

ORDINANCE NO. 2013-11

**AN ORDINANCE AMENDING SECTION 5-12 OF THE UTAH COUNTY LAND USE
ORDINANCE, NATURAL HAZARDS OVERLAY ZONE**

WHEREAS, the Utah County Planning Commission initiated a review of the Utah County Land Use Ordinance (UCLUO), dealing with amendments to the requirements of the Natural Hazards Overlay Zone; and

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

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

WHEREAS, the Board of County Commissioners finds that the proposed amendments to the Utah County Land Use Ordinance are 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:

Section 5-12, of the Utah County Land Use Ordinance is hereby amended to read as follows:

5-12: NHO NATURAL HAZARDS OVERLAY ZONE

A. DECLARATION AND LEGISLATIVE INTENT

The NHO Natural Hazards Overlay Zone (NHO Zone) includes the territory of the unincorporated area of Utah County which was identified as having a susceptibility for rockfall, debris flow, landslides, or surface fault rupture. The standards of the NHO Zone are the product of a joint program of the Utah Geologic and Mineral Survey and the US Geological Survey, which program was conducted in the five

counties of the Wasatch Front including Utah County. In addition to the territory identified in the joint program, the NHO Zone includes other areas that have been identified by the County Commission as having a significant hazard. However, not all areas susceptible to natural hazard were known or recognized at the time of adoption of the provisions of this zone, so the zone shall not be construed to be all-inclusive of such hazards.

It is hereby declared that the specific purposes and intent of the County Commission in establishing the NHO Natural Hazards Overlay Zone 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 identify areas subject to geologic hazards and to reduce the risk therefrom.
3. To protect human life and health.
4. To minimize damage to public and private property and to public utilities and structures.
5. To assure that those who occupy the areas susceptible to geologic hazards assume responsibility for their actions regarding land use, construction, and grading.
6. To provide notification of areas of special hazard for rockfall, debris flow, landslide, or surface fault rupture to the public.

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

B. SCOPE

1. Purview
The natural hazards which are the purview of the NHO Zone are limited to: rockfall, debris flow, landslide, and surface fault rupture.
2. Extent
The provisions of this section shall apply to all areas having a susceptibility to the above-named hazards within the unincorporated area of Utah County which are depicted on the Official Zone Map of Utah County, Utah, as lying within the NHO Zone. Such provisions shall not abrogate but shall be in addition to the requirements of the underlying zoning districts within the NHO Zone, pertaining to the property within the NHO Zone. Where the provisions of this section conflict with any other requirement, the more stringent restriction shall apply.
3. Interpretation
To determine which properties lie within the NHO Zone, the Zoning Administrator shall determine the boundaries of the zone by scaling the distances from the Utah County Zone Map. He may be aided by the Natural Hazards Overlay Map Series. Any person contesting the location of the zone boundary may appeal to the Board of Adjustment according to the chapter 7 of this land use ordinance; the Board shall use the written technical evidence supplied by the appellant, the Natural Hazards Overlay Map Series, and expert testimony from available expert witnesses. Any costs incurred in

providing technical reports or testimony by expert witnesses shall be solely the responsibility of the appellant and not Utah County.

4. Compliance

No structure or land use shall hereinafter be constructed, located, extended, converted, altered or otherwise developed without full compliance with this section.

C. PERMITTED USES

1. Uses

All structures and uses of land which are listed as permitted uses and permitted conditional uses in the underlying zoning districts shall also be permitted or approved as a conditional use in the territory covered by the NHO Zone if they meet the standards of both this section and the underlying zone.

2. Clearance

Before any permit is issued within the NHO Zone, the Zoning Administrator must first find that the land use, grading, construction, or other such development to be permitted therein complies with both the requirements of the NHO Zone and the underlying zone and issue a written clearance attesting to such finding. No land use, grading, construction or other development shall be commenced or altered within the territory of the NHO Zone until the clearance and the permit based on such clearance are granted.

3. Natural Hazards Assessment

a. Every application to use land, grade, construct, or otherwise develop in the NHO Zone shall be accompanied by a plot plan and construction plans required by chapter 7 of this land use ordinance plus a Natural Hazards Assessment which complies with the standards of this Section, unless exempted by the terms of the following chart:

CHART SHOWING WHEN A NATURAL HAZARDS ASSESSMENT IS NOT REQUIRED

<u>Hazard Type on Overlay Map</u>	<u>Items Exempt from Filing a Natural Hazards Assessment</u>
ROCKFALL	All structures not occupied by humans (except for storage facilities for toxic, caustic, flammable, or explosive materials, which must have an assessment).
DEBRIS FLOW	All structures not occupied by humans (except for storage facilities for toxic, caustic, flammable, or explosive materials, water tanks, reservoirs, and canals, which must have an assessment).
LANDSLIDE	All structures not occupied by humans

(except for storage facilities for toxic, caustic, flammable, or explosive materials, water tanks, reservoirs, and canals, which must have an assessment).

SURFACE FAULT RUPTURE

All structures not occupied by humans (except for storage facilities for toxic, caustic, flammable, or explosive materials, water tanks, reservoirs, and canals, which must have an assessment).

In the column to the left in the above chart are the four categories of natural hazards which have been mapped in the Natural Hazard Overlay Map Series; at the right are various categories of buildings and land uses. An applicant that proposes a use or structure listed as "exempt" shall not be required to submit a Natural Hazards Assessment in order to obtain a permit. Otherwise such assessment shall be required.

- b. Natural Hazards Assessments shall meet the following requirements:
 - i. The assessment shall be prepared by a geologist or engineer licensed by the State of Utah who has at least four (4) years of experience in a responsible position in the field of engineering geology. The assessment shall be signed, dated and stamped by the preparer and include the qualifications of the preparer.
 - ii. The assessment shall be a site-specific engineering geology study and shall identify all known or suspected potential geologic hazards, originating on-site or off-site, whether previously mapped or unmapped, which may affect the proposed structure or use of land.
 - iii. The assessment shall identify the degree to which the hazards affect the proposed structure or use of land and recommend mitigation measures to adequately protect persons and property, including occupants and property improvements related to the proposed structures and uses, and to meet the standards of this ordinance.
 - iv. The assessment shall contain a detailed site map of the subject area showing any site-specific mapping performed as part of the geologic investigation, and including boundaries and features related to any natural or geological hazards, topography, and drainage. The site map must show the location and boundaries of the hazard(s), delineation of any recommended setback distances from hazard(s), and recommended location(s) for structures. Buildable and non-buildable areas shall be clearly identified.
 - v. The assessment shall contain trench logs and test pit logs, boring logs, aerial photographs, references with citations, and other supporting information, as applicable.
 - vi. The County Engineer shall determine whether the Natural Hazards Assessment meets the standards of this section. The County Engineer may reject the assessment if the County Engineer finds that the professional geologist or engineer has insufficient training or experience, or if the County Engineer finds that the assessment is

insufficient in depth, scope, or detail. The County Engineer may require that a supplemental or revised assessment be submitted.

vii. All recommended mitigation measures identified in the Natural Hazards Assessment shall be incorporated into the design of the proposed structure or use of land. In the event that the Natural Hazards Assessment recommends alternative mitigation measures, the applicant shall elect which alternative mitigation measures to implement, and the applicant shall submit a supplemental Natural Hazards Assessment confirming that the elected mitigation measures are sufficient. The applicant shall submit engineered plans for the proposed mitigation measures. These plans shall be prepared by a professional engineer who is licensed to practice in the State of Utah and is qualified to develop such plans. 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.

viii. The County Engineer shall determine if the submitted plans sufficiently describe the proposed mitigation measures.

c. Upon the determination by the County Engineer that the Natural Hazards Assessment meets the standards of this section, the Zoning Administrator shall issue a clearance which incorporates the uses, structures, and mitigation measures approved by the County Engineer.

D. STANDARDS

1. General Standard

The mitigation measures, which have been identified in the Natural Hazards Assessment, shall be implemented. The mitigation measures shall be sufficient to provide adequate protection to persons and property, including occupants and property improvements related to the proposed structures and uses, and to meet the standards of this ordinance.

2. No Covering Up

No use, construction, or grading shall be permitted or performed in the NHO Zone which would conceal, misrepresent, or cause to be unrecognized the presence of any natural hazard which is within the purview of the NHO Zone.

3. Rockfall

Structures to be occupied by humans and storage facilities for toxic, caustic, flammable, or explosive materials, shall not be placed in a site subject to rockfall unless the site is investigated in a site-specific Natural Hazards Assessment which meets the requirements of this section and the mitigation measures, which have been identified in the Natural Hazards Assessment, are all incorporated into the design and implemented. If the Natural Hazards Assessment finds that no mitigating measures are needed, then no mitigating measures are required.

4. Debris Flow

Structures to be occupied by humans, storage facilities for toxic, caustic, flammable, or explosive materials, water tanks, reservoirs, and canal facilities, shall not be placed in an area subject to debris flows unless the site is investigated in a site-specific Natural Hazards Assessment which meets the requirements of this section and the mitigation measures, which have been identified in the Natural Hazards Assessment, are all incorporated into the design and implemented. If mitigation measures include discharge onto neighboring land, written permission is required from the owner of the neighboring land. If the Natural Hazards Assessment finds that no mitigating measures are needed, then no mitigating measures are required.

5. Landslide

Structures to be occupied by humans, storage facilities for toxic, caustic, flammable, or explosive materials, water tanks, reservoirs, and canal facilities, shall not be placed in an area subject to landslides unless the site is investigated in a site-specific Natural Hazards Assessment which meets the requirements of this section and the mitigation measures, which have been identified in the Natural Hazards Assessment, are all incorporated into the design and implemented. If the Natural Hazards Assessment finds that no mitigating measures are needed, then no mitigating measures are required.

6. Surface Fault Rupture

Structures to be occupied by humans, storage facilities for toxic, caustic, flammable, or explosive materials, water tanks, reservoirs, and canal facilities, shall not be placed in an area subject to surface fault rupture unless the site is investigated in a site-specific Natural Hazards Assessment which meets the requirements of this section and the mitigation measures, which have been identified in the Natural Hazards Assessment, are all incorporated into the design and implemented. If the Natural Hazards Assessment finds that no mitigating measures are needed, then no mitigating measures are required.

E. VARIANCES

1. Ability to Grant

The Board of Adjustment, when deciding appeals for variances of distance or area within the NHO Zone shall follow both the standards of chapter 7 of this land use ordinance and the standards stated below.

2. Items to Consider

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

- a. The likelihood during a significant seismic or other geologic event that materials may be moved onto adjacent land areas causing property damage or injury to others.
- b. The degree of susceptibility to damage by seismic or other geologic activity for the building design or use proposed.
- c. The importance of the services of the proposed facility to the community and the need for the facility to be functional following a significant event of geologic activity.

- d. The necessity of the facility to be in the proposed location or proposed design, considering alternate locations and designs available.
 - e. The ability of the community to provide emergency services to the facility in the event of a catastrophe.
 - f. The degree of benefit received from the variance relative to the hazards posed to the facility's neighbors, visitors, and owners.
3. Presumption Relative to Approval
- a. Generally, the standards of this section shall not be varied unless an equally safe method of use and construction can be approved.
 - b. The amount of variance approved shall be only the minimum amount required to provide relief.
 - c. A variance shall be granted only if it will not result in a threat to public safety, cause extraordinary public expense, or create a nuisance.
 - d. In a continuum beginning with hay barns and agricultural structures and going to high rise apartment buildings and auditoriums, the difficulty in obtaining a variance shall be greater for structures having a higher percentage of time when the structure has human utilization, and greater for structures which are occupied by a larger number of people.

F. SPECIAL REQUIREMENTS

1. Certification by Engineer - Plans

Where Chart 1 of part C of this section requires a structure or other use of land to be designed by an engineer, such engineer shall be a professional engineer who is licensed to practice in the State of Utah and who is qualified to make such design through experience and training. The plans for a structure or other use of land shall bear on the plans a certification by the engineer that the plans implement all of the recommended mitigation measures, which measures have been identified in the Natural Hazards Assessment, and meet the standards and requirements of the NHO Zone. Prior to the Zoning Administrator issuing any clearance to commence construction, the County Engineer shall determine if the requirements of this section have been met.

2. Certification by Geologist or Engineer - Natural Hazards Assessments

Where Chart 1 of part C of this section requires a Natural Hazards Assessment of the site of the structure or other use of land, the Natural Hazards Assessment shall bear the signed certification of the Utah State licensed geologist or engineer, who has at least four (4) years of experience in a responsible position in the field of engineering geology, that the recommended mitigation measures, which measures have been identified in the Natural Hazards Assessment, are sufficient to provide adequate protection to persons and property, including occupants and property improvements related to the proposed structures and uses, and are sufficient to meet the standards of this ordinance. Prior to the Zoning Administrator issuing any clearance to commence construction, the County Engineer shall determine if the requirements of this section have been met.

3. Records

The Zoning Administrator shall retain the Natural Hazards Assessment and plans of engineered facilities submitted with applications for permits issued under authority of this section.

4. Maps Adopted by Reference

The map series "Utah County Natural Hazards Overlay," dated April 1, 1990, is hereby adopted by reference in book form. One copy of the complete map series is hereby ordered to be placed in the office of the Utah County Clerk. This map series shall be used in the administration of the NHO Zone as required therein.

G. DISCLOSURE

1. Whenever a Natural Hazards Assessment is required under this section, the owner of the parcel shall record a notice running with the land in a form satisfactory to the County prior to the approval of any use of land or structure. Disclosure will include signing a Disclosure and Acknowledgment Form provided by the County, which will include the following:
 - a. Notice that the parcel is located within an area susceptible to natural hazards, which hazards are the purview of the Natural Hazards Overlay (NHO) Zone, as shown on the Official Zone Map of Utah County, Utah; and
 - b. Notice that a Natural Hazards Assessment was prepared and is available for public inspection in the Utah County Community Development office.
2. When the land, or portion thereof, of a development plat lies in an area susceptible to natural hazards, which hazards are the purview of the Natural Hazards Overlay (NHO) Zone, as shown on the Official Zone Map of Utah County, Utah, such plat shall contain notification of 1) the hazards area, 2) any natural hazards assessments prepared in connection with development approval and 3) the mitigation measures incorporated into the development plan.

H. WARNING AND DISCLAIMER

The degree of protection from geologic hazards intended to be provided by this section is considered reasonable for regulatory purposes and is based on accepted geologic and scientific methods of study. This section is intended to minimize the danger, cost and impact from geologic hazards. Therefore, known or unknown geologic conditions, or natural or man-made changes in conditions, may contribute to future damages even though properly permitted within the NHO Zone. Furthermore, the provisions of this section shall not imply that areas within or outside the NHO Zone will be free from the impact of geologic hazards. This section shall not create a liability on the part of or be a cause of action against the county or any officer or employee thereof for any personal or property damage that may result from reliance on the regulations of the NHO Zone, or from damages occurring in areas which for any reason have not been designated in the NHO Zone.

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 3th day of December 2013.

UTAH COUNTY COMMISSION

VOTE



DOUG WITNEY, CHAIR

aye



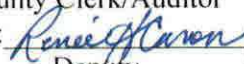
GARY J. ANDERSON, COMMISSIONER

aye



LARRY A. ELLERTSON, COMMISSIONER

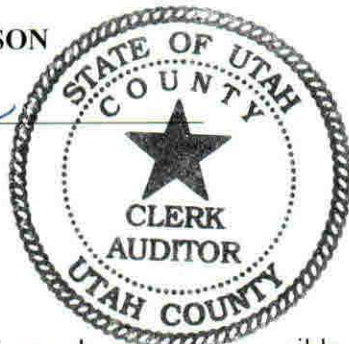
aye

ATTEST:
BRYAN E. THOMPSON
County Clerk/Auditor
By: 
Deputy

APPROVED AS TO FORM:
TIMOTHY L. TAYLOR
County Attorney
 Approved

Disapproved

By: 
Deputy



Date of Publication: Once only, as soon as possible