

Article 15: Matters of State and Local Interest

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Section 15.1. **Applicability and Definitions**

A. **Applicability**

This section of the Code contains development standards for Areas and Activities of State and Local Interest (Colorado Revised Statutes, 24-65.1-101 et seq. – H.B. 1041). The standards shall apply to development in all areas mapped or known to be Areas of Local and State Interest. Identified Areas of Local and State interest within the Town of Dolores include:

1. Floodplain hazard areas;
2. Geologic hazard areas; and
3. Wildlife habitat areas.

B. **Definitions**

The following definitions are applicable only to Article 15: Areas and Activities of State Interest.

"Avalanche" means a mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.

"Expansive soils and rocks" means any mineral, clay, rock or other type of geologic deposit having the property of absorbing water with an accompanying swelling to several times their original volume.

"Geologic hazard" means a geologic phenomenon that is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes, but is not limited to: avalanches, landslides, rock falls, mudflows, unstable or potentially unstable slopes, seismic effects, radioactivity, and ground subsidence.

"Geologic hazard area" means an area which contains or is directly affected by a geologic hazard.

"Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation or dissolution of underground minerals, or man-made phenomena such as underground mining.

"Initial control area" means an area suspected, but not finally determined, to be a natural hazard area or a mineral resource area.

"Landslide" means a mass movement where there is a distinct surface of rupture, or zone of weakness, which separates the slide material from more stable underlying material.

"Mudflow" means a flowing mass of predominately fine-grained earth material possessing a high degree of fluid during movement.

"Radioactivity" means a condition related to various types of radiation emitted by natural radioactive minerals that occur in natural deposits or rocks, soils, and water.

"Rock fall" means the rapid free-falling, bounding, sliding, or rolling of large masses of rock or individual rocks.

Commented [EAG1]: JK: I'm not sure we should include any edits in this section because 1041 regs have different notice requirements. Let me know what you think.

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"Seismic effects" means direct and indirect effects caused by a natural earthquake or a man-made phenomenon.

"Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

C. Exemptions

This section shall not apply to any development in an area of state interest or any activity of state interest which met any one of the following conditions as of the date of the Town's adoption of these regulations of Areas of State and Local Interest:

1. The development or activity is covered by a current building permit issued by the appropriate local government; or
2. The development or activity has been approved by the electorate; or
3. The development or activity is to be on land:
 - a. Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or
 - b. Which has been zoned by the appropriate local government for the use contemplated by such development or activity [meaning zoned in response to a specific development application]; or
 - c. With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority;" and
4. Normal and customary ranching and agriculture-related uses or activities.

Section 15.2. Standards

A. Generally Applicable

The standards in this section apply to all Areas of State and Local Interest.

1. Avoid Development in Hazard Areas. Restrict development to a hazard-free area if such an area exists on a site.
2. Minimize Development in Hazard Areas. If no adequate hazard-free area exists on a site, the diversity of permitted uses in a zone district and permitted residential land use densities may be limited to minimize potential dangers to persons or wildlife.
3. Prohibit Development. Development shall be prohibited within an Area of State and Local Interest (Colorado Revised Statute 1041 Environmental Hazard Area) if:
 - a. Site planning and engineering techniques cannot reasonably mitigate potential hazards to public health, safety, and welfare or
 - b. Development subjects persons or the Town to dangers or expenses required to mitigate hazardous conditions, respond to emergencies created by such conditions or rehabilitate improvements and lands.

B. Floodplain Hazard Areas Standards

In addition to the development standards in ~~Chapter 17.08, Flood Damage Prevention~~ Section 9.5, Flood Hazard Regulations, the standards in this section apply to

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mapped floodplain hazard areas as depicted in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, National Flood Insurance Program, and to areas found to be in flood hazard areas. If no adequate hazard-free area exists on a site, development proposed within final base flood elevations and/ or regulatory floodway shall:

1. Have the lowest floor, including basement, elevated to one-foot above the base flood level or be designed to that below the base floor level the structure is water tight with wall substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
2. Be designed by a qualified professional engineer who shall certify that the flood-proofing methods identified in ~~Section 11.C.6.a~~ [Article 9.5](#) are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood.

C. Geologic Hazard Areas Standards

This section identifies development standards applicable to specific geologic hazard areas in addition to the general standards in ~~Section 11.C.4~~ [Article 9](#). Where development is proposed on slopes greater than 30 percent, other hazards (i.e., potentially unstable slopes, landslide areas and rock fall hazard) are also likely to be present; therefore, the developer shall comply with all of the following applicable standards:

1. Slopes Greater Than 30 Percent Standards

If no adequate hazard-free area exists on a site, land uses shall:

- a. Provide mechanical support for all cuts;
- b. Confine cuts and fills and grading and scraping to the minimum area needed for construction; and
- c. Provide for stability and re-vegetation of cut and fill slopes.

2. Landslide Areas

If no adequate hazard-free area exists on a site, land uses shall:

- a. Insure strict adherence to recommended design, construction and maintenance procedures approved by qualified professional geologists or engineers;
- b. Avoid adding water to the site that would cause decreased stability;
- c. Avoid removing the toe of the slide without adequate mechanical support;
- d. Avoid increasing the weight load on the top of the slide;
- e. Avoid removing vegetation from the site; and
- f. Avoid causing a steep grade of the existing slope of the slide.

3. Potentially Unstable Slopes Standards

If no adequate, hazard free site exists on the site, development shall be permitted only if design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the Town are utilized. Any land uses on a potentially unstable slope area shall avoid:

- a. Cutting into slope without providing adequate mechanical support;

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- b. Decreasing slope stability by adding water;
- c. Adding weight to the top of the slope;
- d. Removing vegetation from the slope without adequate re-vegetation; and
- e. Causing grades that are too steep for the slopes.

4. Rock Fall Areas Standards

If no adequate hazard-free area exists on a site, development shall only be permitted if design and construction stabilization and maintenance measures approved by a qualified professional geologist or engineer and the Town are utilized. Construction stabilization measures may include but are not limited to:

- a. Stabilization of rocks by bolting, gunite application (cementing), removal of unstable rocks (scaling), cribbing or installation of retaining walls;
- b. Slowing or diverting moving rocks with rock fences, screening, channeling and dams, or with concrete barriers or covered galleries;
- c. Construction of physical barriers around vulnerable structures;
- d. Periodic maintenance of mitigation measures; and
- e. Development shall not:
 - (1) Increase water supply to cliffs or overhangs;
 - (2) Remove protective vegetation;
 - (3) Add weight or otherwise disturb overhanging strata; and
 - (4) Cause any excavations or increase erosion that removes underlying support.

D. Wildlife Habitat Areas Standards

This section establishes land use standards for wildlife habitat areas ~~in addition to the general standards of Section 11.C.4.~~ The standards apply to areas mapped by the Colorado Department of Natural Resources and to areas known to be wildlife habitat areas by the Division of Parks & Wildlife.

1. General Standards

The standards in this section apply to all wildlife habitat areas.

- a. Commercial, industrial, or open pit mineral extraction shall be prohibited.
- b. Residential development shall be clustered to avoid impacting wildlife and their habitat.
- c. Removal of vegetation shall be minimized. Vegetation removed shall be promptly replaced with beneficial native browse species.
- d. Where existing vegetation must be altered, for an access road, utility line or similar uses, an applicant will cooperate with the Town and the Colorado Division of Wildlife to devise a compensation plan acceptable to the Town. Such compensation plan may substitute, in an accessible nearby area, vegetation equal in type and quantity to that being removed to mitigate effects on wildlife species.

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- e. Wildlife food, cover, and water shall be preserved and development effects, which would destroy these, shall be mitigated. Special consideration shall be given to trees and shrubs with high wildlife food value, especially heavy seed, berry and fruit producing species.
- f. Waterholes, springs, seepage, marshes, pond and watering areas shall be preserved.
- g. Known endangered species habitats shall be preserved and all disturbances to those habitats shall be minimized.
- h. Mesh or woven fences shall be prohibited.
- i. Fences shall be limited to a maximum of four (4) strands and to 42 inches in height.

2. Elk Severe Winter Range

Land uses in elk severe winter range shall comply with the general standards of Section 11.C.4. and the standards in this section.

- a. Overgrazing of ranges by livestock shall be prohibited.
- b. Development shall be restricted to areas in which wildlife impacts can be minimized.
- c. Access for Colorado Parks & Wildlife for managing wildlife shall be maintained.
- d. Commercial activity (such as seismic activity, construction, and timber harvesting) and recreational uses shall be prohibited from December 1 through March 31.
- e. Dogs shall be prohibited within one-half mile of elk, mule deer, and bighorn sheep severe winter ranges and winter concentration areas.

3. Riparian Areas and Shore lands

Land uses located in riparian or shore land areas shall comply with the standards in the general standards of Section 11.C.4. and the standards in this section.

- a. Development and the removal of vegetation and disturbance of ground cover within the riparian area shall be prohibited.
- b. Culverts shall be designed to prevent plugging and washouts.
- c. Culverts which may become barriers to fish passage shall be prohibited.
- d. Riparian and shore land habitat areas that have been denuded or disturbed by development shall be re-vegetated in the first available growing season.

Section 15.3. Review Procedure

A. Applicability

The Zoning Administrator may grant administrative 1041 environmental hazard review approval for the development of a single-family dwelling unit, accessory structures, and a driveway consistent with the standards of this section.

B. Requirement for a Project-Specific 1041 Permit

1. Exemptions

This section shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions:

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- a. The development or activity is covered by a current building permit issued by the appropriate local government; or
- b. The development or activity has been approved by the electorate; or
- c. The development or activity is to be on land:
 - (1) Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or
 - (2) Which has been zoned by the appropriate local government for the use contemplated by such development or activity [meaning zoned in response to a specific development application]; or
 - (3) With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority;” and
- d. Normal and customary ranching and agriculture-related uses or activities.