified in the avalanche hazard analysis and mitigation report shall be incorporated into the design of the proposed structure or critical facility, including measures to mitigate any impacts to adjacent properties. In the event that the report recommends alternative mitigation measures, the applicant shall elect which alternative mitigation measures to implement, and the applicant shall submit a supplemental report confirming that the elected mitigation measures are sufficient. The applicant shall submit engineered plans for the structure or critical facility, which incorporate the proposed mitigation measures. These plans shall be prepared, dated, signed and stamped by a professional engineer who is licensed to practice in the State of Utah and is qualified to develop such plans. The County Engineer shall determine if the submitted plans sufficiently describe the proposed mitigation measures, including measures to mitigate any impacts to adjacent properties. The County Engineer may reject the plans if the County Engineer finds that the professional engineer has insufficient training or experience, or if the County Engineer finds that the plans are insufficient. The County Engineer may require that supplemental or revised plans be submitted.
- C. The owner of the lot or parcel has signed and recorded in the office of the Utah County Recorder a restrictive covenant, acknowledgment and disclaimer, in a form acceptable to the Utah County Attorney's Office, which acknowledges and gives notice of the avalanche hazard on the subject lot or parcel, and waives, disclaims, and releases Utah County for any damage, liability, obligation, or loss that might hereinafter occur or arise as a result of an avalanche coming onto the lot or parcel and any destruction or loss of property or personal injury or loss of life resulting therefrom. This document shall establish occupancy and use restrictions during terms of extreme or high avalanche hazard. Further, this document shall establish that improvements and construction on the parcel shall be carried out in a manner so as to provide adequate protection to persons and property, including adjacent occupants, properties and structures.
- D. Upon the determination by the County Engineer that the avalanche hazard analysis and mitigation report and the required plans of the structure or critical facility meet the standards of this section, and the applicant has recorded the required restrictive covenant, acknowledgment and disclaimer, the Zoning Administrator shall issue a clearance which incorporates the uses, structures, and mitigation measures approved by the County Engineer. The Zoning Administrator's clearance shall also consider and incorporate the covenants, conditions and restrictions set forth in the required restrictive covenant, acknowledgment, and disclaimer.

3-25: EXPOSED SLOPES TO BE LESS THAN THE CRITICAL ANGLE OF REPOSE
No cut or fill shall result in a final slope that exceeds the critical angle of repose.

3-26: OPEN PIT EXTRACTION OF EARTH PRODUCTS

A. INTENT

The intent and purpose of this section is to provide for the extraction of earth products

using surface mining methods, for stockpiling mined materials, and for the placement of overburden and leftover earth materials in mining waste dumps, while protecting the environment, the rights of neighboring property owners, and roads and other public facilities from unusual wear or damage.

B. SCOPE

The provisions of this section shall apply to all sites where sand, gravel, clay, topsoil, rocks or minerals will be extracted by an open pit method; to all sites where such extracted earth products are stockpiled; and to sites where overburden and leftover earth materials are placed in waste dumps.

Exception: Sites having a valid, current permit at the time of passage of this ordinance shall be completed according to the terms of such permit and any bonding agreements appurtenant thereto. The exception applies only to the portion of the site under permit. Any expansion of pits, dumps, storage pits or operation areas beyond the existing permit is subject to all provisions of this section.

C. CONDITIONS

Conditions 2, 3, 4, 5, 6, and 7, as listed below, shall be deemed satisfied by submission of an approved operation and reclamation plan for mining operations as specified in the Utah State Code, otherwise, the Zoning Administrator shall issue a permit for an open pit, a stockpile, or a waste dump only when all of the following are met, and all operations and rehabilitation shall comply with all of the following requirements:

1. The site lies in a zone where such use is a permitted use or where it may be approved as a conditional use by the Board of Adjustment and has received such approval.
2. The applicant has submitted an accurate site plan that shows the current topography, utilities, roads, and structures on the site, and an accurate site plan that shows the proposed utilities, roads, and structures during operations.
3. The applicant has presented an accurate final post-reclamation site plan that shows the topography, utilities, roads and structures on the site after completing the excavation and rehabilitation of the pit.
4. Only the portion of the parcel covered by the required rehabilitation bond may be disturbed or involved in the extraction process.
5. The standards for rehabilitating the site shall be:
 - a. The side walls of a pit or mound shall be smoothed and evenly contoured, and the floor of a pit or top of a mound shall be flattened and leveled.
 - b. Mounds of fill shall not remain after rehabilitation of an extraction operation, except for mounds around utility poles. Mounds may be permitted in conjunction with a mine waste dump.
 - c. Impoundments, pits, and ponds, must be approved as part of a post mining land use and reclamation plan by the Utah County Engineer. Natural drainage patterns should be restored or realigned whenever possible.
 - d. No slope shall be steeper than the critical angle of repose (e.g. 33 degrees for gravel deposits).
 - e. All disturbed areas shall be covered with not less than a one-inch thick layer of topsoil, re-seeded with a hardy plant species, and the hardy plant species shall be established with sufficient concentration of vegetation to screen at least 25% of the exposed surface from view.

Exception: Disturbed areas located in desert or sloped areas which naturally lack

soil or vegetation shall be restored to a vegetation and soil surface that corresponds with the adjacent native conditions.

6. The operator shall place clearly identifiable survey markers on the outer boundaries of the bonded area and shall maintain such until the bond is released by Utah County. The County Commission may request an annual on-site investigation and report of the County Engineer to determine whether the terms of the grading plan, rehabilitation plan and bond agreement are being met.
7. Dust generated in the extraction and processing of the earth products shall be kept under control by the operator by keeping the extraction area, main roads in the pit, and loaded trucks, watered down. Placing berms or landscape screening for protection from the prevailing winds, and other suitable measures, may also be used. Any un-paved access road to the pit from the paved road system shall be maintained by the pit operator for dust control by watering down the access road surface or placing dust inhibiting material on the surface of the access road.
8. All cuts and fills shall be set back from the property boundary and from the boundary of the approved bonded extraction site a distance of at least fifteen (15) feet; except that when a bonded extraction boundary crosses a property line, extraction may take place through the property line.
9. The pit and/or extraction operation shall not constitute a nuisance according to the Utah County Code or Utah State Code.
10. The Zoning Administrator has received an approval letter from the County Engineer stating that the applicant has complied with the following items and stating that the following items have been reviewed and approved by the County Engineer:
 - a. The applicant shall submit an accurate travel route site plan for the operation that includes designated travel routes to and from the extraction site in relation to the surrounding communities. Verification of the status of all public roads utilized for the haul routes shall be required from all agencies with jurisdiction over the roads. The applicant shall require that all material haul vehicles coming to and leaving the extraction site use the designated travel routes, and shall submit a travel route enforcement plan.
 - b. The applicant shall submit a traffic analysis which includes the estimated trips per day coming to and leaving the extraction point on the various travel routes. This analysis shall include the vehicle type and average weight per vehicle both to and from the extraction point.
 - c. The applicant shall submit a travel route roads analysis, prepared and signed by a Utah licensed engineer, detailing the integrity, vehicle volume capacity, weight capacity, pavement thickness and quality, sub-base thickness and quality, and other features of the travel route roads and appurtenant facilities, and the anticipated effects on such roads and facilities resulting from the use of the travel routes both during the operation as well as upon completion of the extraction process, including a comparison of the current vehicular traffic at the current rate of growth with the proposed increased vehicular traffic generated by the extraction operation at the proposed rate of growth and its effects on the current and expected life of the road structures before failure is eminent. The analysis shall establish that the designated travel routes have the durability and capacity sufficient to accommodate the additional vehicular traffic generated by the extraction site, both during the operation as well as upon completion of the extraction process, or, if the analysis shows that the designated travel routes are

not sufficient, the analysis shall specify the road improvements which are required to make the roads sufficient. The travel route roads analysis may be waived, in writing, by the County Engineer, if the County Engineer determines that sufficient data exists to confirm that the designated travel route roads have the durability and capacity sufficient to accommodate the additional vehicular traffic generated by the extraction site, both during the operation as well as upon completion of the extraction process.

- d. If the travel route roads analysis shows, or the County Engineer determines, that the designated travel route roads are insufficient, the application shall not be approved until the deficient roads are improved to the required durability and capacity standards, at Applicant's expense, or the Applicant has entered into an agreement with the entity having jurisdiction of the deficient roads to address the deficient roads, which may include the posting of cash or bond based on an engineered estimated cost for the construction and restoration of the roads and appurtenant facilities.
11. The applicant has submitted and received approval from the County Engineer of a Storm Water Pollution Protection Plan(SWPPP).
 12. Operations shall comply with all applicable requirements of the Utah County Health Department and the Utah Department of Environmental Quality for air quality. The applicant shall obtain approval of a plan for the control of fugitive dust from the Utah Department of Environmental Quality.
 13. Operations shall comply with all applicable requirements of the Utah County Health Department and the Utah Department of Environmental Quality for water quality, including the prevention of groundwater contamination.
 14. In addition to the requirements listed above, any operation, or portion of operation, located within one-half($\frac{1}{2}$) mile of an existing dwelling in Utah County or existing area of active agricultural production in Utah County shall meet the requirements listed below. For purposes of determining the one-half($\frac{1}{2}$) mile distance, measurement shall be from any portion of the bonded boundary of the mine or pit to the nearest outside perimeter of any dwelling or area of active agricultural production. Some of the requirements listed below may be addressed through an approved SWPPP. The applicant shall submit an operation plan which shall be approved by the County Commission which addresses the following:
 - a. Hours of operation;
 - b. Noise mitigation;
 - c. Landscaping;
 - d. Dust containment;
 - e. Lighting.
- D. EXTRACTION SITE RECLAMATION BOND

The bond and bond agreement requirements under this section may be satisfied by submission of a properly executed Reclamation Contract for Surety under the Mining Operations requirements as found in the Utah State Code, otherwise, the applicant and the property owner shall provide a bond and shall execute a bond agreement meeting the following requirements:

1. Cash or bond in the amount \$5000.00 per acre or alternatively; cash or bond in the amount established by the most recent Reclamation Surety Costs for Small Mining Operations issued by the State of Utah Board of Oil, Gas and Mining for the applicable

size of operation, or cash or bond in the amount as determined by a detailed rehabilitation cost analysis supplied and paid for by the applicant and reviewed and approved by the Utah County Engineer, shall be posted by the applicant and property owner to guarantee compliance with the provisions of this section. A violation of this section, or of the rehabilitation bond agreement, shall be sufficient grounds for forfeiture of the bond to Utah County. If the bond is over the minimum bond amount per acre and the owner disputes the cost of reclamation set by the County Engineer, the County Commission may determine the cost and set the bond amount, upon appeal by the owner or applicant.

2. The maximum term of the bond shall be seven (7) years, after which time the bond amount shall be reevaluated based on inflation, the current costs of rehabilitation, and the amount of rehabilitation or excavation that has occurred during the elapsed time.
3. Any bond shall be accompanied by an agreement among Utah County, the applicant, and the property owner wherein the county agrees to return the bond at the completion of work if the standards of this section have been met, and the applicant and property owner agree that the bond shall be forfeited in the event of noncompliance and to permit the county to enter upon the land to close operations and rehabilitate the excavated or filled areas. Exception: The agreement does not need to include the property owner for lands owned by the federal government.
4. Rehabilitation of the site shall be completed on or before the earliest to occur of the following dates: (i) six months prior to the date of termination or expiration of the rehabilitation bond, (ii) one year after the date of cessation of operations, (iii) one year after the last date that any earth product materials are extracted from the site, (iv) June 30th of any fiscal year in which a business license has not been issued by Utah County for such operations, and (v) December 31st of any year in which a valid Utah County zoning compliance permit is not in effect for the operation.
5. Notwithstanding the forfeiture of the bond, the applicant and the property owner shall retain individual responsibility to fully comply with this ordinance, the terms of the permits issued thereunder, and the balance of any expense not covered by the bond to rehabilitate the property.

E. PERMITS

Prior to the issuance of business licenses and building (or grading) permits required elsewhere in county ordinances, any open pit operation shall be required to have a zoning compliance permit.

