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Sent: Monday, June 22, 2026 8:00 AM
To: PCD Hearings
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Subject: Public Comment for the Record — File No. LDC263 (Appendix E / Wildfire Resiliency Requirements) — BoCC Land-Use Hearing June 23, 2026

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Report

El Paso County Digital, Strategy & Technology (DST)

Please enter this written comment into the official record for File No. LDC263 and provide it to the Board in advance of the June 23, 2026 hearing.

I am a property owner within the unincorporated wildland-urban interface directly affected by this amendment. I am submitting this comment about the issue itself — not about me. It is about every affected owner who is about to be handed a mandate with no money behind it, and about a Board that has not yet answered the most basic question of all: who pays for it?

Let me be clear up front: we are wholeheartedly in favor of wildfire prevention and protection. No one who lives in this interface takes fire lightly — we want our homes and our neighbors safe. Our objection is not to wildfire safety. It is being forced into it by mandate, with no funding to back it up — and into a code the County has shown it will not consistently enforce where it actually matters.

THE CENTRAL PROBLEM: LAYERING NEW CODES ON TOP OF BASIC LAWS THE COUNTY ALREADY WON'T ENFORCE

There is a fundamental incoherence at the heart of this proposal that the Board cannot ignore. The County is asking residents to accept a complex new layer of laws, definitions, codes, and enforceable obligations stacked on top of basic wildfire laws it already fails to enforce. Open burning during Red Flag Warnings and active burn bans is already illegal. Operating a commercial recreation camp without a permit is already prohibited. These are the most basic principles — and as shown below, the County has not enforced them even on a documented, single-egress, heavily forested parcel

where a fire district has already had to put out an unattended fire.

Adding more rules on top of rules you cannot — or will not — enforce does not make anyone safer. It produces the appearance of action while the genuine hazards the existing laws already prohibit continue unchecked, and it shifts the burden onto the law-abiding owners who were never the problem. A government that cannot enforce "do not light open fires during a Red Flag Warning" has not earned the authority to dictate cistern specifications, defensible-space tables, and easement dedications to compliant residents — least of all without funding, without analysis, and on a compressed timeline. That is not sound wildfire policy. It is bureaucracy layered over a vacuum of enforcement, and it is backwards.

ON NOTICE AND PROCESS

I want to address how this proposal reached the people it affects. Owners received a single letter in the mail and only a short window to review and respond to a lengthy, highly technical proposal that fundamentally changes how the County regulates wildfire on private land — a new Appendix E, new definitions, a new Section 6.3.4, and a long list of enforceable obligations. That is not meaningful public notice for a change of this magnitude.

What makes it worse is that the rush is entirely of the County's own making. State Senate Bill 23-166 was approved in May 2023, and the statutory deadline to adopt the code is June 30, 2026 — the County has had roughly three years to prepare, engage the public, and do this right. Instead, affected owners were given the tail end of that window to digest a sweeping, technical overhaul. A deadline the County has known about since 2023 is not a justification for denying residents a genuine opportunity to participate. I ask the Board to extend the public comment period and/or continue this hearing so that affected owners have a real chance to review and respond before any vote is taken.

LEGAL OBLIGATIONS AND THE COUNTY'S DUTY OF DUE DILIGENCE

The County does not have a free hand to adopt new land-use codes. It is bound by specific state and federal law, and the record does not demonstrate that the County has satisfied its obligations under any of them:

- C.R.S. § 30-28-116 (amendment of county land-use regulations) requires that an amendment first be submitted to the County Planning Commission and that the Board hold a public hearing with proper published notice. Satisfying the bare statutory minimum of a single published legal advertisement is not the same as giving affected owners meaningful notice and a genuine opportunity to be heard on a sweeping, technical rewrite.
- The Colorado Open Meetings Law (C.R.S. § 24-6-401 et seq.) requires full and timely public notice of the proceedings at which this matter is decided.
- C.R.S. § 24-33.5-1236 and 8 CCR 1507-39 require the County to adopt the minimum standards of the Wildfire Resiliency Code — the minimum. Nothing in state law requires the County to add the extra, locally authored obligations bundled into this amendment, and certainly not to do so without any cost or impact analysis.
- The Fifth Amendment to the U.S. Constitution (Takings Clause), applied to the County through the Fourteenth Amendment, prohibits the taking of private property without just compensation. Where this code compels owners to dedicate easements and build costly infrastructure — cisterns, access roads, turnarounds — as a condition of developing or using their own land, those conditions must

bear an "essential nexus" and "rough proportionality" to a legitimate government interest under *Nollan v. California Coastal Commission* (1987) and *Dolan v. City of Tigard* (1994). The County has produced no analysis demonstrating that it has met that constitutional standard.

- The Fourteenth Amendment's Due Process Clause bars enforcement of standards so vague that ordinary owners must guess at their meaning — the void-for-vagueness doctrine. Several provisions of this amendment are discretionary and undefined ("may be required," "to the satisfaction of the approval authority"), exactly the kind of standardless discretion the doctrine forbids.
- The Fourteenth Amendment's Equal Protection Clause requires at least a rational basis for singling out the under-1% of unincorporated owners who lack a fire district for uniquely burdensome treatment.

Beyond these legal duties, the County owes the public a basic duty of due diligence: to study the cost, weigh the burden, define its terms, and give the affected people a real chance to respond. In the record I reviewed, the County has done none of this. No cost analysis, vague and undefined standards, and a rush to beat a deadline the County has known about since 2023 — taken together, this looks less like good-faith rulemaking and more like an effort to move a sweeping change through quietly before the affected owners can organize and object. The residents of El Paso County deserve better, and the law requires better.

I have reviewed both the redlined code text and the Planning Commission staff report in the project file, and together they make the rest of the problem plain. This amendment does not just set goals — it assigns the cost, and in every instance it assigns it to the property owner:

- By the County's own count, these requirements fall on the roughly 400 parcels that make up the "less than 1%" of unincorporated parcels NOT within a fire district. The eighteen fire districts have already adopted the WRC for everyone else. In other words, the County is writing enforceable, costly rules aimed squarely at the small group of owners who have no district, no shared tax base, and no pooled resources behind them.
- New Section 6.3.4 applies specifically to those owners — not in a Fire District, but within the wildland-urban interface.
- The code states that "the owner of the cistern or dry hydrant is responsible" for developing and maintaining the water supply, including inspection, testing, and a maintenance plan.
- It states that responsibility for maintaining defensible space and fuel-break thinning "lies with the landowner," and that noncompliance "will be enforced."
- It requires subdivisions outside a fire district to "annex into a district... or provide" structural fire protection themselves.

The hard costs are real and substantial: cisterns engineered to deliver 1,000 gallons per minute, dedicated easements and turnarounds, ongoing inspection and testing, qualified-professional reports, access roads built to grade and distance standards, and hardened construction (Class A roofs, noncombustible siding, decks, and eaves).

And yet, nowhere in the redlined text OR the staff report is there a single funding mechanism — no grant, no cost-share, no fee waiver, no financial-assistance provision of any kind. In fact, the only cost-related change in the amendment removes the prior provision that allowed wildfire-mitigation

costs to be folded into construction financial assurance. The County is adding obligations and an enforcement process while subtracting cost relief, and the staff report contains no cost analysis, no fiscal-impact analysis, and no affordability analysis whatsoever. A mandate without funding is not policy. It is a bill handed to your own residents.

ON ENFORCEMENT — THE HYPOCRISY MADE CONCRETE

The staff report states that enforcement of these new requirements will be complaint-based. That single design choice exposes the central problem and creates a second one.

First, the County already fails to enforce the most basic existing wildfire laws under exactly this posture — and there is a live, documented example within the very area this amendment governs. At 5415 Old Stage Road, a "recreation camp" use has been operated without the required Special Use Permit, which the applicant is only now belatedly seeking under File AL269 (EDARP Project No. 206839). The County's own reviewing agencies have placed the danger squarely in the record: the El Paso County Conservation District (review comment dated May 6, 2026) found the site sits in a "heavily forested and overgrown area that carries an elevated wildfire risk, particularly given the single road for ingress and egress," and the Colorado Springs Fire Department (review comment dated April 30, 2026) objected to the applicant's proposal to gate that single public access road. Neighbors report — and Broadmoor Fire Protection District responded to — an unattended fire on the property, along with open burning during Red Flag Warnings and active County fire restrictions. Despite all of this, the unpermitted use has not been stopped and the hazard remains.

This is the hypocrisy in plain view. The County cannot enforce the simplest, most fundamental rules already on the books — no open burning during a Red Flag Warning, no operating a commercial camp without a permit — on a single parcel with a known, documented fire history. Yet it asks every compliant owner in the interface to accept an entire new code of cistern specifications, defensible-space tables, access-road standards, and easement dedications, and trusts that this will somehow be enforced. You cannot credibly promise to enforce the complex when you will not enforce the basic. Layering new law over old law the County won't enforce does not protect anyone; it punishes the people who already follow the rules while the genuine threats continue.

Second, a complaint-based system built on vague, undefined, and intentionally obfuscating standards is an open invitation to abuse. These provisions are written loosely enough that a complaint can be lodged against virtually any property in the County — defensible space, vegetation, materials, access, water supply — with no clear, objective definition to measure compliance against. The predictable result is an endless, perpetual stream of frivolous, anonymous code-violation complaints, neighbor weaponizing the code against neighbor, with property owners forced to repeatedly defend themselves against subjective accusations that have no firm basis in the text. Before adopting this, the Board must explain exactly how the County intends to receive, triage, investigate, and resolve what will inevitably be a flood of complaints — what standard of proof applies, who bears the cost of investigating meritless complaints, whether anonymous complaints will be accepted at all, and what protection compliant owners have against harassment through the complaint process.

THE INSURANCE TRAP

This lands on top of a problem the Board surely already knows about: most owners in the wildland-urban interface are already having an extremely difficult time obtaining wildfire insurance at all. Carriers are non-renewing policies, pulling out of high-risk zones, and pricing coverage out of reach. Now the County proposes to layer on a new set of costly, enforceable code requirements — and that creates a circular trap that makes it impossible to get anything done. Owners are told to harden their

homes to qualify for or keep coverage, then told they must meet new County codes to build or repair, then told the work is too expensive to fund and that insurance won't cover the rebuild. Each requirement points to the next, the costs compound, and the resident is left unable to insure, unable to afford compliance, and unable to move forward. Piling another unfunded mandate onto people who already cannot get insurance does not make them safer — it makes them stuck.

REQUEST FOR TECHNICAL DOCUMENTATION AND ANALYSIS

Before this Board votes, I formally request that the following be produced and entered into the public record (File No. LDC263), and made available for public review in advance of the hearing:

- Any fiscal or economic impact analysis prepared for this amendment, including the projected per-parcel and aggregate cost of compliance for the affected owners.
- The cost basis and engineering justification for the specific technical standards being imposed — including the 1,000 gpm cistern capacity, water-supply flow and duration requirements, access-road grade and distance standards, and defensible-space and structure-hardening requirements.
- The wildfire-intensity classification methodology and mapping (the WRC Map and any locally developed map) used to determine which parcels fall within the wildland-urban interface and at what intensity rating, including the data and assumptions behind it.
- Any cost-benefit or affordability analysis weighing the compliance burden on affected owners against the projected safety benefit, including any analysis of the amendment's effect on the availability and cost of wildfire insurance for affected owners.
- A complete accounting of all funding sources — federal, state, or local — identified or applied for to offset compliance costs for affected owners, and the County's analysis of any unfunded-mandate implications.
- The County's legal findings demonstrating compliance with C.R.S. § 30-28-116, the Colorado Open Meetings Law, and the constitutional limits on regulatory takings and exactions (Nollan/Dolan), including any takings or exactions analysis performed for the easement-dedication and infrastructure requirements.
- The County's wildfire code-enforcement record: the number of wildfire-hazard complaints received, inspections conducted, and enforcement actions taken and resolved over the past five years, including the current status of code enforcement and the unpermitted use at 5415 Old Stage Road (File AL269 / Project No. 206839).
- The County's written procedure for receiving, triaging, investigating, and resolving complaints under this code, including its policy on anonymous complaints and its staffing and budget for handling complaint volume.
- The notice and public-engagement record for this amendment: when and how affected owners were notified, the comment period provided, and why meaningful public review was compressed into the final days before the statutory deadline despite the County having had since 2023 to act.

The staff report I reviewed contains none of this. If these analyses and findings do not exist, I ask the Board to say so plainly, on the record, and to explain how it can lawfully and responsibly adopt enforceable, costly standards on private property without them.

I am not asking for opinions, assurances, or sympathy. I am demanding that this Board answer each of the following questions directly, on the record, at the June 23 hearing — before any vote is taken:

1. The County has known of the SB23-166 mandate and the June 30, 2026 deadline since 2023, yet affected owners received only a brief mailed notice and a short window to respond to a lengthy, technical, sweeping change. Why was meaningful public notice and review compressed into the final days before the deadline, and will the Board extend the comment period or continue the hearing to give affected owners a genuine opportunity to participate?
2. What specific findings has the County made to demonstrate compliance with C.R.S. § 30-28-116, the Colorado Open Meetings Law, and the constitutional limits on regulatory takings and exactions under Nollan and Dolan — and where in the record are those findings? If none exist, on what legal basis does the Board believe it may adopt this amendment?
3. What dedicated funding, grants, or cost-sharing will the County provide to help affected owners comply with Section 6.3.4 and Appendix E? If the answer is none, say so plainly and on the record.
4. What is the estimated per-parcel cost of compliance — cistern, easements, turnaround, access road, and hardened materials — and where is that cost analysis in the project file? If no cost analysis was performed, why is the Board voting without one?
5. Who funds enforcement and the inspections required under Appendix C, and will those costs be passed back to homeowners and applicants?
6. The staff report makes enforcement complaint-based. Yet the County has not stopped an unpermitted recreation-camp use at 5415 Old Stage Road (File AL269), where its own reviewing agencies have documented elevated wildfire risk and single-egress danger and a fire district has already responded to an unattended fire. If the County will not enforce the basic, existing prohibitions on open burning and unpermitted use, what assurance is there that it will enforce this new, far more complex code against real hazards — rather than simply use it to burden compliant owners? What additional resources are committed to enforcement?
7. Because these standards are vague and largely undefined, a complaint can be filed against nearly any property in the County. How will the County receive, triage, investigate, and resolve what will be an endless stream of frivolous and anonymous complaints? Will anonymous complaints be accepted? Who bears the cost and burden of defending against meritless complaints, and what protects compliant owners from harassment through the complaint process?
8. Given that most interface owners already struggle to obtain or afford wildfire insurance, and that replacement-trigger requirements can push rebuild costs beyond any coverage they do have, what is the County's plan to keep its own residents from being trapped — unable to insure, unable to afford compliance, and unable to repair or rebuild their homes?

These are not rhetorical questions. They are the questions any government must answer before forcing a cost onto its citizens. If the State handed down this mandate without the funding to meet it, then the honest course is to say so, document the financial burden on County residents, and refuse to rubber-stamp it simply to clear a deadline.

Do not adopt Appendix E and Section 6.3.4 as written until these questions are answered, the requested technical analysis and legal findings are produced and entered into the record, and

affected owners are given adequate notice and a genuine opportunity to be heard. A County that cannot enforce the most basic wildfire laws already on its books has not earned the authority to layer a costly new code on top of them. Imposing detailed, enforceable, costly obligations on private property — on the under-1% of owners who have no fire district and who already cannot reliably obtain insurance — without the cost analysis, takings analysis, and due diligence the law requires, while the County fails to enforce the genuine wildfire hazards already in front of it and invites a flood of frivolous complaints under vague standards, is the definition of overreach.

Respectfully submitted,

A concerned property owner within the affected El Paso County wildland-urban interface