

APPENDIX A

OTHER RELEVANT LAWS AND REGULATIONS

A.1 FEDERAL POLICIES

Several federal wildfire policies have been developed within recent years, the most prominent being the National Fire Plan (NFP) (Wildland Fire Leadership Council, 2004). The NFP incorporates A Collaborative Approach for Reducing Wildland Fire Risk to Communities and the Environment, 10-Year Comprehensive Strategy, whose primary goals are to:

- improve prevention and suppression,
- reduce hazardous fuels,
- restore fire-adapted ecosystems, and
- promote community assistance.

Federal wildfire policy is planned and administrated through the Arapaho-Roosevelt National Forest which is the governing agency for the federal lands within the CWPP planning area.

Other policies include the Healthy Forest Initiative (HFI) and the Health Forest Restoration Act (HFRA). Both tools assist federal land managers in working collaboratively with local communities and completing required environmental assessments within a timely fashion.

Firewise™ is a national program that helps communities reduce the risk of wildfires and provides them with information about organizing to protect themselves against large wildfires and mitigating losses from such fires.

A.2 STATE POLICIES

APPLICABLE STATE STATUTES

8-13-109. Firing woods or prairie

- Establishes guidelines and penalties for causing a fire due to carelessness or negligence and provides for harsher penalties for violations occurring during a fire ban.

10-4-110.9: Insurance protection for homeowners

- Protects homeowners near wildfires from undue insurance cancellations due to the declaration of a disaster area related to wildfire.

18-13-109.5. Intentionally setting a wildfire

- Prohibits and outlines penalties for intentionally setting a wildfire

23-30-301, 23-30-301 (2):

- The state is to encourage the health of forest ecosystems through responsible management of state forest land and cooperation with the USFS. This includes prescribed and natural ignition fires as well as pre-ignition activities such as biomass removal.

23-30-305. Cooperation by counties.

- Authorizes boards of county commissioners to coordinate with other governing bodies in the management and prevention of wildfire. Also authorizes such boards to participate in the organization and training of rural fire-fighting groups, in the payment for the operation and maintenance of fire-fighting equipment, and in sharing the cost of managing fires

23-30-310: Creation of wildfire emergency fund

- Creates a wildfire emergency fund that will pay for an initial air drop during local initial attack.

24-33.5-108. Creation of a statewide fire fighting resource database

- All state and local fire fighting agencies shall create and maintain a database of their fire fighting resources. This information is to be made available for the purpose of efficiently tracking and allocating fire fighting resources in the event of a disaster or local incident that requires more resources than those available under any existing interjurisdictional or mutual aid arrangement.

24-33-203: Authorization for controlled burns during drought

- The state forester can authorize controlled burning during drought conditions but cannot supersede any local fire bans

24-65.1-201: (1a)

- Local governments can designate areas of interest including natural hazard areas. Perhaps if portions of the undeveloped WUI were designated natural hazard areas, certain precautions and risk reduction measures could be mandated to reduce overall risk.

24-65.1-202 (II)

- Wildfire hazard areas with residential activity are to be administered to minimize hazards to the public safety and health. Authorization for encouraging/mandating activities in the WUI that minimize risk from wildfire.
- recommendations, policies, and programs to advance the initiatives of the FRFTP.

30-10-512:

- The Sheriff acts as a fire warden. Sheriffs' offices could be an integral partner in the advancement of the FRFTP initiatives.

30-11-124: Fire planning authority.

- Authorizes counties to develop fire management plans.

A.3 COUNTY POLICIES¹

A.3.1 BOULDER COUNTY COMPREHENSIVE PLAN (BCCP)

¹ This material is excerpted from a presentation entitled Zoning and Wildfire Protection, prepared by Eric Philips, Boulder County Wildfire Mitigation Coordinator.

The Boulder County Comprehensive Plan (BCCP) was developed

“to respond to the widely accepted principle that the myriad of future land use decisions affecting the county’s lands should be made in a coordinated and responsible manner.”

Since its initial adoption in 1978, the overall philosophy of the Plan has changed very little

- ◆ Growth should be channeled to municipalities,
- ◆ Agricultural lands should be protected, and
- ◆ Preservation of our environmental and natural resources should be a high priority in making land use decisions.

The Role of the BCCP

- ◆ Land use management tools have been developed to implement the goals and policies of the Plan on a case-by-case basis. These tools include, but are not limited to:
 - The Boulder County Land Use Code
 - Specific Intergovernmental Agreements and Development Plans
 - Open Space Acquisitions
- ◆ In the 1990s, Boulder County
 - Recognized the need to achieve the goals of the Plan through increased regional cooperation.
 - Emphasized careful design and planning on all lands in unincorporated Boulder County.
- ◆ These two areas of focus resulted in a range of programs from:
 - Intergovernmental Agreements (IGAs) between governmental entities to
 - The development of Site Plan Review for all new dwellings.

Plan Elements

- ◆ Each element of the Plan addresses a specific topic.
 - Geology
 - Open Space
 - Agriculture
 - Housing
 - Solid Waste
 - Economics
 - Land Use Surrounding Airports
 - Environmental Resources
 - Transportation
 - Cultural Resources
 - Natural Hazards
 - Fire Protection
 - Telecommunications

Natural Hazards (NH)

Natural hazards are those natural events which may result in a threat to human life, or which endanger the works of man.

- ◆ Although termed "natural" hazards, it is important to note that such occurrences are often induced by people, and by definition, would not exist if not for the presence of past actions of people.

Issues and Concerns

- ◆ With tens of thousands of people moving to Colorado each year, building in the

once inaccessible mountain areas and on lands once used for agriculture have become a growing concern.

- ◆ Recent disaster events have focused increased attention at both local and state government levels on the need to mitigate such events where possible and to prepare to cope with them when unavoidable.

Purpose of the Natural Hazards Element

“To avoid or reduce risk to an acceptable level which balances the cost of incorporating safety measures in planning and development actions with the benefit of protecting life and property.”

Policies and Implementation

- ◆ This element of the Plan is directed at
 - Avoiding the placement of people and structures where these natural events occur and
 - Mitigating existing areas at risk; thereby minimizing the future loss of life, property and resource damage in the county resulting from natural disasters and hazards.
- ◆ Through the enacting of measures contained in this element, all planning and development decisions will come to be made upon conscious determination of the level of risk entailed.
- ◆ This necessitates that accurate information on all known hazards be available to decision makers (WHIMS)
- ◆ Location, density or intensity of development will be limited by the degree of natural hazard present, or conditioned upon mitigation of the hazard.

Specific Hazards – Wildfire

- NH 5.01
 - The county recognizes the wildland urban interface as an area particularly at risk to wildland fires or wildfires
- NH 5.02
 - Fire should be recognized as a natural and/or human-caused occurrence with certain benefits to the ecosystem. The county should strive towards balancing the natural processes of the ecosystem with development concerns so that residents may co-exist in a fire-dependent ecosystem.
- NH. 5.03
 - Development/Site Plan Reviews in areas identified to be at risk of wildfires should address
 - » Site Location
 - » Building Construction and Design
 - » Landscaping/Defensible Space/Fuel Management
 - » Access and
 - » Water Availability
 - These factors should be analyzed from the standpoint that wildfires may present a hazard to development and/or development may present an ignition hazard to the forest.
- NH 5.04
 - Boulder County should continue to encourage inter-jurisdictional and

interagency cooperation to further the goals of protection of life and property from wildfires. The Boulder County Wildfire Mitigation Group should continue to work cooperatively to develop and implement programs to reduce the hazard of wildfire. This should include the following subject areas:

- » public education and awareness,
 - » fuel reduction and prescribed burn programs,
 - » ecosystem/vegetation management,
 - » Wildfire Hazard Identification and Mitigation System, (WHIMS),
 - » codes and regulations, and
 - » pre-suppression.
- NH 5.05
 - Boulder County should be surveyed and mapped to locate the extent of wildfire hazards and areas at risk using the Wildfire Hazard Identification and Mitigation System (WHIMS).
 - NH 5.06
 - Accepted methods of forest land ecosystem management should be used to reduce all severe wildfire hazard areas to a low or moderate rating, particularly in those areas inhabited with human development as defined by WHIMS.
 - NH 5.07
 - The county should encourage private and public landowners to manage their forests to preserve the forests' ecosystem processes by developing and maintaining a diversity of species, ages, and stand densities to serve as a natural deterrent to pest and fire outbreaks. The county should implement measures to guard against the danger of fire in developments within and adjacent to forests or grasslands.
 - NH 5.08
 - The county should continue to work in partnership with the local fire protection districts and departments in improving fire protection services to address the increasing concerns of wildfire and the increase in development in the mountainous areas of the county.

Fire Protection (FP)

Fire protection is an essential service in the municipal/community service areas and the non-urban areas of Boulder County.

- ♦ The following policies developed jointly by Boulder County and local fire department representatives working through the Boulder County Firefighters' Association (BCFFA) are intended to guide land use decision-making and regulation with respect to fire protection.

Policies – Fire Protection

- FP 1.01
 - The county shall encourage fire protection districts in Boulder County to adopt, implement and enforce similar fire codes.
- FP 1.02

- The county shall encourage the provision of a fire coordinator to offer technical assistance concerning fire code and related matters to fire departments and county departments upon request.
- FP 1.03
 - The county shall encourage each fire department to clearly define the level and type of service which it provides and to move toward development and adoption of a fire protection master plan as described in Policy FP 1.04.
- FP 1.04
 - The county shall support the development of fire protection master plans by individual departments, and, where appropriate, by geographically related groups of fire departments for the purpose of defining and potentially improving the level of service provided, eliminating unnecessary duplication, fragmentation, or competing services, and encouraging the consolidation of fire departments or districts.
- FP 1.05
 - The Boulder County Land Use Code shall require development proposals to include an evaluation of the impact of the proposal upon the capability of the affected fire department to maintain its appropriate level of service to existing development in its response area or district and to adequately serve the proposed new development. The level of sophistication of this evaluation shall be commensurate with the type of development proposed.
- FP 1.06
 - The county shall incorporate into the Boulder County Land Use Code, in so far as possible, design and development standards and requirements which will result in the future provision of fire protection that is efficient and of an appropriate level.
- FP 1.07
 - The county shall support the acquisition, development and maintenance, and utilization of accurate information for fire protection planning purposes, e.g., response time and fire protection category maps, wildfire hazard and risk data, land use patterns, and departmental capabilities, etc.
- FP 1.08
 - Recognizing the value of fire protection districts in providing fire prevention inspection and investigative functions in the unincorporated areas of the county, the county shall encourage volunteer departments to consider reorganizing as fire districts or annexing their territorial area into existing fire protection districts.
- FP 1.09
 - The county shall encourage cooperation and the development of agreements between all levels of government and the various agencies providing fire protection services for the purpose of most efficiently utilizing the resources of each entity.
- FP 1.10
 - The county shall recognize the value of organizations such as the Boulder County Firefighters' Association as resources for guidance and referral on fire protection and emergency services issues, for facilitating cooperation

between fire departments, emergency service agencies, other units of government, and the public.

A.3.2 BOULDER COUNTY LAND USE CODE, BOULDER COUNTY LAND USE DEPARTMENT

Purpose and Relationship to the *Boulder County Comprehensive Plan*

- Promote the health, safety, and general welfare of the present and future inhabitants of Boulder County
- Guide future growth, development, and distribution of land uses.
- Serve to implement the goals and policies of the *BCCP*

Article 4 - Zoning

- Defines zoning districts where uses and their intensities are defined.
 - 4-100 Zoning District Regulations
 - 4-101 Forestry (F) District
 - 4-800 Site Plan Review (SPR)
 - 4-801
 - 4-802
 - 4-806 Site Plan Review Standards

4-101 Forestry (F) District

- Rural areas established for the purpose of efficiently using land to
 - Conserve forest resources
 - Protect the natural environment
 - Preserve open areas
- Forested and/or mountainous areas of Boulder County
- Lot, Building, and Structure Requirements
 - Minimum lot size - 35 acres
 - Minimum setbacks (general)
 - Front yard – 15 feet
 - Side yard – 25 feet
 - Rear yard - 15 feet

4-801 Site Plan Review - Purpose

- Administrative review procedure
- For certain proposed new developments which are considered likely to significantly impact on
 - The environment and important ecosystems
 - Agricultural lands
 - Surrounding land uses and neighborhoods

- Infrastructure needs and demands
- Allows for significant adverse impacts on
 - The environment
 - Agricultural lands
 - Surrounding land uses
 - Neighborhoods and
 - Infrastructure

to be identified, evaluated, and avoided or acceptably mitigated through the imposition of reasonable conditions. (9/5/96)

4-806 Site Plan Review – Standards

The site plan shall satisfactorily mitigate the risk of wildfire both to the subject property and properties in the surrounding area, including with respect to the

- location of structures,
- fuel reduction,
- incorporation of a defensible space around structures,
- and the use of ignition (fire) resistant building materials.

Safe access shall be provided, including a second emergency access where the local fire district finds the primary access to a public road is insufficient and the second access does not create significant environmental impacts.

In assessing the applicable wildfire risk and appropriate mitigation measures, the Director shall consider the referral comments of the County Wildfire Mitigation Coordinator and the applicable fire district, and may also consult accepted national standards as amended.

A.3.3 THE WILDFIRE MITIGATION PLAN

Implementing the Wildfire Mitigation Plan will substantially reduce the risk to life and property from a wildfire and increase safety. However, it should be noted that given the unpredictable nature of wildfire behavior, there are no guarantees.

There are six areas to be considered in the Wildfire Mitigation Plan

- *Site Location*
- *Construction Design and Materials*
- *Defensible Space*
- *Emergency Access*
- *Water Supply*
- *Maintenance*

Site Location

- Best possible site location has been chosen for the structure(s) with respect to the

natural characteristics and conditions of the property and which avoids dangerous topographic features and vegetation conditions

Construction Design and Materials

- Appropriate construction design and building materials have been selected will minimize the potential for the structure(s) to be ignited by a wildfire and will provide the best chance of defending the structure(s) from a wildfire

Defensible Space

- Adequate defensible space will be created around structure(s) with considerations for
 - Wildfire Mitigation
 - Tree Preservation
 - Revegetation
 - General Forest Health

Emergency Access

- Safe and adequate emergency access has been provided to residents and emergency response personnel for both entering and exiting the property.

Water Supply

- An adequate accessible water supply has been located for the defense of the structure(s)

Maintenance

- specific actions that will be undertaken to maintain the home and defensible space in the future. Homeowners must be aware that the one of the most important means to mitigate the threat of wildfire affecting structures is the continual maintenance of a healthy surrounding forest landscape.