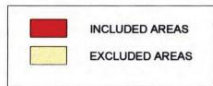


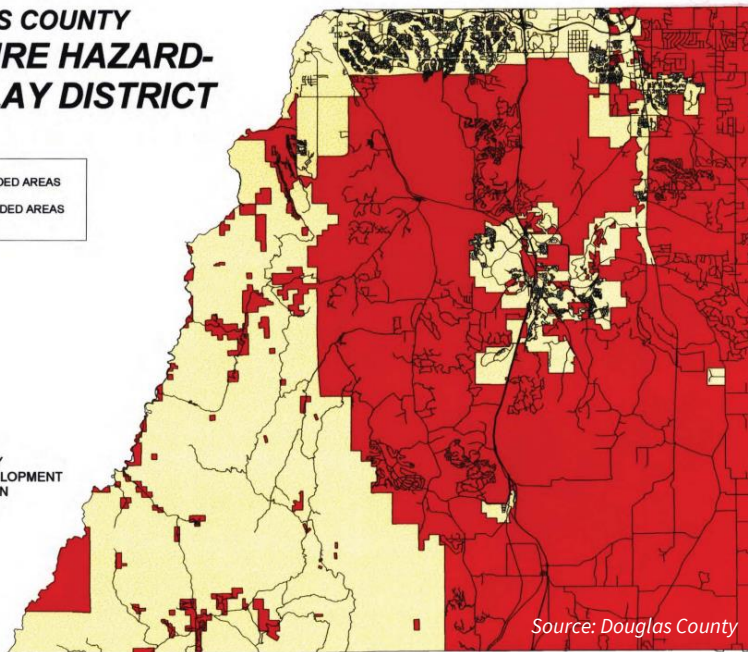
## OVERLAY ZONING

### DOUGLAS COUNTY WILDFIRE HAZARD- OVERLAY DISTRICT



NOT TO SCALE

MARCH 28, 2001  
DOUGLAS COUNTY  
COMMUNITY DEVELOPMENT  
PLANNING DIVISION



Source: Douglas County

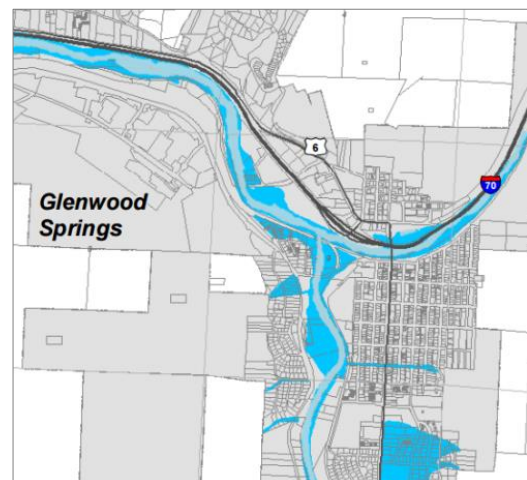
#### HAZARDS ADDRESSED:



## HOW IT WORKS

**Overlay zoning** is used by communities to apply area-specific standards and/or conditions. A **base zoning district** (such as residential or mixed-use) determines the types of uses permitted and the minimum dimensional requirements of lots and buildings. An **overlay district** (or overlay zone) applies an additional layer of standards to all areas within a defined overlay boundary, regardless of the underlying base zoning district. For example, an area with single-family homes that is zoned R-1 might also be within a hillside overlay zone. In this example, the permitted uses might allow construction of a single-family home according to the R-1 standards; however, the hillside overlay zone might prevent construction without first obtaining a geo-technical report.

Overlay zoning supplements or supersedes existing regulations within an underlying base zoning district. When drafting an overlay zoning district ordinance, consider whether all overlay zoning districts shall supersede existing zoning regulations, or if certain overlay zones should be treated differently. Some overlay zones (e.g., infill and redevelopment) are drafted to permit exceptions or require a less-restrictive set of standards than otherwise provided in



*Excerpt of the floodplain overlay from the Garfield County overlay districts map.*

Source: [garfield-county.com/geographic-information-systems/documents/zoning/OfficialZoneOverlays7536.pdf](http://garfield-county.com/geographic-information-systems/documents/zoning/OfficialZoneOverlays7536.pdf)

the zoning regulations.

For hazard mitigation purposes, overlay zoning is commonly applied to the following:

- **Floodplain management.** Regardless of the underlying zoning in place, areas that are subject to riverine flooding require special attention. Many communities use an overlay zone to apply floodplain regulations. Properties within this overlay are often subject to additional standards concerning land uses, building elevation, stream buffers, outdoor storage, building materials, and permitting procedures.
- **Hillside development.** Hillsides can be protected for both aesthetic and safety purposes. Hillside overlays often include additional standards to address natural features, steep slopes, viewsheds, and dangerous geologic conditions. These overlays can include provisions for special procedures, suitability analysis requirements, grading, landscaping, building height, and sometimes wildfire mitigation standards.
- **Wildland-urban interface.** Overlay zones also can be used to identify and protect areas subject to wildfire risk.

## IMPLEMENTATION

To implement an overlay zoning district, many communities first prepare a study or report identifying a problem and linking the benefits of an overlay district to broader community policies or objectives in the comprehensive plan. Often, and particularly in the case of natural hazard mitigation, overlay zoning requires technical analysis and mapping (spatial definition) of the hazard boundary. The community then prepares the ordinance to include standards and procedures that apply to that defined overlay. As with other zoning code amendments, adoption of the ordinance requires approval by the governing body (City Council, Board of Trustees, or the County Commissioners). Overlay districts also can be amended, expanded, and lands reclassified through the rezoning process.

## WHERE IT'S BEEN DONE

**Douglas County** adopted a Wildfire Hazard Overlay District as part of their zoning resolution. The first item listed in the purpose statement for the district is “to develop and maintain a map of Douglas County that allows for preliminary identification of Wildfire Hazard Areas.” The regulations and procedures within the overlay district not only apply to those included on the overlay map, but also any land areas field-verified as potential hazard areas. Within the overlay, land use applications must comply with general mitigation and forest management provisions, road and street design criteria, water supply provisions, and structural design elements.

In **Weld County**, the zoning ordinance includes a Geologic Hazard Overlay District. The district is intended to minimize hazards to people and property, especially related to geologic hazards. With assistance from the Colorado Geological Survey and the US Geological Survey, Weld County maintains a digital map delineating coverage based on previous studies related to underground coal mines (which could lead to subsidence). In this overlay, any special use permit, planned unit development, change of zoning, or subdivision of land requires a geologic hazard overlay development permit prior to approval from the Board of County Commissioners.

## ADVANTAGES AND KEY TALKING POINTS

The primary benefit of overlay zoning is applying a unique set of standards to a specified area without having to amend all other relevant sections of the code. Other benefits include:

- Provides additional protection for defined hazard areas without negotiating on a case-by-case basis.
- Allows existing zoning regulations to be superseded or complemented to solve a known problem.
- Can implement comprehensive plan policies and strategies associated with future land use and the environment.
- Relatively easy to maintain over time following initial adoption.

## CHALLENGES

Overlay zoning often requires a higher level of technical expertise to administer. For example, enforcement of a floodplain overlay requires detailed knowledge of technical FEMA and NFIP requirements and other local building and engineering requirements. Other challenges include:

- Can require trained planning and engineering staff to develop the initial maps and standards.
- Adds an additional layer of requirements to the development review process.
- To mitigate natural hazards, requires fairly technical mapping of hazard area.
- Requires a zoning amendment, which requires formal action by the governing body.
- Requires that a community have a zoning ordinance in place, which may present a challenge to some smaller communities in Colorado without zoning.

## MODEL CODE LANGUAGE AND COMMENTARY

Overlay zoning can be tailored to local conditions, which makes it an effective tool for addressing natural hazards. Overlay zoning typically is used in areas with flood, wildfire and geologic (steep slopes) hazards. The overlay zone district is often named for the type of natural hazard it is regulating, e.g., Hillside Protection Overlay or Floodplain Overlay District. Key elements of an overlay zone district include:

- Purpose
- Applicability
- Overlay district map
- Development standards
- Review procedures

The following sections describe each of these common elements and provide standard language that can be considered by Colorado local governments. Model language is in blue shading. Commentary is located in *italics* in the column at the right. The model language used in this document is based on several existing ordinances from varying

### **Commentary**

**Typical Hazards Addressed by Overlays:** *The natural hazards most typically addressed with overlay zoning are flood, wildfire and steep slopes. Overlay zones can also be used to address other natural hazard risks or sensitive lands such as mapped avalanche zones, unstable soil conditions, dipping bedrock, wetlands or riparian corridors.*

communities around the state, including municipalities and counties. The language is illustrative only; consult local counsel to tailor language for your jurisdiction.

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**Purpose**

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- A.** The purpose of the [name] Overlay District is to promote the public health, safety and welfare of the citizens of [name of local government]; minimize the risk of loss of life and property due to [natural hazard]; encourage and regulate prudent land use; permit only such uses that will minimize the danger to the public health, safety, welfare and property; reduce the demands for public expenditures for disaster relief, hazard mitigation, and protection of structures and facilities permitted in the underlying zone district(s); and regulate buildings and structures so as to minimize the hazard to the public health or property.
- B.** Furthermore the [name] Overlay District implements the following goals and policies of the [name of local government] Comprehensive Plan: [relevant goals and policies]

***Purpose:** The purpose statement articulates the intent for the overlay district and identifies what is being regulated through the overlay standards. It should communicate why the overlay zone district was created and can identify the goals and objectives of local planning documents it is intended to implement.*

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**Applicability**

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- A.** The provisions and regulations of this section shall apply to all lands within [name of local government] designated a [type of natural hazard/sensitive land] as identified by the official map for the [type of natural hazard/sensitive land] Overlay District.
- B.** Uses permitted by the underlying zoning district are allowed unless specifically prohibited and provided that the proposed use complies with the standards and submittal requirements of this section.
- C.** All land use activities and development requiring a development, building, grading or other land use permit, are subject to the provisions of the [type of natural hazard/sensitive land] Overlay District as identified by the official map.
- D.** If a structure, lot, or other parcel of land lies partly within the [type of natural hazard/sensitive land] Overlay District, the part of such structure, lot, or parcel lying within the Overlay District shall meet all requirements for this district as set forth in this section.

### Overlay District Map

The [type of natural hazard/sensitive land] Overlay District Map is hereby incorporated by reference and shall be maintained by the [name of local government] [Planning Department].

In cases where a boundary or the severity of conditions at a specific location within the Overlay District are disputed, the land owner of the property where the boundary is in dispute shall be given a reasonable opportunity to present their case to the [Director of Planning or Administrator] and shall submit technical evidence to support such dispute. The [Director of Planning or Administrator] shall not allow deviations from the boundary line as mapped unless technical and geological evidence clearly and conclusively establish that the map location of the line is incorrect, or that the designated hazard conditions do not present a significant hazard to public health, safety, or to property at the specific location within the hazard area boundary for the particular proposed land use.

**Overlay District Map:** The natural hazard areas that are being regulated by the overlay zone district should be mapped based on reliable technical data. Official maps produced by state or Federal agencies, such as the Colorado Geological Survey or Federal Emergency Management Agency, can be adopted by the local government as official maps to define an overlay district. The maps need to be available for public reference at the local government offices and online if possible.

### Development Standards

This section should contain the substantive requirements that a proposed land use or development must comply with in order to meet the community's goals for the overlay zone district. This can include standards for building bulk, height, site layout, impervious surface area, specific construction methods, grading, vegetation and landscaping requirements, and special standards for public infrastructure such as roads and water systems. The required standards must directly relate to mitigating the risks posed by the natural hazard or the protection of sensitive lands.

**Development Standards:** Identify possible development standards and narrow this list to those likely to be effective in the local community at achieving desired outcomes. The community may already have standards in existing development and engineering manuals that address steep slopes, soil conditions and flooding that can be made specific to natural hazard overlay districts.

#### A. General Standards

1. The provisions of this Overlay District shall apply in addition to the applicable requirements of the underlying zoning district. When the standards of this Overlay District conflict with any other provision of the [code/ordinance], this Overlay District shall control.
2. Development determined to be subject to the provisions of the [type of natural hazard/sensitive land] Overlay District shall be required to mitigate identified hazards through compliance with and utilization of the [name of local government] development standards listed below, and may require the implementation of a Mitigation or Management Plan specifically addressing the natural hazard conditions of the subject property.



3. Additional measures aimed at reducing the risk of [type of natural hazard/sensitive land] may be imposed at the discretion of the [Chief Building Official or approval body] for the type of development being proposed.

**B. Development Standards:** All land use activity and development must comply with adopted [name of natural hazard] mitigation standards (such as floodplain regulations, or a hillside protection ordinance) in addition to the applicable requirements of the underlying zoning district. When these requirements conflict with any provision of the underlying zone district, the provisions of [type of natural hazard/sensitive land] Overlay District shall control. The types of mitigation measures required are as follows: (Note: The model language below is an example for a wildfire hazard overlay zone district.)

1. Wildfire Mitigation and Forest Management plan prepared by a professional forester, including but not limited to:
  - a. Identification of fuel type as related to slope and aspect
  - b. Reduction of fuel loading on-site
  - c. Existing condition of current vegetation
  - d. Recommendations to improve vegetative condition
2. Roads, streets and driveways designed for safe access for emergency fire equipment and evacuation.
3. Road, street, building, and emergency access signage designed for clear visibility from public roads.
4. Emergency water supply appropriate for the type and location of development proposed as determined by the [Chief Building Official, Public Works Director, or Administrator] in conjunction with the Fire Department.
5. All forms of development located, designed, and constructed in a manner to minimize ignition from a wildfire and the spread of fire from structures to wildland areas and/or structure to structure.

**Mitigation Standards Manual:**

Douglas County adopted a Wildfire Mitigation Standards manual that sets forth all requirements for site layout and building construction in its Wildfire Overlay Zone District. Adopting standards outside the zoning code allows the standards to be more easily updated as new construction techniques and fire-fighting methods are developed.

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**Submittal Requirements and Review Procedures**

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This section describes the submittal requirements and review procedures for the [type of natural hazard/sensitive land] Overlay District.

**A. Submittal Requirements:** These submittal requirements are in addition to the underlying zoning district submittal requirements for the type of land use activity or development proposed. The following information must be included in all applications for development or land use activity: (*Note: The model language below is an example for a wildfire hazard overlay zone district.*)

1. A description of the existing site characteristics including vegetative, topographical, and other pertinent environmental conditions.
2. A determination by a professional forester or qualified wildfire interface fire specialist as to whether the site characteristics constitute a hazard conducive to wildfire.
3. An assessment of the severity of the wildfire hazard and implications of future development relative to the protection of life-safety and resource protection.
4. An analysis of the intensity and character of existing and proposed development and its effect on the hazard.
5. An analysis of the relationship between the proposed development and the hazard both inside and outside the proposed development.
6. Recommendations pertaining to the form, type, and extent of required mitigation measures and how the proposed mitigation measures meet the standards and provisions of this Overlay District.
7. A site plan detailing the recommended mitigation measures incorporated into the proposed development.
8. A Hazard Mitigation or Management plan if determined necessary by the [*Planning Director*].

**B. Review Procedures:** The review procedure for the provisions of this Section will coincide with the review procedures for the type of development or use proposed and the requirements of the underlying zoning district.

1. Land use activity or development in the [*type of natural hazard/sensitive land*] Overlay District shall be determined based on the evidence and information required by this Section.
2. The approving body for the type of development application being processed in the [*type of natural hazard/sensitive land*] Overlay District shall approve, approve with conditions, or deny the requested development activity.

***Submittal Requirements and Review Procedures:*** *Review and approval procedures for development in an overlay district should be concurrent with all other review processes required for the proposal.*

3. Additional conditions for approval may include, but are not limited to, the following:
  - a. Alteration of the physical characteristics or vegetative features of the land;
  - b. Construction standards required for proposed structures;
  - c. Construction standards for roads;
  - d. Design and density within the proposed development; and
  - e. Location of structures, uses, or other improvements within the proposed development.

## KEY FACTS

<b>Administrative capacity</b>	Experienced planners with city or county attorney to write regulations and more advanced technical capability to administer the overlay requirements
<b>Mapping</b>	Technical mapping typically required to identify hazard areas
<b>Regulatory requirements</b>	Land use regulations with established zone districts
<b>Maintenance</b>	Minimal, but adjustments may be necessary to ensure overlay districts are appropriately meeting the goals of hazard mitigation over time
<b>Adoption required</b>	Yes
<b>Statutory reference</b>	C.R.S. §31-23-301
<b>Associated costs</b>	Ordinance development or amendment costs and staff time to review rezoning applications for approved development within the overlay zone district

## EXAMPLES

<b>Boulder County</b> Natural Resource Protection and Floodplain Overlays	<a href="https://bouldercounty.org/doc/landuse/landusecode.pdf">bouldercounty.org/doc/landuse/landusecode.pdf</a> Sections 4-300 and 4-400
<b>Chaffee County</b> Floodplain Overlay	<a href="https://chaffeecounty.org/EndUserFiles/47582.pdf">chaffeecounty.org/EndUserFiles/47582.pdf</a> Section 2.6.4
<b>Douglas County</b> Wildfire Hazard and Floodplain Overlays	<a href="https://douglas.co.us/documents/section-17-3.pdf">douglas.co.us/documents/section-17-3.pdf</a> <a href="https://douglas.co.us/documents/section-18.pdf">douglas.co.us/documents/section-18.pdf</a>
<b>Garfield County</b> Floodplain Overlay	<a href="https://garfield-county.com/community-development/land-use-regulations.aspx">garfield-county.com/community-development/land-use-regulations.aspx</a> Section 3-301



**Jefferson County**                    [jeffco.us/planning-and-zoning/regulations/zoning-resolution](http://jeffco.us/planning-and-zoning/regulations/zoning-resolution) Sections  
Floodplain, Geologic                    30, 31, 32, and 33  
Hazard, Wildfire Hazard,  
and Dipping Bedrock  
Hazard Overlays

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**City of Montrose**                    [cityofmontrose.org/DocumentCenter/View/288](http://cityofmontrose.org/DocumentCenter/View/288) Section 4-4-8.3  
Uncompahgre River Buffer  
Overlay

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**Summit County**                    [co.summit.co.us/DocumentCenter/Home/View/59](http://co.summit.co.us/DocumentCenter/Home/View/59)  
Floodplain Overlay

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**Weld County**                    [municode.com/library/co/weld\\_county/codes/charter\\_and\\_county\\_co  
de?nodeId=CH23ZO\\_ARTVOVDI\\_DIV2GEHAOVDI](http://municode.com/library/co/weld_county/codes/charter_and_county_code?nodeId=CH23ZO_ARTVOVDI_DIV2GEHAOVDI) Article V, Division 2 of  
Geologic Hazard Overlay                    the zoning ordinance

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## FOR MORE INFORMATION

### APA Zoning Topics

[planning.org/divisions/planningandlaw/propertytopics.htm#Overlay](http://planning.org/divisions/planningandlaw/propertytopics.htm#Overlay)