

Summary of changes to Section 7.00

Definitions

PP. "New communities" means the establishment of urbanized growth centers in unincorporated areas. New communities shall not include those established through the municipal annexation of unincorporated territory.

DDD. "Urbanized growth center" means the establishment of a metro district or any residential, commercial, or mixed-use district exceeding 50 dwelling units or 40,000 square feet of commercial space.¹

-- New Communities changed to remove "major revitalization of existing municipalities". It references Urbanized Growth Centers to define scale. In the Definitions Section of the Code, Section 17.00, New Communities are defined differently, so an update to Section 7.00 should include a change to the definitions to reference this section, or vice-versa, so we don't have two contradictory definitions.

New community or new communities:

1. The establishment of urbanized growth centers in the unincorporated territory of Huerfano County.
2. Any activity within the unincorporated territory of Huerfano County which falls within one or more of the following criteria is defined as "site selection and development of new communities" and requires application to the Planning Commission for a permit to conduct such activity:
 01. Is planned for a population or work force of five hundred (500) persons or two hundred and fifty (250) dwelling units within five (5) years of implementation of the activity or for an ultimate population or labor force of two thousand five hundred (2,500) persons or one thousand twelve hundred and fifty (1,250) dwelling units.
 02. Is planned for or requires the expansion and/or extension of any existing water and/or sewer district or association within any twenty-four (24) month period which is equal to or greater than fifty (50) percent of the population or land area served by the district or association at the beginning of said period.
 03. Is planned for or requires a change in existing zoning that provides for a one hundred (100) percent or greater increase in allowable density on more than six hundred and forty (640) acres of land
 04. Is planned for or requires an ultimate contiguous zoning district or special use permit for commercial, industrial and/or public use on three hundred and twenty (320) or more acres of land.

¹ Why is this here? Shouldn't 1041 review be in addition to that provided elsewhere in the County LUC? I propose that we delete the highlighted language near the top of the page. – It's only reference in the section is in the definition of new communities. We might add to the definition the establishment of a metro district.

7.03.05 (C)

Development located in flood hazard areas and geologic hazard areas. To determine if a site is in a geologic hazard area, Department may require applicant to have site reviewed by Colorado Geologic Survey.

--Since we do not have a map of rockslide/mudslide risk, we should create an avenue for outside review to inform determination of whether 1041 process necessary. This is similar to how we are treating historical sites.

7.03.06 (A)

A. The Land Use Department Staff shall determine the applicability of Section 7.04 to the conduct of any proposed activity or development. The County Staff shall make this determination within 10 calendar days after the Department² receives a written request from the applicant stating the reasons why the proposed activity or development is or is not subject to Section 7.04. This timeline may be extended to 30 days if external agency review is required to make a determination.

-- Added option to extend if CGS, historical society, or other agency review is required to make determination.

7.03.06 – appeal staff decision to include or exempt application from 1041 process to go to Board of Appeals or to Planning Commission.

Current process – Board of Appeals decides whether decision was in error or not. Amended time limit for appeal from ten to twenty days.

7.03.07 Specific Uses Exempted from the Permit Process in Areas of State Interest

A. Operation, maintenance, repair and replacement of existing **water** and sewage collection, treatment, storage and delivery facilities and associated works. Reservoir improvement or replacement projects shall provide an analysis of potential impact on junior water rights holders, and the Planning Commission may determine whether to exempt such projects.

Revised to remove language about design capacity of reservoirs.

² Three thoughts. We need to make this consistent with the current departmental names or position titles. Sky, I think it would be OK if the planning commission made the decision. Ten calendar days isn't very long for a complex matter or when things get busy. This process gives staff first right to interpret. If the applicant disagrees with a staff decision, it goes to the Board of Appeals. It could be rewritten to grant the applicant an audience with the Planning Commission.

7.04.02 Application Fee: \$300. Is this ok?

7.04.11 (I) (pg 47) Removed Mancos Shale from list of geologic hazard types. There are various types of cretaceous shale in the county, but not specifically Mancos Shale.

- An example from Pagosa Springs' code on dealing with slopes and natural hazards:
 - It leaves some room for interpretation as to how safety and property protection are to be demonstrated in a project proposal.

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- **6.4. - SENSITIVE AREA PROTECTION**

[SHARE LINK TO SECTION PRINT SECTION DOWNLOAD \(DOCX\) OF SECTION EMAIL SECTION](#)

6.4.1. PURPOSE

The Town contains many natural amenities, including stream corridors, river corridors, natural drainages, wildlife habitat areas, waterways (lakes, rivers, and streams), wetlands, viewsheds, and hillsides, as well as significant amounts of native forest, tree cover, and open space, all of which contribute to the Town's character, quality of life, and property values. The regulations of this Section are intended to ensure that the natural character of the Town is reflected in patterns of development and redevelopment, and significant natural features are incorporated into open space areas.

6.4.2. SLOPES

Steep land (thirty (30) percent or greater slopes), unstable ground, and land subject to hazards such as landslides, rockfall, ground subsidence, wildfire, or flooding shall not be platted or developed for residential or other uses that may endanger life and limb or improvements, unless appropriate provisions, as deemed necessary by the building department, are made to eliminate or control the hazard.

6.4.3. NATURAL FEATURES

Subdivisions and any development shall make every effort to preserve existing waterways (lakes, rivers, and streams), primary vegetation (trees), rock formations, and other natural vistas.

6.4.4. AREAS OF SPECIAL FLOOD HAZARD

The Director shall keep on file and available to the public, a set of maps clearly showing all known and identified areas of special flood hazard in the Town, as such become available. The Town shall not approve any proposed subdivision or development in either an identified area of special flood hazard or in an area suspected of being in an area of special flood hazard, unless the subdivider or developer can submit adequate evidence, prepared by a registered professional engineer, that the proposed subdivision or development is not in an area of special flood hazard or meets the conditions set forth in [Section 6.2](#).

6.4.5. GEOLOGIC HAZARD AREAS

The Town Clerk shall keep on file and available to the public, a set of maps clearly showing all known and identified geologic hazard areas in the Town, as such become available. The Town shall not approve any subdivision plan or site plan if the proposed subdivision or development is either in one (1) of these identified geologic hazard areas or is in an area suspected of being in a geologic hazard area, unless the applicant can submit adequate evidence, prepared by a registered professional geotechnical engineer, that the proposed subdivision or development meets the following conditions:

A.

Provisions have been made for the long term health, welfare, and safety of the public from geologic hazards to life, property, and improvements.

B.

The proposed development will not create an undue financial burden on the existing or future residents of the area or community as a result of damage due to geologic hazards.

C.

Structures designed for human occupancy or use shall be constructed to prevent danger to human life or property.

D.

Permitted land uses, including public facilities serving such use, shall avoid or mitigate geologic hazards at the time of initial construction.

E.

Man-made changes shall not initiate or intensify adverse natural conditions within a geologic hazard area.

6.4.6. WILDFIRE HAZARD AREAS

The Town Clerk shall keep on file and available to the public, a set of maps clearly showing all known and identified wildfire hazard areas in the Town, as such become available. The Town shall not approve any subdivision plan or site plan if the proposed subdivision or development is in an area identified as a wildfire hazard area or is in an area suspected of being in a wildfire hazard area, unless the applicant can submit adequate evidence, prepared by a qualified professional forester, that the proposed subdivision or development meets the following conditions:

A.

Any development in which residential activity is to take place shall be designed to minimize significant wildfire hazards to public health, safety, and property.

B.

Any development shall have adequate roads for emergency service by fire trucks, fire fighting personnel, and fire breaks or other means of alleviating conditions conducive to wildfire hazard.

C.

Precautions required to reduce or eliminate wildfire hazards shall be provided at the time of initial development.

D.

All subdivision and development shall adhere to the Guidelines and Criteria for Wildfire Hazard Areas published by the Colorado State Forest Service.

E.

Consideration shall be given to recommendations of the State Forest Service resulting from review of a proposed subdivision or development in a wildfire hazard area.

6.4.7. PERIMETER FENCING

If implemented, perimeter fencing shall be no higher than forty-two (42) inches, so as not to impede the movement of deer and elk. Recorded covenants or restrictions shall require individual owners to maintain said fence.

6.4.8. RIPARIAN SETBACKS

The following standards are intended to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that river and stream corridors, associated riparian areas, and wetlands provide.

An example of defining and regulating geologic hazards from Whatcom County, WA (excerpt):

This gives some guidance on how a site might be determined to be a hazard or not. It also requires an expert opinion and leaves significant leeway for county to impose conditions on such sites.

Also, definition of alluvial hazard area may be worth adopting.

[Chapter 16.16 CRITICAL AREAS* \(codepublishing.com\)](http://codepublishing.com)

C. Classification. For purposes of this chapter, geologically hazardous areas shall include all of the following:

1. Landslide Hazard Areas. Landslide hazard areas shall include areas potentially susceptible to landslides based on a combination of geologic, topographic, and hydrologic factors, as specified below. They include any areas susceptible to mass movement due to any combination of bedrock, soil, slope (gradient), slope aspect, slope form (concave, convex, planar), geological structure, surface and subsurface hydrology, or other factors. Landslide hazard areas shall also include areas along which landslide material may be routed or which may be subject to deposition of landslide-delivered material. Potential landslide hazard areas include but are not limited to the following areas:

a. Potential Landslide Hazard Areas. Potential landslide hazard areas exhibit one or more of the following characteristics:

i. Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the U.S. Geological Survey, Washington State Department of Natural Resources, or other reputable sources;

ii. Areas with all three of the following characteristics:

(A) Slopes steeper than 15 percent;

(B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(C) Springs or groundwater seepage;

iii. Areas that have shown movement and/or are underlain or covered by mass wastage debris;

iv. Potentially unstable slopes resulting from river or stream erosion or undercutting by wave erosion;

v. Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

vi. Areas that show past sloughing or calving of sediment or rocks resulting in a steep slope that is poorly vegetated;

vii. Slopes that are parallel or sub-parallel to planes of weakness (which may include but not be limited to bedding planes, soft clay layers, joint systems, and fault planes) in subsurface materials;

viii. Areas that show evidence of, or are at risk from, snow avalanches;

ix. Deep-seated landslide areas characterized by one or more of the following features: scalloped ridge crests at the top of the slope, crescent-shaped depressions, head scarps, side scarps, ponds or sag areas on midslopes, benches and scarps on midslope areas, hummocky ground, linear fractures in the ground. These features may be evident in aerial images, topographic maps, LiDAR imagery or on the ground;

x. Areas below unstable slopes that could be impacted by landslide run-out;

xi. Areas above or adjacent to unstable slopes that could be impacted if the landslide area expands;

xii. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of competent bedrock or properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site;

xiii. Areas within which land use activities could affect the slope stability, including but not limited to areas with subsurface hydrologic flow, groundwater recharge areas and surface water flow;

xiv. Areas of historical landslide movement including coastal shoreline areas mapped by the Department of Ecology Coastal Zone Atlas or the Department of Natural Resources slope stability mapping as unstable ("U" or Class 3), unstable old slides ("UOS" or Class 4), or unstable recent slides ("URS" or Class 5).

b. Active Landslide Hazard Areas. Active landslide hazard areas are areas that exhibit indicators noted in subsection (C)(1)(a) of this section that have been determined through geological assessment to be presently failing or very likely to fail in the near future.

3. Alluvial Fan Hazard Areas. Any area located at the base of a confined mountain channel and determined to be susceptible to clear water flooding, debris-laden flows and floods, and erosional impacts shall be designated as an alluvial fan hazard area. Watershed hydrology, geology, slope conditions, topography, current and historic land uses, roads and road drainage, valley bottom

conditions, and channel conditions upstream of an alluvial fan area are all fundamental to potential hazards and risks on alluvial fans. Alluvial fan hazard areas shall include those areas on alluvial fans potentially impacted by:

- a. Sediment-laden flows (e.g., debris flows and debris floods);
- b. Clear water floods;
- c. Stream channel changes (including channel avulsion, incision, aggradation or lateral erosion and migration);
- d. Erosion.

5. Erosion Hazard Areas. Erosion hazard areas shall include:

- a. Channel migration zones, also known as riverine erosion areas, are defined as the areas along a river or stream within which the channel(s) can be reasonably predicted to migrate over time. This is a result of natural and normally occurring geomorphic, hydrological, and related processes when considered with the characteristics of the river or stream and its surroundings, and in consideration of river and stream management plans. Channel migration hazard areas shall include potential channel migration, channel avulsion, bank erosion, and stability of slopes along the river or stream;
- b. Coastal erosion areas that are subject to shoreline retreat from wind, wave, and tidal erosion.

8. Mine Hazard Areas. Mine hazard areas shall include those lands in proximity to abandoned mines and associated underground mine workings where mine workings are less than 200 feet below ground level. Mine workings include adits (mine entrances), gangways (haulage tunnels), rooms and chutes (large voids), drifts, pillars (rock left for support) and air shafts. Mine hazards include subsidence, which is the uneven downward movement of the ground surface caused by underground workings caving in; sink holes; contamination of ground and surface water from tailings and underground workings; concentrations of lethal or noxious gases; and underground mine fires. (Ord. 2017-077 § 1 (Exh. A); Ord. 2005-068 § 1).

16.16.320 Geologically hazardous areas – General standards.

In addition to the applicable general protective measures found in WCC [16.16.265](#), the following requirements shall apply to all activities in geologically hazardous areas:

A. Generally. New developments shall be located and/or engineered and constructed to reduce risks to life, health, safety, and buildings, and not increase potential for landslides or erosion that could impact either other properties, public resources, or other critical areas. The county may impose conditions on development activity in a geologically hazardous area as needed to:

1. Protect human life and safety;
2. Minimize the potential for property damage related to seismic events, erosion and/or land-slides;
3. Minimize the need for stream or riverbank or coastal bluff stabilization in the future;
4. Reduce public liabilities for damages associated with geologic hazards;
5. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;
6. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater and marine ecosystems as well as minimizing impacts to stream, river, and coastal processes such as channel infill, channel migration, sediment transport, or flooding;

B. Impact Avoidance. Impact avoidance measures shall include, but not be limited to, locating the use/development outside of the hazard area, reducing the number, size or scale of buildings and appurtenant features; altering the configuration or layout of the proposed development; implementing special engineering methods for construction, drainage, runoff management, etc.; preserving native vegetation; and other feasible protective measures as determined by an alternatives analysis. For some geologic hazards (except for lahar hazards), impact avoidance may mean no development will be permitted on a property. So long as an applicant complies with WCC [16.16.350\(B\)](#), the county shall not require lahar hazard impact avoidance measures that reduce the number, size, or scale of buildings or appurtenant features; or prevent uses otherwise allowed per the property's zoning district based solely on the property's location within a lahar hazard zone.

C. Location of Alterations. New development shall be directed toward portions of a parcel or parcels under contiguous ownership that are not subject to, or at risk from, geological hazards (except for lahar hazards) and/or are outside any setback or buffer established by this chapter.

D. Critical Facilities Prohibited. Critical facilities as defined in WCC [16.16.900](#) shall not be constructed or located in geologically hazardous areas if there is a feasible alternative location outside geologically hazardous areas that would serve the intended service population. If allowed, the critical facility shall be designed and operated to minimize the risk and danger to public health and safety to the maximum extent practicable.

E. Review by Qualified Professional. A geologist or other qualified professional, licensed in the state of Washington, shall review development proposals that occur in potentially geologically hazardous areas to determine the potential risk. If development takes place within an identified geologically hazardous area requiring design or structural elements to minimize the hazard, the mitigation shall be designed by a qualified professional licensed in the state of Washington with expertise in mitigation of geological hazards.

F. Life of Structure. Proposed development shall be sited far enough from erosion and landslide hazard areas to ensure at least 100 years of useful life for the proposed structure(s) or infrastructure. The location should be determined by a geologist or other qualified professional licensed in the state of Washington and should be based on site-specific evaluation of the landslide and/or erosion hazard.

G. Remodels and Additions. Any proposed remodel or addition to an existing permitted or nonconforming structure that exceeds a valuation of greater than 50 percent of the fair market value shall be required to ensure that the entire structure is improved in accordance with all Article 3 requirements.

H. Agricultural Activities. Agricultural activities (uses and structures) may be allowed within geologically hazardous areas without a conservation farm plan as long as the activity does not increase the potential for landslides, channel migration, or alluvial fan hazards on or off the site; except, that a conservation farm plan shall be required for agricultural activities within landslide hazard areas and associated landslide hazard area setbacks (WCC [16.16.325\(C\)](#)).

I. Land Subdivision. Land that is located wholly within a landslide hazard area, riverine or coastal erosion hazard area, alluvial fan hazard area, lahar hazard area, or mine hazard area or its buffer may not be subdivided to create buildable parcels entirely within the hazardous area. Land that is located partially within a hazard area or its setback may be divided; provided, that each resulting lot has sufficient buildable area outside of the hazardous area with provision for drainage, erosion control and related features that will not adversely affect the hazard area or its setback. (Ord. 2017-077 § 1 (Exh. A); Ord. 2009-013 § 2 (Exh. 2); Ord. 2005-068 § 1).