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JEFFERY SMITH  
UTAH COUNTY RECORDER  
2020 Jun 08 10:26 am FEE 0.00 BY MA  
RECORDED FOR UTAH COUNTY COMMISSIONERS

**ORDINANCE NO. 2020- 394**

**AN ORDINANCE AMENDING CHAPTER 3, CHAPTER 4, AND CHAPTER 5 OF THE UTAH COUNTY LAND USE ORDINANCE RELATED TO THE ELIMINATION OF THE FLOOD PLAIN OVERLAY (FPO) ZONE AND THE ADOPTION OF REQUIREMENTS FOR FLOOD PROTECTION IN SPECIAL FLOOD HAZARD AREAS**

**WHEREAS**, the Utah County Commission initiated a review of Chapter 3, Chapter 4, and Chapter 5 of the Utah County Land Use Ordinance (UCLUO) related to the elimination of the Flood Plain Overlay (FPO) Zone and the adoption of requirements for flood protection in special flood hazard areas; 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 May 19, 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, Chapter 4, and Chapter 5 of the Utah County Land Use Ordinance is hereby amended, including the re-numbering of applicable subsections, to read as follows:

**See Attachment "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 3rd day of June 2020.

**UTAH COUNTY COMMISSION**

**VOTE**

DocuSigned by:  
Tanner King  
TANNER KING, CHAIR

YEA

DocuSigned by:  
[Signature]  
NATHAN VIE, VICE-CHAIR

YEA

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

YEA

**ATTEST:**  
**AMELIA A. POWERS**  
Utah County Clerk/Auditor



**APPROVED AS TO FORM:**  
**DAVID O. LEAVITT**  
Utah County Attorney

By: Alice Black  
Deputy

Approved

Disapproved

By: DocuSigned by:  
Robert J Moore  
889C11BACFB0471...  
Deputy

Date of Publication: Once only, as soon as possible

ATTACHMENT "A"

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.

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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);

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- 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. .
  - b. 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.
  - c. All large-scale development proposals shall have adequate drainage provided to reduce exposure to flood damage.
  - d. 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.

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- 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
    - 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).

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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

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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 AI-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 AI-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.

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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.
- l. 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

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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

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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.

**Section 4-1:**

4-1: ZONES ESTABLISHED

In order to carry out the purposes of this ordinance, the unincorporated territory of Utah County, Utah, is hereby divided into zones as follows:

- RA-5 Residential Agricultural Zone
- RR-5 Rural Residential Zone
- TR-5 Transitional Residential Zone
- CE-1 Critical Environmental Zone
- CE-2 Critical Environmental Zone
- M&G-1 Mining and Grazing Zone
- NC-1 Neighborhood Commercial Zone
- HS-1 Highway Service Zone
- I-1 Industrial Zone
- NHO Natural Hazards Overlay Zone
- A-40 Agricultural Zone
- APO Airport Overlay Zone
- PF Public Facilities Zone
- PC Goshen Valley Planned Community Zone
- G-1 Grazing Zone
- TDR-R Transfer of Development Rights Receiving Overlay Zone
- TDR-S Transfer of Development Rights Sending Overlay Zone

**Section 5-11:**

(Deleted in its entirety.)